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

The right to freedom of opinion and expression

**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****

* The present report was submitted later than the indicated deadline, in order to incorporate the latest available information on the subject matter.

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

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Introduction

1. At its seventh session, the Human Rights Council, in its resolution 7/36, called upon all States to cooperate fully with and assist the Special Rapporteur in the performance of his tasks, and to provide all necessary information requested by him; to react promptly to his/her urgent appeals and other communications and to consider favourably his/her requests for visits and for implementing his/her recommendations so that he/she may carry out his/her mandate more effectively.
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 and 31 December 2008, as well as replies received from Governments until 15 May 2009. Replies to communications received after 15 May 2009 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 420 communications on behalf of 1,116 persons to the Governments of 80 countries: Afghanistan, Algeria, Angola, Argentina, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Bosnia and Herzegovina, Brazil, Burundi, Cambodia, Cameroon, Chad, Chile, China (People's Republic of), Colombia, Congo (Republic of the), Congo (Democratic Republic of the), Croatia, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gambia, Georgia, Greece, Guatemala, Guinea, Guyana, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Kenya, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mexico, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Nigeria, Pakistan, Papua New Guinea, Peru, Philippines, Republic of Korea, Russian Federation, Saudi Arabia, Serbia, Somalia, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Tonga, Tunisia, Turkey, Turkmenistan, Uganda, United Republic of Tanzania, United States of America, Uzbekistan, Venezuela, Vietnam, Yemen, and Zimbabwe.
4. 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.
5. 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.
6. 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.

SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED

Afghanistan

Urgent appeal sent on 28 January 2008

7. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal to the Government concerning Mr. Sayed Perwiz Kambakhsh, a student and journalist at a local newspaper in the city of Mazar-i-Sharif.

8. According to the information received, Perwiz Kambakhsh was arrested on 27 October 2007, and on 22 January was sentenced to death by a primary court in the northern city of Mazar-e-Sharif for “blasphemy”. He was convicted of downloading material from the internet that examined the role of women in Islam, adding some commentary and distributing it at Balkh University. He denies all this, saying that he had been coerced into making a “confession”. There are no legal grounds for either his conviction or his sentence. He was convicted under Article 347 of the Penal Code, which carries a maximum sentence of five years’ imprisonment, not the death penalty, for a person who disturbs or stops the conduct of religious ritual or damages religious places of worship.

9. According to the information received, on 31 October 2008 a three-judge panel commuted the death sentence given to Kambakhsh in January, but upheld the original conviction so that he was sentenced to 20 years in prison for “blasphemy”.

Observations

10. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 23 April 2007

11. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women, sent a letter of allegation to the Government concerning Ms. Khadija Ahadi, deputy editor-in-chief of Radio Faryad and producer of a talk-show about political and social issues in Afghanistan.

12. According to the information received, on 11 April 2008 unidentified gunmen carried out a grenade attack against Ms. Ahadi’s home in the Herat province. Over the past two months, she had been receiving anonymous calls in which she was warned to leave her job. On 6 April, in a similar grenade attack, part of her home was destroyed. According to sources, this attack could be part of efforts by hard-line groups to constrain the media, particularly in relation to the role of women as journalists and their right to work in the media.

Observations

13. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 22 May 2008

14. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning the situation of Ms. Niloufar Habibi, presenter on the local public television station, Herat TV.

15. According to the information received, on 14 May 2008, Ms. Niloufar Habibi was injured on her way to the TV station by two men and a woman armed with a knife. They put her in a taxi and accompanied her to her office, warning her that “if [she does] not resign, the next time will be the end”. This incident was preceded by several threatening phone calls.

16. On 15 May, Ms. Niloufar Habibi was stabbed in her home in Herat by an unidentified woman. She was taken to a hospital and discharged on the same day. Since then, she has continued receiving death threats, and has repeatedly changed residence. Despite her appeals for help, Ms. Habibi did not receive any police protection.

17. In early May 2008, following threats from unidentified individuals to all public radio and TV employees, 13 male and female journalists resigned.

Observations

18. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 17 June 2008

19. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government concerning Ms. Jameela Rishteen Qadiry, a reporter for Radio Free Europe-Radio Liberty (RFERL), an international news and broadcast organisation, and Mr. Abdul Samad Rohani, BBC World Service correspondent in Helmand province, southern Afghanistan.

20. According to information received, on 12 June 2008, Ms. Jameela Rishteen Qadiry, received two anonymous phone calls, during which the caller allegedly threatened her with the same fate as that of murdered BBC correspondent, Mr. Abdul Samad Rohani. The caller purportedly claimed that the threats issued against Ms. Jameela Rishteen Qadiry, were linked to her reporting, in particular, her coverage of issues related to the sensitive border region between Afghanistan and Iran. It is understood that the Afghan Independent Journalists' Association (AIJA) are in possession of a recording of the threats.

21. According to reports, on 8 June 2008, Mr. Abdul Samad Rohani, was found dead with gunshot wounds to the head, in a cemetery near Lashkar Gah, capital of Helmand province. He had been abducted the previous day by armed men whilst driving to the provincial capital.

Reports claim that prior to his death, Mr. Abdul Samad Rohani had received several threatening phone calls from a local chief who accused him of supporting the Kabul government and of boycotting news distributed by the Taliban. In 2006, Mr. Abdul Samad Rohani's home was reportedly the target of an attack in his absence.

22. Concern was expressed that the threats issued against Ms. Jameela Rishteen Quadiry and the killing of Mr. Abdul Samad Rohani, may represent a direct attempt to stifle independent reporting and, thus restrict the right to freedom of opinion and expression in Afghanistan.

Observations

23. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Algeria

Lettre d'allégations envoyée le 11 avril 2008

24. Le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire-Général sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé une lettre d'allégations concernant la situation de Me Abderrahman Amine Sidhoum, avocat et défenseur des droits de l'homme, membre de l'organisation non-gouvernementale des droits de l'homme SOS Disparu(e)s.

25. Selon les nouvelles informations reçues, le 30 mars 2008 le procès pour diffamation de Me Sidhoum aurait eu lieu devant la première section pénale du Tribunal de Sidi M'hamed, à Alger. Le 23 août 2006, Me Sidhoum aurait reçu une convocation du juge d'instruction du tribunal de Sidi M'Hammed à Alger qui le notifiait d'une plainte déposée à son encontre par le Ministre de la Justice pour « diffamation » à la suite de ses déclarations publiées dans l'article « Aoufi passe son trentième mois en détention » paru dans le quotidien arabophone El Chourouk le 30 mai 2004. Me Sidhoum aurait été accusé de jeter le discrédit sur une décision de Justice et de porter outrage à un corps constitué de l'Etat. Lors de son entretien avec la journaliste auteure de l'article susmentionné, Me Sidhoum aurait dénoncé la détention arbitraire de son client dans la prison de Seradji qui durait depuis 30 mois. Cependant, la journaliste, alors journaliste stagiaire au quotidien, n'aurait pas rapporté de manière fidèle les propos de Me Sidhoum, écrivant que le client de ce dernier « passe son trentième mois à Serkadji suite à une décision arbitraire rendue par la Cour Suprême ». En effet, au moment où Me Sidhoum avait tenu ces propos, aucune décision n'aurait encore été rendue par la Cour Suprême, qui ne se serait prononcée que le 28 avril 2005, soit un an après la parution de l'article.

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

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

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

Réponse du Gouvernement

29. Le 27 avril 2008, le Gouvernement d'Algérie a répondu à l'appel urgent du 11 avril 2008, indiquant que, s'agissant des deux affaires antérieures reprises dans l'appel urgent cité ci-dessus, la Mission Permanente voudrait rappeler au Haut Commissariat des Nations Unies aux droits de l'homme que le Gouvernement algérien avait déjà fourni des réponses qui ont fait l'objet des deux envois suivants : note verbale KH/NO 554/06 du 20 juillet 2006 et note verbale MPAG/MedB/SS/AA/N° 458/07 du 26 juin 2007. Le Gouvernement algérien considère, en conséquence, que ces deux affaires sont closes. Il estime que la répétition dans l'évocation des ces deux cas dans l'appel urgent susmentionné, constitue une tentative de crédibiliser le présumé défenseur des droits de l'homme. Le Gouvernement algérien souligne, à cet égard, que la nouvelle affaire dont est justiciable M. Abderrahmane Amine Sidhoum est sans rapport avec les activités privées de défense des droits de l'homme comme tente de le faire accréditer la source de l'allégation et remonte à l'année 2004. Enfin, on affirme que la réponse de fond du Gouvernement algérien sera communiquée en temps utile, au Haut Commissariat des Nations Unies aux droits de l'homme, Service des procédures spéciales, Secrétariats du Rapporteur spécial sur l'indépendance des juges et des avocats, du Rapporteur spécial sur la liberté d'opinion et d'expression et de la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme.

Observations

30. Le Rapporteur spécial remercie le Gouvernement pour sa réponse.

Lettre d'allégations envoyée le 24 avril 2008

31. Le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé au Gouvernement d'Algérie une lettre d'allégations concernant la situation de membres de l'Intersyndicale autonome de la fonction publique.

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

33. Le 15 avril, ces mêmes membres auraient demandé à rencontrer le Premier Ministre Abdelaziz Belkhadem afin de lui faire part de leur désaccord sur ce projet, en vain du fait de

l'intervention des hommes des Unités républicaines de sécurité. Les syndicalistes seraient alors passés outre l'interdiction de manifester, en vigueur depuis 2001, et auraient organisé un rassemblement sur la place de la Grande Poste, où ils auraient exhibé des banderoles critiquant le gouvernement. Les policiers auraient alors eu recours à la force pour s'emparer des banderoles, bousculant, insultant et prenant à partie les manifestants. Les forces anti-émeutes, appelées en renfort, auraient chargé les manifestants et fait usage de leurs matraques, arrêtant sept enseignants en fin de matinée, qui auraient finalement été relâchés dans l'après-midi. Une militante du Conseil des lycées d'Algérie aurait été violemment prise à partie et un membre du Conseil national autonome des professeurs de l'enseignement secondaire et technique aurait été traîné par la veste dans la rue, arrêté, puis immédiatement relâché sous la pression de ses collègues.

34. Au total, 10 personnes auraient été arrêtées, auditionnées puis relâchées quelques heures plus tard et des procès-verbaux auraient été dressés.

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

Observations

36. Le Rapporteur spécial regrette de devoir constater qu'il n'a reçu à ce jour aucune réponse aux allégations ci-dessus.

Appel urgent envoyé le 13 juin 2008

37. Le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé au Gouvernement d'Algérie un appel urgent concernant la situation de Me Abderrahman Amine Sidhoum, avocat et défenseur des droits de l'homme, membre de l'organisation non-gouvernementale des droits de l'homme SOS Disparu(e)s.

38. Me Amine Sidhoum Abderramane a fait l'objet de plusieurs communications de la part des procédures spéciales, en l'occurrence un premier appel urgent le 26 mai 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, un second appel urgent le 8 septembre 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, une première lettre d'allégations le 10 octobre 2006 par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et enfin une

seconde lettre d'allégations envoyées par le Rapporteur spécial sur l'indépendance des juges et des avocats et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 11 avril 2008. Nous accusons réception des réponses du Gouvernement de votre Excellence en date du 15 novembre 2006 et 30 avril 2008 en relation avec les présents faits.

39. Selon les nouvelles informations reçues, le 16 juin 2008 aura lieu le procès en appel de Me Amine Sidhoum Abderramane devant la Cour d'Alger. Me Sidhoum aurait été condamnée en première instance par le Tribunal de Sidi M'hamed à 6 mois de prison avec sursis et 20,000 dinars d'amende pour diffamation à l'égard d'une décision de justice à la suite de ses déclarations publiées dans l'article « Aoufi passe son trentième mois en détention » paru dans le quotidien arabophone El Chourouk le 30 mai 2004. Me Sidhoum aurait été accusé de jeter le discrédit sur une décision de Justice et de porter outrage à un corps constitué de l'Etat. Lors de son entretien avec la journaliste auteure de l'article susmentionné, Me Sidhoum aurait dénoncé la détention arbitraire de son client dans la prison de Seradji qui durait depuis 30 mois. Cependant, la journaliste, alors journaliste stagiaire au quotidien, n'aurait pas rapporté de manière fidèle les propos de Me Sidhoum, écrivant que le client de ce dernier « passe son trentième mois à Serkadji suite à une décision arbitraire rendue par la Cour Suprême ». En effet, au moment où Me Sidhoum avait tenu ces propos, aucune décision n'aurait encore été rendue par la Cour Suprême, qui ne se serait prononcée que le 28 avril 2005, soit un an après la parution de l'article.

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

Réponse du Gouvernement

41. Le 11 juillet 2008, le Gouvernement d'Algérie a répondu à l'appel urgent du 13 juin 2008, indiquant que Monsieur Abderhamane Amine Sidhoum a fait l'objet de poursuites engagées à son encontre le 8 juillet 2006 par le procureur de la République d'Alger, Sidi M. Hamed du Chef d'outrage à la Cour et atteinte à l'autorité de la Justice et son indépendance, faits prévus par les articles 146 et 147 du Code pénal. Ces poursuites sont consécutives à un article de presse publié par le quotidien « El Chourouk » dans lequel Abderhamane Amine Sidhoum déclare en substance « que le nommé T.A, directeur de l'agence foncière d'Oran, vit une véritable tragédie du fait de son incarcération par suite du jugement inique et abusif prononcé à son encontre par la Cour suprême », Considérant que ces propos, diffusés par voie de presse, constituaient un outrage à la justice en tant qu'institution fondamentale de l'Etat, le représentant du Ministère public a ouvert une information judiciaire et en a saisi le juge d'instruction de la 6ème chambre du tribunal d'Alger. Ce dernier a instruit l'affaire et a rendu une ordonnance par laquelle il renvoie M. Abderhamane Amine Sidhoum devant le tribunal, pour y être jugé conformément à la loi. Le 13 Avril 2008, le tribunal a condamné Abderhamane Amine Sidhoum à 6 mois de prison avec sursis et 20 000 DA d'amende. Après cette décision, l'intéressé a interjeté appel. L'examen de l'affaire fut fixé au 8 Octobre 2008.

Observations

42. Les Rapporteur spécial remercie le Gouvernement pour sa réponse.

Lettre d'allégations envoyée le 7 novembre 2008

43. Le 7 novembre 2008, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé au Gouvernement d'Algérie une lettre d'allégations concernant la situation de Me Abderrahman Amine Sidhoum, avocat et défenseur des droits de l'homme, membre de l'organisation non-gouvernementale des droits de l'homme SOS Disparu(e)s.

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

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

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

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

Observations

48. Le Rapporteur spécial regrette de devoir constater qu'il n'a reçu à ce jour aucune réponse aux allégations ci-dessus.

Angola

Letter of allegations sent on 9 September 2008

49. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegation concerning radio broadcasting regulations in Angola and the temporary suspension of the private radio station Radio Despertar.

50. According to the information received, on 8 July 2008 the Ministry of Telecommunications ordered the suspension for 180 days of Radio Despertar. The radio station had allegedly breached its license by broadcasting beyond the geographical boundaries of the city of Luanda. Private radios are reportedly not allowed to broadcast beyond a 50 km radius from the location where they are based. The suspension of Radio Despertar kept it from operating until after the Parliamentary elections.

51. Concern is expressed that the regulation preventing private radios from broadcasting beyond a 50 km radius from their base constitutes an undue limitation on the right to freedom of opinion and expression and the related right to impart information. Further concern is expressed that the suspension of Radio Despertar during the electoral process impeded its capacity to report during the electoral process, thereby also limiting the freedom of opinion and expression during such an important time.

Observations

52. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegation sent on 10 October 2008

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

54. On 14 August 2007, the then Special Representative of the Secretary-General sent a letter of allegation to your Government regarding public statements made by the Director General of the Government's Technical Unit of Humanitarian Aid (UTCAH) about SOS - Habitat, Mãos Livres, the Angolan branch of the Open Society Initiative for Southern Africa, and Justice, Peace and Democracy. The Director General reportedly made false accusations that these organizations carried out illegal acts, and expressed the intention to have them closed down. We have not yet received a response from your Government.

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

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

57. Concern was expressed that the closure of Mpalanda, and the threats to close the AJPB, SOS - Habitat, Mãos Livres and the Angolan branch of the Open Society Initiative for Southern Africa could be related to their activities in the defense of human rights. Further concern was expressed that this could contribute to an environment of hostility against organizations which work to defend human rights in Angola, particularly in light of the recent closure of the United Nations Office of the High Commissioner for Human Rights in the country following the decision taken by the authorities not to sign an agreement which would have formally established the Office.

Response from the Government

58. On 21 October 2008, the Government acknowledged receipt of joint communications AL/GSO 214 (67 14) G/SO 214 (107 6) from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression of the Human Rights Council and the Special Representative of the Secretary-General on the situation of human rights defenders.

59. The Angolan Government noted that it had carefully examined the matters referred to in the communications and wished to submit the following response.

60. “First of all, it should be born in mind that Angola is a sovereign Nation and a multi-party democracy with legitimate State institutions able to deal with all cases pertaining to the rights of the citizens. Its Government as well as its Parliament are elected and reflect the will of the people whose overwhelming majority gave a mandate to act on his behalf. The policies and the programme of political parties, including the ruling party, were all submitted recently to scrutiny in free and fair elections monitored by the international community. The turn-out went beyond 75 per cent of the 8 million registered voters.”

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

62. Even before this process of reform was set in motion, Angola was known for possessing one of the most open domestic legislation governing the right to association. That’s no wonder that so far more than 400 (four hundred) associations have registered in the Ministry of Justice. Most of them working on human rights issues, but also on education, children care, community organization, women empowerment, etc.

63. Since their inception, all of them, but one, have never been subjected to any sort of banning related to their operations. The decision to ban the organization referred to in your letter (Mpalabanda) was not issued by an administrative authority. It was issued by a competent court, following due process. The merit of the complaint was the nonconformity of the recent practices of the leaders of said organization with the law.

64. Mpalabanda had been given, as a defendant, the right to be represented by a lawyer and to present arguments in its defence. It also did exhaust all domestic remedies at the national level, appealing to higher Court.

65. The Court of first instance found Mpalabanda most recent leadership practices contrary to the purpose set fourth in its registration process. I must add for your reflection that the leader of that organization is currently a member of parliament after running as a member of a political party. If this doesn’t tell all, other Mpalabanda leaders also run in the ticket of political parties. It goes without saying that in fact there was a very thin line between Mpalabanda latest practices and political activity. To do political activity you must register as a political party not as human rights NGO which was the case of that organization.

66. As for the AJPD, a legal procedure was initiated by the office of the attorney general for that organization to alter some of the articles of its statute as recommended by the Ministry of Justice when it submitted its papers to be granted legal status. It must be pointed out that this organization was given a provisional authorization to operate pending the conclusion or suppress its existence; otherwise it would have taken place at the same time when the application was submitted.

67. The concerned organization is not prevented to make its case before the pertinent instances. What is taking place now is a legal procedure, a legal battle and, as you may know, it is not appropriate to jump to hasty conclusions or make considerations on a case that is still subjudice. Besides, this a court case not a government procedure.

68. It is assumed that the rule of the law implies that every citizen, individually or organized, play by the rules, unless the distinguished special Rapporteurs want to make exceptions when it comes to Angola. The merit of both parties' arguments will be decided upon only at the end of the legal procedure by the Constitutional Court.

69. Further clear indications that our laws are intended to facilitate the realization of the right to association as protected by the constitution, rather than making it more difficult, can be drawn from the law on political association. Under this bill, which governs the creation and operation of political parties, more than 98 (ninety eight political parties) for a population of roughly 15 million inhabitants were formed and registered in the Constitutional Court.

70. As far as freedom of expression is concerned, a dozen of independent newspapers and half dozens radio stations run by private entrepreneurs without any interference by the state in their editorial lines. They criticize, some times very harshly, the Government and the Head of the State, however there are no reports whatsoever that any of them have been closed down or prevented from carry on their normal business. International press, printed, broadcasted and televised is allowed freely. We challenge anyone to say the contrary.

71. Angola has a strong and well known record of abiding by its international obligations particularly when it comes to human rights. In thirty three years as independent State and member of the United Nations and the former OAU, today's African Union, not a single resolution of condemnation was issued against the government of Angola as regards to human rights.

72. Despite all the odds, including a brutal war fuelled and supported by many of those who today repeat over and over again the same baseless and unfounded accusations, hoping to label and discredit our government as failing to protect human rights, we painstakingly come a long way surmounting all obstacles, in a human and peaceful manner, and eventually successfully managed to establish a reunited, reconciled and democratic country that Africa is proud of.

73. Were not for our firm commitment to democracy, rule of law human rights and freedom, the impressive performance Angola is currently achieving in all domains would be impossible.

74. Our tremendous success is a god sent opportunity not only for Angolan citizens but as well as for thousands of immigrants from African sister nations who drifted from countries as far as in west Africa into Angola looking for a better future. That wouldn't happen have Angola had a record and practice of harassment of people rights.

Observations

75. The Special Rapporteur is grateful for the Government's response.

Argentina

Llamamiento urgente enviado el 27 de agosto de 2008

76. 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. Nahuel Pino, miembro de la Secretaría de Pueblos Originarios de la provincia de Buenos Aires de la Central de los Trabajadores Argentinos (CTA) y testigo en causas judiciales por violaciones de derechos humanos cometidas durante los años de la dictadura en Argentina.

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

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

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

Respuesta del Gobierno

80. El 17 de noviembre de 2008 el Gobierno de Argentina dejó constancia de la recepción de las comunicaciones conjuntas G/SO 214 (67-14) G/SO 214 (107 6) ARG 6/2008, de fecha 27 de agosto de 2008, enviadas conjuntamente 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.

81. El Gobierno de Argentina puso a disposición la siguiente información suministrada por la Subsecretaria de Protección de Derechos Humanos de la Secretaría de Derechos Humanos del Ministerio de Justicia, Seguridad y Derechos Humanos:

82. “Respecto a la denuncia formulada por el Sr. Nahuel Pino sobre los hechos de los que habría sido víctima, con fecha 2 de octubre de 2008 se puso en conocimiento del Señor Fiscal General, Dr. Rodolfo M. Molina, la documentación remitida por la Oficina del Alto Comisionado para los Derechos Humanos conteniendo la denuncia del Sr. Pino. Seguidamente,

el Sr. Secretario de la Unidad Fiscal Federal, Dr. Hernán Schapiro, comentó que ese mismo día tomó contacto con el abogado Marcelo Ponce Nuñez quien le informó que se habría formulado denuncia en la UFI N. 11 de la ciudad de La Plata por los hechos relatados en la nota de la Oficina del Alto Comisionado. Según el letrado, dicha Unidad Fiscal dispuso la custodia del denunciante por efectivos de la Policía de la provincia de Buenos Aires, agregando que el Sr. Pino posee contención psicológica a través de la Municipalidad de Ensenada.”

83. Asimismo, el Fiscal General Molina resolvió remitir copia de la documentación al Juzgado Federal N. 1, Secretaría N. 1 (juzgado donde tramita la causa n. 16418 “Félix Crous s/denuncia” en la que el Sr. Pino es víctima y testigo) solicitando se convoque al denunciante para informarle acerca de los distintos sistemas de asistencia y seguridad de testigos existentes. El objetivo es que tanto el Sr. Pino como su familia puedan evaluar si desean y se encuentran en condiciones objetivas para ingresar a algunos de estos sistemas. A la vez, el fiscal Molina solicitó a la UFI n.11 de La Plata que informe el estado de las actuaciones abiertas con motivo de la denuncia formulada por el Sr. Pino. Por último, la Secretaría de Derechos Humanos ha solicitado dicha información a fin de completar la respuesta del Gobierno de la República Argentina, el cual se compromete a mantener informados a los Señores Relatores respecto a los avances que se produzcan en el caso antes mencionado, y a remitir cuando se reciban, cualquier otra información producida por otros organismos.”

Observaciones

84. El Relator Especial agradece al Gobierno por la respuesta proporcionada.

Llamamiento urgente enviado el 8 de octubre de 2008

85. El Relator especial, junto con la Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el secuestro del Sr. Emanuel San Martín, un educador del Hogar Juan XXIII. Dicho hogar forma parte del Movimiento Nacional Chicos del Pueblo, una red de más de 300 organizaciones fundada por la organización Pelota de Trapo para defender los derechos humanos en Buenos Aires.

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

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

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

Respuesta del Gobierno

89. Por carta enviada el 16 de enero de 2009 el Gobierno de Argentina puso a disposición la siguiente información:

90. “Funcionarios de la mencionada Secretaria de Estado mantuvieron una reunión con integrantes de la fundación “Pelota de Trapo” el 1 de octubre de 2008. La misma brindó la posibilidad de conocer en mayor profundidad los diversos hechos, amenazas, intimidaciones y secuestro que habrían sufrido en distintas dependencias de la mencionada institución. Según relataron, dicho organismo y personal vinculado al mismo habrían sido víctimas en tres ocasiones-hasta ese entonces-de amenazas e intimidaciones, por un grupo de personas no identificadas.

91. Conforme a la conversación mantenida, los integrantes de la fundación manifestaron su profunda preocupación por los hechos vividos y alegaron no conocer ni poder identificar a los presuntos autores, ni la motivación de los ataques. Al mismo tiempo, informaron que diversas autoridades provinciales se habían contactado con ellos, recibieron una comunicación del Gobernador de la Provincia de Buenos Aires, y mantuvieron una reunión con el Jefe de Gabinete, con el Ministro de Justicia, con el Ministro de Justicia, con el Ministro de Seguridad y con la Secretaria de Derechos Humanos. Los funcionarios informaron las gestiones realizadas desde la secretaria Nacional y decepcionaron las inquietudes, malestares y preocupaciones de los solicitantes. En particular declararon el haber solicitado varios informes mediante nota al Ministerio de Seguridad y Secretaria de Derechos Humanos de la Provincia de Buenos Aires y a la Unidad Fiscal de Investigaciones con competencia en el caso. Seguidamente se desglosarán las acciones y gestiones de dichos organismos relacionados con las denuncias de la fundación, con el objetivo de brindar una respuesta completa al Relator Especial.

92. Paralelamente cabe informar que el Subsecretario de Protección de Derechos Humanos realizó las gestiones tendientes para recibir al Sr. Hugo Yaski quien acompañó a los miembros de la fundación Pelota de Trapo en la presentación de sus reclamos. Es importante destacar que el 2 de octubre de 2008, los presentantes fueron recibidos personalmente por el Señor Ministro de Justicia, Seguridad y Derechos Humanos de la nación, Dr. Hanibal Fernández, el cual se puso a disposición de los mismos en razón de los hechos denunciados.”

93. El Gobierno también proporcionó informaciones detalladas sobre los hechos ocurridos en abril, julio y septiembre de 2008 y las gestiones judiciales sobre el caso.

Observaciones

94. El Relator Especial agradece al Gobierno por la respuesta proporcionada.

Llamamiento urgente enviado el 4 de diciembre de 2008

95. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los supuestos secuestros de la Sra. María Isabel Almeida y el Sr. Emanuel San Martín, educadores del Hogar Juan XXIII; el Sr. Reymundo Sacca, un sereno voluntario del mismo hogar; la Sra. Viviana Dadario, una educadora de la Red el Encuentro en José C. Paz; y la supuesta intimidación de otros educadores del Hogar Juan XXIII y miembros de la organización Pelota del Trapo. El Hogar Juan XXIII y la Red el Encuentro forman parte del Movimiento Nacional Chicos del Pueblo, una red de más de 300 organizaciones fundada por Pelota de Trapo para defender los derechos humanos de los niños en Buenos Aires. El Movimiento Nacional Chicos del Pueblo lanzó la campaña “El Hambre Es un Crimen” en el Parroquia Santa Cruz el 18 de abril de 2008, en Mar de Plata el 18 de julio de 2008, y en Santa Fe el 4 de noviembre de 2008.

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

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

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

99. El 26 de noviembre de 2008, representantes del Movimiento Nacional Chicos del Pueblo se habrían entrevistado con el señor Gobernador de la Provincia de Buenos Aires, el Ministro de Seguridad y el Ministro de Justicia. El 27 de noviembre de 2008, aproximadamente a las 7h00, el Sr. Emanuel San Martín, habría sido secuestrado por segunda vez cerca del Hogar Juan XXIII. Dos hombres encapuchados le habrían ordenado subir a un vehículo Kangoo azul marino con vidrios polarizados, conducido por una mujer. Después de los acontecimientos anteriores se habría asignado una custodia para vigilar la zona pero no se habría encontrado en ese momento. Los secuestradores se habrían comunicado por mensajes de texto enviados del celular del secuestrado a educadores del Hogar y de Pelota del Trapo antes de dejarle narcotizado en la Plaza de la Estación Constitución.

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

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

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

Respuesta del Gobierno

103. Por cartas enviadas el 5 de febrero de 2009 y 9 de marzo de 2009, el Gobierno de Argentina proporcionó la siguiente información en relación con los casos mencionados por los Relatores especiales:

104. “Investigaciones se encuentran en pleno trámite con diligencias de instrucción a fin de poder dar con los autores del hecho, quienes no han sido identificados. Hasta la fecha 7 de enero de 2009, se han dispuesto múltiples diligencias judiciales. Se han tomado declaraciones testimoniales, hay audiencias designadas para recibir otras declaraciones testimoniales.”

105. “Respecto de las medidas adoptadas para garantizar la seguridad de Emmanuel San Martín y los demás miembros del Hogar Juan XXIII, en virtud de la gravedad de los hechos ocurridos, se han dispuesto, en un primer momento, 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’, como seí también el Hogar Juan XXIII a los efectos de preservar a los jóvenes integrantes de las mismas.”

106. “El presunto secuestro del ciudadano Emmanuel San Martín, ocurrido el 27/08, tomó directa intervención de la UFI n. 4 Avellaneda, por haber mantenido comunicación directa el propio denunciante con el Sr. Agente Fiscal Dr. Guillermo Castro. [...] Se comisionó personal a la sede social de la entidad, y se contactó a la Dirección de Análisis de comunicaciones del Ministerio de Seguridad Provincial a fin de rastrear la apertura de antenas desde el celular de la víctima. Una hora después de la toma de conocimiento del hecho, se recibió un nuevo llamado dando cuenta de la aparición del ciudadano Sacca, razón por lo que quedó sin efecto el rastreo de antena antes reseñado.”

107. Sobre el caso de la Sra. Viviana Dadario, el Gobierno informó que “se dispuso la realización del reconocimiento médico legal sobre la denunciante y dictado de rostro, ambos cumplimentados. Asimismo, se libraron oficios a la Municipalidad de La Plata, casa de gobierno de la Provincia de Buenos Aires, Ministerio de Trabajo, y a la empresa Coviare S.A. a fin de solicitarles la remisión de la filmación de las cámaras de seguridad”. El Gobierno también proporcionó información sobre el trámite de las investigaciones sobre este caso.

108. Sobre el caso de la Sra. María Isabel Aranda, el Gobierno informó que el mismo ha sido archivado en noviembre de 2008, por no hallarse suficientemente comprobada la materialidad del hecho denunciado.

Observaciones

109. El Relator Especial agradece al Gobierno por la respuesta proporcionada.

Armenia

Urgent appeal sent on 3 April 2008

110. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning a group of protesters taking part in reportedly peaceful demonstrations in Yerevan between 25 and 27 March 2008, including Mr. Levon Ter-Petrossian, former President of the Republic of Armenia and candidate in the presidential election of 19 February 2008 for the Armenian National Movement (ANM), Mr. Aleksandr Arzoumanian, former foreign minister under the Presidency of Mr. Ter-Petrossian, and Mr. Ararat Zurabian, Chairman of the Board of the ANM.

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

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

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

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

115. Mr. Ter-Petrosian was taken from Liberty Square in the capital of Yerevan on 2 March 2008 by members of the presidential security squad after police and security forces had dispersed demonstrations by supporters of the opposition, which, according to official records, resulted in the death of 8 persons and approximately 260 injured. Mr. Ter-Petrosian was taken to his house, which was surrounded by police. Authorities have denied that Mr. Ter-Petrosian is under house arrest and alleged that the measure was taken for his own protection. A freedom of movement petition filed on behalf of Mr. Ter-Petrosian was rejected. However, the court decided to assign the Prosecutor General's Office to investigate into the reasons for the restrictions of movement imposed upon Mr. Ter-Petrosian. Mr. Aleksandr Arzoumanian and Mr. Ararat Zurabian were arrested on 10 March in Yerevan, taken to the headquarters of the National Security Service and charged with "plotting the violent overthrow of Government".

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

Observations

117. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Azerbaijan

Letter of allegations sent on 24 June 2008

118. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent a letter of allegations to the Government in relation to Mr. Emin Huseynov, Chairperson of the Institute for Reporters' Freedom and Safety (IRFS), and Messrs. Rasim Aliyev and Mirrehim Hasanov, researchers for the organization. The IRFS is a non-governmental journalists' organization promoting freedom of expression.

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

120. On 14 June 2008, Mr. Huseynov was again detained, along with Mr. Rasim Aliyev and Mr. Mirrehim Hasanov, following a raid by police of an event to mark the 80th birthday of Che Guevara, which the three men were monitoring. These three men, together with others detained at the event, were taken to Nasimi District Police Department 22, where Mr. Huseynov protested against the photographing and fingerprinting of all those detained.

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

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

Observations

123. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 30 July 2008

124. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding Mr. Nusrat Aliyev, husband of human rights defender Akifa Aliyeva.

125. According to the information received, in July 2008, a criminal case was filed against Mr. Nusrat Aliyev under article 128 of the Criminal Code of Azerbaijan, for the alleged assault of Ms. Akifa Aliyeva's brother. On 24 July 2008, Mr. Nusrat Aliyev was ordered to pay criminal damages and may face trial. Ms. Akifa Aliyeva, the wife of Mr. Nusrat Aliyev is the Coordinator of the Ganja branch of the Helsinki Citizens' Assembly of Azerbaijan. She was involved in the defence of a member of the Ukrainian minority in Azerbaijan, and was threatened that if she continued involvement in the case, her husband would be arrested.

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

Observations

127. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 26 August 2008

128. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government regarding the detention and sentencing of Mr. Novruzali Mammadov, Head of the Talysh Cultural Centre, and the detention of his son, Mr. Emil Mammadov. Mr. Novruzali Mammadov is a defender of the cultural rights of the Talysh people in the south of Azerbaijan.

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

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

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

132. During his trial Mr. Novruzali Mammadov pleaded not guilty and testified that he had been subjected to physical and psychological torture while in detention. The forms of torture to which he was allegedly subjected include beating, deprivation of food and water, interrogation at night, and threats against his family. He is currently awaiting the hearing of his appeal in detention at a pretrial prison. Following the sentencing of Mr. Novruzali Mammadov, a number of

clarifications were made with respect to the sentence. However, these clarifications were reportedly based on confessions of a journalist which may have been obtained through torture and ill-treatment.

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

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

Response from the Government

135. In a letter dated 13 March 2009, the Government replied to the communication above. In its response, the Government informed that during the examination the information about the physical and psychological pressure on Novruzali Mammadov did not prove to be accurate. The forensic medical examination revealed no injuries on his body. The Government also provided the following information:

136. "It was found that since 1992 Novruzali Mammadov carried out hostile activities against the Republic of Azerbaijan by helping Special Services of foreign country, providing them with special information, finding and contacting persons having required information, providing that country with information about those persons. It was also proved that by cooperating confidentially with these organizations aimed at carrying out separatist propaganda in the area of the Republic of Azerbaijan where Tallyshs live, he accepted money from the organizations for implementing these activities and was involved with these activities since then till his imprisonment."

137. Novruzali Mammadov Khanmammad oglu was sentenced to 10 years of imprisonment, alongside the confiscation of property according to the judgement dated 27.06.2008 of the Courts of Serious Crimes of the Republic of Azerbaijan, being charged by Article 274 of the Criminal Code".

Observations

138. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 27 August 2008

139. The Special Rapporteur, together with the Special Representative on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government regarding the situation of Mr. Sakit Zahidov, poet and journalist at the daily newspaper, Azadlig. Staff of the Azadlig newspaper have been the subject of three previous communications sent to your Government by mandate holders, the most recent of which was sent on the 10 March 2006, on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

140. According to information received, on 19 August 2008, Mr. Sakit Zahidov was visited by his lawyer at Prison N14, located 75 km from Baku, and informed his lawyer that his life is in grave danger. One of his fellow inmates was allegedly provided with scissors and ordered to kill him. Reports claim that prison authorities may have instigated the order. Mr. Sakit Zahidov immediately reported the incident to the penitentiary and requested a transfer to a different prison. A representative of the prison service met with Mr. Zahidov and told him that his request will be positively resolved.

141. According to reports, the prison authorities have consistently refused to move Mr. Sakit Zahidov to the prison's medical department, despite his heart and stomach ailments, except when he was on hunger strike in July and again in October 2007. There are reports that detainees who have contact with Mr. Sakit Zahidov face problems within the prison, such as having their appeals for alternative punishments or early release disregarded. On 20 August 2008, representatives from the office of the Ombudsman for the Republic of Azerbaijan visited Mr. Zahidov in prison.

142. Mr. Sakit Zahidov was arrested on 23 June 2006, on allegedly fabricated charges of possession of illegal narcotics with intent to distribute. He was sentenced to three years in prison on 4 October 2006.

143. While the visit by representatives from the Ombudsman's office is welcomed, concern was expressed for the physical and mental integrity of Mr. Sakit Zahidov. Further concern is expressed that the arrest and detention of Mr. Zahidov may represent a direct attempt to prevent independent reporting in Azerbaijan, thus stifling freedom of expression in the country.

Response from the Government

144. By letter dated 4 March 2009, the Government replied to the communication above. The Government informed that according to the verdict of the Serious Offenses Court of the Republic of Azerbaijan of 4 October 2006, Salcit Salim Zahidov was imprisoned for three years being charged under Article 234.1 of the Criminal Code, i.e. illegal purchase or storage without a purpose of selling of narcotics or psychotropic substances in a quantity exceeding necessary for personal consumption. The Government informed that in accordance with relevant international instruments, all necessary procedures for the protection of S. Zahidov's rights had been carried out. The Government further noted that the application submitted by S. Zahidov's lawyer to the

General Prosecutor's Office regarding the threat to his life was taken as a serious warning, relevant instructions were given by the administration of the ministry and comprehensive investigation was carried out. However issues indicated in the application as well as illegal treatment of convicts by the prison administration and hunger strike because of that had not been proved during the investigation.

145. The Government also noted that during his detention, S. Zahidov met with the representatives of different international and non-governmental organizations, as well as representatives of the OSCE Baku Office, co-rapporteurs of the Council of Europe on Azerbaijan, representatives of the Social Committee, Azerbaijan Committee against Torture for several times and stated that he had no complaints against administration of the establishment.

146. The Government stated that "concerns of special-mandate holders about imprisonment and custody of S. Zahidov as a possible intervention aiming at creating obstacles to freedom of speech and thought are groundless. S. Zahidov was held criminally liable for perpetrating the crime of illicit circulation of narcotic drugs and psychotropic substances provided for only in the Criminal Code of the Republic of Azerbaijan and sentenced to imprisonment according to the verdict of the court". The Government also provided extensive information concerning the domestic legislation on freedom of opinion and expression.

Observations

147. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 4 September 2008

148. The Special Rapporteur sent a letter of allegations to the Government regarding the situation of Ms. Malahet Nasibova and Mr. Ilgar Nasibov, correspondents with Radio Liberty and Mr. Elman Abbasov, a reporter with the Institute for Reporters' Freedom and Safety (IRFS) in Baku.

149. According to information received, on the morning of 27 August 2008, a confrontation ensued between the police and residents of the village of Nahrem, in Azerbaijan's Autonomous Republic of Nakhchivan. Ms. Malahet Nasibova, Mr. Ilgar Nasibov and Mr. Elman Abbasov were in the village to report on the incident. During the altercation, approximately 8 members of the village, including the chairman of the municipality, reportedly assaulted the three journalists. Some members of the crowd, who were allegedly intoxicated at the time, grabbed the video camera and dictaphone belonging to Mr. Abbasov, as well as Ms. Nasibova's mobile phone, and smashed them on the ground. The three journalists sustained injuries during the attack and the IRFS video recording of the confrontation was destroyed.

150. Reports claim that police officers present when the attack took place did not intervene to protect the journalists. An attempt by the journalists to file a complaint at the Nahrem police station was reportedly rejected.

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

Observations

152. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Bahrain

Urgent appeal sent on 10 January 2008

153. The Special Rapporteur, together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on extrajudicial, summary or arbitrary executions and the then Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the government concerning Mr. Ali Jassim Meki, a human rights defender with close links to the HAQ Movement of Liberties and Democracy, and the arrest and detention of the following eleven human rights defenders: Mr. Shaker Mohammed Abdul-Hussein Abdul-Aal, Mr. Abdullah Mohsen Abdulah Saleh, Mr. Maytham Bader Jassim Al-Sheikh, Mr. Majid Salman Ibrahim Al-Haddad, Mr. Ahmad Jaffar Mohammed Ali, Mr. Hassan Abdulnabi, Mr. Nader Ali Ahmad Al-Salatna, Mr. Hassan Abdelnabi Hassan, members of the Unemployment Committee, as well as Mr. Naji Ali Fateel, member of the Bahrain Youth Society for Human Rights, Mr. Mohammed Abdullah Al Sengais, head of the Committee to Combat High Prices, and Mr. Ebrahim Mohamed Amin-Al-Arab, founding member of the Martyrs and Victims of Torture Committee. They were reportedly all being detained at the Criminal Investigations Department, (CID) in Adliya. Mr. Hassan Abdulnabi was the subject of a joint urgent appeal sent by mandate-holders on 14 December 2005.

154. According to information received, on 17 December 2007 a demonstration was held in the Sanabis area, organized to commemorate victims of torture in the past. The demonstration was violently dispersed by members of the riot police and of the special security force. Tear gas and rubber bullets were employed by security forces and some participants were beaten.

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

156. Following this, and other similar demonstrations, a number of people, including at least the aforementioned eleven human rights defenders, were arrested between 21 and 28 December 2007. All of them have been accused of having taken part in an "illegal gathering and rioting" and of "theft of a weapon and ammunition and possession of a weapon and ammunition without permission". For the first ten days of their detention they were denied access to their lawyers, and interrogations carried out inside the detention chambers and at the Public Prosecutor's office were conducted without the presence of a lawyer. The Public

Prosecutor is refusing to pass a copy of the case files, detailing the charges, to a group of lawyers defending the activists. Some of the human rights defenders have been ill-treated and possibly tortured while in detention. Visitors from human rights organizations have been refused access.

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

Response from the Government

158. On 26 February 2008, the Government responded to the joint communication sent on 10 January 2008, affirming its desire to guarantee the right of all persons to hold opinions without interference and the right to freedom of expression by peaceful means in accordance with the International Covenant on Civil and Political Rights, the Constitution and the law. The Government reported that the authorization of demonstrations and gatherings is governed by Act No. 32 of 2006, amending Legislative Decree No. 18 of 1973 on public meetings, demonstrations and gatherings. In 2007, a total of 324 demonstrations and gatherings were held; prior notice was given for 104 of these events and no notice was given for 220; most of the unauthorized demonstrations and gatherings were not halted or prevented. The Government of the Kingdom affirmed its ongoing commitment to allowing peaceful demonstrations, provided they are held in accordance with the law and participants do not engage in mob unrest or rioting punishable by law. The rioting that occurred on 17 December 2007 during illegal gatherings and demonstrations coincided with the Kingdom's celebrations of the national holiday, which is observed on 16 and 17 December every year, and endangered the lives and property of people celebrating the holiday. Some civil society associations and members of the Chamber of Deputies alleged that the police used excessive force in dealing with these events, and some claimed that the persons detained were tortured. The Minister for Internal Affairs explained the position to the Chamber of Deputies on 15 January 2008 in reply to a member's question about the necessary guarantees to safeguard human rights. He confirmed that the police had not infringed the applicable legislation and regulations. In addition, Ministry officials confirmed that the police had not used excessive force against the rioters and that the detainees had been taken to a forensic medical examiner, who had confirmed that none of them had been tortured and that all the measures taken with respect to them were in accordance with the law.

159. The Government stated that the assertions in the urgent appeal regarding the death of Mr. Ali Jasim Mohamed Maki, and the events that preceded and followed it are not accurate: the demonstrators not only gathered illegally but were also carrying iron spits and Molotov cocktails. They set a police car on fire and stole guns from it, and they also attempted to kill police officers, as some of the accused persons admitted when questioned by the Department of Public Prosecutions. No complaints have been lodged with the Department of Public Prosecutions concerning the persons named in the urgent appeal. When questioned by the Department of Public Prosecutions, the persons who had been arrested and placed in preventive detention said nothing about having been attacked. Nevertheless, the Department ordered that they be examined by the forensic medical examiner to determine whether they had any injuries, and the forensic report confirmed the absence of any injuries. Regarding the death of Mr. Ali Jasim Mohamed Maki, on 17 December 2007 the competent security department was

informed by the International Hospital of Bahrain that an individual had died there and that his body had been transferred to the morgue of Salmaniya hospital. Upon receipt of the report, the Department of Public Prosecutions, which is an independent judicial body, was notified and took the following steps. The head of the Department of Public Prosecutions went straight to Salmaniya hospital, examined the body and found no signs of injury. The Department of Public Prosecutions formed a tripartite commission chaired by the Department's senior forensic pathologist, with two doctors from Salmaniya hospital as members, in order to ascertain the cause of death. After confirming that the body bore no injuries, the commission conducted an autopsy and found that the cause of death was sudden circulatory arrest. None of the relatives of the deceased asked the Department of Public Prosecutions for a second opinion from an independent specialist. The autopsy was conducted in the presence of relatives of the deceased. The medical commission carried out the necessary medical tests in order to prepare the final medical report on the cause of death. The Government noted that the allegation that legal representatives were denied access to the accused is untrue, as all but one of the accused decided during questioning to forfeit the right to have a lawyer present; the lawyer of the one person who did decide to ask for a lawyer was allowed to attend the examination proceeding, pursuant to article 134 of the Code of Criminal Procedure. The accused did not do this. The Department of Public Prosecutions, on the other hand, ordered that all the necessary facilities be provided to allow any of the family members or lawyers of the accused persons to visit them in their places of detention if they so wished.

Observations

160. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 18 January 2008

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

162. According to new information received, they did not have access to their lawyers until approximately ten days after they were detained. Some of the detainees were continually handcuffed for one to two weeks, including while they ate and slept. They were refused access to

washing facilities and were forced to lie on a cold floor and beaten and kicked as soon as they fell asleep. Some were forced to stand for three days. They were not permitted to speak to the other detainees and remained blindfolded for most of the time. The detainees were also not allowed to pray.

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

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

Observations

165. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegation sent on 21 January 2008

166. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the government concerning Misses Sadika Haron, Afrah Haron, Mariam Gasem, Amina Shokr, Sharifa Sayyid Gaafar, Fakhria Singace, Somayyia Singace, Zainab el Kaffas, Haifa Mohamed Taha, Sanaa Mohamed Taha, Zahra Khalil, Ms. Fatimah Salman Gassem, Afaf Abdulhadi, Rabab Marhoon, Abdullah Mohsen, and Zainab Al Khawaja; all female family members of political prisoners currently in detention following recent unrest in Bahrain, and Mr. Abdulhadi el Khawaja, Director of the Bahrain Center for Human Rights, who was monitoring the demonstration.

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

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

Response from the Government

169. In a letter dated 3 March 2008, the Government responded to the communication sent on 21 January 2008. The Government objected to the description of the individuals in questions as “political prisoners currently in detention following recent unrest in Bahrain”. The Government noted that there are no political prisoners in Bahrain and no persons arrested or detained because of their political views or activities. The individuals in custody are being held in connection with criminal inquiries pursuant to specific articles of Bahrain’s criminal law. The allegations set out in the communication are inaccurate. On 24 December 2007 the family members of those in custody applied to the Public Prosecution to visit their relatives. The request was accepted immediately and a visit was peacefully carried out on the same day. On the following day, 25 December 2007, a number of female relatives of those in custody gathered at the premises of Public Prosecutor’s Office, with the apparent intention of disrupting and intimidating staff and other visitors. A number of visitors, including foreign nationals, were driven away by the commotion caused by the demonstrators. The Government reported that following rumors that one of the women demonstrators had been mistreated by police officers, the Public Prosecution immediately initiated investigations. These investigations clearly established that the demonstrators, a number of whom began shouting and screaming without reason, were observed from a distance by five uniformed police officers, four of them female. Allegations of the involvement of “plainclothes armed militias” or “special security forces” were found to be completely unfounded. The Government stressed that no force had been used against the demonstrators at any time and that no official claims or complaints to this effect were made by any of the demonstrators. During the demonstrations one of the protesters collapsed and was given medical attention, and was later transferred to the hospital. While media reports allege that a number of those involved were taken to hospital as a result of injuries sustained at the demonstration, the Government understands that no medical reports were issued as none of the demonstrators had been injured or mistreated in any way. The Government also stressed that the police officers in question exercised a restrained and understanding approach to the demonstration in recognition of the distressed state of those involved. The Government categorically denied that “violent house intrusions” took place at the homes of those involved in the demonstration. The Government also confirmed that regular weekly family visits continue to those in custody in connection with the incidents of 20 December 2007.

Observations

170. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 24 April 2008

171. The Special Rapporteur, together with the Vice-Chairperson of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, sent a joint urgent appeal regarding the cases of the arrest of 47 persons over four weeks and the detention of 26, notably of Ammar Hassan Ali Hassan Al-Basri, 17; Sayyed Hadi Hameed Adnan Alawi, 28; Mohammed Abbas Mohammed Ali, 29; Saleh Ali Mohammed Ali Aseeb, 30; Hassan Kadhem Ebrahim Ahmed, 30; Ha’med Ebrahim Fardan, 27; Ali Mohammed Habib Ashoor, 31; Ahmed Ali Hassan, 35; Mohammed Makki Mansoor, 27; Fadhel Abbass Mohammed Ashoor, 25; Kumail Ahmed Ali Abu-Sharaf; Jassim Mohammed Habeeb, 29; Fadhel Abbass Ali Ahmed, 28;

Hussain Abbass Ali Ahmed, 24; Sayyed-Sadiq Ebraheem Jumma' Ma'jed, 26; Sayyed-Ahmed Hameed Adnan Alawi, 23; Sayyed-Jawad Hameed Adnan Alawi, 30; Sayyed-Omran Hameed Adnan Alawi, 24; Sadeq Jawad Al-Fardan, 27; Qasim Mohammed Khaleel Ebraheem, 22; Hussain Abdul-Kareem Makki Eyd, 24; Habeeb Mohammed Habeeb Ashoor, 20; Habeeb Ahmed Habeeb Mohammed Abbass, 22; Hussain Ali Dhaif, 28; Hussain Mohammed Khatam Hussain Mohammed, 28; and Ebraheem Saleh Ebraheem Jaffer, 22.

172. According to information received, 47 people from the villages of Karzakkan, Demistan, Sadad and Malekkyia were arrested between 27 March and 15 April 2008, mostly during house raids by Special Security Forces, allegedly with the support of the secret intelligence and armed militia. In one case, the person wanted by the security forces was absent, and his brother Jassim Mohammed Habeeb was arrested in his place and taken to Hamad Town police station. He was still in detention although his brother presented himself to the police station. Others were arrested after they presented themselves to the Hamad Town police station in response to official summons. Of the 47 arrested people, 26 were still being detained, including one minor, Ammar Hassan Ali Hassan Al-Basri. The detainees are being held in the premises of the Criminal Investigations Bureau (CIB) in Adleyya, Manama. Since their arrests, they have not had access to lawyers and no visits were allowed. Some of the detainees were taken before the Public Prosecutor to have their detention extended. In addition, Shaker Mohammed Abdul-Hussein Abdul-Aal, aged 26, from Hamala, was summoned on 15 April 2008 to Hamad-Town police station, from where he was transferred to an unknown place. Since then, his whereabouts have been unknown. Mr. Abdul-Hussein Abdul-Aal had briefly been detained on 2 February 2007 for delivering a speech criticizing the government, arrested again on 21 December 2007, along with other members of the Committee for the Unemployed, in relation to the December protests, and released a month later. His arrest in December was the subject of an urgent appeal sent on 10 January 2008 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, 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, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders. Allegations were received that he was subjected to torture including being blindfolded and handcuffed for several days, hanged by the arms for two days and exposed to electric shocks during his detention. The arrests were triggered by two violent incidents: the burning on 6 March 2008 of a farm belonging to a former high Government official and the killing on 9 April 2008 of a member of the Special Security Forces. However, accusations regarding the killing of the Special Security officer were reportedly not supported by evidence.

173. Concern was expressed that these men were arrested and detained for their alleged involvement in social movements, such as the Committee for the Unemployed and the Underpaid, the Committee for the Defence of Detainees, the Committee against High Prices, etc., as well as their community activism.

Response from the Government

174. On 14 August 2008, the Government replies to the urgent appeal of 24 April 2008, stating that first, the Department of Public Prosecutions undertook an investigation into the persons named in the attached note who had been accused of offences that are punishable by law under the Criminal Code. Two investigations were carried out into these incidents, as described below.

In the first case, the Department of Public Prosecutions laid charges against a total of 19 persons on the counts described below. They participated in a public demonstration involving more than five persons for the purpose of carrying out criminal attacks against property and persons. The accused committed the following offences, knowing the purpose behind the demonstration: The intentional and premeditated murder and ambushing of Majid Ashgar Ali; they had planned and conspired to set fire to any police vehicle that passed by the scene of the crime and to kill the occupants. They had prepared Molotov cocktails and stones in advance and hid in a place where they were certain that a police car would pass. As soon as the victims' car appeared, they showered it with a hail of these materials with the intent of killing the occupants. They caused the fatal injuries described in the forensic report on the victim. They attempted deliberately to murder and ambush Salih Ali Salih and Ammar Mas`ad Hamud; they had planned and conspired to set fire to any police vehicle that passed by the scene of the crime and to kill the occupants. They had prepared Molotov cocktails and stones in advance and hid in a place where they were certain that a police car would pass. As soon as the victims' car appeared, they showered it with a hail of these materials with the intent of killing the occupants. The crime failed to achieve the desired effect for reasons beyond their control, namely, the victims' decision to get out of the vehicle, and the fight which the second victim put up. They set fire to a police car belonging to the Ministry of the Interior and endangered lives and property, after surrounding the vehicle and bombarding it with Molotov cocktails, which exploded and set fire to parts of the vehicle. In the second case, the Department of Public Prosecutions brought charges against 15 persons on the counts described below. They participated in a public demonstration involving more than five persons for the purpose of carrying out criminal attacks against property and persons. The accused committed the following offences, knowing the purpose behind the demonstration: Setting fire to the movable and immovable property described and listed in the case documents as belonging to Sheikh Abd al-Aziz Atiyah Allah Al Khalifah, thus endangering lives and property; throwing Molotov cocktails; dousing them with flammable material (gasoline) and setting light to them, as described in the documents. Second, the Department of Public Prosecutions referred all the accused persons in the two cases to the Criminal High Court on the charges described above. In referring the accused to the Criminal Court, the Department of Public Prosecutions submitted a great deal of evidence, including confessions by a number of the accused; confessions in which some of the accused implicated others in the same investigation; the testimony of police officers who had witnessed the incidents and others who had been present at the scene; and forensic evidence, reports and photographs of the accused committing the offence. Third, none of the persons who were arrested and detained made any statement when questioned by the Department of Public Prosecutions about having been assaulted. The Department of Public Prosecutions nevertheless ordered a medical examination of the accused in order to clarify whether or not they had sustained any injuries. The medical reports found no evidence of any injuries. Four, Shakir Mohammed Abd al-Hussayn Abd al-Al was charged in the second case and was detained pending trial. Five, the second case was sent before the Criminal High Court and is still being heard by the Court. Six, the Department of Public Prosecutions, at the very outset of the investigation, gave orders that the accused and their defence counsel should be provided with every assistance to facilitate the presentation of a defence in the framework of the law. Nothing was done which vitiates the legal procedures followed by the Department of Public Prosecutions.

Observations

175. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 30 May 2008

176. 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 Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture sent an urgent appeal to the Government of Bahrain regarding the following human rights defenders, Messrs Shaker Mohammed Abdul-Hussein Abdul-Aal, aged 26, Sadeq Jawad Ahmed Al-Fardan, aged 27, and Hasan Kathom Ebrahim Ahmed, aged 30, members of the Unemployment Committee; Ali Mohamed Habib Ashoor, aged 31, and Habib Mohamed Habib Ashoor, aged 20, of the Committee for Detainees; Fadhel Abbas Mohamed Ashoor, aged 25, of the Committee Against High Prices; and Sayed Omran Hameed Adnan, aged 24, of the Committee Against One Percent.

177. According to the new information received, since their arrest in early April 2008, they have reportedly been tortured, beaten, held in solitary confinement and deprived of food and sleep. A form of torture known as Falaqah has been applied on them, whereby a hard stick is inserted between the detainee's cuffed hands and tied legs, and then used to suspend the detainee in the air for hours with his legs facing upwards and his blind-folded head facing downwards. The detainee's feet are then beaten until he makes a confession or loses consciousness. The men are reportedly held without charge or access to lawyers and access to families have been restricted.

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

Response from the Government

179. In a letter dated 14 August 2008 the Government responded to the communication sent on 30 May 2008. The Government informed that in accordance with the Criminal Code of Bahrain, the Department of Public Prosecutions launched an investigation into the unlawful acts with which the persons named in the urgent appeal were charged. The Department of Public Prosecutions charged the 19 persons named in the urgent appeal with participating in a public gathering without prior permission from the competent authority, in violation of the Public Gatherings and Processions Act. Regarding the deliberate and premeditated murder by ambush of police officer Majid Asghar Ali, the Government reported that the accused had resolved to set fire to any police vehicle passing by the crime scene and to murder the occupants, to which end they had prepared Molotov cocktails and stones and set an ambush at a point where they were

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

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

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

Observations

182. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 28 July 2008

183. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of

judges and lawyers, sent a letter of allegations to the Government in relation to Messrs. Hassan Abdelnabi Hassan, Maytham Bader Jassim Al Sheikh and Abdullah Mohsen Abdulah Saleh of the Unemployment Committee; Mr. Naji Ali Fateel of the Bahrain Youth Society for Human Rights (BYSHR); Mr. Mohammed Abdullah Al Sengais, head of the Committee to Combat High Prices; Mr. Ahmed Jaffar Mohammed Ali, former member of the Unemployment Committee; and Mr. Ebrahim Mohamed Amin-Al-Arab, founding member of the Martyrs and Victims of Torture.

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

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

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

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

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

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

Observations

190. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Bangladesh

Urgent appeal sent on 8 February 2008

191. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. Jahangir Alam Akash, coordinator of the Task Force against Torture in Rajshahi, and regional coordinator of the Bangladesh Institute of Human Rights (BIHR) and a journalist working as the bureau chief of a private news television channel CSB News and Daily Sangbad, a Dhaka based national newspaper.

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

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

194. In the course of his work, Mr. Jahangir Alam Akash has, on numerous occasions, disclosed alleged atrocities of the RAB in cases involving human rights violations. He has also received numerous death threats as a result of his journalistic work and has suffered physical assaults in the past following the publication of critical articles regarding local politicians.

195. Concern was expressed that the charges brought against Mr. Jahangir Alam Akash and the warrant for his re-arrest may be directly related to his work in defence of human rights. Furthermore, there were fears for the physical and psychological integrity of Mr. Jahingir Alam Akash.

Response from the Government

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

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

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

Observations

199. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 16 April 2008

200. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government concerning Dr. M A Hasan, a civil society leader and member of the War Crimes Fact Finding Committee, an organization which investigates and compiles information on past human rights violations.

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

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

Response from the Government

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

Observations

204. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 8 July 2008

205. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on adequate housing a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, sent a letter of allegations concerning Mr. Rabindra Ghosh. Mr. Ghosh is the President of the Dhaka Chapter of the Human Rights Congress for Bangladesh Minorities (HRCBM), a non-governmental human rights organization working in the defense of minority rights.

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

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

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

Response from the Government

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

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

Observations

211. The Special Rapporteur is grateful for the Government's reply.

Follow-up to previously transmitted communications

212. In a letter dated 4 February 2009, the Government responded to a joint urgent appeal of 10 August 2007. The Government responded that "Mr. Rabindra Ghosh is the President of the Dhaka chapter of the Human Rights Congress for Bangladesh Minorities (HRCBM). He visited Jaintapur Upazilla on the 16th of April 2008 to conduct an enquiry into a police case lodged in Jaintapur Police station. He wanted to have a discussion with the Upazilla Nirbahi Officer (Head of Sub-District administration) but could not manage to communicate with him. Later on Mr. Rabindra Ghosh returned to Dhaka and talked to the Upazilla Nirbahi Officer over telephone. It has been alleged that during the telephonic conversation each side intimidated the others side. Mr. Robindra Ghosh filed a general diary with Jaintapur Police Station on 1.5.2008 alleging that the Upazuila Nirbahi Officer had threatened him. Similarly, the Upazilla Nirbahi Officer too filed general diary with the Jaintapur Police Station stating Mr. Rabindra Ghosh's indecent attitude and intimidating behaviour. Mr. Rabindra Ghosh had been to Jaintapur concerning Police case No. 19 dated 19.6.2008. The case was lodged by Mr. A. K. M. Kudrat Ullah, Secretary of Jaintapur Press Club and the accused persons were Ajoy Dev, Apu Dev, Pappa Dev and Suckla Rani Dev. According to facts and circumstances of the case, the accused Suckla Rani Dev had been enjoying a 17 decimal of land since 1980, which is owned by the Government. She was alleged to have illegally encroached Government land. The Government took initiative to evacuate illegal occupants of Government lands. As a part of this process, the portion of land illegally occupied by Suckla Rani was also recovered and it was subsequently awarded to Jaintapur Press Club by the Government. The accused persons protested while the press club authorities started erecting their office premises. This issue ended up in violence and several persons of press club sustained physical injuries from the other group. The case was investigated and charges were proved against the accused. The matter is now pending before the court. Neither Mr. Rabindra Ghosh nor the Upazilla Nirbahi Officer did proceed any further with their complaints made against each other. Both the complaints were recorded as General Diary in the Police Station Bangladesh Government is always aware to uphold, protect, promote and implement the human rights and fundamental freedom of minorities in accordance with the law of the land."

213. In a letter dated 29 May 2008, the Government responded to a joint urgent appeal of 22 May 2007. The Government responded that "Mr. Jahangir Alam Akash is a yellow journalist and he was engaged in so many illegal activities by using his journalist's profession as a shield. No complaint has been lodged either by Mr. Jahangir Alam Akash or on his behalf to police. He was granted bail from the Honorable High Court for which he should have surrendered to the lower court, but he failed to do so. For the violation of the bail conditions he was warranted for re-arrest by the court of law. It would be apparent from the investigation that no physical and mental torture was made against former CSB news reporter Mr. Jahangir Alam Akash who is known for his yellow journalism and extortion charges. He was sent to the court on the basis of specific legal complaint. What has been done is clearly in conformity with law. No human rights violation has occurred in connection with the arrest of Mr. Akash."

Observations

214. The Special Rapporteur is grateful for the Government's replies.

Bolivia (Plurinational State of)

Siguiimiento de comunicaciones transmitidas previamente

215. Con una carta en fecha 8 de febrero de 2008, el Gobierno respondió a la carta de alegaciones del 11 de diciembre de 2007. El Gobierno informó que las investigaciones judiciales y administrativas hasta la fecha no fueron esclarecedoras por la presión de miembros del Comité Interinstitucional de Sucre. El gobierno nacional está apoyando todas labores de investigación mientras que aún no se ha procedido a hacer efectivo el pago de una indemnización o reconocimiento económico a los familiares de las víctimas de Sucre debido a que la Fiscalía General de la Nación ni la Fiscalía de Distrito concluyeron su trabajo.

Observaciones

216. El Relator Especial agradece al Gobierno por su respuesta.

Belarus

Urgent appeal sent on 23 January 2008

217. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on arbitrary detention, sent a joint urgent appeal regarding Mr. Aleksandr Sdvizhkov, editor at the weekly newspaper Zhoda, which has been shut down by the government.

218. According to the information received, on 18 January 2008 Mr. Sdvizhkov was found guilty by the Minsk City Court of "incitement to religious hatred" for reprinting the cartoons of Prophet Mohammed that originally appeared on September 2005 in the Danish newspaper Jylland Posten. He was sentenced to three years in a high-security prison following a trial conducted in camera.

219. The cartoons were published in the Zhoda newspaper in February 2006. A month later, the newspaper was shut down by the Government. Fearing prosecution, Mr. Sdvizhkov fled the country. He was arrested by the Security Service in November 2007 when he returned to Belarus to attend his father's funeral.

220. Mr. Sdvizhkov and the Zhoda newspaper were one of the few independent voices in the Byelorussian press, in particular during the presidential election of 2006, when the Zhoda newspaper decided to also give coverage to the opposition candidate who took part in the elections.

221. Concern was expressed that the sentencing of Mr. Sdvizhkov may be directly linked to his reportedly legitimate exercise of the right to freedom of opinion and expression.

Response from the Government

222. In a letter dated 10 June 2008, the Permanent Mission of the Republic of Belarus in Geneva responded to the above communication. The response stated that the Criminal proceedings against Mr. A.M. Sdvizhkov were instituted on 22 February 2006 by the investigative department of the Committee for State Security following the publication in the 17 February 2006 issue of the newspaper Zhoda of caricatures offending the sensibilities of believers in the religion of Islam. The investigation was conducted by the Office of the Procurator-General of Belarus. Mr. Sdvizhkov was indicted on 31 March 2006 and, as a preventive measure, he was required to sign an undertaking not to leave the area. However, he violated this undertaking and went into hiding, and on 21 April 2006 the preventive measure was changed to remand in custody and a search was declared. On 18 November 2007, Mr. Sdvizhkov was arrested by militia officers involved in the search.

223. During the investigation it was established that, in February 2006, Mr. Sdvizhkov, an official (publishing editor of the newspaper Zhoda), personally searched the Internet for caricatures of the Prophet Muhammad that defiled the symbols of the Islamic faith, and published them in the issue of the newspaper that came out on 17 February 2006 as material illustrating an article on the subject of the “caricature scandal”.

224. For the aforementioned acts, on 29 November 2007 Mr. Sdvizhkov was indicted for the offence covered under article 130, paragraph 2, of the Belarusian Criminal Code, namely the commission by an official, using his or her official powers, of deliberate acts intended to incite religious enmity and discord.

225. On 10 December 2007, the case was referred to the court for consideration. The circumstances mentioned in the indictment were fully confirmed in the course of the proceedings and were not denied by the defendant.

226. Having considered the evidence, including the testimony of the mufti of the Muslim Religious Association and the mufti of the Clerical Department of Muslims in Belarus, and the conclusions of an expert theological study, the court came to the well-founded conclusion that the publication in the media of caricatures defiling the religious symbols of Islam damaged the foundations of the religious outlook of persons of the Muslim faith, and incites religious animosity among representatives of diverse religious denominations, creating conditions for the stirring up of religious intolerance and discord - which was acknowledged by the defendant.

227. On 18 January 2008, pursuant to article 130, paragraph 2, of the Criminal Code, the Minsk city court sentenced Mr. Sdvizhkov to three years' deprivation of liberty in a high-security correctional colony. This punishment is the minimum punishment for an offence that is classified in Belarusian law as a serious offence.

228. The sentence was appealed by the defendant and did not enter into force. On 22 February 2008, the cassation division of the Supreme Court of Belarus amended the sentence that the criminal division of the Minsk city court issued on 18 January 2008 with respect to Mr. Sdvizhkov.

229. Bearing in mind that Mr. Sdvizhkov suffers from a number of chronic illnesses, that he has an elderly mother and that his actions did not have serious consequences, the cassation division came to the conclusion that the sum total of the aforementioned circumstances substantially reduce the degree of social danger of the act, recognized them as exceptional and applied article 70 of the Belarusian Criminal Code, in accordance with which it substituted the punishment imposed on Mr. Sdvizhkov pursuant to article 130, paragraph 2, of the Criminal Code (deprivation of liberty for three years) with arrest for a period of three months. Since Mr. Sdvizhkov has served this sentence, he was released from custody.

230. The conviction relating to Mr. Sdvizhkov's admission that he was guilty of deliberate acts intended to incite religious enmity and discord, committed by an official with the use of official powers, and also relating to his conviction under article 130, paragraph 2, of the Criminal Code, was upheld.

231. Mr. Sdvizhkov was prosecuted and sentenced for committing an offence, in strict accordance with the criminal and criminal procedural legislation currently in force in Belarus; such legislation is in no way contrary to international norms and standards for the protection of the rights and freedoms of citizens, including the right to freedom of opinion and its expression, as contained in the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

232. In its sentence, the court noted that the publication of caricatures has nothing in common with freedom of speech but constitutes the dissemination of insults and provokes retaliatory acts on the part of the Muslim community, including the need to defend religious symbols.

Observations

233. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 13 March 2008

234. The Special Rapporteur sent a letter of allegations regarding reports that the newspaper "Novy Chas" has been condemned to pay a prohibitive fine for allegedly defaming a senator in an article.

235. According to information received, Senator Nikolai Cherginets filed a defamation lawsuit against "Novy Chas" publisher, Vremya Novostei, and its reporter Aleksandr Tamkovich, following a 24 September 2007 article in which Mr. Cherginets was criticised, claiming the article damaged his "honor, dignity, and business reputation as a writer, politician, and general-senator." In compensation, Mr. Cherginets demanded 500 million Belarusian rubles (US\$ 231,000) from Vremya Novostei and 100 million Belarusian rubles (US\$ 46,000) from Aleksandr Tamkovich, demanding that the property and financial assets of both the paper and the author be seized as a guarantee that the damages would be covered. Reports indicate that on 20 December 2007, Pervomaiski Court in Minsk ruled that Vremya Novostei should pay 50 million Belarusian rubles and Tamkovich 1 million rubles, at the same time rejecting Vremya Novostei's request to have Aleksandr Tamkovich's article analyzed to determine whether it actually contained defamatory language. It is further reported that an appeals court upheld the verdict on 11 February 2008, ruling that if the paper fails to pay the damages

by 7 March, “Novy Chas” bank account and all assets would be seized. It is alleged that in order for the paper not to close down, money had to be borrowed from friends and supporters to pay for the requested fine, which the newspaper was not able to do otherwise.

Response from the Government

236. On 21 May 2008 the Government issued a reply in relation to the case of “Novy Chas” publisher, Vremya Novostei, and its reporter Aleksandr Tamkovich. At the time this report was finalized, the reply of the Government had not been translated.

Letter of allegations sent on 8 April 2008

237. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government concerning Messrs Vadim Borshchevskiy and Pavel Levinov. Mr. Vadim Borshchevskiy is a journalist and member of Female Centre “Adliga” and the Youth Centre “Seventh Side”. Mr. Pavel Levinov is a human rights lawyer and a member of the Helsinki Committee in Belarus, Female Centre “Adliga” and the Youth Centre “Seventh Side”. Also in relation to searches of the offices of the women’s rights organization Female Centre “Adliga”, under the direction of Ms. Olga Karatch and of the home of Ms. Yelena Borshchevskaya, board member of the same organisation.

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

239. On 26 March at 10.00, Yelena Borshchevskaya was approached by three plainclothes KGB agents at Vitebsk School No. 39 where she teaches. The men produced a search warrant and then ordered Yelena Borshchevskaya to bring them to her home. En route she was prevented from using her mobile phone and her request to have a lawyer present was rejected. The men reportedly remarked that she could file a complaint regarding their actions afterwards. When they arrived at her apartment Yelena Borshchevskaya was unable to open the door, as ordered by the men, because she did not have her keys.

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

241. Shortly thereafter, human rights lawyer Pavel Levinov arrived in order to observe the search. The most senior of the KGB agents, Major Skorionovich, accused him of “using foul language” and ordered his arrest. Pavel Levinov was subsequently taken to Pervomayskiy district

militia station but while there, his blood-pressure rose sharply and he was taken to hospital. Upon his release, Mr. Pavel Levinov reportedly initiated a dry hunger strike in protest at his treatment, during which he has reportedly lost 12 kgs.

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

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

Response from the Government

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

245. On 27 March 2008 at 3.55 p.m., on the 4th floor landing of 28-3 Chkalov Street in Vitebsk, Mr. Levinov committed petty hooliganism: in the presence of militia officers. He provoked a conflict, insulted a militia officer on duty and ignored the resulting requests and admonitions addressed to him, thereby breaching public order and disturbing the peace. In response to militia officers' lawful demand that he accompany them in their official car, Mr. Levinov grabbed hold of the banister on the landing and refused to go to the militia station voluntarily, which constituted refusal to follow lawful instructions or demands from an official on duty.

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

Observations

247. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 22 July 2008

248. The Special Rapporteur, together with the Special Representative of the Secretary-General 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. Pavel Levinov, human rights lawyer and member of the Belarus Helsinki Committee, a human rights non-governmental organization (NGO). A letter of allegation was sent by the Special Rapporteur on freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 8 April 2008, regarding the arrest and subsequent hunger protest of Pavel Levinov.

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

250. On 15 July 2008, Mr. Pavel Levinov visited the Public Prosecutor of Vitebsk who promised to inquire into the matter. However, before any inquiries could be made Mr. Pavel Levinov was approached outside the office of the Public Prosecutor by militiamen from a special militia troop who presented him with evidence of the court decision for him to be arrested for ten days. They brought him to Pershamayski District Militia Station. There, Mr. Pavel Levinov fell ill and was taken to hospital. After a telephone conversation the cardiologist on duty at the hospital refused to admit Mr. Pavel Levinov for treatment. On leaving the hospital he lost consciousness. He recovered in the hospital's resuscitation ward hours later. He was transferred directly from there to Pershamayski District Militia Station. Officials at the hospital where Mr. Pavel Levinov had been refused treatment would not answer questions about whether or not he was in a fit condition to be held in detention.

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

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

Response from the Government

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

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

Observations

255. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations

256. On 31 July 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government regarding Ms. Zhanna Popova, executive director of the Vitebsk Kurier Publishing House where the Vitebsk Courier M newspaper is published; and Mr. Vyacheslav Andreev and Ms. Olga Karatch, both of whom are involved in the Our House Campaign for the promotion of human rights. Ms. Olga Karatch is the leader of the campaign and head of the Female Centre "Adliga", a women's human rights organization.

257. Mr. Vyacheslav Andreev was the subject of a letter of allegations sent by the then Special Representative of the Secretary-General on the situation of human rights defenders on 23 November 2006. We acknowledge receipt of your Government's response on 23 January 2007.

258. According to information received, on 23 July 2008 at approximately 7:50 a.m., officers from the Vitebsk Regional Department of Organized Crime (BUOP) carried out a search of the home of Ms. Zhanna Popova. 11 diskettes, seven compact discs and other information-storage devices were confiscated. The officers also attempted to take a computer.

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

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

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

Response from the Government

262. In a letter dated 03 September 2008, the Government of Belarus responded to the communication above.

263. The Government reported that in September 2005, unidentified individuals set off explosions of home-made devices in Vitebsk; as a result, 54 persons received wounds of various degrees. In this regard, the investigative department of the Vitebsk province procurator's office instituted criminal proceedings (case No. 05023280078); the case is still under investigation. On 4 July 2008, a home-made explosive device was detonated in Minsk near Pobeditelei Avenue, injuring over 50 persons. Earlier, on 3 July 2008, a home-made explosive device was found in the same area and deactivated.

264. One possibility being considered by the investigative bodies is that the same individuals were responsible for detonating or planning the explosions in Vitebsk and Minsk. The investigation established that, on 23 and 24 July 2005, Mr. I.V. Solovyev, who lives in Vitebsk, independently made an explosive substance; Mr. Solovyev's careless handling of the substance resulted in an explosion in which he was seriously injured. The home-made explosive device discovered in Minsk on 3 July 2008 contained an explosive the chemical composition of which is identical to the substance synthesized by Mr. Solovyev. This fact led to the consideration of the possibility that Mr. Solovyev might have been involved in the production of the explosive devices and in the explosions in Vitebsk and Minsk.

265. Mr. Solovyev is an acquaintance of Ms. Z.V. Popova. They live in the same building. Ms. Popova is on friendly terms with Mr. Solovyev's mother. A few minutes after the explosion that took place on 24 July 2005, Ms. Popova was in Mr. Solovyev's apartment, having opened the door with her own key. Ms. Popova has a criminal record. She was diagnosed as suffering from involuntional paranoia and was for a long time under psychiatric treatment. The

investigators considered the possible involvement of Ms. Popova or individuals linked to her in the organization of the explosions in Vitebsk and Minsk. It is assumed that such individuals could have taken advantage of Mr. Solovyev's knowledge of chemistry and his ability to make explosives.

266. In order to verify this hypothesis, Mr. D.I. Yanush, the investigator for serious cases of the investigative department of the Vitebsk province procurator's office and who is dealing with the criminal case involving the explosions in Vitebsk, took decisions to search the homes of Ms. Popova and Mr. Solovyev. The decisions were approved by the deputy procurator for Vitebsk province. In both cases, the search was assigned to officers of the Department for Combating Organized Crime attached to the Ministry of Internal Affairs of Belarus. The officers also took comprehensive measures with a view to ascertaining whether or not Ms. Popova and Mr. Solovyev could have been involved in the explosions in Vitebsk and Minsk. Ms. Popova's and Mr. Solovyev's homes were searched on 23 July 2008. The searches were conducted correctly. Neither Ms. Popova nor Mr. Solovyev submitted any complaints about the militia officers involved in the search. On the other hand, for almost three hours prior to the start of the search, Ms. Popova refused to allow the militia officers to enter her apartment, in spite of the fact that they presented the requisite documents. The militia officers entered the apartment only after the arrival of V.A. Shchukin, O.E. Karach and others, who were present during the search. No conflict situations arose in the course of the search. Neither Ms. Popova nor those present during the search submitted any complaints about the actions of the militia officers. They proposed that Ms. Popova go to the Department for Combating Organized Crime for Vitebsk province for questioning as a witness in the bombing case. At Ms. Popova's request, Mr. V. Andreev and Mr. O. Karach, who had been present during the search, were allowed to accompany her; they agreed of their own accord to ride in the militia vehicle to Zheleznodorozhny district internal affairs office.

267. At the district internal affairs office, Mr. Andreev and Mr. Karach were requested to allow themselves to be fingerprinted and photographed. It was explained to them that, under Belarusian law, they had the right to refuse. Mr. Andreev and Mr. Karach made use of their right and refused to be fingerprinted and photographed, after which they left the militia office. No documents concerning the presence of the aforementioned persons in the militia office were drawn up. Mr. Andreev and Mr. Karach did not make any complaints and expressed their satisfaction with the correct and tactful conduct of the proceedings. They were at the district internal affairs office for no longer than 10 minutes. Mr. Andreev and Mr. Karach then proceeded to the Department for Combating Organized Crime for Vitebsk province, where they waited for the release of Ms. Popova, who was being questioned by an officer from the Central Administration for Combating Organized Crime attached to the Ministry of Internal Affairs. No one detained, searched or questioned the aforementioned persons, and no one confiscated any of their property. No questions were raised about the human rights activities of these persons. The Vitebsk province procurator's office does not have any documents concerning the confiscation from Ms. Popova of copies of the 24 April 2008 edition of the newspaper Vitebsky kuryer M. The conduct of the search of Ms. Popova's home was not in any way related to these incidents. The conduct of the search of Ms. Popova's home was in no way related to her human rights activities. During the search of Ms. Popova's apartment on 23 July 2008, diskettes, compact discs and flashcards were confiscated. On 8 August 2008, all confiscated property was returned to Ms. Popova.

268. In general, the investigation into Ms. Popova's involvement in the explosions in Vitebsk and Minsk, including the search of her home, was conducted in strict compliance with legislation currently in force, with due respect for all international norms and standards relating to the right to freedom of opinion and expression, and all the relevant provisions of the Constitution of Belarus. In connection with the aforementioned events, the citizens in question did not appeal to the Supreme Court of Belarus or to any other judicial authority.

Observations

269. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 18 November 2008

270. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General 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 Ms. Yana Paliakova, a human rights defender, lawyer and member of the Human Rights Alliance of Belarus.

271. According to the information received, on 9 October 2008, Ms. Yana Paliakova was attacked by an unidentified man as she entered her house in Salihorsk. She was hit on the head and back. The attacker also told her that "if she didn't shut up, this would be her last warning". As a result of the attack, she was diagnosed in hospital with concussion. Following the medical check-up Ms. Paliakova went to the Salihorsk police station to file a complaint. When she felt ill at the station and tried to go outside, a policeman grabbed her by her sweater and pushed her to the floor, causing a bruise on her hip.

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

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

Response from the Government

274. In a letter dated 9 January 2009, the Government responded to the above communication and reported that on instructions from the Office of the Procurator General of the Republic of

Belarus, the procurator's office for Minsk province has considered the letter from the Special Rapporteurs of the United Nations Human Rights Council concerning the illegal acts allegedly committed by law enforcement officers of Salihorsk district against Ms. Yana Vitalevna Polyakova.

275. No harassment of Ms. Polyakova for her human rights activities has been established. Since 2000, Ms. Polyakova has been officially unemployed. She has never held, nor does she currently hold, a licence to practise law. Ms. Polyakova is not well regarded at her place of residence. Her neighbours have filed numerous complaints of disorderly conduct with residential board No. 4 and with the internal affairs agencies. For example, on 20 August 2008 Ms. Polyakova attacked her neighbour, Ms. A.D. Medvedeva, for having filed a complaint against her with the internal affairs agencies for walking her dog without a muzzle, as a result of which the dog had bitten Ms. Medvedeva. In this connection, a court heard the case concerning the administrative offence committed by Ms. Polyakova. The case was settled through conciliation between Ms. Polyakova and Ms. Medvedeva and is now closed. Ms. Polyakova's claim that she was arrested by a neighbourhood police officer and two unidentified men and then assaulted by police officers has been investigated by the procurator's office for Salihorsk district.

276. On 1 September 2008, the Salihorsk district procurator's office received a statement from Ms. Polyakova in which she indicated that she had begun receiving threatening calls on her home phone from unidentified persons demanding that she meet with officers of the State Security Committee (KGB) and internal affairs agencies. In her statement, she also reported that she had been arrested on 31 August 2008 in town by Mr. V.A. Pugachev, a neighbourhood police officer, who was accompanied by two unidentified men, and driven to the Salihorsk district internal affairs office (police station). There, in his office, Mr. Pugachev proposed that she sign some documents. When she tried to read them, he hit her on the arm with an elongated cylindrical object, and subsequently another person hit her on the legs. The forensic medical report concluded that when Ms. Polyakova was examined by experts on 2 September 2008 she had bruises on her right palm, her left calf and the outside of her right shin; they were minor injuries and had no short-term health effects. It was impossible to confirm or disprove Ms. Polyakova's statements about the calls to her home phone. For technical reasons, information about incoming calls is not registered at the automatic telephone exchange. According to information from the head of the Salihorsk municipal KGB unit, KGB officers issued no summons, including by telephone, for Ms. Polyakova. Ms. Polyakova's claims that she was arrested on 31 August 2008 by Mr. Pugachev; the internal affairs officer, taken to the Salihorsk district police station and assaulted there were not substantiated.

277. It was established that on 31 August 2008 there were holiday celebrations in the town of Salihorsk, and that internal affairs officers were stationed there between the hours of 9 a.m. and 10 p.m. to maintain order. Mr. Pugachev was at that time on duty in the town's central square. He did not absent himself for any extended periods, as attested by the deployment plan of the Salihorsk district internal affairs office and by explanations given by internal affairs officers. On that day, Mr. Pugachev did not arrest Ms. Polyakova or summon her to the district police station. Ms. Polyakova was summoned to appear before neighbourhood police officer Pugachev on 1 September 2008 in connection with Ms. Medvedeva's complaint that she had been attacked by Ms. Polyakova. Instead, Ms. Polyakova appeared at the Salihorsk district police station on 31 August 2008 at 11.18 a.m., informing the officer on duty that she had been summoned by Mr. Pugachev. The duty officer duly recorded her visit in the log and informed her that the

officer in question was absent. Ms. Polyakova then stated that she had “no intention of chasing him down”, and after a short time, she left the building. On examination, the Salihorsk district police station log was found to contain an entry indicating that Ms. Polyakova addressed the duty officer at 11.22 a.m. on 31 August 2008. The police station’s video surveillance system shows Ms. Polyakova entering the building unaccompanied at 11.18 a.m. on 31 August 2008. She immediately approached the desk of the duty officer and sat down on a bench next to the officer, who recorded her data in the log. While in the building, Ms. Polyakova did not go to the second floor, where Mr. Pugachev’s office is located, nor did she speak with anyone other than the duty officer. At 11.34 a.m., she left the building and did not return. The Salihorsk ambulance station received a call from Ms. Polyakova on 31 August 2008 at 11.41 a.m. An ambulance paramedic, Mr. V.I. Sereda, explained that on 31 August 2008 at around 11.30 a.m. he arrived at the Salihorsk district police station behind an internal affairs officer who was supposed to assist medical workers in transporting a mentally disturbed individual. Near the building, he was approached by a young woman, who turned out to be Ms. Polyakova, and who stated that it was she who had called for an ambulance, as her right arm was hurting. She had swelling and bruises on the back of the hand. Mr. Sereda replied that he had not come in response to her call. Ms. Polyakova said nothing about having been beaten by internal affairs officers. At the instruction of the ambulance dispatcher, Mr. Sereda returned to the district police station at around 12 noon to assist Ms. Polyakova. She began to cry and claimed that she had been beaten by internal affairs officers. She also complained of pain in her legs.

278. The investigation by the Salihorsk district procurator’s office concluded that on 31 August 2008 internal affairs officers did not arrest Ms. Polyakova, bring her to the Salihorsk district police station or subject her to violent treatment. Ms. Polyakova’s injuries were sustained not in the police station, but in other circumstances, which she is intentionally concealing.

279. On 11 September 2008, the criminal case against Ms. Polyakova was dropped, and she was informed of this in writing. The Minsk provincial procurator’s office on 11 December 2008 overturned the decision of the Salihorsk district procurator’s office not to bring a criminal case against Ms. Polyakova for intentionally filing a false report. The case file was referred back to the Salihorsk district procurator’s office so that criminal proceedings could be instituted against Ms. Polyakova under article 400, part 2, of the Criminal Code (Intentionally filing a false report, with an accusation of a serious crime). An investigation into the injuries sustained by Ms. Polyakova on 9 October 2008 was carried out by the Salihorsk district internal affairs office. It concluded that at around 5 p.m. near the door of the corridor in the apartment building where Ms. Polyakova resided, an unidentified man struck Ms. Polyakova inflicting injuries on her; these were not serious and had no short-term health effects. According to the forensic medical report, a bruise was detected on Ms. Polyakova’s right forehead. It was not possible to identify the man.

280. The investigation by the Salihorsk district internal affairs office resulted in a decision not to open a criminal case, as the actions of the unidentified individual did not constitute a crime. Once the perpetrator is identified, he will be charged with an administrative offence under article 9.1 of the Code of Administrative Offences (Disorderly conduct). There has been no indication that this act is connected with Ms. Polyakova’s human rights activities. On 27 October 2008, the Salihorsk district procurator’s office received a statement from Ms. Polyakova, copies of which were also sent by her to the embassies of the United States of America, Germany, Poland and France. In the statement, she claimed that on 9 October 2008, at

the entry to her place of residence, an unidentified man struck her twice on the head. According to Ms. Polyakova, at the Salihorsk district police station, where she was taken to be interviewed, an internal affairs officer threw her to the floor, as a result of which she was badly hurt in the region of her spine and right leg.

281. An investigation conducted regarding this statement established that on 9 October 2008 at 5.01 p.m. a call had been received from Ms. Polyakova according to which an unidentified person had beaten her in the entry to her apartment house. The ambulance crew brought her to the central district hospital, and once medical assistance had been provided, to the police station for interview. However, during the interview, Ms. Polyakova said that she felt unwell, and so at 7.49 p.m. another ambulance was called for her. Ms. Polyakova did not wait for the ambulance to arrive. She left the building. As a result, she had to be tracked down on the street. When the doctors remarked that she had already received qualified medical assistance, Ms. Polyakova reacted inappropriately; she began swearing at the medical staff and screaming. She did not address the doctors' remarks. She refused medical assistance and attempted to leave the building. A neighbourhood police officer, Mr. A.V. Sindikevich, asked her to return, calm down and take a seat on a bench. He took her by the hand to escort her to the bench. In response, Ms. Polyakova abruptly threw herself to the floor. Sitting on the floor, she began to make calls on her mobile phone, saying that internal affairs officers were beating her, that they had "broken [her] spine" and that her "back hurt". According to the video recordings taken in the entrance hall of the district police station, Ms. Polyakova sat on the floor for at least 35 minutes. During this time, she was on numerous occasions invited to stand up, but she continued to sit there until the arrival of a new ambulance crew, which had been called by the internal affairs officers because of the conflict between Ms. Polyakova and the previous crew. The forensic medical report concluded that apart from the bruise on her forehead referred to above, there were no signs of injury on Ms. Polyakova's body, including in the region of her spine. Because Ms. Polyakova's complaint of the use of violence against her by internal affairs officers on 9 October 2008 was also not borne out, the Salihorsk district procurator's office on 27 November 2008 decided not to institute criminal proceedings against the officers, for lack of evidence that a crime had been committed. Ms. Polyakova failed to appear at procurators' offices when, on numerous occasions, she was summoned by them. The Office of the Procurator General of the Republic of Belarus agreed with the decisions not to open a criminal case in respect of Ms. Polyakova's complaints.

Observations

282. The Special Rapporteur is grateful for the Government's reply.

Bosnia and Herzegovina

Urgent appeal sent on 30 July 2008

283. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government concerning Mr. Branko Todorovic, Executive Director of the Helsinki Committee for Human Rights, a branch of the International Helsinki Federation in Republika Srpska, Bosnia and Herzegovina. On 7 February 2004, Mr. Branko Todorovic reportedly received death threats accusing him of being a NATO agent and threatening his family. This followed an article in which Mr. Branko Todorovic criticised the lack of investigation into an attack against the President of

the Milici Citizens' Association and a lack of will on the part of the Minister of the Interior to arrest suspected war criminals. For the last year Mr. Branko Todorovic and his family were allegedly under the surveillance of an individual who used his car to attack Mr. Branko Todorovic in late May 2008.

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

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

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

Response from the Government

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

Observations

288. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 27 November 2008

289. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations concerning participants of the "Sarajevo Queer Festival", a festival of art and culture, organized to promote awareness of the human rights of lesbian, gay, bisexual and transgender (LGBT) persons. According to the information received, permission for the first "Sarajevo Queer Festival" was granted to the organizing NGO called 'Udruzenje Q' for 24-28 September 2008 in Sarajevo. This festival of art and culture included a series of exhibitions, performances, film showings and public discussions to promote the universality of human rights and an end to discrimination based on sexual orientation or gender identity. In the month preceding the festival, several newspapers, including

“SAFF” and “Dnevni Avaz” used derogatory language in reaction to gay and lesbian people and called for the participants of the festival to be lynched, stoned, doused with petrol or expelled from the country.

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

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

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

Observations

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

294. At the same time, The Special Rapporteur regrets that no response had been transmitted yet to the communication of 27 November 2008, regarding participants of the Sarajevo Queer Festival. In this connection, the Special Rapporteurs wished to remind the Government of the provisions of the Declaration on human rights defenders, in particular article 7 which states that “Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocates their acceptance”, as well as article 12,

paragraphs 2 and 3 of the Declaration which provide that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, (...) against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration”.

Observations

295. The Special Rapporteur is grateful for the Government’s reply.

Brazil

Letter of allegations sent on 18 January 2008

296. The Special Rapporteur sent a letter of allegations concerning Mr. Walter Lessa Oliveira, cameraman at the local public network TV Assembléia in Maceió, AL.

297. According to the information received, on 5 January 2008 Mr. Oliveira was murdered by four gunshots on the outskirts of Maceió while waiting on a bus stop. According to witnesses, the perpetrator of the crime was a local drug trafficker whom Mr. Oliveira had recently filmed and whose footage had appeared on television.

Observations

298. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 7 March 2008

299. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal to the Government concerning Ms. Maria de Lourdes Didier Leite, a human rights defender in the State of Pernambuco.

300. According to information received, Ms. Didier Leite had been the subject of harassment due to her public criticism of the police investigation of her brother’s killing. José Arnaldo Didier Leite, a farmer, assassinated on August 15th, 2003, allegedly at the hands of members of the police force and the city administration. Since that time, Ms. Didier Leite had reportedly faced death threats as a result of her denunciation of inefficiency and delays in the investigation. Reports indicated that she had also been warned that a member of the Military Police, identified in the information received, would make an attempt on her life if he lost his job as a consequence of investigations regarding José Arnaldo Didier’s killing.

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

Observations

302. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 27 March 2008

303. On 27 March 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation to the Government concerning over 900 women, who are affiliated to the movement Vía Campesina (International Peasant Movement). Vía Campesina seeks to promote agrarian reform and land-workers' rights.

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

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

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

Observations

307. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 3 April 2008

308. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent a letter of allegation to the Government concerning the reported attack against the human rights defender Mr. Welinton da Silva, member of the Movimento Sem Terra (MST) (Movement of Landless Peasants) which forms part of the Vía Campesina network currently supporting the rights of the communities being affected by the construction of a dam in Estreito, Maranhão. The hydroelectric project requires the flooding of 400 square kilometres, affecting the lands and homes of 21,000 people, including the African-Brazilian communities of Bico do Papagayo.

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

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

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

Response from the Government

312. On 10 October 2008, the Brazilian Government responded to the communication sent by the Special Rapporteurs. In its response, the Government confirmed the accuracy of the facts described in the allegation letter. On 11 March 2008 at 11.30 p.m., Mr. Silva was shot in the leg when he participated in the occupation of the Hydroelectric Plant of Estreito by MAB and Via Campesina militants. He was subsequently taken to the Municipal Hospital of Estreito and was subject to a surgical procedure to remove the projectile.

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

314. The Government further provided information on the measures taken by the Government to implement the recommendations of the then Special Representative of the Secretary-General on human rights defenders in her country report on Brazil. In response to the recommendation

contained in para. 101, the Government noted the creation of a Special Commission aimed at investigating attempts to criminalize social movements, proposing solutions that guarantee respects for civil rights and public liberties around the country. The Commission is already functioning and will shortly present a report on its work.

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

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

317. In what concerns the then Special Representative's recommendation in para. 105 of her Report, the Government informed of a partnership established between the Special Secretariat of Human Rights and the Ministry of Justice for human rights training of members of the police forces, particularly at the National Force of Public Security. Finally, regarding the Special Representative's recommendation in para. 106 of her report, the Government noted that since 2001 a National Ombudsman for Human Rights exists to respond to criticisms, allegations of violations, complaints and recommendations from the public. This is a fast and direct mechanism to identify how human rights are being threatened, violated or being neglected and the adequate means to protect them. The Government also noted the Program for Institutional Support to Police Ombudspersons, financed with European Union support, to improve external control mechanisms to check police violence. The Government concluded by stating its commitment to implement the recommendations of the then Special Representative of the Secretary-General on human rights defenders.

Observations

318. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 7 April 2008

319. The Special Rapporteur, together with the Special Rapporteur on the right to education, sent a letter of allegation to the Government concerning legal constraints imposed upon the freedom of expression of teachers and professors of the state of São Paulo which could be

interfering on the full realization of the right to education itself. Allegedly, this is a consequence of the Statute of the Civil Servants of the State of São Paulo, 1968 (Estatuto dos Servidores Civis do Estado de São Paulo, 1968), Decree n.º 7.510 of 29 January 1976 (Decreto n.º 7.510, de 29 de janeiro de 1976), and Resolution SE n.º 170 of 25 July 1990 (Resolução SE n.º 170, de 25 de julho de 1990).

320. According to the information received, some parts of the mentioned legislation would be contrary to international obligations that arise from international treaties that Brazil has subscribed. Regarding the Statute of the Civil Servants of the State of São Paulo, which dates from 1968, there are two articles that have reportedly prevented civil servants working in the education sector from freely articulating their opinion on matters related to the education system.

321. Article 241 of the referred Statute provides for strict confidentiality of all subjects and decisions of the public division, a provision that would contradict the principle of transparency and publicity that guides the Public Administration. Moreover, Article 242 of the Statute prohibits civil servants from publically referring in a disparaging manner to the authorities and acts of the Administration. It was also reported in the information received that journalists in Brazil have been denouncing the fact that teachers constantly refuse to provide information on educational policies to the media for the fear of repressive measures. In addition, Article 131, II, 1) of the Decree n.º 7.510 and Article 1 of the Resolution SE n.º 170 proclaim that civil servants need special authorization from the Secretary of Education in order to give interviews to the media regarding subjects of the division they are allocated to. These provisions could discourage education professionals from taking initiatives towards the improvement and adjustment of certain sectors of the educational system to the changing needs of society and students. Such discouragement could negatively affect the right to good quality education.

Response from the Government

322. On 11 September 2008, the Brazilian Government responded to the communication sent by the Special Rapporteurs. The Government made the following remarks:

323. “The Special Rapporteurs question whether there is any legal constraints imposed upon the freedom of expression of teachers and professors of the State of São Paulo as a consequence of the Statute of the Civil Servants of the State of Sao Paulo, 1968 (Estatuto dos Servidores Civis do Estado de São Paulo, 1968), Decree n.º 7.510 of 29 January 1976 (Decreto n.º 7.510, de 29 de janeiro de 1976), and Resolution SE n.º 170 of 25 July 1990 (Resolução SE n.º 170, de 25 de julho de 1990). With regard to the Statute of the Civil Servants of the State of Sao Paulo, it is worth clarifying that its finality has not been interpreted as to prevent civil servants from freely articulating their opinion when they are not doing so in their capacity as civil servants, but only when they express their opinion in the performance of their function or under the justification of carrying out their functions, thus implicating the State itself. Therefore, this legislation is not aimed at hampering the freedom of expression of civil servants, who are free to express their personal opinions. Its objective is to ensure uniformity of the public authority when it is requested in the name of a public agency and with the aim of avoiding irreparable damages to the public interest. It is worth stressing in this context that the State, as legal entity, does not

possess a will or opinion; its will and action are expressed through its agents, to the extent that they hold such authority. In this way, what the agent expresses in his functional quality is intended to be the expression of the State, on the basis of a relationship of direct imputation of the acts of State agents.

324. With regard to the Resolution SE n.º 170 of 25 July 1990, it should be noted that it was revoked on 21 August 2008, by means of Resolution SE n.º 63 of 20 August 2008, due to “the need to revoke expressly or tacitly any act either in disuse or already revoked expressly or tacitly, though never nominated”, among other reasons, in accordance to the exposition of motives. According to the Secretary of Education, surveys are being carried out on the reorganization of its structure, attributions and competencies, which indicate the revocation of the Decree n.º 7.510 of 29 January 1976.

325. We hope we answered the questions posed by the Rapporteurs. In addition, it is worth communicating that the Secretary of Education informed that it did not deny any request of interviews to teachers or directors since it considers this to be their decision, thus showing that the above mentioned legislation is in disuse. In this sense, it informed that the current management of the Secretary did not punish any teacher for having been interviewed and that it is fully favorable to the freedom of expression of professors and of any other person.

Observations

326. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 29 May 2008

327. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government concerning the shooting attack against Mr. Edson Ferraz, aged 25, journalist of the TV Diário, affiliated to the Rede Globo network.

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

329. Mr. Ferraz had been working and reporting on cases involving police corruption. It is feared that the shooting attack against Mr. Ferraz was a form of reprisal for his activities as an investigative journalist in defense of transparency and a threat to dissuade him from continuing this work. The risks faced by journalists reporting on human rights, in particular those investigating corruption cases, were among the concerns raised in the report of the then

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

Observations

330. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 25 June 2008

331. The Special Rapporteur sent a letter of allegations to the Government concerning the safety of staff members of the *Diário de Amazonas* newspaper, based in the city of Manaus.

332. According to information received, on 21 June 2008 at approximately 4:30 a.m., two armed individuals on a motorcycle fired eleven shots at the headquarter offices of the *Diário de Amazonas* newspaper, in central Manaus. Six bullets reportedly caused damage to the main entrance of the building and shattered windows on the first storey, where the president and vice-president of the newspaper have their offices. No-one was injured in the attack.

333. According to reports, prior to the incident the newspaper had been involved in reporting on several cases of alleged corruption, implicating the government of Coari, a city 360 kilometres west of Manaus. Less than 24 hours before the attack, several alleged associates of the mayor of Coari were arrested, some of whom had been linked by the newspaper to serious crimes.

334. It is claimed that police reports have suggested that the attack was carried out by disgruntled former employees. However results from footage recorded by surveillance cameras installed outside the building, have yet to be revealed.

335. Concern was expressed that the afore-mentioned incident may be a direct attempt to stifle freedom of expression in Brazil.

Observations

336. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 31 July 2008

337. The Special Rapporteur, together with the Special Representative of the Secretary-General 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 concerning Mr. Roberto de Oliveira Monte, founder of the National Movement for Human Rights, former

General Coordinator of the State Program for Education in Human Rights, long-term employee of the Commission of Pontifical Justice and Peace in the arch-diocese of Natal, and member of the National Committee of Human Rights, the Centre of Human Rights and Popular Memory, and the State Council of Human Rights. He was also central to the creation of DHNet, a website which provides information on the issue of human rights.

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

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

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

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

Observations

342. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 28 August 2008

343. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent a letter of allegations to the Government concerning the

criminalization of the Movimento dos Trabalhadores Rurais Sem Terra (MST - Landless Workers Social Movement), a non-governmental organization dedicated to the defense of land rights for peasant workers in Brazil, as well as concerning the killing of another MST leader, Eli Dallemole. Mandate holders have sent nine communications to the Government regarding members of the MST since 2005. The response from the Government on 9 January 2007 regarding a communication sent on 11 October 2006 was welcomed, but concern was expressed that no other responses were received, especially given that five of the nine communications sent were in relation to killings of MST members in the last two years.

344. According to information received, on 25 June 2007, the Superior Council of the Public Prosecutor's Office of the State Rio Grande do Sul opened administrative procedures into the activities of the MST. On 3 December 2007, the Superior Council of the Public Prosecutor's Office unanimously approved a report which expressed the intention to dissolve the MST and to declare it illegal; to suspend marches and other mass demonstrations of the MST; to investigate organized crime, as well as the use of public funds and official aid in criminal and administrative spheres, among MST leaders and members; to work towards the closure of MST settlements near Coqueiros Farm and settlements being used as bases to invade private properties; to conduct electoral investigations in areas of MST settlements and cancel electoral cards in cases of any irregularity being observed.

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

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

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

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

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

Observations

350. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 24 September 2008

351. On 24 September 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding an attack on the home of Mr. Joinville Frota and harassment against the Transport Workers' Union in the state of Amapá (TWU - Sindicato dos Condutores de Veículos e Trabalhadores em Empresas Transportes Rodoviários de Passageiros do Amapá). Mr. Joinville Frota is president of the TWU.

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

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

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

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

Observations

356. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Burundi

Lettre d'allégations envoyée le 18 mars 2008

357. Le Rapporteur spécial a envoyé une lettre d'allégations sur des attaques contre quatre membres de l'opposition au parti au pouvoir.

358. Selon les informations reçues, le 8 mars 2008 quatre attaques à la grenade quasi-simultanées contre les domiciles de Pasteur Mpawenayo, Mathias Basabose, Zaituni Radjabu et Alice Nzomukunda ont eu lieu. Ces quatre personnes sont toutes d'anciens membres du parti au pouvoir, le Conseil National pour la Défense de la Démocratie-Forces pour la Défense de la Démocratie (CNDD-FDD); Pasteur Mpawenayo, Mathias Basabose et Zaituni Radjabu ont quitté le CNDD-FDD au début de l'année 2007 et Alice Nzomukunda en a été exclue en janvier 2008.

359. Ces attaques se seraient produites alors que les tensions grandissent entre le parti au pouvoir et les partis d'opposition. En août 2007 déjà, une série d'attaques à la grenade contre des membres de l'opposition aurait eu lieu, à la suite d'une crise politique lorsque des membres de l'opposition parlementaire avait demandé que soit accordé aux partis d'opposition un certain nombre de ministères en conformité avec les dispositions constitutionnelles. Les attaques du 8 mars 2008 feraient suite à une crise parlementaire due à l'exclusion d'Alice Nzomukunda du CNDD-FDD et à la décision de ce parti de lui retirer le siège de première vice-présidente de l'Assemblée Nationale.

360. Les informations reçues indiquent que deux suspects auraient été arrêtés et qu'une commission d'enquête aurait été nommée, présidée par le chef de la police judiciaire, pour enquêter sur ces dernières attaques. Toutefois, il semblerait qu'une commission d'enquête avait été nommée pour enquêter sur les attaques du mois d'août 2007, mais aucun rapport n'aurait à ce jour été publié, et les suspects arrêtés dans le cadre de l'enquête policière auraient été relâchés sans jugement. Des rapports suggèrent par ailleurs qu'un ancien membre des services secrets aurait avoué avant de quitter le pays en décembre 2007 avoir été impliqué dans les attaques du mois d'août 2007, aux fins d'intimider les membres de l'opposition.

Observations

361. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 18 mars 2008.

Appel urgent envoyé le 30 mai 2008

362. Le Rapporteur spécial a envoyé un appel urgent sur le meurtre de Mme Cécile Ndikumana, employée du service commercial de la chaîne publique Radio télévision nationale du Burundi (RNTB), et la situation de M. Hilaire Minani, caméraman de la RNTB.

363. Selon les informations reçues, dans la soirée du 12 mai 2008 Mme Cécile Ndikumana aurait été mortellement blessée par des coups de feu tirés par des hommes non-identifiés, dans le quartier de Kakyosha, au sud de Bujumbura, alors qu'elle rentrait à son domicile en compagnie de son époux. Ce dernier aurait également été touché et aurait été transféré au centre médico-chirurgical de l'hôpital de la ville. Ses jours ne seraient pas en danger.

364. Le même soir, alors que M. Hilaire Minani se trouvait devant son domicile en compagnie d'un voisin, deux hommes armés les auraient contraints de leur remettre leurs effets personnels. Une altercation aurait suivi au cours de laquelle M. Minani aurait été blessé à la tête et à la main et son voisin aurait été tué d'une balle. M. Minani aurait pu prendre la fuite.

365. Des craintes ont été exprimées quant au fait que le meurtre de Mme Cécile Ndikumana et l'agression de M. Hilaire Minani soient liés à l'exercice de leur droit à la liberté d'opinion et d'expression.

Observations

366. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 30 mai 2008.

Appel urgent envoyé le 26 septembre 2008

367. Le Rapporteur spécial a envoyé un appel urgent concernant la situation de Monsieur Jean-Claude Kavumbagu, le directeur du site d'informations Net press.

368. Selon les informations reçues, le 11 septembre 2008 M. Kavumbagu a été arrêté et détenu dans la prison centrale de la capitale Bujumbura sur la base d'une plainte déposée par le secrétaire général du gouvernement. M. Kavumbagu aurait été arrêté et accusé de diffamation suite à la publication d'un article dans lequel il prétend que le chef de l'Etat aurait utilisé 100 millions de francs burundais au cours de son dernier voyage en Chine à l'occasion de la cérémonie d'ouverture des Jeux Olympiques, alors que le secrétariat général du gouvernement affirme ne lui avoir octroyé que 50 millions.

Observations

369. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 26 septembre 2008.

Appel urgent envoyé le 27 novembre 2008

370. Le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du groupe de travail sur les détentions arbitraires, a envoyé une lettre d'allégations sur la situation de Monsieur Alexis Sinduhije, journaliste et président d'un parti d'opposition, le « Mouvement pour la Sécurité et la Démocratie » (MSD). M. Sinduhije a dirigé l'une des stations privées les plus écoutées du pays, la Radio Publique Africaine (RPA). La RPA a cherché à promouvoir la paix en embauchant à la fois des Hutus et des Tutsis, y compris des anciens combattants, qui travaillent ensemble au sein de l'équipe éditoriale.

371. Selon les informations reçues, le 3 novembre 2008 M. Sinduhije aurait été arrêté quand une cinquantaine de policiers se sont rendus à la permanence du MSD (parti dont l'agrément a été refusé) à Bujumbura. Les policiers auraient procédé à une perquisition sur base d'un mandat signé par un substitut du Procureur de la République près du Tribunal de Grande Instance (TGI) de Bujumbura pour 'atteinte à la sûreté intérieure de l'Etat ». A l'issue de cette perquisition,

plusieurs documents et objets, qualifiés par le Commissaire en charge de la perquisition de subversifs et pouvant troubler l'ordre public, auraient été saisis par les policiers et aucune copie de la liste des objets saisis n'aurait été remise à M. Sinduhije.

372. M. Sinduhije aurait été arrêté en compagnie de trente-sept personnes membres de la MSD pour avoir tenu une réunion illégale en violation de l'ordonnance ministérielle n° 530/022 (signé le 6 octobre 2008) portant réglementation des réunions et manifestations des partis politiques et autres associations, bien qu'aucun mandat d'arrêt n'ait été émis à leur encontre. La majorité des partisans de MSD auraient été emprisonnés dans les cellules de la Police Judiciaire à Jabe dans la commune de Bwiza. Entre les 5 et 10 novembre 2008, les 37 personnes, arrêtées en même temps que M. Sinduhije auraient été libérées et aucune charge n'aurait été retenue à leur encontre.

373. M. Alexis Sinduhije aurait été interrogé à plusieurs reprises par l'Officier de la Police Judiciaire et son dossier aurait été transmis au Parquet près le TGI de Bujumbura le 4 novembre 2008. Le 11 novembre 2008, M. Sinduhije se serait présenté devant le premier substitut du Procureur de la République, et se serait vu accusé de l'infraction «outrage au chef de l'Etat» puni par le code pénal. Il aurait d'abord été accusé d'atteinte à la sûreté intérieure de l'Etat, mais les éléments de preuves auraient été insuffisants pour justifier de cette accusation. M. Sinduhije serait actuellement détenu à la prison de Mpimba, la prison centrale de Bujumbura.

374. Des craintes ont été exprimées quant au fait que les arrestations et condamnations des personnes susmentionnées puissent être liées à leurs activités non-violentes de promotion et protection des droits de l'homme.

Observations

375. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 27 novembre 2008.

Lettre d'allégations envoyée le 4 décembre 2008

376. Le Rapporteur spécial, conjointement avec l'Expert indépendant sur la situation des droits de l'homme au Burundi, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur le droit de toute personne de jouir du meilleur état de santé physique et mentale susceptible d'être atteint, a envoyé une lettre d'allégations sur le cas suivant.

377. L'Assemblée Nationale du Burundi aurait adopté le 22 novembre 2008 le projet de Code pénal révisé. Ce projet prévoit dans une nouvelle disposition la criminalisation de l'homosexualité et condamne ainsi tout acte sexuel entre des personnes du même sexe consentantes jusqu'à une peine de 2 ans d'emprisonnement. Ce projet de Code stipule que « Quiconque a des relations sexuelles avec une personne du même sexe est puni d'une servitude pénale de trois mois à deux ans et d'une amende de cinquante mille francs à cent mille francs ou d'une de ces peines seulement ». Ce projet de loi devrait être présenté devant le Sénat cette semaine et ensuite être promulgué par le Président.

Observations

378. Les Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à sa communication en date du 4 décembre 2008.

Cambodia

Urgent appeal sent on 26 June 2008

379. The Special Rapporteur sent an urgent appeal regarding the situation of Mr. Dam Sith, editor-in-chief of the newspaper Moneaksekar Khmer in Phnom Penh, Cambodia.

380. According to the information received, on 8 June 2008 at approximately 11:00 a.m., Mr. Dam Sith, a prominent member of the opposition Sam Rainsy Party, who is running for the upcoming Parliamentary Elections scheduled for 27 July, was arrested by military police in Phnom Penh. Following interrogation at the Phnom Penh Municipal Court, Mr. Dam Sith was placed in pre-trial detention at Prey Sar prison (Correctional Centre I) outside Phnom Penh, having been charged with Defamation and Disinformation under Articles 62 and 63 of the 1992 Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period.

381. It would appear that any charges against Mr. Sith relating to his work with Moneaksekar Khmer newspaper should have been brought under the 1995 Law on Press Regulation (the "Press Law"), which contains a range of non-custodial provisions to regulate alleged defamatory and inflammatory content in newspapers. The Press Law specifically states that "All previous provisions related to the press shall be hereby abrogated" (Article 21), and also notes that "no person shall be arrested or subject to criminal charges as result of expression of opinion" (Article 20). Mr. Dam Sith's arrest reportedly followed a complaint against him by your Excellency regarding the coverage in Moneaksekar Khmer newspaper of a speech made by SRP president Sam Rainsy. In the speech, at a Khmer Rouge victims' commemoration on 17 April 2008, Mr. Rainsy reportedly made comments about several government ministers. Criminal complaints were subsequently filed by your Excellency against both Sam Rainsy and Dam Sith.

382. Mr. Dam Sith, in his capacity as a journalist and newspaper editor, was merely reporting the words of Sam Rainsy in relation to the event on 17 April. Furthermore, Article 62 of the UNTAC law criminalizes the publication, distribution or reproduction of false information that "has disturbed or is likely to disturb the public peace". To date no disturbance has been witnessed as a result of the statements made by Sam Rainsy. Since the arrest of Mr. Dam Sith, a number of concerned parties have reportedly written to the court requesting his release on bail, including a group of Sam Rainsy Party law-makers; representatives of the Cambodian Club of Journalists; and the Minister of Information. These petitions were denied by investigating judge Chhay Kong on the basis that the parties concerned not authorized to file such requests on Dam Sith's behalf. However, on 15 June Dam Sith was eventually released on bail, following a request sent to the Municipal Court on 14 June by Prime Minister Hun Sen. Although Mr. Dam Sith has been released on bail, the charges against him have not been dropped. While

to date no hearing has been scheduled, the current situation of fear and uncertainty has seriously impacted on the ability of Mr. Dam Sith to carry out his legitimate work as a journalist and to participate in political life as a parliamentary candidate.

383. Concern was expressed that the arrest, detention and charges brought against Mr. Dam Sith are linked to his legitimate work in promoting the right to freedom of expression in Cambodia. Further concern is expressed with respect to the reported executive interference in the judicial process.

Observations

384. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 21 July 2008

385. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations on the killing of Mr. Khim Sambor, a veteran reporter with Moneaksekar Khmer a Khmer-language daily newspaper affiliated to the Sam Rainsy Party, and also the killing of his son Mr. Khat Sarinpheata. According to information received:

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

387. According to reports, prior to the attack, Mr. Khim Sambor had written numerous articles critical of the ruling Cambodian People's Party, as well as articles concerning cases of corruption allegedly implicating leading Government officials. In 2003, Moneaksekar Khmer, was closed down by the authorities for one month for publishing articles critical of the Government, and in 2006 the newspaper was fined \$4,500 for reportedly linking a Government minister to corruption. Furthermore, in June 2008, Mr. Dam Sith, Editor of the aforementioned newspaper, was detained for a week and charged in relation to the reporting of a controversial speech by Sam Rainsy and the subsequent legal action that was brought against him by a Government Minister.

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

Observations

389. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communications.

Follow-up to previously transmitted communications

390. In a letter dated 30 January 2008, the Government responded to the letter of allegations of 30 November 2007. The Government reported that The Abbot Tim Sakhorn stayed at Baukhanaram Pagoda (North Phnom Den Pagoda) at Phsar Village, Phnom Den Commune, Kirivong District, Takeo Province, Cambodia.

391. Monk Tim Sakhorn is a Khmer Kampuchea Krom native and was born at Kla Krahim village, Ba Chuk Commune, Tri Ton District (or so called Srok Svay Torng), An Giang Province, Socialist Republic of Viet Nam. Monk Tim Sakhorn had used the location of the Pagoda to distribute bulletins of the Khmer Kampuchea Krom union. Each bulletin contained the content of inspiration propaganda aimed to create conflicts between Cambodia and Vietnam. Monk Tim Sakhorn has a hard-line personality with no respects to the rules of the Buddhism and did not participate in religious activities as required. He carried out activities such as raising illegal flag in the pagoda which contains insignia same like the flag as printed in the bulletins of the Khmer Kampuchea Krom Federation.

392. Furthermore, he constructed building in the Pagoda and ordained monks of Khmer Kampuchea Krom origin without permission. He propagated monks and followers to support activities of the foreign-base Khmer Kampuchea Krom Federation movement. These activities made monks in the Pagoda unhappy and moved out to other Pagodas. The Pagoda currently remains only 70 monks who have proper identity cards.

393. After a consideration over monk Tim Sakhorn's abnormal activities, the Supreme Patriarch Buddhism Monk of Cambodia, Ven. Tep Vong, organized a special meeting participated by 10 high ranking Monks official to review monk Tim Sakhorn's case. As result, the cases on his violation against disciplines, monk Tim Sakhorn's status was removed. After a while, it was found that Mr. Tim Sakhorn was detained by Vietnamese authority. Mr. Tim Sakhorn is under the legal prosecution of the present laws of the Socialist Republic of Vietnam.

Observations

394. The Special Rapporteur is grateful for the Government's reply.

Cameroon

Appel urgent envoyé le 14 octobre 2008

395. Le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé un appel urgent concernant l'arrestation de M. Gaston Tagai, membre du Mouvement pour la défense des droits de l'homme et des libertés (MDDHL), et responsable d'une antenne que le MDDHL s'apprête à ouvrir à Roua, département du Mayo Tsanaga.

396. Le 4 décembre 2003, le 28 décembre 2005, le 3 mars 2006 et le 24 avril 2008, plusieurs titulaires de mandat ont envoyé des appels urgents au Gouvernement du Cameroon concernant le MDDHL. Le Gouvernement a répondu le 21 novembre 2006. Selon les nouvelles informations reçues, le 16 septembre 2008 M. Gaston Tagai aurait été arrêté par le commandant de la brigade de gendarmerie de Roua et aurait été placé en garde de vue. M. Tagai serait toujours détenu à ce

jour bien que, selon la loi camerounaise, la durée maximale pour les gardes à vue soit de 24 heures, renouvelables deux fois sur autorisation du Procureur de la République. M. Tagai serait accusé d'avoir frappé son père et d'avoir volé une arme à feu à la brigade de Roua, mais il aurait nié ces accusations.

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

Observations

398. Les Rapporteurs spéciaux regrettent, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 14 octobre 2008.

Chad

Lettre d'allégations envoyée le 21 janvier 2008

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

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

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

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

Observations

403. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 21 janvier 2008.

Appel urgent envoyé le 14 février 2008

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

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

406. Il est également rapporté qu'après la fin des combats à N'Djamena, plusieurs journalistes auraient échappé à une arrestation par des hommes en tenue militaire. Le 6 février, deux hommes en uniforme et circulant sur une moto se seraient présentés au domicile de M. Narcisse, exigeant que les enfants présents dans la maison leur indiquent où se trouvait le journaliste. M. Narcisse avait quitté le pays peu après la fin des combats. Dans les jours qui ont suivi, les mêmes personnes se seraient aussi présentées deux fois au domicile de M. Didama ainsi qu'au siège du journal *Le Temps*. Le 8 février, six militaires se seraient présentés au domicile d'Eloi Miandadji pour l'arrêter. Selon les renseignements reçus, certains journalistes qui essayaient de fuir vers le Cameroun et le Nigeria auraient fait objet de vexations ou d'agressions de la part de militaires.

M. Belrangar auraient été dépouillé de sa carte professionnelle et de son téléphone portable par deux militaires à l'entrée sud de N'Djamena. Au même endroit, des militaires auraient détruit des images prises par M. Nakingar lors de l'entrée des rebelles dans N'Djamena et de l'exode des habitants de la capitale. Plusieurs journalistes auraient quitté le pays lors de la fin des combats à N'Djamena.

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

Observations

408. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 14 février 2008.

Appel urgent envoyé le 29 février 2008

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

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

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

Observations

412. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 29 février 2008.

Appel urgent envoyé le 3 juillet 2008

413. Le Rapporteur spécial, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la torture, a envoyé une communication concernant la situation M. Ibni Oumar Mahamat Saleh, professeur d'université et secrétaire général du Parti pour les libertés et le développement (PLD) et porte-parole de la principale coalition d'opposition tchadienne, la « Coordination des partis politiques pour la défense de la Constitution » (CPDC). Dans un appel urgent concernant la situation de M. Jean-Bernard Padaré envoyé par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 29 février 2008, référence a été faite à la situation de M. Ibni Oumar Mahamat Saleh.

414. Selon les informations reçues, M. Ibni Oumar Mahamat Saleh aurait été arrêté le 3 février 2008 par les services de sécurité tchadiens à N'Djamena. Depuis ce jour, le lieu de détention/séjour de M. Ibni Oumar Mahamat Saleh demeure inconnu, malgré les nombreuses interventions par la société civile demandant les autorités à révéler son lieu de séjour.

415. Au vu de sa détention secrète, des craintes sont exprimées quant à l'intégrité physique et mentale de M. Ibni Oumar Mahamat Saleh. Des craintes sont aussi exprimées quant à la possibilité que l'arrestation de M. Saleh soit motivée par ses convictions politiques.

Observations

416. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 3 juillet 2008.

Chile

Carta de alegaciones enviada el 15 de enero de 2008

417. 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, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. Yénive Cavieres Sepúlveda, abogada defensora de causas indígenas e integrante de la rama chilena de la Asociación Americana de Juristas, las Dras. Orielle Nuñez y Berna Castro y quince mapuches, de los cuales, tres son menores de edad.

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

419. Los Carabineros habrían ejercido una fuerza excesiva y habrían detenido a la abogada Yénive Cavieres, a las Dras Orielle Nuñez y Berna Castro, y a quince mapuches, de los cuales, tres son menores de edad. Los detenidos habrían sido trasladados a la 1ª Comisaría de Santiago,

donde habrían permanecido durante seis horas, hasta que fueron liberados. Se alegaba que la detención de estas personas pueda estar relacionada con su trabajo en defensa de los derechos humanos.

Observaciones

420. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

China (People's Republic of)

Letter of allegations sent on 22 February 2009

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

422. According to information received, on 5 February 2008 Mr. Lu Gengsong was sentenced to four years in prison and one year of deprivation of his political rights after being convicted on charges of 'incitement of subversion of state power' by the Hangzhou City Intermediate People's Court, following a closed trial on 22 January 2008 which lasted 15 minutes. A number of supporters and friends of Mr. Lu Gengsong were reportedly prohibited by the Hangzhou Public Security Bureau (PSB) from attending the sentencing by being placed under house arrest or from entering the court building.

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

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

Response from the Government

425. In a letter dated 24 April 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Letter of allegations sent on 22 February 2008

426. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations in relation to the situation of Mr. Yang Chunlin, a farmers' representative and land-rights activist in

Heilongjiang province. Mr. Yang Chunlin was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, on 5 September 2007, following his detention on 6 July and formal arrest on 13 August 2007.

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

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

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

Response from the Government

430. In a letter dated 10 April 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 6 March 2008

431. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Ms. Wang Guilan, a human rights activist and one of the organizers of an open letter calling for an improvement in the human rights situation in China. According to information received, on 28 February 2008 following the publication of the above open letter with the signatures of over 12,000 petitioners, Ms. Wang Guilan was arrested in Beijing by police from the Public Security Bureau of her home province, Hubei. Her current whereabouts are unknown. A number of other petitioners involved in the public letter were also detained by police.

432. In view of the alleged detention of Ms. Wang Guilan at an undisclosed or unconfirmed location, concern was expressed that she may have been at risk of torture or other forms of

ill-treatment. Further concern was expressed that Ms. Wang Guilan's arrest and detention may have been directly related to her activities in defense of human rights, particularly her peaceful exercise of the right of freedom of expression.

Response from the Government

433. In a letter dated 24 April 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 13 March 2008

434. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the then Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government concerning Mr. Teng Biao and Mr. Li Heping. Both of the aforementioned are human rights lawyers. Mr. Teng Biao was the subject of an urgent appeal sent by Special Rapporteur on the question of torture, Special Rapporteur on violence against women, its causes and consequences and Special Representative of the Secretary-General on the situation of human rights defenders, on 21 December 2006. Mr. Li Heping was the subject of an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 5 October 2007.

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

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

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

Response from the Government

438. In a letter dated 24 April 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 20 March

439. The Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on freedom of religion or belief, the then Special Representative of the Secretary-General on the situation of human rights defenders and the

Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning reports of violence during demonstrations in the Tibet Autonomous Region and surrounding areas in China, killings of an unconfirmed number of people and arrests of hundreds of demonstrators.

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

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

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

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

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

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

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

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

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

449. Since 10 March, it is reported that raids in the homes of people formerly imprisoned for their political opinions have taken place. Since 15 March, house-to-house searches are allegedly being carried out in Lhasa, with CDs and printed material being confiscated, and people being taken in custody. It is reported that on 15 March, at least 600 people had been arrested in Lhasa, either as a result of a house search or during demonstrations. Three hundred additional people were reportedly arrested on 16 March. Reports indicate that on 13 March, the Lhasa Foreign Bureau Office has issued a warning to non-governmental organisations that any information given to foreigners regarding the protests could result in strict legal action against the concerned individuals and organisations, including the closing down of the latter.

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

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

452. “1. Those who on their own volition submit themselves to police or judicial offices prior to midnight on 17 March shall be punished lightly or dealt mitigated punishment; those who surrender themselves and report on other criminal elements will be performing meritorious acts and may escape punishment. Criminal elements who do not submit themselves in time shall be punished severely according to law. 2. Those who harbour or hide criminal elements shall be punished severely according to law upon completion of investigations. 3. Those citizens who actively report and expose the criminal behaviour of criminal elements shall receive personal protection, and granted commendations and awards.” It was noted that according to the information received, demonstrations continued to take place, both in the Tibet Autonomous Region and neighbouring provinces, despite the official notice.

Response from the Government

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

454. The aforementioned serious violent criminal events were carefully plotted in advance and instigated by the Dalai clique. In their handling of the entire incident, the competent authorities of the Tibet Autonomous Region and other areas showed great restraint; they enforced the law in a civilized manner, and they enjoyed broad popular support. At the international level, however, some people have distorted the facts, creating untrue stories and providing the United Nations special procedures with inaccurate information. Tibetan affairs are part of China’s internal affairs; nevertheless, in an effort to help the special procedures learn the truth about these events and to prevent the Dalai clique and anti-China elements from exploiting them, the competent authorities of the Chinese Government have thoroughly investigated the incidents described in the aforementioned letter.

455. In mid-March 2008, a series of serious violent criminal acts took place in the city of Lhasa, in China’s Tibet Autonomous Region. Starting on 10 March, a group of lawbreakers acting without authorization, gathered illegally to create a disturbance; when police officers arrived to dissuade them, in accordance with the law, they clashed with them, cursing them and violently attacking the officers with clubs, rocks and knives. At approximately 11 a.m. on 14 March 2008, some monks at the Ramoche Temple threw stones at the police officers on duty. Subsequently, a group of rioters began to gather in Barkhor Street, shouting separatist slogans and wantonly beating, smashing and looting. The situation quickly spread. The lawbreakers smashed and burned shops, primary and secondary schools, hospitals, banks, electrical and communications installations and news agencies along the main streets of Lhasa and set fire to cars, chased and beat pedestrians, and attacked stores, telecommunications and Internet outlets and Government

offices. The rioters' savage behaviour during these incidents resulted in the slashing or burning to death of 18 innocent persons, including an infant less than 1 year old; 382 innocent persons were also injured, 58 of them seriously. The rioters set fire to over 300 sites, burning down 7 schools, 5 hospitals, more than 1,300 and 120 homes, causing extensive loss of human life and property, and occasioning a direct economic loss of 280 billion yuan renminbi. Public order in the affected area was severely disrupted.

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

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

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

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

460. On 16 March 2008, in the Tibetan Autonomous Prefecture of Aba, Sichuan Province, rioters broke into the Aba Township police station and stabbed the police officers. When the rioters stole police firearms from a safe, the police fired warning shots, in accordance with the law, to no effect. They were thus compelled to open fire in self-defence, striking and injuring four rioters, who managed to escape with their co-conspirators in the confusion. Immediately afterwards, the officers involved in the incident, acting pursuant to regulations, submitted a

report to their superiors, which the national police promptly published. The firing of weapons in self-defence by the Aba police was fully consistent with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted at the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

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

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

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

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

465. On 29 April 2008, the Lhasa Municipal Intermediate People's Court held an open trial of some persons accused of participating in the "events of 14 March". The court found 30 accused persons, (Pasang et al.) guilty of the crimes of arson, looting, instigating fights and troublemaking, assembling a group to attack a State organ, disrupting public service and theft. The defendants Pasang, Sonam Tsering and Tsering were sentenced to life imprisonment. The defendants Jigme, Kalsang Bagdro, Karma Dawa, Dorje, Migmar, Ngawang Choeyang and Bagdro were given sentences of fixed-term imprisonment of 15 years and more. The defendants

Yargyal, Choephel Tashi, Dorje Dargye, Ngawang, Kalsang Tsering, Migmar, Sonam Tsering, Kelsang Samten, Tseten, Palsang Tashi, Lhagpa Tsering Chewa (Sr), Lobsang Tashi, Lhagpa Tsering, Darchen, Thubten Gyatso, Tashi Gyatso, Kalsang Dondrub, Tenzin Gyaltzen, Kalsang Nyima and Yeshe were given sentences of fixed-term imprisonment ranging from 3 to 14 years.

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

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

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

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

470. The judicial authorities of the Tibet Autonomous Region and other localities intend to continue their efforts to deal in accordance with the law with the criminal suspects who participated in these violent criminal acts. China will continue to transmit to the relevant bodies information regarding the outcome of these negotiations.

Observations

471. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 31 March 2008

472. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. Yang Chunlin, a farmers' representative and land-rights activist in Heilongjiang Province. Mr. Yang Chunlin was the subject of a letter of allegations sent by the Special Representative of the Secretary-General

on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 22 February 2008, and an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, on 5 September 2007, following his detention on 6 July and formal arrest on 13 August 2007.

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

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

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

Response from the Government

476. In a letter dated 1 July 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 9 April 2008

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

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

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

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

Response from the Government

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

Urgent appeal sent on 14 April 2008

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

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

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

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

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

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

Response from the Government

488. In a letter dated 4 June 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 23 April 2008

489. On 23 April 2008, the Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal Mr. Hu Jia, a Beijing-based HIV/AIDS activist, co-founder and former director of the Beijing Aizhixing Institute for Health Education. Mr. Hu Jia has been the subject of communications sent by several mandate holders following his detention on 27 December 2007 and his sentencing on 3 April 2008 to three years and six months' imprisonment and one year of deprivation of political rights for "inciting subversion of state power".

490. According to new information received, Mr. Hu Jia has been prevented from submitting an appeal. According to the law, Mr. Hu Jia had ten days to appeal the sentence from the day it was issued by the Beijing Municipal No. 1 Intermediate People's Court. However, Mr. Hu Jia was denied legal representation in this period, preventing him from discussing the details of a possible appeal.

491. Reports further indicate that Mr. Hu Jia has not been able to see his relatives since 3 April 2008, and that his health condition has been deteriorating.

492. Concern was expressed that the denial of access to legal representation and the consequent absence of any opportunity for Mr. Hu Jia to appeal the sentence might be related to his peaceful and legitimate activities in the defence of human rights and in disseminating information about HIV/AIDS. Further concern is expressed for the physical and psychological integrity of Mr. Hu Jia while imprisoned.

Response from the Government

493. In a letter dated 4 June 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 24 April 2008

494. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the question of torture, sent an urgent appeal to the Government regarding Ms. Zheng Mingfang, a human rights defender and petitioner in Ji County, Tianjin. According to information received, on 29 February 2008 the Tianjin police arrested Ms. Zheng Mingfang at her home. She had been held incommunicado since the arrest. Her family had not received any formal detention order and their requests to contact and meet with her had been repeatedly denied by the police. In addition, she had not been allowed to meet with a lawyer. According to unofficial sources, Ms. Zheng Mingfang had been sentenced to two years of re-education through labor (RTL) and was being held at the Xian district centre in Tianjin, east of Beijing.

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

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

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

Response from the Government

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

499. A. Zheng Mingfang, female, born on 5 July 1963, junior middle-school education, from Ji County in Tianjin City. On 1 March 2008, Zheng concocted a terrorist message, claiming that a man driving a vehicle supposedly filled with explosive was going to blow up a State gymnasium. Since the story she made up and spread caused a disturbance and seriously disrupted

public order, the Tianjin public security authorities, acting in accordance with the relevant Chinese regulations on re-education through labour, applied re-education through labour to Zheng on 1 April 2008.

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

Observations

501. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 7 May 2008

502. The Special Rapporteur, together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government regarding Ms. Jamyang Kyi, a well-known Tibetan writer and musician. Ms. Jamyang Kyi, aged 42, is an internet writer and has published articles on women's issues in Tibet.

503. According to information received, on 1 April 2008 Ms. Jamyang Kyi, was taken away by plainclothes state security officers from her office at the Qinghai Provincial Television Station in Xining City.

504. Ms. Jamyang Kyi was initially held at the Xining City Public Security Office, but on 4 or 5 April 2008 she was taken to an undisclosed location. No formal charges against her have been made public.

505. Ms. Jamyang Kyi kept in contact with her family via mobile phone until 7 April 2008. Since then her phone has been turned off. During two searches of her home, police officers are reported to have confiscated her personal computer and other personal items.

506. Concerns were expressed that the detention of Ms. Jamyang Kyi might be solely connected to the exercise of her right to freedom of opinion and expression. In view of the reported incommunicado detention of Ms. Jamyang Kyi at an unknown place of detention, further concerns are expressed that she might be at risk of ill-treatment.

Response from the Government

507. In a letter dated 7 August 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 7 May 2008

508. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding Ms. Li Xige, an HIV/AIDS activist, her husband, and Ms. Miaojue Cizhi, a Buddhist nun and HIV/AIDS activist, both from the Henan Province. According to information received:

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

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

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

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

Observations

513. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communications.

Urgent appeal sent on 16 May 2008

514. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding Messrs. Chen Daojun, Xin Wu, Shi Jianhua and Lin Yong, internet writers and human rights defenders.

515. According to the information received, on 9 May 2008 Messrs. Chen Daojun, Xin Wu, Shi Jianhua and Lin Yong were detained for posting articles online criticizing the construction of a petrochemical plant in Chengdu, capital of Sichuan Province. Mr. Chen Daojun was detained for “inciting subversion of state power”. Messrs. Xin Wu, Shi Jianhua and Lin Yong were placed under administrative detention.

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

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

Observations

518. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communications.

Urgent appeal sent on 16 May 2008

519. On 16 May 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding Mr. Zhou Yuanzhi, a writer and member of the Independent Chinese PEN Center, and his wife, Ms. Zhang Zhongfeng.

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

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

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

Response from the Government

523. In a letter dated 7 August 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 22 May 2008

524. The Special Rapporteur, together with 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 question of torture, sent an urgent appeal to the Government regarding Mr. Qi Chonghuai and Mr. He Yanjie, journalists who have frequently reported on cases related to corruption and social justice.

525. According to information received, on 13 May 2008 Mr. Qi Chonghuai and Mr. He Yanjie were sentenced to four years imprisonment for “extortion and black mail” by the Tengzhou City Court, Shandong Province.

526. Two court policemen reportedly hit Mr. Qi Chonghuai’s head against the floor several times during the trial. He was also dragged out of the courtroom when he tried to comfort his wife during a break in the trial. Mr. Qi Chonghuai and Mr. He Yanjie were arrested on 25 June 2007 by Tengzhou police officers, following a publication of an article alleging official corruption in the Tengzhou Communist Party. They were formally charged with “extortion and blackmail” on 2 August 2007. Both men are currently held at the Detention Center of Tengzhou City. Mr. Qi Chonghuai was allegedly held incommunicado during the first two months of his detention and has been repeatedly assaulted and threatened by security guards throughout his eleven-month pre-trial detention.

527. Concern was expressed that the sentencing of Mr. Qi Chonghuai and Mr. He Yanjie may be directly related to their reportedly peaceful human rights activities, particularly their advocacy of an end to corruption and social injustice. Further concern is expressed for their physical and psychological integrity while in detention.

Response from the Government

528. In a letter dated 7 August 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Letter of allegations sent on 23 May 2008

529. On 23 May 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women its causes and consequences, issued a letter of allegations to the Government in relation to Ms. Yuan Weijing, wife of Mr. Chen Guangcheng, a well-known human rights lawyer who has denounced alleged violations linked to China's one-child policy, including forced sterilizations and abortions.

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

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

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

533. Ms. Yuan Weijing has reportedly been subject to repeated acts of harassment by the authorities following the arrest of her husband and she is kept under residential surveillance by the police. Several times she has been brought in by police for questioning. According to the information received, she has not been allowed to visit her husband for eight months.

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

Response from the Government

535. In a letter dated 7 July 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 6 June 2008

536. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government regarding the situation of Ms. Ren Shangyan, Assistant Director of the China Justice Advocacy Web (Zhonghua Shenzheng Wang), a website which frequently has reported on cases related to alleged corruption and social justice.

537. According to the information received, on 16 May 2008 Ms. Ren Shangyan was arrested by several Shuangyashan Public Security Bureau (SPSB) officers in Shuangyashan City, Heilongjiang Province. Her current whereabouts are unknown, and her family has not been informed by the police of her detention. The current conditions of her detention and whether she has formally been charged remain unclear. Shortly before her arrest, Ms. Ren Shangyan had been investigating accusations against the Vice-Chief of the Anti-Corruption Bureau under the Procuratorate of Lingdong District, Shuangyashan City. In March 2008, shortly after the China Justice Advocacy Web initiated to investigate the case, the website was temporarily closed by the internet police. In 2007, the website was repeatedly blocked following various reports on corruption cases in Shanghai.

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

Observations

539. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communications.

Letter of allegations sent on 16 June 2008

540. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture, issued an allegation letter to the Government in relation to Ms. Liu Jie, a human rights defender and democracy activist. Ms. Liu Jie was the subject of urgent appeals sent by the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 25 October 2007, and by these mandate-holders, together with the Special Rapporteur on the question of torture, on 28 December 2007.

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

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

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

Observations

544. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communications.

Urgent appeal sent on 30 June 2008

545. On 30 June 2008, Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding Mr. Yao Lifa, an activist promoting local democratic elections in Hubei Province.

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

547. Mr. Yao Lifa was an elected member of the People’s Congress of Qingjiang City from 1999 to 2004. He subsequently published a book outlining the challenges to independent politicians, which was banned. He has reportedly been subject to intimidation and harassment by police after running as an independent candidate in 2006. In September 2007, Yao Lifa was vocal in demanding the removal of the Secretary of the Chinese Communist Party in Hubei Province. Reports indicate that following this, in October 2007, he was secretly detained for a month at Qianjiang City Xiongzhou Farmers Liaison Office.

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

Response from the Government

549. In a letter dated 03 September 2008, the Government responded to the communication of 30 June 2008, providing the following information: “The Government has made careful and detailed inquiries in connection with the matter raised in the communication and wishes to make the following reply. Yao Lifa, male, born on 20 November 1958, is a teacher at the Experimental Primary School in Qianjiang, Hubei Province. In 1999, he was elected as a Deputy to the Qianjiang Municipal People’s Congress. In November 2006, the city of Qianjiang held elections for deputies to the sixth municipal and township people’s congresses. During the election period, Yao illegally distributed publicity materials containing false information in the downtown area. When the Qianjiang police were informed of this, they issued Yao, in accordance with the law, a summons together with a warning to observe the relevant laws and regulations and not to use any deceitful methods during the elections. The public security authorities were doing their duty in accordance with the law, and the allegation in the communication that Yao was “subject to intimidation and harassment by the police” does not tally with what really happened. In September 2007, the municipal education authorities in Qianjiang, seeking to address a problem posed by some teachers in the city who had long failed to observe professional discipline or meet their responsibilities as professional educators, organized a study group which included lectures on such topics as the Teachers Law and instruction in how teachers could fulfil their professional responsibilities and be good teachers. Yao was one of the teachers who had long neglected his professional responsibilities, regularly arriving late and leaving early, and absenting himself from work without requesting leave. He was thus one of the participants in the study group. The allegation in the communication that Yao was secretly detained in the Xinogkou Farmers Liaison Office in Qianjiang in September and October 2007 is not consistent with the facts. On 26 June 2006, Yao and some other teachers from the Qianjiang Experimental Primary School were sent to an appropriate institution to study. The allegation in the communication that Yao was detained by the police after participating in a demonstration on that day and that his whereabouts are unknown is inconsistent with the facts. At present, no government departments or judicial authorities are restricting Yao’s freedom of movement, and no coercive measures have been taken in respect of him; the relevant government and judicial authorities have not received any complaint from Yao himself or from his representative.

Observations

550. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 15 July 2008

551. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government regarding human rights lawyers Messrs Li Baiguang, Jiang Tianyong, Teng Biao, Li Heping,

Li Xiongbing, Li Fangping and Zhang Xhigshui. Messrs Li Baiguang, Teng Biao and Li Heping were presented with the Democracy Award by the United States of America foundation for Democracy in June 2008.

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

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

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

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

Response from the Government

556. In a letter dated 03 September 2008, the Government responded to the communication of 15 July 2008, providing the following information: "In June 2008, United States Congressmen Wolf and Smith came to China at the invitation of the United States Embassy to hold consultations with the Embassy on internal matters. After their arrival in China, however, they engaged in activities that were inconsistent with the purpose of their visit, and after returning to their country they fabricated lies and slandered the Chinese Government. It appears

that during their visit to China the two United States Congressmen did not meet with Li Heping, Li Baiguang, Teng Biao, Jian Tianyong and other individuals. However, the Chinese Government and the police did not take any restraining measures, including house arrest, and the above-mentioned individuals went about their work and their lives with freedom of movement. The allegation in the communication that the police and public security officers placed these individuals under house arrest in order to prevent them from meeting with the United States Congressmen does not tally with what really occurred, and is sheer fabrication.”

Observations

557. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 28 July 2008

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

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

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

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

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

Response from the Government

563. In a letter dated 17 November 2008, the Government responded to the communication of 15 July 2008, providing the following information: “Ye Guozhu is an ethnic Manchu male born in 1955 and residing in Beijing. On 18 December 2004, the Dongcheng District People’s Court in Beijing sentenced him to four years’ imprisonment (from 27 August 2004 to 26 July 2008) for the crime of picking quarrels and stirring up trouble. While he was serving his sentence, the public security authorities discovered additional criminal facts with which Ye Guozhu was associated that still required investigation and action. On 22 July 2008, the public security authorities released him for retrial. On 26 July, the Xuanwu Sub-Station of the Beijing Public Security Bureau placed him in criminal detention. On 23 August, with the authorization of the Xuanwu District People’s Procuratorate, Ye was arrested on suspicion of assembling a crowd to disturb order in a public place. Upon examination, Ye confessed truthfully in respect of the aforementioned criminal facts, acknowledging his guilt and submitting himself to the law. Accordingly, on 15 October the Xuanwu Sub-Station, acting in accordance with the Criminal Procedure Law of the People’s Republic of China, decided to release him on bail.”

Observations

564. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 29 July 2008

565. On 29 July 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding Mr. Xie Changfa, a human rights defender from Changsa, Hunan Province, and Mr. Lü Honglai, a human rights defender from Tianjin.

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

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

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

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

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

Response from the Government

571. In a letter dated 3 September 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 30 July 2008

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

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

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

Observations

575. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communications.

Urgent appeal sent on 21 August 2008

576. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding Ms. Zhang Wei, Ms. Wu Dianyuan, aged 77, Ms. Wang Xiuying, aged 79, and Mr. Ji Sizun, aged 58, a legal activist from Fujian Province.

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

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

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

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

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

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

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

Response from the Government

584. In a letter dated 30 September 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 20 August 2008

585. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding the case of Mr. Duan Jun, a prominent national advocate of AIDS treatment access, founder of AIDS Care Home, an organization in Henan province reportedly providing support to children affected by AIDS. Mr. Duan Jun is also a representative of the Country Coordinating Mechanism of the Global Fund to Combat AIDS, Tuberculosis and Malaria. Finally, Mr. Duan Jun has been awarded a summer fellowship at AIDS Concern by the non-governmental organization Asia Catalyst. The purpose of the fellowship is to build non-profit leaders' management skills at larger and more established organizations.

586. According to the information received, on 16 August 2008 Mr. Duan Jun travelled from Hong Kong where he was attending a summer fellowship at AIDS Concern, to Shenzhen to renew his travel permit. Mr. Duan Jun was expected to return to Hong Kong on 18 August in the afternoon. After his failing to return, the colleagues of Mr. Duan Jun called him on his mobile phone to enquire about his whereabouts. He told them first that he had been stopped at customs. He later called them again to inform them that he was being held at an undisclosed location.

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

Observations

588. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communications.

Urgent appeal sent on 27 August 2008

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

on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 28 December 2007.

590. According to new information received at the time, on 15 August 2008 Mrs. Liu Jie, whose health is still very poor, was reportedly assaulted by a guard at the Harbin Drug Rehabilitation Centre (i.e. RTL camp) where she is currently detained, when she argued with him about the alleged mistreatment of a fellow detainee. During the assault, Mrs. Liu Jie shoved the guard forward in an act of self-defence. She was then accused of attacking the staff of the RTL camp and, as punishment, was forced to sit on a “tiger bench”. The practice consists of forcing the victim to sit upright on a long bench, with her hands tied behind her back; her thighs are fastened with a rope to the bench while her feet are raised off the floor by bricks placed under her feet. Extreme strain is put on the knees of the victim. Such practice, which amounts to torture, causes great pain.

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

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

Response from the Government

593. In a letter dated 17 November 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 28 August 2008

594. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of

human rights defenders, sent an urgent appeal to the Government regarding Ms. Wang Xiaqiao, a petitioner and HIV/AIDS, activist since 2003 following the infection of her husband with HIV/AIDS when he was transfused at the No. 2 People's Hospital at Xincai County in 1996. Prior to petitioning, Ms. Wang Xiaqiao exhausted all legal means to obtain compensation for her husband.

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

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

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

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

Observations

599. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communications.

Urgent appeal sent on 1 September 2008

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

601. According to new information received at the time, on 29 July 2008 Ms. Wang Guilan was criminally detained on suspicion of "disturbing social order" after she had allegedly given a phone interview to a foreign journalist. She is currently being held at the Enshi City Detention Centre. On 28 August, Chinese authorities decided to send Ms. Wang Guilan to a "Re-education through Labour" (RTL) camp for fifteen months, without trial or having been presented to a judge. Prior to her arrest, Ms. Wang Guilan had been held incommunicado at an unknown location since 17 April, reportedly to prevent her from "making trouble".

602. Concern was expressed that the arrest and detention of Ms. Wang Guilan and her subsequent transfer to a RTL camp may be linked to her non-violent activities in defense of human rights, in particular in the exercise of her right to freedom of opinion and expression. Further concern was expressed for her physical and psychological integrity while in detention.

Response from the Government

603. In a letter dated 17 November 2008, the Government responded to the communication of 01 September 2008, providing the following information: “Wang Guilan, female, born on 20 May 1961, high school education, a native of Hubei Province residing at 27 Dongfeng Dadao, Enshi, is a laid-off employee of the Wuyang Shopping Mall in Enshi. In August 2005, she was ordered by the Re-education through Labour Committee of the Enshi Tujia-Miao Autonomous Prefecture to undergo re-education through labour for a period of one year and three months (from 2 August 2005 to 1 November 2006) for having disrupted social order. On 2 November 2005, she was sent to the Hubei Women’s Labour Re education Facility to undergo re-education; she was released on 3 October 2006. The communication alleges that Wang was ordered to undergo further re-education on 28 August 2008; inquiries have revealed that the person in question is not currently in a labour re-education facility”.

Observations

604. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 4 September 2008

605. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government in relation to Ms. Amanda McKeown, a British charity worker, along with US nationals Mr. James Powderly, an artist and graphic designer, Mr. Brian Conley, an independent video journalist, and bloggers Mr. Jeffrey Rae, Mr. Michael Liss, Mr. Jeffrey Goldin and Mr. Tom Grant. All are members of the New York based Students for a Free Tibet, an organization which was founded in 1994.

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

607. On the night of 20 August 2008, Ms. Amanda Mc Keown was arrested by police officers outside the National Stadium in Beijing. She had been photographing three fellow Students for a Free Tibet activists, as they attempted to unfurl a Free Tibet banner. Reports claim that Ms. Mc Keown was taken by car to a University where she was deprived of sleep and

interrogated during two sessions, lasting four and seven hours, respectively before being moved to a detention centre in the capital. During the interrogation sessions Ms. Mc Keown, along with other activists who had been arrested, was reportedly locked into high-backed metal chairs with bars across their laps while interrogators shone bright lights in their faces. Ms. Mc Keown was sentenced to 10 days of administrative detention. However, she was released after three days and deported to the United Kingdom on 24 August.

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

Response from the Government

609. In a letter dated 03 January 2009, the Government responded to the communication of 04 September 2008, providing the following information: “On 19 August 2008, six foreigners - James Marlon Powderly, Brian Joel Conley, Jeffrey William Rae, Michael Bentley Liss, Jeffrey Robert Goldin and Thomas Carr Grant - were apprehended by officers of the Beijing Public Security Bureau for disrupting order in a public place. In accordance with article 23 of the Public Security Administration Punishment Law of the People’s Republic of China, the Dongcheng branch of the Beijing Public Security Bureau decided to impose a penalty of 10 days’ administrative detention on the above six individuals. At approximately 12.30 a.m. on 21 August 2008, four foreigners engaging in activities contravening China’s laws and regulations on the west side of Beichen bridge, Chaoyang District, Beijing, were summarily stopped by police officers on duty. Upon investigation these were found to be Florian Norbu Gyanatshang (male, German national), John Allen Watterberg (male, United States national), Jeremy Michael Wells (male, United States national) and Amanda McKeown (female, United Kingdom national), all of whom had entered the country on tourist visas. Pursuant to article 23 of the Public Security Administration Punishment Law of the People’s Republic of China, the Chaoyang branch of the Beijing Public Security Bureau imposed a penalty of 10 days’ administrative detention on all four. China is a country governed by the rule of law and guarantees citizens’ enjoyment of all fundamental rights, including the right of assembly, procession and demonstration, in accordance with the law. Under the Law of the People’s Republic of China on Assemblies, Processions and Demonstrations, any person holding a gathering, parade or demonstration must apply to the public security authorities. The competent authorities accept and consider the application and issue a decision. Foreigners in China are likewise bound to observe the country’s laws and regulations. In the two cases cited above, it was illegal for foreigners who had neither applied to hold a gathering, parade or demonstration nor obtained permission to do so from the competent Chinese authorities to demonstrate outside the place where a major international athletic competition was being held. In dealing with this situation in accordance with the law, China’s judicial authorities took measures that were consistent with the provisions of the relevant international human rights instruments. In dealing with these cases, China’s public security authorities observed the law scrupulously, respecting and guaranteeing the dignity and all legitimate rights of the individuals concerned, and promptly notifying their respective embassies and consulates. The allegation in the communication from the Special Rapporteurs that the individuals concerned were subjected to corporal punishment is inconsistent with the facts.

Observations

610. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 1 October 2008

611. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal was sent by on the situation of human rights defenders and regarding Messrs. Liu Xueli and Li Jincheng. Mr. Liu Xueli is a petitioner for the defense of land rights in Henan Province. In 2004 he was reportedly sent to a re-education through labor camp for one year on charges of "disturbing social order" after petitioning for years in protest against the forceful appropriation of land by the local government in Bopo Village, Henan Province. Mr. Li Jincheng is a petitioner from Xinjiang Province.

612. According to the information received, in early August 2008 Messrs. Liu Xueli and Li Jincheng applied for the right to protest at the official "Protest Zones". They were informed that their application had been successful and that, in nine days, they could come back to collect a written permit. However, Mr. Liu Xueli was placed under residential surveillance after making the application. On 6 August 2008, he was arrested by Beijing police while he was sleeping. He was then forcibly returned to his home town. He was told in late August that his case would be dealt with in October and that he might face more serious punishment then. Meanwhile, on 8 August 2008, Mr. Li Jincheng disappeared near the Bird's Nest Stadium in Beijing. Since then it has not been possible to contact him. On 23 September 2008, Mr. Liu Xueli was sent to re-education through labor camp. At approximately 2.45 p.m., he was forced into a car by police from Song County Public Security Bureau. Hours later he was told that he was going to be sent to re-education through labor camp although he was not given a written order and was not told why or for how long he was being sent there.

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

Response from the Government

614. In a letter dated 17 February 2009, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Urgent appeal sent on 16 October 2008

615. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent action to the Government concerning Mr. Washu Rangjung, a writer, singer and news presenter for a local television company based in Sertha county, in the Tibet Autonomous Region (TAR).

616. According to information received, on 11 September 2008 around midnight, Mr. Washu Rangjung was arrested at his home in Amdo Golok, in the eastern county of Sertha by Chinese military police officers. Mr. Ranjung was allegedly taken to an undisclosed location

and his whereabouts are currently unknown. Mr. Rangjung's family has not been informed of the reason for his arrest however it is believed that it may be linked to views he expressed in relation to Tibetan culture on his weblog (<http://www.tibetabc.cn/user1/lcjk/index.html>). Mr. Rangjung has also published two books on Tibetan history and culture.

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

Response from the Government

618. In a letter dated 13 February 2009, the Government responded to the communication of 16 October 2008, providing the following information: "Washu Rangjung, male, is a resident of Sertar County, Garze Tibetan Autonomous Prefecture in Sichuan Province. On 10 September 2008, he was issued a subpoena by the Sichuan judicial authorities, acting in accordance with the law, on suspicion of having engaged in separatist acts and acts harmful to State security (that same day the subpoena was modified to a criminal detention order). While undergoing investigation, he made no attempt to deny his illegal acts but expressed genuine repentance and promised that he would never again engage in such illegal activities. Following an inquiry into related questions and after educating and reprimanding him, the Sichuan judicial authorities, acting within the time limits prescribed by law, released Washu Rangjung on 20 September."

Urgent appeal sent on 20 October 2008

619. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General 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 the right to food, sent an urgent appeal to the Government regarding alleged threats against voluntary lawyers involved in a campaign initiated by Mr. Li Fangping, a human rights lawyer in Beijing. The campaign aimed to bring about justice for the children victim of milk contamination following more than 50,000 cases of kidney infections reportedly caused by drinking milk mixed with melanin. At least 22 Chinese companies were allegedly responsible for the contamination.

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

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

622. Concern was expressed that the threats against the voluntary lawyers involved in the campaign organized by Mr. Li Fangping may have be related to their legitimate activities to seek justice for the victims of contaminated milk. Serious concern was expressed for the physical and

psychological integrity of the lawyers involved in this campaign. Fear was expressed that, because of the pressure faced by the lawyers in question, they may no longer have felt able to continue with their campaign.

Response from the Government

623. In a letter dated 13 February 2009, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Letter of allegations sent on 7 November 2008

624. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government concerning Cheng Hai and Li Subin, members of the Beijing Yitong Law Firm, and Tang Jitian, previous member of the Beijing Haodong Law Firm.

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

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

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

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

Response from the Government

629. In a letter dated 13 February 2009, the Government responded to the communication of 07 November 2008, providing the following information: “The Beijing Lawyers Association is an association having legal personality and registered with the civil authorities in accordance with the law which conducts its activities independently. The competent Chinese Government authorities have never interfered in its internal affairs, such as elections, nor have they ever exerted pressure on any unit or individual in this regard, nor have the competent authorities ever received any complaint to this effect. Because of problems involving unlawful breaches of discipline by the Beijing Yitong Law Firm and its lawyers in the course of their professional activities, with the parties concerned being the subject of numerous complaints and even being disciplined by the Lawyers Association, the Beijing municipal judicial authorities investigated the matter and sought on the spot clarification from the law firm; such activities are part of the judicial authorities’ normal supervisory and managerial activities. The allegations in the communication are thus inconsistent with the facts. Tang Jitian’s contract of employment with the Beijing Haodong Law Firm had expired, which meant that he could not continue working for that firm. In November 2008, Tang submitted an application for work with the Beijing Anhui Law Firm, where he is currently employed as a lawyer. The allegation in the communication that pressure was placed on the law firm to fire Tang is inconsistent with the facts.”

Observations

630. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 24 November 2008

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

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

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

Response from the Government

634. In a letter dated 17 February 2009, the Government responded to the communication of 24 November 2008, providing the following information: “Chen Daojun, male, born on 3 January 1968, was arrested on 13 June 2008. On 21 November he was sentenced by the Chengdu Intermediate People’s Court to three years’ imprisonment and deprived of his political rights for three years for the crime of inciting subversion of State political power. Following the hearing in the court of first instance, Chen accepted the verdict and did not file an appeal. The judgement of the court of first instance has become effective. The court in question conducted the trial in this case in strict compliance with the law. During the trial, not only did Chen himself exercise his right to a defence, but his designated counsel also made a full submission in his defence. While the Chinese Constitution stipulates that citizens enjoy the right to freedom of opinion and expression, it also provides that when exercising this right, citizens may not harm the interests of the State, society or the community, or the legitimate freedoms and rights of other citizens. The articles which Chen signed and published on the Internet employed rumour mongering and libel to incite others to repudiate the State’s political power and social system. Under article 105, paragraph 2, of the Criminal Law of the People’s Republic of China, such acts constitute the crime of inciting subversion of State political power. China’s judicial authorities investigated Chen’s criminal responsibility in accordance with the country’s laws and cannot be reproached”.

Observations

635. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 24 December 2008

636. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government regarding the situation of Mr. Xiaobo Liu, Chinese citizen, age 53, resident of Haidian District, Beijing, is a Beijing-based writer, intellectual and human rights activist; and currently the editor of the online journal Democratic China, the former president of the independent Chinese PEN.

637. On 8 December 2008, Mr. Liu was taken away from his home by the Local police and the National Security police (guobao) from Beijing Municipal Public Security Bureau (PSB). According to the detention warrant presented by the police at the time of arrest, he was to be detained on suspicion of “inciting subversion of state power”.

638. The police authorities have not informed his family about his detention, nor the type of detention, nor the reasons for the detention. It is alleged that the police authorities told Mr. Liu’s wife that his detention “was a very high level decision”, and that the police authorities can provide no further information regarding the detention.

639. In the past, Mr. Liu was detained several times: in 1989, he was jailed for 18 months for participating in the student democracy movement; in 1995, he was de facto detained under

ruanjin, (or “soft detention” regime, a form of residential surveillance) for 8 months in a Beijing suburb for issuing a public petition; in 1996, he was sent to three years of Re-education through Labor (RTL). Since 1999, Mr. Liu has been under residential surveillance.

640. Mr. Liu’s arrest came a day before the issuance of Charter 08, a public appeal calling for reforms that promote democracy and human rights in the People’s Republic of China. Mr. Liu is one of the 303 Chinese citizens who signed this petition. It is alleged that Mr. Liu is detained for signing the petition, and also suspected of organising the signature of the petition.

641. Concern was expressed that the arrest and detention of Mr. Liu may be related to his non-violent exercise of his right to freedom of opinion and expression in the course of his activities in defence of human rights. Further concern is expressed for the physical and psychological integrity of Mr. Liu while in detention.

Response from the Government

642. In a letter dated 13 February 2008, the Government replied to the communication above. At the time this report was finalized, the reply of the Government had not been translated.

Follow-up to previously transmitted communications

643. In a letter dated 15 January 2008, the Government responded to a joint urgent appeal of 30 November 2007. The Government reported on Yang Maodong, male, ethnic Han Chinese, born in 1966 in Gucheng county, Hubei province, nom de plume “Guo Feixiong”. On 14 September 2006, Yang was taken into police custody by the Guangdong public security authorities on suspicion of the offence of operating an unlawful business and on 30 September he was formally placed under arrest, in accordance with the law, by the Guangdong province public security authorities. Following an inquiry, the Tianhe district people’s court in Guangzhou city established the following: in early July 2001, without obtaining the requisite publication authorization, Yang Maodong fabricated a non-existent publishing company, of a legal journal entitled Falü Zongheng (“Length and Breadth of the Law”), misappropriated the publication number “CN11 2135” from the journal Huaxue Shiji (“Chemical Reagents”) and, at premises situated at No. 604 Shangya Street in Guangzhou city, had copies printed of a purported “2001 special issue” of Falü Zongheng, entitled “Political upheaval in Shenyang”, and assigned other persons to carry out the typesetting and to prepare the offset plates for the publication, and then proceeded to have two batches, totalling 26,098 copies, printed of the so called 2001 special issue of Falü Zongheng - “Political upheaval in Shenyang”, setting a price of 10 yuan per copy. He then had these publications shipped as goods consignments to booksellers in Shenyang and Dalian. In all, 20,680 copies were shipped to booksellers in Shenyang in two consignments, on 12 July and 21 July 2001. The Tianhe district people’s court in Guangzhou city determined that the defendant Yang Maodong had fabricated a publishing outlet, had misappropriated publishing numbers and had unlawfully printed and distributed 26,098 copies of a publication, thereby seriously disrupting market processes, and that the circumstances of his offence were particularly serious and his conduct constituted the offence of operating an unlawful business. In view of the facts, the nature and the circumstances of Yang Maodong’s offence and the harm caused to society, and in accordance with the relevant provisions of articles 225, paragraph 4, and 52 of the Criminal Code of the People’s Republic of China and paragraph 15 of the Supreme Court’s interpretation of certain aspects of the application of law in criminal cases involving illegal

publications, on 14 November the Tianhe district people's court sentenced him, for the offence of operating an unlawful business, to five years' fixed term imprisonment and fined him the amount of 40,000 yuan renminbi. Acting in accordance with the law, the Tianhe district people's court in Guangzhou heard the case in public proceedings, and there were no irregularities in the legal procedures followed. During the trial, Yang conducted his own defence and, in addition, the legal counsel appointed by him also made full submissions in his defence. The defendant's and his legal counsel's rights in litigation were fully upheld and there was no question of confessions being extorted from Yang by torture.

644. In a letter dated 15 January 2008, the Government responded to a joint urgent appeal of 30 November 2007. The Government reported on Rongal Adrak, male, ethnic Tibetan, born on 3 February 1955 in Lithang County, Garzê prefecture in Sichuan Province, illiterate, herder. On 1 August 2007, he took advantage of public events being conducted in Lithang County to call for the division of the State and the subversion of national unity. In consequence of these actions, on 25 August a number of people, who lacked a clear understanding of the situation, gathered in a mob and created a public disturbance, seriously disrupting law and order. Rongal Adrak was taken into custody, in accordance with the law, on suspicion of the offence of incitement to division of the State. On 20 November 2007, in accordance with the relevant provisions of article 103, paragraph 2, of the Criminal Code of the People's Republic of China, the people's intermediate court of Garzê Tibetan Autonomous Prefecture sentenced Rongal Adrak to eight years' fixed-term imprisonment and stripped him of his political rights for four years. Adruk Lopoe, male, ethnic Tibetan, born on 8 September 1962 in Lithang County, Garzê prefecture in Sichuan Province, monk at Changqing Chunke'er monastery in Lithang County. On 12 September 2007, Adruk Lopoe was taken into custody, in accordance with the law, on suspicion of the offences of espionage for persons or bodies outside the country, illegally providing intelligence and incitement to division of the State. Proceedings were instituted by the people's intermediate court of Garzê Tibetan Autonomous Prefecture in Sichuan province and Adruk Lopoe voluntarily confessed to commission of the offences. On 20 November 2007, the people's intermediate court of Garzê Tibetan Autonomous Prefecture in Sichuan province sentenced Adruk Lopoe, under the relevant provisions of article 111 and article 103, paragraph 2, of the Criminal Code of the People's Republic of China, to seven years' fixed term imprisonment and stripped him of his political rights for three years; and for the offence of incitement to division of the State, the court sentenced him to four years' fixed-term imprisonment and stripped him of his political rights for three years. Applying the principle of joinder of punishments for combined crimes, the court decided that he should serve 10 years' fixed-term imprisonment and be stripped of his political rights for 5 years.

645. In a letter dated 15 January 2008, the Government responded to a joint urgent appeal of 9 October 2007. The Government reported that "Zheng Dajing, male, ethnic Han Chinese, born 9 March 1962, from Yunxi county, Shiyan municipality in Hubei, formerly an employee at the Yunxi local branch of the Bank of China. On 20 December 2000, the Yunxi branch was closed down and Zheng's employment contract with the Bank of China was terminated, and a lump-sum compensation payment made to him of 59,133.33 yuan. After termination of his employment contract, Zheng initially continued to occupy the single-storey house allocated to him by his former work unit, and subsequently sublet it to another tenant. In 2004, Zheng asked to be allowed to participate in the housing reform process and to be able to buy the single-storey house which he had been occupying. Because he had already terminated his employment contract with his former work unit, however, the house in question did not fall within the scope

of the housing reform process; accordingly, the work unit refused his request. In June 2004, the Shiyan branch of the Bank of China placed the remaining assets of the Yunxi local branch under administration and, acting in accordance with the law, arranged to sell these assets in a job lot by auction, including the house which Zheng had been occupying, together with its plot of land. The bank proceeded to carry out the transfer of ownership formalities, in accordance with the law. On 21 May 2005, the purchaser posted announcements that the property should be vacated, giving notice that redevelopment of the property would commence on 25 May. Zheng was of the view that he had a lease agreement with the Shiyan branch of the Bank of China and that he had the right of first refusal in purchasing the property. He then instituted court proceedings against the Shiyan branch of the Bank of China and the purchaser, seeking a court order nullifying the sale between the Shiyan branch of the Bank of China and the transfer of ownership of the land and confirming his right of first refusal in purchasing the property. Hearing the case at first instance, the Maojian district court in Shiyan city decided that, following the termination of Zheng's employment relationship with his original work unit, his status had become that of a non-employee and he no longer had any property rights to the building in question, nor was there any evidence to show that he had a lease agreement with the work unit that owned the building. Accordingly, the court dismissed his application. Zheng refused to accept the court's decision and lodged an appeal. On 9 December 2005, the Shiyan city people's high court passed judgement, dismissing the appeal and upholding the original ruling. In order to resolve the issue of Zheng's housing, on 27 June 2007 the local authorities allocated funds to buy housing to provide Zheng with free accommodation, and also set aside adequate housing and a lump sum for his relocation costs. Zheng would not accept the arrangement, however. In view of Zheng's difficult living circumstances, in the second quarter of 2002 the local authorities started issuing him the minimum social welfare support. Zheng refused to accept the court's ruling and on many occasions travelled to Beijing to lodge appeals. On 14 June 2007, Zheng and other complainants gathered at the supreme court to submit complaints, and were involved in clashes with the security personnel. The public security authorities investigated Zheng's conduct on suspicion that the irregular manner in which he had lodged his complaints had disrupted law and order, but he was neither taken into criminal custody nor placed under arrest. Nor was there any instance of Zheng being subjected to beatings or ill treatment. Since 2005, Zheng Dajing's wife Cao Xiangzhen has accompanied her husband to Beijing to make complaints, bringing her daughter with her. The relevant authorities approached Cao, pointing out that her daughter should be temporarily entrusted to the care of friends or family, but Cao argued that her daughter Zheng Linxin was still very young and unable to fend for herself, and that Cao had to keep the child with her. There was no question, as alleged, of Cao being detained together with her daughter. Taking into consideration the fact that, while accompanying her parents on their trips to make complaints, Zheng Linxin was missing out on school, the relevant district authorities in this county town specially appointed two school teachers to provide make-up classes for the girl during the summer vacation period, which were provided at a specially reduced rate.

646. In a letter dated 6 March 2008, the Government responded to joint urgent appeals of 25 October 2007 and 28 December 2007. The Government reported about Liu Jie, female, born 1 March 1952, junior secondary education, resident at row No. 26 in Xunke farm in Heilongjiang province, unemployed. The Government stated that because she had caused a public nuisance and disturbed the peace, Jie was ordered to serve a term of one year and six months' labour re education, to run from 13 October 2007 to 12 April 2009. On 14 November 2007, Liu was sent by the public security bureau attached to the agricultural and

land reclamation service in the city of Bei'an to the labour re education facility in the city of Qiqihar to serve her term of labour re education. After entering the facility, Liu had problems with her vision in both eyes. On 15 November 2007, the doctor at the re education facility first took Liu to the hospital of the agriculture and land reclamation service and then to the eye, ear, nose and throat hospital in Qiqihar to be examined. The results of the examination were as follows: "1. Ametropia and vitreous opacity in the right eye; 2. traumatic cataract in the left eye (aphacia); 3. high degree myopia in the right eye." As Liu was not prepared to cooperate, it was not possible for any further examinations to be carried out. On 20 December 2007, the hospital at the labour re education facility once again sent Liu for an examination by eye specialists at Qiqihar hospital No. 1. The results of the consultation were as follows: "The left eye has undergone cataract surgery; high degree myopia in the right eye; pathological retinal degeneration." The consultant suggested that Liu see an optometrist to have glasses prescribed, but she refused. At that time Liu asked the doctor about the possibility of a lens implant in her left eye, and whether implanting a lens could have other consequences for her eyes. The doctor told her that whether she had this done sooner or later would not affect the consequences, but that it would be better to have it done sooner. The doctor did not on any account say that, if she did not receive urgent treatment, she could lose the vision in her eye or that Heilongjiang province did not have adequate facilities to treat Liu's eye injury and that she must be sent to Beijing for treatment, and other such allegations. In mid January 2008, Liu's husband came to the labour re education facility to demand that Liu be allowed to see a doctor outside the facility immediately. As Liu herself was not cooperating in having examinations, it was impossible to determine whether or not, in accordance with the stipulations of the law, her medical condition warranted her being allowed to leave the facility for medical treatment. Following Liu's admission to the facility, the labour re education facility has enforced the law with fairness and, in accordance with the law, has protected Liu's rights and interests; she has not been beaten, subjected to punishment or to any form of ill treatment. Liu's eye problems are also not growing worse. In view of Liu's state of health, the re education facility is particularly attentive to her. Liu is only required to perform light manual duties that are well within her grasp and she has not been placed on any fixed work schedule or duty roster.

Observations

647. The Special Rapporteur is grateful for the Government's replies.

Colombia

Llamamiento urgente enviado el 20 de marzo de 2008

648. El Relator Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los homicidios de la Sra. Carmen Cecilia Carvajal, asociada a la Asociación de Institutores Norte Santandereanos (ASINORT), del Sr. Leonidas Gómez Rozo, dirigente de la Unión Nacional de Empleados Bancarios (UNEB), del Sr. Rafael Boada, presidente del mismo sindicato UNEB, seccional Bucaramanga, del Sr. Gildardo Antonio Gómez Alzate, delegado de la Asociación de Institutores de Antioquia (ADIDA), y del Sr. Carlos Burbano, Directivo de la Asociación Nacional de Trabajadores Hospitalarios (ANTHOC) y líder de la movilización del 6 de marzo en el

municipio de San Vicente del Caguán, así como las supuestas amenazas recibidas por las Sra. Ana María Rodríguez, miembro de la Comisión Colombiana de Juristas (CCJ), la Sra. Silsa Arias, miembro de la Organización Unidad Indígena del Pueblo Awá (UNIPA), así como de otros responsables de la organización la Jornada Nacional “en homenaje a las víctimas del paramilitarismo, la parapolítica y los crímenes de Estado”.

649. Según las informaciones recibidas, el pasado 6 de marzo de 2008, las organizaciones arriba mencionadas convocaron a una Jornada Nacional “en homenaje a las víctimas del paramilitarismo, la parapolítica y los crímenes de Estado”. De acuerdo con las informaciones, dicha convocatoria habría sido seguida multitudinariamente por marchas en Bogotá, Medellín, Barranquilla, Cali y Cartagena, así como en varias ciudades en el extranjero.

650. Según se informa, los promotores de la jornada de movilización habrían sido víctimas de constantes ataques antes y después del 6 de marzo. El 4 de marzo, la Sra. Carmen Cecilia Carvajal habría sido asesinada en el municipio de Ocaña, Norte de Santander. Un día después, el Sr. Leonidas Gómez Rozo habría sido igualmente asesinado en Bogotá. El 7 de marzo, el Sr. Rafael Boada habría sido asesinado en Bucaramanga. El Sr. Gildardo Antonio Gómez Alzate habría sido asesinado en la ciudad de Medellín. El Sr. Carlos Burbano habría desaparecido el 9 de marzo y su cadáver habría sido descubierto dos días después. El Sr. Carlos Burbano, habría sido amenazado y hostigado previamente al 6 de marzo por su labor como organizador de la marcha.

651. El 12 de marzo de 2008, la abogada Ana María Rodríguez, miembro de la CCJ, que habría participado en la organización de la Jornada Nacional, habría recibido un mensaje electrónico de un grupo ilegal armado autodenominado “Águilas Negras Bloque Metropolitano de Bogotá”. El mensaje recibido tendría el siguiente tenor: Muerte a los líderes marcha por la paz y guerrilleros y auxiliares se cubren como desplazados y son guerrilleros por eso los declaramos objetivo militar de las Águilas Negras y las tales ONG, asociaciones y fundaciones como MINGA, REINICIAR, FUNDIP, ASOPRON, ANDAS, ASDEGO, FENACOA, ASOMUJER, TAO, CODHES, CUT y otros. Ustedes utilizaron dicha marcha del 06 de marzo del presente año para hundirnos más y poner la gente en contra nuestra, comenzaremos a matarlos uno por uno vamos a ser implacables no dejaremos cabo suelto (...). Comenzaremos a desaparecer líderes y dirigentes de izquierda como Diana Sánchez, Jael Quiroga, Albeiro Betancourt, Lizarazo, Luis Sandoval, Viviana Ortiz, Diana Gómez, Viviana Ortiz, Francisco Bustamante, Nancy Carvajal, Luz Estella Aponte, Pablo Arenales, Yulieth Tombe, Juan Pineda, Virgelina Chara, Nubia Silva, Ester Marina Gallego, Nancy Fiallo, Omar Hernández, Diana Marcela Caicedo, Silsa Arias, Jorge Ramírez, Luz Elena Ramírez, Ana María Rodríguez, Nelly Velandia, Blanca Sarmiento, Libardo Pedrozo, Alfonso Silva y otros que están en nuestra lista. ¡Nosotros aún estamos presentes Águilas Negras con un paso hacia el futuro!

652. Según las informaciones recibidas, las personas identificadas en el mensaje formarían parte del Comité de Impulso del Encuentro Nacional de Víctimas pertenecientes a Organizaciones Sociales, responsable de la organización de la Jornada nacional el 6 de marzo de 2008. Las organizaciones no gubernamentales que se mencionan en el mensaje habrían convocado o se habrían adherido a dicha Jornada.

653. La Sra. Silsa Arias, en particular, sería miembro de la Organización Unidad Indígena del Pueblo Awá (UNIPA), en el Departamento de Nariño. Se da la circunstancia de que, desde el pasado 12 de febrero, la UNIPA y las otras organizaciones sociales de Nariño que habrían participado en la Jornada Nacional de 6 de marzo habrían recibido amenazas de supuestas organizaciones paramilitares.

Respuesta del Gobierno

654. Mediante carta fechada 29 de septiembre, el Gobierno respondió al llamamiento urgente. En relación con el caso de la Sra. Carmen Cecilia Carvajal Ramírez, la carta afirmó los eventos del llamamiento urgente sobre su muerte. La carta proporcionó la información de que una investigación fue avocada por la Fiscalía 1 en desarrollo de la cual se elaboró el programa metodológico y de que actualmente, la investigación se encuentra en etapa de indagación.

655. En relación con el caso del Sr. Leonidas Gómez Rozo, la carta comunicó que una vez se tuvo conocimiento del hecho (unos cuatro días después de su muerte), se acudió al sitio en donde además de efectuar las actividades pertinentes en la escena, se decepcionaron varias entrevistas, y se ordenó la práctica de pruebas. Asimismo, se indicó que se han recuperado el celular utilizado por el occiso y que se terminará el análisis de los archivos que se lograron recuperar en el computador de la víctima.

656. En relación con el caso del Gildado Antonio Gómez Alzate, se comunicó que, a la fecha, la investigación se encuentra en etapa de indagación. Según el ente investigador, el día 9 de marzo de 2008, cuando la víctima se hallaba con unas menores de edad, a quienes al parecer les pagaba por favores sexuales, llegaron a su vivienda dos hombres portando armas blancas, quienes empezaron a empacar algunos electrodomésticos agrediendo al Sr. Gómez Alzate, cuando este opuso resistencia al hurto. El día 14 de marzo de 2008, se elaboró un programa de investigación.

657. En relación con el caso del Sr. Carlos Burbano, quien desapareció el día 9 de marzo, la carta afirmó los hechos del encuentro de su cadáver.

Observaciones

658. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 23 de mayo de 2008

659. 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, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con varios casos.

660. Los titulares de mandato acusaron recibo de la respuesta rápida del gobierno colombiano al comunicado de prensa del 30 de abril de 2008. Reconocieron la cooperación del Gobierno en este respecto y notaron con agrado el diálogo constructivo entre ambas partes para abordar las problemáticas de los derechos humanos en Colombia, y expresaron su deseo que dicho diálogo continuara en el futuro.

661. En el marco de esta cooperación para mejorar el respeto de los derechos humanos, creían pertinente señalar a la atención urgente del Gobierno informaciones que seguían recibiendo sobre violaciones y ataques en contra de los defensores de derechos humanos.

662. En este contexto, los titulares de mandato señalaron la información recibida en relación con el asesinato del Sr. Jesús Heberto Caballero Ariza, cuyo cadáver se encontró el pasado 17 de abril, al parecer con señales de tortura. El difunto defensor de los derechos humanos era fiscal suplente del Sindicato Nacional del Servicio Nacional de Aprendizaje (SINDESENA), seccional Atlántico e instructor de Ética y Derechos Humanos del Centro agropecuario CAISA. Asimismo, se había recibido información relacionada con la presunta desaparición forzada del Sr. Guillermo Rivera Fúquene, Presidente del Sindicato de Servidores Públicos de Bogotá (SINSR.VPUB), ocurrida el pasado 22 de abril.

663. Además se habían recibido informaciones sobre amenazas en contra de la Sra. Ana María Sánchez, el Sr. Gustavo Gallón Giraldo y la Sra. Claudia Julieta Duque. La Sra. Sánchez es asistente del Sr. Gallón Giraldo, Director de la Comisión Colombiana de Juristas. La Sra. Duque es periodista autónoma y colaboradora de la organización de derechos humanos Equipo Nizkor.

664. De acuerdo con las informaciones recibidas, el 1 de mayo de 2008, la Sra. Sánchez habría recibido un correo electrónico firmado por el grupo paramilitar, las Águilas Negras. El correo habría sido de carácter amenazante y antisemita, afirmando que se limpiarían 'las calles de la basura comunista, judía y antinatural'. Por otra parte, la periodista Claudia Julieta Duque habría tomado la decisión de renunciar a los escoltas otorgadas a ella por el Estado en diciembre de 2003 como medida de protección, tras informarse de que éstos le hicieron falsas imputaciones a la susodicha en sus informes al Departamento Administrativo de Seguridad.

665. También se había recibido información en relación con amenazas ocurridas en las semanas anteriores por varios miembros de organizaciones no gubernamentales y movimientos de la sociedad civil colombiana incluyendo: los Sres. José Humberto Torres, Nicolás Castro y Príncipe Gabriel González, así como las Sras. Carolina Rubio y María Cedeño; miembros de la Fundación Comité de Solidaridad con los Presos Políticos (FCSP), el Sr. Jesús Tovar, miembro de la Central Unitaria de Trabajadores (CUT) en el departamento de Atlántico, el Sr. Javier Correa, miembro del Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL), la Sra. María Cardona, miembro del Comité Permanente de Derechos Humanos (CPDH) y la Sra. Martha Cecilia Díaz y Sr. Nicanor Arciniegas, presidente y miembro respectivamente de la Asociación Santandereana de Servidores Públicos (ASTDEMP), y miembros de otras organizaciones de derechos humanos y sindicatos en los departamentos de Santander y Atlántico.

666. El Sr. José Humberto Torres Díaz fue objeto de un llamamiento urgente, emitido el 19 de octubre de 2006, por la Representante Especial del Secretario-General para los defensores de los derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados. El Sr. Jesús Tovar fue objeto de un llamamiento urgente, emitido el 26 de mayo de 2005 por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión. El Sr. Javier Correa fue objeto de llamamientos urgentes, emitidos por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos el 11 y 22 de octubre de 2007 y,

conjuntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el 22 de febrero de 2008. La Sra. Duque fue el objeto de un llamamiento urgente conjunto enviado por la entonces Representante Especial del Secretario-General para los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión el 23 de septiembre de 2004.

667. De acuerdo con las informaciones recibidas, el 22 de abril, los miembros de la Central Unitaria de Trabajadores (CUT) en el departamento de Santander, en el nordeste de Colombia, habrían recibido una amenaza de muerte por escrito del grupo paramilitar ‘Nueva Generación de Águilas Negras de Santander’. La amenaza, con fecha del 18 de abril, advertía contra la celebración de marchas o manifestaciones con ocasión del Día Internacional del Trabajo, el 1 de mayo; “hay dispuesto un destacamento de hombres quienes cumplirán nuestras ordenes y harán limpieza de todos ustedes serviles de la guerrilla”. La comunicación habría nombrado a 17 miembros de sindicatos y organizaciones de derechos humanos a los que declaraba “objetivo militar” y entre los que se encontraban algunos de los susodichos.

668. El 23 de abril, los Sres. José Humberto Torres y Jesús Tovar habrían recibido por correo electrónico una amenaza de muerte firmada las ‘Águilas Negras al Rearme’. La amenaza, con fecha del 21 de abril, habría acusado a los dos hombres de ser guerrilleros, advirtiéndole a José Humberto Torres ‘que se cuide, donde lo veamos lo damos’. Además, habría advertido a los miembros de otros sindicatos y organizaciones de derechos humanos de que guardaran silencio, señalando que María Cedeño y Nicolás Castro estaban siendo vigiladas.

669. Los titulares de mandato querían también señalar a la atención del Gobierno declaraciones hechas en contra del Sr. Iván Cepeda Castro, dirigente de la Fundación Manuel Cepeda Vargas, representante del Movimiento Nacional de Víctimas de Crímenes del Estado y columnista con el semanario El Espectador. El susodicho fue objeto de un llamamiento urgente, emitido el 12 de diciembre de 2006 por la Representante Especial del Secretario-General para los defensores de los derechos humanos.

670. Valoraron el respaldo y reconocimiento del importante papel de los defensores de derechos humanos en Colombia, expresado en la respuesta del Gobierno al reciente comunicado de prensa y reconocieron los esfuerzos por parte del Estado colombiano para mejorar la seguridad de los defensores. No obstante, deseaban manifestar su preocupación en relación con declaraciones como aquellas hechas el pasado 6 de mayo en Montería y en la Cátedra Colombia en Bogotá por el Presidente de Colombia respecto a algunos defensores de derechos humanos, en particular al Sr. Iván Cepeda Castro. Según se informó, el Presidente Uribe habría declarado que personas como el susodicho se arroparían en la protección de las víctimas, la cual ‘les sirve para instigar la violación de los derechos humanos en contra de las personas que no comparten sus ideas’ y para ‘salir a amenazar, ... calumniar, ... acusar falazmente’.

671. A juicio de los titulares de mandato, estas declaraciones, sumadas a otras hechas en los últimos meses por representantes del gobierno colombiano, podrían resultar sumamente perjudiciales, dado que, actualmente en Colombia muchos defensores de derechos humanos se enfrentan a intimidación y amenazas como aquellas resumidas más arriba. Se expresó profunda preocupación por la integridad física y psicológica de todos aquellos individuos que se encuentran amenazados debido a su trabajo legítimo en defensa de los derechos humanos.

Respuesta del Gobierno

672. Mediante carta fechada 29 de septiembre, el Gobierno respondió al llamamiento urgente. En su respuesta, el Gobierno proporcionó información sobre la lucha contra la impunidad en Colombia.

Observaciones

673. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 6 de junio de 2008

674. El Relator Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la emisora comunitaria Sarare Estéreo en Saravena, departamento de Arauca. Sarare Estéreo emite noticias departamentales y nacionales de diversa índole y emplea a una plantilla que incluye al Sr. Emiro Goyeneche; director, el Sr. Ismael Rodríguez y la Sra. Fanny Fernández; lectores de noticias, la Sra. Ella Patricia Ardila; gerente-directora, la Sra. Helida Parra y el Sr. Isneldo González; periodistas, la Sra. Fabiola Nuñez y los Sres. Espedito Ríos, Deibys Pantoja, Alexis Iván Rojas; Gustavo Cuadros, Noé Cárdenas; todos locutores, así como los trabajadores, la Sra. Xiomara Acevedo y el Sr. Heber Pinzón, entre otros colegas.

675. De acuerdo con las informaciones recibidas, el 29 de mayo de 2008 el personal de la emisora habría encontrado un graffiti en la puerta del edificio con la sigla del grupo paramilitar, las Autodefensas Unidas de Colombia (AUC). Este graffiti se suma a otras comunicaciones de carácter intimidatorio como mensajes de texto que habrían recibido algunos trabajadores de la emisora, incluidos los susodichos, en varias ocasiones desde el 8 de mayo, advirtiéndoles que no se metieran en lo que no les interesaba. Los citados individuos ignorarían el motivo de las amenazas, pues no referirían a una noticia específica emitida por Sarare Estéreo.

676. Se alega que las amenazas recibidas por los individuos aquí mencionados, y el hostigamiento de la emisora Sarare Estéreo, podrían estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular el derecho a la libertad de expresión. Tras estos incidentes, se expresó profunda preocupación por la integridad física y psicológica de las citadas personas.

Observaciones

677. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 16 de junio de 2008

678. El Relator Especial envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el secuestro del Sr. Mario Alfonso Puello, periodista y miembro de la Federación Colombiana de Periodistas. El Sr. Alfonso Puello también estaba vinculado al programa de alfabetización para indígenas adultos de la Universidad Nacional Abierta y a Distancia (UNAD).

679. Según las informaciones recibidas, el 17 de febrero de 2008, el Sr. Mario Alfonso Puello, habría sido secuestrado por guerrilleros del ELN mientras se dirigía en coche con varias personas de la UNAD, por la vía Santa Marta-Riohacha. Según se informa, a la altura del kilómetro 35, el grupo fue obligado a detenerse por desconocidos que habían montado un retén ilegal. El Sr. Alfonso Puello y tres de sus colegas, incluyendo al rector de la UNAD, el Sr. Aldo Brito Carrillo, habrían sido obligados a descender del vehículo y de inmediato fueron detenidos. El Sr. Brito consiguió escapar de sus captores.

680. Según los informes, durante una audiencia pública en junio de 2008, un capturado miembro del ELN habría informado que tanto el Sr. Mario Alfonso Puello, como quienes lo acompañaban, estarían con vida en manos del Frente Domingo Barrios del Ejército de Liberación Nacional. Además, se habría detallado que los capturados se encontrarían delgados debido a las dificultades de aprovisionamiento por los constantes operativos del Ejército.

Observaciones

681. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Carta de alegaciones enviada el 25 de junio de 2008

682. El Relator Especial, junto con la Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con un grupo de personas; el Sr. César Plazas, Sr. David Florez, Sra. Nohora Villamizar y Sr. Fernando Porras, miembros de la sección de Santander de la Central Unitaria de Trabajadores. El Sr. Javier Correa es miembro del Sindicato Nacional de Trabajadores de la Industria de Alimentos. La Sra. Martha Cecilia Díaz es presidenta de la Asociación Santandereana de Servidores Públicos. La Sra. Belcy Rincón es miembro de Sintraclínicas, que representa a trabajadores de la salud. Los Sres. William Rivera y Gustavo Mendoza y la Sra. Carolina Rubio son miembros de la organización no gubernamental de derechos humanos Fundación Comité de Solidaridad con los Presos Políticos. El Sr. César Tamayo es presidente del sindicato campesino Asociación Agraria de Santander.

683. El Sr. Javier Correa fue objeto de llamamientos urgentes emitidos por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos el 11 y 22 de octubre de 2007 y, conjuntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el 22 de febrero de 2008. También fue objeto de un llamamiento urgente emitido por éstos últimos, juntos con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el 23 de mayo del 2008. Esta comunicación se refería también a amenazas en contra de la Sra. Carolina Rubio y contra miembros de otras organizaciones de derechos humanos y sindicatos en los departamentos de Santander y Atlántico, y tuvo respuesta del Gobierno de Su Excelencia mediante carta con fecha del 5 de junio de 2008.

684. De acuerdo con las informaciones recibidas, el 11 de junio, un hombre en una motocicleta se habría acercado al domicilio de César Tamayo. El hijo de éste, de 11 años de edad, le abrió la puerta y el hombre, con la cara oculta por el casco, le habría entregado un sobre en el que se habría encontrado una lista de los nombres de todos los susodichos (menos el de la Sra. Rincón) junto a una cruz, anunciando su muerte.

685. La comunicación habría declarado objetivos militares a todos los susodichos y les habría acusado de pertenecer a la guerrilla y de promover marchas antipatrióticas. La amenaza de muerte habría estado firmada por del grupo paramilitar las Águilas Negras.

686. El 19 de junio, unos desconocidos le habrían dejado una carta a la Sra. Belcy Rincón en su urbanización que habría contenido amenazas de muerte. La amenaza habría llevado también la firma de las Águilas Negras.

687. Estas amenazas su suman a una serie de incidentes parecidos que señalan la intensificación de las amenazas en contra de los sindicalistas y activistas sociales en Colombia en los últimos meses.

688. Tras estas nuevas amenazas, reiteramos nuestra preocupación por la integridad física y psicológica de todos los susodichos, así como la de los demás integrantes de sus organizaciones.

Observaciones

689. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 30 de junio de 2008

690. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió una carta de alegación en relación con los Sres. Guillermo Castaño Arcila, Mauricio Cubides y Diego Macias. El Sr. Castaño es Presidente del Comité Permanente por la Defensa de los Derechos Humanos (CPDH) y los Sres. Cubides y Macias son miembros de la misma organización.

691. El Sr. Castaño Arcila fue, junto con otros integrantes del CDPH, el objeto de un llamamiento urgente, emitido por la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos el 6 de octubre de 2006, el cual tuvo respuesta del Gobierno mediante cartas con fecha del 9 enero y 26 de febrero de 2007. Respecto a la presunta desaparición forzada del Sr. Walter Álvarez Ossa, integrante del CDPH quien también fue objeto de la comunicación; pedimos que se proporcione información actualizada acerca del caso.

692. De acuerdo con las nuevas informaciones recibidas, el 24 de junio de 2008, los susodichos habrían recibido un mensaje escrito por parte del grupo paramilitar, denominado los 'Águilas Negras' mediante el cual se les habría notificado que tenían un plazo de dos días para salir de la ciudad de Calcará, Departamento de Quindío donde trabajaban o se comenzaría a "darles de baja".

693. Se alega que las amenazas en contra de los Sres. Castaño Arcila, Cubides y Macias podrían estar directamente relacionadas con sus actividades en defensa de los derechos humanos. Estos hechos se suman a una larga serie de amenazas en contra de los integrantes del CPDH en los últimos años y en contra de muchos sindicalistas y defensores de derechos humanos, una tendencia que se ha intensificado en 2008.

694. Expresamos nuestra preocupación por la integridad física y psicológica de los susodichos y reiteramos nuestra seria preocupación por la situación de los defensores de los derechos humanos en Colombia.

Observaciones

695. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 2 de julio de 2008

696. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Red Juvenil de Medellín, red que proporciona ayuda a los jóvenes y trabaja en contra del reclutamiento de parte de los grupos paramilitares y el ejército colombiano. También trabaja para defender los principios de no violencia y de la objeción de conciencia.

697. De acuerdo con las informaciones recibidas, el 30 de mayo de 2008, una amenaza de muerte mandada por el grupo paramilitar las Águilas Negras habría llegado a la Red Juvenil de Medellín por correo electrónico. El correo habría contenido el mensaje “Muerte a anarquistas disfrazados de pacifistas, no mas conciertos de drogas ni comunistas, no hay mas avisos” [sic.]. El 17 de mayo de 2008 la Red Juvenil de Medellín había organizado un concierto contra la militarización que se da cada año en Medellín para celebrar el Día Internacional de la Objeción de Conciencia. Unos 5,000 jóvenes habrían asistido al evento.

698. Se alegó que las amenazas en contra de los integrantes de la Red Juvenil de Medellín podían estar directamente relacionadas con sus actividades en defensa de los derechos humanos, en particular su trabajo a favor de los principios de la objeción de conciencia y de no violencia. Se expresó preocupación por la integridad física y psicológica de los integrantes de la Red Juvenil de Medellín.

Respuesta del Gobierno

699. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 3 de julio de 2008

700. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con los miembros del Espacio de Trabajadores y Trabajadoras de Derechos Humanos (ETTDH), que agrupa a varios movimientos sociales y

organizaciones de defensores de derechos humanos, incluyendo la Organización Femenina Popular (OFP), la Corporación Regional para la Defensa de los Derechos Humanos (CREDHOS), la Asociación Campesina del Valle del Río Cimitarra (ACVC) y la organización no gubernamental ASODESAMUB en Barrancabermeja y la región del Magdalena Medio.

701. Miembros de la OFP ya fueron objeto de seis comunicaciones de la anterior Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos. Se recibió la respuesta a la comunicación más reciente enviada el 14 de noviembre de 2007. La respuesta del Gobierno fechada el 4 de abril de 2008 informó sobre las medidas de protección otorgadas a la OFP. Seguimos interesados en recibir más información sobre los avances de las investigaciones llevadas a cabo por la Fiscalía 1 de la Estructura de Apoyo de la ciudad de Barrancabermeja para que los responsables de las amenazas y ataques a las y los defensoras/es de derechos humanos no queden impunes. También se enviaron tres comunicaciones sobre las amenazas en contra de la organización CREDHOS, la última en fecha 6 de marzo de 2008, comunicación que todavía no tiene una respuesta de Su Gobierno. También 2 comunicaciones se enviaron sobre la situación de miembros de la ACVC, la última enviada el 6 de junio de 2008.

702. De acuerdo con las informaciones recibidas, el 18 de junio de 2008, una de las organizaciones miembros del ETTDH habría recibido un anuncio amenazante de las Águilas Negras, identificando a las citadas organizaciones como objetivos militares. La comunicación, que habría llevado la firma del “comandante de zona, Águilas Negras Unidas de Colombia”, habría alegado que estos grupos sirven a guerrilleros y promueven a grupos insurgentes con el fin de desestabilizar al Estado.

703. Se expresó preocupación que la amenaza en contra de las citadas organizaciones podría estar directamente relacionada con sus actividades en defensa de los derechos humanos. En vista de estas amenazas y casos parecidos tratados en comunicaciones anteriores, como las mencionadas arriba, que indican un entorno extremadamente peligroso y amenazante no obstante las medidas de protección ya adoptadas por el Gobierno se expresó preocupación por la integridad física y psicológica de los integrantes de las organizaciones mencionadas.

Respuesta del Gobierno

704. Mediante carta fechada el 1 de diciembre de 2008, el Gobierno de Colombia respondió al llamamiento urgente. El Gobierno solicitó que se precisara la información acerca de los supuestos hechos ocurridos el 18 de junio y referidos en el llamamiento urgente, especialmente en lo concerniente a la identificación e individualización de las víctimas de las presuntas amenazas.

Observaciones

705. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 25 de julio de 2008

706. El Relator Especial 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 la Organización Femenina Popular (OFP), la

Corporación para la Defensa de los Derechos Humanos (CREDHOS), y los Programas de Desarrollo y Paz (PDP). La OFP y CREDHOS fueron sujeto de seis y tres comunicaciones respectivamente de la anterior Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos. Las dos organizaciones también fueron sujeto de una comunicación enviada el 3 de julio de 2008 por la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, en relación con un anuncio amenazante supuestamente enviado a las organizaciones por las Águilas Negras. Hasta la fecha no se ha recibido ninguna respuesta a esta última comunicación.

707. De acuerdo con las informaciones recibidas, el 21 de julio de 2008, hombres que portaban capuchas y se movilizaban en motocicleta habrían estado distribuyendo panfletos en varios barrios de Barrancabermeja, Departamento de Santander. Estos panfletos habrían tenido la firma del Comandante de Héroes de Castaño y habrían anunciado el propósito de “tomar Barrancabermeja a sangre y fuego” para pacificarla a partir del 1 de julio de 2008. Asimismo, se habrían declarado objetivo militar a las organizaciones sociales que defienden los derechos humanos, la OFP, CREDHOS, y el PDP, así como grupos sindicales y el grupo paramilitar Águilas Negras. Los panfletos habrían señalado que la comunidad debía apoyar al movimiento o habría represalias en su contra.

708. Se expresó gran preocupación por el hecho que la OFP, CREDHOS, y el PDP hayan sido declaradas objetivo militar por su trabajo legítimo en defensa de los derechos humanos. Los panfletos amenazantes, así como los casos mencionados en comunicaciones anteriores, indicaban un entorno en extremo peligroso y amenazante para los defensores de los derechos humanos en Barrancabermeja, no obstante las medidas de protección adoptadas por el Gobierno. Se expresó por ello preocupación por la integridad física y psicológica de los integrantes de las organizaciones mencionadas.

Observaciones

709. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 25 de julio de 2008

710. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. José Arcos y la Sra. María Antonia Amaya, dirigentes comunitarios y miembros del Consejo de Comunidades Negras de la Cordillera Occidental de Nariño (COPDICONC). El Sr. José Arcos también es Vice-presidente del Consejo Comunitario de la Municipalidad de Policarpa. Desde el 24 de junio de 2007, varios miembros del COPDICONC han sido beneficiarios de medidas cautelares ordenadas por la Comisión Interamericana de Derechos Humanos, después de haber sufrido actos de hostigamiento y amenazas proferidas tanto por grupos armados paramilitares como por grupos guerrilleros que les acusan de colaboración con el grupo adversario.

711. De acuerdo con las informaciones recibidas, el 11 de julio de 2008, en horas de la mañana, el Sr. José Arcos y la Sra. María Antonia Amaya fueron secuestrados en un retén montado por elementos del grupo paramilitar denominado la Nueva Generación en la vereda de Santa Rosa, Municipalidad de Policarpa, y llevados con rumbo desconocido. Este grupo paramilitar tendría en su posesión una lista de todos los dirigentes comunitarios locales que son miembros del COPDICONC.

712. Se expresó preocupación que el secuestro del Sr. José Arcos y de la Sra. María Antonia Amaya podría estar directamente motivado por sus actividades de defensa de los derechos humanos, en particular de los derechos de su comunidad. En vista de estos hechos se expresó preocupación por la integridad física y psicológica de estas personas y de los otros miembros del COPDICONC. Estos secuestros se enmarcan en un contexto de gran vulnerabilidad de los defensores de derechos comunitarios en Colombia.

Observaciones

713. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Carta de alegaciones enviada el 18 de agosto de 2008

714. El 18 de agosto de 2008, el Relator Especial junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, y el Relator Especial sobre la cuestión de la tortura envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. Guillermo Rivera Fúquene, anterior Presidente del Sindicato de Servidores Públicos de Bogotá (SINSR.VPUB). La presunta desaparición forzada del Sr. Guillermo Rivera Fúquene fue mencionada en un llamamiento urgente enviado por la Relatora Especial sobre la situación de los defensores de derechos humanos, el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias el 23 de mayo de 2008. Se recibió una respuesta del Gobierno fechada 5 de junio de 2008. Dicha respuesta contenía información sobre las medidas adoptadas por el Gobierno para poner fin a la impunidad, pero no mencionó el caso del Sr. Guillermo Rivera Fúquene. Desde entonces hemos se recibió más información sobre el caso del Sr. Guillermo Rivera Fúquene.

715. Según las nuevas informaciones recibidas, el 22 de abril de 2008, aproximadamente a las 6.30 a.m., el Sr. Guillermo Rivera Fúquene habría sido detenido por una patrulla de la Policía Nacional. El 24 de abril se habría encontrado un cadáver, sin documentos de identidad y con signos de tortura, en un botadero de escombros. El 15 de julio de 2008, habrían enterrado este cadáver como persona sin identificación conocida (NN). Sin embargo, en una exhumación posterior ordenada por la Fiscal 49 de Ibagué, se habría identificado el cuerpo como el del Sr. Guillermo Rivera Fúquene. Se habrían descubierto signos de ahorcamiento, golpes en la cara y contusiones en varias partes del cuerpo. Se afirma también que 32 sindicalistas habrían sido asesinados durante 2008 en Colombia.

716. Se expresó preocupación que el asesinato del Sr. Guillermo Rivera Fúquene podría estar directamente relacionado con sus actividades legítimas en defensa de los derechos humanos en Colombia. También se expresó preocupación que este asesinato, de ser confirmado, se enmarcara en un contexto de gran peligro para los sindicalistas en Colombia.

Respuesta del Gobierno

717. Mediante carta fechada el 22 de agosto de 2008, el Gobierno contestó al llamamiento urgente del 18 de julio de 2008. En su respuesta, el Gobierno lamentó la muerte del Sr. Guillermo Rivera Fúquene y reafirmó la posición del Gobierno sobre la promoción y protección del derecho a la libertad de opinión y expresión. El Gobierno también describió algunas medidas adoptadas en ese sentido. La carta afirma que el Gobierno tendría una reunión con miembros de sindicatos sobre el tema de la libertad de los sindicalistas. Una investigación sobre la muerte del Sr. Guillermo Rivera Fúquene también tendría lugar.

Observaciones

718. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 29 de agosto de 2008

719. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención del Gobierno la información recibida en relación con las amenazas de muerte recibidas por las Sras. Elizabeth Gómez, Luz Marina Arroyabe, Senaida Parra, y Andrea Abello, y los Sres. Yimmi Jansasoy, Fabio Ariza, Carlos Torres, y Eduard Mina, todos miembros de la Comisión Intereclesial de Justicia y Paz (CIJP). La CIJP trabaja con comunidades en las cuencas de Curbaradó y Jiguamiandó, Departamento de Chocó, para defender sus derechos a la tierra a través de medidas pacíficas.

720. El 4 de octubre de 2007, la entonces Representante Especial del Secretario General envió un llamamiento urgente al Gobierno en relación con un ataque contra miembros de la CIJP en Curbaradó. Se recibió la respuesta del Gobierno el 10 de enero de 2008. También, el 3 de abril de 2008, la entonces Representante Especial del Secretario General envió al Gobierno un llamamiento urgente en relación con amenazas de muerte contra los Sres. Yimmi Jansasoy, Eduard Mina y otros miembros de la CIJP. Todavía no se ha recibido una respuesta del Gobierno a este llamamiento urgente.

721. De acuerdo con las nuevas informaciones recibidas, el 24 de agosto de 2008, aproximadamente a las 11h55, una mujer habría llamado telefónicamente a la CIJP en Curbaradó mientras se encontraban celebrando una reunión. Habría dicho “Hablan las Águilas Negras. Es mejor que salgan de la zona; están vigilados, deben salir ya.” Aproximadamente a las 12h29, habría habido otra llamada del mismo número al número del teléfono móvil de la CIJP en Bogotá diciendo “Saquen ya a esos muchachos de la zona”.

722. El 25 de agosto de 2008, aproximadamente a las 18h55, se registró otra llamada profiriendo amenazas de muerte en el teléfono móvil de la CIJP en Curbaradó. Esta vez un hombre habría dicho “Con militares o sin militares, los vamos a matar” antes de colgar inmediatamente. El mismo día se habrían denunciado las amenazas a las autoridades colombianas.

723. Se expresó preocupación que estas amenazas de muerte contra miembros de la CIJP estuvieran relacionadas con sus actividades legítimas en la defensa de los derechos a la tierra de las comunidades en las cuencas de Curbaradó y Jiguamiandó. Se expresó gran preocupación por la integridad física y psicológica de estos defensores de los derechos humanos. Estas amenazas se enmarcan en un contexto de gran vulnerabilidad de los miembros de la CIJP en esta región de Colombia.

Observaciones

724. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 3 de septiembre de 2008

725. El Relator Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con las presuntas amenazas de muerte del 11 de agosto de 2008 en contra del Consejo Regional Indígena del Cauca (CRIC), la Asociación de Cabildos Indígenas del Norte del Cauca (ACIN), sus asesores, el pueblo indígena Nasa o Paéz en general y líderes indígenas de Calí y Bogotá por una organización denominada “Campesinos Embejucaos de Cauca”.

726. Según la información recibida, el 11 de agosto de 2008 a las 16:14 horas, llegó un correo electrónico titulado “masacres cauca” a las direcciones de la CRIC y la ACIN. El texto contenía una amenaza de muerte dirigida a estas dos organizaciones, sus asesores, miembros del pueblo Nasa en general y líderes indígenas de Cali y Bogota. Específicamente, la carta tenía el siguiente tenor:

727. “Siendo aproximadamente las 00:00 de esta Noche, recibirán información sobre la muerte de paHECES y cabecillas exguerrilleros del CRIC por campesinos, lo que les será conforme Telefónicamente a causa de su irrespeto ... no se quejen cuando el CRIC y paHECES, serán encontrados muertos y un significativo número de miembros de ustedes desaparecidos, Sabemos que en Colombia ustedes no sobrepasan el millón de personas en Colombia. Queremos Popayán, Cali y Bogotá libre de indios porque allí están la guarida y concentración de los cabecillas.”

728. Se nota que el correo expresa claras señales de discriminación hacia los pueblos indígenas con la referencia a los pueblos indígenas Nasa o Paéz como excremento (“paHECES”) y con la declaración de la organización de Campesinos Embejucaos de Cauca como “anti-indios”. Asimismo, la información recibida señala que el mensaje acusa a los líderes indígenas Nasa de ser terroristas, delincuentes y criminales con “aliados significativos” de la FARC.

729. Se alegó que la carta es la culminación de un incremento drástico de amenazas en contra de los líderes indígenas del Norte de Cauca.

Observaciones

730. Los Relatores Especiales lamentan no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 17 de octubre de 2008

731. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas contra varios sindicatos y organizaciones no gubernamentales y sus miembros. Varios titulares de mandatos han enviado comunicaciones a su Gobierno respecto a estas organizaciones.

732. De acuerdo con las informaciones recibidas: el 16 de septiembre de 2008, un mensaje firmado por el grupo paramilitar Comando Carlos Castaño Vive (CCV) fue enviado al correo electrónico de la Asamblea Permanente de la Sociedad Civil por la Paz y al Movimiento Nacional de Víctimas (MOVICE). Dicho mensaje contendría amenazas contra miembros de la Central Unitaria de Trabajadores (CUT), en particular contra su Secretario General, el Sr. Domingo Tovar Arrieta; el Sindicato de Trabajadores de la Salud (ANTHOC); la Federación Nacional de Cooperativas Agrarias (FENACOA); la Corporación Reiniciar, la Asociación para la Promoción Social Alternativa Minga; la Asociación Solidaria Andas, y la Corporación Colectivo de Abogados “José Alvear Restrepo”; la Fundación Comité de Solidaridad con los Presos Políticos (FSCSPP); y la Unión Sindical Obrera de la Industria del Petróleo (USO), en particular contra el Sr. Rodolfo Vecino Acevedo, miembro de la Junta Nacional de la USO, el Sr. Hernando Hernández, el antiguo Presidente de la USO, los Sres. Nelson Berrio y Rafael Cabarcas, antiguos líderes sindicales de la USO, y el Sr. Lenin Fernández, dirigente juvenil del Departamento del Cesar. El mensaje se habría referido al Sr. Lenin Fernández como “sentenciado a muerte”. Estas organizaciones habrían recibido amenazas de muerte durante años.

733. El 18 de septiembre de 2008, un email fue enviado a los correos electrónicos de ANTHOC y de la Federación Agraria (FENSUAGRO), organizaciones afiliadas a la CUT, firmado por Ernesto Báez, Amigos de Uribe por Colombia. El mensaje se habría referido a la CUT una “cuna de terroristas”, profiriendo amenazas contra esta organización, contra la USO, y contra los Sres. Angel Salas, Juan Mendoza, Miguel Bobadilla, Eberto Díaz, Luis Sandoval, Omar Hernández, Viviana Ortiz, Albeiro Betancourt, Álvaro Londoño, Yesid Camacho y Gilberto Martínez, todos líderes sindicales y defensores de los derechos humanos. El mismo día, la USO habría recibido por correo electrónico amenazas de muerte firmadas por el grupo paramilitar Águilas Carlos Castaño Vive (CCV). Las amenazas habrían sugerido que existen vínculos entre la USO y el brazo político de la guerrilla del Ejército de Liberación Nacional (ELN), diciendo “nosotros les recordamos las sentencias de muerte a los guerrilleros” y “todos caerán poco a poco como se lo merecen por guerrilleros”. El email habría amenazado a los Sres. Rodolfo Vecino Acevedo, Rafael Cabarcas, Nelson Berrio y Hernando Hernández en particular.

734. La situación de la USO resultó particularmente preocupante porque la organización habría recibido también varias coronas de condolencia, refiriéndose al Sr. Rodolfo Vecino Acevedo. Una habría llegado a la oficina de la USO en Barrancabermeja en 2007, y otras dos habrían llegado a la sede en Cartagena el 9 de septiembre de 2008. También dos servicios funerarios habrían llamado a la sede en Cartagena porque tenían más coronas para enviar, supuestamente a petición de una mujer no identificada.

735. Se expresó preocupación que las amenazas contra estas organizaciones, líderes sindicales y defensores de los derechos humanos podrían estar vinculadas con sus actividades legítimas en la defensa de los derechos humanos. Se expresó gran preocupación por la integridad física y psicológica de los miembros de dichas organizaciones. Estos incidentes se enmarcan en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en Colombia.

Observaciones

736. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 17 de noviembre de 2008

737. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos y el Relator Especial del Grupo de trabajo sobre desapariciones forzadas o involuntarias, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con las amenazas en contra del Sr. Fernando Escobar, Personero del municipio de Soacha, la Sra. Jahel Quiroga Carrillo, Directora la Corporación Reiniciar, el Sr. Gustavo Petro, Senador de la República, el Sr. Iván Cepeda, Director del Movimiento Nacional de Víctimas, el Sr. Jorge Rojas, Director de la Consultoría para los Derechos Humanos y el Desplazamiento (CODHES), y la Central Unitaria de los Trabajadores (CUT), por su implicación en la búsqueda del esclarecimiento de ejecuciones extrajudiciales.

738. Acorde a la información recibida, el 6 de noviembre de 2008 el Sr. Fernando Escobar, la Sra. Jahel Quiroga Carrillo, el Sr. Gustavo Petro, el Sr. Iván Cepeda, el Sr. Jorge Rojas, y los miembros de la Central Unitaria de los Trabajadores (CUT) habrían recibido amenazas a través de un panfleto firmado por el presunto grupo paramilitar "ABM Gonzaga", por el cual se les habría amenazado que de no renunciar a sus cargos serían asesinados o desaparecidos. Según la información recibida, las presuntas víctimas de dichas amenazas habrían denunciado el reclutamiento forzado de 11 jóvenes de Soacha y de Ciudad Bolívar por órdenes de miembros del ejército. Dichos jóvenes fueron encontrados enterrados en una fosa común en Ocaña e identificados como guerrilleros abatidos por el Ejército.

Observaciones

739. El Relator Especial lamentan no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 25 de noviembre de 2008

740. El Relator Especial junto con la Relatora Especial sobre la situación de los defensores de los derechos envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Asociación Juvenil y Estudiantil Regional (ASOJER), la Asociación Departamental de Usuarios Campesinos (ADUC), la Asociación Amanecer de Mujeres por Arauca (AMAR), la Asociación de Desplazados de la Central Unitaria de Trabajadores Subdirectiva Arauca, y la Fundación Comité Regional de Derechos Humanos Joel Sierra, todas las cuales son organizaciones sindicalistas o defensoras de los derechos humanos del municipio de Saravena, Arauca.

741. Según las informaciones recibidas, el 19 de noviembre de 2008, durante la noche, un hombre todavía sin identificar habría dejado un explosivo de bajo impacto en el edificio “Hector Alirio Martínez”. En este edificio se ubican las sedes de las organizaciones mencionadas arriba.

742. Se expresó preocupación que el ataque contra estas organizaciones podría estar relacionado con su trabajo en la defensa de los derechos humanos. Se expresa gran preocupación por la integridad física y psicológica de los miembros de estas organizaciones.

Observaciones

743. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno de Colombia con referencia a la comunicación arriba mencionada.

Llamamiento urgente enviado el 9 de diciembre de 2008

744. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos y el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. Carmelo Agamez, secretario técnico del Movimiento Nacional de Víctimas de Crímenes de Estado (MOVICE), una organización no gubernamental que trabaja con los parientes de varias víctimas que murieron durante el conflicto armado en Colombia. El Sr. Carmelo Agamez y MOVICE han expuesto supuestos vínculos entre los oficiales públicos y grupos paramilitares de la región. Supuestamente a causa de su trabajo, el Sr. Carmelo Agamez ha recibido varias amenazas de muerte de grupos paramilitares.

745. El 10 de noviembre de 2006 la entonces Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos y el entonces Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron un llamamiento urgente en relación con las supuestas amenazas de muerte contra el Sr. Carmelo Agamez y otros miembros del Movimiento Nacional de Víctimas de Crímenes de Estado. Se agradece la respuesta de su Gobierno, recibida el 26 de febrero de 2007.

746. De acuerdo con las nuevas informaciones recibidas, el 13 de noviembre de 2008, la casa del Sr. Carmelo Agamez habría sido allanada por cinco hombres vestidos de civil que no habrían llevado una orden de captura o de allanamiento. El 15 de noviembre de 2008, el Sr. Carmelo Agamez se habría dirigido a la oficina del fiscal de Sincelejo donde le habrían detenido bajo la

custodia de la policía de investigación judicial (SIJIN). Le habrían trasladado a la prisión La Vega en Sincelejo donde se encontraría ahora, detenido en el patio 2 con líderes paramilitares y oficiales públicos. Habría sido acusado por el fiscal de Sincelejo de rebelión y conspiración a cometer crímenes con grupos paramilitares en una reunión en 2002. Antes de su arresto, el Sr. Carmelo Agamez habría acusado al alcalde de San Onofre, departamento de Sucre, de corrupción.

747. No habrían informado al Sr. Carmelo Agamez de los cargos en su contra durante varios días después de su detención. La única evidencia utilizada contra el Sr. Carmelo Agamez habría sido el testimonio no corroborado de dos personas. Uno de los testigos no sería imparcial por ser esposa de un alcalde recientemente acusado de corrupción después del descubrimiento de sus vínculos con grupos paramilitares por parte del Sr. Carmelo Agamez y MOVICE.

748. Se expresó preocupación que la detención del Sr. Carmelo Agamez podría estar relacionada con sus actividades en la defensa de los derechos humanos, en particular su trabajo para exponer las violaciones de los derechos humanos cometidas por grupos paramilitares y la corrupción de oficiales públicos vinculados a estos grupos. Se expresa gran preocupación por la integridad física y psicológica del Sr. Carmelo Agamez.

Observaciones

749. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 29 de diciembre de 2008

750. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, el Relator especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió 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). 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.

751. 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.

752. 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. 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. 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.

753. 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. 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.

754. 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 teme que el ataque podría haber sido dirigido contra la Sra. Aida Quilcué Vivas. Así se expresa gran preocupación por la integridad física y psicológica de la Sra. Aida Quilcué Vivas. Estos hechos, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad de los defensores de los pueblos indígenas en Colombia.

Respuesta del Gobierno

755. Mediante carta fechada el 16 de marzo de 2009, el Gobierno de Colombia respondió al llamamiento urgente. El Gobierno informó que el Estado de Colombia repudia el homicidio del señor EDWIN LEGARDA, ex esposo de la líder indígena del Consejo Regional Indígena del Cauca (CRIC) Alda Quilqué, en hechos ocurridos el 16 de diciembre de 2008, en el municipio de Totoró (departamento del Cauca). El Gobierno también informó que desde el primer momento en que se tuvo conocimiento de la noticia, el Estado, desde su más Alto Nivel, condenó los presuntos hechos y conminó a las autoridades competentes, a adelantar las investigaciones a que hubiese lugar. En este sentido, el Gobierno también envió una copia del discurso del señor Presidente de la República de Colombia en 17 de diciembre de 2008.

756. La carta informó que “el Gobierno de Colombia está plenamente convencido que el respeto y la garantía de los Derechos Humanos son la única herramienta para lograr los fines del Estado y en este sentido, cualquier violación a estas normas y principios debe ser sancionada a la luz de la legislación nacional y los Tratados y Convenios Internacionales debidamente ratificados por el país. Colombia es un Estado Social de Derecho sujeto al imperio de la ley. Tal como se encuentra reflejado en los comunicados del Presidente de la República y del Ministerio de Defensa Nacional, las acciones adelantadas por la Fiscalía y la Procuraduría General de la Nación, el Ministerio del Interior y de Justicia y el Ministerio de Defensa, tienen como objetivo primordial esclarecer los hechos y sancionar los responsables; brindar protección efectiva a la familia del señor Legarda y revisar procedimientos Internos al Interior de las Fuerzas Armadas para evitar que hechos similares se repitan”.

Siguiendo de comunicaciones transmitidas previamente

757. Con una carta en fecha 22 de febrero de 2008, el Gobierno respondió a la carta de alegaciones del 21 de diciembre de 2007. El Gobierno informó que, revisado el nivel central de su sistema de información, no se encontró petición alguna sobre los presuntos hechos que conciernen a las personas citadas en la carta de alegaciones.

758. Con una carta en fecha 15 de enero de 2008, el Gobierno respondió al llamamiento urgente del 4 de octubre de 2007. El Gobierno informó que, el DAS-Departamento Administrativo de Seguridad capturó por el delito de rebelión al señor Andrés Elías Gil Gutiérrez el 29 de septiembre de 2007, a las 16,40 horas, en el municipio de Cantagallo, en la vereda el Caqui, Ciénaga de San Lorenzo, Departamento de Bolívar. El detenido, junto a otras personas que también fueron detenidas, fue informado de sus derechos en el momento de la captura. También fueron visitados por diferentes autoridades y personalidades nacionales y extranjeras, incluyendo la Defensora del Pueblo y representantes de la ONG CREDHOS. Se dio a conocer que ningún efectivo de la DAS efectuó disparos durante las fases de la captura. Además, el Gobierno de Colombia especificó que las cuatro personas indicadas en el llamamiento urgente se encuentran detenidas en la Cárcel Modelo de Bucaramanga, Santander, en cumplimiento de las respectivas órdenes de captura.

759. Con una carta en fecha 14 de mayo de 2008, el Gobierno respondió al llamamiento urgente del 16 de octubre de 2006. El Gobierno informó que “La Procuraduría Delegada para la Prevención en Materia de Derechos Humanos y Asuntos Étnicos informo’ que la Dirección Nacional de Investigaciones Especiales de la Procuraduría Nacional de la Nación analizara’ la viabilidad de incorporar la información sobre la presunta amenaza de detención de la Señora CELEYTA y otras personas, de octubre de 2006, dentro de la investigación disciplinaria No. 009-112759/04, la cual cursa desde el 11 de agosto de 2005 contra varios funcionarios públicos. Por otra parte, en lo concerniente a un presunto plan de exterminio de estas mismas personas, denominado “Operación Dragón”, aparentemente a cargo de la Tercera Brigada del Ejército y conocido en el 2004, el inspector General de las Fuerzas Militares desvirtuó desde el 16 de febrero de 2005, la existencia de la misma, aclarando que dentro de las actividades de inteligencia que desarrollaron las Unidades Operativas Menores de la Tercera Brigada no se efectuó operación alguna con la denominación Dragón. La Unidad Nacional de Derechos Humanos de la Fiscalía General de la Nación, informo’ en su oportunidad que adelanto’ una inspección judicial a la Regional de Inteligencia Militar de la III Brigada del Ejército Nacional para verificar la existencia de un informe con referencia “CIM RIME”, el cual no se halló’. Adicionalmente, la Unidad de Derechos Humanos del Ministerio del Interior y de Justicia adoptó en su momento las medidas de protección de las personas vinculadas dentro de la supuesta operación “Dragón”. Fue así como el 24 de septiembre de 2004, se presentó el caso de la señora CELEYTA quien ya era beneficiaria de un esquema colectivo de protección de la asociación NOMADESC - ante el Comité de Reglamentación y Evaluación de Riesgos - CRER, el cual decidió otorgarle un esquema protectivo individual con dos unidades de escolta, sin armamento”.

760. Con una carta en fecha 6 de marzo de 2008, el Gobierno respondió a la carta de alegaciones del 29 de junio de 2007. El Gobierno informó que “La Fiscalía General de la Nación confirmó que la Fiscal Décima Local de la Unidad Primera de Fiscalías Delegadas ante los Juzgados Penales Municipales de Bogotá; D.C. conoce de la investigación penal pertinente por el presunto delito de lesiones personales contra la fotógrafa JOHANA TORO, en estado de averiguación, dentro de lo cual ya compareció la periodista a dar su versión sobre los hechos comprometiéndose a entregar todos los documentos concernientes a unos presuntos danos materiales de su cámara profesional los cuales aun no han sido aportados por la precitada ciudadana. De igual manera la referida autoridad resalto que debido a que la periodista no acudió

a un centro asistencial de salud para la valoración medica correspondiente, no es posible establecer una incapacidad medico de relevancia jurídica respecto de las presuntas lesiones. Teniendo en cuenta que la periodista no entrego la documentación referida anteriormente, se ordeno a un funcionario entrevistarla con el fin determinar el monto de los posibles perjuicios materiales sufridos, a la fecha no se ha sido posible ubicarla.

761. Con una carta en fecha 24 de enero de 2008, el Gobierno respondió a la carta de alegaciones del 18 de julio de 2007. El Gobierno informó que la presunta victima no solicito' medida alguna de protección dentro del Programa de Protección Periodistas y Comunicadores Sociales ni la Defensoría del Pueblo encontró' petición alguna. La Procuraduría General de la Nación informo' de que no existe queja disciplinaria alguna por los hechos referidos en mención. Sin embargo, el Gobierno de la Nación solicita de manera atenta la comunicación de los datos de ubicación del señor Javier Manjarres, en caso de estar en conocimiento de los Relatores Especiales, con el fin de facilitar el desarrollo de las diferentes actividades investigativas”.

762. Con una carta en fecha 4 de abril de 2008, el Gobierno respondió al llamamiento urgente del 16 de agosto de 2007. El Gobierno informó que la Policía Nacional brindo' en varias ocasiones acompañamiento al señor Torres en el departamento del Meta, mientras que con referencia a los miembros de la Corporación Jurídica Yira Castro, entre los cuales la señora Blanca Irene Castro, se aprobaron varias medidas de protección y dos apoyos de transporte terrestre cada uno equivalente a 120 horas mensuales. Por lo que se refiere al señor Jiménez, se informo' de que se le facilitaron tiquetes aéreos y un medio de comunicación celular desde el año 2003. El Gobierno prometió asimismo seguir la situación de los mencionados en la comunicación en lo que a las amenazas a su propia incolumidad física se refiere y dará' cuenta del resultado de las investigaciones a medida de que estas irán desarrollándose.

Observaciones

763. El Relator Especial agradece al Gobierno por sus respuestas.

Congo (Republic of the)

Lettre d'allégations envoyée le 14 janvier 2008

764. Le Rapporteur spécial a envoyé une lettre d'allégations sur des informations reçues concernant la suspension du journal Talassa.

765. Selon les informations reçues, le 14 décembre 2007, le Conseil supérieur de la liberté de communication, un organe constitutionnel de régulation de la presse, aurait suspendu la publication du journal Talassa pour une période de deux mois en raison des « violations délibérées et répétées des normes juridiques, professionnelles, éthiques et déontologiques qui régissent l'exercice de la profession de journaliste ». Selon les informations reçues, le Conseil aurait qualifié les écrits du journal Talassa comme étant diffamatoires. Des officiers de la Force Publique auraient été appelés par le Conseil pour l'exécution de sa décision.

Observations

766. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 14 janvier 2008.

Lettre d'allégations envoyée le 23 janvier 2008

767. Le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations sur M. Roger Bouka Owoko, directeur exécutif de l'organisation non-gouvernementale de défense des droits de l'homme l'Observatoire Congolais des Droits de l'Homme (OCDH).

768. Selon les informations reçues le 11 janvier 2008, M. Roger Bouka Owoko aurait été convoqué à la Direction générale de la police nationale suite à la publication par l'OCDH, le 8 janvier 2008, d'un communiqué de presse intitulé "Elections locales et municipales : la mise en place d'une commission électorale indépendante et la refonte du fichier électoral s'imposent". Dans ce document, transmis aux membres du gouvernement, aux institutions publiques et aux missions diplomatiques en République du Congo, l'OCDH demandait la refonte du fichier électoral par le biais d'un recensement administratif spécial et le report des élections locales et municipales, prévues le 20 janvier 2008, afin de permettre la création d'une commission électorale indépendante composée de membres des différents partis politiques, de l'administration et de la société civile.

769. Lors de cette convocation, les collaborateurs du Général Jean François Ndengue, lui-même présent, se seraient attardés sur le caractère politique des organisations de la société civile et auraient reproché à l'OCDH son intérêt pour les questions d'ordre politique qui, selon eux, n'auraient rien à voir avec la promotion et la défense des droits de l'homme. Ils auraient également fait comprendre à M. Bouka Owoko que le jour où ils établiraient la preuve de "collusions entre l'OCDH, l'opposition et les puissances étrangères pour déstabiliser le Congo, ils prendr[aient] leurs responsabilités". Enfin, le Général Ndengue et ses collaborateurs auraient menacé de sévir "si l'OCDH faisait de la politique".

770. Des craintes étaient exprimées quant au fait que la convocation de M. Roger Bouka Owoko à la Direction générale de la police nationale et les intimidations subséquentes puissent être liées à ses activités de défense des droits de l'homme au sein de l'OCDH.

Observations

771. Les Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 23 janvier 2008.

Croatia

Letter of allegations sent on 8 July 2008

772. The Special Rapporteur sent an allegation letter to the Government regarding Mr. Dusan Miljus, a leading crime journalist with the Croatian daily, Jutarnji List.

773. According to information received, on 2 June 2008 at approximately 8.15 p.m., Mr. Dusan Miljus was violently attacked by two unidentified individuals, in a parking lot in front of his home in Zagreb. The assailants reportedly beat Mr. Dusan Miljus with baseball bats until he lost consciousness, before fleeing the scene. Mr. Dusan Miljus was hospitalised with a concussion, a broken arm and facial injuries.

774. According to reports, Mr. Dusan Miljus was followed by two men on a motorcycle just prior to the attack; he was however unable to identify them as they were wearing helmets.

775. Mr. Dusan Miljus is well known in Croatia for his reports on organised crime activities and corruption, and it is believed that the aforementioned events may be linked to his coverage of mafia related crime and its alleged connection to politicians in the country. Most recently he had been involved in investigating illegal arms production and trafficking in Croatia. Mr. Dusan Miljus has been threatened in the past, in relation to his investigative journalism, but had reportedly received no protection.

776. Concern was expressed that the aforementioned events could represent a direct attempt to stifle independent reporting in Croatia, thus restricting the right to freedom of opinion and expression in the country.

Response from the Government

777. In a letter dated 10 November 2008, the Government responded to the communication of 08 July 2008. The Government provided the following information: “the facts from the letter and the enquiry of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression are correct with the additional information that Mr. Miljus sustained the multiple physical injuries on being attacked by the attackers who staked him in front of the house in which he lives. The criminal charge against unknown culprits was filed by police officers with the Municipal Public Prosecutor in Zagreb on 13 Mule 2008. The facts established lead to the conclusion that it was a serious crime (attempted murder), and the case was forwarded to the County Public Prosecutor. Pursuant to the request of the County Public Prosecutors the police continued the investigation to identify the culprits. To date, a number of interviews have been conducted with the injured party and eyewitnesses with crime investigation, fingerprint search and police line ups, various checks and analyses as well as other investigation activities but the culprits have not been identified yet. The current proceedings are at the pre-investigation stage. According to Croatian Law on Criminal Procedures, court investigation may only be instituted against identified culprits. For the time being, Mr. Miljus is under police protection, and the County Public Prosecutor Zagreb is continuing its comprehensive investigation into the motives and the identity of the perpetrators of this crime”.

Observations

778. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 21 November 2008

779. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations concerning

Mr. Ivo Pukanic, a prominent journalist and owner of the NCL Media Group in Zagreb and Mr. Niko Franjic, marketing executive of the weekly newspaper, Nacional, published by NCL. Nacional is an investigative paper that often exposes alleged corruption and human rights abuses in Croatia.

780. According to the information received, on 23 October 2008, at approximately 6.20 p.m., Mr. Ivo Pukanic and Mr. Niko Franjic were killed in a car bomb. The explosive device went off as the two men got into Mr. Pukanic's car which was parked in front of the offices of the NCL Media Group in the centre of Zagreb. Two other Nacional staff members, who were in the parking lot at the time, were injured in the blast.

781. Previously, in April 2008, Mr. Pukanic escaped injury in an assassination attempt, when an unidentified individual carrying a gun approached him on the street in front of his apartment. The assailant reportedly threatened to kill Mr. Pukanic before firing a shot at him. Mr. Pukanic was under police protection at the time, however this was later suspended in August. Mr. Pukanic apparently complained about threats he had been receiving since 2002. A police investigation has reportedly been launched into the killing of Mr. Ivo Pukanic and Mr. Niko Franjic. However as yet no-one has claimed responsibility for the attack, and the motive of the killing remains unclear.

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

Observations

783. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communications.

Urgent appeal sent on 2 December 2008

784. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations concerning Mr. Drago Hedl, a prominent journalist and columnist with the Croatian daily newspaper Jutarnji List. Mr. Hedl mainly conducts investigative reporting on alleged war crimes committed during the 1991-1995 civil war in the former Yugoslavia, particularly those in the Osijek area. He has received numerous international awards for his work on transitional justice in Croatia.

785. According to information received on 27 November 2008, Mr. Hedl received a text message on his mobile phone, which contained serious death threats. Mr. Hedl reported the incident to the police and has been granted 24 hour police protection. Mr. Hedl has been the victim of at least four death threats since 2005, including in February 2008, when he received a letter accompanied by a photograph of a human skull, warning him to be "silent". Mr. Hedl received the letter a few days after he had written articles in the Feral Tribune magazine about a Croatian general, Mr. Branimir Glavas, suspected of having been responsible for the killing of Croatian Serb civilians in Osijek in 1991. In one of his most recent articles published in Jutarnji List, Mr. Hedl returned to the case of Mr. Glavas, who was elected as a Member of Parliament in the November 2007 legislative elections. He also gave evidence at the opening of the trial of

Mr. Glavas in 2005. While there has apparently been some progress in the investigation concerning the most recent threat against Mr. Hedl, it seems that only one of the previous investigations of death threats issued against him and his family resulted in a prosecution.

786. Concern was expressed for the physical and psychological integrity of Mr. Hedl, particularly in light of reports of ongoing harassment and threats against journalists, including recent events which claimed the lives of journalists Mr. Ivo Pukanic and Mr. Niko Franjic. Further concern was expressed that the aforementioned events may be related to Mr. Hedl's involvement in investigating cases of alleged war crimes and may represent a direct attempt to prevent independent reporting in Croatia, thus stifling freedom of expression in the country.

Response from the Government

787. In a letter dated 3 February 2009, the Government responded to the communication sent on 2 December 2008. The Government reported that the Police Directorate of the Republic of Croatia, in coordination with the Osijek-Baranja Police Department and the Zagreb Police Department, had completed the criminal investigation into the criminal offence of threat, sanctioned in Article 129 of the Criminal Code, committed against Mr. Drago Hedl. Mr. Hedl reported the threat on 27 November 2008 to the Osijek-Baranja Police Department, stating that he received a death threat by SMS on his mobile phone. The report was forwarded to the Municipal Public Prosecutor in Osijek, and the subsequent criminal investigation showed that the perpetrator of the offence was a Croatian citizen, a police officer working for the Zagreb Police Department. During the criminal investigation it was found that the motive of the offence was not to jeopardize the personal safety of Mr. Hedl, but an attempt by the perpetrator to draw attention to himself due to the dissatisfaction with his status issues. A criminal application was filed against the suspect with the Municipal Prosecutor in Osijek for the criminal offence of threat sanctioned in Article 129 of the Criminal Code, and the suspect was suspended from his work as a police officer, and disciplinary proceedings were also instituted against him. The Police convened a special press conference on 4 December 2008 to announce the findings of the criminal investigation to the public.

Observations

788. The Special Rapporteur is grateful for the Government's reply.

Cuba

Carta de alegaciones enviada el 7 de abril de 2008

789. El Relator Especial, junto con la Representante Especial de defensores de los derechos humanos, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con un grupo de mujeres, miembros del grupo Las Damas de Blanco, una organización de familiares de disidentes políticos encarcelados.

790. Según las informaciones recibidas, el 15 de marzo de 2008, las mujeres del colectivo Las Damas de Blanco habrían organizado una manifestación pacífica contra la encarcelación de sus familiares. Según se informa, mientras las mujeres de la organización recorrían de manera pacífica la calle G de la avenida 23 y Universidad de la Habana, habrían sido agredidas en varias

ocasiones por individuos que les habrían insultado, llamándolas “terroristas”, “prostitutas”, “asesinas”, “mercenarias” y “bastardas”. Se ha alegado que estas personas agresoras pertenecerían a grupos paramilitares conocidos como “porristas” o serían personas controladas por dichas tropas.

791. Se alegó que el hostigamiento e intimidación sufridos por las mujeres del colectivo Las Damas de Blanco pudieran estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular, su ejercicio pacífico del derecho a libertad de expresión. Asimismo, se expresó preocupación por la integridad física y psicológica de las mujeres del colectivo Las Damas de Blanco.

Respuesta del Gobierno

792. Mediante carta fechada 16 de Mayo de 2008 el Gobierno de Cuba respondió a la carta de alegaciones. El Gobierno rechazó las alegaciones incluidas en la carta de alegaciones e informó que las Damas de Blanco no constituyen una asociación u organización alguna. Según el Gobierno, Las Damas de Blanco es una creación de los servicios especiales de Estados Unidos, que opera bajo instrucciones y con el financiamiento que recibe de modo directo de la Sección de Intereses de los Estados Unidos de América en La Habana.

793. El Gobierno informó de que en Cuba no hay prisioneros políticos. Los familiares de las señoras de Las Damas en Blanco no fueron juzgados o sancionados por el disfrute de alguno de los derechos humanos reconocidos en la Declaración Universal. Ellos se encuentran en prisión, en cumplimiento de sentencias firmes de los tribunales cubanos y luego de haber sido procesados con todas las garantías del debido proceso, por haber incurrido en graves hechos constitutivos de delitos, actuando como asalariados de la potencia extranjera que viola mas elementales derechos del pueblo cubano. El Gobierno manifestó que son falsas las alegaciones de supuestos hostigamientos, intimidaciones, insultos y agresiones. Ninguna de las mujeres ha sido objeto de violación alguna a sus derechos humanos.

Observaciones

794. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Carta de alegaciones enviada el 30 de abril de 2008

795. El Relator Especial, junto con la Representante Especial sobre la situación de los defensores de los derechos humanos, envió una carta de alegaciones al Gobierno de Cuba señalando a la atención urgente la información que habían recibido en relación con el Sr. Juan Bermúdez Toranzo. El Sr. Juan Bermúdez Toranzo fue el objeto de una comunicación dirigida al Gobierno de Cuba con fecha de 21 de diciembre de 2007 de la Representante Especial del Secretario-General para los defensores de los derechos humanos. La Representante Especial agradece al Gobierno las respuestas proporcionadas el 15 de enero de 2008 y el 5 de marzo de 2008.

796. Según las nuevas informaciones recibidas el 4 de marzo de 2008, en el marco de un juicio cerrado al público, el Sr. Juan Bermúdez Toranzo habría sido condenado a 4 años y seis meses de prisión por tres delitos de atentados contra el jefe del sector policial, la esposa e hija de éste.

797. Anteriormente, el 28 de febrero de 2008, el Tribunal de La Lisa había condenado al Sr. Juan Bermúdez Toranzo a seis meses de privación de libertad “por daños a la propiedad estatal por la destrucción de un bombillo en la prisión”. Este juicio se habría llevado a cabo sin la presencia de abogados.

798. En cuanto a la situación carcelaria, el Sr. Juan Bermúdez Toranzo no recibiría la atención médica apropiada en la cárcel, a pesar de padecer una duodenitis crónica. Además, el Sr. Juan Bermúdez Toranzo habría recibido presiones por parte de las autoridades carcelarias con el fin de obligarlo a participar en actividades políticas contrarias a sus opiniones.

799. Según las informaciones recibidas, altos oficiales de la Seguridad del Estado habrían intentado convencer a la esposa del Sr. Bermúdez Toranzo, la Sra. Nery Castillo, de abandonar una protesta que consistiría en permanecer en silencio, junto con otras 20 personas, frente a la unidad de policía Aguilera, ubicada en la barriada de Lawton, del municipio Capitalino 10 de octubre, donde se supone que se encuentra detenido actualmente el Sr. Juan Bermúdez Toranzo. Tras su rechazo, la Sra. Nery Castillo habría sido amenazada con quitarle sus dos hijos y enviarlos a un centro del gobierno.

800. Se temió que estos eventos pudiesen estar relacionados con la actividad en defensa de los derechos humanos del Sr. Juan Bermúdez Toranzo. Además, se expresó preocupación por su integridad física y psicológica, así como la de su familia.

Respuesta del Gobierno

801. Mediante carta fechada 16 de junio de 2008, el Gobierno respondió a esta carta de alegaciones. El Gobierno rechazó las alegaciones incluidas en la carta de alegaciones e informó que carecen totalmente de fundamento. Explica que el Sr. Juan Bermúdez Toranzo fue juzgado por un tribunal competente e independiente; que fueron observadas todas las normas del debido proceso, incluyendo el derecho a la defensa de un abogado y que es falso pretender que su enjuiciamiento se debió a su supuesta actividad relacionada con la defensa de los derechos humanos. Asimismo, se informó de que las alegaciones referidas a una supuesta amenaza contra la esposa del Sr. Bermúdez Toranzo son falsas. El Gobierno informó de que las alegaciones relacionadas con la situación carcelera son inciertas; de que a los reclusos se les garantiza la protección, la seguridad y la atención medical.

Observaciones

802. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Carta de alegaciones enviada el 19 de mayo de 2008

803. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió una carta de alegaciones al Gobierno de Cuba señalando a la atención urgente la información que habían recibido en relación con un grupo de mujeres, miembros del colectivo Las Damas de Blanco, una organización de familiares de disidentes políticos encarcelados. La organización Las Damas de Blanco fue sujeto de una comunicación

dirigida al Gobierno de Cuba con fecha de 7 de abril de 2008, de la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y del Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión.

804. Según las informaciones recibidas, el 21 de abril de 2008, miembros de la organización Las Damas de Blanco, incluyendo a las Sras. Laura Pollán, Berta Soler, Dolia Leal, Alejandrina García y Noelia Pedraza habrían sido maltratadas por agentes policiales tras una protesta pacífica llevada a cabo en la Plaza de la Revolución en La Habana.

805. Luego de dos horas de llevar a cabo la protesta contra el mantenimiento en detención de sus familiares, agentes policiales y miembros de la Seguridad cubana dispersaron la manifestación de mujeres haciendo uso de la fuerza. Los agentes policiales introdujeron a las manifestantes en un autobús estacionado a unos 100 metros del lugar donde se encuentran las sedes del Ministerio de las Fuerzas Armadas y del Ministerio del Interior.

806. Las Sras. Berta Soler y Sra. Noelia Pedraza se habrían resistido a ser detenidas y fueron arrastradas sobre el pavimento hasta que fueron puestas de pie. Este acto de fuerza les habría producido magulladuras en brazos y espaldas. El autobús las condujo a sus respectivos domicilios. Durante el trayecto los agentes policiales no les hicieron ninguna pregunta.

807. Se alegó que los actos de hostigamiento e intimidación sufridos por las mujeres del colectivo Las Damas de Blanco pudieran estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular, su ejercicio pacífico del derecho a la libertad de expresión. Asimismo, se expresó preocupación por la integridad física y psicológica de las mujeres de este colectivo.

Respuesta del Gobierno

808. Mediante carta fechada 26 de mayo de 2008 el Gobierno de Cuba transmitió información en relación con la carta de alegaciones. El Gobierno rechazó las alegaciones incluidas en la carta de alegaciones e informó que Las Damas de Blanco no constituye una asociación u organización alguna. Según el Gobierno, Las Damas de Blanco es una creación de los servicios especiales de Estados Unidos, que opera bajo instrucciones y con el financiamiento que recibe de modo directo de la Sección de Intereses de los Estados Unidos de América en La Habana.

809. El Gobierno informó de que en Cuba no hay prisioneros políticos. Los familiares de las señoras de Las Damas en Blanco no fueron juzgados o sancionados por el disfrute de alguno de los derechos humanos reconocidos en la Declaración Universal. Ellos se encuentran en prisión, en cumplimiento de sentencias firmes de los tribunales cubanos y luego de haber sido procesados con todas las garantías del debido proceso, por haber incurrido en graves hechos constitutivos de delitos, actuando como asalariados de la potencia extranjera que viola mas elementales derechos del pueblo cubano. El Gobierno manifestó que son falsas las alegaciones de supuestos hostigamientos, intimidaciones, insultos y agresiones. Ninguna de las mujeres ha sido objeto de violación alguna a sus derechos humanos.

Observaciones

810. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Carta de alegaciones enviada el 8 de julio de 2008

811. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. Laura Pollán Toledo, líder del colectivo Las Damas de Blanco, una organización de familiares de disidentes políticos encarcelados. La Sra. Laura Pollán Toledo es la esposa del Sr. Héctor Maseda Gutiérrez, periodista independiente condenado a 20 años de cárcel. La organización Las Damas de Blanco fue sujeto de dos comunicaciones dirigidas al Gobierno de Cuba con fecha de 7 de abril de 2008 y 19 de mayo de 2008, de la entonces Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y del Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión. Recibimos respuestas del Gobierno acerca de las dos comunicaciones el 16 de mayo y el 26 de mayo de 2008 respectivamente.

812. Según las informaciones recibidas, el 1 de julio de 2008, la Sra. Pollán Toledo habría denunciado actos de hostigamiento por parte de agentes del Estado. Habría afirmado que no podía salir de su casa sin que agentes de la policía la siguieran y la vigilaran. Se habría instalado una cámara de seguridad cerca de su casa y la oficina central de las Damas de Blanco. Se alegó que los supuestos actos de hostigamiento contra la Sra. Laura Pollán Toledo podían estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular, su ejercicio pacífico del derecho a la libertad de expresión. Asimismo, se expresó preocupación por la integridad física y psicológica de la Sra. Laura Pollán Toledo y de las mujeres miembros de las Damas de Blanco.

Respuesta del Gobierno

813. Mediante carta fechada 22 de julio de 2008, el Gobierno de Cuba respondió a la carta de alegaciones. Dado que ya había contestado a dos llamamientos anteriores relacionados con las Damas de Blanco, el Gobierno expresó su preocupación de que, al parecer, sus respuestas no habían sido debidamente tomadas en consideración. Reiteró la falsedad de los hechos referidos por las tres comunicaciones sobre las Damas de Blanco y afirmó que este grupo no constituía una asociación u organización alguna sino una creación de los servicios especiales de Estados Unidos, que opera bajo instrucciones y con el financiamiento que recibe de modo directo de la Sección de Intereses de los Estados Unidos (SINA) en La Habana. Así trabaja para subvertir el orden constitucional legítimamente establecido en Cuba.

814. El Gobierno afirmó que la Sra. Laura Pollán Toledo nunca ha sido víctima de hostigamiento ni persecución por parte de agentes del Estado o la policía. Por el contrario, en ocasiones, los agentes estatales se han visto obligados a intervenir para proteger a la Sra. Pollán y a otras integrantes del grupo de las Damas de Blanco ante ciudadanos que no aceptan sus actividades mercenarias. La falsa imagen de violencia y salvajismo en la conducta de las autoridades y el pueblo cubano, que pretenden fabricar el Gobierno de los Estados Unidos, sus

servicios de inteligencia y sus agentes mercenarios en Miami y en Cuba, sólo existe en los medios transnacionales de la desinformación controlados por Washington, que cumplen instrucciones de repetir hasta la saciedad las mentiras fabricadas por los personeros del Imperio.

815. La carta del Gobierno también comunicó que alegaciones de maltratos, hostigamientos y violación de derecho a la intimidad personal a cualquiera de las Damas de Blanco eran falsas. El Gobierno reiteró que en Cuba no hay prisioneros políticos, y que los familiares de las señoras de Las Damas de Blanco no fueron juzgados o sancionados por el disfrute de alguno de los derechos humanos reconocidos en la Declaración Universal. Por el contrario, ellos se encuentran en prisión, en cumplimiento de sentencias firmes de los tribunales cubanos y luego de haber sido procesados con todas las garantías del debido proceso, por haber incurrido en graves hechos constitutivos de delitos, actuando como asalariados de la potencia extranjera que viola los más elementales derechos del pueblo cubano. En Cuba ninguna persona es detenida, sancionada o molestada por razones relacionadas con el disfrute de sus derechos humanos.

Observaciones

816. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Democratic Republic of the Congo

Appel urgent envoyé le 15 avril 2008

817. Le Rapporteur spécial, conjointement avec l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de Me Georges Kapiamba, avocat et membre de l'Association africaine de défense des droits de l'Homme - section de Katanga (ASADHO/Katanga). Selon les informations reçues, le 3 avril 2008, Me Kapiamba aurait reçu des appels téléphoniques anonymes provenant de numéros masqués, le menaçant en ces termes : « Comme tu ne veux pas te taire sur le dossier Kilwa et que tu continues à déranger le gouvernement par tous les moyens, tu vas être détruit sur tous les plans même professionnel. Afin de te mettre hors d'état de nuire, nous allons t'atteindre par tous les moyens ».

818. Ces menaces feraient suite à un communiqué de presse publié dans l'après midi du 3 avril 2008 par l'ASADHO/Katanga, l'Action contre l'impunité pour les droits humains ainsi que les organisations non-gouvernementales internationales Global Witness et Rights and Accountability in Development, dénonçant la décision des autorités provinciales du Katanga leur interdisant de se rendre à Kilwa pour rencontrer les victimes civiles de manifestations violemment réprimées par les forces gouvernementales en octobre 2004. A la suite de la publication de ce communiqué, un journaliste de la British Broadcasting Corporation (BBC) aurait contacté Me Kapiamba qui lui avait accordé une interview concernant les circonstances de l'affaire.

819. Me Kapiamba aurait par ailleurs accordé une interview à un journaliste de Radio France International (RFI) concernant la publication, dans le périodique de l'ASADHO, d'articles relatifs à l'usage disproportionné d'armes à feu, et au retrait de la personnalité juridique de

Bundu Dia Kongo par le Ministre de la Justice. Il aurait également accordé une interview à un journaliste de la BBC en visite à Lubumbashi, au cours de laquelle il aurait critiqué de la même manière les violations alléguées des droits des victimes de Kilwa par la justice congolaise.

820. Des craintes ont été exprimées quant au fait que les menaces proférées contre Me Kapiamba soient liées à ses activités non-violentes de protection des droits de l'homme, en particulier dans l'exercice de son droit à la liberté d'expression.

Observations

821. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 15 avril 2008.

Appel urgent envoyé le 21 avril 2008

822. Le Rapporteur spécial, conjointement avec le Président 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, a envoyé un appel urgent sur l'arrestation et la détention de Nsimba Embete Ponte, directeur du journal "L'Interprète" à Kinshasa et de son collaborateur Davin Ntongo Nzovuangu.

823. Selon nos informations, M. Ponte aurait été arrêté le 7 mars 2008 par des hommes en civil armés et non identifiés. Il serait détenu depuis dans les cellules de l'Agence Nationale de Renseignement (ANR) à Kinshasa, sans avoir été inculpé. Il semblerait que depuis son arrestation, Mr. Ponte n'ait eu accès ni à son avocat, ni aux visites de sa famille, ni à des soins médicaux. Les raisons de l'arrestation et de la détention de Mr. Ponte seraient liées à des articles qu'il aurait publiés dans son journal en février 2008, relatant la tentative d'assassinat présumée contre le chef de l'Etat, ainsi que l'état de santé de ce dernier, informations considérées comme "portant atteinte à la sûreté de l'Etat" par l'administrateur de l'ANR.

824. Quant à Davin Ntongo Nzovuangu, il aurait été arrêté le 29 mars 2008 et n'aurait pas été revu depuis.

Observations

825. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 24 avril 2008.

Ecuador

Llamamiento urgente enviado el 1 de julio de 2008

826. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. María Espinosa, integrante de la Comisión de Derechos Humanos de la provincia de Orellana.

827. De acuerdo con la información recibida, el 11 de junio de 2008, la policía nacional habría detenido a la Sra. Espinosa en una imprenta donde retiraba un afiche de denuncia de la violación de derechos humanos, respecto a los disturbios que tuvieron lugar en noviembre de 2007 en Dayuma, en la provincia de Orellana. El material, que aún no había sido difundido por Sra. Espinosa, habría denunciado la actuación de las tropas del ejército y la decisión de enviar fuerzas militares a Dayuma. La susodicha habría sido detenida sin orden judicial ni explicación del motivo de su arresto mas se ha informado que un militar de rango mayor, cuyo nombre me ha sido referido, habría presentado una denuncia en su contra ante la fiscalía de la provincia de Orellana, en la cual se habría afirmado que dicho afiche fuera de carácter calumnioso y difamatorio hacia el Presidente de la República, el Ministro de Defensa y el militar a cargo de la región. El 12 de junio de 2008, la Sra. Espinosa habría comparecido ante el juez, que habría iniciado un proceso penal en base del artículo 230 del Código Penal por “delito de ofensas contra el Presidente de la República” y dictado prisión preventiva, sin precisar el motivo de dicha decisión. La Sra. Espinosa habría sido liberada el mismo día después de que el juez recibiera una comunicación de Presidente Correa, mediante la cual éste habría declarado que no se sentía ofendido. Los cargos judiciales contra la susodicha siguen pendientes y permanece a la espera de su proceso.

828. Se alega que la detención de la susodicha así como los cargos judiciales en su contra podrían estar directamente relacionados con sus actividades en defensa de los derechos humanos, en particular su ejercicio del derecho a la libertad de expresión a fin de promover los derechos humanos en Orellana. Se recordó que la Sra. Espinosa ha sido beneficiaria de medidas cautelares de la Comisión Interamericana de Derechos Humanos (CIDH), a causa de las amenazas de muerte que ha recibido por estas actividades y se expresó preocupación por su integridad física y psicológica.

Observaciones

829. El Relator Especial lamenta no haber recibido respuesta de parte del Gobierno del Ecuador con referencia a la comunicación arriba mencionada.

Siguiendo de comunicaciones transmitidas previamente

830. Con una carta en fecha 2 de julio de 2008, el Gobierno respondió al llamamiento urgente del 10 de noviembre de 2006. El Gobierno informó que “respecto a dichos documentos, relativos a la supuesta intimidación y agresión en contra de la señora Guadalupe de Heredia, integrante del equipo de abogados que representan a las Comunidades Indígenas frente a la petrolera Chevron-Texaco, esta Misión Permanente tiene a bien informar que, de acuerdo al Ministerio Fiscal General del Ecuador, no se ha presentado denuncia alguna por parte de la presunta víctima. Sin embargo el Ministro Fiscal Distrital de Sucumbios y Orellana (E), Nelson Guaman Guerrero, dispuso que previo al sorteo de ley, uno de los señores Agentes Fiscales del Distrito realice las investigaciones respectivas para esclarecer los sucesos denunciados. El Fiscal Distrital se ha comprometido además en informar oportunamente sobre las respectivas investigaciones”.

Observaciones

831. El Relator Especial agradece al Gobierno por su respuesta.

Egypt

Urgent appeal sent on 3 April 2008

832. The Special Rapporteur, together with the President of the Working Group on Arbitrary Detention, sent an urgent appeal concerning Mr. Khaled Hamza, editor-in-chief of “Ikhwan Web” of the “Muslim Brotherhood Organization” and member of the Arab Human Rights Commission.

833. According to the information received, on 20 February 2008, Mr. Hamza was arrested by the police in Naser City, Al Wafaa wal Amal, as he left his office at 3:00 a.m. after participating in a meeting with human rights defenders. He asked one of the police officers whether there was an arrest warrant against him and was reportedly told that “there is no need for a warrant”. He was taken to the center of the security services in Lazoghli, where he was questioned throughout the night until 9:00 am. His heart medicine was reportedly seized. Mr. Hamza’s office was searched by the police and all documents as well as 16 computers were seized. His home was also searched, with documents, books, electronic equipment and computers being confiscated. After his arrest, Mr. Hamza was accused of “belonging to the Muslim Brotherhood Organization” and taken to the Tora Prison. He currently shares his cell with 50 other prisoners, most of whom are allegedly serving criminal sentences. On 9 March, due to his inability to follow his medical treatment in prison, he was urgently taken to Kasr Al Eni hospital.

834. Concern was expressed that the arrest of Mr. Hamza was related to his activities as a member of the Arab Human Rights Commission and as editor-in-chief of a “Muslim Brotherhood” website. Further concern was expressed as regards his state of health.

Observations

835. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication.

Letter of allegations sent on 16 May 2008

836. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, sent a letter of allegations concerning Ms. Magda Adly, a medical professional with the El Nadim Centre for Psychological management and Rehabilitation of Victims of Violence, an organization that assists victims of torture and violence.

837. According to the information received, on 30 April 2008, Ms. Magda Adly was physically assaulted by a police officer in a courtroom in the town Kafr El Dawwar, the district of Beheira. She suffered a broken shoulder, as well as injuries to the head. She lost consciousness for thirty minutes. The assault occurred after Ms. Magda Adly had testified in a case concerning members of a local family who allegedly had been subjected to torture by local police. On the morning of 30 April 2008, El Nadim Centre had released a statement calling for an investigation into the allegations of torture and other ill-treatment of members of the Sobhi Mohamed Sobhi Hussein family by the local police in Kafr El Dawwar. After the assault, the police officer who attacked

Ms. Magda Adly was taken into custody. He later stated that he had been following the orders of Chief intelligence officer Mr. Ahmed Maklad of the Kafr El Dawwar police. During the hearing, the car of Ms. Mona Hamdy, another psychiatrist at the El Nadim Centre, which was parked outside the courtroom, was vandalized under circumstances that are not yet clear.

838. Concern was expressed that the assault against Ms. Magda Adly was related to her legitimate and non-violent work in the defense of human rights, in particular her work to defend the rights of victims of violence and torture. Concern was also expressed for the physical and psychological integrity of Ms. Magda Adly, as well as that of all members of the El Nadim Centre.

Response from the Government

839. In a letter dated 25 July 2008 the Government responded to the communication sent by the Special Rapporteurs on 16 May 2008. The Government reported that domestic mechanisms continue to consider the complaint and are impartially reviewing the allegations of the different parties and the evidence at their disposal. The Department of Public Prosecutions, as an investigative body, is competent to decide whether an offence has been committed and whether or not to proceed with the prosecution. The Buhairah Security Department is in charge with the investigation.

840. When interviewed by the investigative authorities, the accused, Mr. Ahmad Antar Ibrahim Mahmud, denied the charges against him. Medical reports of the persons involved in the incident were taken at the Department of Forensic Medicine and the car of Dr. Magda Mohamed Adali was examined by the Department of Public Prosecutions was examined at the outset of the investigation, and an engineer from the Kafr al-Dawwar transport unit was dispatched to carry out a technical examination of the vehicle.

841. The Buhayra Security Department stated that, according to a fax received from the General Department for Security in Cairo, the accused, Mr. Ahmad Antar Ibrahim Mahmud was a soldier who had been on official leave on 21 April 2008. The fact that he had gone missing had been reported on 29 April 2008. At a hearing held on 17 May 2008, the Misdemeanors Court decided to release the accused, Mr. Ahmad Antar Ibrahim Mahmud. On the same day, the Department of Public Prosecutions appealed the decision. The appeal was heard on 18 May 2008. The court accepted the appeal but decided on the merits to uphold the decision to release the accused, on condition that he was not being sought on another count.

Urgent appeal on 30 June 2008

842. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture sent an urgent appeal regarding Mr. Kamal Murad, a journalist for the newspaper Al-Fajr. He has reported on alleged cases of corruption and human rights violations committed by police officers in Egypt. According to information received, on 17 June 2008, in Rahmaniya in the Buhaira Governorate, Mr. Kamal Murad was arrested and detained after conducting interviews with peasants in Ezbat Mohram and taking photographs of police officers beating peasants, allegedly

to force them to sign leases with a local businessman whose two sons are police officers. Mr. Murad's interview notes and the memory card from his mobile phone containing the photographs of the incident were confiscated.

843. While in detention, Mr. Murad was beaten and verbally abused by three police officers whose names are known to the Special Rapporteur and who reportedly referred to him as "the one who sent the officer to jail for three years". Kamal Murad had previously reported on a torture case which resulted in the conviction and three-year prison sentence of a police officer. Mr. Murad was charged with attacking police officers and inciting the peasants against security forces and released after several hours in detention. His confiscated property has not yet been returned to him.

844. Concern was expressed that the arrest and ill-treatment of Mr. Kamal Murad could be directly related to his activities in defense of human rights, in particular to his reports about alleged human rights violations committed by members of the police force. In view of the incident outlined above, further concern was expressed for the physical and mental integrity of Mr. Murad.

Response from the Government

845. In a letter dated 5 December 2008 the Government responded to the communication sent on 30 June 2008. At the time of the finalization of the current report, a translation of this reply was not yet available.

Urgent appeal on 21 August 2008

846. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr. Mohamed Bayoumi, a lawyer and representative of the Association for Human Rights and Legal Aid (AHRLA). He was the defence lawyer of Ms. Awleel, a Sudanese refugee who was assaulted and raped by two Egyptian police officers. As a result of the court case, one of the police officers was sentenced to 25 years in prison.

847. According to the information received, Mr. Mohamed Bayoumi and members of his family have been harassed and intimidated several times over the past two months. In July 2008, the sentenced police officer offered him a bribe of 50.000 LE in order to drop the charges against him, which Mr. Bayoumi refused. On 2 August 2008, relatives of the sentenced police officer stopped Mr. Bayoumi in the street, beat his leg and stole his case files on Ms. Awleel. On 13 August 2008, his family received a phone call claiming that Mr. Bayoumi had been shot dead and that his body could be found in the morgue. Mr. Mohsen, who is Mr. Bayoumi's partner on the Awleel case, received a similar phone call.

848. Concern was expressed with regard to the acts of harassment and intimidation against Mr. Bayoumi, which are connected with his activities in defense of human rights. Further concern was expressed regarding the physical and psychological integrity of Mr. Bayoumi and that of his family.

Observations

849. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication.

Urgent appeal sent on 31 October 2008

850. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding the alleged threats against Messrs. Nasser Amine and Hammad Wadi Sannd. Mr. Nasser Amine is the Director General of the Arab Centre for the Independence of the Judiciary and the Legal Profession (ACIJLP). Mr. Hammad Wadi Sannd is a lawyer and a researcher with the same organization. The ACIJLP is a non-governmental institution that works to reinforce the status of justice, the independence of the judiciary and the legal profession, and the respect of human rights and fundamental freedoms in the Arab region. In Darfur, Sudan, it works to strengthen the implementation of criminal justice and to advocate for the intervention of the International Criminal Court (ICC).

851. According to the information received, on 25 October 2008 threats were sent by email to the official ACIJLP address by a group which called itself the Middle East Mujahedeen in Cairo. The email threatened to kill Mr. Nasser Amine if he, the ACIJLP, or the International Criminal Court, continued to intervene in the Darfur crisis. Threats were also made against Mr. Hammad Wadi Sannd.

852. Concern was expressed that the threats against Messrs. Nasser Amine and Hammad Wadi Sannd could be related to their legitimate activities in the strengthening of criminal justice in Darfur. Serious concern was expressed for the physical and psychological integrity of Messrs. Nasser Amine and Hammad Wadi Sannd.

Response from the Government

853. In a letter dated 15 January 2009, the Government responded to the communication sent on 31 October 2008. The Government reported that neither the Ministry of Interior, nor the Public Prosecutor's Office had prior information regarding this case. The Government also noted that neither Ms. Nasser Amin, nor Mr. Hammad Wadi has filed a complaint to the Ministry of Interior or the Public Prosecutor's Office that they have received such threats. The Ministry of Interior took note of the aforementioned "Middle East Mujahedeen in Cairo" group and is carrying out investigations regarding its existence.

Observations

854. The Special Rapporteur is grateful for the Government's reply.

Follow-up to previously transmitted communications

855. In a letter dated 11 April 2008, the Government responded to a joint urgent appeal of 11 October 2007. The Government reported that Ahmad Mus`ad Subih and Mohamed Ramadan al-Durayni were arrested on the basis of a warrant issued by the Higher State Security Prosecution Service for giving press interviews in which they alleged falsely that prisoners were

physically abused in prison, in addition to disseminating ideas contradicting and disparaging the fundamental tenets of the Islamic faith. The above-mentioned persons were presented to the Office of the Higher State Security Prosecutor and charged in Supreme State Security case No. 1061/2007 with disseminating false and tendentious statements and information, making provocative claims designed to cause a public disturbance and damage the public interest, disparaging the Islamic faith and spreading ideas contrary to the true faith and its precepts. They admitted the charges and the Office of the Prosecutor gave orders for them to be placed in custody pending further investigations. When the two accused were brought back to the Office of the Prosecutor again, the Office ordered the release of Ahmad Subih, on 10 November 2007, and that of Mohamed al-Durayni on 30 November 2007; the orders of the Office were executed.

Observations

856. The Special Rapporteur is grateful for the Government's reply.

El Salvador

Llamamiento urgente enviado el 16 de mayo de 2008

857. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. Miguel Rogel Montenegro, Director de la Comisión de Derechos Humanos de El Salvador (CDHES). La semana del 5 de mayo de 2008, la Comisión organizó un foro internacional titulado "Impunidad Presente, Justicia Pendiente y Corte Penal Internacional Urgente".

858. De acuerdo con las informaciones recibidas, el 14 de mayo de 2008 la sede de la CDHES en San Salvador habría recibido una llamada telefónica anónima en la cual un hombre con voz grave le habría dicho a la recepcionista, "díle a Montenegro que lo tenemos en la mira" antes de colgar inmediatamente. La CDHES habría tratado de averiguar la proveniencia de la llamada pero sin éxito.

859. Se alegó que esta amenaza en contra del Sr. Miguel Rogel Montenegro podría estar directamente relacionada con sus actividades legítimas en defensa de los derechos humanos en su calidad de Director de la CDHES. Asimismo, se temía que pudiera formar parte de un intento de impedir el trabajo de la organización mediante intimidación, particularmente en cuanto a la cuestión de la justicia por los crímenes cometidos durante el conflicto armado de El Salvador, la impunidad de los cuales sería permitida por la promulgación de la Ley de Amnistía General para la Reconciliación de la Paz de 1993. En vista de lo aquí resumido, se expresa preocupación por la integridad física y psicológica del Sr. Miguel Rogel Montenegro.

Respuesta del Gobierno

860. Mediante carta fechada el 21 de julio de 2008, el Gobierno respondió al llamamiento urgente. La carta confirmó que la CDHES había organizado el seminario denominado "Impunidad presente, justicia pendiente y corte penal internacional urgente", el 5 de mayo de 2008. También indicó que el llamamiento urgente había recibido especial atención por parte del Gobierno de El Salvador, que procedió de forma inmediata a solicitar las

diligencias de investigación pertinentes a las instituciones correspondientes como son la Fiscalía General de la República y la Policía Nacional Civil, informando ambas instancias que no aparecía identificada en sus registros, ninguna denuncia interpuesta por el señor Montenegro, no obstante ello, la Unidad de Derechos humanos de la Fiscalía General se comunicó con el señor Montenegro, a efecto de conocer de primera mano lo acontecido de propiciar el acceso a la justicia, si fuese su voluntad, y que, para tal efecto, presentara su correspondiente denuncia.

861. En seguimiento al caso, el 13 de junio de 2008, el señor Montenegro y miembros del Equipo Técnico Evaluador Número Dos, Región Central, del Programa de Protección a Víctimas y Testigos, de la Unidad Técnica del Sector de Justicia, que está bajo la rectoría de la Comisión Coordinadora de esa área de la Administración Pública, que integra la Fiscalía General, suscribieron un acta en donde el señor Montenegro manifestó que, en efecto, recibió amenazas por vía telefónica y que, por el momento, no deseaba que se le proporcionara la protección personal que le fue ofrecida por personal del Programa de Protección señalado, expresándole, además, que siempre quedaba abierta la disposición de las autoridades de proporcionarle el servicio de protección. En los mismos términos se expresó la Policía Nacional Civil, respecto a facilitarle medidas de protección si las requería.

862. La carta explicó el apoyo del Gobierno para espacios de discusión, como el que fue organizado por la CDHES, y reiteró el compromiso del Gobierno para asegurar la promoción y protección de los derechos humanos y libertades fundamentales de las personas, grupos e instituciones; el respeto al derecho a la vida y protección a la integridad física y mental, la libertad de expresión, opinión y participación política, y la observancia de los derechos establecidos en los instrumentos internacionales sobre la materia.

Observaciones

863. El Relator agradece al Gobierno por su respuesta.

Ethiopia

Urgent appeal sent on 23 January 2008

864. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the government concerning Misses Yalemzawd Bekele, Adane Shewa Megenta, and Alemayehu Fantu Woldeyes. Ms. Yalemzawd Bekele is a lawyer working on projects related to human rights and civil society for the European Commission's office in Addis Ababa, and a prominent civil rights lawyer who volunteered with the Ethiopian Women Lawyers' Association (EWLA), Addis Ababa. Ms. Bekele was the subject of an urgent appeal by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders on 23 October 2006.

865. According to new information received, since 15 January 2008 Ms. Yalemzawd Bekele, Adane Shewa Megenta, and Alemayehu Fantu Woldeyes were being tried before the Federal High Court on the charge of participating in one of the most serious political offences in

Ethiopia, under Article 32(1)(a) and 257(a) of the Revised criminal code of Ethiopia. The basis of this charge, which carries a punishment up to 10 years' imprisonment, was her alleged possession and distribution in September 2006 of a Coalition for Unity and Democracy (CUD) "calendar of civil disobedience" circulating in Moyale town in September 2006. The calendar reportedly advocated solely non-violent civic action.

866. On 19 October 2006, Ms. Bekele was arrested at Moyale at the Ethiopian border with Kenya when she tried to cross the border through the official border post. She was arrested on the basis of a police warrant issued earlier in Addis Ababa in relation to police investigations into the CUD calendar. She was taken to court in Moyale, then transferred to Addis Ababa the next day and held in the Central Police Investigation Bureau known as Maikelawi. She was not taken to court again, but transferred for interrogation on 27 October 2006 to the Woreda (District) 8 police station, where over 100 CUD detainees were also held there in connection with the CUD calendar. She was reportedly arrested on the basis of a "confession" obtained under torture by one of these detainees. She was later released on the same day unharmed and unconditionally. On 25 October 2007, she was summoned to appear in court.

867. Concern was expressed that the charge against Ms. Yalemzawd Bekele, Adane Shewa Megenta, and Alemayehu Fantu Woldeyes could be linked to their non-violent activities in defence of human rights in Ethiopia. Further concern was expressed that Ms. Yalemzawd Bekele, Adane Shewa Megenta, and Alemayehu Fantu Woldeyes could not enjoy a fair trial.

Observations

868. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication.

Letter of allegations sent on 17 July 2008

869. On 17 July 2008, the Special Rapporteur, together with the then Special Representative of the Secretary-General 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 might result from the adoption and implementation of the draft law "Charities and Societies Proclamation".

870. According to information received, there were concerns that the Charities and Societies Proclamation (hereinafter "the Proclamation") would result in an excessive control of the activities of civil society organizations (CSO) by the Government. The Proclamation had a narrow definition of Ethiopian CSOs whereby if any of a CSO's members were foreign or more than ten per cent of its funding came from foreign sources the CSO would be classed as foreign and would therefore face the same restrictions which would be placed on foreign non-governmental organizations (NGOs) under the Proclamation. These restrictions included prohibition from work in certain fields, including human rights, unless the NGO in question was chosen as an exception by the government.

871. A taskforce of CSO representatives brought concerns about the Proclamation to the attention of the Minister of Justice and the Prime Minister in meetings held on 6 May and 24 May 2008, respectively. While the Government of Ethiopia was encouraged to engage in regular consultations with CSOs, particularly on draft laws affecting them, concerns were expressed at the provisions of the draft Proclamation.

872. In particular, concern was expressed about provisions in the Proclamation, which threatened to curtail freedom of association and freedom of expression in Ethiopia by introducing penalties of up to 15 years' imprisonment for attending meetings of unregistered NGOs or disseminating information in the interests of unregistered charities.

873. Under the Proclamation the Government would be at liberty to decide whether NGOs should be legally registered or not through the Charities and Societies Agency (CSA), a body which would be established with the adoption of the Proclamation. The CSA would be accountable to the Ministry of Justice; its Director would be appointed by the Prime Minister after being nominated by the Minister for Justice; and its Deputy Directors would be appointed by the Minister for Justice after being nominated by the Director. Only NGOs registered under the CSA would be allowed to operate. NGOs recognized within the existing legislation would have to re-register and would possibly run the risk of not being granted registration by the CSA. Concern was also expressed that the CSA would have the authority to appoint and dismiss NGO officials while the Proclamation would remove the right of NGOs to appeal the decisions of the CSA in an independent court. NGOs would also be obliged to inform the CSA of any meetings with at least a week's notice. The CSA would then be allowed to send an investigator to participate and report, search the property of organizations and confiscate documents without a warrant, thus breaching the right to privacy of the NGOs.

874. Further concern was expressed at the position taken by the Prime Minister, who reportedly stated that rules against foreign NGOs, foreign contributions to local organizations and the participation of foreign NGOs in areas such as human rights were a way of protecting Ethiopia against foreign intervention.

875. Concern was expressed that the Charities and Societies Proclamation would restrict the legitimate work of Ethiopian CSOs and NGOs and international NGOs, including work in the defense of human rights. The Government of Ethiopia was therefore urged to consider revising the draft in compliance with international norms, standards and recommendations.

Observations

876. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 17 July 2008.

Letter of allegations sent on 15 August 2008

877. The Special Rapporteur sent a letter of allegations to the Government in relation to independent Amharic-language weekly Awramba Times, in Addis Ababa.

878. According to information received, on 4 August 2008 staff members at Awramba Times received two separate phone warnings, allegedly from senior police officials, demanding an end to reporting on 'anti-constitutional organizations.' The warning referred to the newspaper's extensive coverage of the activities of Ginbot 7, a new party based in the Netherlands and headed by leading opposition figure Mr. Berhanu Nega. On 29 July 2008, an article was published in Awramba Times revealing Ginbot 7's alleged plan to launch a radio programme which will broadcast into Ethiopia via satellite and the Internet.

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

Observations

880. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication.

Fiji

Letter of allegations sent on 31 March 2008

881. The Special Rapporteur sent an allegation letter to the Government regarding Mr. Russell Hunter, publisher of the Fiji Sun newspaper. According to the information received, on 26 February Mr. Russell Hunter, an Australian national, was removed from Fiji after being arrested the day before by men who claimed to be officials of the Immigration Department. He was subsequently declared a security risk and prohibited immigrant. The office of the Minister of Defense and Immigration reportedly issued a statement claiming that Mr. Hunter had acted in a manner that was "prejudicial to the peace, defense, public safety, public order, security and stability of the sovereign state of the Fiji Islands". Prior to Mr. Hunter's arrest and removal, the Fiji Sun had reportedly published critical articles concerning tax affairs involving the Minister of Finance.

Observations

882. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication.

Urgent appeal on 14 April 2008

883. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, the Vice-Chairperson of the Working Group on Arbitrary Detention, sent an urgent appeal on the situation of Ms. Shammima Ali, Coordinator of the Fiji Women's Crisis Center, Ms. Edwina Kotoisuva, Deputy Coordinator of the Fiji Women's Crisis Center, Ms. Tevita Seruilumi, Legal Officer of the Fiji Women's Crisis Center, Ms. Noelene Nabulivou, Coordinator of Women's Action for Change, Ms. Unaisi Dobui, Ms. Tara Chetty, Ms. Susan Naidu, Ms. Michelle Reddy, Ms. Neihmah Khan, Ms. Claire Slatter, Ms. Shirley Tagi and Ms. Marlene Datta, all members of the Fiji Women's Rights Movement. According to the information received:

884. On 10 April 2008, the aforementioned twelve women human rights defenders were arrested and detained by the police as they stood peacefully at the seawall opposite the Chinese Embassy at Nasese Road, Suva Point, Queen Elizabeth Drive in Suva. The protest was organized in connection with the current events in the Tibet Autonomous Region in China.

885. Concern was expressed that the arrest and detention of the aforementioned twelve human rights defenders may be solely linked to their reportedly non-violent activities in defense of human rights, in particular in the exercise of their rights to freedom of expression and assembly.

Observations

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

Letter of allegations sent on 18 August 2008

887. The Special Rapporteur sent an allegation letter to the Government regarding Ms. Serafina Salaitoga, a reporter with the Fiji Times and Mr. Isaac Lal, a journalist with the Daily Post.

888. According to information received, on 10 August 2008, Ms. Serafina Salaitoga was arrested by eight police officers at her home in Labasa, in the presence of her children. Ms. Salaitoga, who is pregnant, was reportedly taken away and interrogated at length in a local police station. Ms. Salaitoga was released from custody later the same day. The day prior to her arrest, an article written by Ms. Salaitoga and published in the Fiji times, quoted businessman Mr. Charan Jeeth Singh as criticising Finance Minister Mr. Mahandra Chaudhry. On 2 August 2008, Mr. Isaac Lal was arrested by Crime Investigation Officers (CID) at his home, and brought to the local police station for questioning. Mr. Lal was reportedly interrogated for a period of approximately six hours in relation to an article he had written which quotes a police spokesperson as linking an alleged offender, to a suspected plot to assassinate national leaders. The police spokeswoman on the case reportedly complained about being quoted in Mr. Lal's report.

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

Response from the Government

890. In a letter dated 18 August 2008, the Government acknowledged receipt of the letter sent by the Special Rapporteur.

Observations

891. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Gambia

Urgent appeal sent on 1 April 2008

892. The Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal on the situation of Mr. Yaya Dampha, a journalist who worked for the Gambian newspaper Forayya and investigated cases of enforced disappearances, arbitrary detention, torture and other human rights violations. On 6 October 2007, Mr. Dampha was arrested for “espionage”, and was conditionally released six days later. Continuous threats against him and his family reportedly from agents of the National Intelligence Agency (NIA) forced Mr. Dampha to seek refuge in Senegal. Mr. Dampha was the subject of a joint allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 11 October 2007.

893. According to the information received, on 10 March 2008 two members of NIA reportedly visited in Senegal the residential complex where the flat of Mr. Dampha is located, and asked his neighbours where he was. Mr. Dampha then approached the two men who invited him to follow them immediately in order to discuss “an urgent matter”. Facing the refusal of Mr. Dampha, a third agent was called to force him to enter a car without any license plate. Screams of protest and requests for help from Mr. Dampha alerted the neighbours and people quickly gathered around the vehicle. The three NIA agents then fled the scene.

894. On 11 March 2008, members of the National Intelligence Office of Senegal (Bureau national de renseignement du Sénégal) reportedly invited Mr. Dampha to file a complaint, and told him that an investigation on this incident will be conducted.

895. Concern was expressed that the attempt to abduct Mr. Dampha in Senegal as well as the acts of harassment against him and his family which reportedly forced him to flee Gambia may be linked to his non-violent activities in defense of human rights.

Observations

896. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 1 April 2008.

Letter of allegations sent on 14 April 2008

897. The Special Rapporteur sent an allegation letter regarding the situation of Fatou Jaw Manneh, a Gambian journalist who has been living in the USA for the past decade.

898. According to information received, Ms. Manneh returned to Gambia for her father’s funeral in March 2007. It was reported that she was arrested by officers of the National Intelligence Agency (NIA) upon her arrival in the country on 28 March and accused of sedition, for an article she published in the now-banned newspaper “The Independent” in June 2004 - article which was posted on the US-based “AllGambian.net” website in October 2005, in which she accused President Yahya Jammeh of “tearing our beloved country to shreds”, calling him a “bundle of terror”. After her arrest, Ms. Manneh was detained for one week, without access to a

lawyer and her family, after which she was released on bail; however, her travel documents were confiscated, preventing her to return to the USA. On 4 April 2007, Ms. Manneh appeared before a court in Kanifing, and was charged under the criminal code with “intention to commit sedition”, “publication of seditious words” and “publication of false news intended to cause public fear and alarm to the Gambian public”. It is reported that if found guilty of the charges brought against her, Ms. Manneh faces a maximum of 6 years in prison. Several hearings were held since then, the latest on 17 March 2008. At this last hearing, the trial magistrate Judge Buba Jawo indicated that he did not have Ms. Manneh’s file before him and adjourned the case indefinitely.

Observations

899. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 14 April 2008.

Georgia

Urgent appeal sent on 8 September 2008

900. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr. Saba Tsitsikashvili, a journalist and HRIDC coordinator for the Shida Kartli region of Georgia. According to the information received, on 1 September 2008 Mr. Tsitsikashvili was covering a demonstration in Karaleti village, Shida Kartli region, when he was physically and verbally assaulted by several high-ranking officials. Mr. Lado Vardzelashvili, the Governor of Shida Kartli and Mr. Zurab Chinchilakashvili, the Deputy Governor grabbed him and threatened him with disappearance if he continued his activities. After this verbal abuse two unknown persons appeared and beat his ribs and legs. Afterwards he was again beaten near the car of the Governor of Gori District, Mr. Davit Khmiadashvili, in the presence of the Deputy District Governor, Mr. Giorgi Kvitsinadze.

901. Concern was expressed that the physical and verbal harassment of Mr. Tsitsikashvili may be solely connected to his peaceful activities in the defence of human rights. Further concern was expressed regarding the physical and psychological integrity of Mr. Tsitsikashvili.

Response from the Government

902. In a letter dated 22 October 2008, the Government responded to the communication sent by the Special Rapporteurs on 8 September 2008. The Government assured that it is fully aware of obligations incumbent upon it by the Declaration on human rights defenders. The Government noted that it deemed the physical and psychological integrity of Mr. Tsitsikashvili is of utmost importance and that it is at the same time cognizant of his rights to freedom of expression and the right to pursue his activities as a journalist. The Government reported that on 5 October 2008, the Gori District Unit of the Ministry of Internal Affairs of Georgia initiated an investigation into the alleged unlawful interference in the journalistic activity of Mr. Tsitsikashvili, a crime sanctioned in Article 154 of the Criminal Code of Georgia. The Government also noted that Mr. Tsitsikashvili has never applied to the police concerning the facts mentioned in the communication, and the investigation was launched in response to the

letter received from the Office of the Public Defender (Ombudsman) of Georgia. In the course of the investigation Mr. Tsitsikashvili was interrogated as a victim and other investigative activities are being carried out. The Government also noted that it will provide further updated information on the developments of the case.

Observations

903. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 20 October 2008

904. The Special Rapporteur sent an allegation letter regarding the situation of Mr. Dariusz Bohatkiewicz, a reporter and Mr. Marcin Wesolowski, a cameraman working with the Polish television station "Telewizja Polska" (TVP), and Mr. Levan Guliashvili, a Georgian national and driver employed by TVP.

905. According to information received, on 8 September 2008 when Mr. Dariusz Bohatkiewicz, Mr. Marcin Wesolowski, and their driver, Mr. Levan Guliashvili, tried to enter the buffer zone between South Ossetia and Georgia to cover an expected Russian troop withdrawal, they were prevented from entering the village by Russian troops stationed at a checkpoint when they failed to produce press accreditation issued by the Russian Foreign Ministry. Following this, when they tried an alternative route, at approximately 4 p.m., they were arrested near the village of Karaleti by members of a unit claiming to be from the South Ossetian police. They took the crew by car to an unknown location, where they questioned them for approximately three hours. They then transferred them to the South Ossetian regional capital, Tskhinvali, where they detained them overnight. The crew's equipment and cell phones were confiscated. One of the crew members reportedly managed to send a text message to TVP's Tbilisi office before his phone was seized, saying that they had been detained and that they were not being mistreated. On 9 September, Mr. Dariusz Bohatkiewicz, Mr. Marcin Wesolowski, and Mr. Levan Guliashvili were released from detention and transferred to the custody of Russian peacekeepers who subsequently turned them over to Georgian authorities and Polish diplomats. Their equipment and car was returned to them undamaged.

906. Concern was expressed that the aforementioned events could represent a direct attempt by authorities operating in South Ossetia to prevent independent reporting in the region, following the conflict between Georgia and the Russian Federation.

Response from the Government

907. In a letter dated 27 October 2008, the Government responded to the communication sent by the Special Rapporteurs on 20 October 2008: The Government noted that it fully commits itself to the relevant human rights and humanitarian law obligation incumbent upon the State of Georgia in form of relevant international instruments as well as customary international law. Against this background, the Government informed it has taken relevant measures in order to investigate any allegations of human rights and humanitarian law violations that has taken place in the course of Russia's invasion and subsequent occupation of the parts of the territory of Georgia. In that respect, the Investigative Unit of the Office of the Prosecutor General of Georgia initiated investigation into the facts of violation of the rules of international humanitarian law

committed in course of an armed conflict on the territory of Georgia, the crime envisaged under article 411 of the Criminal Code of Georgia. The investigation covers all relevant incidents and alleged facts of human rights abuses committed in armed conflict. The Government noted that the fact mentioned in the letter had not been brought to the attention of the Georgian law enforcement authorities. The information contained in the letter would serve as the basis for carrying out specific investigative measures into the aforementioned facts.

Observations

908. The Special Rapporteur is grateful for the Government's reply.

Follow-up to previously transmitted communications

909. In a letter dated 28 February 2008, the Government responded to the urgent appeal of 13 November 2007. The Government reported that about the facts that took place on 2 November 2007, and with especial regard to the bodily injuries inflicted upon several persons as a result of the activities occurred. While the investigation is underway, 12 people were detained, 5 of them were treated at the hospitals and the remaining were held for various violations of law.

910. In a letter dated 28 February 2008, the Government replied to the communication sent on 13 November 2007. In its reply, the Government informed that "the incident on 7 November 2007 represented part of the chain of event that developed since the beginning of November 2007 in Georgia. Therefore, the measures taken were aimed at restoring the public order and responding to the national security concerns existing within the country in the course of the existing situation". The Government informed that it acted in accordance with the international norms and standards that govern the limitation of certain rights and freedoms as well as situation of national emergency. It stated that Georgia, as a party to the ICCPR, has abided to the rules and procedures emanating from the aforementioned treaty. The Government also provided a detailed account of the events of 7 November 2007. In addition, the Government explained the circumstances that led to the declaration of the state of emergency, explaining that the situation in the capital was "extremely tense and constituted a threat to the well being of the nation". The Government added that "the decision was motivated by the attempted *coup d'état* that threatened the life of the nation. In order to deter the threat and due to the necessity to avoid further disturbances in the country and ensure restoration of the rule of law and effective functioning of the government institutions certain constitutional rights of the citizens were restricted by the Presidential Decree No. 1 of the Measures to be Taken in relation to the State of Emergency Declared in the Whole Territory of Georgia. In particular, the limitations have been imposed on the enjoyment of the rights under Article 24 (Freedom of Expression), Article 25 (Freedom of Assembly and Manifestation) and Article 33 (Right to Strike) of the Constitution of Georgia". The Government stated that the decision on the declaration of the State of Emergency and the specific measures undertaken thereafter were taken in full conformity with the Georgian legislation and the margin of appreciation given by Article 4 of ICCPR and Article 15 of the European Convention on the Protection of Human Rights and Fundamental Freedoms. The Government also provided information regarding the investigations into the alleged physical insult upon the Ombudsman of Georgia, which was ongoing at the time of the response. In addition, the Government provided information concerning investigations into the physical abuse of protesters on 7 November 2007, which was also ongoing at the time of the reply.

Observations

911. The Special Rapporteur is grateful for the Government's reply.

Greece

Letter of allegations sent on 25 January 2008

912. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, sent a letter of allegations to the Government concerning Mr. Panayote Dimitras, spokesperson for the Greek Helsinki Monitor and a member of the OMCT Assembly of Delegates, Ms. Andrea Gilbert, GHM's specialist on anti-Semitism, and Messrs. Moses Konstantinis, Benjamin Albala, Abraham Reitan and Leon Gavriilidis, four members of the Central Board of Jewish Communities in Greece (Kentriko Israilitiko Symvoulío - KIS).

913. According to information received, all of the aforementioned testified against Mr. Kostas Plevris on 4 December 2007 during a trial against him and the extreme-right newspaper Eleftheros Kosmos which had published articles from Mr. Plevris' anti-Semitic book entitled *The Jews - The whole truth*. In the book, Mr. Plevris reportedly alleges that "Jews are sub-human, mortal enemies and worthy of the firing squad", that "Hitler is only criticized for not clearing Europe of the Jews" and that "[Auschwitz] is rightly preserved in good condition, because nobody knows what might happen in the future". Mr. Plevris was convicted of 'incitation to racial violence and hatred and for racial insult' and was reportedly given a 14-month suspended sentence.

914. Following the trial on 4 December, Mr. Dimitras was verbally abused by a journalist who reportedly tried to assault him. Later that evening, a video showing the attempted assault was uploaded on the internet with messages inciting viewers to take action against Mr. Dimitras. Threatening messages have also been found on fora linked to extremist right movements in Greece. Mr. Plevris has also reportedly taken legal action against the aforementioned, accusing them of defamation. Further complaints have been filed by Mr. Plevris against GHM and NGOs in general reportedly claiming they are redundant, illegal and implying they are foreign agents. It is alleged that these complaints again contain racist and defamatory comments; however trial dates have reportedly been set for later in 2008.

915. Concern was expressed that the harassment of the aforementioned, the threats made against them and the judicial proceedings initiated, may be directly linked to their human rights activities, particularly their activities against discrimination and anti-semitism in Greece.

Response from the Government

916. On 18 April 2008, the Government responded to the communication sent 25 January 2008. The Government emphasized that Mr. K. Plevris was sentenced to fourteen months of imprisonment by the Court of Appeals of Athens, with suspension, on the grounds that he "publicly and intentionally incited, through the press, the commission of acts and activities conducive to discrimination, hatred and violence against persons and groups of persons, on the

sole basis of their racial and national origin, while at the same time he expressed ideas which are insulting against a group of persons due to their racial and national origin, namely the Jews”.

917. According to the Government, the sentence was in conformity with the Greek Constitution. In addition, Law No 927 of 1979 criminalizes acts or activities aiming at racial discrimination, in implementation of both the relevant constitutional provisions as well as of the relevant international obligations of the country, particularly those deriving from the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention for the Protection of Human Rights and Fundamental Freedoms. In the case against Mr. Plevris, the Government emphasized that the prosecution for anti-Semitic propaganda took place proprio motu in application of the provisions of the said law, which criminalizes acts or activities aiming at racial discrimination, as amended, in order to provide for proprio motu prosecution, without any need for individual complaints. There was no information with regard to Mr. Dimitras' claims about verbal attack and threats against him as described in the urgent appeal, as no relevant complaint has been filed to the Greek Authorities. Furthermore, Mr. Plevris, who has been sentenced to fourteen months of imprisonment, with suspension, has filed two lawsuits and has also lodged complaints in order to restore the moral damage which he claims to have suffered due to the alleged malicious defamation of his person by Mr. P. Dimitras and others as mentioned on your letter, on the basis that they testified against him in the above mentioned trial as well as because, as he claims, they systematically and publicly support views in a manner which constitutes an insult against his personality. The government emphasized that these cases are pending.

918. The first lawsuit was filed in January 2007 against Mr. Moses Konstantinis, Mr. Benjamin Albala, Mr. Abraham Reitan, Mr. Leon Gavriilidis, Mrs. Andrea Helen Gilbert and Mr. Panayote Dimitras. This case was to be discussed on January 24th 2008, but the court decided not to go ahead with the case. The second lawsuit was filed on 25th of January 2007 against Mr. Panayote Dimitras and the Greek Helsinki Monitor. This case was to be discussed on February 7th 2008, but at the court house only the plaintiff was present, the defendants did not appear and a request for postponement was filed. This case is now to be tried on October 10th 2009.

919. The Government reiterated that it is the right of any Greek citizen to launch judicial proceedings and this cannot in any way be considered as a judicial harassment. The same right applies both to Mr. Dimitras and to Mr. Plevris.

Observations

920. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 29 October 2008

921. On 29 October 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr. Makis Nodaros, a journalist and human rights defender. Mr. Nodaros works for the Athens daily Eleftherotypia, the Patras daily Imera, and the Patras TV station Teletime, and the Patras radio station Radio Gamma, and he is host of the daily programme of the Elia radio station Ionian FM.

922. According to the information received, on 23 October 2008, Mr. Makis Nodaros was attacked by unidentified men as he was returning home after his morning radio show. Two individuals attacked him and beat him until he fell down and started bleeding. They also stole his mobile phone and tried to break his laptop. The assailants later fled on a motorcycle. Mr. Makis Nodaros published several articles recently exposing corruption and mismanagement of relief aid received by local authorities for victims of the forest fires of 2007. He also wrote articles about an alleged corruption case involving the mayor of Zacharo.

923. Concern was expressed that the assault on Mr. Nodaros could have been related to his work in defence of human rights, especially his articles about alleged corruption and mismanagement cases involving local officials and authorities. Further concern was expressed that the aforementioned events may have represented a direct attempt to prevent independent reporting in Greece, thus stifling freedom of expression in the country.

Response from the Government

924. In a letter dated 9 December 2008, the Government responded to the urgent appeal. The Government stated that according to Mr. Nodaros's deposition to the Police Authorities, the two perpetrators of the attack against him were waiting for him outside his home address on 23 October 2008 and, after making sure of his identity, they attacked him, although not provoked, by fists and kicks, causing him bodily injuries (art. 308 A' of the Penal Code). During the incident and as a result of it, Mr. Nodaros dropped his laptop and his mobile phone, which were subsequently taken by the perpetrators (art. 372 of the Penal Code) who left the scene by motorcycle. Immediately after the incident Mr. Nodaros went to the Health Centre of Gastouni where he was examined by doctors. It was found that he had suffered scratches on his elbow, his knee and the hair part of his head. After he was treated accordingly, he left the hospital.

925. The Police Station of Lechaina became involved in the case as soon as it was notified and started inquiries together with the Sub-Directorate for Public Safety of Pyrgos and the Security Division of Amaliada under the supervision of high-ranking officers of the competent Police Directorate. A preliminary investigation was also initiated by the Sub-Directorate for Public Safety of Pyrgos under the monitoring and supervision of the Public Prosecutor's Office of Amaliada. Both investigations for substantiating the facts of the case and finding the perpetrators are under way, but no conclusive result has been reached so far. The two perpetrators have not been identified yet. All possible aspects are under investigation, since all allegations concerning journalists, whether human rights defenders or not, are of particular importance.

926. According to Mr. Nodaros, the assault on him is related to a story he had published in the newspaper he is working for, concerning illegal construction activities in the "KAIAFA" forest of Zacharo. Apart from that, however, the police authorities are also investigating a possible connection to some other cases that Mr. Nodaros's research had brought to the surface. These cases include alleged corruption of public servants, issues concerning environmental protection etc. that may have led some people to commit the aforementioned acts.

927. The letter expressed the Greek authorities' intention to look, in depth and to the extent possible, into the case under discussion since they attach the utmost importance in upholding the provisions of the Greek Constitution and the respective Laws as well as those arising from relevant international obligations of the country.

Observations

928. The Special Rapporteur is grateful for the Government's reply.

Guatemala

Llamamiento urgente enviado 20 de marzo de 2008

929. 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, envió a la atención urgente del Gobierno información recibida en relación con el asesinato del Sr. Miguel Ángel Ramírez Enríquez, uno de los fundadores de SITRABANSUR (Sindicato de Trabajadores Bananeros del Sur), que habría sido asesinado en el pueblo de El Semillero, departamento de Escuintla, a unos 150 kilómetros de la Ciudad de Guatemala. Quiero también expresar mi preocupación en relación con las amenazas en contra de otros sindicalistas de SITRABANSUR. El sindicato SITRABANSUR fue creado por trabajadores del sector bananero en julio de 2007 para negociar un convenio colectivo.

930. Según los informes, los propietarios de la plantación no pagarían el salario mínimo, ni tampoco la seguridad social y otras contribuciones. El 20 de noviembre de 2007, todos los miembros fundadores del sindicato, incluidos sus dirigentes y sus familias, habrían sido despedidos de sus empleos y desalojados de sus casas, al parecer a consecuencia de sus actividades sindicales. Los Sres. Germán Aguilar Brego, Alberto López Pérez y Víctor Manuel Gómez habrían denunciado que, el día anterior, habían recibido una amenaza de muerte de un miembro del cuerpo directivo de la plantación bananera. Los Sres. Aguilar Brego, López Pérez y Gómez fueron objetos de un llamamiento urgente enviado por la Representante Especial del Secretario General para los defensores de los derechos humanos el 30 de noviembre de 2007.

931. El 2 de marzo de 2008, dos hombres armados y con el rostro cubierto por pasamontañas habrían estado acechando cerca de la casa del Sr. Ramírez Enríquez. Cuando éste regresó a su casa, habrían abierto fuego contra él. El Sr. Ramírez Enríquez habría entrado corriendo en la casa y habría tratado de escapar por la puerta trasera. Uno de los hombres lo habría seguido, mientras el otro habría rodeado la casa para interceptarlo y lo habría arrojado al suelo. El Sr. Ramírez Enríquez habría tratado de huir, pero le dispararon por la espalda. Luego le habrían disparado varias veces más, mientras yacía herido en el suelo. Habría muerto unas dos horas después en el hospital. Los informes iniciales indican que su cadáver presentaba cuatro heridas de bala y al menos una de arma blanca.

932. Los familiares del Sr. Ramírez Enríquez habrían declarado que, unos 15 días antes de ser asesinado, habría dicho que los gestores de la plantación le habían ofrecido dinero para que dimitiera de su cargo en SITRABANSUR. También habría dicho que había recibido amenazas de muerte telefónicas.

933. Otros miembros del Comité Ejecutivo de SITRABANSUR habrían sufrido intimidación. El 29 de febrero, el Sr. Víctor Manuel Gómez Mendoza habría informado que unos hombres

no identificados habían preguntado a su vecino por su paradero. El 3 de marzo, el Sr. Alberto López Pérez habría afirmado que unos hombres no identificados habían estado vigilando su casa. Durante la noche del 8 de marzo, unos intrusos habrían entrado en su casa, pero el Sr. López Pérez y su familia habrían logrado escapar.

934. Se temía que el asesinato del Sr. Ramírez Enríquez y las amenazas contra los sindicalistas de SITRABANSUR estaban relacionados con su labor en defensa de los derechos humanos, en particular los derechos de los trabajadores del sector bananero. Estos hechos, de ser confirmados, se enmarcan en el cuadro de gran inseguridad y riesgo que constatado por la Representante Especial durante su visita a Guatemala en febrero de 2008. En su comunicado de prensa, la Representante Especial señaló que “entre los grupos más afectados se cuentan los defensores que trabajan en los derechos económicos, sociales y culturales” y que “otros sectores de la comunidad de defensores sufren ataques específicos a su ámbito de trabajo, entre otros, los sindicalistas”.

Respuesta del Gobierno

935. Mediante carta fechada el 1 de julio de 2008 el Ministerio de Relaciones Exteriores respondió al llamamiento urgente por parte del Gobierno de Guatemala. La carta confirmó que el Sr. Miguel Ángel Ramírez Enríquez falleció el 2 de marzo de 2008.

936. La carta indicó que dentro de la investigación de la Fiscalía General del Ministerio Público que se había realizado una serie de diligencias, entre ellas: se ofició informes de registros públicos. Según la carta, el Sr. Ramírez Enríquez fue miembro del SITRABANSUR pero nunca ocupó ningún cargo en el mismo y que retiró del sindicato en el mes de noviembre de 2007, al ser despedido de la Finca María Olga. Asimismo, informó que el Sr. Ramírez Enríquez no sabía leer ni escribir y en una denuncia (MP062/2007/1782) que se hizo ante el ministerio Público, expresó que había sido engañado por los miembros del sindicato. Asimismo el Sr. Ramírez Enríquez, de acuerdo declaraciones de entrevistados en el curso de la investigación, había expresado temor hacia los miembros del SITRABANSUR.

937. Informó que la Fiscalía General solicitó a la Policía Nacional Civil (PNC) designar personal para la seguridad de los miembros del Comité Ejecutivo del SITRABANSUR. Asimismo, el Ministerio de Gobernación informó que se giraron órdenes para que el Distrito Sur de la PNC adoptara las medidas de seguridad necesarias.

Observaciones

938. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 28 de marzo de 2008

939. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió a la atención urgente del Gobierno la información recibida en relación con los ataques contra la casa del Sr. Guillermo Chen, director de la organización no gubernamental Fundación Nueva Esperanza, Río Negro. La Fundación Nueva Esperanza hace campaña para pedir justicia por los delitos cometidos durante el conflicto armado interno de Guatemala (1960-1996). En particular, en febrero de 2008, Guillermo Chen habría aparecido al

menos 15 veces en una emisora de radio local pidiendo que los pueblos indígenas asistieran a las vistas judiciales públicas sobre la masacre de Río Negro, perpetrada el 13 de marzo de 1982, en la que civiles armados habrían matado a 177 mujeres y niñas indígenas.

940. Aparte de trabajar sobre las violaciones de derechos humanos cometidas durante el conflicto armado interno, la Fundación Nueva Esperanza respalda a los descendientes de las víctimas de la masacre, proporcionándoles programas de educación que incluyen las lenguas y la cultura indígenas.

941. Según la información recibida, el 5 de marzo de 2008, hacia las nueve de la noche, dos personas habrían pasado en bicicleta junto a la casa del Sr. Chen en la ciudad de Rabinal, departamento de Baja Verapaz, en el centro de Guatemala, y habrían realizado seis disparos contra su puerta. Guillermo Chen y su familia estarían dentro de la casa, pero nadie habría resultado herido.

942. Se temía que los disparos contra la casa del Sr. Chen podían estar relacionados con su labor en defensa de los derechos humanos, en particular en el campo de la justicia y del derecho a la verdad para los crímenes cometidos durante el conflicto armado. Se temía por su seguridad, la de los miembros de su familia y de los otros miembros de la Fundación Nueva Esperanza.

Respuesta del Gobierno

943. Mediante carta fechada el 2 de julio de 2008, el Gobierno respondió al llamamiento urgente a través del Ministerio de Relaciones Exteriores. La carta informó que la Fiscalía General del Ministerio Público indicó en su informe que la Fiscalía a cargo tuvo conocimiento de los hechos el día 23 de marzo de 2008, a través de un correo electrónico, por lo que de oficio se inició la investigación correspondiente. Por su parte el Ministerio de Gobernación indicó en su informe que el 5 de marzo de 2008 a eso de las 21h05 el señor Guillermo Chen Morales fue víctima de un atentado perpetrado por personas desconocidas, quienes efectuaron disparos a su vivienda.

944. El Ministerio indicó que el Sr. Guillermo Chen Morales presentó una denuncia la cual fue trasladada a la Sub-estación 52-21 de la Policía Nacional Civil. El Ministerio Público indica dentro de su investigación se han realizado una serie de diligencias, entre ellas: se tomó la declaración testimonial del Sr. Chen; se remitió de oficio a la Dirección de Investigaciones (DINC) de la Policía Nacional Civil, para que realizaran las investigaciones en relación al hecho denunciado. Por su parte, el Ministerio de Gobernación informó que al no haber sido posible identificar a los responsables que atentaron contra el Sr. Chen, no había sido posible dar seguimiento al caso. El Ministerio Público indicó que solicitó al Ministerio de Gobernación brindar medidas de seguridad al Sr. Chen. Asimismo, la Policía Nacional Civil se presentó en el Domicilio del Sr. Chen a quien se le informó que por los hechos ocurridos en su inmueble, se le brindaría seguridad perimetral a su domicilio por medio de patrullajes motorizados.

Observaciones

945. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Carta de alegaciones enviada el 1 de abril de 2008

946. El Relator Especial envió una carta de alegaciones al Gobierno en relación con el asalto a un autobús procedente de Río Hondo, donde viajaba un grupo de periodistas que se dirigía a la capital.

947. Según las informaciones recibidas, el 25 de marzo de 2008, un grupo de periodistas que se encontraban en un autobús procedente de Río Hondo y que iban camino de la ciudad capital fue interceptado por dos hombres que los amenazaron y apuntaron con armas de fuego. Según fuentes, los hombres estarían vinculados a grupos de narcotraficantes guatemaltecos y mexicanos. Según fuentes, otros cuatro individuos habrían robado un vehículo a periodistas del periódico Siglo XXI.

Observaciones

948. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 10 de abril de 2008

949. El Relator Especial, junto con con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Monseñor Álvaro Ramazzini, Obispo de la Diócesis de San Marcos. Monseñor Ramazzini es Miembro de la Conferencia Episcopal de Guatemala y de la Mesa de Alto Nivel sobre la Minería. El Obispo ha acompañado a las comunidades de la zona en su resistencia en torno a la minera Montana y su impacto; y junto con la Pastoral, ha presentado una crítica de la Ley de Minería.

950. De acuerdo con las informaciones recibidas, el 31 de marzo de 2008, una persona cercana al Monseñor caminaba por la zona cuatro de San Marcos, cuando se le habría acercado una camioneta. Se habría bajado del vehículo un hombre que habría agarrado a la persona mencionada del brazo izquierdo y mostrándole una pistola le dijo: “Dígale a ese cura, que deje de estarse metiendo en lo que no le importa porque sus días están contados”. Se le habría preguntado al hombre que si refería a otro cura y el hombre habría aclarado que hablaba de Monseñor Ramazzini. Posteriormente el hombre habría empujado a la persona mencionada con la pistola y se habría subido al vehículo y partido.

951. Se alegó que las amenazas en contra de Monseñor Álvaro Ramazzini podrían estar directamente vinculadas con su trabajo en defensa de los derechos humanos, en particular sus actividades respecto a la Ley de Minería. Asimismo, se expresó profunda preocupación por la integridad física y psicológica de Monseñor Ramazzini.

Respuesta del Gobierno

952. Mediante carta fechada el 2 de julio de 2008, el Gobierno respondió al llamamiento urgente a través del Ministerio de Relaciones Exteriores. La carta informó que la Fiscalía General del Ministerio Público indicó en su informe que la denuncia relacionada con las

supuestas amenazas en contra del Obispo relató los hechos ocurridos el 31 de marzo de 2008. El Ministerio de Gobernación informó que de acuerdo a las investigaciones efectuadas, la denuncia realizada por una religiosa indica que individuos desconocidos que se conducían en un vehículo tipo agrícola le interceptaron el paso y le indicaron dar un mensaje de intimidación y amenazas de muerte en contra del Obispo Ramazzini. El expediente del caso se identifica con el número MP166-2008-1099 iniciado por la Fiscalía Distrital del Ministerio Público de San Marcos, el cual fue trasladado a la Fiscalía de la Unidad de Delitos cometidos contra Activistas de Derechos Humanos en la ciudad de Guatemala.

953. La carta comunicó que el Ministerio Público había indicado que dentro de la investigación se ha realizado una serie de diligencias, entre ellas: oficiar con carácter de urgente a la División Regional de Investigaciones Criminales (DINC) de la Policía Nacional Civil, así como a la Comisaría Departamental; se entrevistó al Obispo Ramazzini, quien expresó que ratificaba la denuncia y solicitó que la misma existiera como un antecedente ante las autoridades y que de las amenazas no podía sindicar a alguna persona en particular, que no había recibido anónimos ni tampoco llamadas telefónicas. La Dirección General Adjunta de la Policía Nacional Civil informó, a través de Oficio número 1649 Ref. DGA-HRLG-Sr.io, que por la solicitud de protección personal que realizó el Ministerio Público Distrital en el mes de marzo, un Oficial y un Sub-Inspector se constituyeron al domicilio del afectado el 14 de abril, quien se negó a dar información de si había sido víctima de amenazas de muerte, manifestando que su denuncia la presentó al Ministerio Público y a la Procuraduría de los Derechos Humanos, y no así a la Policía Nacional Civil, solicitando únicamente que la unidad policial circule perimetralmente en su residencia y en la Catedral cada media hora, haciendo uso de las luces lumínicas y sonoras, lo cual se ha cumplido. Asimismo, la Subdirección General de Unidades Especialistas de la Policía Nacional Civil, informó que en la División de Protección a Personalidades, no existe solicitud de seguridad personalizada de ninguna entidad, a favor del Obispo Álvaro Ramazzini.

Observaciones

954. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Carta de alegaciones enviada el 24 de abril de 2008

955. El Relator Especial, junto con el Relator especial sobre la cuestión de la tortura y o tros tratos o penas crueles, inhumanos o degradantes, envió una carta de alegaciones al Gobierno en relación con los periodistas Mario Morales, Oscar Benavente y Danilo de Jesús. Según las informaciones recibidas, el 4 de abril de 2008, los Señores Morales, Benavente y de Jesús habrían sido agredidos por varios agentes de la Policía Municipal de Tránsito cuando daban cobertura al desalojo de vendedores ambulantes en los alrededores del Hospital Roosevelt, en la zona 11 de la ciudad capital. Los tres periodistas habrían sido golpeados por los agentes con el fin de impedir que captaran imágenes del momento en que agredían a un menor de edad.

Observaciones

956. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Carta de alegaciones enviada el 30 de mayo de 2008

957. El Relator Especial, junto con con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. Jorge de Jesús Mérida Pérez, periodista corresponsal departamental del diario Prensa Libre. El Sr. Jorge de Jesús Mérida Pérez había realizado investigaciones sobre el funcionamiento del municipio de Coatepeque, Quetzaltenango.

958. De acuerdo con las informaciones recibidas, el 10 de mayo de 2008, por la tarde, el Sr. Jorge Mérida Pérez habría sido asesinado en su domicilio en el barrio Rosario de Coatepeque, por un hombre desconocido quien, luego de ingresar a su casa, le habría propinado cuatro disparos en el rostro. El Sr. Mérida había indicado a sus familiares y a uno de sus colegas que un sicario le había amenazado en estos términos: “que le bajara de tono a sus notas y que dejara de escarbar cosas, que si sabía cuánto le iban a pagar por matarlo”.

959. Se había informado que unos días antes su homicidio, el Sr. Mérida Pérez investigaba junto con el Sr. Francisco Matul, periodista en Cable DX, sobre casos de supuesta corrupción en la municipalidad de Coatepeque y a la presunta vinculación del alcalde con el narcotráfico. Se había previsto publicar los resultados de esas investigaciones en la Prensa Libre y en Cable.

960. Se temía que el asesinato del Sr. Mérida Pérez pudiera estar relacionado con su labor en contra de la corrupción en la administración pública. Asimismo, se expresó preocupación por la integridad física y psicológica del Sr. Francisco Matul y los demás periodistas que investigan casos de corrupción.

Observaciones

961. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 2 de julio de 2008

962. El 2 de julio de 2008, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con la organización Hijos e Hijas por la identidad y la justicia contra el perdón y el olvido (HIJOS), organización que aboga por los derechos de las víctimas del conflicto armado guatemalteco y lucha contra la impunidad de los autores de las violaciones de derechos humanos cometidos durante el conflicto. HIJOS participa también, junto con 15 otras organizaciones, en una campaña con el objeto de desmilitarizar la sociedad. La organización y sus integrantes fueron objeto de dos llamamientos urgentes emitidos por la entonces Representante Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión el 23 de febrero y el 23 de mayo de 2005. Hasta la fecha no se ha recibido respuesta a estas comunicaciones.

963. De acuerdo con las informaciones recibidas, el 21 de junio de 2008 por la tarde, dos personas se habrían bajado de un vehículo en la esquina de la 11 calle y la 8 avenida en Ciudad de Guatemala y se habrían acercado a una persona afiliada a la organización. Este individuo habría sido objeto de agresiones mientras las dos personas le habrían interrogado sobre la coordinación de la organización y acerca de sus actividades relacionadas con la lucha contra la impunidad. Los dos agresores habrían procedido a amenazar de muerte a los miembros de HIJOS si no dejaban de abogar por la justicia por crímenes cometidos durante el conflicto armado guatemalteco.

964. El 15 de junio de 2008, se habría publicado un artículo señalando a HIJOS como responsable de la suspensión del desfile militar, previsto para el 8 de junio de 2008 y suspendido debido a limitaciones presupuestarias. Asimismo, el artículo habría denunciado la organización como una institución de odio al ejército.

965. Se alegó que las amenazas en contra de los integrantes de HIJOS podrían estar directamente relacionadas con sus actividades en defensa de los derechos humanos, en particular con los derechos de las víctimas del conflicto armado en Guatemala.

966. Se expresó preocupación por la integridad física y psicológica de la persona mencionada, así como la de los demás integrantes de HIJOS.

Respuesta del Gobierno

967. Mediante carta fechada el 9 de septiembre de 2008, el Gobierno respondió al llamamiento urgente a través de la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDEH). La carta confirmó que los hechos a los que se habían referido las alegaciones presentadas coincidían con el conocimiento del Estado de Guatemala y la denuncia presentada al Ministerio Público. También confirmó que, el 23 de junio de 2008, se presentó dicha denuncia a la Unidad Fiscal de Delitos Cometidos contra activistas de derechos humanos del Ministerio Público. Se procedió a tomar la denuncia, y se remitió a la víctima con el Médico Forense del Instituto Nacional de Ciencias Forenses (INACIF). Se citó a la víctima para que el 24 de junio de 2008 se presentara a la Unidad de Escena del Crimen a efecto de que proporcionara características del sujeto y se realizara una forot robot, pero dicha persona no compareció, sino hasta el día 8 de julio de 2008. Ese día se trasladó a la víctima hacia el Gabinete Criminalístico de la Policía Nacional Civil para ponerle a la vista álbum delincuenciales, obteniendo resultados negativos. Se solicitó control jurisdiccional, así como autorización telefónica para obtener información del teléfono que fue robado, pendiente de recibir notificación. El Ministerio Público solicitó apoyo a la Unidad de Derechos Humanos de la Policía Nacional Civil, instruyendo una serie de lineamientos. Se solicitó a EMETRA información acerca de cámaras de video para tener algún indicio sobre el vehículo que no fue identificado. Según el Ministerio Público, a la fecha el expediente se encuentra en la fase de investigación.

968. Respecto a las medidas de protección adoptadas para los integrantes de la organización HIJOS, la carta comunicó que la Comisión Interamericana de Derechos Humanos, en 2003,

otorgó Medidas Cautelares como MC-464-03 a favor de los miembros de HIJOS. Por lo tanto actualmente los miembros de la organización cuentan con seguridad perimetral en la sede ubicada en la 2 calle "A" 7-13 2, ciudad Guatemala, nombrando para el servicio a dos agentes de la Policía Nacional Civil a bordo de las motocicletas DPM-024 y DPM-025, los cuales cubren recorridos y seguridad perimetral con el fin de resguardar la seguridad de los beneficiarios.

Observaciones

969. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 4 de julio de 2008

970. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la cuestión de tortura, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Juez José Eduardo Cojulún quien, desde el mes de mayo de 2008, ha trabajado con una comisión rogatoria organizada por la Audiencia Nacional Española. El tribunal por él presidido actuaría en nombre de los tribunales españoles como parte de una causa por genocidio que se sigue actualmente en España contra ex altos mandos de la junta militar guatemalteca de principios de los años ochenta. La comisión rogatoria estaría investigando denuncias de presuntos crímenes - muchos de ellos en contra de la etnia maya - de genocidio, torturas, asesinatos y detenciones ilegales durante el conflicto armado interno de Guatemala. La situación del Juez Cojulún y las amenazas en su contra ya fueron objeto de un llamamiento urgente enviado el 27 de mayo de 2008. Hasta la fecha, todavía no se ha recibido ninguna respuesta por parte del Gobierno.

971. De acuerdo con las informaciones recibidas, el 12 de junio de 2008 le habrían retirado los dos escoltas al Juez José Eduardo Cojulún sin reemplazarlos. La explicación oficial que se habría dado sería que los escoltas necesitaban vacaciones. Además, la Policía Civil Nacional (PCN) habría dicho al Juez José Eduardo Cojulún que no había ningún guardia, ni ningún vehículo civil disponible cuando los solicitó por teléfono el mismo día.

972. Recordamos que el 20 de mayo de 2008, el Juez Cojulún habría anunciado públicamente que había recibido amenazas por teléfono. Los que le amenazaron le habrían instado para que dejara su trabajo con la Audiencia Nacional Española. El Juez José Eduardo Cojulún habría recibido estas amenazas poco después de haber presentado una denuncia en la que pidió investigaciones respecto de personas e instituciones señaladas en los testimonios de víctimas del conflicto armado interno de Guatemala.

973. Se manifestó preocupación respecto de la decisión de retirar los escoltas del Juez José Eduardo Cojulún a pesar de las amenazas en su contra. Asimismo, se expresó preocupación que dichas amenazas en contra del Juez Cojulún podrían estar directamente relacionadas con sus actividades en defensa de los derechos humanos, en particular con las investigaciones de genocidio, torturas, asesinatos y detenciones ilegales durante el conflicto armado en Guatemala. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del Juez José Eduardo Cojulún.

Respuesta del Gobierno

974. Mediante carta fechada 23 de julio de 2008, el Gobierno contestó el llamamiento urgente. A través de esta carta, la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDEH) afirmó que, según información divulgada por los medios de comunicación social, específicamente el diario matutino Prensa Libre, el Juez Eduardo Cojulún Sánchez había denunciado las amenazas de muerte que había recibido. La COPREDEH también comunicó que se estaba coordinando con las autoridades correspondientes para que se restituya la seguridad del Juez José Eduardo Cojulún Sánchez y se garanticen sus derechos humanos mediante los mecanismos nacionales de protección.

975. Mediante otra carta fechada 28 de agosto de 2008, la COPREDEH confirmó que los hechos de los que tenía conocimiento coincidían con los del llamamiento urgente. Según la Fiscalía de Derechos Humanos del Ministerio Público, dicha Fiscalía se apersonó ante José Eduardo Cojulún Sánchez, quien manifestó que no iba a dar información de dicha situación a ninguno y que no desea presentar denuncia. Por tal circunstancia no hay denuncia presentada ante los Tribunales correspondientes.

976. Respecto al retiro de los escoltas del Juez Cojulún, la carta afirmó que el Licenciado José Eduardo Cojulún Sánchez goza de seguridad personalizada desde enero de 2007 hasta la fecha, por orden del entonces Director General de la PNC. Por lo tanto el Estado de Guatemala informa que el Estado no ha retirado los escoltas del Juez Cojulún y que aún sigue contando con seguridad proporcionada por el Estado.

Observaciones

977. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 31 de julio de 2008

978. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno información recibida en relación con el Sr. José Suasnavar, subdirector de la Fundación de Antropología Forense de Guatemala (FAFG), una organización que se dedica a investigaciones forenses y a la exhumación de cadáveres de personas enterradas en fosas secretas durante el conflicto interno de Guatemala. La FAFG fue objeto de varias comunicaciones de la anterior Representante Especial sobre la situación de los defensores de los derechos humanos. También la Relatora Especial sobre la situación de los defensores de derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados enviaron un llamamiento urgente a su Gobierno el 27 de mayo de 2008 en relación con amenazas de muerte contra el Sr. José Suasnavar y otros miembros de la FAFG. Hasta la fecha no se ha recibido ninguna respuesta de su Gobierno.

979. Según las informaciones recibidas, el 27 de julio de 2008, aproximadamente a las 11.17 p.m., el 28 de julio, aproximadamente a las 1.17 p.m., y el 29 de julio, aproximadamente a las 8.32 a.m., el Sr. José Suasnavar recibió mensajes amenazadores a su teléfono móvil del mismo número. El último de estos mensajes le dijo “Te vamos hacer caca estas vigilado” [sic.].

980. Se expresó preocupación que las amenazas en contra del Sr. José Suasnavar podrían estar relacionadas con su trabajo con la FAFG de investigación de los crimines del pasado y, más en general, en cuestiones de justicia y derecho a la verdad. También se expresó preocupación que los integrantes de la FAFG siguieran estando amenazados desde hace varios años sin que se hayan procesado o condenado a los responsables de las amenazas. Además se alegó que la protección proporcionada es insuficiente.

Respuesta del Gobierno

981. Mediante cartas fechadas 19 de septiembre de 2008, el Gobierno respondió al llamamiento urgente. La carta confirmó que el Gobierno tiene los mismos hechos sobre las amenazas recibidas por el Sr. José Suasnavar entre el 27 y 29 de julio de 2008, enviados a su teléfono celular. Asimismo, informó que una denuncia fue presentada por el Sr. Suasnavar.

982. La carta comunicó que el 13 de agosto de 2008, se sostuvo en la sede la Comisión Presidencial de Derechos Humanos una reunión entre el Sr. Suasnavar y los Fiscales para Activistas de Derechos Humanos del Ministerio Público en la cual la víctima manifestó su preocupación por el hermetismo del Ministerio Público sobre las investigaciones de las amenazas en contra la Fundación de Antropología Forense de Guatemala (FAFG) - 24 en total - desde el 2002. Se informó que el Ministerio se han solicitado los desplegados telefónicos a la Empresa telefónica, TELGUA, para determinar de dónde se han generado las llamadas, pero es imposible establecer la identidad de quién adquirieron los celulares pre pago.

983. La carta informó también que la Corte Interamericana de Derechos Humanos otorgó Medidas Provisionales a favor de los miembros de la Fundación de Antropología Forense de Guatemala en 2006, mismas que son implementadas a través del Ministerio de Gobernación quien informó que la Policía Nacional Civil ha asignado 24 agentes para brindar la seguridad de los miembros de la FAFG, por lo tanto el Sr. José Suasnavar es beneficiario de dichas medidas de protección.

Observaciones

984. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Llamamiento urgente enviado el 20 de agosto de 2008

985. 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 envió un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. Eliazar Hernández, Mario Gámez y Juan Navarro, y 15 otros miembros de la Asociación Cristiana de Jóvenes de Guatemala (ACJ) en la municipalidad de Amatitlán. La ACJ está afiliada a la World Alliance of YMCAs (Alianza Mundial de los YMCA) y se dedica a la formación de jóvenes en liderazgo, voluntariado y participación ciudadana. Los Sres. Eliazar Hernández, Mario Gámez y Juan Navarro eran voluntarios con la ACJ y trabajaban con jóvenes para evitar que ingresasen en pandillas o que participaran en actividades que les colocaran en riesgo.

986. Según las informaciones recibidas, el 10 de agosto de 2008, aproximadamente a las 21h00, los Sres. Eliazar Hernández, Mario Gámez y Juan Navarro habrían salido de la sede de la ACJ en Amatitlán después de una reunión sobre trabajo preparatorio para abrir un centro recreativo de arte, con dirección a la casa de Eliazar Hernández. Más tarde, esa misma noche, habrían recibido una llamada telefónica, después de la cual habrían salido diciendo que iban a volver pronto. El 11 de agosto de 2008, se habrían encontrado sus cadáveres en la finca El Llano, en Palín, en el Kilómetro 38, Jurisdicción de San Vicente Pacaya, a aproximadamente 10 kilómetros de Amatitlán. Los voluntarios habrían sufrido cortes de machete, golpes severos y fueron ejecutados con un disparo en la cara y dos tiros de gracia dados en la parte de atrás de la cabeza.

987. Se alegó que los asesinatos de los Sres. Eliazar Hernández, Mario Gámez y Juan Navarro podrían estar relacionados con sus actividades para disuadir a los jóvenes de unirse a las pandillas. Estos asesinatos se enmarcaron en un contexto de gran vulnerabilidad de los defensores de los derechos humanos en Guatemala. Por eso se expresó gran preocupación por la integridad física y psicológica de los 15 otros miembros de la ACJ en Amatitlán.

Observaciones

988. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 12 de noviembre de 2008

989. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el supuesto ataque contra la casa del Sr. Miguel Arturo Albizures Pedrosa, vicepresidente de la Asociación para la Comunicación y el Arte (COMUNICARTE) y coordinador de medioambiente del Comité Único de Barrio del Asentamiento Salud Pública. Parte del trabajo del Sr. Miguel Arturo Albizures Pedrosa consiste en producir documentación por medio de videos sobre manifestaciones de las organizaciones sociales, y las exhumaciones de las masacres. El documental producido más recientemente trataba de la biografía del Secretario General de la Asociación de Estudiantes Universitarios de la Universidad de San Carlos que supuestamente fue ejecutado extrajudicialmente por agentes del estado en 1978. El Comité Único de Barrio del Asentamiento Salud Pública trabaja para reducir el consumo de drogas y las actividades delictivas entre los jóvenes locales. Por este trabajo miembros del Comité supuestamente han recibido amenazas previas.

990. En febrero de 2007, las oficinas del Sr. Miguel Arturo Albizures Pedrosa en la sede del Movimiento Nacional por los Derechos Humanos supuestamente fueron allanados, todo su equipo de producción y una parte de un archivo histórico de imágenes visuales fueron robados, y sogas que simulaba el nudo de la horca fueron colgadas de los picaportes de las puertas.

991. Según las informaciones recibidas, el 30 de octubre de 2008, aproximadamente a las 20h00, hombres armados habrían llegado a la casa del Sr. Miguel Arturo Albizures Pedrosa en un coche de marca Honda Civic, de color celeste o verde. Habrían entrado en el patio donde habrían disparado 50 proyectiles de diferentes calibres. La única persona que se habría encontrado en la casa en este momento habría sido uno de los hijos del Sr. Miguel Arturo Albizures Pedrosa. El hijo del Sr. Miguel Arturo Albizures Pedrosa habría salido ileso. Estos

hechos se enmarcarían en un contexto de agresión contra personas que han organizado conmemoraciones para el aniversario del difunto Secretario General de la Asociación de Estudiantes Universitarios de la Universidad de San Carlos.

992. El mismo día del atentado, los hechos se habrían denunciado a la Agencia Fiscal 1 de la Unidad de Delitos contra Activistas de Derechos que habría investigado la escena del crimen. También se habrían proporcionado medidas de protección policiales iniciales a favor de la víctima y su familia.

993. Se expresó preocupación que el atentado contra la casa del Sr. Miguel Arturo Albizures Pedrosa podría estar relacionado con sus actividades legítimas en la defensa de los derechos humanos.

994. Se expresó gran preocupación por la integridad física y psicológica del Sr. Miguel Arturo Albizures Pedrosa y la de su familia.

Observaciones

995. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Siguiendo de comunicaciones transmitidas previamente

996. Con una carta en fecha 18 de abril de 2008, el Gobierno respondió al llamamiento urgente del 31 de enero de 2007. El Gobierno informó de que no aparece ninguna denuncia ante el Ministerio Público por parte de la persona mencionada en la comunicación, por lo que no pudo iniciarse la correspondiente persecución judicial. A partir del día 23 de marzo de 2006, se comenzó, a través de la Policía Nacional Civil, el servicio de prestación de protección consistente en seguridad con modalidad de puesto fijo en la sede de la organización Madre Selva. La misma organización comunicó además que el señor Bianchini abandonó el país en fecha 2 de mayo de 2007 para garantizar así su incolumidad física así como debido a que su labor con el colectivo Madre Selva había concluido.

Observaciones

997. El Relator Especial agradece al Gobierno por su respuesta.

Guinea

Lettre d'allégations envoyée le 14 janvier 2008

998. Le Rapporteur spécial a envoyé une lettre d'allégations sur des informations reçues concernant la suspension par le Conseil National des Communications des journaux La Vérité et L'Observateur.

999. Selon les informations reçues, le 4 janvier 2008, le Conseil National des Communications, une agence régulatrice, aurait suspendu les journaux privés La Vérité et L'Observateur. Les

journalistes de ces publications auraient aussi été suspendus de pratiquer leur profession pour une période de deux mois. Les deux journaux auraient été accusés de « publications incessantes d'articles injurieux, irrévérencieux et diffamatoires de nature à manipuler l'opinion publique. »

1000. Selon des témoins, la raison pour la suspension serait liée aux reportages critiques publiés par les deux journaux en décembre 2007 à propos des scandales de corruption et abus de pouvoir par des autorités publiques.

Observations

1001. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 14 janvier 2008.

Appel urgent envoyé le 22 mai 2008

1002. Le Rapporteur spécial a envoyé un appel urgent sur la situation de M. Isaac Baldé, correspondant de Familiar FM, une station de radio basée à Pita.

1003. Selon les informations reçues, le 8 mai 2008, M. Baldé aurait été arrêté et détenu par la police pendant près de six heures. Il aurait subi des violences physiques au cours de sa détention. Avant d'être libéré, des policiers auraient menacé « d'éliminer physiquement » M. Baldé s'il ne quittait pas Pita. Ceux-ci auraient également confisqué le dictaphone et la montre du journaliste. Cette interpellation ferait suite à un reportage effectué par M. Baldé pour Familiar FM dans lequel il relatait le décès d'une personne du fait de la confusion engendrée par une opération de vente de riz.

1004. Des craintes ont été exprimées quant au fait que l'arrestation et détention de M. Baldé et les menaces subséquentes à son encontre soient liées à l'exercice de son droit à la liberté d'opinion et d'expression.

Observations

1005. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 22 mai 2008.

Guyana

Letter of allegations sent on 21 April 2008

1006. The Special Rapporteur sent an allegation letter concerning the suspension of CNS Channel 6. According to the information received, on 12 April 2008, CNS Channel 6 was suspended for four-months on the President's orders on the grounds that it "infringed the terms of its licence" after it aired, on three occasions, a call-in by a viewer calling for the President's assassination. CNS reportedly suspended the airing of this comment after it received a warning from the Advisory Committee on Broadcasting (ACB) and its Director subsequently issued a public apology for the incident.

1007. While condemning the threatening statements made by said viewer, concern was expressed that the suspension of CNS Channel 6 could characterize an undue limitation to the right to freedom of opinion and expression and the related right to freedom of the press.

Response from the Government

1008. In a letter dated 30 May 2008, the Government responded to the communication sent by the Special Rapporteurs on 21 April 2008, providing the following information:

1009. “The Government of Guyana concurs that as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, you are charged with responsibility to seek clarification on all cases brought to your attention and that you are expected to report on those cases to the UN Human Rights Council. It is therefore in view of these responsibilities and the concomitant obligations to be fair and transparent that the Government expresses its extreme surprise and profound reservations that, while you were awaiting a formal response from the Government of Guyana, you have publicly, at the international level, issued statements that clearly indicate that you have prejudged the matter.

1010. Your extremely prejudicial comments were made and internationally circulated in your Statement released on May 2, 2008 on the occasion of World Press Freedom Day. You have therein identified the suspension of CNS Channel 6 as an example of Governments’ exploitation of regulations and as an example of subtle tactics of Governments that “severely restrict the independence of the press while seemingly allowing States to maintain a façade of respect to democratic principles such as freedom of expression”.

1011. It is especially alarming that you rush to judgment in favour of CNS Channel 6 before allowing yourself to be apprised of the facts and the law concerning this matter. Moreover, an official release of the Government of Guyana outlining the relevant facts of the matter has been readily available online since April 12.

1012. More significantly, the Government puts for your consideration, whether in any part of the world, a person will be permitted, without grave sanction, to use the airwaves, a public resource, to repeatedly advocate the killing of a Head of State. Would such an act not be viewed as treasonable, in any part of the world? And would it not also be the responsibility of the Special Rapporteur to denounce such abuse of the airwaves and such seditious acts?

1013. Is it not also the obligation of the Special Rapporteur to ascertain whether CNS Channel 6 is in fact a bona fide media operator deserving of the Special Rapporteur’s precipitous denouncement of the suspension? The Proprietor of CNS Channel 6, Mr. Chandranarine Sharma, is in fact the leader of a political party in Guyana and has led his party in contesting the two General Elections in Guyana. Does this not cast his acts of repeated broadcasts of threats to the life of the Head of State in a category of conduct that would cause the Special Rapporteur to consider whether the Channel ought to be considered a part of the regular media?

1014. The Government of Guyana is confident that when you allow yourself to fully consider the matter you will unreservedly retract your statements publicized on May 2 and will proffer an

appropriate apology to the Government of Guyana. You will see from the facts outlined below that even if the proprietor of CNS Channel 6 could be viewed as unmotivated by political aims, his conduct is nevertheless clearly contrary to the law and deserving of serious sanction. The facts are as follows: 1. On February 21, 2008, CNS Channel 6 on its "Voice of the People" live call in programme aired certain comments that advocated the killing of the Head of State, along with other offensive comments. The Channel rebroadcast the offending comments on three subsequent occasions later on February 21, on February 22 and February 23, 2008. 2. The Advisory Committee on Broadcasting (ACB) that was set up by the Wireless Telegraphy Regulations, 2001, to advise the Minister on Licensees' compliance with Licence conditions and the relevant law, wrote to CNS Channel 6 on February 26, 2008 citing alleged infringements by the licensee by the comments aired on February 21, 2008. The ACB indicated that the broadcast constituted an incitement to crime, was offensive to good taste and decency and was presented without due accuracy. The ACB afforded the Licensee an opportunity to respond to the charges of infringement. The Licensee responded to the ACB on February 28, 2008, expressing regret about the content of the broadcast in issue and indicated that he did reprimand the Caller for "making such irresponsible statements on the air". The Licensee also apologized for the "unfortunate incident". 3. When the ACB became aware that the Licensee had in fact re-broadcast the offending statements on three occasions subsequent to the February 21 live programme, the ACB again wrote to the Licensee on March 10, 2008, citing alleged infringements of the licence and the law on the basis of the offending rebroadcasts. The ACB noted that each rebroadcast was deemed a new infringement and that though the first broadcast was a spontaneous infringement; the licensee could have and ought to have edited out the offending comments before the rebroadcasts were aired. Again, the ACB required the Licensee to indicate his position in respect of these further infringements. 4. The Licensee responded on March 28, 2008 stating that the programme in question was re-aired on February 21, February 22 and February 23, 2008 by the "person who books programmed" without the knowledge of the Licensee. The Licensee expressed regret about the rebroadcasts and indicated that he would put in place measures to ensure that such an occurrence was not repeated. 5. On April 2, 2008 the ACB forwarded to President Bharrat Jagdeo, who holds the Ministerial portfolio for Communications, copies of the letters sent to the Licensee and his responses. 6. On April 8, 2008, Dr. Roger Luncheon, Head of the Presidential Secretariat and Secretary to the Cabinet wrote to the Licensee, on behalf of President Jagdeo indicating that the Minister was of the opinion that the Licensee's written responses to the ACB were not adequate and that the Minister was of the opinion that the infringements were sufficiently grave to warrant cancellation or suspension of the Licence. The letter also reminded the Licensee that the relevant law provided for the suspension or cancellation of the Licence for the breach or infringement of the conditions of the Licence. The Licensee was invited to meet with Dr. Luncheon, on behalf of the Minister on Thursday, April 10, 2008 to show cause why the Licence should not be cancelled or suspended. The Licensee was also invited to bring his legal or other representative to the meeting. 7. Twenty minutes prior to the meeting, the Licensee approached the court for, and obtained, an order prohibiting Dr. Luncheon from convening the meeting on the basis that he had no authority to do so. 8. In view of the court order, President Jagdeo issued a similar letter to the Licensee inviting the Licensee to meet with him on Friday, April 11, 2008. 9. The Licensee attended the meeting with his legal counsel and others, and acknowledged that the broadcasts infringed the conditions of the licence and the law and he apologised for the infringements. He

also stated that the offending comments were rebroadcast “by the person who books programmed” without the knowledge of the Licensee. 10. The Licensee was found to have failed to provide satisfactory explanations as to why the offending comments were repeatedly rebroadcast on CNS Channel 6 even after the Licensee recognized that the comments were offensive and amounted to infringements of the conditions of the licence and the law and he was found to have committed serious infringements of the conditions of the Licence and the law. Accordingly, his Licence was suspended for a period of four months. 11. It should also be noted that the licensee has approached the court in pursuit of a legal remedy. You will observe that the facts of the case differ significantly from the summary contained in your letter.

1015. Further information concerning the legal basis of the suspension is as follows: 1. CNS Channel 6 is licensed under the provisions of the Post and Telegraph Act, Cap 47:01. The Licence is subject to the provisions of the Act, the Wireless Telegraphy Regulations and the conditions of the Licence. The law provides for the Licensees to adhere to certain standards and to ensure that the content of broadcasts comply with the provisions of the Act and Wireless Telegraphy Regulations. The law also provides for the cancellation or suspension of a Licence where the provisions of the Act, the Wireless Telegraphy Regulations and/or conditions of the Licence are infringed. 2. The Licensee was found to have materially infringed the Wireless Telegraphy Regulations, 2001 and the conditions of his Licence resulting in suspension of his Licence. 3. The licensee was given every opportunity to make representation and to explain the broadcasts in accordance with the constitutionally guaranteed right to fairness and in accordance with the Rules of Natural Justice. 4. President Bharrat Jagdeo holds the ministerial portfolio for communications consistent with the Constitutional provisions that provide that where responsibility for a subject area is not specifically assigned to a Minister of Government such responsibility resides with the President. President Jagdeo) had to address this matter himself as his delegate in the matter was prevented from dealing with the matter by Court Order obtained by the Licensee. 5. The relevant Act and Regulations are consistent with international norms and standards concerning the right to freedom of expression and opinion. Such rights are also enshrined in the Constitution of Guyana in a manner similar to all democratic, Commonwealth States. It is well established as indeed, Your Excellency recognizes in your letter that “The right to freedom of opinion and expression carries with it special duties and responsibilities”. Such right to freedom of opinion and expression is facilitated by the Act and the Wireless Telegraphy Regulations and the special duties and responsibilities that attach to such rights are prescribed in the Act and the Wireless Telegraphy Regulations. The Government of Guyana expects that the information given herein will sufficiently clarify your misunderstanding of the matter. The Government looks forward to a retraction of the misleading public statements disseminated on May 2, 2008.”

Observations

1016. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 22 July 2008

1017. On 22 July 2008, the Special Rapporteur sent an urgent appeal in relation to Mr. Gordon Moseley, a senior reporter and producer with the privately owned news station, WHRM Capitol News, based in Georgetown.

1018. According to information received, on 13 July 2008, Mr. Moseley was denied access to the office of the President following an invitation to cover an award ceremony. Members of the security forces reportedly informed Mr. Moseley that the Government Information Agency (GINA) had withdrawn his accreditation for assignments to the President's office and official residence. The accreditation withdrawal was reportedly linked to 'disparaging and disrespectful remarks' which Mr. Moseley had made about the President in a letter which was published in the daily *Stabroek News* on 8 July 2008. In the aforementioned article, Mr. Moseley had responded to the President's alleged criticism of his coverage of a meeting which the President had with Guyanese living on the nearby island of Antigua.

1019. According to reports, Mr. Moseley received an official letter from the GINA suggesting that the decision to ban him from covering Presidential assignments may be reviewed if Mr. Moseley were to issue an apology in relation to the allegedly offensive remarks he made against the President. Mr. Moseley has reportedly refused to issue an apology and the ban remains in place.

1020. Concern was expressed that aforementioned events could represent a direct attempt to stifle independent reporting in Guyana, thus infringing on freedom of expression in the country.

Response from the Government

1021. In a letter dated 17 September 2008, the Government responded to the communication sent by the Special Rapporteurs on 22 July 2008, providing the following information:

1022. "The Government of Guyana holds the view that the facts as alleged in the case of Mr. Moseley are inaccurate. The Office of the President and State House, the official residence of the President, are open to the public only by invitation or appointment. To enable participation to press conferences held at this venue by His Excellency the President and/or officials in the office of the President, an established process exists whereby invitation is extended to media house, and individually to media practitioners, by the Government Information Agency (GINA). In keeping with this practice, both the WRHM Capitol News and Mr. Moseley were accredited to attend press conference in the Office of the President and State House.

1023. In the case in question, Mr. Moseley's accreditation was withdrawn by the competent authorities following remarks made in a letter to the press that were considered as disparaging and disrespectful to the person and Office of the President.

1024. However, the decision is subject to review on the tender of an apology of Mr. Moseley. The withdrawal of accreditation does not apply to WRHM Capitol News or to its other employees. I have attached, for your perusal, copies of Mr. Moseley's letter of July 9, 2008 and of the letter from the Director of GINA advising of the withdrawal of his accreditation.

1025. Apart from this restriction, Mr. Moseley is free to enter government premises or attend media events hosted by government ministries and agencies. His work as a journalist has not been encumbered in any way and his media house continues to cover media events hosted by the President and his Officers. In light of the foregoing, the Government of Guyana does not share the view that Mr. Gordon Moseley's right to freedom of opinion and expression, or his right to work as a journalist has been, in any way, curtailed or violated.

1026. In respect of national legislation related to freedom of expression, I would invite your attention to the Constitution of the Republic of Guyana, the supreme law of the land, which, in its article 40 enshrines freedom of expression as fundamental right and its article 146 provide for the protection of the right to freedom of expression. The Constitution may be consulted at www.parliament.gov.gy.

1027. The press remains free in Guyana to scrutinise and criticise the Government and does so without hesitation. The meetings of five Parliamentary Standing Committees directly charged with oversight and scrutiny of government's policy and administration and financial accountability are open to the media and the public. These are the Public Accounts Committee, the Economic Services Committee, the Social Services Committee, the Foreign Relations Committee, and the Natural Resources Committee.

1028. It is my Government's view that the action taken in this case is such as would apply to any other individual whether from the media or otherwise under similarly exceptional circumstances. This was an administrative decision taken with the view to upholding respect for the office of the President. We believe it to be fully compatible with our obligation under the Constitution and relevant human rights instruments to which Guyana is Party.

1029. It may be observed that the right to freedom of expression is not absolute, but rather circumscribed by various limitations to protect the rights and interests of others and of the society as a whole. Article 146 of Guyana's Constitution outlines a number of provisions in this regard. The Government of Guyana views the actions of Sir Moseley as falling within the content and context of Article 146 and as an abuse of the right afforded him under Article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as under the Constitution of Guyana. I would recall that the decision in respect of Mr. Moseley is subject to review".

Observations

1030. The Special Rapporteur is grateful for the Government's reply.

Honduras

Llamamiento urgente enviado el 16 de julio de 2008

1031. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH) y su Coordinadora General, Sra. Bertha Oliva de Nativí. COFADEH es una organización que trabaja contra la corrupción y la impunidad en Honduras.

1032. De acuerdo con las informaciones recibidas, la noche del 3 de julio de 2008, gente desconocida habría entrado en las oficinas del COFADEH sin permiso. Habría llevado dos ordenadores portátiles, tres cámaras fotográficas, dos videocámaras y tres memorias USB que se

habrían utilizado para guardar información importante del ordenador. Se habrían descubierto el allanamiento y el robo sobre las 07.30h de la mañana siguiente. La policía investigativa habría llegado cinco horas después.

1033. La noche del 6 de julio de 2008, la Sra. Bertha Oliva Nativí, Coordinadora General del COFADEH, habría sido seguida en su coche con su menor hija hasta el parqueo colectivo de la residencial donde vive por desconocidos en un pick-up verde de marca Toyota. El coche habría parado cuando los desconocidos se habrían dado cuenta de que el vigilante del parqueo estaba allí, y habrían esperado a media cuadra para estar seguros de que la Sra. Bertha Oliva Nativí les había visto. Además, el 2 de julio de 2008 un representante de una Agencia Cooperante habría sido seguido después de una reunión con la Sra. Bertha Oliva Nativí.

1034. Se expresó preocupación que el allanamiento en las oficinas del COFADEH y el robo de equipo de la organización, así como el seguimiento de la Sra. Bertha Oliva Nativí, podrían estar directamente relacionados con las actividades del COFADEH. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica de los integrantes del COFADEH así como la de la Sra. Bertha Oliva de Nativí y su familia. El ataque contra las oficinas del COFADEH y el seguimiento de la Sra. Bertha Oliva Nativí, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad de los defensores de derechos humanos en Honduras.

Observaciones

1035. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Carta de alegaciones enviada el 1 de septiembre de 2008

1036. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con los Sres. Raymundo Rodríguez, Abel Hernández, Jairo Domingo, Franklin Martínez, integrantes del Comité Ambientalista de Orica, y Mario Adolfo López, integrante del Comité Ambientalista de Agalteca.

1037. Según las informaciones recibidas, el 20 de julio de 2008, aproximadamente a las 20h00, miembros de la policía habrían arrestado a los Sres. Raymundo Rodríguez, Abel Hernández, Jairo Domingo y Franklin Martínez, después de haber entrado en la casa del Sr. Abel Hernández sin orden de allanamiento ni de registro. Los policías les condujeron al puesto policial en San Francisco, Municipio de Orica. Habrían golpeado al Sr. Raymundo Rodríguez quien habría sufrido la fractura de cuatro costillas y, a raíz del ataque, habría tenido que permanecer en un hospital hasta el 6 de agosto de 2008. El caso se habría denunciado ante la Fiscalía de Derechos Humanos y la Secretaría de Seguridad. Además, el 3 de agosto de 2008, el Sr. Mario Adolfo López habría sufrido un ataque. Un individuo le habría golpeado en la cabeza con un arma de fuego.

1038. Se expresó preocupación que los arrestos de los Sres. Raymundo Rodríguez, Abel Hernández, Jairo Domingo y Franklin Martínez, así como los ataques contra los Sres. Raymundo Rodríguez y Mario Adolfo López podrían estar relacionados con sus

actividades legítimas de defensa de los recursos naturales en el Departamento de Francisco Morazán. Se expresó gran preocupación por la integridad física y psicológica de dichos defensores de los derechos medioambientales.

Observaciones

1039. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 7 de octubre de 2008

1040. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la vigilancia y la intimidación del Sindicato de Trabajadores de la Universidad Nacional de Honduras (SITRAUNAH), y su Presidente, el Sr. René Andino.

1041. De acuerdo con las informaciones recibidas, el 10 de septiembre de 2008, unos miembros del SITRAUNAH habrían visto a un individuo sacar fotos de las instalaciones del sindicato. Cuando el Sr. René Andino habría pedido que el individuo se identificara, éste habría contestado que era agente policial y que estaba allí bajo órdenes del Ministro de Seguridad de vigilar la sede del SITRAUNAH para proceder con la eliminación de sus miembros. Otro policía, quien habría llegado más tarde en motocicleta, habría expresado el mismo objetivo que su compañero. También habría llevado una lista de 136 personas, entre ellos sindicalistas y miembros de órdenes religiosas. Unos nombres de la lista, distinguidos de los otros por las palabras “ya fallecidos”, habrían sido de individuos ya asesinados.

1042. El 17 de septiembre, los policías y los miembros del SITRAUNAH habrían presentado declaraciones ante el Juez Primero de lo Criminal del Departamento de Francisco Morazán. Mientras que se habría permitido que los policías hicieran su declaración a solas, los sindicalistas habrían tenido que hacerlo en presencia de los policías.

1043. Se expresó preocupación que la vigilancia y la intimidación del Sr. René Andino y el SITRAUNAH podrían estar relacionadas con sus actividades legítimas en la defensa de los derechos humanos. Se expresó gran preocupación por la integridad física y psicológica de todos los miembros del SITRAUNAH, así como la de otros defensores de los derechos humanos en Honduras.

Observaciones

1044. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 31 de octubre de 2008

1045. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del

Gobierno la información recibida en relación con las Sras. Lorna Redell Jackson García y Juana Leticia Maldonado Gutiérrez, Presidenta y Secretaria respectivamente del Sindicato de Trabajadores de AFL Honduras (SITAFHL), así como cuatro otros miembros de la comisión directiva del SITAFHL. Este sindicato se fundió para combatir las violaciones de los derechos de los trabajadores de AFL, una fábrica de piezas de coches. En junio de 2007, AFL Honduras habría despedido a todos los miembros del SITAFHL. Seis meses después, habría devuelto el trabajo a la Sra. Lorna Redell Jackson García y otros miembros del SITAFHL. En agosto de 2008, AFL Honduras habría cerrado sus operaciones en el país.

1046. Desde el 16 de junio de 2005, titulares de mandato han enviado comunicaciones al Gobierno de su Excelencia en relación con los supuestos asesinatos de ocho sindicalistas en Honduras. El 7 de octubre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión enviaron otra comunicación al Gobierno de su Excelencia en relación con la vigilancia y la intimidación del Sindicato de Trabajadores de la Universidad Nacional de Honduras (SITRAUNAH), y su Presidente, el Sr. René Andino.

1047. Según las nuevas informaciones recibidas, en julio de 2008, los seis miembros del SITAFHL mencionados arriba habrían empezado a recibir llamadas telefónicas y mensajes de texto amenazándoles de muerte. El 18 de julio de 2008, la Sra. Lorna Jackson y sus colegas del SITAFHL habrían organizado una reunión con una estación de televisión local, que supuestamente había llevado a cabo una campaña difamatoria contra el SITAFHL. Mientras los miembros del SITAFHL habrían estado esperando al lado de una carretera antes de la reunión, un pick-up blanco sin placas se habría acercado a ellos. Dos hombres con pistolas habrían bajado para averiguar que eran “los del sindicato”. Los hombres les habrían informado que habían sido pagados para matarles pero no lo harían si los sindicalistas les ofrecieran más dinero. Luego se habrían ido en el pick-up.

1048. El 11 de septiembre de 2008, las Sras. Lorna Redell Jackson García y Juana Maldonado Gutiérrez habrían estado de compras en el Progreso, el Yoro. Aproximadamente a las 17h00. se habrían dado cuenta de que dos hombres las seguían en motocicleta. Las sindicalistas habrían parado en una tienda cercana para comprar una bebida cuando uno de los hombres habría sacado una pistola, les habría disparado y se habría ido con el otro hombre en motocicleta. Después de este acontecimiento, las dos sindicalistas así como cuatro otros miembros de la comisión directiva del SITAFHL se habrían escondido.

1049. El 21 de octubre de 2008, la Sra. Lorna Redell Jackson García habría recibido una llamada a su teléfono móvil de un hombre que le habría dicho “¿Dónde estás, vieja? ¿Dónde te has metido? Aunque te vayas al infierno te vamos a encontrar”. La Sra. Lorna Redell Jackson García no habría denunciado estas amenazas a las autoridades.

1050. Se expresó preocupación que las amenazas y los ataques contra los miembros del SITAFHL pudiesen estar relacionados con sus actividades legítimas en la defensa de los derechos laborales. Se expresa gran preocupación por la integridad física y psicológica de dichos miembros del SITAFHL. Estos hechos, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad para los sindicalistas en Honduras.

Respuesta del Gobierno

1051. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

India

Urgent appeal sent on 19 February 2008

1052. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government concerning Mr. Lachit Bordoloi, a journalist and a peace activist. Mr. Bordoloi is also the adviser of Manab Adhikar Sangram Samiti (MASS), the convener of the Peoples Committee for Peace Initiatives in Assam (PCPIA) and a member of the Peoples Consultative Group (PCG).

1053. According to information received, on the night of 9 February 2008, Mr. Bordoloi's home in Guwahati was reportedly raided by members of the Guwahati police while he was absent. The police seized his laptop and other material without presenting any warrant to his family members. On 11 February 2008, police reportedly stopped the bus in which Mr. Lachit Bordoloi was returning from a meeting in Tinsukia district to Guwahati, arrested him and brought him to the Dibrugarh Police Station. The following day, Mr. Bordoloi was transferred to Chandmari police station in Guwahati, and placed on remand there for five days. On 18 February, he was remanded in police custody for a further two days by the Chief Judicial Magistrate of Kamrup District. He was reportedly charged with "having a role in fund collecting for the United Liberation Front of Assam (ULFA)", an active armed group in the State of Assam, under the Unlawful Prevention Activities Act and with "waging war against the State" under sections 120B and 121 of the Penal Code.

1054. On 8-9 February 2008, the police had arrested two supposed ULFA activists and, subsequently, police spokespersons had stated that the arrested activists were due to try and hijack a plane and that prominent persons were helping them. It is believed that Mr. Bordoloi may have been arrested on the basis of a statement given by one of the two detainees. Reports suggested that Mr. Bordoloi had been repeatedly threatened, harassed and intimidated by the Superintendent of Police (SP) in Nagaon district, Assam, since the former published an article in 2001 in the Assamese daily Asomiya Protidin. The article highlighted corrupt practices on the part of police in Nagaon and led to a high-level departmental inquiry concerning the SP for Nagaon.

1055. Concern was expressed that the arrest and detention of Mr. Lachit Bordoloi may be directly related to his activities in defense of human rights, particularly his exercise of the right to freedom of expression through criticism of alleged corruption in the police force of Nagaon. Concern was also expressed for his physical and psychological safety while in detention.

Response from the Government

1056. In a letter dated 12 February 2009, the Government responded to the communication sent by the Special Rapporteurs on 19 February 2008. The Government provided the following

information: “Mr. Lachit Bordoloi was arrested on specific charges of involvement in four terrorist cases and links with the banned militant outfit ULFA. Following the order of the Honorable High Court, Guwahati, in June 2008, Mr. Bordoloi was subsequently released.”

Observations

1057. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 28 April 2008

1058. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation to the Government concerning mass arrest of participants in the “The Long March for Justice for Special Task Force (STF) Victims”, including Messrs Henri Tiphagne, Executive Director of People’s Watch, Mahaboob Batcha, Managing Trustee of the Society for Community Organisation Trust (SOCO Trust), and V.P. Gunasekaran, District Secretary of the Communist Party of India.

1059. According to information received, on 20 April 2008 the Long March for Justice for STF Victims commenced from Erode District, Tamil Nadu. The peaceful march, which had reportedly been refused police permission, was organized in the framework of the Campaign for Relief and Rehabilitation of Victims of violence allegedly perpetrated by the STF in the states of Karnataka and Tamil Nadu. At 9.30 a.m., a public meeting took place in Sathyamangalam, after which approximately 500 persons proceeded with the march. On the outskirts of Sathyamangalam, police officers prevented the marchers from advancing. Four hundred of the marchers, including the above-mentioned individuals, were then reportedly arrested and taken into under police custody at the Ramasamy Goundar Maryammal Wedding Hall in Sathyamangalam.

1060. On the evening of 20 April 2008, police released the demonstrators, who subsequently moved to Anthiyur to participate in a public meeting of over 1,000 people. The organizers then decided to continue the protest. The following day, media reported that a clarification had been issued by the state administration, stating that victims had already been compensated and that the Government of Tamil Nadu had fulfilled its obligations. On the morning of 21 April 2008, the local police informed the organizers that they had been given instructions to arrest them if they continued to demonstrate. At 9.30 a.m., the protestors were stopped by the police, who reportedly arrested 115 marchers, including 38 women and one child.

1061. Concern was expressed that the aforementioned arrests may be related to the protestors’ activities in defense of human rights; their peaceful exercise of the right to freedom of expression and assembly and their protest against alleged crimes perpetrated by members of the Special Task Force.

Response from the Government

1062. In a letter dated 19 January 2009, the Government responded to the communication sent on 28 April. In transmitting the reply of the concerned authorities in India, the Government noted that the allegation contained in the communication was examined by the Government and

that an enquiry was conducted on the above incident by the concerned authorities. It was revealed that the aforementioned individuals along with 205 other party members intended to go on a protest march from Exode to Chennai in order to draw attention to the relief and rehabilitation of the purported Special Task Force victims. However, in violation of law, they did not seek any prior permission from the concerned police authorities. If they had been allowed to proceed with this march it could have resulted in a disruption of law and order and inconvenienced the general public. Hence, as a preventive measure, the aforementioned persons were taken into police custody as per law and a case was registered against them. However, they were released on the very same day and all further action against them was dropped.

Observations

1063. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 16 May 2008

1064. On 16 May 2008, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning Mr. Sapam Kangleipal Meetei, President of the Manipur Forward Youth Front (MAFYF), a civil society organization which works for the protection and promotion of human rights, peace building and social issues at the grass-roots level.

1065. According to information received, on 7 May 2008, at approximately 7 p.m., Mr. Sapam Kangleipal Meetei was arrested after speaking publicly at the Manipur Press Club in Imphal. In the course of this speech, Mr. Sapam Kangleipal Meetei was said to have advocated an attempt to reach a permanent solution to the conflict in Manipur State, claiming that, in arming civilians to counter insurgent groups in the State, the authorities negated the purpose of an elected government, and that this approach would lead to anarchy. He also reportedly drew attention to a Supreme Court directive which prohibits the arming of civilians. It was reported that two police officers used force to switch off the live telecast during the speech. Mr. Sapam Kangleipal Meetei was reportedly charged with undermining the security of the state and encouraging insurgency under section 124 A of the Indian Penal Code and section 9 of the Punjab Security Act and Section 8 (b) under the Assam Maintenance of Public Order Act (FIR 129 (5) 08 IPS).

1066. On 8 May 2008, Mr. Sapam Kangleipal Meetei appeared before the Chief Judicial Magistrate in Imphal, where he was remanded to police custody until 13 May 2008. He was then released on bail, before being immediately rearrested under Section 3 (2) of the National Security Act, 1980, reportedly for activities prejudicial to the maintenance of public order. Under this legislation, Mr. Sapam Kangleipal Meetei might be detained for up to one year. It is reported that the MAFYF, supported by other civil society organizations, has called a general strike for 14 May 2008 in protest at the detention of Mr. Sapam Kangleipal Meetei.

1067. Concern was expressed that the arrest of Mr. Sapam Kangleipal Meetei may be directly related to his work in defence of human rights, and in particular, to his exercise of the right to freedom of expression.

Response from the Government

1068. In a letter dated 28 January 2009, the Government responded to the urgent appeal of 16 May 2008. The Government informed that the allegation contained in the communication was examined by the Government of India and informed that Mr. Sapam Kangleipal Meetei was arrested in the interest of public safety. During the investigation of the case, it has been well established that Mr. Sapam Kangleipal Meetei had close nexus with the outlawed Kangleipak Communist Party (KCP) and Kanglei Yaol Kanna Lup (KYKL), even to the extent of helping these outlawed organizations in procuring sophisticated arms and ammunitions from foreign countries for insurgent activities.

Observations

1069. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 10 June 2008

1070. On 10 June 2008, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning Messrs Henri Tiphagne, Executive Director of People's Watch and member of the National Human Rights Commission of India; S. Martin, Regional Law Officer at People's Watch; and G. Ganesan and M.J. Prabakar, both State Monitoring Officers at the same organization.

1071. People's Watch, a non-governmental organisation based in Tamil Nadu, is part of the National Project on Preventing Torture in India (NPPTI), which currently operates in nine states and of which Mr. Tiphagne is National Director. The aforementioned was also one of the subjects of a letter of allegation sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 28 April 2008, to which, to date, no reply has been received from your Excellency's Government.

1072. According to information received, between 29 and 31 May 2008, complaints were filed against the four aforementioned individuals under sections 147, 342, 366, 323, 332, and 225 of the Indian Penal Code (rioting, wrongful confinement, kidnapping/abducting, voluntarily causing hurt, deterring a public servant from his duty, and resistance/obstruction of lawful apprehension of another person). These charges were brought following the People's Tribunals on Torture, organized by People's Watch within the framework of the NPPTI, during which there were allegations of police harassment, arbitrary detention and intimidation of victims who had come to testify at the Tribunal.

1073. It was alleged that the charges brought against the aforementioned individuals may be directly related to their activities in defense of human rights, in particular their efforts to end impunity for crimes of torture in India. In view of these reports, concern was expressed for the physical and psychological integrity of those named.

Observations

1074. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 10 June 2008.

Urgent appeal sent on 18 June 2008

1075. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government concerning Mr. Kirity Roy, President of Banglar Manabadhikar Suraksha Mancha (MASUM), a human rights non-governmental organization based in Kolkata, West Bengal. Mr. Roy is also State Director of the National Project on Preventing Torture in India (NPPTI). Mr. Roy was the subject of a letter of allegation sent on 14 December 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders, and also of an urgent appeal and letter of allegation sent by the latter on 25 January 2006 and 9 January 2007 respectively.

1076. On 9 and 10 June 2008, MASUM coordinated the People's Tribunal on Torture (PTT) in Moulali, Kolkata, during which 1,200 victims and their families were present and 82 victims testified before the tribunal. Judicial harassment of other individuals in relation to the PTT was the subject of a communication sent by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 June 2008.

1077. According to the new information received, on 12 June 2008, between 10 and 12, police officers from the Detective Department searched the MASUM premises. The police were led by the Assistant Commissioner of Police and 10 more armed officers waited outside. The operation was undertaken with a warrant issued by the Chief Metropolitan Magistrate, Kolkata, but without indicating the motive for the search warrant.

1078. On 10 June 2008, the Commissioner of Police Mr. Gautam Mohan Chakrabarty had informed Mr. Kirity Roy that a charge had been filed against him for his role in organizing the People's Tribunal on Torture. Reports indicated that the complaint against Mr. Roy was filed under sections 179 (refusing to answer public servant authorised to question) and 229 (impersonation of juror or assessor) of the Indian Penal Code.

1079. Concern was expressed that the search of the offices of MASUM and the complaint filed against Mr. Kirity Roy may be directly related to his activities in defense of human rights, in particular the protection of the rights of victims of torture through the People's Tribunal on Torture (PTT). Concern was expressed for the physical and psychological integrity of Mr. Roy and that of all members of MASUM.

Observations

1080. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 18 June 2008.

Letter of allegations sent on 8 July 2008

1081. 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 a letter of allegations concerning Dr. Andana Chatterji convener of the International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir and Mr. Parvez Imroz, lawyer and also convener of the tribunal, who have been subjected to intimidation and harassment. The civil society established tribunal, which began on 5 April 2008, was created in order to investigate allegations of systematic violence and human rights violations in Indian-administered Kashmir.

1082. According to information received, on 21 June 2008, Dr. Andana Chatterji was followed from her hotel to the office of the tribunal by eight members of the intelligence service, who remained outside the office throughout the day and questioned anybody entering or leaving the building.

1083. The previous day, 20 June, Dr. Andana Chatterji and Mr. Parvez Imroz had been visiting mass graves in Indian-administered Kashmir and in the course of the day had been questioned by twelve intelligence personnel from Special Branch Kashmir (SBK) and Counter Intelligence Kashmir (CIK) regarding their activities, the villages they had visited and whether they had taken photographic or video evidence of what they had observed.

1084. After being questioned, they were followed and their vehicle was forcibly boarded in Shangargund, Sopore by members of intelligence personnel who did not show identification. They were then briefly detained at a police station where officers confiscated their tapes, claiming they contained objectionable and dangerous material and from where they were followed once again.

1085. Dr Andana Chatterji has previously been subject to harassment and intimidation. In April 2008, after announcing the formation of the tribunal, she was stopped and intimidated at immigration control when leaving India for the USA, where she is resident. In June 2008, when she was returning to India, she was subjected to similar treatment.

1086. Concern was expressed that the intimidation and questioning of Dr. Andana Chatterji and Mr. Parvez Imroz may be directly related to their activities in defense of human rights, in particular in their role in the civil society established International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir. Further concern was expressed for the physical and psychological integrity of both individuals. Finally, concern was expressed that the incidents outlined may represent an attempt to restrict the work of the individuals, including as a lawyer, in addressing human rights violations in the region.

Response from the Government

1087. In a letter dated 19 March 2009, the Government responded to the communication sent by the Special Rapporteurs on 8 July 2008. The Government provided the following information: "the Government of India rejects the allegations leveled by Dr. Angana Chatterji and Advocate Parvez Imroz. Owing to the fact that Jammu and Kashmir is a sensitive border State of India, that has been a victim of cross-border terrorism for nearly two decades, any person

venturing near the Line of Control (LoC) without informing the authorities, is liable to be questioned and asked to prove credentials by the law enforcing agencies. Since Dr. Chatterji and Advocate Parvez Imroz had been frequently visiting areas falling close to the Line of Control without informing the authorities, they may have been stopped by the law enforcing agencies for ascertaining the purpose of their visit close to the Line of Control. Such actions are necessary to maintain public order in a terrorism-prone area and cannot be termed as harassment/intimidation. It may also be noted that a vigil over the movement of foreigners in such a sensitive State is for their own safety as well as to prevent activities by them that might cause public disorder”.

Observations

1088. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 24 July 2008

1089. The Special Rapporteur , together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal to the Government in relation to information received regarding Mr. Shindu Chattar, Mr. Rabindra Majhi, Mr. Madhusudum Munda, Mr. Kanderam Hemrom, Mr. Duskar Barik, Ms. Mamata Barik, Ms. Jyanti Sethy and Mr. Ranjan Patnaik, all members of the Keonjhar Integrated Rural Development and Training Institute (KIRDITI), an organisation which peacefully defends the land rights of adivasis (indigenous people) in Harichandanpur, Keonjhar District, Orissa State.

1090. According to information received, between 1 and 11 July 2008, four members of the KIRDITI were arrested on suspicion of having links with armed Maoist groups. On 1 July 2008, Mr. Shindu Chattar was arrested. On 10 July 2008, Mr. Rabindra Majhi and Mr. Madhumusudum Munda were arrested. On 11 July 2008, Kanderam Hemrom was arrested. While in police custody Mr. Rabindra Majhi was badly beaten.

1091. Following the arrests of the above members of the KIRDITI, on 11 July 2008, Mr. Duskar Barik, Ms. Mamata Barik, Ms. Jyanti Sethy and Mr. Ranjan Patnaik fled Keonjhar District, fearing torture and ill-treatment, after reports that police planned to question them too for having links with armed Maoist groups. On 12 July 2008, local newspapers published that Keonjhar Police believed that the KIRDITI had links with armed Maoist groups. The KIRDITI and other human rights organisations that work with them strongly denied these links, maintaining that their defence of indigenous land rights was entirely peaceful.

1092. District Collectors in Orissa have now pledged to guarantee that any questioning of the four members of the KIRDITI who fled from Keonjhar District would be carried out in a safe environment. However, the four members of the KIRDITI who were arrested remained in judicial custody and Mr. Rabindra Majhi was not allowed access to a doctor.

1093. The pledge of the District Collectors to protect the members of the KIRDITI during questioning, as well as the transfer of the detained members of the KIRDITI from police custody to judicial custody, was welcomed.

1094. However, concern was expressed that the police's plans to question members of the KIRDTI maybe related to their legitimate and peaceful activities in the defence of land rights of indigenous people in Keonjhar District.

1095. Concern was also expressed for the physical and psychological integrity of Mr. Rabindra Majhi while in custody.

Response from the Government

1096. In a letter dated 12 February 2009, the Government responded to the above communication. The Permanent Mission of India informed that the allegation contained in the communication was examined by the Government which found that the alleged harassment and torture of KIRDTI activists was baseless. According to the investigation report, about forty armed persons, including five women, entered the house of Ms. Tulasi Mahanta (village Rebana Palasapal; police station Daitari; Keonjhar district), and assaulted the inmates, looted the house, damaged household articles and set fire to a tractor and four motorcycles while threatening Mr. Tulasi Mahanta to leave the village. In connection with this incident, Mr. Sindhu Chattar, Mr. Rabindra Kumar Majhi, Mr. Madhusudan Bodra and Mr. Kanderam Hembram were subsequently arrested on the basis of evidence collected during the investigation. The above-mentioned arrested persons have confessed their involvement in the incident and also disclosed that Mr. Diskar Barik, Secretary of KIRDTI was also present at the time of the attack on the house of Mr. Tulasi Mahanta on the night of 30 June 2008 and is in possession of illegal firearms. Further investigation also revealed that Mr. Rabindra Kumar Majhi, Mr. Madhusudan Bodra, Mr. Kanderam Hembram and Mr. Duskar Barik, all working for KIRDTI, are involved in violent Maoist activities. The Government noted that Mr. Barik has been spreading reports of the harassment of members of KIRDTI in order to mislead the investigation and evade arrest.

Observations

1097. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 5 September 2008

1098. The Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a letter of allegations in relation to allegedly excessive use of force by the security forces in confronting the ongoing demonstrations in Jammu and Kashmir.

1099. According to information received, since June 2008, protests have increased in Jammu and Kashmir. The demonstrations began after a state government decision on 26 May 2008, to transfer 100 acres of land to a Hindu trust (the Amarnath Shrine Board) to build temporary shelters during an annual Hindu pilgrimage. Once the decision became public knowledge in June, Muslim Kashmiris started protesting against the land transfer. The decision to transfer the land was revoked on 1 July 2008, fuelling counter protests from Hindu Kashmiris calling for the reinstatement of the transfer. During these demonstrations in Jammu, Hindu protesters reportedly

obstructed traffic on the Jammu-Panthenkot National Highway, the main land route to the Kashmir region. The blockades allegedly led to shortages in essential food and medical supplies in the Kashmir valley. Protesters chanted anti-Indian slogans, burned Indian flags and effigies of Indian leaders, blocked highways and attacked the security forces with sticks and stones.

1100. On 11 August 2008, approximately 100,000 Kashmiris marched toward the Line of Control in protest. Police, military and paramilitary forces responded with bamboo rods, tear gas, rubber bullets and live ammunition, resulting in at least ten deaths of protestors (see attached Annex for details). At least another 17 protestors and one news cameraman were shot by security forces the next day, on 12 August 2008 (see attached Annex). On 13 August 2008, the Government allegedly issued an order authorising state security forces to 'shoot on sight' in response to communal violence in the town of Kishtwar, Doda District. More protestors were shot by state forces in the following days (see attached Annex). On 24 August 2008, hundreds of protestors defied a Government imposed curfew and tried to march from Narbal to the Lal Chowk (Red Square) in Srinagar, where a rally was planned on the following day. The Central Reserve Police Force (CRPF) opened fire on the protestors, killing one person (see attached Annex). At least eight protestors were killed the following day, on 25 August 2008, and three on 27 August 2008 (see attached Annex). According to the allegations we have received, each of these 43 deaths was the result of excessive use of force by state security forces (see attached Annex for details of each incident).

1101. At least 13 journalists were also reportedly beaten by CRPF officers in Srinagar, on 24 August, as they tried to reach their offices despite the curfew introduced earlier in the day. The journalists had passes issued on 11 August but police officers reportedly said they were no longer valid. The curfew also prevented the publication of regional newspapers on 25 August, and the authorities asked local TV stations not to broadcast reports liable to "excite" the population until further notice. TV executives and editors were reportedly summoned and told it would be preferable if they suspended news programmes and just broadcast entertainment. The government claimed that reports broadcast by certain stations violated the Cable Television Network (Regulation) Act 1995.

1102. Concern was expressed that, while it appears that some of the aforementioned demonstrations may not have been entirely peaceful; the alleged use of excessive force by police personnel may seek to restrict the legitimate right to freedom of assembly. Further concern was expressed that the reported ban on media publications and broadcasting could represent an attempt to prevent independent reporting during the ongoing demonstrations in Jammu and Kashmir.

Observations

1103. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 5 September 2008.

Urgent appeal sent on 23 September 2008

1104. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the

arbitrary detention and intimidation of members of the Mapithel Dam Affected Ching-Tam Organization (MDACTO), an organization which opposes the construction of the Mapithel Dam in Manipur State in order to protect the rights of communities affected by this project.

1105. According to the information received, on 8 September 2008, members of the Manipur Commando Police took T. Dewal, L. Bipin, L. Bobojit and H. Kendra Luwang of the MDACTO from their homes and detained them for several hours. In detention they were forced to renounce their MDACTO membership and were warned not to rejoin the organization. They were released that evening. On 11 September 2008, five more members of the MDACTO (T. Kumar Mangang, an advisor; Ramthar Saiza, the Chairperson; J.S. Wungreiso, the Vice Chairperson; Lenpu Lupheng, the Secretary; and S. Deben, the Joint Secretary) were all summoned to the local police station for questioning. Fearing that they would be arrested because of their peaceful activities in protest against the dam construction project, they did not go.

1106. Subsequently, their homes were raided by security forces. Thereafter they stayed away from their homes, feeling that they were no longer safe to return to.

1107. Concern was expressed that the arbitrary detention and intimidation of the members of the MDACT may have been related to their activities in the defense of the rights of communities affected by the construction of the Mapithel Dam. Further concern was expressed for the physical and psychological integrity of the members of the MDACT.

Observations

1108. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 23 September 2008.

Urgent appeal sent on 7 October 2008

1109. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General 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. Kirity Roy, lawyer and Secretary of Banglar Manabdhikar Suraksha Mancha (MASUM) and State Director of the National Project on Preventing Torture in India (NPPTI). MASUM is a human rights non-governmental organization based in Kolkata, West Bengal. On 9 and 10 June 2008, in Molali, Kolkata, MASUM coordinated the People's Tribunal on Torture (PTT), an initiative which works within the framework of the NPPTI and aims to bring about justice in cases of police torture.

1110. Mr. Kirity Roy was the subject of communications sent by mandate holders on 14 December 2005, 25 January 2006, 9 January 2007 and 18 June 2008. The most recent of these communications concerned reports of a raid on the office of MASUM on 12 June 2008. The PTT was the subject of a communication sent by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 June 2008. No responses to any of these communications have yet been received from the Government.

1111. According to new information received, on 18 September 2008, a complaint was filed by MASUM (Writ Petition 25022 (W)/2008 Kirity Roy vs State of West Bengal and others) before the Honorable High Court, Kolkata, regarding the alleged raid on their offices on 12 June 2008. On 27 September 2008, at approximately 4.00 p.m., a group of Kolkata Police agents whose identities are known entered the offices of MASUM to search for Mr. Kirity Roy who was not there at the time. They then requested three documents relating to three alleged victims of police torture who had sworn affidavits for the PTT.

1112. Concern was expressed that the harassment of Mr. Kirity Roy and MASUM may have been related to their legitimate activities in the defense of victims of police torture. Further concern was expressed that the incident described above may form part of an ongoing trend of harassment against human rights defenders involved in the investigation of police torture in India.

Observations

1113. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 7 October 2008.

Letter of allegations sent on 12 November 2008

1114. 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 in relation to Madesh, Dil Faraz, Kokila, Shahana and Savita.

1115. On 20 October 2008, Madesh, Dil Faraz, Kokila, Shahana and Savita went to the Girinagar police station as they have received news about five hijras arrested and detained, and allegedly beaten by members of the Girinagar police. As they tried to inquire about the detention of the hijras, the members of the Sangama crisis intervention team were assaulted and detained at the Girinagar police station, and later at the Banashankari police station. They have been accused of offences punishable under Section 143 (unlawful assembly), 145 (joining unlawful assembly ordered to be dispersed), 147 (rioting), and 353 (obstructing government officials in performing their duty) of the Indian Police Code. They were brought before a magistrate and sent into judicial custody later that evening. All five crisis team members have been released on bail on 22 October 2008.

1116. In the evening of 20 October 2008, about 150 human rights activists and lawyers gathered in front of the Banashankati police station to peacefully protest against the arrest and detention of the Sangama crisis team members and to try and negotiate their release. Six delegates from the protesters had been detained for about four hours at the police station and subjected to physical and verbal abuse. In the meantime members of the Banashankati police attacked the peaceful protesters with sticks, subjected them to physical, verbal and sexual assault. 31 human rights activists were closed into a small police van, and kept there for about seven hours.

Observations

1117. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 12 November 2008.

Urgent appeal sent on 20 November 2008

1118. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr. Parvez Imroz, and advocate and president of the Jammu Kashmir Coalition of Civil Society (JKCCS).

1119. Mr. Imroz was previously the subject of an allegation letter sent by the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, and the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. He was also the subject of urgent appeals sent by the then Special Representative of the Secretary-General on the situation of human-rights defenders and the Special Rapporteur on the independence of judges and lawyers on 1 May and 14 September 2006, of an urgent appeal sent by the then Special Representative of the Secretary-General on the situation of human rights defenders on 11 May 2005, for which we received a reply on 15 February 2005, and of an urgent appeal sent by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 5 October 2004.

1120. According to the information received, on 17 November 2008, Mr. Parvez Imroz was arrested along with several other persons, while he was monitoring the first phase of the Jammu and Kashmir state legislative election in Bandipora. The police dispersed an anti-election demonstration, allegedly using tear gas and batons. As Mr. Imroz and his volunteers reached the spot of the demonstrations, they were beaten and dragged by police officers. Mr. Imroz and the two volunteers were taken to the Badinpora police station afterwards, and released at about 10.15 p.m. the same day.

1121. Concern was expressed that the alleged beating, arrest and detention of Mr. Parvez Imroz may be related to his peaceful activities in the defence of human rights.

1122. Further concern was expressed regarding the physical and psychological integrity of Mr. Imroz, especially in light of the several previous threats to his life and security.

Observations

1123. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 20 November 2008.

Follow-up to previously transmitted communications

1124. In a letter dated 21 February 2009, the Government responded to a letter of allegations sent on 17 February 2006. The Government reported that “the incident actually took place

three days prior to the telecast of the Marathi skit, in protest against which the alleged attack took place. A criminal complaint was subsequently lodged at the local police station under relevant sections of the Indian Penal Code and the Bombay Police Act and action taken against the nine accused who were arrested upon their identification by the witnesses. A charge sheet is being submitted in the court of law against the accused. No compensation has been demanded by or provided to the complainant's office. It may be noted that Marathi skit was subsequently telecasted peacefully on Zee Marathi channel on the scheduled date, i.e., 11 February 2006.

1125. In a letter dated 21 July 2008, the Government responded to a letter of allegations sent on 18 May 2007. The Government reported that "on May 9, 2007, a crowd gathered in front of Tamil newspaper Dinakaran's office in Madurai, burnt newspapers and then dispersed. They were demonstrating against the results of opinion polls published in the newspaper, one of which rated the performance of Union Ministers from Tamil Nadu and the other which speculated on the possible successor of the incumbent Chief Minister. The supporters of Mr. Azhagiri (one of the sons of the Chief Minister who was not favourably rated in the poll) went on protest, demonstrated and burnt newspapers. Prompt action was taken by the police and a case was registered. The 5 accused by the names of Gopinathan, Kumar, Sekar, Pandy and Arunachalam were arrested. A few hours later, another group led by Saravanan entered the premises of the Dinakaran office, pelted stones and smashed the glass panes. A complaint was registered and 2 of the accused namely Alaguraja and Premkumar were arrested. After another hour, another group of persons came in a vehicle, entered the office overpowering the police, threw in bottles of petrol set the building on fire and escaped. The fire services were immediately called who were successfully in putting out the fire. However, unfortunately, 2 computer engineers, Mr. Gopinath and Mr. Vinod and the building's caretaker, Mr. Muthuramalingam were caught in the midst of the fire and died due to suffocation. In this incident, a case was registered and a Special Team was appointed which apprehended 5 of the accused and the vehicle used by them. In Madurai itself, 82 persons were arrested and the situation in the city was rapidly brought under control. Necessary protection was provided to the offices of Dinakaran in the state of Tamil Nadu to avert any further untoward incidents. The Chief Minister of the State, acknowledging that his own family members were associated with the incidents, decided to entrust the case to the Central Bureau of Investigation. The case is under investigation".

1126. In a letter dated 17 July 2008, the Government replied to the communication sent on 23 August 2007. In its reply, the Government informed that "a complaint was registered by Mr. Nirbhay Vishnu Mane, an office assistant in Outlook's Mumbai office stating that on August 14, 2007, about 12 men barged into the said office shouting slogans of "Shiv Sena Zindabad". They enquired about the Editor and when they were informed of his absence, they threatened those present in the office. They broke some glass panes of the office and pushed the fax and photocopying machines on to the floor. In about 5 to 7 minutes and they left the office shouting slogans. Ms. Sangita Shah, a worker informed the police of the incident who immediately rushed to the spot. After preliminary enquiries, the statement of Mr. Mane was recorded and an offence was registered. According to the complainant, the said act was in retaliation to some allegedly defamatory information published in the magazine issue dated August 20, 2007. The office bearers of Shiv Sena have denied their involvement and stated that the attack on the Outlook office was carried out by others to tarnish the image of Shiv Sena. The case is under investigation".

Observations

1127. The Special Rapporteur is grateful for the Government's replies.

Indonesia

Letter of allegations sent on 8 April 2008

1128. The Special Rapporteur sent a letter of allegations in relation to the alleged arrest and detention of nine activists from Papua, for displaying the Papua Morning Star flag.

1129. According to information received, on 13 March 2008, a demonstration was organised in Manokwari, in West Papua, to protest against the 2007 Government Regulation 77, which bans the display of "separatist symbols", including the Morning Star flag. It is reported that during the demonstration, the police arrested nine people, including a 16 year-old boy. It is further reported that the nine have been charged with breach of regulation 77/2007, as well as with rebellion ("makar"), which carries a maximum penalty of 20 years imprisonment. Information received indicates that people have in the recent past been sentenced to penalties of up to 17 years imprisonment for possessing and displaying "separatist symbols".

Response from the Government

1130. By a letter dated 21 October 2008, the Government responded to the letter of allegations, providing the following information: "on 13 March 2008, several individuals decided to stage a demonstration in West Papua to protest against the 2007 Government Regulation 77 in Manokwari. According to our sources, this was a peaceful gathering until certain groups attempted to use this occasion as a political rally to demonstrate their opposition to the constitutionally established national rule of law.

1131. In Indonesia, it is not unlawful to protest against a specific matter or event. However, according to established national norms, it is important that the government is informed of the decision to hold a rally. Indeed, this is clear from the stipulations of national norms such as Law No. 2/2002 of the State Police of the Republic of Indonesia and Law No. 9/1998 which concerns the freedom of expression in public it is also evident from the provisions of the Criminal Code chapter 510 on the permission to hold public events, that is permissible to hold peaceful demonstrations in Indonesia as long as permission is sought in advance from the concerned law enforcement authorities in the region. This measure exists in order to ensure that the protests take place in an orderly and peaceable manner with law officials present in case any problems arise. On 13th March 2008, several individuals illicitly unfurled the outlawed separatist "Free Papua" flag during the rally. The police had to break up the gathering when it became evident that the protesters were not respecting the established national norms relative to holding peaceful demonstrations in Indonesia. As a result, nine out of the thirteen protesters arrested were detained and charged. They are now facing trial for breaching Article 106-110 of Criminal Code regarding "makar" or rebellion. Four out of the thirteen who were originally arrested have since been released. However, the legal process which concerns the nine in custody is one which is determined by the relevant national courts. It should be further recalled that the Indonesian Judiciary is independent from the Executive.

1132. It should furthermore be noted that within the stipulations of national legislation, and in particular, Government Regulation 77/2007 (03/PIM-MRP/2008), the display of separatist symbols in Indonesia is expressly banned. In particular, Article 6 of Government Regulation 77/2007 prohibits the display of the Morning Star Flag in Papua as this is counter to efforts to maintain peace, national unity and territorial integrity. At this point, it is also important to recall that Indonesia is a sprawling archipelago which has long been sensitive to attempts by separatist movements to divide this peaceful nation. Thus, the government has long been concerned about regional divisions. In 2003, the government attempted to divide Papua into three provinces, namely: Central Irian Jaya (Irian Jaya Tengah), Papua (or East Irian Jaya, Irian Jaya Timur), and West Irian Jaya (Irian Jaya Barat). The Constitutional court annulled this decision in 2004 as it was considered to be in opposition to Papua's Special Autonomy status. However, the court did in fact accept the establishment of the West Irian Jaya province, which is in the westerly region of Papua.

1133. Historically, the Papuan People's Council (MRP) was set up under a "Special Autonomy" law for West Papua, which was passed in 2001, Under the Presidential Decree of 2004, the Papuan People's Council (MRP) was established months later, in January 2005. It was established to give indigenous West Papuans a voice which would be heard directly in the Indonesian central government in Jakarta and also, in order to protect their rights and cultural identity. Since then, the government has continued with efforts to establish and enact other laws which protect and promote the rights of people in the region. Furthermore, it must be understood that the Government of Indonesia considers the spirit of unity and constructive partnership which exists between the various regions of the country as being vital to the future of the country. This diversity of cultures enriches the mosaic patchwork of identities which together, has created today what is considered as Indonesia's dynamic and multi-ethnic society. Therefore, the illicit actions of a few protesters have served to cause division and destructive regional unrest. The government is also currently in the process of issuing an emergency government regulation to justify the formation of Irian Jaya Barat province. It is intended that the Perpu/Law will acknowledge Irian Jaya Barat as province. The new law to be established will be synchronized with the existing 2001 law on special autonomy for Papua. It is hoped that this will help ensure that there is peace in the region and bring clarity to the legal status of the Irian Jaya Barat province. In the meantime, the government is continuing efforts to improve the situation in the region by investing heavily in local infrastructure. In this regard the President in August 2007 issued a presidential instruction to accelerate the development efforts in Papua and in the West Papua provinces. The central government is expected to spend Rp. 22 trillion, which will be mainly dedicated to building the regions infrastructure.

1134. It is therefore incorrect to allege that the government is in some way not doing its best to ensure that the rights of its citizens, including the right to freedom of expression and opinion is not protected. In this regard, apart from the stipulations in the 1945 Constitution (Article 28) which implicitly protects this right, it should be noted that all citizens are treated equally. According to Article 27 (1) of the 1945 Constitution, "all citizens shall be equal before the law and the government and shall be required to respect the law and the government, with no exceptions". Concurrently, taking from the reading of Article 19 of the ICCPR, it is observed that the respect for the right to freedom of expression is expressly limited to instances that do not interfere with the "... protection of national security or of public order (ordre public), or of public health or morals". Or in Article 22 where it states that limitations are within the rights of the State if they are prescribed by law and are necessary in a democratic society in the interests of

national security or public safety, public order (ordre public) ... or the protection of the rights and freedoms of others". Moreover, the Government of Indonesia takes this occasion to reiterate its commitment to the promotion and protection of fundamental human rights which are established and protected in its national legislation through norms such as law 39/1999 on Human Rights".

Observations

1135. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 29 April 2008

1136. The Special Rapporteur sent a letter of allegations concerning reports that a new law on "Electronic Information and Transaction" was passed on 25 March 2008. While the main purpose of the law is to combat online crime, pornography, gambling, blackmail, lies, threats and racism, it is reported that provisions in the law prohibit citizens from distributing in any electronic format information that is defamatory, allegedly punishing transgressors with a maximum of six years in prison or a fine of one billion Rp (approx. US\$ 109,000) or both.

Response from the Government

1137. By a letter dated 27 May 2008, the Government responded to the letter of allegations, providing the following information: "the "Economic information and Transaction Law" is a national law that was passed on 25 March 2008. Primarily, this law was established to cover the use of the Internet and focuses on issues such as web content, information technology and business transactions. The Ministry of Communications and Information was the agency placed in charge of the draft which is formally known as the "UU ITE' Undoing Undang Informasi and Transaksi Elektronik" or Law No. 11/2008 on Economic Information and Transaction Law. This law was issued to ensure that there is a full and complete coverage of many issues such as intellect property rights, economic transfers and consumer protection measures. After five years of consultations and consolidation, in March 2008, the government officially ratified the Undang-undang Informasi and Transaksi Elektronik (UU ITE) and it was expected to come into force as of 1st of April 2008.

1138. This new legislation also forms part of the Government of Indonesia's effort, to establish and enact comprehensive legislation on cyberspace uses while taking into account the UNCITRAL model law requirements on e-commerce. It was also created to cover issues such as the communications, information technology and cybercrime. It is intended to complement the existing Undang-undang Hak Cipta (the Indonesian Copyright Law) as well as other such related laws. Therefore, while it is true that one of this new law is intended to restrict access to pornographic websites because such sites raise serious questions on morality and public order, it should also be noted that the new law was however not created exclusively for this purpose but also to encompass, in an updated manner, other aspects of internet use and the defamatory or negative use of information technology.

1139. Moreover, it must be understood that it is was in fact at the instigation and request of concerned members of the general public that the government decided to block access to sites with violent and pornographic content. To this end, the Information and Communications Ministry has made available to the public, software which blocks websites with pornographic

content and which is also be available for download from its official website. This is software which the general public can choose to obtain for their personal use or on the other hand, choose not to. It was important to impose sanctions to discourage access to such sites and to this effect, there is the possibility that a maximum imprisonment term of three years may be imposed on those found guilty before a court of law of violating this law as well as a possible fine amounting to a maximum of one billion rupiah.

1140. The Government of Indonesia considers it important to reiterate at this point its commitment to the promotion and protection of human rights and fundamental freedoms. Indeed, Law No. 9/1998 regarding freedom of expression in public as well as the Indonesian Constitution guarantees the freedom of opinion and expression of its citizens. This is evident from the provisions of Article 28 E sub-paragraph (3) and Article 28 F whereby the protection and fulfilment of human rights are considered as the responsibility of the State, especially that of the government. In addition, Article 28 J sub-paragraph (2) provides that “In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purposes at guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based upon considerations of morality, religious values, security and public order in a democratic society.”

1141. In addition, the government is of the view that such legally binding restrictions will also be beneficial to the wellbeing and social upbringing of the most vulnerable group to such uncensored exposure, which are the children in the country. In this particular reference, the Indonesian Constitution of 1945 as well as its most recent amendments expressly protects the rights of children. In Article 28 B. it is clearly stipulated that every child has the right to grow and develop, and has the right to protection from violence. Therefore, as in several international laws such as the “Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography”, it must be clearly underlined that violations to constitutional freedoms in Indonesia are thus contrary to the provisions of the national constitution.”

Observations

1142. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 12 June 2008

1143. The Special Rapporteur, together with the Special Rapporteur on freedom of religion or belief, sent an urgent appeal regarding a joint ministerial decree with regard to members of the Ahmadiyya community in Indonesia. According to the information received, on 9 June 2008, a joint ministerial decree by the Religious Affairs Minister, the Home Minister and the Attorney General warned and instructed adherents, members and/or board members of the Indonesian Ahmadiyya Congregation (Jemaat Ahmadiyya Indonesia), as long as they claim to be Muslims, to stop the spreading of the belief that there is another prophet with his own teachings after the Prophet Muhammad. Members who disobey this instruction of the decree or who spread interpretations that deviate from the principal teachings of the religions in Indonesia are warned that they and their associated organizations will face legal action. Furthermore, the decree appeals to society to refrain from violent acts against Ahmadiyya followers.

1144. On 1 June 2008, more than 500 people from the Islam Troop Command attacked about 100 activists of the National Alliance for the Freedom of Faith and Religion who were holding a peaceful rally for religious tolerance at Jakarta's National Monument. 75 people were injured in the attack and several Ahmadiyya followers had to be hospitalised. Although police were in the area they reportedly did little to stop the violence and some police officers allegedly blamed the organizers of the rally that keeping the agenda of their peace parade had created the tensions.

Response from the Government

1145. By a letter dated 27 June 2008, the Government responded to the letter of allegations, indicating that: "In reference to the allegation concerning the Ahmadiyya community in Indonesia, it is important to first begin by reiterating that in Indonesia the freedom of religion or belief is constitutionally established and protected. Similarly, the freedom of religion in Indonesia and the practices linked to individual belief are guaranteed under Articles 28 E, 28 I and 29 of the Constitution which clearly states that the exercise of freedom of religion cannot be limited other than by law. Moreover, further guarantees concerning the respect of this fundamental freedom and of religious practice are protected in various laws, and specifically, Law No 39 of 1999 on Human Rights.

1146. Indeed, in addressing the issue, the Government of Indonesia has been mindful of the fact that incidents relating to Ahmadiyya have multiple facets. On the one hand, the doctrinal aspect of this particular religious movement has long been considered by some communities as deviant. On the other hand, sporadic acts of violence by the mob against members of this group have resulted in public disturbance and constituted led to acts of intolerance and crimes punishable by law.

1147. As regards the doctrinal aspect of this movement, it should be noted that in recent years, the interaction of this movement with many communities in the country has created major social tension. The government has been endeavouring to resolve the issue through dialogue. It has held a several sessions to dialogue with the leaders of Ahmadiyya on issues such as the protection of their followers. The government is also continuing to promote dialogue between Ahmadiyya and various religious groups in order to enhance mutual respect and understanding.

1148. The second aspect of this matter relates to law enforcement. In particular, there have been incidents of intolerance against the followers of Ahmadiyya. In this regard, on the occasions when members of Ahmadiyya have been at risk, the authorities have stepped in to assure their protection in the same manner they have been obliged to ensure the protection of ordinary citizens against the violence inflicted by any group or persons.

1149. Following such attacks in the past, the perpetrators of the acts of violence have been detained for questioning and several were brought before the law. Hence, at the same time as enforcing the law, the government also takes into account the need to address the related social tension and the need to promote further dialogue among groups.

1150. In light of the need to resolve the issue in a sustainable manner and to prevent its recurrence in the future, the government recently issued a specific decision on this issue which takes into account the principle of freedom of religion as well as the need to respect the existing

relevant laws and regulations in the country. The policy, which comes in the form of the joint decree under reference KEP-033/A/JA16/2008 or SKB No. 3/2008, contains among others, the following elements: it does not outlaw the Ahmadiyya faith, but rather, orders its followers to halt their proselytization (Sylar) activities and to fully respect the existing laws and regulations; it appeals to the Ahmadiyya followers to return to the Islamic mainstream religion and at the same time, it appeals to the people in general to refrain from acts of violence against Ahmadiyya followers.

1151. Indeed, the Ahmadiyya organization became legally registered in Indonesia through the Law Minister's Decision of 1953 under reference RI No. JA123113 of 13th March 1953 and to date, there is no regulation which annuls the said decision. Furthermore, the issuance of such a decree was never meant to be an intervention by the State in people's right to freedom of religion. It is merely an effort by the government, as mandated by the Constitution and national laws, to uphold law and public order and protect the followers of Ahmadiyya from any criminal attacks. It does not interfere with religious doctrines or limit religious freedom.

1152. As regards the acts of violence, on June 1st of this year, on the day marking the 63rd anniversary of Indonesia's Pancasila, it was reported that a group comprised of 500 individuals called the Islamic Defender's Front (FPI) attacked over 100 activists from the National Alliance for the Freedom of Faith and Religion during an interfaith rally on religious tolerance in front of the National Monument (Monas) in Jakarta. Several people were injured and have since been treated in hospital. However, in response to this illicit act of violence, there have been several measures taken by the government, including the arrest of two leaders of the FPI, namely Mr. Habib Rizik and Mr. Munarman. Concurrently, there have also been police investigations into the violence which has led to the arrest of several other individuals who were involved in the violence.

1153. In addition, the government has called upon the local communities and civil societies to keep the peace and not attempt any acts of violence or illegal actions against the Ahmadiyya community. Through the application of the laws on hate crimes, there will also be legal prosecution of those who attack members of Ahmadiyya.

1154. Therefore, as regards Ahmadiyya, the Government of Indonesia as a budding democracy is not of the view that this is an issue which exceeds the precepts of national sovereignty, nor is it one that infringes on the freedom to practice religions. Therefore, the Government of Indonesia is of the view that the solution to the issues concerning Ahmadiyya needed to also take into account the two-fold perspective, namely, the preservation of public order, and the protection of the followers of Ahmadiyya from any criminal attack by mob. In other words, the government limits its role to the levels of maintaining public order and protecting its citizens.

1155. Moreover, while it is acknowledged that human rights are universal in character, it is generally understood that their domestic expression and implementation should remain the responsibility of each individual government. This is consistent with the basic principles contained in the United Nations Universal Declaration of Human Rights which in Article 29B addresses two aspects: 'On the one hand, there are principles that respect the fundamental rights and freedoms of the individual; on the other, there are stipulations regarding the obligations of

the individual to society and state'. The implementation of human rights implies the existence of a balanced relationship between individual human rights and the obligations of individuals towards their community. Without such a balance, the rights of the community as a whole can be denied, which can lead to instability and anarchy, especially in developing countries. It is thus important to recall at this point that Indonesia is a multi-ethnic and multi cultural country which prides itself of its harmonious mosaic of diverse communities living together and practising several religious beliefs of their choice, as long as their religious practices do not infringe on public order and the harmonious wellbeing of the society as a whole. Additionally, the government considers efforts being undertaken in this respect, to form a vital part of its ongoing commitment to the eradication of religious radicalism and all acts of violence stemming from religious intolerance.”

Observations

1156. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 14 August 2008

1157. The Special Rapporteur, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a letter of allegations concerning the arrest and detention of Mr. Simon Tutuop, Mr. Tadeus Weripang, Mr. Viktor Tutuop, Mr. Tomas Nimbitkendik, Mr. Benedidiktus Tutuop and Mr. Teles Piahar.

1158. According to information received, in the morning of 19 July 2008, at approximately 4.30 a.m., 46 Papuan nationals were arrested by police during a flag-raising ceremony outside a government archive office, in the city of Fakfak, western Papua. During the arrests, police officers reportedly beat and kicked the protesters, forcing the men to strip to their underwear in the street, before loading them onto trucks and taking them to Fakfak police station. Reports claim that many of those arrested suffered bruising to their faces and bodies, with two complaining of serious eye injuries.

1159. According to reports, six of those arrested, including Mr. Simon Tutuop, Mr. Tadeus Weripang, Mr. Viktor Tutuop, Mr. Tomas Nimbitkendik, Mr. Benedidiktus Tutuop and Mr. Teles Piahar, have been charged with subversion for threatening the state and by raising a 'separatist flag'. In accordance with Indonesia's criminal code subversion carries a maximum penalty of life imprisonment. On 23 July, five more activists were reportedly arrested while 37 from the original group of detainees were released. The police reportedly stated that it will investigate allegations related to detainees who suffered eye injuries, but has denied claims that any of the protesters were beaten or that they were subjected to humiliating treatment.

1160. In March 2008, nine Papuan activists were arrested and jailed for displaying the Papuan Morning Star flag. Their trial, on charges of subversion, is ongoing and the nine remain in detention.

1161. Concern was expressed that the arrest and detention of the aforementioned individuals may represent a direct attempt to stifle freedom of expression.

Response from the Government

1162. By a letter dated 21 October 2008, the Government responded to the letter of allegations, providing the following information.

1163. “On 19 July 2008, it was reported that the six abovementioned Papuans were involved in a flag-raising incident which took place outside an Indonesian government archive office in Fak Oak, West Papua. The above individuals were just some of the 46 who were arrested for their participation in this illicit event which took place without any authorisation in the early hours of Saturday morning at approximately 04.30 am.

1164. As a result of their actions Simon Tuturop, 58 years old, Tadeus Weripang, 52 years old, Victor Tuturop, 42 years old, Tomas Nimbitkendik, 19 years old, Benediktus Tuturop, 35 years old and Telas Piahar, 20 years old were all arrested and charged under section 110 of the Indonesian Criminal Code for Subversion.

1165. Following further investigations the others who were arrested at the same time as the six abovementioned individuals have since been released and the charges against most of them dropped. At the time, the other 37 detainees were to be sent home after meeting with and being briefed by the Fakfak Regent, Dr. Wahidin Puarada.

1166. The incident in question was the result of an illegal flag being raised. The flag bore the insignia and colours of the West Papuan independence which is known as the Vlorning Star flag and which it is nationally well known under Indonesian law to be a separatist symbol and thus banned. To this effect, Article 6 of Regulation PP 77/2007 (03/PI \I-MRP/2008) is part of the 2007 law which expressly bans the display of separatist symbols, including flags in all parts of Indonesia. The six individuals mentioned above were thus in violation of this law for attempting to cause a rebellion. Their case will be handled in application of the national judicial procedure which will accordingly decide the verdict applicable to the six men.

1167. Additionally, under Article 106 of the Indonesian Criminal Code, those detained by the appointed authorities can be charged with plotting a coup. The charge also carries a maximum punishment of life imprisonment.

1168. As already mentioned at various occasions in the past Indonesia protects the right to freedom of opinion and expression which is constitutionally guaranteed (Articles 27 and 28 of the 1945 Constitution and its subsequent modifications). This right however can not be used in a manner which is detrimental to national norms or the “state Constitution”.

1169. Indeed, it is the government’s view that as is the case with any democratic nation, it is the role of the government to establish parameters within which these rights may be fully enjoyed without causing untoward harm to others. If these rights should impede the fundamental interests of others, including those of the national community as well as its unity or territorial integrity, restrictions may be placed to limit the harmful consequences of such a right. To this point, the ICCPR has been clear in supporting this argument. In Article 19 of the ICCPR, it is observed that the respect for the right to freedom of expression is expressly limited to instances that do not interfere with the “... protection of national security or of public order (ordre public), or of public health or morals”, and in Article 22, it states that any limitations to these rights are within the

rights of the State if they are “prescribed by law and are necessary in a democratic society in the interests of national security or public safety, public order (orders public) ... or the protection of the rights and freedoms of others.”

1170. Hence, it must be left within the authority of the judiciary to determine what measures will be taken in the case of the six abovementioned individuals to punish any attempts to sabotage national democracy and territorial integrity.

1171. In essence, Indonesia prides itself of being a nation which is united under one banner but which also comprises of a rich patchwork of different cultures, religious beliefs and languages spoken by a multitude of ethnic groups. As an archipelago which is in fact the largest in the world, this is no easy task for any government to ensure unity and cohesion at all times with all its citizens. All this said, Indonesia has always sought to achieve the essential balance which is necessary for this unity and thus acts which seek to subvert, destroy or diminish these efforts are not considered lightly.

1172. As a whole, the government is continuing to do its best to avoid as best possible, regional divisions which would only fracture the peace and the unity in Indonesia. Already in this year alone, there have been several meetings involving the President and Vice-President of Indonesia in talks, respectively, with various stakeholders on how to improve the situation in the Papua region.

1173. At this juncture, it should be recalled that Indonesia is a democratic nation which is also a signatory to many international treaties and conventions, a majority of which have been ratified, acceded to and which have since formed part of its national norms. Therefore, allegations that the government does not respect the rights of its citizens are both incorrect and unjustified.”

Observations

1174. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 8 September 2008

1175. The Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations on the killing of Mr. Opinus Tabuni, an activist of an indigenous peoples’ organisation in West Papua, at a rally on 9 August 2008. According to the information received:

1176. On 9 August 2008, International Day of the World’s Indigenous People, a peaceful rally took place through the town of Wamena, in the middle mountain region of West Papua. A march concluded with an event staged near Santa Thomas school in Wamena. Police were stationed around the ground where the event took place. Army and intelligence services were present as well. Only the security forces were carrying guns.

1177. In the course of the event the Morning Star flag, which is a symbol of the West Papua independence movement, was raised. Raising the Morning Star flag reportedly constitutes, under Indonesian law, the offence of subversion and carries a sentence of up to 20 years imprisonment.

1178. At this point, the police started moving in on the demonstrators and started shooting. Mr. Opius Tabuni, a leader of the Wamena branch of an indigenous peoples' organisation in West Papua, was hit by a bullet and died. An autopsy performed on Mr. Tabuni at the hospital in Wamena on 10 August 2008 showed that a bullet travelled through his right side and through his heart. The bullet has been sent by the police to Makassar for further analysis.

1179. Another Papuan man, who was not identified, was reportedly seriously injured by gunshot. This man has disappeared since then. A further man was reportedly beaten by police with rifle butts and has also disappeared. There are concerns that the two men could have been apprehended by the police and may be in police detention.

1180. The Indonesian police are reportedly investigating the incident and have detained a number of witnesses.

Response from the Government

1181. By a letter dated 28 October 2008, the Government responded to the letter of allegations, providing the following information.

1182. "On 9 August 2008, sympathizers to the Dewan Adat Papua/DAP (Papuan Custom Council) cause from the sub-district of VI Lapago Balliem marched from Sinakma Wourma, Pikhe and Wesaput Wamena. They brought with them traditional defense armaments such as arrows, spears and machetes. They yelled continuously "International Koteka Naire and Independence for Papua". Their march continued onwards to the conference building on Yos Sudarso Street in the Wamena District of the Papua Province. At 1.45 p.m., in the public square of Sinapuk, there was a commemoration of the "International Day of the World's Indigenous People". The rally was attended by approximately 10,000 sympathizers of the DAP group and they chose to celebrate the event by illegally raising the Morning Star flag, a separatist flag. The sympathizers of this movement then marched together with the leaders of the DAP. At 2.15 p.m., the participants of the "International Day of the World's Indigenous People" carried the Morning Star flag side by side with the Indonesian flag, the UN flag and the SOS (emergency) flag on which was written "Papuan are in danger". Upon seeing the Morning Star flag raised, the county police of Jayawijaya tried to lower and confiscate it. However, there was a strong opposition from the crowds. In order to calm the protestors down, the police officers fired a warning shot in the air and this happened to strike the flag of the DAP sympathizers. Chaos ensued and within 30 minutes, individuals in the crowd started using a gun, arrows, spears and machetes. At 3.30 p.m., leaders of DAP held a meeting with the head of the county police of Jayawijaya and Dandim 1702, and were informed that the individual(s) who raised the Morning Star flag must be given up to the police officers and thereafter face legal prosecution. At that moment, just as the crowds began to leave the area in order to return home, a man was found dead. He was identified as Mr. Opius Tabuni. An investigation into the cause of his death commenced immediately. At 4.45 p.m., the DAP sympathizers carried the body of Mr. Opius Tabuni to the Honai (traditional house) of the DAP Lapago in Mapina. They requested an inquiry into the death of Mr. Opius Tabuni. On 10 August 2008, the autopsy of the body was performed, and it was found that there was a bullet in his heart. On 13 August 2008, at the Sinapuk Wamena public square, a team from the Indonesian Police Headquarters investigated the third crime scene with regard to the raising of the Bintang Kejora Flag, and the incident which also led to the death of the Mr. Opius Tabuni. Another team from the Indonesian

Police Headquarters investigated the fourth crime scene at the public square. It was determined that the individuals responsible for the deterioration of the rally included the head of the DAP (Mr. Forkorus Yaboisembut) as well as prominent members of the Presidium Dewan Papua (DPD). It was also discovered that the rally was attended by several prominent figures from the contentious 2000 Papuan People's Congress and this separatist group was ultimately found to be behind the creation of the Presidium Dewan Papua/PDP and other civilian separatist movements in general. The individuals who raised the Morning Star flag have since been identified as having the initials AW and AH. It was also found that these individuals originate from the Pyramid village in the Assologaima district. Since then, the following steps have been taken by the regional police of Papua to address this problem: conducting investigations into finding the perpetrators who shot Mr. Opius Tabuni; conducting interrogations of the 4 witnesses from the civil society body, 31 members of the county police of Jayawijaya who were on duty and who were supposed to provide security during the rally and 19 members of the county police of Jayawijaya who were armed during the rally; and conducting "back-up" support from the county police of Jayawijaya and assisted the team of forensic experts from the Indonesian Police Headquarters and the Criminal Investigation Body (Bareskrim)."

Observations

1183. The Special Rapporteur is grateful for the Government's reply.

Iran (Islamic Republic of)

Letter of allegations sent on 21 January 2008

1184. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning a group of between 20-30 students, including Ms. Rosa 'Essa'ie, a student at Tehran's Amir Kabir University, Mr. Mehdi Geraylou, Ms. Anousheh Azadfar, and Mr. Rouzbeh Safshekan; all students at Tehran University, Ms. Ilnaz Jamshidi, a student at Free University of Central Tehran, Mr. Nasim Soltan-Beigi, a student at 'Allameh Tabatabai University, Mr. Yaser Pir Hayati, a student at Shahed University and the students Mr. Milad Moini, Mr. Younes Mir Hosseini, Ms. Anahita Hosseini and Ms. Bita Naghashiyan. The aforementioned are all associated with the student groups Students for Freedom and Equality (Daneshjouyan-e Azadi Khah va Beraber Talab) and the Office for Strengthening Unity (Daftar-e Tahkim-e Vahdat).

1185. According to information received, all but two of the 20 to 30 students arrested for participating in demonstrations for the National University Students' Day on 7 December 2007 were still detained without charge. It was reported that Mr. Milad Moini and Mr. Younes Mir Hosseini had been recently released, but at least nine other students, including Ms. Anahita Hosseini and Ms. Bita Naghashiyan, had reportedly been arrested in recent days. The circumstances of their arrest and their current whereabouts remain unknown, although it had been reported that they may have been transferred to Evin Prison in Teheran. Before they were arrested, many of the students reportedly received mobile phone text messages, threatening them with arrest if they participated in the events.

1186. One detained student, whose identity is not known, was reported to have attempted suicide. Unconfirmed information states that pressure exerted by officials and harsh detention conditions may have been factors in this suicide attempt. The Ministry of Intelligence has reportedly suggested that students were in possession of “catapults, sound grenades, alcoholic drinks and misleading books”. However, students’ groups are said to have dismissed these claims as fabrications. Serious concern was expressed for the physical and mental integrity of those detained. Concern was also expressed that the arrests and detention of all of the aforementioned persons may be directly linked to their activities in defense of human rights, particularly their exercising their rights to freedom of expression and association.

Observations

1187. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 5 February 2008

1188. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning the arrest of Mr. Behrouz Seferi, Iranian Azerbaijani human rights activist and his wife, Ms. Layla Heydari.

1189. According to the information received; Mr. Behrouz Seferi, who had campaigned for Iran’s Azerbaijani minority to be given greater rights to use their mother tongue, has been detained without charge or trial since late May or early June 2007. He has not been allowed to consult a lawyer. Mr. Seferi was arrested shortly after demonstrations around the first anniversary of the publication of a cartoon in an Iranian newspaper which many Iranian Azerbaijanis found offensive. He was held in his home town of Zanjan until 4 December 2007, when, according to sources, he was moved to Evin Prison.

1190. Reportedly, his wife, Ms. Layla Heydari, had been detained since 28 August 2007. According to the information received, Ms. Heydari ran a shop selling Azerbaijani books, music and other cultural material until the authorities closed it down in 2006. She obeyed official warnings not to publicise her husband’s arrest, but on 28 August 2007 she was summoned to visit him at the Ministry of Intelligence detention centre where he was held at the time, and was arrested. She too was moved to Evin Prison on 4 December 2007.

1191. Concern was expressed that the arrest and detention of Mr. Seferi and Ms. Heydari may be linked to their peaceful activities in defence of human rights, in particular the cultural rights of the Iran’s Azerbaijani minority. Further concern was expressed that they both may have been tortured to obtain confessions. Finally, concern was expressed for their psychological and physical integrity. Ms. Heydari was reportedly in poor health, suffering from heart problems and had been treated on the medical wing, whose staff reportedly recommended that she be allowed medical treatment outside prison.

Response from the Government

1192. By a letter dated 6 May 2009, the Government responded to the letter of allegations, providing the following information: “Mr. Behrouz Safari and his wife Mrs. Leila Heydari travelled to Turkey as tourists and participated in training sessions, which according to authentic information, were organized by Americans. According to the confirmed information the agenda of the training courses included overthrow of the system government through abuse of civil and social rights existing in the country. The participants in the training courses are taught the special methods for recognition and absorption of new members, organizational techniques extremist propagation on the existing weaknesses in the country, as well as disturbing of public opinion through resorting to propagation of lies and false information. It is noteworthy that the U.S. government, under the pretext of establishment of democracy in Iran has openly allocated millions of dollars in its annual budget for overthrowing the Government of the Islamic Republic of Iran.

1193. Mr. Behrouz Safari and his wife Mrs. Leila Heydari together with other seven individuals participated in the above-mentioned course and took the oath to implement what they had learned in the course. Following their return to the country, Mr. Safari was arrested on 19 June 2007 and Mrs. Heydari was arrested on 27 August 2007. Following the relevant investigations, they were bailed out on 2 March 2008 and their case, together with the bill of indictment, was sent to branch 15 of Tehran penal Court. The court met on June 2008, in the presence of their defence lawyers, Dadkhah and Raeisian Firouzabad, and convicted them to one year’s suspended imprisonment, through verdict NO 87/104. Upon complaint of the defence, the case was raised in branch 36 of the Court of Appeal and reinstated through verdict No. 1257 of 28 October 2008.

1194. As stated above, the two individuals were arrested merely in relation with their illegal activities and they were treated in accordance with the rule of law and enjoyed all their legal rights before the court of justice. Any allegation on maltreatment or lack of proper attention to his physical or psychological integrity as well as any other allegation such as “torture to obtain confession” or “arrested in relation with their peaceful activities in credence of human rights” and likewise are baseless and mere fabrication of lies aiming at mal-intended objectives.

1195. The laws of the Islamic Republic of Iran are based on prohibition of any form of mistreatment of individuals. This overriding principle has been accorded special attention in the Constitution. In order to ensure effective respect for this principle, not only has the Constitution provided for the punishment of those who ignore the prohibitions and commit acts of mistreatment and torture, but provisions have also been made for the legal protection of the victims of mistreatment. Furthermore, confession extracted through torture is invalid. Article 38 of the Constitution states that: “All forms of torture for the purpose of extracting confession or acquiring information are forbidden. Compulsion of individuals to testify, confess, or to take an oath is not permissible; and any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with the law.”

Observations

1196. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 13 February 2008

1197. The Special Rapporteur, together with 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 and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. Amin Ghaza'i, aged 29, writer, chief editor of an electronic journal called "ArtCult", and prominent member of an organisation called "Students for Freedom and Equality" ("Daneshjouyan-e Azadi Khah va Beraber Talab"). Some other student members or affiliates of this group were already been the subject matter of a joint urgent appeal to the Government by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 21 January 2008.

1198. According to the information received; Mr. Amin Ghaza'i was arrested in Tehran on 14 January 2008 at a meeting along with 14 other students. He was currently being held without charge or trial in solitary confinement in Section 209 of Evin Prison in Tehran and had been ill-treated. On 15 January 2008 the police searched Mr. Ghaza'i's home and confiscated his computer and papers. On 30 January 2008, Mr. Ghaza'i was allowed a three minute telephone conversation with his family in the presence of guards, during which he appeared to be intimidated. Apart from this phone call Mr. Ghaza'i had not been allowed access to his family or a lawyer. Mr. Ghaza'i suffers from a peptic ulcer, heart problems, and asthma.

1199. Mr. Ghaza'i has published articles on the internet and written books about gender identity and has translated into the Persian language books on the subject, which are banned in the Islamic Republic of Iran.

1200. In view of his reported incommunicado detention concerns were expressed as to Mr. Amin Ghaza'i's physical and mental integrity and his state of health.

1201. Further concern was expressed that the arrest and detention of Mr. Amin Ghaza'i might solely be connected to his reportedly peaceful exercise of his rights to freedom of expression and association.

Observations

1202. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 22 February 2008

1203. The Special Rapporteur, together with the then Special Representative of the Secretary-General 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 situation of Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi, two members of the One Million Signatures Petition Campaign, which calls for an end to discriminatory laws against women in Iran.

1204. According to the information received, on 14 February 2008, Ms. Asgarizadeh and Ms. Khosravi were arrested in Daneshjoo Park in Teheran, while collecting signatures in support of the Campaign's petition. They were then taken to Tehran's police station n°129 (Jaami) and later transferred to the security police station number 8 for interrogation. Upon completion of their interrogation, they were transferred to the Vozara detention centre.

1205. On 15 February, Ms. Asgarizadeh and Ms. Khosravi were charged by the Revolutionary Court with "propaganda against the state". They were then transferred to Evin prison as they were unable to provide the requested bail of \$22,000. Concern was expressed that the arrest, detention and charging of Ms. Asgarizadeh and Ms. Khosravi may be linked with their non-violent activities in defense of women's rights in the Islamic Republic of Iran.

1206. Further concern was expressed at the campaign of harassment against women human rights activists involved in the One Million Signatures Campaign.

Response from the Government

1207. By a letter dated 4 March 2009, the Government responded to the letter of allegations, indicating that: "The existing laws and regulations in connection with women, in the Islamic Republic of Iran, which are guaranteed and safeguarded by anticipated legal instruments are, inter alia, as follows:

1208. Equality before the Law: In accordance with Article 3, Para 14 of the Constitution, the Government is bound to do its utmost towards, "Securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as ensuring the equality of all before the law." Furthermore, it is clearly stated in Article 20 of the Constitution that: "All Citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria. Based on the conviction of the Islamic Republic, women should be held in high esteem and all their rights be observed". Article 21 of the Constitution is devoted exclusively to guarantees for the protection of act aspects of women's rights. It stipulates that "The Government must ensure the rights of women in all respects, in conformity with Islamic criteria, and accomplish the following: (a) The creation of a favorable environment for the growth of women's personalities and the restoration of their rights, both material and intellectual; (b) The Protection of mothers, particularly during pregnancy and childbearing, as well the protection of children without guardians; (c) The establishment of competent courts to protect and preserve the family; (d) The provision of special insurance for widows, aged women and women without support."

1209. Right to Work: In the Islamic Republic of Iran, as a matter of principle, women and men have equal social, political and other rights. Women can hold various governmental and non-governmental posts, and they can participate in referenda, as well as, in national and local elections with equal voting rights to men. They can, while enjoying equal rights to men, be ministers, members of parliament, attorneys-at-law, university professors, or hold other high offices. According to Article 6 of the Labor Code: "... All individuals, whether men or women, are entitled to the same protection of the law; and every person has the right to freely choose an occupation, provided that such occupation is not inconsistent with the Islamic principles or the public interest and does not violate other peoples' rights." There are certain responsibilities and obligations envisaged for men from whom women are exempted, while continuing to enjoy

relevant rights and benefits. These rights and benefits include inter alia: “Women shall not be employed to perform dangerous, arduous or hard work or to carry, manually and without mechanical means, loads heavier than the authorized ...”; “Women workers shall be entitled to 90 days of maternity leave, of which 45 days shall, if possible, be taken after delivery”. The said maternity leave entitlements shall be extended by 14 days for women giving birth to twins; “On termination of maternity leave, a woman worker shall return to her work, the duration of such leave being considered a part of her effective service, subject to confirmation of the Social Security Organization”; “During maternity leave, wages shall be paid in accordance with the provision of the Social Security Organization Act”; “Where, on the advice of a physician ... a type of work is deemed too dangerous or arduous for a pregnant worker, the employer shall, without reducing her remuneration, provide her with more suitable and easier work until the end of her pregnancy; In workplaces, employing women workers, nursing mothers shall be granted a half-hour break every three hours to enable them to nurse their children until they reach two years of age; such breaks shall be regarded as part of the hours of work. Furthermore, the employer shall set up childcare centers according to the number of children, with due regard to their age.”

1210. Equal Pay: in Article 38 of the labor Code, adopted on 24 October 1989 also ratified by the State Expediency Council on 20 November 1990, the need for the above equality and non-discrimination is expressed explicitly as follows: ‘Equal wages shall be paid to men and women performing work of equal value in a work-place under the same conditions. Any discrimination on the basis of age, gender, race, ethnic origin and political and religious convictions shall be prohibited.’ Violations of these provisions shall be punished in accordance with Article 174 of the labor Code.

1211. Political Social and Cultural Participation: Women in Iran are active in social and political life of the country and have high profiles in the official governmental positions. The most notable are: a number of members of the Parliament, Vice-President for Environment, Adviser to the President on women’s affairs, Advisers to the Ministers of interior, Health, Higher Education and Labor, Director General for Human Rights (in the Ministry of Foreign Affairs), Adviser to the head of the Islamic Republic of Iran Broadcasting, a number of Directors General in Government Ministries, as well as many executives in the public and private sectors. Recently the Ministry of Higher Education of the Islamic Republic of Iran announced that there are no gender restrictions choosing various disciplines in the universities. In fact, women in Iran are among the leading university students in engineering and medicine. The majority of teachers are women who are extremely active in education.

1212. Rights and Special Privileges of Women in Marriage: According to the Islamic tradition, as well as regulations of the Islamic Republic, women constitute a willing partner in marriages and their consent is required both for the initiation as for the termination of this institution. Furthermore, a number of provisions in the Iranian legal system are geared to guarantee the economic well-being and independence of married women, including: the wife can independently do what she likes with her or her property; immediately after the marriage ceremony the wife becomes the owner of the Dowry and can dispose of it in any way and manner that she may like; the alimony of the wife is borne entirely by the husband - the alimony includes dwellings, clothing, food, furniture in proportion to the situation of the wife, on a reasonable basis, a provision of a servant if the wife is accustomed to have servants or she needs one because of illness or physical handicap. The same is true in the case of a divorced wife during the period of “Eddeh” or when she is pregnant

by her husband until her child is born; Maintenance of children is the duty of the father; Article 111 of the Civil Code provides that: “The wife can refer to the court if her husband refuses to provide her maintenance. In such a case, the court will fix the amount and will compel the husband to pay it.” If the enforcement of the provisions of the foregoing is impossible or the husband is unable to provide for the maintenance of the wife, the wife can refer to the judge applying for divorce and the judge will compel the husband to divorce her. According to Article 105 of the Islamic Punishment Law, “Any financially capable person, who refuses to pay his wife’s maintenance, while the latter fulfills her matrimonial duties, will be sentenced by the court”.

1213. Right to Divorce and Community Property Rights: According to legislation enacted through Parliamentary procedure in Iran, the divorce does not take place simply on the basis of a request by the husband; rather it should be based on a decision by a competent court and through a legal procedure. The consent of the wife is required in divorce cases. Furthermore, the wife has the right to seek divorce through the same procedure. If the court finds that the husband is asking for a divorce without legitimate cause, he is required to pay for all his wife’s work at home as determined by the court. In addition, in such a case, the court could rule for equal division of property, registered in husband’s name.”

1214. The Government also provided detailed information concerning new developments in the realm of Iranian women affairs.

1215. The Government informed that “the Islamic Republic of Iran’s national human rights policy is based on the Constitution which is inspired by the Islamic principles and is in full compliance with its commitments arising from international instruments and duly respects the internationally accepted human rights values and Standards. The principles, prevailing the human rights policy, enshrined in the National Development Programs, clearly represent vigorous attempt aimed at Human Rights, mainstreaming and stipulating full respect for the status and the inherent dignity of human beings from the Islamic perspectives as well as full respect for the citizens’ rights. These programs have been designed in a manner to adequately address all economic, social, cultural and civil and political rights of citizens including the rights to development and provide to the full extent possible, the effective enjoyment of the said rights and their promotion and protection. To this end, the Islamic Republic of Iran while reviewing, amending and updating the existing regulations has taken measures for legislations of new and additional new regulations. Simultaneously, creation of national human rights institutions and bodies has effectively been pursued.

1216. To accomplish the goals of National Development Programs, development of different approaches for national capacity building, strengthening of national institutions, human rights education and further attention to the economic, social and cultural rights particularly rights to development has been foreseen. To this end, strengthening of civil society, fostering an environment conducive for enhancement of national human rights mechanism such as standing human rights committee in judiciary, Article 90 commission within the Parliament, organization of National Ombudsman, Bar Association. Department of Administrative Justice and Islamic Human Rights Commission as well as drafting and implementation of Citizen’s Rights bill have been accomplished.”

1217. The Government informed that “the Islamic Republic of Iran is also faced with certain shortcomings and difficulties, the roots of which are generally developmental questions and imposition of economic sanctions and application of unilateral policies by certain countries during the past quarter of century. In spite of the aforementioned obstacles, the Islamic Republic of Iran within the context of its National Development Programs is committed to take the necessary measures to uphold the highest standards and promotion and protection of the human rights and fundamental freedoms of all citizens, realization of which is not only dependent on the national endeavors, it is also interlinked with the international support and cooperation particularly with regard to realization of the right to development, as stipulated in the “Declaration on the Right to development.

1218. The importance of role and contribution of civil society in different fields particularly issues pertaining to human rights policy through provision of their consultative views has precisely and completely been foreseen, and reiterated in National Development Programs. Furthermore the necessity of continuation of empowerment policy of NGOs has also been underlined in the said program. The vigorous pursuance of enabling policy has led to establishment or enhancing of scope of activities of some 2000 NGOs throughout the country as well as facilitating the acquiring of international consultative status for 16 Iranian NGOs. Furthermore, convening of different seminars and workshops relating to different aspects of NGOs’ activities in collaboration with foreign counterparts at local, national and regional levels are yet another tangible result of above-mentioned policies.

1219. In spite of all the above-mentioned plans and activities, which have already opened new horizons, there are efforts made by some women to belittle the achievements. They have been gathering signatures from women for fir~her/equa~ rights for women. Those individuals, instead of bringing their efforts, talents and energy together in the context of the already existing NGOs or a new legally-established NGO, have unfortunately resorted to malicious moves such as claiming to be human rights defenders who are opposed by the Iranian Government and so on. The Government and pertinent organizations have repeatedly announced that they would welcome and support any individual or organization who/which genuinely desires to work toward empowerment of women in the Iranian society. We do not believe that bossing or bullying around would bring about any assistance or solution to problems. At the same time, neither the Government nor the people of Iran may tolerate and watch silently and indifferently those who might dream to hinder or hurt advancement of the society, particularly advancement and empowerment of women, who have been genuinely and whole-heartedly sacrificing themselves for their sublime Godly causes, under the disguise of empty slogans and abuse of internationally recognized and respected human rights instruments.”

1220. To conclude, the Government informed that Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi Moghaddam were arrested and charged with disturbing public order. The investigating court dropped the charge against them on 19 August 2008, stating that they had not premeditated a disturbance and that their activity was originally peaceful. The two individuals were treated on the basis of the rule of law and they enjoyed all their rights.

Observations

1221. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 10 March 2008

1222. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal regarding the arrest of Mr. Reza Daghestani, an Azerbaijani rights activist, at his family's house in the city of Oroumiye. Mr. Reza Daghestani is the editor of a student newsletter, Chamlibel, published in both Azerbaijani Turkic and Persian and he has written for several other publications; he started a series of Azerbaijani Turkic classes in the town of Naghadeh and established groups to organize peaceful demonstrations in the province of West Azerbaijan in connection with International Mother Tongue Day on 21 February. He was a member of the committee of a campaign group called Urmu Azerbaijan Sesi, which actively supported several would-be candidates from Oroumiye who all were disqualified from standing for the Majles (parliament) elections to be held on 14 March.

1223. According to information received, during Mr. Daghestani's arrest on 21 February 2008, his house was searched and his computer, CDs, papers and books were confiscated, along with printouts of his newsletters. Mr. Daghestani called his family on 22 February 2008, saying he was being held in a detention centre belonging to the Ministry of Intelligence in Oroumiye. Mr. Daghestani has had no access to a lawyer and his family. When his family tried to visit him on 25 February, they were told that visits would not be allowed until at least 10 March. It is feared that Mr. Daghestani may have been tortured to force him to provide information, as security forces searched his house a second time on 26 February and appeared to know where to find other papers and books.

1224. With a view to his incommunicado detention concern was expressed for Reza Daghestani's physical and mental integrity. Further concern was expressed that his arrest and detention of Mr. Daghestani may be related to his non-violent activities in defense of Azerbaijani rights in the Islamic Republic of Iran.

Response from the Government

1225. By a letter dated 4 March 2009, the Government responded to the letter of allegations, indicating that: "Mr. Reza Daghestani, born in 1981, was arrested on 2 February 2008, under the charge of extremist incitement to ethnic feelings and sentiments, organizing of illegal gatherings as well as ethnic propagation against other Iranian ethnic groups. Following investigations, he was released on bail. On 14 May 2008, the penal court of Oroumiye city sentenced him, in the presence his lawyer, Mr. Karim Najafi, to eight month's imprisonment, including his earlier days of intention. Taking into consideration Mr. Daghestani's young age and respecting the Islamic affection as well his lack of criminal record and finally, on the basis of Article 25 of the Islamic Penal Code, the remaining of his sentence was suspended.

1226. As it was explained, Mr. Daghestani was treated in accordance with the rule of law, enjoying the highest level of affection as well as all his legal rights before the court of justice.

The charges laid down against Mu Daghestani had no connection, whatsoever, with her, if any, social human rights activities, and the case was heard and settled in the shortest possible time. Therefore any allegations on maltreatment or lack of proper attention to his physical or psychological integrity as well as any allegation on threat against his family are baseless, mere fabrication of lies aiming at mal-intended objectives as well as an abuse of internationally-recognized instruments”.

Observations

1227. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 11 April 2008

1228. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on violence against women, its causes and consequences, and the Vice-Chairperson of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Ms. Khadijeh Moghaddam, a member of the Mother’s Committee of the “One Million Signatures” Petition Campaign, which seeks to abrogate legal provisions that have adverse effects on women’s human rights.

1229. According to the information received, Ms. Khadijeh Moghaddam was arrested on 8 April 2008 at about 11:00 a.m. at her house by agents of the police, who forced their way into her home and refused to show her an arrest warrant. Ms. Moghaddam was then transferred to the Eshrat Abad Security Police Station, where she was interrogated during several hours, and, from there, to the Revolutionary Court, where she was interrogated by an Investigative Judge.

1230. During the hearing, Ms. Moghaddam denounced that she had been ill-treated during her arrest. She was accused of hosting political meetings in her house and was asked to identify members of the Petition Campaign who had participated in the meetings. Subsequently, Ms. Moghaddam was charged with “spreading of propaganda against the State”; “disruption of public order” and “actions against national security”.

1231. A temporary arrest order was issued against her and the bail for her release was set to 1,000 million Rials. As she declared that she was unable to pay such an excessive amount of money, the Investigative Judge ordered her transfer to prison for a week. Ms. Moghaddam is currently detained at the Vozara Detention Centre.

1232. Concern was expressed that the arrest, detention and charging of Ms. Moghaddam may be linked to her peaceful activities in defense of women’s rights.

Response from the Government

1233. By a letter dated 28 April 2009, the Government responded to the letter of allegations, indicating that: “Upon the several complaints filed by neighbours of Ms. Khadijeh Moghaddam, stating that she had been constantly disturbing the tranquillity of her neighbours by causing noise

and other disturbances, an officer from the local police office calls on Ms. Moghaddam to advise her not to cause problem for her neighbours; but as a result of her heedless reaction and obtrusive behaviour, she was arrested by the police officer and taken to police station. According to the existing report she was released on the same day, upon her expression of regret, and no judicial action was taken against her.

1234. There is much to be regretted that such an incident is maliciously reported to the Special Procedure and then reflected to us as “arrest by agents of the police”, “transferred to security police station” and etc. The charges laid down against Ms. Moghaddam had no connection, whatsoever, with her, if any, social/human rights activities, and the case was immediately settled. Any allegation on maltreatment or lack of proper attention to her integrity is baseless and mere fabrication of lies aiming at abusing the existing instruments.”

Observations

1235. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 15 April 2008

1236. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, the Vice-Chairperson of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding Behrooz Karimizadeh, Peyman Piran, Ali Kantouri and Majid Pourmajid, four students and members of the organisation “Students Seeking Freedom and Equality”.

1237. According to information received, three of the four students were arrested in December 2007, apparently to prevent demonstrations to commemorate the “Students Day” on 7 December 2007. Behrooz Karimizadeh was arrested on 2 December 2007 by Ministry of Information agents at the house of a friend in Tehran; Peyman Piran was arrested on 4 December 2007 by plainclothes agents from the Ministry of Information as he was leaving Tehran University campus following a peaceful demonstration; and Ali Kantouri was arrested approximately two weeks later in the town of Ghazvin. Behrooz Karimizadeh and Peyman Piran are being detained in Units 209 and 305 in Evin prison in Tehran, and Ali Kantouri is detained in Ghezel Hesare near Tehran. Bail was refused for Mr. Kantouri, and prohibitively high bail was set for Mr. Piran and Karimizadeh.

1238. Majid Pourmajid was arrested on 29 March 2008 in Tabriz; he was hospitalized three days after his arrest and transferred two days later from the hospital to an undisclosed location by the authorities. Since then his whereabouts are not known.

1239. The four students are accused of taking part in “armed activities” and “forming groups against the State”. Their lawyers have not yet had access to their clients or their files. The detained students are reportedly being subjected to long periods of solitary confinement and physical and psychological ill-treatment. Approximately 40 students were arrested since December 2007, and all except these four were later released, some of them alleging that they were ill-treated during their detention.

1240. Concern was expressed that the arrest and detention of Behrooz Karimizadeh, Peyman Piran, Ali Kantouri, and Majid Pourmajid may be linked to their non-violent activities in defense of human rights, in particular in the exercise of their right to freedom of expression and assembly.

Response from the Government

1241. By a letter dated 28 April 2009, the Government responded to the letter of allegations, indicating that: “In the Islamic Republic of Iran, all walks of life have been enjoying their extensive social and political liberties, and exclusive extra concessions are provided to university students through special regulations, observing the civil and social rights of students on the basis of national and international norms, laws and regulations. We also wish to draw the kind attention of the Honourable Rapporteurs to the fact that all countries have adopted special measures for management of student activities, and I.R. Iran is not an exception to the rule. The Iranian authorities consider student social and political moves as positively as possible and particularly with due consideration of the million-numbered students in Iranian universities, they have helped them with and welcomed their free movement and enjoyment of their legitimate rights with considerable tolerance. Therefore, we hope that the issue of gatherings and activities of Iranian students in Iran is not politically-misinterpreted or to be considered as a grave concern of the pertinent authorities.

1242. On the basis of investigations, the mentioned individuals in the communication are not students and they had resorted to illegal instruments, violation and extremism and started their activities through establishment of illegal organization with extremist Marxist inclinations, named Hekmatism, Azadi guard branch. Aiming at creating insecurity in the country, the organization had set up a military branch, disguised under the umbrella of student activities.”

1243. The Government also provided the following information: “Hekmatism, which sometimes introduces itself as a party, was created with extremist Marxist and ideas and subversive intentions, inter alia through armed struggle. The abused their civil rights and through organizing covert meetings and committees of actions (terminology used by its members), and with the intention sabotage actions throughout the country inter alia disturbing public order and causing of riots, intended to achieve their illegitimate objectives.

1244. On 4 December 2007, the un-normal behavior of the four individuals mentioned in the communication (Behrouz Karimizadeh, Peyman Piran, Ali Kantouri and Majid Pourabdollah (not pourmajid) who had participated in a gathering in commemoration of the Day of Student, made police officers suspicious. Consequently they were arrested and the investigations revealed the following.

1245. Mr. Peyman Piran, from the city of Mahabad, whose parents are living out of the country, had been expelled from the university of Tehran, and he had had a record of arrest for acts of extremism with leftist Marxist inclinations in relation with Hekmatism (sometimes also self-declared as the communist workers party of Iran) with armed struggle policies.

1246. Mr. Behrouz Karimizadeh from the city of Mahabad, who had been expelled from the University of Tehran, and Mr. Ali Kantouri, from the city of Qazvin, with records of illegal

activities, extremist leftist inclinations, acts leading to public disorder, destruction of public property and one case of blackmail (record of kidnapping a child in the city of Sanandaj, Kurdistan province, and receiving of 200 thousand dollars from the child's parents to release their child) were both actively involved in the armed activities of Azadi guard of Hekmatism.

1247. Majid Pourabdollah: He has had records of illegal activities, extremist leftist inclinations, acts leading to public disorder, destruction of public property and actively participated in implementation of armed activities policies of Hekmatism. The mentioned individuals were charged with: 1. Founding an extremist group with the objective of disturbing security of the country, 2. Propagation against the state in favour of the hostile groups (extremist Marxists with armed struggle policies). Their cases were referred to branch 15 of the penal court and later on they were released on bail. Their cases are not finalized yet.

1248. Charges laid down against the above-mentioned individuals have had no connection, whatsoever, with their peaceful social/human rights activities. All the individuals enjoyed their rights as well as having access to the existing services and facilities, similar to any other individual under detention. Mr. Abdolfattah Soltani and Ms. Mahnaz Parakan were the lawyers of the individuals. Any allegation on maltreatment or lack of proper attention to their physical or psychological integrity is baseless and mere fabrication of lies aiming at mal-intended objectives through abusing the existing international human rights instruments. It is noteworthy that according to the latest information, Mr. Karimzadeh and Mr. Piran have illegally left the country and are seen in northern Iraq.”

Observations

1249. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 16 April 2008

1250. The Special Rapporteur, together with the Vice-Chairperson of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture sent an urgent appeal regarding the situation of Mr. Ali Muhaqiq Nasab, editor of the monthly Kabul-based magazine Haqq-e-Zan (Women's Rights). Mr. Nasab has written a number of articles and books which are considered to be controversial both in Afghanistan and Iran. One of them deals with the issue of whether the Islamic Revolution of Iran and its theological developments apply to all Shias - including Afghan Shias - or if it applies only to those in Iran. Mr. Nasab was the subject of an urgent appeal sent to the Government of Afghanistan by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders on 6 October 2005.

1251. According to information received, on 4 March 2008, Mr. Ali Muhaqiq Nasab was arrested by Iranian officials at his home in Qom. He was then transferred to a detention facility in Tehran, where he has been held without charge. At the time of his arrest, a computer, mobile phones and documents were confiscated. Mr. Nasab's wife was denied access to or any information about him.

1252. Mr. Nasab was sentenced to two years of imprisonment in Afghanistan in October 2005 on charges of blasphemy related to the publication of articles in Haqq-e-Zan questioning harsh penalties for adultery and theft which were judged to be “anti-Islamic”. The sentence was reduced on appeal to six months of imprisonment.

1253. Concern was expressed that the arrest and detention of Mr. Nasab might be solely connected to his reportedly peaceful exercise of his right to freedom of opinion and expression and to religion.

1254. In view of his reported incommunicado detention without charge, further concern was expressed for his physical and psychological integrity.

Response from the Government

1255. By a letter dated 28 April 2009, the Government responded to the letter of allegations, providing the following information: “according to the time-consuming efforts and the reports received from all prisons throughout the country, there are two Ali Mohaqiq Nasab, both of whom are Afghan citizens, recognized in the city of Qom, by pertinent authorities.

1. Mr. Ali Mohaqiq Nasab, son of Gholamhossein, born in 1957. A complaint was filed against him by his wife, claiming that he had not been paying alimony, and also destroying the belongings of his wife. Their case was settled in the pertinent family court.
2. Mr. Ali Mohaqiq Nasab, son of Khademhossein, born in 1958. He was arrested on 25 May 2008, charged with illegal entry into the country and sent back to Afghanistan four days later. We could not establish any relation between the two individuals and the allegations made through the communication of the Special Rapporteurs.”

Observations

1256. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 16 April 2008

1257. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders and the Vice-Chairperson of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Ms. Rugeyye Leysanli (or Lisanli), wife of the activist for the rights of Iranian Azeri Turks, Mr. Abbas Leysanli, who has been the subject of two joint urgent appeals by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 22 June 2006, and by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 14 November 2006, respectively. Both of these communications have regrettably remained without a reply from the Government to date.

1258. According to the information received, Ms. Rugeyye Leysanli was arrested at her home on 12 April 2008 at around 1:30 a.m. without a warrant by members of the Iranian secret police (Ettelaat), who searched the house and confiscated Ms. Leysanli's computer. During the arrest and search the officers used force. Her current whereabouts are unknown. Ms. Leysanli had been threatened with arrest by authorities on a number of occasions in connection with her reporting about allegations of ill-treatment of her husband, who is currently serving a prison term in the Yazd province, and it is believed that her arrest was carried out as a deterrent.

1259. In view of her reported incommunicado detention and alleged ill-treatment of her husband while in detention, grave concern was expressed for Ms. Leysanli's physical and mental integrity. Further concern was expressed that her arrest and detention may be linked to her reportedly non-violent activities in defense of human rights, in particular her reporting on the alleged ill-treatment of her husband.

Observations

1260. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 24 April 2008

1261. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding the sentencing to death on appeal of Abdolwahed (Hiwa) Butimar, a Kurdish journalist and environmentalist, by Branch No. 1 of the Revolutionary Court in Marivan City in the Province of Kordestan. An urgent appeal was sent on 26 July 2007 on behalf of Hiwa Butimar and his cousin Adnan Hassanpour, a Kurdish journalist and cultural rights activist, by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Representative of the Secretary-General on the situation of human rights defenders, to which your Government replied on 23 August 2007.

1262. According to the information received, Hiwa Butimar and Adnan Hassanpour were arrested on 23 December 2006 and 25 January 2007 respectively and reportedly held incommunicado in the Ministry of Intelligence facility in Marivan until 26 March 2007, when they were transferred to Marivan prison. They were tried on 12 June 2007 on charges of espionage and crime of "Moharebeh" (enemy of God) and sentenced to death on 17 July, although information received indicated that the charges were not supported by evidence. They appealed the sentence, and on 23 October 2007 the Supreme Court upheld the death sentence against Adnan Hassanpour, while it overturned the sentence against Hiwa Butimar for procedural irregularities and sent it back to the Marivan Revolutionary Court for re-examination.

1263. According to information received, Hiwa Butimar's death sentence was recently upheld on appeal. It is reported that the case was referred to the same judge on appeal as the first instance judge.

Observations

1264. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 23 May 2008

1265. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Ms. Nashrin Afzali, Ms. Nahid Jaafari, Ms. Zeynab Peyghambarzadeh, Ms. Rezvan Moghadam and Ms. Parvin Ardalán, members of the One Million Signatures Petition Campaign. This Campaign seeks to abrogate legal provisions that have adverse effects on women's human rights.

1266. These women's rights activists, along with other members of the campaign, were the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, and the then Special Representative of the Secretary-General on the situation of human rights defenders on 7 March 2007. We regret we have not yet received a response to that communication.

1267. In addition, Ms. Ardalán, along with other members of the campaign, was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, the then Special Representative of the Secretary-General on the situation of human rights defenders, on 16 June 2006. She was also the subject of an allegation letter sent by the Special Rapporteur on violence against women and the then Special Representative of the Secretary-General on the situation of human rights defenders, on 11 March 2008. While we acknowledge receipt of a reply from your Excellency's Government to the communication of 16 June 2006, we regret not yet having received a response to the communication of 11 March 2008.

1268. According to the information received, on 19 April 2008, the 13th Chamber of the Tehran Revolutionary Court sentenced Ms. Nasrin Afzali to six months' suspended imprisonment and ten lashes after having found her guilty of "disruption of public order" for having participated, on 4 March 2007, in a peaceful gathering in front of the Tehran Revolutionary Court to mark International Women's Day. On 21 April 2008, Ms. Nahid Jaafari received the same sentence, on the basis of the same charges. On 29 March 2008, Ms. Zeynab Peyghambarzadeh was sentenced to two years' suspended imprisonment for "acting against national security" by the 16th Chamber of Tehran Revolutionary Court.

1269. On 28 April 2008, Ms. Rezvan Moghadam and Ms. Parvin Ardalán were notified that, subsequent to a hearing that took place on 4 February 2008, the Tehran Revolutionary Court had sentenced Ms. Moghadam to six months' suspended imprisonment and ten lashes and Ms. Ardalán to two years' imprisonment on charges of "acting against national security". On 4 March 2007, the Iranian authorities arrested at least 31 women's rights activists, including Ms. Afzali, Ms. Jaafari, M. Peyghambarzadeh, Ms. Moghadam and Ms. Ardalán, for staging a

peaceful demonstration against the prosecution of six women's rights defenders charged with criminal offences against public order and security for having organized a peaceful demonstration in Haft-e Tir Square of Tehran on 12 June 2006.

1270. Concern was expressed that the sentencing of Ms. Afzali, Ms. Jaafari, Ms. Peyghambarzadeh, Ms. Moghadam and Ms. Ardalan may be directly related to their peaceful activities in defense of women's rights in the Islamic Republic of Iran, in particular within the framework of the One Million Signatures Petition Campaign.

Response from the Government

1271. By a letter dated 14 April 2009, the Government responded to the letter of allegations, providing the following information: "on the basis of the principles 26 and 27 of the constitution of the Islamic Republic of Iran, any people may enjoy their legitimate right of holding gatherings. Those constitutional principals are well observed and every year different types of gatherings are held by any walks of life including workers, students, women and etc. through coordination and receiving of the required permit from pertinent authorities. Similar to any other country around the world, different issues such as avoiding disturbance of people's lives and peace, observance of public orders, observance of city traffic, observance of citizens' rights, acceptance of the responsibility of the gathering by an individual/group and coordination with the police for control and organization of the gathering are the requirements for issuing the permit for holding an organized gathering.

1272. The organizers of the gathering referred to in the above-mentioned letter, unfortunately, did not observe the required elements and committed the following offences: -The individuals mentioned in the letter have had no registered or recognized or applied organizational entity and have constantly ignored the existing official regulations of the country. The two gatherings had not met the legal requirements/permit; no route for their direction of move was introduced; and they were held in the very heavy-trafficked square of "Haft-e Tir" without any coordination with traffic police, which resulted in six hours of disorder in one of the busiest squares of the city, during a working day. Although the number of people participating in the gathering was about eighty people, they were watched by by-passers and the whole ended in blockage of one of the main highways on the northern side of Haft-e Tir square.

1273. According to investigations, there were a group of twenty women as the core participants of the gathering and none of them had made earlier coordination with the pertinent city authorities for organization of the gathering and prevention of any possible disorder. It is noteworthy that every year hundreds of women NGOs who organize gatherings in different parts of the country on different issues without any problem did while those twenty women called themselves representatives of all Iranian women, with the belief that causing disorder could magnify their presence. - Some of those women were arrested merely due to their illegal actions and incitement into disorder.

1274. Their next illegal gathering was held a few months later on 4 March 2007 in front of the court in which their cases were under judicial procedure. The report is as follows:

1275. Ms. Nasrin Afzali: according to the report of Tehran police station 106, a number of women, carrying placards, gather in front of one of the judicial complexes of Tehran, and in spite of police warning they do not disperse and continue with disturbing public order. Thus, Ms. Nasrin Khajeh Afzal and four other individuals, who had effective role in disturbance, get arrested introduced to one of the investigation branches. The mentioned individual was released, on introduction of surety, on 7 March 2007. According to the judgment No. 86/7702 of 19 March 2007, issued by Branch 13 of the penal court, she was sentenced to six months' suspended imprisonment. The judgment was objected by her defence lawyer, Mr. Mohammad Mosaffayi, and later reinstated by branch 21 of the court of appeal through judgment No. 876 of 8 September 2008.

1276. Ms. Nahid Jafari: Ms. Jafari was arrested on the same above-mentioned charges and she was released, on introduction of surety, on 7 March 2007. According to the judgment No. 5658 of 4 February 2008, issued by Branch 13 of the penal court, she was sentenced to six months suspended imprisonment. The judgment was objected by her defence lawyer, Ms. Arzani, before branch 17 of the court of appeal, as a result of which the court acquitted Ms. Jafari of the charges laid against her, through judgment No. 401 of 18 June 2008.

1277. Ms. Zeinab Peyghambarzadeh: Ms. Peyghambarzadeh was arrested for the first time, on 27 December 2006, under the charge of disturbing public order and due to lack of prior records in courts; she was released on a suspender writ of prosecution. But, two months later, she was arrested and charged with disturbing public order and refusal of police order (the report of Tehran police station 106) and introduced to the investigation branch. She was bailed out on 7 March 2007. According to the judgment No. 4209 of 2 December 2007, issued by Branch 13 of the penal court; she was sentenced to two years suspended imprisonment. The judgment was objected by her defence lawyers, Ms. Dadkhah and Ms. Hajar Sabbaghiyan, and later the verdict was commuted by branch 31 of the court of appeal to one year suspended imprisonment, through judgment No. 758 of 18 August 2008.

1278. Ms. Rezvan Moghaddam: Ms. Moghaddam was arrested under the charges referred to in the afore-mentioned cases. She was released on 7 March 2007, on introduction of surety. According to the judgment No. 7641 of 5 March 2007, issued by Branch 13 of the penal court, she was sentenced to six months' suspended imprisonment. The judgment was objected by her defence lawyers (Soltani and Mahnaz Parakan), and later reinstated by branch 21 of the court of appeal through judgment No. 877 of 8 September 2008.

1279. Ms. Marvin Ardalan: Ms. Ardalan was charged as the other four women, and she was released on introduction of surety, 17 March 2007. According to the judgment No. 4029 of 17 November 2007, issued by Branch 13 of the penal court, she was sentenced to two years' suspended imprisonment. The judgment was objected by her defence lawyer, which is under review by the pertinent court of appeal.

1280. As it was described, a. all of the mentioned individuals were released; b. none of them was sentenced to imprisonment, c. only three individuals, who didn't have records, were sentenced to six months suspended imprisonment, d. the suspended imprisonment verdicts were issued merely to deter the individuals to abide by the rule of law and public order which are to be observed for the good of the society.

1281. We would also like to mention that the sentences issued for the abovementioned individuals have had nothing to do with their activities in defence of human rights or any other peaceful activity. Their trial was in accordance with the rule of law and merely in relation with their illegal activities. In the Judicial System of the Islamic Republic of Iran, judicial procedure on different cases are carried out on the basis of law, disregarding social titles or positions of the accused individuals. The afore-mentioned individuals enjoyed all his legal rights before the court of justice”.

Observations

1282. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 30 June 2008

1283. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations concerning the arrest and detention of workers of the Haft-Tepeh Sugar factory during a peaceful protest in the city of Shush, southern Iran.

1284. According to information received, on 26 May 2008, a peaceful gathering attended by thousands of workers from the Haft-Tepeh Sugar factory, was violently dispersed by members of the security forces and riot police, in the southern Iranian city of Shush. The protest had been organised, as part of a series of demonstrations held over a period of 21 days, demanding unpaid wages for the previous three months, and to call for the resignation of management and representatives of the Intelligence Ministry, as well as an end to the prosecution of many workers who have been detained and put on trial. Twelve workers were reportedly detained during the demonstration by the authorities and have since been released.

1285. According to reports, on 21 May 2008, 26 workers who were planning to join a protest against the detention of five colleagues were arrested. All were subsequently released on bail; however five of them, including Mr. Fereydoon Nikoofar, Mr. Jalil Ahmadi, Mr. Ghorban (Ramezan) Alipour, Mr. Mohammad Heidari Mehr, and Mr. Ali Nejati reportedly face possible prosecution. In addition, Mr. Abolfazl Abedini Nasr is reportedly under prosecution for covering their protests. Previously, on 8 April 2008, a protest led by workers’ families, including women and children, was intercepted by the security forces, allegedly using 20 rounds of tear gas to disperse the crowd, whilst beating protesters with batons. According to reports, many protesters sustained injuries and at least one person was hospitalised.

1286. Concern was expressed that the afore-mentioned incidents may represent a direct attempt to restrict the right to freedom of opinion and expression in Iran.

Observations

1287. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 18 June 2008

1288. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning Mr. Arzhang Davoodi, an engineer and poet.

1289. Mr. Davoodi was the subject of urgent appeals sent by several mandate-holders, including the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture, the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the right to health, on 29 January, 10 and 24 March and 23 August 2004. These appeals, which followed the arrest of Mr. Davoodi in October 2003, received responses from Your Excellency's Government on 10 June and 6 October 2004.

1290. According to new information received, on 18 April 2008, Mr. Davoodi began a hunger strike in Evin Prison in protest at his detention. Since the beginning of the hunger strike, Mr. Davoodi has not received any medical care. Reports indicate that his health has been seriously compromised as a result of torture and ill-treatment while in detention. His eyesight has been seriously affected and he also suffers from pain in his left shoulder and right knee, a burst left eardrum and bleeding gums. Since his initial detention in Evin Prison in 2003 after making statements in a documentary which were critical of the Government, Mr. Davoodi has been transferred five times in five years.

1291. On 27 April, Mr. Davoodi was again transferred to Gohardasht Prison, reportedly after a warrant bearing no names and signatures was issued. He has reportedly received threats that a case will be fabricated against him and submitted to the court because he is on hunger strike. The nature of the charges against Mr. Davoodi, the verdict of the Revolutionary Court and the length of his prison sentence remain unknown.

1292. Concern was expressed that the continued detention of Mr. Davoodi may be directly related to his activities in defense of human rights, in particular his exercise of the right to freedom of expression. In view of reports of Mr. Davoodi's hunger strike and his ill-health, and the conditions of his detention, serious concern was expressed for his physical and psychological integrity.

Observations

1293. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 30 June 2008

1294. On 30 June 2008, the Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur

on violence against women, its causes and consequences, sent a letter of allegations concerning the arrest and detention of the following nine female human rights defenders, including five journalists: Ms. Jila Bani Yaghoub, an online journalist with the daily Sarmayeh and the Canon Zeman Irani; Ms. Jelveh Javaheri, member of the One Million Signatures Campaign and a regular writer for the website of Change for Equality; Ms. Aida Saadat, of the daily Etemad and Change for Equality website; Ms. Farideh Ghayeb and Ms. Sara Loghmani, both journalists for Canon Zeman Irani; Ms. Alieh Motalbezadeh, a journalist and photographer; Ms. Nasrine Satoudeh, lawyer and women and children's rights activist; and women's rights defenders, Ms. Nahid Mirhaj and Ms. Nafiseh Azad.

1295. According to information received, on 12 June 2008, Ms. Jila Bani Yaghoub, Ms. Jelveh Javaheri, Ms. Aida Saadat, Ms. Farideh Ghayeb, Ms. Sara Loghmani, Ms. Nasrine Satoudeh, Ms. Nahid Miraj, Ms. Nafiseh Azad, and Ms. Alieh Motalebzadeh were arrested by members of the security forces outside the Rahe Abrisham Gallery in Tehran. The women had gathered to attend a seminar organised to mark the second anniversary of Iran's National Day of Solidarity of Iranian Women (an event which first took place in June 2005). On arrival at the Gallery, organisers of the event found the door to the building locked. They were informed that the seminar had been cancelled by the security forces, a large number of which were reportedly present at the scene. Ms. Aida Saadat and Ms. Nahid Miraj remained outside the Gallery to inform participants about the cancellation of the seminar, but were arrested at approximately 3.00 p.m. When Ms. Nasrin Satoudeh and Ms. Jilla Baniyaghoub made enquiries about the arrests of their colleagues, they too were arrested. Ms. Nafisah Azad, Ms. Jelveh Javaheri, Ms. Sarah Loghmani, Ms. Farideh Ghaeb and Ms. Alieh Motalbezadeh were arrested soon afterwards. All were brought to Vozara Detention Centre where they were detained for approximately 8 hours before being released in the early hours of the following morning. The women are currently waiting to hear whether charges are to be brought against them.

1296. On the same day, the police reportedly visited the home of Change for Equality editor Ms. Parvin Ardalan. However, she was not in the house at the time and they were unable to arrest her. On 2 May 2008, Ms. Parvin Ardalan received a suspended sentence of two years' imprisonment and ten lashings for a period of three years on charges of "illegal gathering and collusion and refusal to obey the orders of the police with the intent of endangering national security". The charges against her are related to her involvement in the organisation of a peaceful demonstration in Haft-e Tir Square, Tehran, on 12 June 2006, in protest of discrimination against women.

1297. Concern was expressed that the arrest and detention of the aforementioned nine women human rights defenders may be linked to their non-violent activities in defense of women's rights. Further concern was expressed that the afore-mentioned incidents may represent a direct attempt to restrict the right to freedom of opinion and expression in Iran.

Observations

1298. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 3 July 2008

1299. The Special Rapporteur sent a letter of allegations concerning Mr. Mohammad Sadegh Kabovand, a Kurdish journalist and former editor of the weekly newspaper Payam-e Mardom-e Kurdistan (a Kurdish weekly that was closed down by the authorities in 2004).

1300. According to information received, on 22 June 2008, Mr. Mohammad Sadegh Kabovand was sentenced to 11 years in prison on charges of alleged “activity against national security”. The sentence was issued by the Tehran Revolutionary Court and is reportedly based on Mr. Mohammad Sadegh Kabovand’s involvement in establishing the Organisation for the Defence of Human Rights in Kurdistan. The trial was reportedly postponed on three occasions since Mr. Kabovand’s arrest on 1 July 2007, and took place behind closed doors under article 188 of the Criminal Code. Article 188 of the Code is applied for trials in which the details discussed could offend public morality.

1301. Since his arrest Mr. Mohammad Sadegh Kabovand has been detained in Tehran’s Evin prison, where he reportedly spent the first five months in solitary confinement. Reports also claim that Mr. Mohammad Sadegh Kabovand suffers from health problems, including headaches and dizzy spells, the most recent of which occurred on 19 May 2008. The medication which he has been administered in prison has apparently done little to alleviate his condition. Furthermore, Mr. Mohammad Sadegh Kabovand Kabovand was reportedly unable to take advantage of a provisional release order prior to his trial because his family was unable to raise the 150 million toman (approx. 145,000 euros) requested.

1302. Concern was expressed that the aforementioned events may represent a direct attempt to stifle independent reporting in Iran, thus restricting the right to freedom of opinion and expression in the country.

Observations

1303. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 11 July 2008

1304. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention, sent an urgent appeal to the Government regarding members of the One Million Signatures Campaign, Ms. Hana Abdi, Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi. The One Million Signatures Campaign seeks to change discriminatory laws against women and to promote gender equality in Iran. Ms. Hana Abdi is also a member of the women’s rights NGO Azar Mehr.

1305. Ms. Hana Abdi was the subject of a joint allegation letter sent by the then Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women on 19 December 2007.

Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi were the subjects of a joint urgent appeal sent by the same mandate-holders on 22 February 2008. No response to either correspondence has yet been received from your Government.

1306. According to information received, on 4 July 2008, Ms. Hana Abdi began a five-year prison sentence. Her detention started on 4 November 2007, when her computer and pamphlets relating to the One Million Signatures Campaign were also confiscated. The sentence was passed on 18 June 2008 for “gathering and collusion to threaten national security” under Article 610 of the Islamic Penal Code. The sentence was reportedly based on interrogations carried out whilst Ms. Hana Abdi was in isolated detention and was not allowed access to her lawyer. During her detention she was reportedly tortured. An appeal against her sentence was filed by her lawyer. The appeals court had not issued a decision in relation to the appeal.

1307. On 20 July 2008 Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi were scheduled to appear in court. They were arrested on 14 February 2008 while collecting signatures as part of the One Million Signatures Campaign. The following day they were charged with “propaganda against the state” and transferred to Evin prison.

1308. Concern was expressed that the prison sentence of Ms. Hana Abdi and the trial of Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi may be related to their work in the defense of human rights, in particular their work to defend the rights of women in Iran. Concern was also expressed about the allegations of ongoing harassment of women human rights defenders involved in the One Million Signatures Campaign in the Islamic Republic of Iran.

Response from the Government

1309. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 14 July 2008

1310. On 14 July 2008, the Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding Mr. Mohamad Sadigh Kaboudvand, journalist and President of the Association for the Defence of Human Rights in Kurdistan. Mr. Kaboudvand was the subject of two urgent appeals sent on 22 September 2006 and on 10 July 2007, for which no response has been received.

1311. According to information received, in late May 2008, Mr. Mohamad Sadigh Kaboudvand was sentenced to eleven years’ imprisonment. A ten-year sentence was issued for “acting against State security” by establishing the Association for the Defence of Human Rights in Kurdistan, and a one-year sentence was added to that for “propaganda against the system”. On 19 May 2008, Mohamad Sadigh suffered a stroke and seriously needed medical attention.

1312. Mr. Mohamad Sadigh Kaboudvand has been in detention since being arrested on 1 July 2007. His home was then searched and property, such as his computer and various documents, was confiscated. In 2006, he was given a suspended prison sentence of one year and was prohibited from working as a journalist for five years because of his work in defence of human rights and articles he had published defending the rights of Kurdish people.

1313. Concern was expressed that the sentencing of Mr. Mohamad Sadigh Kaboudvand may be related to his work in the defence of human rights, in particular his work to defend the rights of Kurdish people. In view of the poor health of Mr. Mohamad Sadigh Kaboudvand, serious concern was expressed for his physical and psychological integrity. Concern was also expressed by the allegations of ongoing harassment of journalists in the Kurdish region of the Islamic Republic of Iran.

Response from the Government

1314. In a letter dated 4 September 2008, the Government responded to the communications of 14 July 2008 and 10 July 2007. The Government noted that Mr. Mohammad Sadegh Kaboudvand has been enjoying all facilities as well as the existing medical services offered by medical centers in and out of prison, as available to any other prisoner. He suffered from high blood pressure and therefore he has been regularly visited and under constant supervision by skilled cardiologists, nephrologists, neurologists and other required specialists. His medical condition is now stable through prescribed medications. Latest medical tests confirmed that Mr. Kaboudvand is in stable condition.

1315. The Government further noted that the prison sentence for Mr. Kaboudvand has not been in relation with his activities in defence of human rights or any other peaceful activity. Any allegation of maltreatment or lack of proper medical attention to his physical or psychological integrity is baseless. His trial was in accordance with the rule of law and merely in relation with his illegal activities. The allegations in defence of the Kurdish people are not but an instrument to cover his mal-intended activities, and deceiving international human rights bodies. Mr. Kaboudvand also enjoyed all his legal rights before the court of justice.

Observations

1316. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 31 July 2008

1317. On 31 July 2008, the Special Rapporteur, together with 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 and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding Mr. Qulamriza Nejefi, aged 36; Mr. Hemid Valai, aged 27, a university graduate of law and an associate of the Association of Southern Azerbaijani Academics; Mr. Vedud Esedi, aged 28, a student reading geology at the Open University in Rasht, former student in the Open University in Ardebil, former Secretary-General of the Islamic Student Society and Director of the students' publication "Seher"; Mr. Sejjad Radmehr, aged 26, student of mechanical engineering; Mr. Aydin Khajei, aged 23; Mr. Feraz Zehtab, aged 23, both students reading law and members of the Islamic Student Society at Tabriz University; Mr. Dariyush Hatemi, aged 29, student; and Mr. Shahrukh Hatemi, aged 27, dentistry student in Turkey, all of them activists supporting cultural rights of Iranian Azerbaijanis.

1318. According to the information received, the above mentioned persons have been arrested and detained without indictment or trial since 5 June 2008 together with other individuals, whose identities are not yet known. They are being held in incommunicado detention without access to lawyers and have not been allowed visits by their relatives.

1319. Mr. Qulamriza Nejefi was arrested at his workplace in Tabriz on 5 June. One of the charges brought against him relates to a number of student publications issued under licence, which had been found during the searches of his workplace at the time of the arrest. Security agents, who then searched his home without a court warrant, confiscated his computer, books, CDs and posters.

1320. Mr. Nejefi's family was unaware of his whereabouts for 15 days when it learned that he had been transferred to Tabriz prison, where he is not allowed to receive visits from his relatives. It is believed that the shutting down of Mr. Nejefi's shop at the Rasta Bazaar in Tabriz despite a valid licence was effected by the Ministry of Information's Office in Tabriz.

1321. Mr. Hemid Valai was detained on 15 June 2008 at the Ministry of Information's interrogation unit in Tabriz after he had been summoned there. His current place of detention is unknown. When family members inquired about his whereabouts with Iranian judicial and security authorities they were threatened not to publicise the case.

1322. Mr. Valai has been active in defending and researching ethnic rights. His articles have been published in a host of Azerbaijani student publications as well as in the "Dilmaj", which has recently been banned by Iranian authorities. At the intervention of the Ministry of Information he was barred from membership of the bar of judiciary lawyers, despite fulfilling all professional requirements.

1323. Mr. Vedud Esemi was arrested at his home in Rasht on 22 July 2008 by four security agents who confiscated his computer, CDs, books, handwritings, a photo album, a wedding video tape and a diary. It is feared that Mr. Esemi has been transferred to Section 209 of the Evin Prison in Tehran; however, his family has not been able to establish his exact whereabouts.

1324. It is believed that Mr. Esemi's arrest is attributed to his wedding ceremony, where the colour decorations on his wedding cake coincided with the three colours contained in the national flag of Azerbaijan and where folk songs in Azerbaijani Turkic were sung. Mr. Esemi had been detained by the Ministry of Information in Tabriz and Ardebil before following his participation in the May 2006 demonstrations. He was released after three months and reportedly ill-treated while in detention.

1325. Mr. Sejjad Radmehr, Mr. Aydin Khajei, and Mr. Feraz Zehtab were arrested by security agents on 17 July at Tabriz University. All have been taken to a location undisclosed by the Iranian authorities and did not reveal their places of detention during one single short phone call they have been allowed to make to their families. It is believed that the men were arrested in connection with Mr. Radmehr's viva voce of his master thesis. He was only allowed to defend his thesis after staging a "sit-in" protest in the mosque of the University on 11 May 2008 and a

hunger strike, and following a signature campaign at Tabriz and Urmīye Universities and the publication of open letters sent to Iranian President Mahmoud Ahmadinejad. Mr. Aydin Khajei and Mr. Feraz Zehtab supported Mr. Radmehr during the sit-in protests and had been banned from the University for one year before.

1326. Mr. Dariyush Hatemi and his brother, Mr. Shahrukh Hatemi, were also arrested by security agents on 17 June 2008 at their home in Tabriz. There is no confirmed information on their whereabouts and the charges brought against them are unknown.

1327. In view of their reported incommunicado detention, grave concerns were expressed as regards the physical and psychological integrity of the above mentioned persons. Further concern was expressed that their arrests and detention might be solely connected to their reportedly peaceful exercise of their right to, in those States in which ethnic, religious or linguistic minorities exist, enjoy their own culture or to use their own language, in community with the other members of their group.

Response from the Government

1328. By a letter dated 20 February 2009, the Government responded to the letter of allegations, providing the following information: “in the judicial System of the Islamic Republic of Iran, judicial procedures on different cases are carried out on the basis of law disregarding social titles, positions, profession, belief or religion and etc. of the accused individuals. Arrest of the individuals mentioned in the letters of the honorable Special Rapporteurs, has been as a result of their illegal activities and on the basis of charges laid against them in accordance with the rule of law. Any allegation stating otherwise, including attribution of their arrest to their belief or ideology, is baseless and distortion of realities with the purpose of inciting public opinion for politically motivated objectives.

1329. Pursuant to receiving of complaints from a considerable number of individuals of all walks of life, by judicial authorities of the country, against a sect oriented organization, attributed to Baha’is under supervision of seven individuals, namely Khanjani, Tvakoli Tizfahm, Rezaei, Fariba Kamalabadi, Afif Nafimi and Mahvash Shahriyan. On the basis of the statements and evidences provided by the complaints, they had received threats and intimidation from the mentioned individuals or their subordinates to join the sect organization. The complaints were, furthermore, threatened through interference and men with their private lives and beliefs, to be expelled and disconnected from their families and relatives. Following registry of the complaints and seriousness of allegations, strict orders were issued, by the pertinent authorities, for carrying out through investigations into the case.

1330. The result of exhausting investigations on complaints and allegations revealed that the afore-mentioned individuals had played an effective role in the occurring and realization of the mentioned offences. Through formation of a clandestine and frightful organization, and systematic control of the private, social and economic activities of their sect members as well as accurate planning and programming for entrapping other people into the sect through abnormal and illegal methods including persuasion temptation and threat, they intended to expand their illegal organization and ultimately achieve their goals through creating deviant move.

1331. On the basis of the existing authentic evidences, the organization had received several directives from Israel, as the center as well as considerable financial assistance for realization of its objectives. Pursuant to the registry of complaints and the result of the alarming investigation findings, particularly relation of the illegal organization with a foreign country, the mentioned individuals were legally charged and sued, for action against state national security. Therefore six of them were arrested on 14 May 2008, on the writ issued by the Tehran Public Prosecutor's Office. Later the writ was objected and case was referred to the pertinent court. Pursuant to the review of the objection the writ was reinstated.

1332. The seventh individual, Ms. Mahvash Shahriyari, who was arrested earlier in Mashad city, was transferred to Tehran due to the result of investigations and the statements made by the abovementioned individuals on her connection with the dossier under investigation. Presently, the preliminary stage of investigations is complete, and the case is referred to the competent court. Upon exhaustion of the national judicial procedures, the Special Rapporteurs shall be advised of the final verdict.”

1333. In the Permanent Mission of the Islamic Republic of Iran in Geneva, we have been receiving letters; inter alia from the special procedures mechanism of the Human Rights Council, which express concern over alleged violations of human rights in the Islamic Republic of Iran. Oftentimes, shocking and vitriolic in content, such letters mirror a very horrendous picture of the situation of a few individuals or members of illegal groups temporarily detained by the ruling of the competent courts. Being cautioned, in the most aggressive and vitriolic terms, against the so-called maltreatments against those individuals, we even sometimes, learn through particularly some UN human rights mechanisms, about the false threat of imminent death or execution thereof.

1334. In the spirit of trust and confidence in the lofty aspirations of the United Nations and in observance of the legitimate and civil rights of Iranian people, the UN Human Rights Mechanisms have always given the benefit of doubt to the expressed concerns. We, however, have never been satisfied and convinced if the attitude of the Special Procedure or similar mechanisms toward the government of Iran has been in a way proportionate to the alleged gravity of the situation of the particular individuals in Iran. For instance, within the last two years the OHCHR and the Special rapporteurs embarked on a series of correspondence on the situation or arrest of a number of individuals who were treated on the basis of the rule of law. Meanwhile, a large number of strongly worded letters to the same effect have been circulated to the Islamic Republic of Iran.

1335. Accountability has been defined as: “the processes through which an organization makes a commitment to respond to and balance the needs and aspirations of stakeholders in its decision making processes and activities, and delivers against them”. As a government who has been the target of some malicious campaigns for mere allegations made against it, we would like to humbly alert the Special Procedure Mechanism against any politically motivated move”.

1336. By a letter dated 12 March 2009, the Government responded provided additional information to the Special Rapporteur:

1337. “In the Islamic Republic of Iran, all walks of life have been enjoying their extensive social and political liberties, and exclusive extra concessions are provided to university students through special regulations, such as the strict in universities limitation imposed on police forces’ entry into university campuses.

1338. University students enjoy their rights of holding their own gatherings and demonstrations. The Islamic Republic of Iran has always been proud of observing the civil and social rights of students on the basis of national and international norms, laws and regulations.

1339. We also wish to draw the kind attention of the Rapporteurs to the fact that all countries have adopted special measures for management of student activities, and IR. Iran is not an exception to the rule. The Iranian authorities consider student social and political moves as positively as possible and particularly with due consideration of the million-numbered students in Iranian universities, they have helped them with and welcomed their free movement and enjoyment of their legitimate rights with considerable tolerance. Therefore, we hope that the issue of gatherings and activities of Iranian students in Iran is not politically-misinterpreted or to be considered as a grave concern of the pertinent authorities.

1340. All the eight individuals, during their apprehension, have been in contact with their families. Any allegation on their incommunicado detention is categorically false and fabricated. On the basis of investigations, the mentioned students in the communication have had extremist ethnic inclinations and their activities have constantly aimed at creating hatred toward other Iranian ethnic groups with the ultimate separatist objectives. They resorted to illegal instruments, violation and extremism and even did not hesitate to have contacts with outlawed groups in some neighbouring countries, for which the Iranian Government has officially taken measures through diplomatic channels. According to the existing information, they started their activities through establishment of a literature association named “Sahand” without any coordination or information of the university’s vice-chancellor for cultural affairs, which was a requirement. The association was merely used as an umbrella for their activities.

1341. They also continued with their separatist and extremist ideas through propagating and releasing of articles and making of baseless allegations in a Website in Canada, which has been established by anti-Iranian groups. Iranian laws do not allow using internet websites, for advertisement or propagation issues, which do not observe social morality standards or incite public opinion or create discord among ethnic groups. They further developed their activities by formation of the illegal group of “Azoukh”. They later put their group at the service of the separatist and extremist group of “Gamouh” which located out of the country, which, in fact, alerted the Iranian pertinent authorities to make the necessary investigations.”

1342. The Government also provided the following information concerning the “Gamouh” group: “The group is stationed in USA and Azerbaijan and considers itself as a “national movement for awakening of Azerbaijan”. It is led by an Iranian, by the name of Mr. Mahrnoud Chehregani, who has fled the country. Goumeh is known as an extremist and separatist group which has openly announced its goal as establishment of southern Azerbaijan government and state as well as separation from the Islamic Republic of Iran. The Group, which receives financial assistance from foreign countries, has taken extensive measures toward ethnic hatred against other ethnic groups of the country, inter alia through propagating extremist ideology and literature (such as Fars chauvinism), which is against the existing national law and

relations as well as international standards. Goals of the “Azoukh” Group: the group follows the extremist objectives of “Gasmouh” group through creating a Weblog and a Website by the assistance of Gamouh members and buying of the permit from Canada. They collected particular pieces of News on student activities, labour union activities/strikes and other ordinary news of the country and reflected and commented them in a way which incited separatist and ethnical ideas and unrest. The other activities of Azoukh included: a. providing malintended information to all Websites affiliated to terrorist groups which have been hostile to Iran, b. deceiving students and formation of covert teams with the objective of separatism and ethnical provocations and ultimate overturning of the government, c. distribution of books and written materials on their ideas as well as dragging the “Sahand” illegal literature association into their activities.”

1343. In addition, the Government provided the following information about specific cases.

1344. Mr. Hamid Valai: Mr. Valai was arrested being charged with acts of extremism, disturbing of public order, act against national security, cofounding of the illegal group of “Azoukh”, with extremist goals. He was released on bail (50 million toomans/50 thousand dollars) on 29 October, 2008. He had two lawyers Mr. Mahmoudi and Mr. Jamali. There is no final verdict issued yet.

1345. Mr. Sajjad Radmehr, son of Saleh: Mr. Radmehr, student of mechanical engineers of Tabriz University, was arrested on 18 July, 2008, being charged with co-founding of the illegal group “Gamouh” and participation in propagation against the State in favour of the “Gamouh” group. The hearing court was held on 19 July, 2008. The case is under judicial procedure.

1346. Mr. Faraz Zehtab Favadi, son of Ali: He is a student of Tabriz University. He is charged with cofounding of the illegal group of “Azoukh”, and its codirecting, with the intention of disturbing state security and propagation against the State in favour of the Gamouh group. He was the main editor of separatist statements and also the executive head of the illegal association of Sahand. His hearing court was held on 19 July, 2008.

1347. Mr. Aydin Khajei, son of Karim: He is a student of the Tabriz University, studying for bachelor’s degree. He was arrested on 18 July, 2008 and the hearing court was held on 19 July, 2008. The charges laid against him include participation in formation of the illegal group of “Azoukh”, and its co-directing, with the intention of disturbing state security and propagation against the State in favour of the Gamouh group (Article 498 and 500 of the Islamic Penal law). Organizational role and responsibility of the accused: Collection and/distribution of news and statements and articles, to do follow-ups on actions, absorbing new members, particularly students coming from remote areas and leading of an information network with the objective of separatism and ethnical provocations and ultimate overturning of the government, participation in leading the illegal association of Sahand, installing of a forged flag as the flag of southern Azerbaijan, in the university campus and in some parts of the city of Tabriz, filming them and sending the films to Websites opposing the Islamic Republic of Iran.

1348. Mr. Daryoush Hatami, son of Gholamhossein: Mr. Hatami is a conscript soldier of Division 21 Hamzah of the Army and a university graduate of agriculture. He was arrested on 18 July, 2008, being charged with co-founding and management of the illegal group of “Azoukh”, with the intention of disturbing state security and propagation against the State in favour of the Gamouh group (Article 498 and 500 of the Islamic Penal Law). Organizational role

and responsibilities of the accused: Leasing of a house and turning it in to the venue for meetings of the Azoukh group, preparing of computers and electronic equipments for activities of the group, connection with foreign illegal websites, connection with ethnic members of the Gamouh and its supporters as well as distribution of provocative ethnic statements and posters.

1349. Mr. Shahrokh Salami, son of Gholamhossein: Mr. Shahrokh Hatami is a student of dentistry in Turkey. He has a record and conviction for participation in gatherings, intended to incite ethnic unrest. He was charged with propagation against the State in favour of the Gamouh group (Article 498 and 500 of the Islamic Penal law). Role and responsibility of the accused in the group: Organizing of meetings, collection and distribution of news and information aiming at separatist ends as well as ethnic hatred and unrest. He was arrested on 18 July, 2008 and the court of hearing was held on 19 July, 2008. He was released on bail on 31 July, 2008. His dossier is under judicial procedure.

1350. Mr. Vadood Asadi: He is one of the leaders of the extremist pan-Turkish network and the director of the of the students publication of Sahar, the certificate of which was cancelled due to its illegal activities. He was arrested on 22 July 2008 and charged with propagation against state through distribution and publication of false information with the intention of inciting public opinion, distribution of immoral pornographic CDs as well as propagation of extremist political issues. His file was referred to Branch 12 of Rasht Investigation Office. Mr. Asadi is presently out of prison through a six million tooman (6 thousand dollar) bail. He was arrested merely in relation with his illegal activities (and not under the naive allegation of Azeri sons, which are quite prevalent and popular in Iran or the contour of his wedding cake!). He was treated in accordance with the rule of law and enjoyed all his legal rights before the court of justice.

1351. Charges laid down against the above-mentioned in individuals have no connection, whatsoever, with their peaceful and social/human rights activities. All the individuals enjoyed the existing medical services and facilities, similar to any other individual under detention. Any allegation on maltreatment or lack of proper attention to their physical or psychological integrity is baseless and mere fabrication of lies aiming at mal-intended objectives.”

Observations

1352. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 31 July 2008

1353. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr. Abdullah Momeni, a human rights defender, and spokesperson for Advar Tahkim Vahdat (the Alumni Association of Iran), an organization of student groups.

1354. Mr. Abdullah Momeni was the subject of an urgent appeal sent on 12 July 2007 by the then Special Representative of the Secretary-General on the situation of human rights defenders, and by the Special Rapporteur on freedom of expression. No response has yet been received by your government.

1355. According to the information received, on 25 July 2008 Mr. Abdullah Momeni was prevented by members of the intelligence services from travelling to Malaysia, to attend the Asia-Pacific Forum. Mr. Abdullah Momeni was already prevented in 2007 from travelling to the Massachusetts Institute of Technology.

1356. Concern was expressed that the travel ban imposed on Mr. Abdullah Momeni is directly related to his activities in defence of human rights.

1357. Further concern was expressed that the travel ban imposed on Mr. Momeni may form part of measures aimed at restricting the work of human rights defenders in Iran.

Observations

1358. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 18 August 2008

1359. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General 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 execution, sent a letter of allegations concerning Mr. Ya'qub Mehrnehad, a journalist and activist working in defense of the cultural and civil rights of Baluchi peoples in northern Iran. Mr. Mehrnehad was a civic activist and the General Secretary of the Youth Association of Justice Voice in Zahidan.

1360. Mr. Ya'qub Mehrnehad had been the subject of a previous urgent appeal, sent on 15 February 2008 by the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders. To date we have not received a reply to that communication from your Government.

1361. According to the new information received, Mr. Ya'qub Mehrnehad was executed on 4 August 2008 after his death sentence was approved by the Prosecutor-General of Iran. Mr. Mehrnehad was sentenced to death in February 2008, a fact which was confirmed at a press conference by Judiciary spokesman Mr. Ali Reza Jamshidi on 19 February 2008.

1362. Mr. Ya'qub Mehrnehad was arrested in early May 2007 along with five other members of the association after they attended a meeting in the provincial office of Culture and Islamic Guidance. The five other men were later released. Five months after his arrest, Mr. Ya'qub Mehrnehad was allowed visits from his lawyer and his family who alleged that he had been tortured, had lost about 15 kg and was unable to keep his balance.

1363. According to the Public and Revolution Prosecutor's Office in Zahedan, Mr. Mehrnehad was accused of being a member of Jondallah (also known as the Iranian Peoples' Resistance Movement) and considered having aided Mr. Abdolmalek Rigi, the head of a Baluchi armed group. Ya'qub Mehrnehad was charged with Mohareb (enmity with God) and Mofsed fi'l arz (corruption on earth).

1364. Concern was expressed that the arrest, conviction and execution of Mr. Mehrnehad may be a direct result of his exercise of freedom of expression in defense of human rights, particularly of the civil and cultural rights of the Baluchi people.

Observations

1365. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 22 August 2008

1366. On 22 August 2008, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr. Massoud Kordpour, founding member of the Foundation for Democracy and Human Rights in Iranian Kurdistan, who works on human rights and environmental issues.

1367. According to the information received, on 8 August 2008 Mr. Kordpour was arrested in his home, in Boukan. Allegations against him included “espionage for foreign powers”, apparently due to interviews he allegedly gave to Kurdish and Farsi language news sources. His current places of detention as well as the charges brought against him are unknown. He could be being kept in incommunicado detention.

1368. Concern was expressed that the detention of Mr. Kordpour at an unknown location may be connected to his activities in defence of human rights and his work on minority issues.

1369. Further concern was expressed regarding the physical and mental integrity of Mr. Kordpour.

Observations

1370. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 26 August 2008

1371. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations concerning Mr. Amir Yaghoub-Ali, a member of the Men’s Committee of the One Million Signatures Campaign which calls for gender equality under Iranian legislation and for amendments to laws that discriminate against women.

1372. According to the information received, on 11 July 2007, Mr. Yaghoub-Ali was arrested in Andisheh Park in Tehran while collecting signatures for the One Million Signatures Campaign. He was taken to security police station in the park, and was detained there for 5 days.

On 15 July 2007, Mr. Yaghoub-Ali was transferred to Evin prison, where he was detained until his release on bail on 8 August 2007. During his detention in Evin prison, he was allegedly interrogated eight times blindfolded, facing a wall, and was harassed several times by the guards. During his detention, he was allowed no contact with his family.

1373. On 25 May 2008, Mr. Yaghoub-Ali was convicted by the Revolutionary Court on charges of “endangering national security through spreading propaganda against the state”. He was sentenced to one year in prison.

1374. Mr. Yaghoub-Ali is currently free on bail, and his sentence is being reviewed by Branch 54 of the Appeals Court.

1375. Concern was expressed that the arrest and detention of, and subsequent court proceedings against Mr. Yaghoub-Ali may be solely connected to his peaceful activities in the defence of human rights, in particular his work on gender equality issues.

Observations

1376. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 26 August 2008

1377. 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 Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women, sent an urgent appeal regarding Ms. Mahboubeh Karami, a journalist and active member of the Campaign for Equality, a women’s rights movement in Iran which calls for reform of laws that discriminate against women, and a member of the One Million Signatures Campaign in Tehran. Members of the One Million Signatures Campaign have been the subject of previous communications sent to your Government by mandate holders, the most recent of which was sent on the 11 July 2008, on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the situation of human rights defenders.

1378. According to information received, on 13 June 2008, Ms. Mahboubeh Karami was arrested by plain clothed security officers, who boarded a bus she was travelling on from Tajrish Square near Mellat Park, Tehran. Prior to her arrest Ms. Mahboubeh Karami used her cell phone to call her mother to tell her that she was on her way home but that the bus was delayed in traffic. A short time later, Ms. Mahboubeh Karami reportedly called her mother again to tell her that she was being forcibly removed from the bus. Her cell phone was then disconnected.

1379. Prior to Ms. Mahboubeh Karami’s arrest, a demonstration had taken place near Mellat Park in Tehran. The protest had been organised to demonstrate against the arrest, on 11 June 2008, of Mr. Abbas Palizdar, a member of Iran’s Majlis’s (Parliament) Judicial Inquiry and Review Committee, who had apparently accused several senior Iranian officials of financial

corruption. According to reports, security forces used tear gas and electric shock batons to disperse the crowd, and check points were also set up by security forces in Vali Asr Street which runs alongside Mellat Park. Several public buses were stopped and boarded by plain clothed officers.

1380. According to reports, on the day Ms. Mahboubeh Karami was detained, her family was unable to ascertain her whereabouts despite enquiries made by her brother at Vozara detention centre. The following day, a fellow passenger who had been on the bus with Ms. Mahboubeh Karami returned her bag to her family, informing them that all the women on the bus had been removed by security officers, and that seemingly none of them had been involved in any demonstration.

1381. On 14 June 2008, the Head of Tehran's Judiciary reportedly issued a press statement declaring that 200 people had been arrested the previous day and that those who were innocent or were suspected of committing only minor offences would learn about the status of their cases within a week. On 25 June, Ms. Mahboubeh Karami's mother received a call from her daughter from Evin Prison saying that she was being held along with 90 other alleged female protesters. On 6 July, Ms. Mahboubeh Karami along with nine other women reportedly went on hunger strike to protest about the prison conditions. At that time they were all being held in a section of Evin Prison where detainees are not permitted visits. The protest ended after the other nine women were all released by 25 July. Ms. Mahboubeh Karami remained in detention but was moved to a 'general' section of Evin Prison, and has since been allowed weekly visits from her family.

1382. According to reports, Ms. Mahboubeh Karami has been charged with "acting against national security," and the Revolutionary Court in Mahabad has scheduled her next hearing for 1 November 2008. Ms. Mahboubeh Karami's lawyer has reportedly only recently been allowed to see the court documents concerning her case, and will shortly meet with her for the first time since her arrest. The court set bail of one billion rials (approximately US\$ 110,000) on 12 July 2008. However, Ms. Mahboubeh's family has been unable to raise such a large amount.

1383. Concern was expressed that the aforementioned events may be in relation to Ms. Karami's involvement in the Campaign for Equality and the One Million Signatures Campaign and may represent an attempt to prevent freedom of assembly and expression.

Observations

1384. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 2 September 2008

1385. On 2 September 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr. Yosef Azizi Bani Turfi, a journalist and a founding member of Iranian PEN.

1386. According to the information received, Mr. Yosef Azizi Bani Turfi was sentenced to 5 years' imprisonment on 20 August 2008. He was charged with "acting against national security", "incitement to rebellion" and "relations with foreign officials". Mr. Bani Turfi had been initially arrested on 25 April 2005, and released on bail to await trial on 28 June 2008. Currently he is awaiting appeal.

1387. Mr. Yosef Azizi Bani Turfi is the author of several books. He worked as a journalist for the daily "Hamshari" for over 12 years. His persecution allegedly started after he exposed the excessive use of force used during demonstrations against Arab speaking Iranians. His daughter, Hanan, was banned from postgraduate study at Tehran University.

1388. Concern was expressed that the charges against, and the sentencing of Mr. Yosef Azizi Bani Turfi, is connected to his peaceful activities in defence of human rights, especially in the area of the rights of Arab speaking communities in Iran. Further concern was expressed regarding the physical and psychological integrity of Mr. Yosef Azizi Bani Turfi and members of his family.

Observations

1389. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 8 September 2008

1390. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations concerning Ms. Zeynab Bayzeydi, a women's rights activist and member of the Human Rights Organization of Kurdistan, and the Campaign for Equality, a network of individuals working to end legal discrimination against women.

1391. According to the information received, Ms. Bayzeydi had been sentenced to four years' imprisonment and internal exile in Zanjan in August 2008 by the Mahabad Revolutionary Court. This sentence was upheld on 23 August 2008 by an appeal court in West Azerbaijan. Charges against Ms. Bayzeydi included "being a member of unauthorized human rights associations" and participating in the Campaign for Equality.

1392. Concern was expressed that the sentencing and imprisonment of Ms. Bayzeydi may be solely related to her peaceful activities in defence of human rights.

Observations

1393. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal on 9 September 2008

1394. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government regarding the sentencing of Ms. Parvin Ardalan, Ms. Nahid Keshavarz, Ms. Jelveh Javaheri, and Ms. Maryam Hosseinkhah, all members of the One Million Signatures Campaign. Mandate holders have sent several communications regarding members of the One Million Signatures Campaign. For instance, on 7 March 2007, a communication was sent about the arrest of all four of the aforementioned women, together with many other women human rights defenders, following a peaceful gathering. No response has yet been received from the Government.

1395. According to new information received, on 2 September 2008, Ms. Parvin Ardalan, Ms. Nahid Keshavarz, Ms. Jelveh Javaheri, and Ms. Maryam Hosseinkhah were sentenced to six months' imprisonment for "publishing information against the State" after having written articles for *Zanestan* and *Tanir Bary Barbary*, two online newspapers which defend women's rights in Iran. Their sentences have since been appealed and they have been released on bail.

1396. Concern was expressed that the sentencing of Ms. Parvin Ardalan, Ms. Nahid Keshavarz, Ms. Jelveh Javaheri, and Ms. Maryam Hosseinkhah may have been related to their work in the defense of women's rights in Iran.

1397. Further concern was expressed that this may have formed part of an ongoing trend of harassment against women human rights defenders in Iran.

Response from the Government

1398. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 23 September 2008

1399. 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 right to education, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the human rights of migrants, sent an urgent appeal concerning Dr. Mehdi Zakerian, a scholar of international relations and international law, chair of the International Studies Association of Iran (ISAI), also known by its French name and acronym Association iranienne des études internationales (AIEI), an independent body aimed at promoting the teaching, research and debate on international relations.

1400. According to the information received, Dr. Zakerian, was arrested on or around 15 August 2008. The exact circumstances of his arrest and the place of detention where he is being held are not known.

1401. His family has been permitted to meet him only once, on 6 or 7 September, at Branch 12 of the Revolutionary Court in Tehran under the supervision of court officials. Since then Dr. Zakerian has not been in contact with them. It is unclear whether this meeting was meant as an official courtroom appearance, since Dr. Zakerian has been accused of offences relating to national security including espionage, but has not formally been charged. During the meeting Dr. Zakerian appeared to be weak.

1402. It is believed that Dr. Zakerian's detention might be an attempt to prevent him from travelling to the United States of America to take up a new post at the University of Pennsylvania as he was awaiting his visa when he was detained. Dr. Zakerian used to be an assistant professor at the Islamic Azad University in Tehran until September 2007, when he was dismissed from the post without explanation. He had taught for more than 10 years, holding posts at a number of important Iranian universities, and has written numerous articles.

1403. In view of Dr. Zakerian's reported incommunicado detention at an undisclosed place of detention, grave concern was expressed as regards his physical and mental integrity. Further concerns were expressed that his detention might be solely connected to his reportedly peaceful exercise of his right to freedom of opinion and expression, which includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, and of his right to freely leave any country, including his own.

Observations

1404. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 20 October 2008

1405. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding Mr. Adnan Hassanpour, a journalist, an advocate of cultural rights for the Kurdish people in Iran, and a former member of the editorial board of the Kurdish-Persian journal, Aso (Horizon), which was shut down by the Iranian authorities in August 2005. On 25 August 2008, Mr. Adnan Hassanpour began a hunger strike, with 130 Kurdish prisoners in Iran, in protest against human rights violations such as torture.

1406. According to new information received, on 3 September 2008, Branch 32 of the Supreme Court overturned Mr. Adnan Hassanpour's death sentence because the charges on which he had been convicted did not amount to moharebeh (enmity with God). However, he will be retried by Branch 1 of the Revolutionary Court in Marivan, Kordestan, on charges of espionage. Mr. Adnan Hassanpour reportedly confessed under duress to the charges brought against him but retracted his confession.

1407. The Government's response received on 23 August 2007, states that the charges against both Mr. Adnan Hassanpour and Mr. Abdolwahed Butimar are not related to their work as professional journalists.

1408. While this was acknowledged and the overturning of Mr. Adnan Hassanpour's death sentence was welcomed, concern was expressed that both his and Mr. Abdolwahed Butimar's work to defend the rights of Kurdish people in Iran is inhibited as long as there are charges against them.

1409. Serious concern was also expressed for Mr. Adnan Hassanpour's physical and psychological integrity as well as that of Mr. Abdolwahed Butimar.

Observations

1410. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 15 October 2008

1411. The Special Rapporteur together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning Ms. Masouma Kaabi, aged 31, and her children Shima' Nabgan, aged 14; Asia Nabgan, aged 13; Asma' Nabgan, aged 11; Iyad Nabgan, aged 8, and Imad Nabgan, aged 4. Ms. Kaabi and her son Aimad were already the subject of a joint communication by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences on 13 April 2006. We acknowledged receipt of your Government's reply dated 2 June 2006. According to new information received.

1412. Ms. Masouma Kaabi and her five children were forcibly returned on 27 September from the Syrian Arab Republic to Iran, where they are currently being detained. They were forcibly returned despite having registered with the United Nations High Commissioner for Refugees (UNHCR) in order to seek asylum. The family was scheduled to leave for Denmark where they were to reunite with Ms. Kaabi's husband and father of her children, Mr. Habib Nabgan. It is alleged that the family is solely being detained to force Mr. Nabgan to return to Iran.

1413. Mr. Habib Nabgan is a prominent member of the unauthorised organisation with the name of "Lejnat al-Wefaq" ("Reconciliation Committee"). He was resettled as a refugee in Denmark two years ago. Ms. Kaabi left Iran with her five children on 7 May 2008 and applied for refugee status with UNHCR in Damascus. She had been granted permission by the Danish authorities to join her husband.

1414. When Ms. Kaabi, on 9 September 2008, took her five children to the office of Syria's Immigration Department in order to obtain an exit visa, they were all detained and forcibly returned to Iran on 27 September. Upon arrival in Tehran the family was held at a detention facility at the airport for one night, and then transferred to a detention facility run by the Ministry of Intelligence in Tehran. On around 29 September, the children were separated from their mother. All family members were again transferred and taken to another Ministry of Intelligence detention facility in Ahvaz, Khuzestan province, where Ms. Kaabi is still being held separately from her children. Officers of the Security Services then informed relatives of the place of detention of the children. It is alleged that they warned the family members not to ask questions about Ms. Kaabi.

1415. Ms. Kaabi and her youngest son Aimad were previously arrested on 27 February 2006 and later released on bail. The other four children, and Mr. Nabgan's mother, were also arrested, however, released the following day. It is alleged that Mr. Nabgan continues to receive threats that his family would be ill-treated or even killed if he does not return to Iran.

1416. Concern was expressed that the arrest and detention of Ms. Kaabi might have been carried out solely to put pressure on Mr. Nabgan to return to Iran.

Observations

1417. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 22 October 2008

1418. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General 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 the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal concerning Ms. Negin Sheikholeslami, a human rights defender and journalist. Ms. Sheikholeslami is the founder of the Azar Mehr Women's Social and Cultural Society of Kurdistan. She is also associated with the Human Rights Organization of Kurdistan (HROK), which reports on human rights violations committed against ethnic Kurds in Iran.

1419. According to the information received, on 4 October 2008, Ms. Negin Sheikholeslami was arrested in her home in Tehran allegedly by members of the Iranian security forces. Her place of detention was not revealed to her husband until 9 October 2008. She is currently being held incommunicado in Section 209 of Evin Prison.

1420. Ms. Sheikholeslami underwent heart surgery a month before her arrest, and she is still in need of medical attention. Apart from recovering from the heart surgery, she also suffers from respiratory problems. Ms. Sheikholeslami was previously arrested in February 2001 for having participated in a demonstration in front of the Tehran UN Office, and in January 2002.

1421. Concern was expressed that the arrest and detention of Ms. Negin Sheikholeslami may be related to her activities in defence of human rights.

1422. Further concern was expressed regarding the physical and psychological integrity of Ms. Sheikholeslami.

Observations

1423. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 24 October 2008

1424. The Special Rapporteur, together with 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 violence against women, its causes and consequences, sent an urgent appeal concerning the arrest of Ms. Esha Momeni, a member of the One Million Signatures Campaign and the branch of the Campaign for Equality in California, where she is a student.

1425. Various communications have been sent to your Government in relation to members of the One Million Signatures Campaign including Ms. Ronak Safarzadeh, Ms. Hana Abdi and Ms. Zeynab Beyezidi, all of whom are currently in detention.

1426. According to new information received, on 15 October 2008, Ms. Esha Momeni was arrested when driving on the Moddaress Highway in Tehran. Security officials who identified themselves as traffic police told her that she was being arrested for having illegally overtaken another vehicle. She is currently being held in detention in Evin Prison in Tehran although no charges have been brought against her and she is reportedly at risk of torture or ill-treatment.

1427. Ms. Esha Momeni had been in Iran for approximately two months when she was arrested. During that time she visited her family and conducted research for her Master's degree thesis on the Iranian women's movement. Following her arrest she was taken to the home of her family which was searched. Property was confiscated, including Ms. Esha Momeni's computer and material which was to be used for her thesis such as video recordings of interviews with members of the Campaign for Equality in Iran. The officials had a warrant for Ms. Esha Momeni's arrest and court permission to search the home of her family and confiscate property.

1428. Following the search on Ms. Esha Momeni's family home, she was taken to Section 209 of Evin Prison. Her family was not allowed to see her but were told that, if they did not publicize her arrest, she would be released soon. Nevertheless, on 20 October 2008, when Ms. Esha Momeni's family again sought information on her case, they were told by officials of the Revolutionary Court in Tehran that the case was being investigated and that details would not be made public until the investigation was finished. It was only after this that Ms. Esha Momeni's family publicized her arrest.

Observations

1429. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 12 November 2008

1430. On 12 November 2008, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders sent a letter of allegations concerning Mr. Abdolfattah Soltani.

1431. According to new information received, on 23 September 2008, it was brought to the attention of the United Nations Office of the High Commissioner for Human Rights that the candidacy of Messrs. Mohammad Dadkhah and Abdolfattah Soltani, Dr. Hadi Esmailzadeh, and Ms. Fatemeh Gheyrat for the board of Iran's Central Bar Association has been unfairly disqualified. This decision is based on the *gozinesh* (selection process) regulations, which may reduce equality of opportunity and treatment of candidates according to their opinions or religious beliefs. As well as contravening international human rights treaties to which Iran is party, these measures contravene Article 23 of Iran's Constitution which states that "The investigation of individuals' beliefs is forbidden, and that no one may be molested or taken to task simply for holding a certain belief".

1432. Concern was expressed that the disqualification of Messrs. Mohammad Dadkhah and Abdolfattah Soltani, Dr. Hadi Esmailzadeh, and Ms. Fatemeh Gheyrat as candidates for the board of Iran's Central Bar Association. Further concern was expressed that this may form part of an ongoing trend of harassment against Mr. Abdolfattah Soltani and other members of the Centre for Human Rights Defenders in Iran.

Observations

1433. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 22 December 2008

1434. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Ms. Shirin Ebadi, and the closure of the offices of two non-governmental organizations founded by her, the Defenders of Human Rights Center and the Center for Clearing Mine Areas.

1435. Ms. Ebadi was the subject of an urgent appeal sent by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers on 14 August 2008; an urgent appeal sent by the Special Rapporteur on violence against women and the then Special Representative of the Secretary-General on the situation of human rights defenders on 16 April 2008; an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, 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 11 August 2006; an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the 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 4 August 2005; an urgent appeal sent by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, and the then Special Representative of the Secretary-General on the situation of human rights defenders on 13 January 2005 and an urgent appeal sent by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the then Special Representative of the Secretary-General on human rights defenders on 8 December 2003.

1436. According to the information received, on 21 December 2008, around 3:00 p.m., 10 to 15 uniformed and plainclothes security agents entered the offices of the Defenders Human Rights Center, as approximately 300 members, including Shirin Ebadi herself, were preparing to celebrate the 60th anniversary of the Universal Declaration of Human Rights.

1437. The security agents were allegedly not in possession of a search warrant. The agents videotaped guests arriving to the commemorative event, attacked and intimidated guests and prevented them from entering the building. The security agents filmed the premises, made an inventory and closed down the office.

1438. The prosecutor of Tehran later confirmed the closure of the Defenders of Human Rights Center, due to its “illegal activities”. According to the Tehran prosecutor’s office, the Center “was acting as a political party without having a legal permit, had illegal contacts with local and foreign organizations and organized news conferences and seminars”.

1439. Concern was expressed that the closure of the offices of the Defender of Human Rights Center and the Center for Clearing Mine Areas could be related to the legitimate activities in defence of human rights of both Mrs. Shirin Ebadi and the non-governmental organizations founded by her. Further concern was expressed that the closure of the offices of the Defender of Human Rights Center and the Center for Clearing Mine Areas could form part of a broader attempt to silence Iran’s human rights community.

Response from the Government

1440. By a letter dated 8 January 2009, the Government responded to the letter of allegations, providing the following information: “1. The Defenders of Human Rights Centre as a political organization (and not a non-governmental organization) had received preliminary permit of establishment from the but the Centre had never correctly provided its articles of association or its charter for approval legalization by the Commission. Therefore, in accordance with the existing laws and regulations, the Centre may not have any type of activities until it receives approval of its articles of association as well as its permit for activities. Temporary permits are usually issued to NGOs in the I. R. Iran with the purpose of giving the ground for their growth following which they will have a short period of time for having their articles of association approved for receiving an official permit for their activities. 2. The Commission of Article 10 of the Act on Activities of Associations and Parties which consists of representatives from the three Branches (two representatives from the Judiciary, two from the Legislative and one from the Executives) operates in the framework set by the Act on Activities of Parties and Associations, approved on 29 August, 1981 and its rules of procedure, adopted by the Cabinet of Ministers on 20 June, 1982. 3. Despite lacking an official permit for activities, Ms. Ebadi’s Centre has been freely operating in the course of recent years, carrying out freely its activities such as releasing statements, writing letters to different local governmental and non governmental organs and organizations, holding of meetings and seminars and etc. The pertinent authorities sent the required legal Notices to the Centre through letters No. 281/46 dated 20 November, 2005 and No. 4/43/104969 dated 16 January, 2006, but the Centre, ignoring the legal requirements, did not abide by regulations and continued its activities. 4. Considering the above mentioned developments and on the decision of the Commission of Article 10, the Secretariat of the Commission released a statement on 1 August, 2006, which stated that since the Centre had not duly observed the required regulations (provision of articles of association and its approval by

the Commission), any activity under the name of the Defenders of Human Rights Centre would be illegal and thus violators would be legally sued. 5. Lack of intention on the side of the Centre for taking the required action through the rules of procedure, within the following two years, was proved to the Commission and as a result, on 13 December, 2008, the Commission of Article 10 requested the appropriate judiciary authority, through a letter, to investigate the case. Following completion of investigations, the Prosecutor's Office issued a legal order for sealing and closure of the Centre's office. The order was carried out, on 21 December, 2008, by law enforcement officers.

1441. We believe that it should not be assumed that winning a Noble Prize or any other award brings immunity or impunity, as well as, liberty of doing wrong against the rule of law. Ms. Ebadi is well aware of legal requirements for registering her centre, and she is expected, as a lawyer, to be a role model for others. The Iranian judicial authorities may not force her to provide the required documents if she doesn't wish so. And, at the same time, you definitely agree, that the Judiciary, as a symbol of law, cannot ignore the prevailing laws and regulations. Ms. Ebadi and other members of the center are completely free, on the basis of their rights and responsibilities before law to enjoy their freedom of expression.

1442. It should also be said the Centre was simply closed following all the above-mentioned developments with due serious consideration of dignity of individuals. According to the reports, there was no arrest of individuals nor damages were inflicted to the Centre; and the officers who carried out the Prosecutor's order presented their identifications.

1443. The Government of the Islamic Republic of Iran, firmly believing in the rule of law, as a basis for development and progress of the country in different fields, has been under severe continuous criticism from different angles, including local NGOs, for, as they say, treating the Centre with an exceptional courtesy, and for its being tolerant and lenient with the Centre's activities, while it has not abided by laws and regulations in obtaining a legal permit, while the other similar bodies had done so. Making a brawl over an unfounded allegation is not, absolutely, the solution. We believe that it is not only for what we do that we are held responsible, but also for what we do not.

1444. The distinguished Rapporteurs are assured that there was no "raid" or "attack" on the office or house of Ms. Ebadi. We would also like to reiterate that the reports conveying otherwise to the Rapporteurs are pure fabrication and misinterpretation of developments. It is also regrettable to hear that the legal investigation of the financial activities of Mrs. Ebadi, as a cause of her tax evasion, has been reported as removal of confidential files. We would like to alert against the political brawl that Ms. Ebadi or members of her office have been engineering. We do not wish to fall victim into it.

1445. As it was said, Ms. Ebadi and her colleagues are able to conduct their legitimate activities. Frequent meetings, statements and overseas visits of Ms. Ebadi and her colleagues, including the ones to Geneva are explicit demonstration of the enjoyment of their rights."

Observations

1446. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 31 December 2008

1447. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Ms. Shirin Ebadi, a prominent lawyer, human rights defender, and Nobel Peace Prize laureate.

1448. Ms. Ebadi was the subject of an urgent appeal sent by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 22 December 2008; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers on 14 August 2008; an urgent appeal sent by the Special Rapporteur on violence against women and the then Special Representative of the Secretary-General on the situation of human rights defenders on 16 April 2008; an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, 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 11 August 2006; an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the 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 4 August 2005; an urgent appeal sent by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, and the then Special Representative of the Secretary-General on the situation of human rights defenders on 13 January 2005 and an urgent appeal sent by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the then Special Representative of the Secretary-General on human rights defenders on 8 December 2003.

1449. According to the information received, on 29 December 2008, at about 5:30 p.m., five plainclothes security officers identifying themselves as finance inspectors raided the offices of Ms. Ebadi's law firm in Tehran. The security officers presented a letter that they said allowed them to take the computers and documents from the office. Ms. Ebadi refused to surrender her computer and case files, citing the confidential nature of her work.

1450. Following a five-hour search through client files, accounts, personal documents and computers, the security officers confiscated about 70 boxes filled with professional and personal files. The officers also took two central processing units (hard drives) of Ms. Ebadi's computers.

1451. This latest raid 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.

1452. Concern was expressed that the raid by security officials on Ms. Ebadi's law offices, as well as the confiscation of her confidential documents and computers may be related to her legitimate activities in defence of human rights. Further concern was expressed that this latest raid may form part of an ongoing harassment of human rights defenders in Iran.

Response from the Government

1453. By a letter dated 8 January 2009, the Government responded to communication of the Special Rapporteurs. The letter is summarized above.

Observations

1454. The Special Rapporteur is grateful for the Government's reply.

Follow-up to previously transmitted communications

1455. In a letter dated 4 May 2009, the Government responded to the allegation letter of 30 November 2007. The Government reported that Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi Moghaddam were arrested and charged with disturbing public order. The investigating court dropped the charge against them (19 Aug. 2008) stating that they had not premeditated a disturbance and that their activity was originally peaceful. The two individuals were treated on the basis of the rule of law and they enjoyed all their rights.

1456. In a letter dated 7 February 2008, the Government responded to the allegation letter of 15 November 2007. The Government reported that "Mr. Abolfattah Soltani was sued with the charge of espionage, in the past, and ultimately, the court of appeal acquitted him from his charges and was consequently released. Therefore, in accordance with law, he enjoys all his social rights. Presently, there is no verdict on prohibiting him from making trips out of the country. As for his claim of not having a passport, he may refer to the Passport Department of I.R. Iran, like any other Iranian citizen, to get a passport or in case of loss, a duplicate passport."

1457. In a letter dated 7 February 2008, the Government replied to the communication sent on 14 December 2007. In its reply, the Government explained that although the letter of the Special Rapporteurs raises a number of 20 to 30 students, reference was made to only 9 individuals, without any reference to their charges. The Government also noted that all countries have adopted special measures for the management of student activities and movements and that the Islamic Republic of Iran was not an exception to this rule. The Government explained that it considers student social and political movements as positively as possible and particularly with due consideration of the few million students in Iranian universities. The Government informed that the nine individuals, during the short time of apprehension, were in contact with their families. Only two of them are currently under arrest, for formation of an illegal group with fanatic socialist-oriented ideas, aiming at counter-security subversive objectives through setting up a military branch within the group. The Government stated that they abused students' freedoms and under the cover of political activities tried to achieve their goals. As for the other students, they were charged with unauthorized and disturbing gathering and were released, upon bail, after a short time. The Government informed that there is no report on the arrest of a Ms. Rosa Essa'ie.

1458. In a letter dated 12 February 2008, the Government responded to the allegation letter of 24 October 2007. The Government reported that "In the Judicial System of the Islamic Republic of Iran, judicial procedure on different cases is carried out merely on the basis of law, irrespective of the social titles or positions of accused individuals. Also, similar to many other countries around the world, carrying out social activities should be in the framework of

law, in compliance with the principle of fairness and avoidance from making lies and false statements with the aim of achieving political ends. Unfortunately, Mr. Emadeddin Baghi has resorted to inappropriate and incorrect statements in the course of his social activities. He was sued by Tehran Islamic Revolutions Court, charged with propaganda against the state through false statements aimed at disturbing public opinion; and by the verdict number 6/83/327 of 3 October, 2004, based on Article 500 of the Penal Code which states, "Anyone propagating against the Islamic Republic of Iran Or in favour of groups and organizations who oppose the State, shall be subject to imprisonment from three months to one year" was sentenced to one year's imprisonment. Upon the objection by his lawyer, Mr. Saleh Nikbakht, the court of appeal reviewed the case and confirmed the earlier verdict through verdict number 993, dated 6 December, 2004, which was put into force from November, 2007. Then, after 76 days of imprisonment, Mr. Baghi was sent on an extendable medical leave, with the assistance of pertinent authorities, for treatment of the illness he had before imprisonment. It is noteworthy that Mr. Baghi was summoned by Branch 1 of Tehran Prosecutors Office, due to his repetition of his earlier offense, and a file was opened for him on his recent offense, which has slot received a judgment. We would also like to mention that the prison sentence for Mr. Baghi has not been in relation with his activities in defence of human rights or any other peaceful activity".

1459. In a letter dated 4 September 2008, the Government responded to joint urgent appeals of 22 September 2006 and 10 July 2007. The Government reported that "Mr. Mohammad Sadegh Kaboudvand has been enjoying all facilities as well as the existing medical services offered by medical centres in and out of prison, as available to any other prisoner. He suffered from high blood pressure and therefore he has been regularly visited and under constant supervision by skilled cardiologists, nephrologists, neurologists and other required specialists. His medical condition is now stable through prescribed medications. Latest medical tests confirmed that Mr. Kaboudvand is in a stable condition (i.e. BP: 140/90, PR: 64). We would also like to mention that: the prison sentence for I. Kaboudvand has not been in relation with his activities in defence of human rights or any other peaceful activity; any allegation of maltreatment or lack of proper medical attention to his physical or psychological integrity is baseless arid mere fabrication of lies aiming at mal-intended objectives; his trial was in accordance with the rule of law and merely in relation with his illegal activities. The allegation of his activities in Presence of the Kurdish people is not but an instrument to cover his mal-intended activities, and deceiving international human rights bodies. In the judicial System of the Islamic Republic of Iran, judicial procedure on different cases are carried out on the basis of law, disregarding social titles or positions of the accused individuals. Mr. Kaboudvand also enjoyed all his legal rights before the court of justice".

1460. In a letter dated 12 February 2008, the Government responded to the letter of allegations of 21 August 2007. The Government reported that "unfortunately, Mr. Emadeddin Baghi has resorted to inappropriate incorrect statements in the course of his social activities. He was sued by Tehran Islamic Revolution's Court, charge with propaganda against the state through false statements aimed at disturbing public opinion; and by the verdict number 6/83/327 of 30 October, 2004, based on Article 500 of the Penal Code which states, "Anyone propagating against the Islamic Republic of Iran or in favour of groups and organizations who oppose the State, shall be subject to imprisonment from three months to one year" was sentenced to one year's imprisonment. Upon the objection by his lawyer, Mr. Saleh Nikbakht, the court of appeal reviewed the case and confirmed the earlier verdict

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Observations

1461. The Special Rapporteur is grateful for the Government's replies.

Iraq

Letter of allegations sent on 31 March 2008

1462. On 31 March 2008, the Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of human rights defenders, sent an allegation letter concerning Mr. Shihab Al-Timimi, a journalist and human rights defender. Mr. Al-Timimi was the head of the Iraqi Journalists' Union and a renowned campaigner for the right to freedom of expression in Iraq.

1463. According to information received, on 24 February 2008, Mr. Shihab Al-Timimi had just left the headquarters of the Iraqi Journalists' Union and was travelling to the Waziriya neighbourhood of north-eastern Baghdad when his car was ambushed by unidentified armed men who opened fire on the vehicle. Mr. Shihab Al-Timimi was taken to hospital where he suffered a stroke as a result of his injuries. He died on 27 February 2008. His son was also injured in the attack, but is now in a stable condition in hospital.

1464. Mr. Shihab Al-Timimi had reportedly been the subject of death threats prior to the attack, warning him that he would be killed if he did not retire from his position as head of the Iraqi Journalists' Union.

1465. Grave concern was expressed that the killing of Mr. Shihab Al-Timimi may have been as a direct result of his human rights activities, in particular his work to defend the right to freedom of expression in Iraq.

Observations

1466. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 3 September 2008

1467. The Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an allegation letter concerning reported killings of a journalist and an academic writer and death threats against others in the Kurdistan region of Iraq and in Kirkuk.

1468. According to information received, on 21 July 2008, Mr. Souran Mama Hama, a 23-year-old journalist, was shot dead outside his parents' house in Kirkuk. The killers, men wearing civilian clothes, shot from a car. On 15 June 2008, the independent magazine Lvin, published in Kirkuk in the Kurdish language, had published an article by Souran Mama Hama titled "Prostitutes conquer Kirkuk". The article alleged that innumerable brothels were operated in Kirkuk with connivance by the police and that they were patronized primarily by police officers and military officers, including some arriving for the purpose from Suleymaniya and Arbil. The author of the article alleged, for instance, that he "managed to obtain the names of three police lieutenant colonels and colonels and other high ranking officers who are the prostitutes' customers. But on grounds of journalistic ethics we have not published their names, although their identities are kept at Lvin magazine." In the 36 days between the publication of the article and his death, Souran Mama Hama had received numerous death threats. In a statement on the website of the Kurdish regional Government on 24 July 2008, the regional Presidency condemned the murder of Souran Mama Hama as a terrorist attack.

1469. Previously, on 6 March 2008, the academic 'Abd al-Sattar Taher Sharif was killed by gun fire in Kirkuk. He had published articles critical of the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP), the two political parties holding power in the Kurdish Regional Government.

1470. Several other journalists and writers from the Kurdistan region of Iraq have recently received death threats. On 24 July 2008, Mr. Souran 'Omar from Sulaimaniya received anonymous telephone calls threatening him with death if he did not stop writing. He had published a number of articles in a magazine called Rega, which he edits, as well as in Lvin. These articles alleged corruption and nepotism in the two main political parties of the Iraqi Kurdistan Region, the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP), which together hold power in the Kurdish Regional Government.

1471. On 23 July 2008, men wearing civilian clothes went to the house of Mr. Nehad Jami, a journalist based in Kirkuk, which is under the effective control of the Kurdistan Regional Government (KRG). The men knocked at the door of his house, but he was not there. The men waited for him for several hours and then left. At around the same time, another journalist, Kusrat 'Abd al-Rahman, received threats by phone related to articles he had written.

1472. Around mid-July 2008, a list of 16 journalists and writers, including 'Abd al-Sattar Taher Sharif, Souran Mama Hama and Souran 'Omar, was circulated within the Kurdistan region of Iraq. The authors of the list threatened those named with death. All the journalists and writers mentioned on the list are known to have been critical of the PUK and the KDP. Those named include journalists and writers resident in the Kurdistan Region of Iraq, as well as several who are now resident abroad. The 16 names on the list are:

1. 'Abd al-Sattar Taher Sharif
2. Souran Mama Hama, of Lvin
3. Ahmed Mera, of Lvin
4. Hemin Bakir, of Lvin

5. Souran Omar, of Kurdistandaily news
6. Pola Said, based in Germany
7. Nabaz Goran, based in Arbil
8. Tarik Fatih, of Hawlate
9. Feshta Raper, based in London
10. Kunjireny Writter, based in Germany
11. Tahir Saleh Sharef, a journalist
12. Aram Ahmad, a writer
13. Rizgar Rangoor, based in the Kurdistan region
14. Mustafa Hasan Gawra, a writer
15. Dr. Kamal Said Kadir, based in Austria
16. Kamal Jamal Muxtar, based in Sweden

1473. Amanj Khalil, chief of the Suleimaniya office of the Rudaw newspaper, started receiving death threats over the phone from unknown men after he published an article alleging that a (named) member of the politburo of the Islamic Komal Party had provided support to the Ansar Al- Islam terrorist group. On 1 August 2008, late in the evening, Amanj Khalil reportedly escaped an assassination attempt in Suleimaniya. He notified the police in Suleimaniya and they provided a team to guard his house for one day. Mr. Amanj Khalil does not suspect government involvement in the assassination attempt.

Response from the Government

1474. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Israel

Letter of allegations sent on 14 April 2008

1475. The Special Rapporteur sent an allegation letter concerning the reported arrest and detention under house arrest of pro-peace radio station "RAM FM" staff. According to information received, on 7 April 2008, the Israeli Police and officials of the Israeli Ministry of Communications raided the Jerusalem offices of Ramallah based RAM FM radio station, closing down the studio, seizing the radio station's transmitter and arresting its seven staff. It is reported that the seven employees - three reporters, two disc-jockeys, one technician and the station manager of Israeli, Palestinian and South African nationalities, were detained overnight and

released on bail by the Jerusalem District Court on Tuesday after signing bonds ranging from 10,000 to 25,000 shekels (approximately 1,770 to 4,400 €). They were placed under house arrest until the next court appearance on 15 April. Reports indicate that until then, they are not to meet each other, or make any contacts. According to the information received, the raid was motivated by the interference allegedly caused by the transmitter in the communications between aircraft and the Ben Gurion airport. However, the temporary broadcast permit was delivered by the Palestinian authorities with Israel's agreement, and the final licence was due to be delivered on 8 April, the day after the raid. RAM FM continues to broadcast from its headquarters in Ramallah.

Observations

1476. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 28 July 2008

1477. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations concerning the Nafha Society for the Defense of Prisoners and Human Rights, a non-governmental organization (NGO) which was registered with the Palestinian Authority in 2006. The Nafha Society represents Palestinian detainees in Israeli courts, helps prisoners to become reintegrated with society after being released and offers social and psychological support to prisoners' families.

1478. On 2 August 2007, Mr. Mohammad Bsharat, Executive Director of the Nafha Society was reportedly arrested without a warrant by Israeli soldiers. On 26 August 2007, the Salem Military Court sentenced him to six months' administrative detention. This meant that by law it was neither necessary for charges to be brought against him nor for him to be allowed a trial. He was released on 24 February 2008. This case was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 31 August 2007. No response has yet been received to the communication.

1479. According to information received, on 8 July 2008, the Nafha Society and six other organizations were closed for two years by the Israeli authorities following the issuing of a military order by the Israeli Military Commander in the occupied West Bank. The reason given for the closure was that the organizations were involved in the financing of terrorist organizations. This allegation is strongly denied by the Nafha Society.

1480. Concern was expressed that the closure of the Nafha Society may be related to its work in defense of human rights, in particular its work to provide legal, psychological, medical support to Palestinian prisoners in Israel and their families.

1481. Further concern was expressed that these incidents may form part of a pattern of harassment against human rights defenders in the occupied West Bank.

Response from the Government

1482. In a letter dated 31 October 2008, the Government responded to the communication sent on 28 July 2008. The Government reported that the Nafha Society for the Defense of Prisoners and Human Rights substituted and continued the work of the “Friends of the Prisoner Society” (also known as “Ansar El-Sageen”). On 31 August 2006, the Minister of Defense declared the “Friends of the Prisoner Society” to be an unlawful organization based on its connections with the Hamas terrorist organization. This decision stated that the declaration is also valid for any other name in which the organization shall be named in the future, including any section, branch, center, committee, group or fraction of it. As a result, although the organization changed its name, according to the Minister’s decision it remains an unlawful organization. Furthermore, according to information presented to the Minister of Defense and the Commander of the IDF forces in the West Bank, the Nafha Society continues to maintain various connections with the Hamas terrorist organization. Due to all of the above and the threat posed by the Nafha Society for public safety and the security of the State of Israel, the decision remains firm.

Observations

1483. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 14 August 2008

1484. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government concerning Mr. Yusuf Qawariq, a field worker for Al-Haq.

1485. According to information received, on 24 July 2008, at approximately 2 p.m., Mr. Yusuf Qawariq was arrested by Israeli forces. Mr. Yusuf Qawariq had been passing through the Huwara checkpoint on his way out of Nablus in the occupied Palestinian territory of the West Bank. He used his Palestinian identity card and his Al-Haq employee card to identify himself but was accused of using false United Nations (UN) identification because it states on his Al-Haq card that the organization has consultative status with the Economic and Social Council of the UN. Mr. Yusuf Qawariq was then detained for three hours in a small cell. Soldiers told the mayor of the village of Awarta that Mr. Yusuf Qawariq was carrying false UN identification and that his arrest was due to his work in monitoring and documenting the Israeli military’s actions.

1486. Concern was expressed that the arbitrary arrest and detention of Mr. Yusuf Qawariq may have been related to his legitimate work in the defense of human rights in the occupied Palestinian territory of the West Bank.

1487. Further concern was expressed that this may form part of an ongoing pattern of harassment against human rights defenders in the West Bank, in particular members of Al-Haq.

Observations

1488. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 5 November 2008

1489. 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 prevention of approximately 120 international academics and human rights defenders from entering Gaza to attend a conference being held by the Gaza Community Mental Health Program (GCMHP) and the World Health Organization (WHO).

1490. According to the information received, on 27 and 28 October 2008, the 5th international conference of the Mental Health Programme, titled "Siege and Mental Health, Walls vs. Bridges" was scheduled to be held by the GCMHP and the WHO in Gaza City. However, Israeli Occupation Forces (IOF) denied entry permits to approximately 120 international academics, human rights defenders and physicians who were due to participate in the conference and prevented them from entering Gaza via Beit Hanoon (Erez checkpoint). Military authorities reportedly also forbade the entry of members of the "Physicians for Human Rights", a Tel-Aviv based NGO; as well as of Palestinian physicians and academics from the West Bank and East Jerusalem. The names of the participants were reportedly submitted through the WHO to the IOF over a month before the conference in order to allow enough time to gain permission for them to attend.

1491. Concern was expressed that the international academics and human rights defenders who were due to participate in the conference of the GCMHP and the WHO may have been prevented from entering Gaza because of their activities in the defense of human rights.

1492. Further concern was expressed that this incident may have formed part of an ongoing pattern of restriction of movement against human rights defenders wishing to enter or leave Gaza.

Response from the Government

1493. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Follow-up to previously transmitted communications

1494. In a letter dated 31 October 2008, the Government responded to a joint urgent appeal of 31 August 2007. The Government reported that "The Napha Society for the Defense of Prisoners and Human Rights substituted and continued the work of the "Friends of the Prisoner Society" also know as "Ansar El-Sageen". On 31 August 2006, the Minister of Defense declared the "Friends of the Prisoner Society" to be an unlawful organization based on its connections with the Hamas terrorist organization. This decision stated that the declaration is also valid for any other name in which the organization shall be named in the future, including any section, branch, group or faction of it. As a result, though the organization changed its name, according to the Minister's decision it remains an unlawful organization. Furthermore, according to

information presented to the Minister of Defense and the Commander of the IDF Forces in the West Bank, the Napha Society continues to maintain various connections with the Hamas terrorist organization. Due to all of the above and the threat posed by the Napha Society for public safety and the security of the state of Israel, the decision remains firm”.

Observations

1495. The Special Rapporteur is grateful for the Government’s reply.

Japan

Urgent appeal sent on 14 May 2008

1496. 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 regarding Mr. Tashi Tsering, aged 38. Mr. Tashi Tsering is the Vice-Chairman of the Taiwan branch of the Tibetan Youth Congress.

1497. According to the information received, on 26 April 2008, the day the Beijing Olympic torch was brought to Japan, Mr. Tashi Tsering was participating in a reportedly peaceful demonstration in Nagano against the Olympic torch relay. During the demonstration, Mr. Tashi Tsering was taken into custody by the Nagano police authorities. Mr. Tashi Tsering had reportedly not committed any violent acts during the demonstration. Before he was arrested, he had been calling for the independence of the Tibet Autonomous Region by approaching the torch and shouting, “Free Tibet!”. Mr. Tashi Tsering was charged with “forcible obstruction of business”. While in detention, Mr. Tashi Tsering allegedly did not have access to a lawyer during the first days, nor was he allowed receiving visitors.

1498. On 28 April, Mr. Tashi Tsering was brought before a prosecutor for interrogation. Thereafter, his detention was extended for another 10 days and he was once again not permitted to see any visitors during this extended detention period. On 8 May, another 10-day extension of Mr. Tashi Tsering’s period of detention was sought, allegedly to gather evidence against him to show that he is a terrorist.

1499. Mr. Tashi Tsering is currently detained at Nagano’s central police station. His indictment is reportedly scheduled for 15 May and the court hearing on his case is due to take place on 17 May. If found guilty, Mr. Tsering may be sentenced to a fine of 500,000 Japanese yen (around US\$ 4,800) or to a prison sentence of up to 3 years.

1500. Concerns were expressed that the detention of Mr. Tashi Tsering might be solely connected to his peaceful activities in defending human rights and the exercise of his right to freedom of opinion and expression.

Response from the Government

1501. In a letter dated 28 May 2008, the Government responded to the communication sent on 14 May 2008. The Government stressed that it guaranteed freedom of assembly and association, as well as speech, press and all other forms of expression as major rights (Article 21 of the Constitution of Japan). The case referred to in the communication includes an action that

went beyond the limits of the freedom and it was dealt with by the concerned authorities under appropriate legal procedures. The Government of Japan has no intention to restrict the freedom arbitrarily.

1502. The detailed facts of the case are summarized as follows. On 26 April 2008, when the Beijing Olympic Torch Relay, co-organized by the Beijing Organizing Committee for the Games of the XXIX Olympiad and the City of Nagano, was under way in the city, Mr. Tashi Tsering, the accused, jumped out towards the running course shouting “Free Tibet” for the purpose of interfering this event, and as a result, prevented a runner from running forward. As it obstructed the business of the Organizing Committee and Nagano City by force, his action constituted “forcible obstruction of business”, which is stipulated under Article 234 of the Penal Code. On 26 April 2008, at 9-06 a.m., the police arrested Mr. Tshering on the spot as a flagrant offender and detained him in a detention cell. On 27 April 2008 the police referred the case to the public prosecutor. On 28 April 2008 the public prosecutor requested Mr. Tshering to be detained for 10 days and it was authorized by the judge after the direct judicial inquiry. On 7 May 2008 the prosecutor requested the extension of the period of detention for another 10 days, and it was authorized by the judge. Mr. Tshering was interviewed by a defense counsel 13 times between 28 April and 14 May 2008. He also had an interview with a staff from the Taipei Economic and Cultural Representative Office in Japan. On 16 May 2008 Mr. Tshering was fined 500.000 yen as a summary order, which he paid on the same day. He was released at 2.25 p.m. on 16 May 2008. The reply of the Government also contained a detailed analysis of the relevant provisions of the Penal Code and the Code of Criminal Procedure.

Observations

1503. The Special Rapporteur is grateful for the Government’s reply.

Kenya

Urgent appeal sent on 22 May 2007

1504. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal on the situation of Mr. Job Wandalia Bwonya, Executive Director of the non-governmental organization Western Kenya Human Rights Watch (WKHRW), Mr. Taiga Wanyania, member of the Mwatikho Torture Survivors’ Organization, located in Bungoma, Western Kenya, and accredited with the International Rehabilitation Council for Torture Victims, as well as Mr. Henry Wilberforce Lumbuku, human rights activist. According to the information received:

1505. Messrs. Job Wandalia Bwonya, Taiga Wanyania and Henry Wilberforce have been forced to flee their office in Bungoma and find refuge in another country after exposing in the media alleged acts of torture of Sabaot Land Defence Force (SLDF) suspects by the military in the Mt. Elgon region. Atrocities committed allegedly by SLDF against the civilian population since 2006, with a peak of human rights violations in January 2008, triggered the deployment of soldiers in the area on 10 March 2008. Three days after the start of the military operation, WKHRW started receiving complaints from people from the area, allegedly arrested by the military, including children aged 13, who had been taken to Kapkota military camp, tortured, released or taken to court. A number of people were reported killed in the course of the

operation, and over 18 people died as a result of torture, including five in prison. From 14 to 25 March 2008, WKHRW conducted a fact-finding mission to investigate the allegations received, and to identify other victims who had not filed official complaints yet. On 21 March, WKHRW visited victims at Bungoma prison who had multiple injuries allegedly inflicted by the military at Kaptoka camp before being handed over to the police for prosecution.

1506. On 28 March, Mr. Job Wandalia Bwonya went to Sirisia and Lwakhakha to interview more victims. The military arrested Mr. Job Wandalia Bwonya at noon at Lwandanyi market in Bungoma West District. He was interrogated for one hour on his activities, and then taken to the Chepkube military camp and further interrogated for three hours before being released. The military reportedly warned Mr. Job Wandalia Bwonya to stop alleging that soldiers were torturing people. On 29 March, 33 alleged victims of torture were transported to Bungoma to deliver testimonies regarding their treatment in Kapkota camp, in the presence of the media. On 30 March and 1 April, the stories of these alleged victims were highlighted in both print and electronic media. A joint press release by Human Rights Watch, Mwatikho and WKHRW was issued on 4 April. On 4 April, soldiers visited several staff of WKHRW, asking about the whereabouts of Mr. Job Wandalia Bwonya. Hearing that the military was actively looking for him, he decided to flee the country. Soldiers also went to the house of Mr. Taiga Wanyania's parents. Mr. Taiga was not present and decided to flee the country as well. On 16 April, Mr. Henry Wilberforce Lumbuku, who was also active in interrogating victims of torture, was arrested by the military, interrogated on his activities, and detained in Nakuru barracks for two days. He subsequently left the country as well.

1507. Serious concern was expressed that the abovementioned acts of harassment against Messrs Job Wandalia Bwonya, Taiga Wanyania and Henry Wilberforce Lumbuku may be linked to their non-violent activities in defense of human rights, in particular in investigating and exposing alleged human rights violations by the military in the Mt. Elgon region.

Observations

1508. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 15 August 2008

1509. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal on the situation of Dr. Walter Wekesa Nalianya, a registered doctor with the Medical Practitioners and Dentist Board practising at Moi Teaching and Referral Hospital. Dr. Walter Wekesa Nalianya has examined torture cases on behalf of the Kenyan Independent Medico-Legal Unit, a registered NGO defending the rights of torture victims in Kenya. According to the information received:

1510. On 14 August 2008, Dr. Walter Wekesa Nalianya was reportedly summoned by police. Since then he has been held for interrogation at the Kakamega's Provincial Criminal Investigation Office for his participation in documenting human rights violations in Mt. Elgon Hospital Kitale in relation to alleged acts of torture committed by the military in the Mt. Elgon region in March 2008. The findings of Dr. Walter Wekesa Nalianya were published by the Kenya National Commission on Human Rights in May 2008.

1511. Concern was expressed that the summoning and interrogation of Dr. Walter Wekesa Nalianya may be linked to his non-violent activities in defense of human rights, i.e. his participation in documenting torture cases in the Mt. Elgon region. On 22 May 2008, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent a joint urgent appeal on reported acts of harassment against Messrs Job Wandalia Bwonya, Taiga Wanyania and Henry Wilberforce Lumbuku who investigated and exposed similar human rights violations by the military in the Mt. Elgon region. So far no response from the Government of Your Excellency has been received on these allegations.

Observations

1512. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 19 September 2008

1513. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding acts of intimidation against Ms. Poulina Kimani, a member of the Gay and Lesbian Coalition of Kenya.

1514. According to information received, on 23 August 2008, Ms. Poulina Kimani appeared on a television program which dealt with the issue of homosexuality in Kenya. On 25 August 2008, she was the victim of intimidation by a group of men in her community, while on 1 September 2008 she was chased and threatened with rape by a group of men. On 2 September 2008, she received threats in an envelope which was found outside her place of residence. These incidents were reported to the police by Ms. Poulina Kimani but she is unaware of whether there has been any investigation into them yet.

1515. Concern was expressed that the acts of intimidation against Ms. Poulina Kimani may have been related to her activities in defense of the rights of the gay and lesbian community in Kenya. Further concern was expressed for the physical and psychological integrity of Ms. Poulina Kimani.

Observations

1516. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 19 December 2008

1517. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Ms. Caroline Mutoko, presenter, Mr. Larry Asego and Mr. Mzee Jalang'o, co-presenters with Kiss FM radio station based, and Mr. Mwalimu Mati, former director of Transparency International in Kenya along with a number of other civil society activists and journalists.

1518. According to information received, on 12 December 2008, Ms. Caroline Mutoko, Mr. Larry Asego, Mr. Mzee Jalang'o and Mr. Mwalimu Mati along with approximately 60 other journalists and civil society activists were arrested by police officers at Nyayo National Stadium, in Nairobi. The arrests took place during national Independence Day celebrations led by President Kibaki. The group had gathered during the event to protest against the Kenya Communications (Amendment) Bill 2008, passed by Parliament two days earlier. Ms. Mutoko, Mr. Asego, Mr. Jalang'o and Mr. Mati Nyayo were reportedly detained at Langata police station in the city, while the other activists and journalists were held in various police stations throughout the city. All were reportedly released later that day.

1519. If ratified, the Kenya Communications (Amendment) Bill 2008 could punish those responsible for alleged press offences with heavy fines and prison sentences. The Bill also envisages the creation of a Government-appointed Communications Commission that would be in charge of granting broadcast licenses. Article 46 of the Bill affords the Communications Commission powers to issue or deny licences. Under this section an applicant can be denied a license for failing to fulfil, among other requirements, "such other conditions as may be prescribed". Article 86 of the Bill affords the Information Minister the power to interrupt broadcasts, dismantle radio and TV stations and tap telephones, while the Internal Security Minister would be empowered to seize broadcasting equipment. The Bill would also afford the Information Minister power to control programme content, as the commission he appoints would also be responsible for ensuring the "good taste" of broadcasts.

1520. Concern was expressed that the aforementioned events could represent a direct attempt to prevent legitimate peaceful protests against the newly enacted Communications (Amendment) Bill 2008. Further concern was expressed that, if ratified, the Bill may be used as a tool to stifle media freedom in the country.

Observations

1521. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Kyrgyzstan

Letter of allegations sent on 10 January 2008

1522. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegation to the Government concerning Ms. Tolekan Ismailova of the organisation Citizens against corruption, Ms. Aigul Kyzalakova and Ms. Nazgul Turdubekova of Youth Human Rights Group and members of youth branches of political parties and movements Dilgir, Ar-Namys, Ata-Meken, Zelenye.

1523. According to information received, on 20 December 2007 militia officers arrested human rights defenders and 14 representatives of youth movements in Bishkek, for participation in a peaceful demonstration in protest at alleged irregularities in the parliamentary elections

of 16 December. The participants were brought to the Bishkek Department of Interior's Temporary Facility Priemnik Raspredelitel' GUVD. Despite requests on the part of defence lawyers for an open hearing, an in camera session was conducted at night-time. Of the 19 people detained, 16, including the aforementioned human rights defenders, were sentenced to between 5 and 7 days.

1524. Concern was expressed that the arrest and detention of the aforementioned human rights defenders and youth activists may have been directly related to their work in defence of human rights.

Observations

1525. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 24 January 2008

1526. The Special Rapporteur, jointly with the then Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent a letter of allegation to the Government concerning Mr. Maksim Kuleshov, head of the "Mir-svet kulturny" Association.

1527. According to information received; on 16 January 2008 Maksim Kuleshov conducted a protest action at the Bishkek Mayor's Office and Bishkek City Council. Mr. Kuleshov was standing alone in front of the building of the Mayor's Office and held a sign with a note "Dusik, you are not right!" referring to the Mayor of Bishkek. The peaceful protest was forcibly stopped by police officers who arrested Mr. Kuleshov and transferred him to Police Station No 9. Witnesses reported seeing two unknown policemen and one officer allegedly identified as Sydykov, beating Maksim Kuleshov. The latter officer hit him twice in the abdomen; others beat on his head and feet. The two unknown policemen, one of whom was plainclothed, did not identify themselves when asked. The policemen also took Mr. Kuleshov's personal belongings including his clothes and mobile phone.

1528. Subsequently Mr. Kuleshov appeared before the Leninsky Rayon Court, where Ms. Aziza Abdirasulova, an associate acting in his defense stated that the charges against him were based on explanatory notes without signatures and names. The charges were in Kyrgyz, which Mr. Kuleshov, an ethnic Russian, does not speak, nor was there any interpreter present. Mr. Kuleshov had requested a lawyer at the police station but his request was rejected, as was a request to see a doctor while he was in detention.

1529. Reports received indicated that the judicial outcome of the case concerning Mr. Kuleshov's peaceful protest was dependent on the potential application of a Bishkek City Council decree which seeks to curtail assemblies, mass-meetings, marches, demonstrations and pickets in the city.

1530. Concern was expressed that Mr. Kuleshov's alleged arrest, ill-treatment and detention may be directly linked to his activities in defense of human rights and his exercising of his right

to freedom of expression and peaceful assembly. Further concern was expressed for legislative restrictions which are imposed with a view to curbing freedom of expression, movement and assembly.

Observations

1531. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 4 February 2008

1532. The Special Rapporteur, jointly with the then Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the government concerning a group of civil society activists, including Mr. Tilek Sydykov, Mr. Aibek Bakasov, Ms. Aichurek Mamatkadyrova, Ms. A. Asanova, Mr. Joomark Saparbaev, Mr. Mirsulzhan Namazaliev, Ms. Gulshair Abdirasulova, Ms. Jibek Ismailova, Mr. Azamat Janybaev, and Mr. Mirzat Adjiev.

1533. According to information received; on 28 January 2008, the aforementioned were arrested following their participation in a peaceful demonstration outside the building of the Kyrgyz parliament in protest against allegedly questionable practices in the recent elections. It was reported that following their arrest, they were detained in Pervomayski Rayon Police Department. Mr. Mirzat Adjiev was reportedly released later the same day, but it is believed that the other participants in the peaceful demonstration remain in detention. These arrests were reportedly a result of a Bishkek City Council decree which entered into force on 5 December 2007, which seeks to greatly restrict assemblies, mass-meetings, marches, demonstrations and pickets in the city. This decree was mentioned in a previous communication sent by mandate holders to the Government on 24 January 2008.

1534. Concern was expressed that the arrest and detention of the aforementioned may be directly linked to their activities in defense of human rights and their exercising of the right to freedom of expression and peaceful assembly. Further concern was reiterated regarding legislative restrictions which are imposed with a view to curbing freedom of expression, movement and assembly.

Observations

1535. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 24 April 2008

1536. The Special Rapporteur, jointly with the then Special Rapporteur on the situation of human rights defenders, sent a letter of allegation to the Government concerning the alleged warrantless raid of the community centre of the organization Labrys, an organization working for the rights of lesbian, gay, bisexual and transgender persons (LGBT). Labrys was founded in April 2004 to assist and advocate for the rights of lesbian and bisexual women, gay men, and

transgender people. It has been a legally registered nongovernmental organization since 14 February 2006. The community center of Labrys, opened in February 2008, serves as a place for meeting and discussion, as well as shelter for victims of violence.

1537. According to the information received, on the evening of 8 April 2008, three police forced their way into the building housing the group Labrys in Bishkek, which at the time was hosting a dinner for local and international LGBT groups from the Anti AIDS Association and Tais Plus, as well as for international partner organizations - COC (Cultuur en Outspannings-Centrum) and HIVOS (Humanist Institute for Cooperation with Developing Countries) from the Netherlands, and Gender Doc-M from Moldova. The police threatened to arrest anyone who did not produce identification, and searched private files.

1538. It was reported that the police demanded to see the organization's registration documents, statutes, and rent statements. The police gained entry to a locked private office and went through desks and files. A short time later, the district police chief arrived and said the officers would leave only if Labrys promised to submit its administrative and financial documents to the police station the following day. Labrys complied with the request.

1539. This is reportedly the second time that the police have raided Labrys without a warrant. On 4 June 2006, police forced their way into the group's office after verbally threatening that they would rape everyone inside.

1540. The mandate-holders expressed their concern that the warrantless raid of the community centre of Labrys may be related to the activities of the organization in defense of human rights, in particular LGBT rights, and also that restrictions or breaches of the right to freedom of association may discourage defenders working on the protection of the right of marginalized or stigmatized groups to carry out their activities.

Observations

1541. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 21 July 2008

1542. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegation to the Government in relation to Mr. Ivar Dale and Ms. Lena Mamadnazarova, Regional Representative and Project Coordinator respectively of the Norwegian Helsinki Committee (NHC) in Kyrgyzstan, Ms. Tolekan Ismailova of the organisation Citizens against Corruption, and Ms. Aziza Abdurasulova, head of the non-governmental organization (NGO) Kylum Shamy, an organization that monitors human rights violations in the Kyrgyz Republic. The NHC is an NGO which monitors compliance with the human rights provisions of the Organisation for Security and Cooperation in Europe (OSCE) within all OSCE signatory states and supports democracy and civil society irrespective of the ideology and political position of states.

1543. Ms. Aziza Abdurasulova was the subject of a letter of allegation sent by the then Special Representative to the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 18 May 2006. A response from the Government was received on 4 July 2006. Ms. Tolekan Ismailova was the subject of a letter of allegation sent by the then Special Representative to the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 January 2008. No response from the Government has yet been received.

1544. According to information received, since arriving in Kyrgyzstan in November 2006, Mr. Ivar Dale made unsuccessful efforts to register his office through the Ministry of Justice. On many occasions he was assured that the organization would be registered and was told that only minor corrections to the documents in his application were necessary. Given that he was required to provide a valid contract with a landlord for his office in order to have it registered, he set up an office and began to use it for work. The Ministry of Justice was aware of this work and officials from the Government have attended NHC events in Kyrgyzstan.

1545. On 9 June 2008, two representatives from the Ministry of the Interior (MVD) came with two unidentified individuals to carry out a search on the NHC office. The unidentified individuals photographed documents and asked questions about NHC projects, mentioning current problems for NGOs in Uzbekistan. No search warrant was shown to Mr. Ivar Dale. He was also threatened by one of the unidentified persons with the words "If we want, we can just beat him up". The MVD representatives refused to call the Ministry of Justice to seek confirmation that the NHC office's application for registration was still under consideration despite Mr. Ivar Dale's requests for them to do so.

1546. The following day, Mr. Ivar Dale and Ms. Lena Mamadnazarova were not provided with any information when they went to the Ministry of Justice for written confirmation that the NHC office's registration was still under consideration. According to a statement made by the Minister for Justice on BBC Radio, the only reason that the NHC office had not been registered was that some of their documents were missing. However, Mr. Ivar Dale was called, usually without a warrant, to the police station several times. There he was threatened with having his visa annulled and threats were made about bringing charges against him and Ms. Lena Mamadnazarova for operating the office without proper registration. These threats came about in spite of the NHC agreeing on 12 June 2008, to suspend its activity until the necessary registration and work permits were granted, on the understanding that the Ministry of the Interior would confirm to the Ministry of Justice that it had no objection to the registration of the NHC in the Kyrgyz Republic. Mr. Ivar Dale was most recently called to the police station on 14 July 2008. Ms. Tolekan Ismailova and Ms. Aziza Abudurasulova, who were present when the NHC office was being searched, were also been called to the police station and accused of interfering in the lawful work of law enforcement officials. Threats were also made about bringing charges against them.

1547. Concern was expressed that the threats and harassment against Mr. Ivar Dale, Ms. Lena Mamadnazarova, Ms. Tolekan Ismailova and Ms. Aziza Abudurasulova, as well as the reluctance to register the NHC office in the Kyrgyz Republic, might be related to the activities of

the aforementioned in the defense of human rights. Concern was also expressed that while time and resources were dedicated to obtaining the registration of its office, the NHC in the Kyrgyz Republic would be unable to carry out its work effectively.

Observations

1548. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations on 15 August 2008

1549. The Special Rapporteur sent a letter of allegation to the Government in relation to the amendments to the Law of the Kyrgyz Republic on the Right of Citizens to Assemble Peaceably, without Weapons, to freely Hold Rallies and Demonstrations.

1550. According to information received, on 6 August 2008, President Bakiev signed an amendment to the Law of the Kyrgyz Republic on the Right of Citizens to Assemble Peaceably, without Weapons, to freely Hold Rallies and Demonstrations (2002). The amendments were passed by the Zhogorku Kenesh (Parliament) on 13 June 2008. Articles 5, 6 and 7 of the amended assembly law require organisers to submit notification of any public gathering to the local authorities at least twelve days in advance of the planned event. Local authorities may either permit the gathering or provide a 'reasoned disagreement' six days before the event is due to take place. The law does not specify grounds for refusal, and it also prohibits the organisation of prolonged demonstrations.

1551. On 14 October 2004, a Court ruling deemed articles 5, 6 and 7 of the Law on Assemblies as null and void. In this context, the court also pointed out that the Constitution prohibits 'state authorities and local self-government bodies and their officials' from 'exceeding their authority as established by the Constitution and the laws.' In a ruling issued on 1 July 2008 the Court reportedly declared article 11 of the Law on Assemblies as unconstitutional. The article had given the Bishkek municipal assembly the authority to independently regulate the permission for, rallies, street marches and similar public events. The 2008 Constitutional Court ruling reportedly annulled a December 2007 ordinance by the Bishkek City Council based on this article.

1552. Concern was expressed that the amendments to the Law of the Kyrgyz Republic on the Right of Citizens to Assemble Peaceably, without Weapons, to freely Hold Rallies and Demonstrations (2002), may limit the right to freedom of assembly in Kyrgyzstan, thus stifling freedom of expression in the country.

Observations

1553. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal on 27 October 2008

1554. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal regarding Mr. Ivar Dale, Mr. Ramazan Dyryldaev and Ms. Guliza Omurzakova. Mr. Ivar Dale is the regional representative to Central Asia of the

Norwegian Helsinki Committee (NHC), a non-governmental organization which monitors compliance with the human rights provisions of the Organization for Security and Cooperation in Europe (OSCE) within all OSCE signatory states, and supports democracy and civil society. Mr. Ramazan Dyrlydaev is the Chairman of the Kyrgyz Committee for Human Rights (KCHR). Ms. Guliza Omurzakova is also a representative of the KCHR.

1555. According to new information received, on 22 August 2008, Mr. Ivar Dale arrived in Manas International Airport in Bishkek and was told that his one-year multiple-entry visa which was supposed to be valid until 25 November 2008 had been annulled. It was replaced with a single-entry visa which would be valid until 1 September 2008. On 12 October 2008, Mr. Ivar Dale was refused entry to Kyrgyzstan in Manas International Airport. He was not given any official explanation by Kyrgyz Border Service representatives who told him that he would be banned from entering Kyrgyzstan for 10 years. They referred to a decision of the law-enforcement authorities dated 17 September 2008 but did not give details of its title or the authority which had issued it because it was reportedly confidential. Mr. Ivar Dale contacted the Norwegian Ministry of Foreign Affairs, the German Embassy in Kyrgyzstan, and the Organisation for Security and Cooperation in Europe (OSCE) but none of these contacts were able to resolve the matter. After almost a day in the airport Mr. Ivar Dale left Kyrgyzstan on 13 October 2008, taking a plane to Istanbul, Turkey.

1556. In a separate incident the following day, the car of Mr. Ramazan Dyrlydaev, in which he and Ms. Guliza Omurzakova were travelling, was intentionally hit by a large white jeep. Mr. Ramazan Dyrlydaev suffered concussion and Ms. Guliza Omurzakova subsequently suffered from headaches and dizziness. The left-hand side of the car was damaged and the front and back left lights were broken. Mr. Dyrlydaev was scheduled to take part in a press conference on the creation of a national movement against human rights violations in Kyrgyzstan on 15 October 2008.

1557. Concern was expressed that the prohibition of Mr. Ivar Dale's entry into Kyrgyzstan, and the attack on the car of Mr. Ramazan Dyrlydaev, may be directly related to their activities in the defense of human rights. Serious concern is expressed for the physical and psychological integrity of Mr. Ramazan Dyrlydaev and Ms. Guliza Omurzakova, as well as all members of the KCHR and other human rights defenders in Kyrgyzstan. Further concern was expressed that the incidents described above may form part of an ongoing trend of harassment aimed at restricting the work of human rights defenders in Kyrgyzstan.

Response from the Government

1558. At the time this report was finalized, the reply of the Government of 24 February 2009 had not been translated.

Letter of allegations sent on 5 November 2008

1559. On 5 November 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegations concerning Mr. Maxim Kuleshov. Mr. Kuleshov is the director of the Tokmok Human Rights Resource Centre.

1560. According to the new information received, on 23 October 2008 Mr. Kuleshov was arrested in Bishkek and taken to the May Day area police station. He was arrested shortly after having started his so-called “street lesson on democracy”, which aims at training citizens in non-violent methods for protecting international human rights and the Constitution.

1561. Mr. Kuleshov was charged with “violating the established order on rallies and assemblies” (Art 392 of the Administrative Code), and “non-obedience to police forces” (Art 371 of the Administrative Code). He was kept in detention at the May Day area police station until 24 October 2008, when he was sentenced to a fine of 2000 soms (approx 40 Euros) on charges of “violating the established order on rallies and assemblies”. He was acquitted of the second charge.

1562. Concern was expressed that the arrest, detention and sentencing of Mr. Kuleshov may be related to his legitimate activities in defence of human rights. Further concern was expressed that these acts may form part of an ongoing harassment due to his human rights activities.

Response from the Government

1563. By a letter dated 24 February 2009, the Government responded to the letter of allegations, indicating that:

1564. “Information on the arrest on 23 October 2008 of Mr. Kuleshov, Director of the Human Rights Resource Centre. Concerning the detention on 23 October 2008 of Mr. M.G. Kuleshov, Director of the Tokmok Human Rights Resource Centre, we wish to inform you that on 23 October 2008, at approximately 3.30 p.m., Mr. M.G. Kuleshov held an unauthorized meeting on the south-western side of the Kyrgyz Republic’s Government House. At 3.40 p.m. on 23 October 2008, Mr. Maksim Gennadyevich Kuleshov, born 1980, residing at [illegible], d. 8A, kv.3, in the town of Tokmov, was detained by officers from the patrol and inspection service, Bishkek Central Internal Affairs Department, and taken to the May Day district police station in Bishkek. Within three hours of the compilation of administrative materials on Mr. M.G. Kuleshov concerning the commission of the offence described in articles 371 and 392 of the Code of Administrative Responsibility of the Kyrgyz Republic, the compiled materials were transferred for review to the May Day district court in Bishkek. The May Day regional court, having reviewed the materials it had received, found Mr. M.G. Kuleshov guilty of having committed an administrative offence under article 392 of the Code of Administrative Responsibility, as a result of which Mr. Kuleshov was fined 2,000 soms. Mr. Kuleshov was found innocent of committing any offence under article 371 of the Kyrgyz Code of Administrative Responsibility. However, he did infringe the requirements of Order No. 385, adopted by the Bishkek Chamber of Deputies on [illegible] December 2007, establishing the rules for holding meetings, marches, demonstrations, rallies and protests in Bishkek. He also violated the requirements of the Act on the right to assemble peacefully, without weapons, and to freely hold rallies and assemblies. Chapter 5, paragraph 2.1, of this Act states that under article 25 of the Constitution of the Kyrgyz Republic, citizens of the Kyrgyz Republic shall have the right to assemble peacefully, without weapons, and to conduct political meetings, rallies, marches, demonstrations and pickets on condition of prior notification to State or local authorities. Paragraph 2.2 of the Act states that notification of the holding of such events shall be given in writing to the office of the mayor of Bishkek or the district mayor’s office no later than 10 days before the start of the event. Paragraph 2.4 of the Act states that the notification must

contain information on the starting and ending time of the event, the place where it is to be held and the expected number of participants, on the organizers of the event and their commitment to respect social order and the established rules, on payment for expenditure connected with the protection of social order, medical services and the clean-up of the site following the event, with an indication of the full name, place of residence and contact telephone number of the persons responsible. Paragraph 2.5 of the Act states that notification not made in accordance with the established procedure is to be considered invalid and not taken into consideration by the local authorities. Chapter 3, paragraph 2.1, of the Act states that the holding of events on roadways or sidewalks, in green areas, squares or parks or in proximity to health and leisure institutions, childcare facilities or educational institutions, government buildings or other locations without the permission of the local Bishkek law enforcement agencies is prohibited.

1565. Those who violate the requirements of existing regulations incur responsibility in accordance with the legislation of the Kyrgyz Republic. On 5 December 2008, the Bishkek May Day district procurator's office received notice from Mr. Kuleshov of action taken against the police officers who on 2 December 2008, at approximately 2.10 p.m., detained him near the premises of the Ministry of the Interior of the Kyrgyz Republic and, having handed him over to the district police, collected administrative material on him. The Bishkek May Day district court, having reviewed the administrative material on Mr. Kuleshov, gave him a fine of 2,000 soins. The notice given by Mr. Kuleshov was reviewed by the procurator of the Bishkek May Day district court, following which, no charges were brought, in accordance with section 1, paragraph 2, of article 28 and article 156-1 of the Criminal Code, for lack of evidence of a crime. A verification of this review, carried out by the Bishkek city procurator, has yielded no evidence of violations of rights and freedoms or of unlawful activities against Mr. Kuleshov by the officers of the Bishkek district internal affairs office".

Observations

1566. The Special Rapporteur is grateful for the Government's reply.

Lebanon

Appel urgent envoyé le 27 juin 2008

1567. Le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de M. Ghassan Abdallah, président de l'Organisation palestinienne des droits de l'homme (OPDH), son vice-président, M. Edward Kattoura, ainsi que les membres de l'OPDH en général.

1568. Selon les informations reçues, depuis avril 2008, MM. Ghassan Abdallah et Edward Kattoura feraient l'objet de menaces de mort de la part du mouvement Fateh, et en particulier de la part de M. Jamal Mahmoud Dandashli, un réfugié palestinien vivant dans le camp de réfugiés palestiniens Rachideh au Liban et responsable de l'unité militaire du mouvement Fateh. MM. Ghassan Abdallah et Edward Kattoura seraient accusés par ce

mouvement d'être respectivement un « espion à la solde de l'Occident et d'Israël » et un « collaborateur des phalangistes », pour avoir médiatisé l'implication de M. Dandashli dans un nombre de violations des droits de l'homme. En l'occurrence, le 7 avril 2008 M. Rabieh Rashed Hussein, réfugié du camp Rachideh, aurait été enlevé sous les ordres de M. Dandashli et maltraité, pour une affaire de mariage forcé (M. Nader Hussein, le frère de M. Rabieh Rashed Hussein, serait accusé d'avoir enlevé la sœur de M. Dandashli alors que celle-ci affirmerait avoir pris la fuite aux côtés de M. Nader Hussein après avoir refusé d'épouser de force un individu). Les 26 et 27 mai 2008, des factions politiques palestiniennes auraient déclaré qu'« elles se rendraient au bureau de l'OPDH, tireraient sur tous ceux qui se trouveraient sur place et mettraient le feu au bureau ».

1569. Il est allégué que MM. Ghassan Abdallah et Edward Kattoura auraient sollicité la protection des Forces (libanaises) de sécurité intérieure et du Département en charge de la lutte contre le terrorisme. Des préoccupations ont été exprimées quant au fait que les menaces de mort proférées à l'encontre de MM. Ghassan Abdallah et Edward Kattoura soient liées à leurs activités non-violentes de protection des droits de l'homme.

Réponse du Gouvernement

1570. Par une lettre en date du 23 septembre 2008, le Gouvernement a indiqué que le 15 mars 2008, Mme Nasrine Dandashli a quitté le domicile de son époux Hussein Askoul, dans le camp de Rashidieh, en compagnie de M. Nader Rashed Hussein. Les proches de Nasrine ont porté plainte au poste de police des camps, relevant du détachement de Tyr. Le 7 avril 2008, M. Jamal Mahmoud Dandashli a convoqué M. Rabieh Rashed Hussein, et l'a interrogé dans son bureau pour savoir où se trouvait son frère Nader. Il l'a retenu pour faire pression sur Nader et l'obliger à rendre Nasrine à sa famille. Des médias ont appris la détention de Rabieh et des journaux ont publié la nouvelle, qui a également été diffusée par des sites Internet. L'association palestinienne de défense des droits de l'homme «Rased» a signalé l'enlèvement de Rabieh sur son site Internet. MM. Jamal Dandashli et Ibrahim Mohammed Saaddin ont téléphoné à M. Abd al-Aziz Mahmoud Tarakji et l'ont menacé pour avoir diffusé cette information sur Internet. M. Abd al-Aziz Tarakji a enregistré leurs menaces sur son téléphone et a porté plainte. Le dossier a été transmis au poste de police de la ville nouvelle de Saïda-Sidon. La famille de Nasrine s'est constituée partie civile auprès du parquet de la Cour d'appel du Sud dans l'affaire de la fugue de leur fille Nasrine et le dossier a été transmis à l'antenne de police judiciaire de Saïda-Sidon pour enquête. Nasrine s'est présentée et a déclaré avoir abandonné de son plein gré le domicile conjugal et ne pas souhaiter y rentrer, après quoi elle s'est réfugiée auprès de l'Organisation palestinienne des droits de l'homme, dont le conseil d'administration est dirigé par M. Ghassan Saïd Abdallah. M. Ghassan Abdallah a alors entrepris, en compagnie de M. Edouard Khalil Kattoura, de dénoncer les agissements de M. Dandashli, ce que ce dernier a considéré comme une intrusion dans sa vie privée. Il a alors menacé les deux hommes, que des officiers du Fatah ont en outre accusés d'être des agents à la solde d'Israël et de l'Occident. Des informations sur l'éventualité, voire la probabilité, d'une attaque contre le bureau de l'organisation, dans le camp de Mar Elias, ont circulé à de nombreuses reprises. M. Ghassan Abdallah a alors porté les menaces le visant à la connaissance du Haut Commissariat aux droits

de l'homme à Genève, ce qui a abouti à une demande d'information à ce sujet auprès du Ministère libanais des affaires étrangères. Cette demande a été transmise par la voie hiérarchique à la Section antiterroriste de la police judiciaire, qui a enquêté à ce sujet. Les protagonistes ont fini par se réconcilier et Jamal Dandashli s'est engagé à ne s'en prendre à personne du fait de cette affaire. Peu de temps après, Nasrine est rentrée chez les siens. Les menaces visant Ghassan Abdallah et Edouard Kattoura étaient motivées par le fait qu'ils avaient rendu public le comportement de Jamal Dandashli et non par leurs activités dans le domaine des droits de l'homme.

Observations

1571. Le Rapporteur spécial remercie le Gouvernement pour sa réponse.

Libyan Arab Jamahiriya

Urgent appeal sent on 4 February 2008

1572. The Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. Fathi el-Jahmi, an activist advocating political reform in Libya. Mr. el-Jahmi was the subject of an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 22 April 2004. To date, no reply to that communication has been received by the Special Representative or Special Rapporteur.

1573. According to new information received, Mr. el-Jahmi is being detained at an undisclosed location, believed to be an Internal Security Agency facility on the outskirts of Tripoli. He is reportedly in urgent need of medical attention; witnesses have stated that he is emaciated and lacks strength to speak. It is also reported that he is suffering from swollen legs. Furthermore, Mr. el-Jahmi has reportedly been allowed only sporadic visits from his family; in 2007 he reportedly received no visits at all. He is apparently not allowed to receive mail, books or newspapers.

1574. Mr. el Jahmi was reportedly arrested on 26 March 2004, after he criticized H.E. Mu'ammarr al-Gaddafi and called for political reform, in interviews with international media. According to reports, the Foreign Ministry stated in July 2006 that he was being tried on charges of "exchanging information with employees of a foreign state causing harm to the interests of the country and providing them with information with the aim of their states attacking [Libya]" and "scheming with a foreign state in peacetime". The Foreign Ministry said that Fathi el-Jahmi had access to a lawyer, but did not disclose where he was being tried. In March 2005, a report by Physicians for Human Rights and the International Federation of Health and Human Rights Organisations concluded after examination of Fathi el-Jahmi that he had been receiving only "sporadic and inadequate medical treatment", despite "suffering from several chronic conditions (diabetes, hypertension, coronary artery disease) that are independently life-threatening and difficult to control".

1575. Concern was expressed that Mr. el-Jahmi's detention could be directly related to his activities in defense of human rights, and that the conditions in which he is being held may amount to cruel, inhuman and degrading treatment or punishment. In view of reports of his deteriorating health, grave concern was also expressed for his physical and psychological integrity while in detention.

Observations

1576. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Malaysia

Urgent appeal sent on 21 April 2008

1577. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, the Special Rapporteur on freedom of religion and belief, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding the situation of Mr. P. Uthayakumar, Legal Adviser of the Hindu Human Rights Action Force (HINDRAF), Mr. M. Manoharan, Counsel of HINDRAF, Mr. R. Kenghadharan, Counsel of HINDRAF, Mr. V. Ganabatirau and Mr. T. Vasanthakumar, members of HINDRAF. The five human rights activists were the subject of an 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 Special Representative of the Secretary-General on the situation of human rights defenders.

1578. According to new information received, since their arrest on 13 December 2007 under Section 8(1) of the Internal Security Act for allegedly carrying out activities that threatened national security, Mr. P. Uthayakumar, Mr. M. Manoharan, Mr. R. Kenghadharan, Mr. V. Ganabatirau and Mr. T. Vasanthakumar have been kept in solitary confinement for more than 16 hours a day, and have been exposed to light continuously in order to prevent them from sleeping and to disorientate them.

1579. Furthermore, Mr. P. Uthayakumar and Mr. M. Manoharan are diabetic and access to appropriate medication has reportedly been denied. On 7 April 2008, Mr. P. Uthayakumar collapsed in his cell and was taken to a doctor who diagnosed a heart condition. Although they have access to their lawyers, it is reported that discussions between the aforementioned human rights activists and their lawyer have been monitored by guards who have taken notes of what was said.

1580. Finally, they are denied their right to worship. They do not have access to temples and prayer rooms and no time to worship has been allocated to them. In view of the above reports, serious concern was expressed for the physical and psychological integrity of P. Uthayakumar, M. Manoharan, R. Kenghadharan, V. Ganabatirau and T. Vasanthakumar. Further concern is reiterated that their arrest and detention may be solely linked to their reportedly non-violent activities in defense of human rights - in particular the rights of members of the Indian community in Malaysia - in the exercise of their rights to freedom of expression and assembly.

Response from the Government

1581. In a letter dated 19 December 2008, the Government replied to the communication above. In its response, the Government informed that HINDRAF remains a non-registered society, in contravention to the Societies Act 1966. The Government noted that HINDRAF has actively 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. The Government provided information concerning the rallies and speeches attended by the persons mentioned in the communication, and stated that inflammatory sentiments were widely circulated through these forums. In this regard, HINDRAF was detained under section 8(1) of the Internal Security Act 1960 on grounds that they were a threat to public order and security. The Government also provided information concerning the conditions of detention of the individuals mentioned in the communications by the Special Rapporteurs, explaining that the allegations that these individuals were kept in solitary confinement for more than 16 hours a day and have been exposed to light continuously in order to prevent them from sleeping and disorienting them are untrue. The Government also affirmed that the allegations that Mr. Uthayakumar and Mr. Manoharan had been denied medical treatment are untrue. The Government provided information regarding the access to lawyers by the individuals and affirmed that it is untrue that the individuals are being denied the right to worship. The Government also provided detailed information concerning the legal proceedings against the five individuals and reaffirmed its adherence to Article 19 of the Universal Declaration of Human Rights, maintaining its understanding that these rights are not absolute by virtue of the restrictions as outlined in Article 29(2) of the UDHR, Article 4(1) and Article 19(2) of the ICCPR. In this regard, the Government noted that freedom of expression in Malaysia is not absolute.

Observations

1582. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 15 September 2008

1583. On 15 September 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal regarding the trial of Dr. Irene Fernandez, Director of Tenaganita, an organization dedicated to the defense of women's rights in Malaysia.

1584. According to the information received, in 1995, Dr. Irene Fernandez published a memorandum entitled Abuse, Torture and Dehumanized Conditions of Migrant Workers in Detention Centers. The memorandum called for an inquiry into the conditions in Malaysian detention centers. However, instead of leading to such an inquiry, the publishing of the memorandum resulted in Dr. Irene Fernandez being charged under Section 8 A (1) of Malaysia's Printing Press and Publication Act for maliciously publishing false news. In October 2003, Dr. Irene Fernandez was sentenced to 12 months' imprisonment. She was later granted bail on the condition that she applied to court every time she wished to travel overseas. A hearing was scheduled for 28 October 2008 for the case of Dr. Irene Fernandez at the High Court of Malaya, Jalan Duta, Kuala Lumpur.

1585. Concern was expressed that the legal action against Dr. Irene Fernandez, as well as the travel restrictions which were imposed on her, may have been related to her activities in the defense the human rights of detainees in Malaysia.

Observations

1586. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 19 September 2008

1587. 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 Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegation to the Government concerning Mr. Raja Petra Kamaruddin, editor and founder of the online newspaper Malaysia Today.

1588. According to information received, on 12 September 2008, Mr. Raja Petra Kamaruddin was arrested, together with Ms. Teresa Kok, a Member of Parliament with the Democratic Action Party (DAP) and State Legislative Councilor, and Ms. Tan Hoon Cheng, a senior journalist with Chinese-language newspaper Sin Chew Daily, under Section 73(1) of the Internal Security Act (ISA) for allegedly posing a threat to “security, peace and public order”. In accordance with Section 73 (1) of the Act, individuals can be detained for up to sixty days without trial, and thereafter for a period of two years should the Home Ministry decide to extend the detention order.

1589. Mr. Raja Petra Kamaruddin was arrested at this home in Sunglai Buloh, in the province of Selangor, at approximately 1:00 p.m., by ten police officers who took him for questioning to an unknown location in Bukit Aman. Mr. Kumaruddin’s arrest is apparently related to recent comments he made about Islam on the website Malaysia Today. Mr. Kamaruddin is already facing prosecution on alleged charges of defamation and sedition in relation to articles and comments he had posted on his website in the past. On 26 August 2008, access to the Malaysia Today website was blocked following pressure from the Malaysian Communications and Multimedia Commission, the State agency charged with oversight of the communications industry. However, it became accessible again on 12 September. In 2001, Mr. Kumaruddin was arrested for his involvement with the National Justice Party. He was responsible for editing the Party’s newspaper, the content of which was deemed as ‘seditious’ by the authorities.

1590. Mr. Kamaruddin remains in detention in Bukit Aman. The exact location of his detention is unknown. However reports claim that he is possibly being held at the main police headquarters in Bukit Aman, where he was granted a visit by his wife and daughters on 16 September. He was due to meet with his lawyer on 18 September.

1591. At approximately 11:00 p.m. on 12 September, Ms. Teresa Kok was arrested by police officers while on her way home. She was taken to an unknown location in Bukit Aman. On 15 September, Ms. Kok received a visit from her family at the Bukit Aman police headquarters. During the visit she apparently indicated that she was being well treated, but that she was

suffering from low blood pressure, according to a medical check she received while in detention. Ms. Kok remained in detention at an undisclosed location in Bukit Aman and the reason for her arrest is unclear. Ms. Teresa Kok was reportedly released on 19 September 2008.

1592. Ms. Tan Hoon Cheng was arrested at her home in Penang in the evening of 12 September. Her arrest was reportedly related to an article she had written citing comments made by Minister Ahmad Ismail, the Malay leader of the ruling United Malays National Organisation (UMNO), who allegedly referred to Malaysians of Chinese origin as “squatters”. Ms. Cheng was taken into police custody for questioning in relation to her work. She was released 16 hours later, without charge.

1593. During a press conference on 13 September, the Interior Minister reportedly stated that he had not ordered the aforementioned arrests and that he was unable to intervene, unless a decision was taken in accordance with the police. Lawyers acting for Mr. Raja Petra Kamaruddin are due to file a writ of habeas corpus seeking his release. The application was expected to be filed at the Kuala Lumpur High Court on 15 September 2008.

1594. Concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in Malaysia, thus stifling freedom of expression in the country.

Response from the Government

1595. In a letter dated 12 December 2008, the Government responded to the communication, stating that the summary of the case which had been outlined by the Experts in the Communication based on the information received is not entirely accurate. The Government confirmed that all three individuals were arrested on 12 September 2008 under subsection 73 (1) of the Internal Security Act 1960. It provided the following information.

1596. “Ms. Tan Hoon Cheng was detained on the grounds of publishing fabricated news regarding a statement made by Dato’ Ahmad Ismail, Division Head, Bukit Bendera UMNO Division, Pulau Pinang that Chinese were mere migrants and “squatters” in Malaysia. This raised the ire of the Chinese against the Malays. Upon further investigation by the police, Ms. Tan Hoon Cheng was released 13 September 2008 on the grounds that her detention under subsection 73(1), Act 82 was inappropriate to be continued.

1597. Ms. Teresa Kok was detained on several grounds. The first was causing uproar amongst the Malays Muslims by questioning the issue of Azan or the Muslim call to prayer and secondly by questioning the usage of the tradition Malay know as jawi. Regarding the issue azan, the police received three (3) separate police reports including one police report on the incidences of cutting electrical wires connected to the loudspeakers of a surau which broadcasted the azan as well as the incidence stones thrown at the said surau. On 15 September 2008, Teresa’s father, mother, cousin and her Special Assistant were allowed to visit Teresa. On 17 September 2008, a counsel of Teresa’s choice was given visitation right.

1598. Mr. Raja Petra Kamaruddin was detained on 12 September 2008 under subsection 73(1), Act 82 due to his involvement in publishing articles in his blog site “Malaysia Today.” These articles were blasphemous to Islam and were also tarnishing the country’s leadership to an extent that these articles had caused confusion amongst the populace and threatened to jeopardize the

national security of Malaysia. Mr. Kamaruddin had published an article entitled “Let’s Send Altantuya Murderers to Hell” in his blog “Malaysia Today” which had falsely accused a prominent leader in the Malaysian Government to be involved in the murder of a Mongolian national, Altantura Saaribu. Mr. Kamaruddin had published or allowed to be published in his blog “Malaysia Today” articles which had tarnished the image of Islam and defamed one of the holiest persons in Islam, Prophet Muhammed. These articles had caused extreme anger amongst the Muslims, mainly of Malay race, hatred between Muslims and non-Muslims in Malaysia and had seriously affected national security and interest. Mr. Kamaruddin’s family and a legal counsel of his own choice have been allowed to see him. The lawyers acting for Mr. Kamaruddin have filed the writ of habeas corpus and the trial of the matter began on 23 September 2008.

1599. Mr. Kamaruddin was detained under subsection 73(1), Act 82 at the Detention Centre, Royal Malaysian Police Headquarters from 12-22 September 2008. Upon the issuance of the Detention Order by the Minister of Home Affairs, he was detained at the Protective Detention Centre in Taiping, Perak from 22 September 2008. Upon the issuance of the writ of habeas corpus by the High Court on 7 November 2008, Mr. Kamaruddin was released from said Protective Detention Centre.

1600. The Government of Malaysia supports and promotes the protection and realization of human rights and fundamental freedoms within the confines of the provisions of the Federal Constitution of Malaysia. In implementing acceptable human rights principles and standards, the Government of Malaysia reiterates that the implementation must take into consideration the prevalent public and national interest of the country.”

Urgent appeal sent on 28 October 2008

1601. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders and the Independent Expert on Minority Issues sent an urgent appeal to the Government concerning the arrest of family members of detained Hindu Rights Actions Force (HINDRAF) lawyers, and the decision to declare the HINDRAF an illegal organisation. Members of HINDRAF were the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 27 December 2007, and another urgent appeal sent by the Special Rapporteur on the question of torture, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 21 April 2008. We acknowledge receipt of the responses of the Government of Your Excellency to the first communication sent on 8 February and 28 August 2008. A response to the second communication has yet to be provided.

1602. According to the information received, on 23 October 2008, Ms. P. Vvaishhnavi, daughter of P. Waythamoorthy and niece of HINDRAF leader P. Uthayakumar, was arrested, together with her mother K. Shanti, S. Jayathas, P. Tamaraju, P. Waytha Nayagi, Poobalan, R. Kannan, Mary Shanti, Bala, Rajasekaran and Ravi Sundaram, on their way to the Prime Minister’s office in Putrajaya. The group intended to submit a Deepavali card to the

Prime Minister calling for the release of five human rights defenders from HINDRAF imprisoned under the Internal Security Act. The 11 detained persons are currently being held at the Putrajaya district police headquarters.

1603. On 15 October 2008, HINDRAF was declared an illegal organisation under Section 5(1) of the Societies Act. The decision was reportedly made as a result of monitoring and investigation on HINDRAF's activities since its inception, by the Registrar of Societies (ROS) and Home Ministry. According to Home Minister Datuk Seri Syed Hamid Albar, "if left unchecked, HINDRAF would continue to pose a threat to public order, the security and sovereignty of the country as well as the prevailing racial harmony". On 16 October 2007, HINDRAF applied for registration with the ROS, but a decision had yet to be taken.

1604. Concern was expressed that the arrest and detention of the aforementioned persons and the decision to declare HINDRAF an illegal organisation may be linked to HINDRAF's activities in the defence of the rights of the ethnic minority Indians in Malaysia.

Response from the Government

1605. In a letter dated 15 January 2009, the Government replied to the communication above. In its reply, the Government stated that the police arrested eleven individuals who were gathered in front of the Prime Minister's Office under section 48 of the Societies Act 1966. The Government noted that the police offered to release Nagaswary a/p Karuppen on humanitarian grounds due to the fact that she had a daughter but she refused and chose instead to remain at the Police Station, even though she was not in custody. Vwaishhannavi a/p Waytha Moorthy was never arrested because of her age (she was 6 years old at the time of the incident). The Government noted that she also remained at the Police Station under the care of her mother Nagaswary a/p Karuppen. Both chose to stay at the Police Station on their own volition as a show of support for the others that were detained. Both left the Police Station the next morning at 7 a.m.

1606. The Government informed that all those detained were released on 26 October 2008 with police bail and instructed to report on 25 November 2008 to the Police Station. On 15 October 2008, HINDRAF was declared an illegal organization under section 5(1) of the Societies Act 1966. The decision was made under continuous monitoring and investigation into its activities by the ROS and the Home Ministry, which found that its activities contravened the Act. The Government noted that the investigation showed that HINDRAF actively organized illegal assemblies and incited hatred among Indians against the Malays.

1607. The Government informed that the detention is a direct consequence of the incitement of hatred which in a multi-racial State like Malaysia would not only be detrimental but also very dangerous as it may lead to racial violence. As such, the detention was a necessary preventive act before the tension swelled and grew out of hand. The detention was not due to the fact that HINDRAF was defending ethnic Indian rights as alleged.

Observations

1608. The Special Rapporteur is grateful for the Government's reply.

Follow-up to previously transmitted communications

1609. In a letter dated 28 August 2008, the Government responded to a joint urgent appeal of 28 December 2007. The Government reported that the detainees have been accorded the right to counsel after their lawyers showed their appointment letters. One of the detainees, M. Manoharan was allowed to see their family and counsel on 14 December 2007, the day after the arrest. These visitation rights are also given to each Detainee to meet with family members and legal counsels. The Detainees have also exercised their judicial rights in that writs of habeas corpus were filed as provided for under section 365 of the Criminal Procedure Code challenging the procedural requirement of their detention order. The matter was heard on 18 February 2008 before the High Court and the decision from the High Court was that the writ was dismissed. The Detainees were legally represented by lawyers of their or their family's choice. On 26 December 2007, all the detainees had filed their representations to the Advisory Board as provided under the law. The hearing of these representations has been set for 14 January 2008 and notice of the hearing was given to the detainees and the respective lawyers. On the said hearing date, all detainees were present before the Advisory Board. The hearing was deferred to 12 February 2008. The Advisory Board presided from 12-15 February and subsequently on 19 and 20 February 2008. At the Advisory Board the Detainees were represented by lawyers either of their own choice or that of their families.

Observations

1610. The Special Rapporteur is grateful for the Government's reply.

Mauritania

Lettre d'allégations envoyée le 29 juillet 2008

1611. Le Rapporteur spécial a envoyé une lettre d'allégations sur la situation de Monsieur Mohamed Ould Abdelatif, journaliste à l'hebdomadaire privé arabophone Al Houriya et de Monsieur Mohamed Nema Oumar, le directeur de publication du même journal.

1612. Selon les informations reçues, le 22 juillet 2008, la police judiciaire aurait arrêté M. Abdelatif et M. Oumar. Ces deux personnes auraient été arrêtées pour avoir publié, dans le numéro 98 d'Al Houriya, un article dans lequel ils accusaient des magistrats de corruption. Selon l'article, les magistrats auraient reçu 25 millions d'ouguiyas en échange de la libération de personnes soupçonnées de trafic de drogue. Le journaliste aurait également affirmé que ces magistrats "sont connus pour leur grande expérience en matière de corruption". L'arrestation aurait été faite suite à une plainte pour "diffamation" déposée par trois juges de la chambre d'accusation mauritanienne.

Observations

1613. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 29 juillet 2008.

Lettre d'allégations envoyée le 3 septembre 2008

1614. Le 3 septembre 2008, 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. Samory Ould Beye, le secrétaire général de la Confédération libre des travailleurs de Mauritanie (CLTM), et la répression de manifestations pacifiques de syndicalistes. Selon les informations reçues:

1615. Le 19 août 2008, les forces de sécurité mauritaniennes auraient réprimé une manifestation syndicale organisée afin de protester contre le coup militaire du 6 août 2008. Bien que cette manifestation ait été pacifique et autorisée, les forces de l'ordre mauritaniennes auraient dispersé par la force les manifestants et auraient amené plusieurs syndicalistes, dont M. Samory Ould Beye, au poste de police de Nouakchott, afin d'être interrogés, avant d'être libérés ultérieurement.

1616. De même, une manifestation similaire, organisée le 7 août 2008 par le Front National pour la Défense de la Démocratie, aurait été dispersée par la police devant le Parlement.

1617. Des craintes ont été exprimées quant au fait que l'arrestation et l'interrogation de M. Samory Ould Beye et des autres syndicalistes soient liées à leurs activités de défense des droits de l'homme et ce dans l'exercice présenté comme non-violent de leur droit à la liberté d'opinion, d'expression et de réunion pacifique.

Observations

1618. Les Rapporteurs spéciaux regrettent, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 3 septembre 2008.

Mexico

Llamamiento urgente enviado el 23 de mayo de 2008

1619. Los el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Hermana Consuelo Morales Elizondo, directora de la organización de derechos humanos Ciudadanos en Apoyo a los Derechos Humanos A.C. (CADHAC), y con otros miembros de la misma organización. CADHAC tiene su sede en la ciudad de Monterrey en el Estado de Nuevo León.

1620. De acuerdo con las informaciones recibidas, la Hermana Consuelo Morales habría sido seguida, vigilada y amenazada por varios hombres desconocidos en las últimas semanas. La CADHAC habría coordinado varias actividades de protesta contra la creación de un complejo residencial y de ocio en una zona de protección medioambiental denominada Parque Nacional Cumbres de Monterrey, las cuales habrían incluido una manifestación el 18 de mayo de 2008, en la que habrían participado alrededor de 400 personas.

1621. El 17 de mayo, un día antes de la protesta, el coche de la susodicha, tomado prestado por una amiga suya, habría sido adelantado por otro auto en el que viajaban tres hombres que habrían obligado a la mujer a detenerse. Uno de los hombres se habría bajado del vehículo para dirigirse

hacia el auto de Consuelo Morales, mas al ver que no se trataba de la susodicha, se habría marchado. Posteriormente en las oficinas de CADHAC se habría recibido una llamada telefónica en la que se le habría advertido a la monja que no se acercara. El 19 de mayo, Consuelo Morales habría observado una furgoneta con cristales tintados aparcada delante de su domicilio, que se habría marchado media hora más tarde.

1622. Se alegó que la intimidación de la susodicha y las amenazas en contra de ella podrían estar directamente relacionadas con su trabajo en defensa de los derechos humanos, en particular el libre ejercicio de los derechos de libertad de expresión y de asamblea en el marco de la manifestación del pasado 18 de mayo. En vista de este hostigamiento, se expresó preocupación por la integridad física y psicológica de la Hermana Consuelo Morales así como la de los demás integrantes de la CADHAC.

Observaciones

1623. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 26 de mayo de 2008

1624. El 26 de mayo 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 independencia de magistrados y abogados y la Relatora Especial sobre la violencia contra la mujer, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la Sra. Luz Estela Castro Rodríguez (conocida como Lucha Castro), Directora del Centro de Derechos Humanos de las Mujeres, A.C. y abogada de la organización no gubernamental Justicia para Nuestras Hijas, quien trabaja en la defensa de los derechos de las mujeres en el contexto de la violencia de género y los femicidios en el Estado de Chihuahua.

1625. De acuerdo con las informaciones recibidas, el 14 de mayo de 2008, la Sra. Luz Estela Castro habría sido amenazada en dos ocasiones, a las 10 y luego a las 11 de la mañana, mediante llamadas a su teléfono celular. Tras estas ocurrencias, la Sra. Castro habría presentado una denuncia ante la Procuraduría estatal, donde habría solicitado que se le otorgaran medidas de protección y que se realizara una investigación de los citados hechos. Desde el 14 de mayo la Sra. Lucha Castro estaría acompañada por dos agentes.

1626. El 13 de mayo, la Sra. Castro habría participado en una manifestación convocada por la ONG Justicia para Nuestra Hijas, con ocasión del quinto aniversario del asesinato de la joven Neyra Azucena Cervantes, quien fue asesinada en 2003, cuando tenía 19 años. Según se informa, esta amenaza también habría resultado a raíz de una declaración de la Sra. Castro, en la cuál se pronunció por la salida del ejército mexicano del Estado de Chihuahua. Anteriormente, la susodicha, en su calidad de abogada de la organización Justicia para Nuestras Hijas, se habría manifestado en contra del nuevo sistema de justicia penal que entró en vigencia a principios de 2008, el cual, según la Sra. Castro, no lograría una mayor protección de las mujeres, respecto a la violencia familiar.

1627. Cabía recordar que, según cifras de organizaciones de derechos humanos, más de 430 mujeres y niñas han sido asesinadas en el Estado de Chihuahua, junto con Ciudad Juárez, desde 1993 hasta la fecha, y que más de 40 estaban en paradero desconocido. De acuerdo con las recomendaciones de la Relatora Especial sobre violencia contra la mujer tras su visita a México en 2005 (E/CN.4/2006/61/Add.4), se instó al Gobierno de Su Excelencia a que investigue con la debida diligencia estos asesinatos y desapariciones forzadas, así como todos los supuestos actos de violencia contra la mujer, para poner fin a la impunidad de quienes cometen estos crímenes.

1628. En este contexto, se alegó que las amenazas en contra de la Sra. Castro podrían estar directamente relacionadas con su trabajo en defensa de los derechos humanos, y podrían formar parte de un intento de impedir sus actividades en defensa de los derechos de las mujeres. Se expresó profunda preocupación por la integridad física y psicológica de la Sra. Castro y todas las personas que trabajan en defensa de los derechos de las mujeres en el Estado de Chihuahua.

Respuesta del Gobierno

1629. Mediante carta fechada 10 de junio de 2008, el gobierno respondió al llamamiento urgente. La carta comunicó que debido a la trascendencia de los asuntos mencionados en el llamamiento urgente, el gobierno de México procedió de inmediato a solicitar ante la Comisión Interamericana de Derechos Humanos la implementación de medidas cautelares, a favor de las señoras Luz Esthela Castro Rodríguez, Marisela Ortiz Rivera, María Luisa García Andrade y Norma Andrade. Asimismo, se está en espera de recibir información solicitada a las autoridades competentes. Una vez que se cuente con la información se hará de su conocimiento.

Observaciones

1630. El Relator Especial agradece al Gobierno por su respuesta.

Llamamiento urgente enviado el 4 de junio de 2008

1631. 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, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con las Sras Marisela Ortiz Rivera, María Luisa García Andrade y Norma Andrade, y las demás integrantes de Nuestras Hijas de Regreso a Casa, una organización que lucha contra la impunidad de los secuestros y los femicidios cometidos en Ciudad Juárez, Estado de Chihuahua. Las Sras Marisela Ortiz Rivera y María Luisa García Andrade fueron objeto de un llamamiento urgente emitido el 18 de julio de 2007 por el Relator Especial sobre la independencia de magistrados y abogados y la entonces Representante Especial del Secretario-General para los defensores de los derechos humanos tras haber recibido amenazas de muerte, el cual tuvo respuesta de parte de su Gobierno mediante carta con fecha del 17 de septiembre de 2007.

1632. Por otra parte, las graves y sistemáticas violaciones de los derechos de la mujer, y las amenazas contra quienes defienden éstos derechos en Chihuahua, fueron objeto de una llamamiento urgente enviado el 26 de mayo de 2008 por el Relator Especial sobre la

independencia de magistrados y abogados, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, la Relatora Especial sobre la situación de los defensores de los derechos humanos y la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias.

1633. De acuerdo con las informaciones recibidas, el pasado 25 de mayo las integrantes de la citada organización habrían recibido un correo electrónico acusándolas de beneficiarse de la película Ciudad del Silencio, la cual está basada en los femicidios ocurridos en Ciudad Juárez desde 1993. Asimismo, el correo habría proferido graves amenazas de violación y muerte contra las integrantes de la organización y sus hijas, nombrando a Marisela Ortiz Rivera y María Luisa García Andrade.

1634. La citada película se estrenó el pasado 16 de mayo en Ciudad Juárez. Según se informa, en los días previos al estreno, las integrantes de Nuestras Hijas de Regreso a Casa habrían recibido mensajes SMS a sus teléfonos celulares de carácter amenazante, alegando que éstas se estarían beneficiando de la película y afirmando que serían investigadas y encarceladas.

1635. Se alegó que los incidentes aquí resumidos podrían estar directamente relacionados con las actividades de las susodichas en defensa de los derechos humanos, en particular los derechos de la mujer. En vista de estas amenazas, se expresa seria preocupación por la integridad física y psicológica de las mujeres integrantes de Nuestras Hijas de Regreso a Casa, sobre todo aquellas aquí nombradas. Se reiteraron las opiniones expresadas en la comunicación del 26 de mayo de 2008 con respecto a la impunidad de la violencia contra la mujer en Ciudad Juárez, así como el llamado al Gobierno a investigar con la debida diligencia estos asesinatos y desapariciones, e identificar a quienes perpetran estos crímenes.

Respuesta del Gobierno

1636. Mediante carta fechada 10 de junio de 2008, el gobierno respondió al llamamiento urgente. La carta comunicó que debido a la transcendencia de los asuntos mencionados en el llamamiento urgente, el gobierno de México procedió de inmediato a solicitar ante la Comisión Interamericana de Derechos Humanos la implementación de medidas cautelares, a favor de las señoras Luz Esthela Castro Rodríguez, Marisela Ortiz Rivera, María Luisa García Andrade y Norma Andrade. Asimismo, se está en espera de recibir información solicitada a las autoridades competentes. Una vez que se cuente con la información se hará de su conocimiento.

Observaciones

1637. El Relator Especial agradece al Gobierno por su respuesta.

Carta de alegaciones enviada el 23 de junio de 2008

1638. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. Cristóbal Martínez Ortega, funcionario

municipal del pueblo de San Antón, municipio de Cuernavaca y uno de los líderes de un grupo de ciudadanos y ciudadanas que se opone a la construcción de un vertedero en la zona, afirmando que la ubicación del vertedero perjudicaría el medio ambiente local y contaminaría los recursos de agua de la zona.

1639. De acuerdo con la información recibida, el 11 de junio de 2008, Cristóbal Martínez habría sido interceptado cuando viajaba en su automóvil por cuatro hombres que viajaban en una furgoneta blanca sin matrícula. El susodicho habría participado poco antes en una conferencia de prensa contra la construcción del vertedero. Los hombres, que habrían estado armados y se habrían identificado como agentes de la policía federal, le habrían dicho: “a ti te andábamos buscando”, y le habrían obligado a subir en la furgoneta.

1640. Una hora después, se le habría encontrado a Cristóbal Martínez al lado de la carretera, atado y amordazado, sangrando por una herida en la cara e inconsciente. Habría sufrido fracturas en un brazo, una rodilla y un tobillo, las cuales serían resultado de golpes propinados con una barra de metal. El susodicho estaría recibiendo tratamiento en un hospital local. Se habrían presentado denuncias oficiales ante la Procuraduría del estado y ante la Comisión de Derechos Humanos del estado.

1641. Se expresó profunda preocupación que el ataque contra el Sr. Cristóbal Martínez Ortega podría estar directamente relacionado con sus actividades en defensa de los derechos humanos, en particular sus acciones de protesta a fin de defender el medio-ambiente de su localidad; y que podría formar parte de un intento de intimidar al grupo de personas opuestas al citado proyecto. En vista de lo aquí resumido, se expresó profunda preocupación por la integridad física y psicológica del Sr. Martínez Ortega.

Respuesta del Gobierno

1642. Mediante carta fechada 29 de agosto de 2008, el gobierno respondió al llamamiento urgente. La carta informó que, de acuerdo con los hechos del llamamiento urgente, el 11 de junio de 2008, cuando circulaban en un vehículo por las calles de la Colonia San Antón, Morelos, Cuernavaca, el Sr. Martínez Robles en compañía del Sr. Bernardo Hernández Salinas fueron interceptados por cinco sujetos desconocidos, quienes al parecer se identificaron como agentes federales de investigación de la Procuraduría General. El Sr. Martínez Robles refirió que fue privado de su libertad aproximadamente por un término de cinco horas y lesionado gravemente por éstos sujetos. Considera que el motivo de las agresiones sufridas en su contra pudiera tener relación por su actividad como ayudante del Presidente Municipal de San Antón, Cuernavaca, Morelos.

1643. La Procuraduría General de Justicia del estado de Morelos (PGJ Mor) inició la averiguación previa. El 12 de junio de 2008, la Comisión Estatal de Derechos Humanos del Estado de Morelos (CEDH-Mor) inició de oficio la queja, y ordenó a la PGR-Mor implementar medidas adecuadas para salvaguardar la vida e integridad física del Sr. Martínez Robles, sus familiares y sus amigos.

1644. La averiguación previa y la queja, aún se encuentran en la etapa de análisis para emitir la determinación que conforme a derecho proceda.

Observaciones

1645. El Relator Especial agradece al Gobierno por su respuesta.

Llamamiento urgente enviado el 1 de julio de 2008

1646. El 1 de julio de 2008, el Relator Especial, junto con el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la tortura, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con la situación del Sr. José Domingo Menendez Velasco, en la ciudad de Tuxtla Gutiérrez, Estado de Chiapas, México.

1647. De acuerdo con las informaciones recibidas, el Sr. José Domingo Menendez Velasco fue detenido el 25 de junio de 2008, a las 12h30 horas, por cerca de cien agentes identificados como miembros de la Policía sectorial que salían del Palacio del Gobierno, y fue subido a una camioneta con rumbo desconocido. Estos hechos se produjeron unos minutos después de que cuatro elementos de la Policía judicial habían salido del Palacio del Gobierno para dirigirse hacia los habitantes de Villa de Rosa reunidos en este lugar desde el 24 de junio de 2008.

1648. Las denuncias agregan que las autoridades no les proporcionaron ni a los familiares ni a los compañeros la información precisa sobre el paradero del Sr. Menendez Velasco. Según las informaciones, un equipo de abogados se trasladó inmediatamente hacia la Procuraduría para interponer un juicio de amparo a favor del Sr. Menendez Velasco. El 26 de mayo de 2008, los habitantes del municipio de Villa de la Rosa, Chiapas, iniciaron un plantón indefinido en la presidencia municipal junto con comisariatos ejidales, organizaciones sociales y comunidades, ante las actitudes represivas allegadas del Presidente Municipal, José Domingo Arguello Ruiz. Los integrantes del Frente de Lucha Popular en Resistencia “10 de julio” del municipio de Villa de la Rosa se trasladaron el día 24 de junio a la capital del Estado ante la falta de resultado del conflicto y se concentraron ante el Palacio de Gobierno de la ciudad de Tuxtla Gutiérrez para lograr alcanzar el dialogo ante la problemática vivida en su municipio sin resolver.

Observaciones

1649. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 7 de julio de 2008

1650. El 7 de julio de 2008, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre los derechos humanos de los migrantes, envió un llamamiento urgente, señalando a la atención urgente del Gobierno la información recibida en relación con el padre Alejandro Solalinde Guerra, coordinador de la Pastoral de Movilidad Pacífico Sur del Episcopado Mexicano y director del refugio para migrantes indocumentados en Ixtepec, Oaxaca, Hermanos en el Camino. El Padre Alejandro Solalinde Guerra, ha denunciado públicamente en varias ocasiones las violaciones de derechos humanos presuntamente cometidas por miembros de la policía y de las fuerzas de seguridad en contra de migrantes en México.

1651. De acuerdo con las informaciones recibidas, el 24 de junio, aproximadamente cuarenta personas - entre ellos miembros de la policía, de las fuerzas de seguridad, y de las autoridades de Ixtepec - habrían entrado sin permiso en el refugio Hermanos en el Camino y habrían amenazado con incendiarlo en el plazo de cuarenta y ocho horas si el centro no fuera cerrado. Las autoridades locales habrían justificado su sugerencia de cerrar o reubicar el refugio con el argumento de que “desde la llegada de los migrantes a esta localidad han aumentado los problemas de delincuencia e inseguridad”.

1652. Se expresó preocupación que la amenaza de incendiar el refugio Hermanos en el Camino podría estar directamente relacionada con las actividades del padre Alejandro Solalinde Guerra, en particular con el refugio que ofrece a migrantes en Ixtepec. En vista de lo aquí resumido, se expresó preocupación por la integridad física y psicológica del padre Alejandro Solalinde Guerra y la de los migrantes hospedados en el refugio Hermanos en el Camino. Estos actos de hostigamiento, de ser confirmados, se enmarcan en un contexto de gran vulnerabilidad de los migrantes en México que amenaza también aquellos que trabajan para la defensa de sus derechos.

Observaciones

1653. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Carta de alegaciones enviada el 8 de julio de 2008

1654. El Relator Especial envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con Sr. Aristeo Abundis Hernández, director del semanario Frente y Vuelta y corresponsal del Diario de Tantoyuca, con sede en Pánuco, Estado de Veracruz.

1655. De acuerdo con las informaciones recibidas, el 30 de mayo de 2008, hacia las 22:00 horas, el Sr. Aristeo Abundis Hernández, habría sido víctima de un atentado mientras se dirigía en coche a su casa en el municipio de Pánuco. Según los informes, desde un vehículo sin placas, un desconocido encañando arma de fuego, le habría disparado dos veces al Sr. Hernández, impactando en una puerta y una llanta de su vehículo. El Sr. Hernández habría acelerado entonces y llegó a su casa donde, a petición propia, dos agentes del Instituto de la Policía Auxiliar vigilan desde hace dos meses a su familia.

1656. Asimismo, durante los meses de marzo y abril de 2008, el Sr. Hernández habría sufrido dos agresiones por individuos encapuchados. En una de las cuales fue golpeado por dos personas y en otra amenazado por un desconocido con un arma de fuego.

1657. Se alega que las mencionadas agresiones puedan estar vinculadas a las actividades profesionales del Sr. Hernández, y entre ellas con una reciente investigación sobre un caso de desvío de fondos federales.

Observaciones

1658. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 22 de julio de 2008

1659. El 22 de julio 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 y el Relator Especial sobre la independencia de jueces y abogados, envió un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con los Sr.s Manuel Cruz Victoriano, Orlando Manzanarez Lorenzo, Natalio Ortega Cruz, Raúl Hernández Abundio y Romualdo Santiago Enedina, todos integrantes de la Organización del Pueblo Indígena Me'phaa (OPIM) quienes fueron detenidos el 17 de abril de 2008. Estos integrantes de la OPIM fueron objeto de un llamamiento urgente emitido el 21 de mayo de 2008. Hasta la fecha no se ha recibido una respuesta de su gobierno.

1660. Según las nuevas informaciones recibidas, el 7 de julio de 2008, los cinco detenidos habrían presentado el amparo Número 982/2008 ante la Justicia Federal como reclamación en contra del auto de formal prisión que el Juez Mixto de Primera Instancia les habría dado el 23 de abril de 2008 por el supuesto homicidio del Sr. Alejandro Feliciano García. Aunque no habría recibido suficiente evidencia el Juez Mixto de Primera Instancia de Ayutla, supuestamente bajo presiones políticas, habría sometido a los integrantes de la OPIM a un procedimiento de diez meses durante los que permanecerían en detención. Sin embargo, el 9 de julio de 2008 tres testigos habrían presentado nueva evidencia que habría probado que el expediente en contra de los detenidos habría sido fabricado. El 24 de julio de 2008 la Juez Octavo de Distrito de Acapulco dará su decisión sobre el amparo presentado por dichos integrantes de la OPIM.

1661. Además, la Comisión Interamericana de Derechos Humanos (CIDH) habría solicitado al Estado Mexicano que amplíe a favor de los cinco indígenas de El Camalote presos en Ayutla, las medidas cautelares que otorgó a líderes e integrantes de la OPIM desde el año 2005. En su resolución del pasado viernes 27 de junio, la CIDH también habría pedido extender las medidas de seguridad necesarias para líderes en comunidades y miembros de la OPIM que tienen orden de aprehensión por el mismo delito, así como para aquellos otros integrantes que tienen el carácter de líderes comunitarios y un trabajo importante en la organización.

1662. Se expresó preocupación que la detención de los cinco integrantes de la OPIM y los cargos contra ellos podrían estar relacionados con sus actividades, en particular su trabajo en defensa de los derechos de las comunidades indígenas Me'phaa. También se expresó preocupación que la acción judicial contra ellos podría formar parte de un hostigamiento sistemático en contra de las organizaciones indígenas y campesinas del Estado de Guerrero.

Observaciones

1663. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 21 de agosto de 2008

1664. El 21 de agosto 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, y el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos, envió un llamamiento, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. Dante Valdez, maestro de enseñanza primaria. El Sr. Dante Valdez es uno de los líderes en la organización de protestas pacíficas para defender los derechos medioambientales y a la tierra de la comunidad indígena de Huizopa contra las actividades de una empresa minera. Según se ha alegado, dicha empresa ocupaba más tierras que las que tenía derecho a ocupar y causaba daño al medioambiente local y al suministro de agua.

1665. Según las informaciones recibidas, el 13 de agosto de 2008, el Sr. Dante Valdez habría sido atacado por un grupo de aproximadamente 30 personas en una escuela donde participaba en un curso de formación para maestros. La mayoría de los miembros de dicho grupo trabajaría para una minera local. El grupo habría ingresado a la escuela de Madera, Estado de Chihuahua, y le habría propinado golpes de pie y empujones al Sr. Dante Valdez, diciéndole que no se metiera en sus asuntos.

1666. El Sr. Dante Valdez denunció el ataque a la Procuraduría del Estado. Según se ha informado, todavía no se habrían iniciado investigaciones policiales sobre el caso.

1667. Se expresó preocupación que el ataque contra el Sr. Dante Valdez podría estar relacionado con sus actividades pacíficas en la defensa de los derechos medioambientales y a la tierra de la comunidad indígena de Huizopa. Se expresó preocupación por la integridad física y psicológica del Sr. Dante Valdez, así como los demás manifestantes que defendían la tierra de la comunidad de Huizopa.

Observaciones

1668. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Carta de alegaciones enviada el 3 de septiembre de 2008

1669. El 3 de septiembre de 2008, el Relator Especial, junto el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con las presuntas amenazas y fraudes cometidos en contra de miembros del ejido de San Sebastián Bachajón, municipio de Chilón, Chiapas, quienes pertenecen al pueblo indígena tseltal, por miembros de la Organización para la Defensa de los Derechos Indígenas y Campesinos (OPDDIC), con el presunto propósito de tomar control sobre el ingreso de recursos naturales tradicionalmente administrados por el ejido y establecer una presencia política en el municipio.

1670. Según las informaciones recibidas, a finales de los años 1990, la OPDDIC era denominada el Movimiento Indígena Revolucionario Antizapatista, con filiaciones con el Partido Revolucionario Institucional (PRI). Se alega que esta organización ha sido responsable de una serie de agresiones y fraudes electorales en contra de comunidades zapatistas y opositoras al PRI, las cuales presuntamente comenzaron en 2007 cuando la OPDDIC ganó la presidencia municipal de Chilón.

1671. Con respecto al ejido de San Sebastián Bachajón, se informa que el 9 de marzo de 2007, la OPDDIC movilizó a miembros de su organización provenientes de otros ejidos para que votaran en la Asamblea ejidal de San Sebastián Bachajón y así obtener la mayoría de los votos, con la finalidad de nombrar nuevas autoridades ejidales y así tomar control del ejido. A su vez, se alega que el 18 de mayo de 2007, el señor Felipe Hernández, delegado en la región del Gobierno del Estado de Chiapas avaló la elección fraudulenta.

1672. El 4 de julio de 2007, las autoridades elegidas en las elecciones del 9 de marzo de 2007, junto con miembros de la OPDDIC, tomaron por medio del uso de la fuerza la caseta de entrada de las Cascadas de Agua Azul, dejando gravemente heridos a los ejidatarios que la custodiaban.

1673. Tradicionalmente, los ingresos recibidos en la caseta de entrada a las Cascadas de Agua Azul han sido utilizados para el pago del impuesto del ejido San Sebastián Bachajón y han estado administrados por las autoridades tradicionales indígenas del ejido. Se alega que, con la toma de la caseta, la OPDDIC pretendía despojar al ejido de este ingreso económico y controlar la región de Agua Azul y gozar de los presuntos beneficios turísticos, como el establecimiento de un corredor eco-arqueo-turístico denominado “Centro Integralmente Planificado Palenque-Agua Azul”, en donde diversas autoridades federales participan. El 18 de junio de 2008, los ejidatarios de San Sebastián Bachajón retomaron la caseta, desalojando a los miembros de la OPDDIC que la custodiaban. El 16 de julio de 2008 a las 15:00 horas, miembros de la OPDDIC intentaron ocupar la caseta de acceso de Agua Azul, con fuerza, disparando al aire con pistolas calibre .22. Se alega que el grupo estaba acompañado por el Sexto Regidor del Municipio de Chilón, Sr. Antonio Jiménez García.

1674. Posteriormente, se informa que los miembros del OPDDIC repartieron un documento anónimo donde se acusa a los ejidatarios de “secuestradores, maleantes, pandilleros, asaltantes que tienen retenida la caseta de cobro de las Cascadas de Agua Azul, personas mismas que son miembros de la organización Yomblej (partido político opositor de la OPDDIC) pero se hacen pasar por supuestos zapatistas”. En realidad, los ejidatarios no pertenecen a ninguna de estas organizaciones, sino a “la Otra Campaña”. El 6 de agosto de 2008, la OPDDIC, con la participación de autoridades estatales y municipales, publicó una nota en el periódico “Cuarto Poder”, señalando que: “Luego de más de 30 días de la toma de la caseta de cobro en las cascadas de Agua Azul por presuntos simpatizantes del EZLN, este lunes por la noche autoridades estatales, municipales y ejidatarios alcanzaron acuerdo para resolver el conflicto. En asamblea, los afectados aceptaron la propuesta del Gobierno del Estado para que sea éste el que administre los recursos que se recaben por la entrada de esa zona turística, los cuales serán empleados en mejoras de la región, no permitiendo de esta forma la injerencia ajena o de algunos grupos”. Sin embargo, se informa que 1,876 de los 2,322 ejidatarios de San Sebastián Bachajón

en actualidad rechazaron el acuerdo, dado que los ingresos de la caseta tradicionalmente son administradas por las autoridades indígenas a beneficio del ejido. Además, se teme que, con tal acuerdo, el gobierno del estado de Chiapas avalará a las falsas autoridades ejidales, y fortalecerá el control político de la OPDDIC en el municipio de Chilón, en particular en la región de las Cascadas de Agua Azul.

Observaciones

1675. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 5 de septiembre de 2008

1676. El 5 de septiembre de 2008, el Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente, señalando al Gobierno la información recibida en relación con la intimidación contra la Sra. Martha Contreras Estrada y otros integrantes del Movimiento de Resistencia Civil (MRC). La Sra. Martha Contreras Estrada y otros integrantes del MRC habían contribuido a la organización de una manifestación pacífica para pedir que las autoridades investigaran la muerte del Sr. José Gómez Estrada y los malos tratos supuestamente sufridos por el Sr. Remigio Hernández Arellano a manos de la Policía Municipal de Benemérito de las Américas, Estado de Chiapas.

1677. De acuerdo con las informaciones recibidas, el 9 de agosto de 2008, los Sres. José Gómez Estrada y Remigio Hernández Arellano habrían sido detenidos. Miembros de la policía habrían maltratado al Sr. Remigio Hernández Arellano y, el 12 de agosto de 2008, el cuerpo del Sr. José Gómez Estrada se habría encontrado sin vida. El 13 de agosto de 2008, la manifestación organizada por la Sra. Martha Contreras Estrada y otros integrantes del MRC, así como la familia del difunto, habría tenido lugar. Aproximadamente a las 13h00, un funcionario del Ayuntamiento cuya identidad es conocida se habría acercado a la Sra. Martha Contreras Estrada, advirtiéndole “Martha: ya no te metas de lleno [a la manifestación] porque ya te tienen en la lista de que los van a tronar, y estas encabezando esta lista” [sic.]. Aproximadamente 15 minutos más tarde, el Presidente Municipal de Benemérito de las Américas habría llamado telefónicamente a la Sra. Martha Contreras Estrada, diciéndole “Martha ... quiero que ya le baje de huevos, sino yo se los voy a bajar ... porque tu eres la que esta encabezando el movimiento ... Yo te puedo procesar, sino te voy a desaparecer ... No voy hablar con nadie más que con los dolientes ... Que le quede claro que conmigo no se juega y si es preciso yo le pongo el delito y de que la trabo, la trabo” [sic.].

1678. Durante el funeral del Sr. José Gómez Estrada, el 14 de agosto de 2008, otro funcionario municipal cuya identidad es conocida habría amenazado a varios integrantes del MRC, diciéndoles “mañana van a rodar cabezas, tengan cuidado”. Ese día vehículos habrían patrullado por la casa de la Sra. Martha Contreras Estrada. El Presidente Municipal se habría encontrado entre los que viajaban en los vehículos.

1679. Se expresó preocupación que la intimidación contra la Sra. Martha Contreras Estrada y los otros integrantes del MRC podría estar relacionado con su protesta en contra de las violaciones de derechos humanos supuestamente sufridos por los Sres. José Gómez Estrada y

Remigio Hernández Arellano. Se expresó preocupación por la integridad física y psicológica de la Sra. Martha Contreras Estrada, de los demás integrantes del MRC, y de los familiares del Sr. José Gómez Estrada que también contribuyeron a la organización de la manifestación.

Observaciones

1680. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Carta de alegaciones enviada el 8 de septiembre de 2008

1681. El 8 de septiembre de 2008, el Relator Especial, junto el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, envió una carta de alegaciones, señalando a la atención urgente del Gobierno la información recibida en relación con el Sr. Miguel Ángel Gutiérrez Ávila, antropólogo, profesor e investigador de la Universidad Autónoma de Guerrero. El Sr. Miguel Ángel Gutiérrez Ávila ha trabajado durante los últimos 20 años defendiendo los derechos de la gente de Amuzgo y los pueblos indígenas de México.

1682. De acuerdo con las informaciones recibidas, el 26 de julio de 2008, hacia la 1.00 a.m., el Sr. Miguel Ángel Gutiérrez Ávila habría sido asesinado mientras conducía hacia la capital de Guerrero. Su cuerpo habría sido hallado a orillas de la carretera federal Acapulco-Ometepec, cerca de la comunidad La Caridad en el municipio de San Marcos, Guerrero. Según se informa su cuerpo fue cubierto de moretones y cortadas. El vehículo en el cual el Sr. Gutiérrez viajaba estaba intacto y solo su equipo de grabación fue robado.

1683. Entre el 23 y 25 de julio de 2008, el Sr. Gutiérrez habría visitado las comunidades de Suljaa' y Cozoyoapan en Costa Chica, Guerrero, en relación con un documental que el realizaba sobre las culturas indígenas y sus tradiciones. Durante su visita, el Sr. G Gutiérrez habría documentado una supuesta violación de los derechos humanos por parte de las autoridades contra el personal de una estación de radio de la comunidad, Radio Nomndaa o La Palabra del Agua.

1684. Se temió que el asesinato del Sr. Miguel Ángel Gutiérrez Ávila pudiese estar directamente relacionado con su trabajo en defensa de los derechos de los pueblos indígenas en México.

Observaciones

1685. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Carta de alegaciones enviada el 29 de agosto de 2008

1686. El 29 de agosto de 2008, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión junto con la Raportora Especial sobre la situación de los defensores de los derechos, envió una carta de alegaciones, señalando a la atención del Gobierno la información recibida en relación con el hostigamiento de los Sres. Enrique Torres García y José Armando González, Presidente y Secretario, respectivamente, de la Asamblea Permanente de Ejidatarios de la comunidad del Ejido Huizopa de la Municipalidad de Maderas, Estado de

Chihuahua, y otros Ejidatarios. La Asamblea Permanente fue organizada para iniciar un diálogo directo con la empresa minera canadiense Minefinders con el propósito de defender los derechos a la tierra y a los recursos naturales de la comunidad del Ejido Huizopa. La empresa Minefinders ocupa supuestamente 3.498 hectáreas de la tierra de esta comunidad, aunque en 2006 firmó un contrato, que no era legalmente válido según los Ejidatarios, para el uso de 1.200 hectáreas de esta tierra.

1687. El 21 de agosto de 2008, titulares de varios mandatos enviaron un llamamiento urgente a su Gobierno en relación con un ataque perpetrado contra el Sr. Dante Valdez, que habría estado motivado por su trabajo para defender los derechos medioambientales de la comunidad Ejido Huizopa contra actividades mineras en la zona. Aunque todavía no se ha recibido una respuesta de su Gobierno, se entiende que hasta la fecha no se ha integrado la averiguación previa de la denuncia formal presentado por el Sr. Dante Valdez ante el Ministerio Público.

1688. Según las nuevas informaciones recibidas, el 26 de mayo de 2008, la Asamblea Permanente habría organizado una manifestación durante la cual se habría bloqueado la entrada principal de Minefinders. La empresa habría recibido advertencias de la Asamblea Permanente antes de la manifestación, pero no habría contestado. El Gobierno Federal habría desplegado fuerzas militares y policía estatal para desbloquear la entrada y los Sres. Enrique Torres García y José Armando González fueron detenidos. Fueron liberados el mismo día, pero sus procesos judiciales siguen pendientes de trámite.

1689. La Asamblea Permanente habría continuado con sus manifestaciones pacíficas sin bloquear la entrada principal de la empresa minera. Según habrían constatado tres diputados federales de las Comisiones Legislativas de Asuntos Indígenas, Medio Ambiente, Seguridad Pública y Reforma Agraria de la Cámara de Diputados después de una visita al Estado de Chihuahua, el Gobierno Federal y el Estatal estarían utilizando la fuerza pública para intimidar a los Ejidatarios. Además, miembros de la policía estarían utilizando instalaciones de la empresa y elementos del Ejército mexicano se estarían trasladando en vehículos de Minefinders. Los Diputados Federales también habrían documentado que la empresa ha realizado su trabajo ilegalmente y que este trabajo generará daños ambientales irreversibles que ya se están empezando a observar, que afectarán a gran parte de la región, y de los que no fueron informados los Ejidatarios.

1690. Se expresó preocupación que la acción legal contra los Sres. Enrique Torres García y José Armando González y la intimidación contra los Ejidatarios podrían estar relacionadas con sus actividades legítimas para defender sus derechos a la tierra y a los recursos naturales. Se expresó preocupación que lo aquí resumido se enmarcara en un contexto de hostigamiento y vulnerabilidad de los defensores de los derechos medioambientales en esta zona de México.

Respuesta del Gobierno

1691. Mediante carta fechada 27 de enero de 2009, el gobierno respondió al llamamiento urgente. La carta proporcionó la siguiente información:

1692. I. La Secretaria del Trabajo y Previsión Social realizó un análisis de los antecedentes del asunto e informó lo siguiente: La Compañía Minera Dolores es una empresa mexicana, subsidiaria de Minefinders Corporation, Ltd., que opera el proyecto “Dolores” desde

el año 1994, situada en el municipio de Madera, Chihuahua. Al inicio de la exploración, la empresa celebró un contrato con los comuneros del ejido Huizopa, en el que se fijaron las condiciones para el arranque de un programa para la exploración y operación de la mina. Ante la factibilidad del proyecto, y a petición de los ejidatarios de re negociar las condiciones pactadas, la empresa realizó en el mes de julio de 2006, un nuevo ofrecimiento económico, el cual fue rechazado por los ejidatarios. El ofrecimiento económico consistió en un pago de 6.5 millones de pesos a la aceptación de las condiciones de nuevo acuerdo; 500 mil pesos anuales por concepto de renta durante la construcción y acondicionamiento del proyecto; 7.5 millones de pesos al iniciar la producción de la mina e incremento del pago por concepto de renta en 250 mil pesos anuales durante la vida del proyecto. Los ejidatarios por su parte solicitaban el pago anual de un porcentaje por concepto de utilidades y su afiliación al Instituto Mexicano del Seguro Social. El 28 de septiembre de 2006, se llevó a cabo una reunión a la que asistieron representantes de diversas dependencias del gobierno estatal para tratar de solucionar la discrepancia entre la empresa y el grupo de ejidatarios, sin embargo, no se llegó a ningún acuerdo, posteriormente los ejidatarios tomaron las instalaciones y paralizaron los trabajos del proyecto durante 5 días. El 3 de octubre de 2006, los ejidatarios permitieron que la empresa continuara con los trabajos, siempre y cuando no hubiera presencia de autoridades, ni medios de comunicación. En los meses de abril y mayo de 2007, habitantes de la comunidad de Dolores y Ciudad Madera, bloquearon nuevamente el paso de todo tipo de vehículos al proyecto minero, suspendiendo los trabajos por 12 días. En noviembre de 2007, se llevó una reunión con representantes del municipio de Madera, de la Secretaría de Obras Públicas de la Dirección de Gobernación y de la Dirección de Minería del gobierno del estado de Chihuahua. El 18 de diciembre de 2007, la minera comunicó el cierre temporal de sus operaciones.

1693. II. La Comisión Estatal de Derechos Humanos del estado de Chihuahua dio inicio a tres expedientes de queja 125/2008, 126/2008 y 231/2008, las cuales fueron remitidas a la Comisión Nacional de los Derechos Humanos (CNDH) por ser la competente para conocer de los hechos denunciados, por estar involucrada una autoridad federal, como es la Secretaría de la Defensa Nacional. La CNDH se encuentra integrado el expediente de queja CNDH/4/2008/3032/Q con motivo de una queja presentada por los señores Torres Gonzalez y Gonzalez Banda.

1694. III. Acerca de la base legal de las acciones emprendidas en relación a los hechos suscitados el 26 de mayo de 2008, hubo una intervención por parte de la Secretaría de la Defensa Nacional, con fundamento en la Ley Federal de Armas de Fuego y Explosivos de conformidad con el artículo 2 fracción III, la cual consistió exclusivamente en que elementos del Ejército mexicano verificaran medidas de seguridad en el desembarque y consumo de material explosivo utilizado por la compañía minera "Dolores" para trabajos propios de la empresa. Según información recabada por la Secretaría de Seguridad Pública del estado de Chihuahua (SSP-Chi), el día de los hechos se encontraban dos unidades de la Dirección de Operación Preventiva en el ejido Huizopa, para la salvaguarda de la integridad física de representantes de la Dirección de Gobernación del estado Chihuahua, autoridad designada para sostener un diálogo con el grupo de ejidatarios. Los elementos de la Policía Estatal se retiraron del lugar el 28 de mayo de 2008 a las 10:50 a.m., elaborando el reporte de incidente 41175.

1695. IV. La Procuraduría General de Justicia del estado de Chihuahua (PGJ Chi), informó que después de que sus autoridades ministeriales realizaran una búsqueda exhaustiva en los libros de gobierno de las agencias del Ministerio Público del estado de Chihuahua, no se halló registro relacionado con la detención de los señores Torres García y Gonzalez Banda, y agregó que

tampoco se han presentado para formular denuncia que tenga relación con la descripción de los hechos referidos en el llamamiento urgente. Tomando en consideración que en la PGJ Chih no halló registro relacionado con la detención de los señores Torres García y Gonzalez Banda, el Estado mexicano por este conducto conmina a los quejosos a que, de considerar que efectivamente han sido víctimas de algún delito, presenten su denuncia ante las instancias competentes para que estén en posibilidad de investigar los hechos y en su caso imponer las sanciones correspondientes a quien o quienes resulten responsables.

1696. V. Con la finalidad de atender y resolver el conflicto que confronta la comunidad Huizopa, el 21 de mayo de 2008, dos diputados federales presentaron un punto de acuerdo solicitando al Pleno de la Cámara de Diputados “se constituya la comisión especial para investigar la explotación minera en México” debido al creciente ingreso de empresas mineras canadienses. En el mismo punto de acuerdo exhorto a la Comisión Nacional de los Derechos Humanos a realizar una investigación sobre las posibles violaciones a los derechos humanos que pueden estar ocurriendo en contra de los habitantes del ejido Huizopa, en el estado de Chihuahua. El 14 de julio de 2008, cuatro diputados federales enviaron cartas al presidente de la empresa Minfinders a fin de solicitarle una pronta respuesta a las tres demandas expuestas por ejidatarios de Huizopa durante el proceso de diálogo: integración de una comisión mixta de cuidado del medio ambiente, la financiación de un plan de desarrollo comunitario y un plan de desarrollo económico.

Carta de alegaciones enviada el 18 de septiembre de 2008

1697. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias enviaron una carta de alegaciones, envió una carta de alegaciones señalando a la atención urgente del Gobierno la información recibida en relación con un allanamiento en la casa del Sr. Abdallán Guzmán Cruz. Hasta la fecha no se ha recibido respuesta de su Gobierno.

1698. De acuerdo con las informaciones recibidas, el 19 de agosto de 2008, aproximadamente a las 21h30, seis soldados se habrían arrojado al vehículo del Sr. Abdallán Guzmán Cruz cuando él y su esposa habrían estado llegando a su casa. Mientras tanto otros 20 soldados habrían estado observando a una distancia de aproximadamente 30 metros. Los soldados habrían ordenado que el Sr. Abdallán Guzmán Cruz y su esposa se bajaran del coche y que se pagaran a la pared para un cateo a ver si llevaban armas. Los soldados sólo habrían dejado que el Sr. Abdallán Guzmán Cruz metiera su vehículo cuando éste habría autorizado una inspección de la casa para buscar armas y droga, aunque no le habrían mostrado ninguna orden de registro. Los soldados habrían llevado a cabo una inspección de la casa y se habrían retirado de allí aproximadamente a las 23h00.

1699. Se expresó preocupación que la inspección de la casa del Sr. Abdallán Guzmán Cruz, así como el cateo de él y de su esposa, pudiesen estar relacionadas con sus investigaciones de casos de detenidos desaparecidos en México. Se expresa gran preocupación por la integridad física y psicológica del Sr. Abdallán Guzmán Cruz, así como la de su familia. Dado que supuestamente había un allanamiento en la casa del Sr. Abdallán Guzmán Cruz el 7 de julio de 2008 y el

Sr. José Francisco Paredes Ruiz, otro activista de la Fundación “Diego Lucero A.C.”, supuestamente fue desaparecido en septiembre de 2007, el incidente resumido arriba se enmarca en un contexto de gran vulnerabilidad para los defensores de los derechos humanos en Michoacán.

Observaciones

1700. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Mongolia

Letter of allegation sent on 19 August 2008

1701. The Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a communication concerning the state of emergency which was implemented by the Government on 1 July 2008, and the killings of Mr. Dorjsuren Enkhbayar, Mr. Munkh-Erdene Renchindagva, Mr. Batsaikhan Togtokh and Mr. Enkhbaatar Tseregjav.

1702. According to information received, on 1 July 2008, approximately 700 people were arrested and many others injured during post-election protests in Ulaanbaatar. A four-day state of emergency was declared by the Government when rioting erupted in the capital sparked by allegations of election fraud. The protests police used tear gas, rubber bullets and water cannons to disperse the crowds. A number of individuals reportedly lost their sight or suffered serious eye injuries as a result. When the state of emergency was declared sufficient measures had not been taken to inform citizens of the curfew, and those individuals who were on the streets at the time were arrested.

1703. In the early hours of the morning of 2 July, Mr. Dorjsuren Enkhbayar, Mr. Munkherdene Renchindagva, Mr. Enkhbaatar Tserenjav and Mr. Batsaikhan Togtokh were shot dead in a central street in Ulaanbaatar, at a short distance from where the main protests were taking place. Reports claim that their injuries show that they had been severely beaten before being shot. An official police investigation has reportedly been launched into the incident. However the results have yet to be made public.

1704. Numerous complaints have also been made regarding alleged mistreatment of those detained for questioning after the protests, including women and children, many of whom were subjected to beatings, detained in cramped cells without food and water, and forced to sign statements implicating themselves in violent activities during the protests. According to the Mongolian Criminal Procedures Code individuals can be detained without charges for a period of up to 72 hours. The majority of those who were detained were released within 72 hours. However legal counsel was not made available during detention. Reports also claim that following the protests, new arrests may have been made based on the identification of individuals through video footage recorded during the demonstrations.

1705. Since 4 July, silent protests have been held on a daily basis in Sukhbaatar Square by citizens collecting signatures for the release of approximately 200 individuals who remain in detention. To date there are no reports of any security incidents; however, two of the organizers

of the protests have been summoned by the authorities to make an appearance at Sukhbaatar District Court. They were held in preventive detention for 14 days and face charges of disrupting the peace.

1706. During the state of emergency a ban was placed on all radio and television stations except for the Mongolian National Public Radio and television.

1707. Concern was expressed that the aforementioned events may represent a direct attempt to stifle freedom of expression and opinion in Mongolia.

Response from the Government

1708. In a letter dated 12 October 2008, the Government replied to the communication above. In its response, the Government provided the following information:

1709. “While expressing our regret to the fact that some misleading information was delivered to the UN about the events happened in Ulaanbaatar on July 1, 2008, we would like to make some clarifications and provide you with factual information on the measures taken to halt the public disorder and the undergoing investigation.

1710. On 1 July we received a call that a group of people is organizing an unauthorized demonstration, and demonstrators are attacking Mongolian People’s Revolutionary Party HQ building, causing unrest and damaging properties. A police regiment was sent there immediately for the purpose of securing the safety of the people involved and enforcing the public order.

1711. Because of the violent criminal activities of some group of people the situation there became unstable; moreover, their activities caused an actual threat to the lives of the police personnel. They threw bricks, “Molotov cocktails”, iron sticks and wounded several officers. They vandalized property and arson the building. In order to stop this unrest and prevent the broadening of its scope and further damages, the President of Mongolia declared the State of emergency for 4 days in Ulaanbaatar city, where it authorizes the police to forcefully disperse, adhering to the requirements of the related laws and regulations, illegal demonstrations and rallies.

1712. From the very beginning, the police have had a defensive stance aiming to calm down the situation. It was equipped with shields and truncheons, and used tear gas and fired rubber bullets completely in accordance with the regulations.

1713. During these events at late night of 1 and early hours of 2 July the police arrested 731 persons as suspects of criminal activities, as well as persons without proper ID during the curfew and people possessing criminally acquired items, and detained them at the Metropolitan Police Department Custody Center.

1714. In order to conduct the investigation of detainees speedily and not to cause any hindrance to their dependents the police authority has established a special working group for their investigation, organized food supply and medical service for the needed. Thus, 231 people underwent medical check-up, first aid was delivered to 39 persons and 5 persons were hospitalized.

1715. As the Custody center became overpopulated, the rooms there had been airconditioned every 2 hours. During this time, representatives from prosecutor's office of the Capital city and Chingeltei district, Mongolian Attorney's Association, National Human Rights Commission, journalists, reporters and members of State Ikh Khural (Parliament) of Mongolia Mr. L. Gundalai, Mr. Kh. Battulga, Mr. B. Batbaatar and Chairman of National Human Rights Commission have had visited the Custody center and met the detainees in person.

1716. Some serious crimes were committed during unrest, and the police authority commenced an investigation process according to the relative articles of the Criminal Code, i.e. article 177.2 (banditry), article 179.1 (organization of mass disorder), Article 145.3 (theft), 153.2 (intentionally damaging others' property), Article 230.3 (armed resistance to official). As a result of investigating criminal cases of these 731 persons detained in accordance with the administrative regulations, 157 persons were left in custody as suspects, and 574 persons were released on bail. During the unrest 532 police personnel were attacked and 471 of them injuries of various severity. However, only 5 persons among the demonstrators were found wounded by the forensic medical examination. This fact clearly shows who was the assaulter and who was the defender.

1717. Also among 1012 persons involved in criminal acts, administrative violations and curfew violators, 282 persons were found intoxicated with alcohol, and 96 were repeated offenders.

1718. The police, abided by the Law, in all its activities of restoring public order and after, is working under the strict supervision of the State Prosecutor's Office and other governmental organizations, as well as under control of human rights NGOs.

1719. As for the issue of death of 4 demonstrators during the unrest, the investigation Unit of the State Prosecutor's office, by the instructions from the National Security Council of Mongolia, has interrogated 106 officers of the Patrol Unit of the General Police Authority and detained 10 officers as suspects.

1720. These officers are charged against article 91.2.11 of the Special section of the Criminal Code of Mongolia, i.e. intended homicide by an organized gang.

1721. Currently, it is vital to focus on issues of the rights of officers, who fulfilled their duties, and victims and business entities, who received damages during the demonstration.

1722. The police authority is now working on calculating the actual amount of loss and damage, occurred to the individuals and legal entities during the events of public disorder of 1 July 2008.

Observations

1723. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 26 August 2008

1724. The Special Rapporteur, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the working group on arbitrary detention, sent a

communication regarding Mr. Magnai Otgonjargal, born 11 January 1982, Mongolian citizen, Citizen ID No. UB0878661, economist by profession and Deputy Chairman of the Civic Movement Party, usually residing at Sukhbaatar District, 3 Horoo, 5 Horoolol, Bldg. 43, Apt. 39.

1725. According to the information received, Mr. Magnai Otgonjargal was arrested on 7 July 2008 at the National Criminal Investigation Authority's head office by Senior Criminal Investigator L. Tugs-Uhaan on a warrant issued by the Capital City Prosecution Office, Prosecutor J. Munhjargal pursuant to sections 68.1, 68.7 and 69.1 of the Criminal Procedure Code. He is currently being detained at the detention centre at Gants Hudag, Unit 0461 of the Judicial Decision Enforcement Agency. His detention was authorized by the Sukhbaatar District Judge A. Munhzul's judicial decision in order to prevent possible obstruction of a criminal investigation against Mr. Magnai Otgonjargal. The decision is currently on appeal before the Chief Judge of Chingeltei District Court.

1726. At the time of arrest Mr. Magnai Otgonjargal was still a candidate for the Parliamentary elections, enjoying immunity under article 35.2 of the State Great Hural Election Law. His arrest was carried out without the necessary notification and permission of the Songino-Khairhan District Election Committee. After 14 days of detention a criminal offence case in terms of Articles 177 (banditry - armed, intended, planned) and 179 (encouraging, guiding others to an unlawful act) of the Criminal Code of Mongolia was filed against Mr. Magnai Otgonjargal. The opening of a criminal investigation against him has been challenged before the criminal investigator, prosecutor in charge of this case and all appeals level prosecutors.

1727. Mr. Magnai Otgonjargal suffers from chronic bronchial asthma, a medical condition. Sections 68.2 and 68.9 of the Criminal Procedure Code provide that "it is prohibited to detain or apply restraint methods on persons with serious medical conditions" as specified in Joint Ministerial Order of Ministry of Justice and Home Affairs and Ministry of Health #313/316 dated 31 December 2002.

1728. Due to the poor standard air and lighting in the cell Mr. Magnai Otgonjargal's chronic bronchial asthma deteriorated to a 57 percent loss of lung breathing capacity. His lawyers, family and civil society activists appealed to all relevant levels of the justice system, the Human Rights Commission and other decision-makers without result.

1729. For several days he has not been provided with the food that he has purchased from an external food caterer on the pretext that the person responsible for delivering the food has too many people to serve and did not make it to his cell. It is reported that he has now gone on hunger strike.

1730. Concerns were expressed for Mr. Magnai Otgonjargal's state of health. Further concern was expressed that the arrest and detention of Mr. Magnai Otgonjargal might be linked to the exercise of his right to take part in the conduct of public affairs, particularly to be elected at genuine period elections.

Observations

1731. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 27 November 2008

1732. 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 a communication regarding Ms. Gelegiin Baasan, leader of the Free Elder's Union and a human rights defender since 2000, who has been involved in the movement which developed in the aftermath of the events following the announcement of the State of Emergency by the Government on 1 July 2008, during which four people were killed and some 700 arrested. Ms. Baasan has participated in campaigns for the rights of those who remain in detention.

1733. Events which occurred during the aforementioned State of Emergency were the subject of an allegation letter sent to the Government by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, on 19 August 2008.

1734. According to information received, on 18 November 2008, at approximately 3.30 p.m., Ms. Baasan was arrested in Ulaanbaatar, while attending an 'open door day' organized annually by the Ministry of Justice. Ms. Baasan along with a group of approximately 100 family members representing those who were arrested during the 1 July events (approximately 230 people remain in detention, some having been sentenced to between 4 and 7 years imprisonment, including 8 minors) had gathered outside the Ministry. The family members had requested a meeting with the Minister. When the Minister did not appear, police officers surrounded the building and requested that the group leave the premises. As the gathering was peacefully dispersing, Ms. Baasan was reportedly approached by a police officer who told her that her days were numbered. Following this encounter, a heated exchange apparently ensued resulting in Ms. Baasan's arrest.

1735. On that same evening, Chingeltei District Court reportedly ruled that there was no basis for Ms. Baasan's arrest. However the following morning the same Court sentenced Ms. Baasan to 14 days preventive detention on charges of disturbing the public order. The charges apparently stemmed from a letter of complaint submitted by five employees of the Ministry of Justice. Ms. Baasan is currently being detained at Detention Center No. 111 in Ulaanbaatar.

1736. Ms. Baasan had been arrested on four separate occasions in the past, most recently in June 2007, when State security forces attempted to disperse a reportedly peaceful protest and, one of the doors of the building of the Ministry of Justice and Home Affairs was damaged. Ms. Baasan was arrested and charged for the damage done to the door of the by the Chingeltei District Court, which sentenced her to 20 days imprisonment.

1737. Concern was expressed that the arrest and detention of Ms. Baasan may be related to her legitimate activities in the defence of human rights in Mongolia, particularly her recent involvement in campaigning for the rights of those detained during the State of Emergency on 1 July 2008.

Response from the Government

1738. In a letter dated 4 February 2009, the Government replied to the communication above. In its response, the Government informed that from 27 October through 18 November 2009,

G. Baasan had been sentenced for a 20-day arrest three times and fined for 20,000 tugrugs one time". The Government provided a detailed description of the events leading to her arrest as well as the legal proceedings.

1739. The Government also stated that the Police Department never infringed Ms. Baasan's right to speech, right to freedom of opinion and expression, and right to peaceful demonstration, but collected the case materials and documented her illegal activities through video recording and submitted them to the judicial organs only for her actions such as verbal abuse, refusal of legal demand of police officers, disrespect to the public, minor roughing and disturbance of normal activity of the organization.

Observations

1740. The Special Rapporteur is grateful for the Government's reply.

Montenegro

Letter of allegations sent on 2 May 2008

1741. The Special Rapporteur sent an allegation letter regarding the ruling by the Higher Court in Podgorica against Monitor, an independent weekly magazine, and Mr. Andrej Nikolaidis, one of its journalists, in April 2008.

1742. According to the information received, the Higher Court found the Monitor magazine liable for the publication of a critical article about film director Emir Kusturica. The article, originally published in 2004, critically analysed Mr. Kusturica's public stance concerning the conflicts in the Balkans, particularly his alleged public support to Slobodan Milosevic. The Higher Court's verdict compels the Monitor magazine to pay 12,000 Euros in non-material damages to Mr. Kusturica because of the "emotional pain" and "harm to his honour and reputation" caused by the publication of the article.

Response from the Government

1743. By a letter dated 2 July 2008, the Government responded to the communication and after having briefed about internal norms aimed at guaranteeing freedom of expression it indicated that "Acting upon this legal action, the Basic Court in Podgorica passed the judgment on January 18, 2006 in which they turned down the claimant's request as unfounded. After the claimant contested the judgment thereof the Highs Court reversed the first instance judgment on February 15, 2006 and ordered the defendants, Andrej Nikolaidis and the Monitor weekly to indemnify the claimant on the grounds of damage caused in form of mental pain due to the damage of reputation, honour, freedom and right of person with the amount of Euros 12,000 that they have to pay together on the basis of solidarity. The Court took into consideration that the amount thereof was not compensation but a satisfaction for the plaintiff. The Court found that the claimed amount was too big. On the basis of the facts presented hereinabove, we can conclude that in relation to the case all procedural and material-legal presumptions in relation to indemnification for non-material damage for mental pain caused by harm to reputation, honour, freedom and rights of person were fulfilled. In addition, the court judgment was handed down by independent and impartial courts that are not under the influence of the Executive power".

Observations

1744. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 4 June 2008

1745. The Special Rapporteur sent an urgent appeal concerning the situation of Mr. Mladen Stojovic, a sports journalist in the dailies Danas (Belgrade, Serbia) and Vijesti (Podgorica, Montenegro). He has on numerous occasions stressed the alleged influence of criminal organizations on professional football.

1746. According to the information received, on 23 May 2008, Mr. Stojovic was reportedly assaulted at his home in Bar and later admitted to the Emergency Room of the city hospital. Mr. Stojovic was diagnosed with a fracture of the upper and lower jawbone, a puncture wound through the cheek caused by an object slightly larger than a needle, as well as a broken tooth root, scarring around the eyes, Adam's apple, on the nose, elbows, shoulders and knees. According to a neuro-psychiatric and general examination, the wounds were not caused by a fall from losing consciousness.

1747. This assault reportedly occurred following the broadcast in January 2008 of a documentary entitled "Insajder" (Insider) on Serbian TV B92, in which Mr. Stojovic highlighted the alleged linkage between professional football and criminal organizations.

1748. Serious concern was expressed that the assault against Mr. Stojovic could be related to the exercise of his right to freedom of opinion and expression. Further concern was expressed for the physical and psychological integrity of Mr. Stojovic.

Observations

1749. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Morocco

Lettre d'allégations envoyée le 28 janvier 2008

1750. Le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégations sur la situation de M. Mohamed Boughrine, M. Abdelkbir Rabaoui, M. Abass Abbassi, M. Mohamed Fadel, M. Abdelaziz Timor, M. Brahim Ahansal, M. Smaïn Amrar, M. Abderrahmane Aaji, M. Mohamed Yousfi, M. Nabil Cherqui, M. Thami Khyati, M. Youssef Reggab, M. Oussama Ben Messaoud, M. Ahmed Al Kaateb, M. Rabii Raïssouni, M. Mehdi Berbouchi, M. Abderrahim Karrad, Mme. Khadija Nitassi, M. Hassan Mahfoud, Mme Khadija Ryadi, M. Abdelhamid Amine, M. Abdelilah Ben Abdesslam, M. Abdesslam Adib et M. Omar Kaji, tous membres de l'Association marocaine des droits humains (AMDH).

1751. Selon les informations reçues, le 30 janvier 2008, M. Mohamed Boughrine, M. Abdelkbir Rabaoui, M. Abass Abbassi, M. Mohamed Fadel, M. Abdelaziz Timor, M. Brahim Ahansal, M. Smaïn Amrar, M. Abderrahmane Aaji, M. Mohamed Yousfi et M. Nabil Cherqui devraient comparaitre devant la cour de cassation du Maroc après avoir été reconnus coupables d'« atteinte à la monarchie » par une cour d'appel en août 2007. Leur arrestation ferait suite à leur participation les 5 et 6 juin 2007 à une manifestation pacifique organisée dans la ville de Beni Mellal en signe de solidarité avec sept autres membres de l'AMDH arrêtés après des manifestations similaires le 1er mai 2007 dans le cadre de la Journée internationale du travail. Le 26 juin 2007, un tribunal aurait condamné M. Mohamed Boughrine à un an d'emprisonnement pour « atteinte à la monarchie ». Trois autres personnes auraient été condamnées à deux mois avec sursis, et les six autres hommes auraient été acquittés. Cependant, à la suite d'un appel interjeté par l'accusation, la peine de M. Mohamed Boughrine aurait été allongée à trois années de prison et ses neuf coaccusés auraient été condamnés à un an ferme. Si la cour de cassation confirme ce jugement, M. Mohamed Boughrine, incarcéré depuis son arrestation le 5 juin 2007, risquerait de purger une peine de trois ans d'emprisonnement et les neuf autres hommes, actuellement en liberté, jusqu'à ce que la décision finale soit rendue, pourraient également être emprisonnés.

1752. Les sept membres de l'AMDH arrêtés le 1er mai 2007 et pour lesquels une manifestation pacifique avait été organisée les 5 et 6 juin 2007 sont M. Thami Khyati, M. Youssef Reggab, M. Oussama Ben Messaoud, M. Ahmed Al Kaateb et M. Rabii Raïssouni, qui auraient été arrêtés à Ksar el Kebir et auraient été condamnés à trois ans d'emprisonnement et à une lourde amende, condamnation confirmée en appel le 24 juillet et peine prolongée de trois à quatre ans; et M. Mehdi Berbouchi et M. Abderrahim Karrad, qui auraient été arrêtés à Agadir et condamnés à deux ans de prison assortis d'une lourde amende, également pour « atteinte à la monarchie », condamnation et peine confirmées en appel.

1753. Par ailleurs, le 15 juin 2007, des rassemblements de solidarité envers ces sept membres de l'AMDH auraient eu lieu dans plusieurs villes du Maroc et auraient été violemment dispersés. Les forces de l'ordre seraient intervenues et auraient frappé, traîné par les pieds et piétiné une trentaine de participants, notamment Mme. Khadija Nitassi (fracture du pied), M. Hassan Mahfoud (perforation du tympan), Mme Khadija Ryadi, M. Abdelhamid Amine, M. Abdelilah Ben Abdesslam, M. Abdesslam Adib et M. Omar Kaji. Une quinzaine de personnes auraient été évacuées vers les hôpitaux pour recevoir les premiers secours.

1754. Des craintes ont été exprimées quant au fait que les arrestations et condamnations des personnes susmentionnées soient liées à leurs activités non-violentes de promotion et protection des droits de l'homme. D'autres craintes ont été exprimées quant au fait que la répression violente des manifestations du 15 juin 2007 soit également liée aux activités non-violentes des participants en faveur des droits de l'homme.

Réponse du Gouvernement

1755. Par une lettre datée du 7 mars 2008, le Gouvernement a indiqué qu'en date du 1er mai 2007, un groupe d'une trentaine de protestataires ont participé à la manifestation organisée par l'Union Marocaine du Travail à Ksar El Kebir et ont répété des slogans portant atteinte aux Institutions sacrées du Royaume. Suite aux investigations menées par les services de police, les dénommés Thami Khyati, Youssef Reggab, Oussama Ben Messaoud,

Afmed Al Kaateb et Mohammed Raïssouni ont été arrêtés pour atteintes aux Institutions sacrées du Royaume et ce, conformément aux articles 38 et 41 du décret de 1958 modifié par le décret du 3 octobre 2002 et l'article 179 du code pénal. Le 22 mai 2007, ils ont été condamnés, en première instance, à trois ans de prison ferme et une amende de 10.000 DH. Cette sentence a été confirmée en appel, le 24 juillet 2007, en augmentant la peine à quatre ans de prison ferme. Il convient de rappeler que le parquet a fait appel auprès de la Cour Suprême. Lors d'une manifestation organisée à Agadir le 1er mai 2007, dans le cadre de la journée mondiale du travail par l'Union Marocaine du Travail, les dénommés Mehdi Berbouchi et Abderahim Karrad ont répété des slogans portant atteinte à la personne du Roi. Suite aux investigations menées, ils ont été arrêtés à Agadir et condamnés, en première instance, le 9 mai 2007, à deux ans de prison assortis d'une amende de 10.000 DH pour atteinte à la personne du Roi et ce, conformément à la réglementation en vigueur au Royaume du Maroc, notamment l'article 179 du code pénal. Ces condamnations et peines ont été confirmées en appel le 26 juin 2007. En date du 5 juin 2007, le « comité local de soutien avec les détenu du 1er mai » a organisé une manifestation à laquelle ont participé les dénommés Mohamed Boughrine, Abdelkbir Rabaoui, Abass Abbassi, Mohamed Fadel, Abdelaziz Timor, Brahim Ahansal, Samïn Amrar, Abderahmane Aaji, Mohamed Yousfi et Nabil Cherqui qui ont répété des slogans portant atteinte aux Institutions sacrées du Royaume. En date du 5 juin 2007, la Cour de première instance a : poursuivi Mohamed Boughrine pour atteinte aux valeurs sacrées du Royaume, atteinte à une organisation, mépris de décisions judiciaires et l'a condamné à un an de prison ferme et à une amende de 10.000 DH ; poursuivi Brahim Ahansal, Abdelkbir Rabaoui et Mohamed Yousfi pour atteinte à une organisation et les a condamnés à deux mois de prison avec sursis et une amende de 500 DH ; et a acquitté les autres. Le 9 août 2007, la Cour d'appel a annulé le jugement de première instance en le modifiant par l'augmentation de la sentence à trois ans de prison ferme pour Mohamed Boughrine et à un pour les autres.

1756. Par une lettre datée du 22 avril 2008, le Gouvernement a indiqué que les 17 personnes qui avaient été interpellées au lendemain des manifestations du 1er mai 2007 ont bénéficié d'une grâce royale le vendredi 4 avril 2008. Il s'agit d'Abderrahim Karrad, Mahdi Berbouchi, Mohamed Boughrine, Abdelhakim Rabaoui, Abass Abbassi, Mohamed Fadel, Abdelaziz Timor, Brahim Ahansal, Ismaïl Amraz, Abderahmane Aaji, Mohammed Yousfi, Cherqui Nabli, Thami Al Khayati, Youssef Reggab, Oussama Benmassaoud, Ahmed Al Kaated et Mohammed Raïssouni.

Observations

1757. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 1 février 2007. Il regrette l'absence de réponse aux autres communications.

Appel urgent envoyé le 7 mars 2008

1758. Le 7 mars 2008, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général 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, a envoyé un appel urgent concernant l'arrestation de M. Yahya Mohamed el Hafed Aaza, un membre de l'Association Marocaine des Droits de l'Homme (AMDH) et membre de l'Assemblée Constitutive du Collectif des Défenseurs Sahraouis des Droits de l'Homme (CODESA).

1759. Selon les informations reçues, le 29 février 2008, M. Yahya Mohamed el Hafed Aaza aurait été arrêté alors qu'il travaillait dans son magasin de Tan-Tan, dans le sud du pays. Cette arrestation serait liée à des manifestations pro-indépendance qui se seraient déroulées le 27 février dans la ville. M. Yahya Mohamed el Hafed Aaza serait détenu au poste de police de Tan-Tan pour interrogation, mais il n'aurait pas encore été inculpé et il n'aurait pas eu accès à son avocat ainsi qu'à sa famille.

1760. M. Yahya Mohamed el Hafed Aaza aurait par le passé déjà été arrêté par les services de renseignement de l'armée marocaine en 2004 et 2006, et qu'en 2005, ces mêmes services l'auraient kidnappé et retenu pendant deux semaines, au cours desquelles, il aurait été soumis à la torture.

1761. Au vu des allégations de sa détention incommunicado, des craintes ont été exprimées pour l'intégrité physique et mentale de M. el Hafed Aaza. Des craintes ont aussi été exprimées quant au fait que son arrestation soit liée à ses activités non-violentes de promotion et protection des droits de l'homme.

Réponse du Gouvernement

1762. Par lettre datée du 20 juin 2008, le Gouvernement a indiqué que le 26 février 2008, une quarantaine de jeunes cagoulés ont organisé un attroupement armé au quartier Ain Errahma au centre ville de Tan Tan, ont installé des obstacles entravant la circulation sur la voie publique et se sont attaqués, par des jets de pierres, aux forces de l'ordre blessant, ainsi, grièvement, au niveau du crâne, le gardien de la paix Abdelaziz Meski qui a succombé à ses blessures à l'hôpital, le 3 mars 2008. L'enquête menée, dans ce cadre, a permis l'arrestation des dénommés Lahcen Lafkir, Najem Bouba, Mohamed Salmi, Meyara Moujahid, Mahmoud Barkaoui et Yahya Aaza. Le dénommé Lahcen Lafkir a déclaré que Yahya Mohamed El Hafed Aaza était le commanditaire principal desdits troubles de l'ordre public. Ce dernier avait demandé à Lahcen Lafkir, Meyara Moujahid et Najem Bouba, à travers Mahmoud Barkaoui, d'organiser un rassemblement sur la voie publique en vue de porter atteinte à la sécurité dans la région, en récompense d'une somme d'argent. Ceci a été confirmé par Meyara Moujahid et Najem Bouba lors des interrogatoires. Pour sa part, Yahya Mohamed El Hafed Aaza a déclaré qu'il recevait des sommes d'argent d'Omar Boulsane, soi-disant représentant du « polissario » à Las Palmas en Espagne, pour financer ses activités visant à perpétrer des actes portant atteinte à l'ordre public. Le 4 mars 2008, les mis en cause ont été traduits devant la cour d'appel d'Agadir pour attroupement armé sur la voie publique et violence à l'encontre d'un fonctionnaire de police dans l'exercice de ses fonctions ayant entraîné la mort. Il convient de préciser que l'interpellation et la mise en garde à vue de l'intéressé ont été effectuées dans le respect total des procédures et lois en vigueur. Compte tenu de ce qui précède, les personnes ayant fait l'objet de ces deux appels urgents ont été interpellés, non pas pour leurs activités de défense des droits de l'Homme, lors d'une manifestation dite pacifique, mais principalement pour des actes criminels ayant causé la mort d'un policier en exercice de sa fonction.

Observations

1763. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 1 février 2007. Il regrette l'absence de réponse aux autres communications.

Appel urgent envoyé le 21 avril 2008

1764. Le Rapporteur spécial, conjointement avec l'ancienne Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme et la Vice-Présidente du Groupe de Travail sur la détention arbitraire, a envoyé un appel urgent sur la situation de M. Lahcène Salek Lefkir, connu sous le nom de Benena, M. Yahya Mohamed El Hafed Azza, membre de la section Tan Tan de l'Association marocaine des droits de l'homme et du Collectif sahraoui des droits de l'homme, M. Mohamed El Abd Salmi, membre de l'association marocaine des droits de l'homme, M. El Moujahid Ali Bouya Meyara, M. Najem Mahjoub Ahmed Najem Bouba, M. Mohamed Mahmoud Berkaoui et M. Salama Mohamed Labeid Charafi. M. Yahya Mohamed El Hafed Azza a fait l'objet d'un appel urgent envoyé le 7 mars 2008 par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Selon les informations reçues :

1765. Suite aux manifestations sur la situation du Sahara occidental, présentées comme étant non-violentes, qui ont eu lieu à Tan Tan le 28 février 2008, les personnes susmentionnées auraient été interpellées par la police et incarcérées à la prison d'Ain Zegane.

1766. Le 26 mars 2008, M. Yahya Mohamed El Hafed Azza aurait été agressé par quatre prisonniers de droit commun.

1767. Des craintes ont été exprimées quant à l'intégrité physique et psychologique des personnes susmentionnées en détention. D'autres craintes ont été exprimées quant au fait que l'arrestation et la détention de ces personnes soient liées à leurs activités de défense des droits de l'homme présentées comme étant non-violentes.

Réponse du Gouvernement

1768. Le Gouvernement a répondu à l'appel du 21 avril 2008 par la même lettre datée du 20 juin 2008.

Observations

1769. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 1 février 2007. Il regrette l'absence de réponse aux autres communications.

Lettre d'allégations envoyée le 26 juin 2008

1770. 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. Brahim Sabbar, secrétaire général de l'Association sahraouie des victimes des violations graves des droits de l'Homme commises par l'Etat du Maroc au Sahara occidental (ASVDH), M. Sidi Mohamed Dadach, président du Comité sahraoui pour le soutien du droit à l'autodétermination et Mme Oum Alfadli Ali Ahmed Babou, défenseur des droits de l'homme.

1771. M. Brahim Sabbar a fait l'objet d'un appel urgent envoyé le 8 novembre 2005 par le Vice-Président du Groupe de Travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme; d'un appel urgent envoyé le 29 juin 2006 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ; et d'un appel urgent envoyé le 1er février 2007 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Le Gouvernement marocain a répondu aux trois appels susmentionnés.

1772. Selon les nouvelles informations reçues, le 17 juin 2008, M. Brahim Sabbar aurait été libéré après avoir purgé une peine de deux ans d'emprisonnement à la prison de Laâyoune pour des faits qui avaient motivé l'envoi de l'appel urgent en date du 29 juin 2006 (précité).

1773. Le même jour, M. Brahim Sabbar se serait rendu au domicile de M. Ahmed Sbai, membre du Conseil de coordination de l'ASVDH et président du Comité pour la protection des prisonniers sahraouis dans les prisons du Maroc, également incarcéré à la prison de Laâyoune, puis libéré le 17 décembre 2007 après avoir purgé sa peine (M. Ahmed Sbai a fait l'objet de deux appels urgents en date du 29 juin 2006 et 1er février 2007, conjointement avec M. Sabbar). Des partisans de M. Sabbar, désireux de saluer celui-ci, se seraient rendus au domicile de M. Sbai, mais auraient été empêchés d'y accéder par un important dispositif policier. Par ailleurs, les forces de sécurité auraient violenté, insulté et agressé verbalement M. Sidi Mohamed Dadach et Mme Oum Alfadli Ali Ahmed Babou alors qu'ils quittaient le domicile de M. Sbai. Enfin, la famille de M. Sbai aurait fait l'objet d'insultes de la part de ces mêmes policiers. Plus tard dans la journée, M. Brahim Sabbar se serait ensuite rendu au domicile de M. Embarek Hiji, autre membre de l'ASVDH. Le quartier où réside M. Hiji aurait similairement été encerclé par la police afin d'empêcher toutes personnes de rencontrer M. Sabbar.

1774. Des craintes ont été exprimées quant au fait que les actes des forces de l'ordre susmentionnés soient en relation avec les activités de défense des droits de l'homme des personnes précitées.

Réponse du Gouvernement

1775. Par une lettre datée du 15 septembre 2008, le Gouvernement a indiqué que l'activiste « pro polissario » Brahim Sebbar a été libéré le 17 juin 2008 dans la matinée, après avoir purgé une peine de deux ans de prison ferme. L'intéressé a été accueilli et accompagné à sa sortie de prison par le nommé Ahmed Sbai à son domicile. Dans l'après-midi du même jour, Brahim Sebbar s'est rendu au domicile du nommé Embarek Hiji où une cérémonie d'accueil lui a été organisée par les séparatistes, en présence d'une vingtaine de personnes et à laquelle ont été conviés, également, sept ressortissants étrangers qui ont filmé cette cérémonie. Cette cérémonie, qui s'est déroulée en toute liberté, a pris l'allure d'une « manifestation séparatiste » marquée par le placardage de banderoles et par des allocutions des activistes pro polissario dont

Sidi Mohamed Dadach, Brahim Sebbar, El Ghalia Djimi et Embarek Hijji. L'intéressé a également continué à recevoir des visites durant deux jours, avant de quitter la Province de Laâyoune à destination de son domicile, sis à la localité de Ksabi où un autre accueil lui a été réservé, le 21 juin 2008, en présence de 150 personnes dont Mohamed Dadach et qui a pris la même tournure pro-séparatiste. Dans ce cadre, les domiciles des nommés Ahmed Sbai et M'Barek Hijji n'ont fait l'objet d'aucune mesure de la part des autorités. Concernant les allégations de violences et agressions verbales avancées par les dénommés Sidi Mohamed Dadach et Oum AlFadli Ali Ahmed Babou ayant prétendu être « violenté, insultés et agressés verbalement » par les forces de l'ordre, elles sont dénuées de tout fondement et demeurent de simples assertions. D'ailleurs aucune plainte, à ce sujet n'a été déposée devant les instances judiciaires compétentes.

Observations

1776. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 1 février 2007. Il regrette l'absence de réponse aux autres communications.

Lettre d'allégations envoyée le 24 juillet 2008

1777. Le 24 juillet 2008, le Rapporteur spécial a envoyé une lettre d'allégations sur la situation de Monsieur Hassan Rachidi, directeur du bureau d'Al-Jazira à Rabat.

1778. Selon les informations reçues, le 11 juillet 2008, le tribunal de première instance de Rabat a condamné M. Hassan Rachidi à une amende de 50 000 dirhams, en vertu de l'article 42 du code de la presse, pour diffusion de fausses informations. De même, son accréditation a été retirée le 13 juin 2008, le jour-même de son inculpation, ce qui l'empêche de poursuivre ses fonctions dans le bureau d'Al-Jazira à Rabat.

1779. Monsieur Hassan Rachidi aurait été saisi pour avoir publié des informations concernant les événements de Sidi Ifni, le 7 juin 2008. Ces informations, basées sur des témoignages d'habitants de la ville et un communiqué de l'antenne locale du Centre marocain des droits humains, ont été par la suite démenties par Al-Jazira.

Réponse du Gouvernement

1780. Par deux lettres datées du 19 septembre et 19 novembre 2008, le Gouvernement a répondu à la lettre d'allégations. Au moment de la finalisation de ce rapport la lettre n'a pas été traduite.

Observations

1781. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 1 février 2007. Il regrette l'absence de réponse aux autres communications.

Appel urgent envoyé le 3 novembre 2008

1782. Le 3 novembre 2008, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, a envoyé un appel urgent sur la situation de

M. Shikhin Brahim, étudiant et membre du Comité pour la défense des droits de l'homme de Smara-Sahara Occidental (CDDH), Mme Engiya Boukhars, membre du CDDH et M Alnassiri Ahmed, Secrétaire Général du CDDH et membre de l'Association marocaine des droits de l'homme.

1783. Selon les informations reçues, le 21 septembre 2008, à l'occasion de la visite d'une organisation non-gouvernementale (ONG) internationale à Smara, un groupe d'activistes des droits de l'homme du Sahara Occidental aurait organisé une manifestation pacifique dans la ville pour dénoncer la situation des droits de l'homme dans la région. A la suite de cet événement, plusieurs personnes auraient été arrêtées par les forces de l'ordre et des habitations auraient été dégradées. La plupart des personnes auraient été libérées par la suite, mais M. Shikhin Brahim serait toujours maintenu en détention à la prison de Laâyoune.

1784. Le même jour, Mme Engiya Boukhars, qui avait rencontré les membres de cette ONG internationale, aurait été agressée physiquement par les forces de l'ordre. Elle aurait notamment été blessée au visage. Par ailleurs, suite à cette rencontre, son salaire ne lui aurait plus été versé.

1785. Enfin, suite à une réunion entre les membres de cette ONG internationale et M. Alnassiri Ahmed, les forces de l'ordre auraient tenté d'interpeller ce dernier à son domicile, mais celui-ci n'était alors pas présent. Quelques jours plus tard, M. Alnassiri Ahmed aurait reçu une lettre officielle lui notifiant son licenciement de son poste à la municipalité de Khraibka. M. Alnassiri Ahmed aurait fait l'objet de cinq arrestations présentées comme arbitraires entre 2002 et 2004 et aurait été suspendu à 2 reprises de son travail.

1786. Des craintes ont été exprimées quant au fait que l'arrestation et la détention de M. Shikhin Brahim, l'agression de Mme Engiya Boukhars, la suspension du paiement de son salaire, et la tentative d'arrestation de M. Alnassiri Ahmed et son licenciement subséquent soient liés à leurs activités de promotion et protection des droits de l'homme au Sahara Occidental. Des craintes ont également été exprimées pour l'intégrité physique et mentale de M. Shikhin Brahim durant sa détention.

Observations

1787. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 1 février 2007. Il regrette l'absence de réponse aux autres communications.

Réponse du Gouvernement

1788. Par une lettre datée du 26 février 2009, le Gouvernement a présenté l'information suivante:

1789. « Cas de Shikhin Brahim: Il s'agit du nommé Brahim Shikhine qui a été interpellé, le 25 septembre 2008 et non le 21 septembre 2008, non pour sa participation dans une manifestation pacifique pour dénoncer la situation des droits de l'Homme » mais pour son implication directe dans un acte de jets de cocktails molotov contre un véhicule de la sûreté nationale, le 21 septembre 2008 à Smara, causant des brûlures à trois éléments de la brigade de la police judiciaire, ayant été à bord de ce véhicule, ainsi qu'à une citoyenne accompagnée de son bébé qui tentait de leur venir en aide, en plus de la calcination totale dudit véhicule.

1790. Le surnommé a été présente, le 25 septembre 2008, devant le Parquet General de Laayoune, qui après l'avoir auditionné sur les faits qui lui sont reprochés a décidé de le poursuivre, en état d'arrestation pour constitution d'une bande criminelle, incendie volontaire par l'utilisation de produits explosifs, entrave à la circulation, violence à l'encontre d'agents publics dans l'exercice de leurs fonctions causant des blessures, mise à la disposition d'un lieu de refuge pour des individus prônant la violence et la préparation de projets collectifs visant l'atteinte à l'ordre public, la destruction d'un bien d'utilité publique ainsi que coups et blessures. Brahim Shikhine a reconnu, en toute spontanéité, avoir commis les actes précités et a communiqué les noms de ses complices. Il a, ainsi, avoué qu'il a été contacté par le surnommé Zegham Elghali, qui l'a incité à rejoindre sa bande impliquée dans plusieurs actes criminels à l'encontre des forces publiques en 2006. Lors d'une rencontre, tenue le 19 septembre 2008, Shikhine et Elghali ont convenu d'exécuter leur opération à travers un acte de jets de cocktails molotov contre un véhicule de la sûreté nationale à Hay Salam. Le Tribunal de 1^{er} instance de Laayoune a fixé le procès de Brahim Shikhine pour le 4 mars 2009. Sa défense est assurée par quatre avocats du Barreau de la même ville ».

1791. Cas d'AI Nassiri Ahmed: Il s'agit d'Ahmed Nacéri, fonctionnaire à la municipalité de Khouribga ayant fait l'objet d'une mesure disciplinaire de suspension suite à des absences injustifiées et ce, conformément aux dispositions des lois en vigueur en la matière. Quant à l'allégation selon laquelle les forces de l'ordre auraient interpellé le surnommé à son domicile, elle est dénuée de tout fondement. L'intéressé a déposé une plainte auprès du Parquet General de Smara pour « injures, diffamation et tracasseries sur la voie publique. L'intéressée a déposé deux plaintes auprès du Procureur de Sa Majesté le Roi à Smara dans lesquelles elle prétend être victime de tracasseries sur la voie publique d'injures et de diffamation de la part de certains membres des forces de sécurité. Sur la base des investigations entreprises, le Parquet General a décidé de classer lesdites plaintes qui ne reposent sur aucun fondement ».

1792. Cas d'Engiya Boukhras: Il s'agit de Nguia Cheikhi, qui exerce une activité commerciale et ne dispose, de ce fait, d'aucun « salaire mensuel. L'intéressée a déposé deux plaintes auprès du Procureur de Sa Majesté le Roi à Smara dans lesquelles elle prétend être victime de tracasseries sur la voie publique, d'injures et de diffamation de la part de certains membres de forces de sécurité. Sur la base des investigations entreprises le Parquet General a décidé de classer lesdites plaintes qui ne reposent sur aucun fondement ».

Observations

1793. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 1 février 2007. Il regrette l'absence de réponse aux autres communications.

Suivi des communications précédemment transmises

1794. Le Gouvernement a répondu à la carte d'allégations de 23 mai 2007 avec une carte envoyé le 22 avril 2008. En retour, le Gouvernement voulait informer que les dix sept personnes qui avaient été interpellées au lendemain des manifestations du 1^{er} mai 2007, ont bénéficiés d'une grâce royale le vendredi 4 avril 2008.

Observations

1795. Le Rapporteur spécial remercie le Gouvernement de sa réponse.

Mozambique

Letter of allegations sent on 18 August 2008

1796. The Special Rapporteur sent an allegation letter concerning Mr. Fernando Veloso, Editor-in-Chief, Mr. Luís Nhachote, sub-editor and Mr. Alvarito de Carvalho, senior reporter, with one of Mozambique's largest independent weekly newspapers, Zambeze.

1797. According to information received, the three men were arrested in May 2008 on charges of threatening State security. The charges reportedly stem from an article in which they questioned whether the Prime Minister of Mozambique, Ms. Luísa Diogo, was of Mozambican or Portuguese nationality. The authors of the article were called to the court to be charged 24 hours after the issue was published. On Monday 21 July 2008, the 3rd Section of the Maputo Judicial Court postponed the trial of Mr. Fernando Veloso, Mr. Luís Nhachote and Mr. Alvarito de Carvalho to 12 August 2008, following a request from the Prosecution Authority.

1798. Concern was expressed that the aforementioned events could represent a direct attempt to prevent independent reporting in Mozambique, thus stifling freedom of expression in the country.

Observations

1799. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Myanmar

Urgent appeal sent on 31 January 2008

1800. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the then Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Mr. Min Ze Ya, Mr. Paw U Tun (alias Min Ko Naing), Mr. Ko Ko Gyi, Mr. Pyone Cho (alias Htay Win Aung), Mr. Aung Thu, Mr. Kyaw Kyaw Htwe (alias Marky), Mr. Kyaw Min Yu (alias Jimmy), Mr. Mya Aye (alias Thu Ya), Mr. Yin Htoo Aung, and at least 9 other activists and university students. All are part of the 1988 Generation Students Group, known for their role in protests against military rule 20 years ago and active in the demonstrations against a sudden sharp rise in fuel prices, which began in August 2007.

1801. These persons were the subject of a joint communication sent by the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar on 6 October 2006 and of a joint communication sent by the Working Group on Arbitrary Detention, the Special Rapporteur

on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 August 2007.

1802. According to information received, on 23 January, the aforementioned persons detained since August 2007 were reportedly charged with breaking a security law. They are all reportedly being held in Yangon's Insein Prison, where they allegedly risk being tortured or otherwise ill-treated. Ten people charged on 23 January reportedly face charges of breaking Section 17/20 of Myanmar's Printers and Publishers Registration Act, but no further information on the details of the charges against the activists is presently available. The charges against the ten people came despite a statement from Myanmar's Police Force representative Mr. Khin Yi at a press conference on 3 December 2007 that protesters from the demonstrations would not be prosecuted if they had acted peacefully.

1803. Mr. Paw U Tun was reportedly held in a cell with a convicted prisoner and was only allowed to leave his cell for one hour each day. He had earlier been suffering toothaches which prevented him from eating and the authorities had delayed his access to medical treatment. Mr. Ko Ko Kyi is reportedly being held in a cell with a prisoner who has been sentenced to death. Mr. Pyone Cho has not yet been charged with any offence but is also being held in Insein Prison. The other activists and students arrested at the time of the fuel price protests were still believed to be in detention.

1804. Concern was expressed that the arrest, continuing detention and charges reportedly brought against the aforementioned may be directly related to their work in defense of human rights. Further concern was expressed for their physical and psychological integrity while in detention.

Observations

1805. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 13 February 2008

1806. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the then Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Mr. U Than Lwin, aged 70, a representative of the National League for Democracy at the Parliament of Mettaya Township, Mandalay Division.

1807. According to the information received, on 15 June 2007, an unidentified man assaulted Mr. U Than Lwin with a knuckle-duster, after he had led a group of around 35 persons to pray for the release of prisoners in Myanmar at pagodas in his town of Mattaya, in upper Myanmar. The unidentified man managed to flee into an office of the Government sponsored Union Solidarity and Development Association and had never been brought to justice, although members of the prayer group immediately reported the incident to the police. Besides, the criminal case lodged has not been investigated by the authorities of Myanmar.

1808. Mr. U Than Lwin was severely injured in his eyes and sustained a broken nose and cheek. The next day he was admitted to Mandalay General Hospital where he had to stay for treatment for two weeks due to dizziness and poor eyesight. After being discharged, he had needed to continue to receive medical treatment for the injuries he sustained. On 1st October 2007, Mr. U Than Lwin was arrested in connection with the protests in August and September 2007, and he was being held at Ohbo Prison, Mandalay Division, without charge. Since his arrest, his eyesight has dramatically worsened: Mr. U Than Lwin had now gone completely blind in his left eye, and his right eye could also lose all sight.

1809. Serious concern was expressed that Mr. U Than Lwin was being denied adequate medical treatment for the injuries he sustained. Further concern was expressed that the arrest and detention of Mr. U Than Lewin may be related to his reportedly non-violent activities in defence of human rights.

Response from the Government

1810. In a letter dated 6 March 2008, the Government of Myanmar responded to the above communication. The letter stated that U Than Lwin has been taken action under Section 5 (j) of the Emergency Provisions Act as he manipulated to take place the whole Sangha's demonstration in Mandalay which had led to impair the security and prevalence of Law and order in the Country. On 13 November 2008, U Than Lwin reported a pain in his left eye to the warden of Mandalay prison. Thereafter, the doctor on duty and the prison in charge examined him and gave him the necessary treatment. On 16 January 2008, he was seen by Dr. Ko Ko Latt, General Physician from Mandalay General Hospital, who reported that he has lost his left eye sight. In addition, Dr. Aung Ko Ko, the prison doctor also examined him every week and helped to cure his eyes. The authorities concerned have taken action against U Than Lwin in accordance with existing law and he is currently fit and healthy.

Observations

1811. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 21 February 2008

1812. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Messrs Thet Zin and Sein Win Maung (also known as Ko Soe), editor-in-chief and office-manager respectively of the Myanmar Nation (Myo Myanmar) weekly newspaper.

1813. According to information received on 15 February 2008, Messrs Thet Zin and Sein Win Maung were arrested at their office in Yangon. According to reports, police also searched the office and confiscated a copy of a report by the UN Special Rapporteur on Myanmar, Mr. Paulo Sergio Pinheiro, on the human rights situation in the country, several books and CDs containing images of the street protests in August and September 2007. Police also confiscated mobiles phones and poems written by Sein Win Maung, which criticized the military junta. The Myanmar Nation newspaper is, at present, still permitted to continue publication.

1814. Reports suggest that both men are now being detained and interrogated at the Thin Gan Gyun Police Station. Family members, who were allowed to deliver some clothes, food and medicine on 16 February 2008, were reportedly told by police not to speak to foreign media. There are fears for the health of Mr. Thet Zin, who suffers from a heart condition and pulmonary diseases.

1815. Concern was expressed that the arrest and detention of Messrs Thet Zin and Sein Win Maung may be directly related to their activities in defense of human rights, especially their exercise of the right to freedom of expression and peaceful protest. Further concern was expressed for the physical and psychological integrity of all those in detention, particularly Mr. Thet Zin, in view of reports of his ill-health.

Response from the Government

1816. In a letter dated 8 May 2008, the Government of Myanmar responded to the above communication. The letter stated that on 15 February 2008, the authorities concerned searched the office of the Myanmar Nation Journal and discovered the books, documents and VCDs which have not been registered and published in accordance with the Printers and Publishers Law 1962. Therefore, the authorities confiscated these books and VCDs.

1817. As Mr. Thet Zin and Mr. Sein Win Maung failed to comply to comply with the Printers and Publishers Law 1962, the authorities concerned instituted the proceedings against them under the sections 17 and 20 of the abovementioned Law after due process of law. Currently, Thingangyan Township Court has been hearing the witnesses.

Observations

1818. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 27 February 2008

1819. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning Mr. Htay Kywe, Ms. Mie Mie (also known as Ms. Thin Thin Aye), Mr. Aung Thu, Mr. Hein Htet (also known as Aung Gyi), Mr. Zaw Htet Ko Ko, and one other unidentified person. The aforementioned are all non-violent human rights activists and members of the 1988 Generation Students Group, who were involved in the peaceful protests of August and September 2007. All were the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 17 October 2007, following their arrest on 13 October 2007.

1820. According to new information received Mr. Htay Kywe, Ms. Mie Mie, Mr. Aung Thu and Mr. Zaw Htet Ko Ko were charged on 23 January under Section 17/20 of the Printers and

Publishers Registration Act, which allows the prosecution of individuals who distribute any form of written material without the authorization of the official censor. These charges against the activists came despite a statement from authorities 3 December 2007 that protesters at the September demonstrations would not be prosecuted if they had acted peacefully.

1821. They are all being held in Yangon's Insein Prison, where they have been repeatedly interrogated and may be subjected to torture or ill-treatment. Mr. Htay Kywe is reportedly being kept in the same cell as criminal detainees. Furthermore, Ms. Mie Mie, who is said to have a heart condition, has reportedly been denied proper medical treatment while in detention. Information is not currently available as to whether the detainees have been granted access to their lawyers.

1822. Mr. Hein Htet, arrested at the same time, is also believed to be detained, but his whereabouts are unknown, as is the case of that of the unidentified man in whose home the activists were in hiding.

1823. Concern was expressed that the arrest, detention and charges brought against Mr. Htay Kywe, Ms. Mie Mie, Mr. Aung Thu, and Mr. Zaw Htet Ko Ko may be directly related to their activities in defense of human rights. In view of reports of ill-treatment and allegations of torture, as well as information received concerning the ill-health of Ms. Mie Mie, serious concern was expressed for their physical and psychological integrity while in detention.

Response from the Government

1824. In a letter dated 9 April 2008, the Government of Myanmar responded to the above communication. The letter stated that Mr. Htay Kywe, Ms. Mie Mie, Mr. Aung Thu, and Mr. Zaw Htet Ko Ko have been detained in prison after due process of law for arranging to write and distribute seditious literature to incite and mislead the people and consequently to jeopardize the National Convention. The prison authorities arranged a regular medical check up for Mr. Htay Kywe, he has been charged and is detained in the Central Prison where his family visits him once a week. He is fit and healthy.

1825. Mr. Aung Thu has been visited by family members and has regular medical and check-ups, paid for by the prison. He is fit and healthy. Mr. Zaw Htet Ko Ko is detained in a separate cell and sees his family once per week. Ms. Mie Mie is detained in a separate cell and received weekly visits from her husband. She has seen the prison doctor and dentist and is fit and healthy.

Observations

1826. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 28 February 2008

1827. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the Situation of Human Rights in

Myanmar sent an urgent appeal to the Government concerning Mr. U Gambira, a Buddhist monk who was one of the leaders of protests in August and September 2007, and headed the All-Burma Monks Alliance (ABMA), which formed to support the demonstrations. Also in relation to Mr. U Gambira's brother, Mr. Aung Kyaw Kyaw, a member of the National League for Democracy (NLD), their father Mr. Min Lwin, and Ms. Su Su Nway, also a member of NLD and a labour activist. All of the aforementioned were the subject of an urgent appeal sent by the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 21 November 2007.

1828. According to new information received Messrs U Gambira and Aung Kyaw Kyaw were charged at the end of January under Section 17/1 of the Unlawful Associations Act, which carries a maximum sentence of three years' imprisonment. A hearing scheduled for 4 February was postponed and the authorities have not yet given a new date. Similar charges have been brought against Ms. Su Su Nway, who is reportedly in poor health. All three are being held in Yangon's Insein Prison, where they may be subjected to torture or ill-treatment.

1829. Mr. U Gambira has been stripped of his monk's robes and both he and Mr. Aung Kyaw Kyaw have allegedly been tortured in detention. Their mother and sister have been able to visit them but they are not known to have been given access to their lawyers. Their father, Mr. Min Lwin was released from Insein Prison on 3 December 2007. He and Aung Kyaw Kyaw were arrested on 4 November 2007 and 17 October 2007 respectively, reportedly in an attempt to force U Gambira out of hiding.

1830. Ms. Su Su Nway has reportedly been charged under sections 124, 125 and 505 of the Penal Code, which relate to sedition and incitement to offences that damage "public tranquility". She was reportedly due to stand trial on 6 February in Yangon's Bahan Township, but no information is currently available regarding the judicial proceedings. Su Su Nway has not been allowed to meet her family or receive parcels from her family. Her health is said to be deteriorating as she suffers from a heart condition and, on one occasion, had to be taken to a hospital outside the prison for treatment.

1831. Concern was expressed that the arrest, detention and charges brought against Messrs U Gambira and Aung Kyaw Kyaw, and Ms. Su Su Nway may be directly related to their activities in defense of human rights. In view of reports of ill-treatment and allegations of torture, as well as information received concerning the ill-health of Ms. Su Su Nway, serious concern was expressed for their physical and psychological integrity while in detention.

Response from the Government

1832. In a letter dated 22 April 2008, the Government of Myanmar responded to the above communication and the communication of 21 November 2007. The letter stated that in July 2006, U Gambira and his brother Mr. Aung Kyaw Kyaw illegally contacted AAPP, unlawful organization based in Thailand. He also led to form the All-Burma Junior Monks Alliance and sent 20 monks to attend the abovementioned trainings. He illegally crossed the border between Myanmar and Thailand. He received financial support from AAPP and FDB, unlawful exiled groups and then instigated civil unrest in the country. He was therefore arrested

on 4 November 2007, and after due process of law, he has been charged under the section 13 (1) of the Immigration (Emergency Provisions) Act and other Acts. He is detained in the Central Prison and his family visits him once a week. He is fit and healthy in the prison.

1833. Mr. Aung Kyaw Kyaw had illegal contact with Bo Kyi from AAPP, unlawful organization in Mae Sot and attended the course on Public Defiance conducted by FDB. On 17 October 2007, the authorities concerned arrested him while he was receiving the cash transferred by Bo Kyi. After due process of law, he has been charged and is detained in the Central Prison where his family visits him once a week. He is fit and healthy.

1834. On 11 November 2007, Su Su Nway was arrested as she was attempting to incite civil unrest by placing a poster written anti-government slogan at a public place. She has been charged and is detained in the Insein Central Prison where her family visits him once a week. She is fit and healthy.

Observations

1835. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 22 April 2008

1836. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, the Special Rapporteur on the question of torture and the Special Rapporteur on the Situation of Human Rights in Myanmar sent an urgent appeal to the Government concerning the situation of Mr. Paw U Tun (alias Min Ko Naing). Mr. Paw U Tun was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 31 January 2008, an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 August 2007 and an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar on 6 October 2006.

1837. According to new information received since late March 2008, Mr. Paw U Tun has reportedly been suffering from a severe eye infection while in detention. Mr. Paw U Tun requested to visit an ophthalmologist, but the prison authorities refused this request, claiming that an eye doctor would not be available before May 2008. According to reports, Mr. Paw U Tun's eye condition prevents him from eating and sleeping because of the acute pain.

1838. Concern was expressed that the continuing detention as well as the refusal of the prison authorities to allow Mr. Paw U Tun to see an ophthalmologist may be linked to his non-violent activities in defense of human rights.

Observations

1839. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 23 April 2008

1840. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations regarding information that Ko Thiha was sentenced to 22 years of imprisonment for sedition and upsetting public tranquillity.

1841. According to information received, on 7 September 2007, a man left four publications titled "The people awake! Time to take to the streets!" at a photocopy shop in Mandalay, which were later collected by Ko Thiha and another man. The police reportedly came to look for the three men, and arrested Ko Thiha on the road to his hometown of Meikhtila. According to reports, Ko Thiha was brought to the district court of Mandalay on 14 September 2007 where he was charged with sedition and upsetting public tranquillity, on the ground that the publications he collected were "inflammatory" and "anti-Government". It is alleged that the trial was held at a special court in the Mandalay prison, and that the accused was not represented by a lawyer and was not able to call for witnesses. Reports further indicate that a judge testified that Ko Thiha made a confession, which the accused denied. On 17 September 2007, Ko Thiha was reportedly sentenced to 22 years imprisonment by the presiding judge, who ordered warrants for arrest for the other two men.

Observations

1842. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal on 23 June 2008

1843. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning Mr. Zarganar, a famous comedian in Myanmar who had been leading some of the relief efforts after the Nargis cyclone hit the country in early May 2008 and Mr. Zaw Thet Htwe, Chief Editor of weekly journal Sports Lovers and former Editor-in-chief of First Eleven Sports Journal in Rangoon.

1844. According to information received in the evening of 4 June 2008, some seven police led by the Yangon Western District police chief and the local council chairman came to Mr. Zarganar's house and searched it. They seized personal belongings as well as USD 1,000 collected as part of the cyclone relief effort. They then arrested Mr. Zarganar and took him to an undisclosed location. His whereabouts remain unknown as of today.

1845. Prior to his arrest, Mr. Zarganar had given interviews to international radio stations and other media about his relief work and the needs of the population and he had also criticized the response of the State authorities to the cyclone's aftermath.

1846. On 13 June 2008, Mr. Zaw Thet Htwe was arrested by special branch police officers at his ailing mother's residence in the central city of Minbu, Magway Township, central Myanmar. Following the arrest, officers proceeded to Mr. Zaw Thet Htwe's home where they searched the premises and confiscated personal belongings, including his mobile phone, computer and various work related documents. Reports claim that Mr. Zaw Thet Htwe's arrest may be related to his involvement in organising a number of deliveries of aid to victims of Nargis cyclone, which devastated the Irrawaddy Delta region. He had reportedly been prohibited from writing openly about the disaster prior to his arrest. Mr. Zaw Thet Htew has apparently been taken to an interrogation camp in Rangoon.

1847. Previously in July 2003, Mr. Zaw Thet Htwe, was arrested following the publication of an article which questioned how authorities were spending a four-million-dollar football grant. Following his arrest, Mr. Zaw Thet Htwe was charged with treason and sentenced to death for allegedly plotting to overthrow the government. The Supreme Court commuted his sentence and he was released after 18 months.

1848. Concern was expressed that the arrest and detention of Mr. Zarganar and Mr. Zaw Thet Htwe may be linked to their non-violent activities in defense of human rights, in particular their relief work in favour of the victims of the Nargis cyclone. In view of their incommunicado detention, further concern was expressed for their physical and psychological integrity.

Response from the Government

1849. In a letter dated 22 July 2008, the Government of Myanmar responded to the above communication. The letter stated that on 4 June 2008, Mr. Zaganar's residence was searched by the authorities and witnesses. Evidence included VCDs, US dollars and other items which were found and confiscated. According to the interrogation, amongst other charges, Mr. Zarganar could be charged for reproducing and distributing VCDs without permission, for connecting and providing distorted information opposing the State to foreign news agencies, for providing support during the Sanga unrest on 24 and 25 September 2007.

1850. On 13 June 2008, a computer system-unit and hand phone was confiscated from Mr. Zaw Thet Htwe. He is facing charges including support for the Sanga unrest by buying foodstuffs for the monks and for infringing peace and law and order of the State.

1851. The letter states that the arrests of Mr. Zarganar and Mr. Zaw Thet Htwe were due to their violations of the law, and not on the accusation of providing donations to the cyclone victims. In Myanmar, numerous well-wishers and donor organizations from domestic and abroad are traveling to the cyclone hit areas for the purpose of donating relief supplies and no one had been arrested for donating and providing cash and kinds to the storm victims.

Observations

1852. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 19 August 2008

1853. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of

the human rights defenders and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning the case of Mr. Myint Aye, leader of the Human Rights Defenders and Promoters group.

1854. According to the new information received, on 8 August 2008, the house of Mr. Myint Aye was searched by the Chief of Police of Kyi Myint Taing Township, together with other police and administration officers. They seized a number of documents and personal belongings, and proceeded to arrest him.

1855. On 9 August, the family of Mr. Myint Aye was visited by police officers who asked for some of his clothes and stated that he will remain in custody for an unspecified period of time without indicating the charges held against him. The whereabouts of Mr. Myint Aye remain unknown as of today.

1856. Concern was expressed that this latest arrest and detention of Mr. Myint Aye may be linked to his non-violent activities in defense of human rights, and may form part of a pattern of harassment against him, and more generally against human rights defenders in Myanmar. In view of his incommunicado detention, further concern was expressed for his physical and psychological integrity.

Response from the Government

1857. In a letter dated 23 October 2008, the Government of Myanmar responded to the above communication. The letter stated that Mr. Myint Aye was arrested for the involvement in the bombing which took place at the office of Shwepyitha Township Union Solidarity and Development Association in Yangon on 1 July 2008. According to the interrogations made by the authorities, he accepted a packet of explosive wrapped in black polythene bag from an unidentified youth aged about 20, who was sent by Sit Naing (his organization under investigation) on 30 June 2008.

1858. Mr. Myint Aye personally handed over the packet to Htantabin NLD youth named Yan Shwe who left for Shwepyitha Township to plant the bomb. After the bomb explosion, Yan Shwe went to Myint Aye to report their success, who then reported the information by telephone to Kyaw Htet, who handed over the bomb to Sit Naing to bring into the country and masterminded the Shwepyitha bombing. Myint Aye gave Kyat 150,000 in advance to Yan Shwe for planning the bomb. Furthermore, on 2 July 2008, out of the remaining Kyat 1.35 million, he gave Kyat 500,000 to Yan Shwe.

1859. According to further investigation, Myint Aye sent NLD youths to Maesot for the explosives and apolitical defiance courses conducted by anti-government groups and accepted illegal money to carry out anti-government activities. To this end, he was arrested at his house on 8 August 2008. Actions are being taken against Myint Aye under sections of the Explosive Act of 1908, the Immigration Act and the Lawful Association Act. The court hearing against Yan Shwe and Zaw Zaw Aung (Shwepyitha NLD), at the Shwepyitha Court on 8 August 2008, they confessed to the judge that Mr. Myint Aye accepted the bag contained the bomb and he personally handed over to Yan Shwe.

Observations

1860. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 9 September 2008

1861. On 9 September 2008, the Special Rapporteur, together with the Special Rapporteur on the Situation of Human Rights in Myanmar and the Special Rapporteur on the question of torture, sent an urgent appeal in relation to Mr. Win Tin, aged 78, ex-Vice President of the Journalist's and Writer's Association of Myanmar, and a former senior advisor to the National League for Democracy (NLD). Mr. Win Tin was the subject of an urgent appeal sent on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture, and Special Rapporteur on the situation of human rights in Myanmar, on 27 July 2005. His case was also referred to in an urgent appeal sent on behalf of the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the question of torture and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on 27 January 2006.

1862. Mr. Win Tin was arrested in 1989 and sentenced to three years in prison on allegedly fabricated charges of harbouring an "offender for whom a warrant had been issued". In 1992 he was sentenced to an additional 11 years in prison for a variety of offences linked to his opposition activities. During his time in prison Mr. Win Tin has suffered ongoing health problems. Mr. Win Tin is said to have consistently refused to sign a document disassociating himself from the NLD which would allegedly have secured his release. He remains in detention at Insein Prison, in Yangon.

1863. According to new information received, since June 2008, Mr. Win Tin's health has been progressively deteriorating. He suffers from heart disease and spondylitis (a condition which causes inflammation of the joints of the spine), and in recent months Mr. Win Tin has been experiencing severe asthma attacks and lung problems. In late June 2008, a family member who visited Mr. Win Tin in prison reportedly found him thin and weak. His current health problems are also preventing him from eating and sleeping properly. Mr. Win Tin is allowed to see a doctor on a regular basis and has been prescribed medication; however the treatment he is receiving has apparently done little to prevent further deterioration of his condition. Since October 1997, Mr. Win Tin has been treated repeatedly in the prison hospital, most recently in January 2008 when he underwent a hernia operation.

1864. Mr. Win Tin's poor health has been exacerbated by his alleged ill treatment in prison, which has included torture, inadequate access to medical treatment and detention in a cell designed for military dogs, with concrete floors and without bedding. He has for long periods of time been deprived of food and water and has spent much of his prison term in solitary confinement. In July 2005, Mr. Win was informed by prison authorities that he would be released, together with more than 100 political prisoners in Insein Prison. The majority of the group was freed, but Mr. Win Tin and around a dozen other detainees were returned to their cells. Mr. Win Tin was apparently due for early release in 2006. His release date is now understood to be planned for June 2009.

1865. Concern was expressed for the physical and psychological integrity of Mr. Win Tin, particularly given the reports that he is suffering from serious health complaints and allegation of torture. Further concern was expressed that the ongoing detention of Mr. Win Tin may represent a direct attempt to undermine the right to freedom of opinion and expression in Myanmar.

Observations

1866. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 2 October 2008

1867. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on violence against women sent an urgent appeal to the Government concerning the case of Ms. Nilar Thein, aged 36, a human rights defender and pro-democracy activist.

1868. According to the information received, Ms. Nilar Thein, a leader of the democratic opposition in Myanmar, was arrested on 10 September 2008 on her way to visit the mother of Mr. Ant Bwe Kyaw, another detained activist, in a suburb of north eastern Yangon. She is currently being detained and interrogated at Aung Tha Pyay Detention Centre in Yangon. Mr. Ant Bwe Kyaw and Ms. Nilar Thein's husband, Mr. Kyaw Min Yu (also known as Ko Jimmy), were among thirteen members of the so-called "88 Generation Students Group" who were arrested on 22 August 2007. The following day, Ms. Nilar Thein led around 500 people in a demonstration in Yangon to demand the release of fellow activists and to continue the protest against the sudden increase in fuel prices that had been imposed by the Government on 15 August 2007. Thereafter, Ms. Nilar Thein went into hiding, forced to leave her baby daughter in the care of her family. Ms. Nilar Thein was imprisoned twice before for her activities in support of democracy and the rule of law in the country. She was detained for two months in 1991. Following her arrest in December 1996 she was tried for participating in the students' demonstrations in Yangon of that year and sentenced to 10 years' imprisonment. She was released in 2005.

1869. Concerns were expressed that the arrest and detention of Ms. Nilar Thein might be solely connected to her reportedly peaceful exercise of her right to freedom of expression and to assembly.

Observations

1870. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 2 October 2008

1871. 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 in Myanmar sent an urgent appeal concerning Mr. Ohn Kyaing, age 64, a former prominent journalist in Myanmar.

1872. According to the information received, on 1 October 2008, at approximately 10:00 p.m., Mr. Kyaing was arrested at his home by military authorities. The reasons for the arrest and detention, as well as his current whereabouts are unknown. Mr. Kyaing was previously released from prison in 2005 after serving 15 years of a 17-year prison sentence for “writing and distributing seditious pamphlets”. Mr. Kyaing joined the National League for Democracy (NLD) after a long career in journalism and won a parliamentary seat in 1990.

1873. Concern was expressed that the arrest and incommunicado detention of Mr. Kyaing may be linked to his political activities.

Observations

1874. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 5 November 2008

1875. On 5 November 2008, Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning the case of Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min, human rights lawyers who have participated in the defence of 11 youth members from Hlaing Thar Yar Township, Yangon, of the National League for Democracy (NLD).

1876. According to the information received, in September 2008, 11 youth members from Hlaing Thar Yar Township, Yangon, belonging to the NLD, were arrested for having reportedly peacefully marched towards the Shwe Dagon Pagoda on 19 June 2007, on Daw Aung San Suu Kyi’s birthday. The 11 demonstrators were arrested during the march and released the next day by the authorities. One year later, they were arrested again, charged with ‘instigation to public unrest’ and brought to trial before the Hlaing Thar Yar Township Court.

1877. During the trial, the 11 defendants and their two lawyers, Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min, submitted a complaint to the judge to address the violations of their rights, because, since the beginning of the trial, the lawyers have reportedly not been allowed to meet with their clients in private; the judge has not allowed them sufficient time to make counter questions against the prosecution witnesses; and their family members have not been allowed to attend the court hearings. Furthermore, it is alleged that the police and some plain-cloth persons have also been taking pictures and recording their voices during these hearings.

1878. During the trial, three defendants, Messrs Yan Naing Tun, Myo Kyaw Zin and Aung Min Naing (aka) Mee Thwe argued that they were released in June 2007 by the authorities, who claimed then that the authorities considered them as “sons and daughters” and gave them “great forgiveness”. Therefore, these three defendants reportedly requested the judge to summon the Minister of Home Affairs Mr. Maj-Gen Maung Oo, and the Chief of Police Mr. Brig-Gen Khin Yee as their defence witnesses. The judge rejected their request and asked their lawyers, Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min, to control their clients. The two lawyers responded that they were to follow instruction made by their clients. Then the Prosecutor

decide to sue the two lawyers along with Messrs Yan Naing Tun, Myo Kyaw Zin and Aung Min Naing (aka) Mee Thwe under Section 228 of the Penal Code, and issued a arrest warrant against Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min.

1879. On 29 October 2008, Mr. Nyi Nyi Htwe was reportedly arrested by the police, and on 30 October, he was sentenced by the Yangon Northern District Court to six months' imprisonment reportedly for "interruption and insulting the judiciary proceeding" under Section 228 of the Penal Code. He was sentenced along with Messrs Yan Naing Tun, Myo Kyaw Zin and Aung Min Naing (aka) Mee Thwe. None of them were reportedly allowed to have legal representation. When Mr. Nyi Nyi Htwe asked the judge to allow him to make his own defence, the judge threatened him with another lawsuit. They are all detained in Insein Prison. As for Mr. Saw Kyaw Kyaw Min, he failed to appear on 30 October 2008 and his whereabouts are unknown as of today.

1880. Serious concern was expressed that the arrest warrant against Messrs Nyi Nyi Htwe and Saw Kyaw Kyaw Min, and the subsequent arrest and detention of Mr. Nyi Nyi Htwe may be linked to their non-violent activities in defence of human rights. Further concern was expressed for their physical and psychological integrity while in detention. Finally, concern was expressed that these latest incidents may form part of a pattern of harassment against human rights defenders in Myanmar.

Response from the Government

1881. In a letter dated 29 December 2008, the Government of Myanmar responded to the above communication. The letter stated that on 15 May 2007, at 7.30 a.m. eleven persons marched from Hlaing Thatyar Township to Yangon-Nyaung Done Road wearing white color tee-shirts imprinted red color logo "Free Aung San Suu Kyi." The group refused to disperse, for that reason the chief of police took legal actions against them on 3 July 2008. The information in the above communication is therefore incorrect, the correct date for the march was 15 May 2007, not 19 June 2007 and the date of their arrest was 28 August 2008.

1882. In response to the allegation that "lawyers have not been allowed to meet with their clients in private," the letter stated that permission was given to the defendants to meet freely with their lawyers both in Insein prison and in the detention area of Hlaing Township Court. Furthermore, defendants were allowed to make counter questions during the trial and their family members were allowed to attend the court hearings. On 30 October 2008, the court found that Yan Naing Tun, Myo Kyaw Zin, Aung Min Naing (a) Mee Thew and the lawyer U Nyi Nyi have violated the Section 2208 of the Penal Code and sentenced them to six months imprisonment without labour. Saw Kyaw Kyaw Min disappeared or went into hiding since and the authorities are searching for him. Legal actions against U Nyi Nyi and Saw Kyaw Kyaw Min are not in conflict with international human rights norms and standards.

Observations

1883. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 5 November 2008

1884. On 5 November 2008, Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning the case of Mr. Min Ko Naing and 34 other members of the so-called “88 Generation Students”, Mr. Ko Ko Gyi, Mr. Pyone Cho (aka) Htay Win Aung, Mrs. Min Zeya, Mya Aye, Mr. Kyaw Min Yu, Mr. Zayya, Mr. Kyaw Kyaw Htway, Mr. Ant Bwe Kyaw, Mr. Pannate Tun, Mr. Zaw Zaw Min, Mr. Thet Zaw, Mr. Nyan Lin, Mr. Than Tin, Mrs. Sandar Min, Mr. Htay Kywe, Mr. Hla Myo Naung, Mr. Aung Thu, Mr. Myo Aung Naing, Mrs. Thin Thin Aye, Mrs. Thet Thet Aung, Mrs. Lay Lay Mon, Mrs. Hnin May Ag, Mrs. San San Tin, Mrs. Thara Phee Theint Theint Tun, Mrs. Aye Thida, Mrs. Ma Nweah Hnin Ye, Mr. Zaw Htet Ko Ko, Mr. Chit Ko Linn, Mr. Thaw Zin Tun, Mr. Aung Thike Soe, Mr. Saw Myo Min Hlaing, Mr. Tin Htoo Aung, Mr. Thein Than Tun and Mr. Min Han.

1885. According to the new information received, starting on 27 August 2008, after over one year of detention without trial in Insein Prison, Min Ko Naing and 34 other members of the “88 Generation Students” have been brought before courts where they face charges under Section 130 (B) of the Penal Code, Section 4 of the Law Protecting the Peaceful and Systematic Transfer of the State Responsibility and the Successful Performance of the Functions of the National Convention against Disturbance and Opposition Endangering National Convention (SPDC Law No. 5/96), Section 17 and 20 of the Printers and Publishers Registration Act, Section 33 (A) of the Electronic Transactions Law, Section 17 (1) of the Unlawful Association Act, Section 505 (B) of the Penal Code, Section 32 (B) and 36 of the Television and Video Law and Section 24 (1) of the Foreign Exchange Regulation Act (1947) and Section 6 of the Law Relating to Forming of Organizations (SLORC Law 6/88) in a total of 21 trials.

1886. Their cases were initially heard by township courts and two district courts, but subsequently all transferred to the Rangoon Eastern District Court, the Yangon Western District Court and the Rangoon Northern District Court. It is alleged that all trials are held inside the Insein Prison Compound.

1887. During the hearing on 27 August, the defendants requested that their family members, the public, and media should be allowed to attend the hearing. In addition, they demanded not to be handcuffed during the hearing. During the hearing on 10 September, during which they were still handcuffed, family members were allowed to attend the hearing; however, no access was granted to other people wishing to attend.

1888. During the court hearing on 29 October 2008, Min Ko Naing, Ko Ko Gyi, Mya Aye, Nyan Lin, Pyone Choe, Aung Thu, Hla Myo Naung, and Aung Naing stood up and complained about the lack of an independent judiciary and that their rights were not respected. The judge then charged them with Section 288 of the Penal Code for disturbing the court procedure and sentenced them to six-month imprisonment for each of them. Subsequently, the judge ordered security forces to remove the defendants from the court and adjourned the trial.

1889. On 30 October, Zaw Zaw Min was sentenced to two years of imprisonment with hard labor under the Section 505 (B) of the Penal Code.

Response from the Government

1890. In a letter dated 29 December 2008, the Government of Myanmar responded to the above communication. The letter stated that even though it took a year to gather information to take legal actions and apprehend fugitives of the 88 Generation Students, which was acted upon group basis, they were brought before the courts by given remands to rules and procedures of the law. Cases of the 35 members of 88 Generation Students were brought before the ten special courts on 27 August, 2008. Permission was given to family members of the defendants to attend the court hearings and permission was furthermore given to the defendants to hire attorneys. It was therefore an open court hearing for the defendants since the above-mentioned rights and privileges. As stipulated by the law, they were handcuffed during court hearings and were not entitled to get bail.

1891. Nine defendants, Min Ko Naing, Ko Ko Gyi, Mya Aye, Htay Kyawe, Nyan Lin, Pyone Choe, Aung Thu, Hla Myo Naung, and Aung Naing were given 6 months imprisonment for intentionally insulting the public servant sitting in judicial proceedings. Zaw Zaw Min (a member of the 88 Generation Students) was sentenced to a total of 65 - 60 years imprisonment. The court hearings of the Min Ko Naing and 34 other members of the 88 Generation Students were carried out according to the law and the proceedings were in line with the Article 10 of the Universal Declaration of Human Rights.

Observations

1892. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 12 November 2008

1893. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the situation of human rights in Myanmar sent an urgent appeal to the Government concerning the case of Mr. Zaw Min, a human rights defender who was reportedly physically and psychologically tortured during his detention in Insein Prison between August and October 2007. After his release, Mr. Zaw Min documented human rights abuses which he had witnessed in prison.

1894. According to information received, in late November 2007, Mr. Zaw Min was detained under section 505 of the Myanmar Penal Code for sending false information abroad. Before his case was brought to court, on 26 March 2008, he was reportedly detained illegally by military intelligence. All witnesses in the trial were Special Branch police officers whose identities are known to us. One of these witnesses told the court that he got information about Mr. Zaw Min's activities when interrogating him. It is suspected that torture may have been used during these interrogations. No independent witnesses appeared in court.

1895. Concern was expressed that the detention of Mr. Zaw Min may be directly related to his documentation of human rights abuses in prisons. Further concern was expressed for the physical and psychological integrity of Mr. Zaw Min.

Observations

1896. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 13 November 2008

1897. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the situation of human rights in Myanmar sent an urgent appeal to the Government concerning the case of Mr. Aung Thein and Mr. Khin Maung Shein, lawyers, representing members of the National League for Democracy in current criminal proceedings.

1898. According to the information received, on 7 November 2008, Mr. Aung Thein and Mr. Khin Maung Shein were sentenced to four months of imprisonment by the High Court for contempt of court, reportedly under section 3 of the Contempt of Courts Act. In October 2008, their clients had complained orally during judicial proceedings that they did not enjoy a fair trial. In order to show their distrust in the justice system, the lawyers' clients had expressed their wish to no longer be represented by their defense counsels. On 6 November 2008, a written complaint had been submitted in this regard by the two lawyers to the Hlaing Township Court which reported the complaint to the High Court. The judge hearing the case at the Hlaing Township Court had instructed the defendants to submit their complaints in writing through their legal counsels.

1899. In the evening of 7 November 2008, Mr. Aung Thein and Mr. Khin Maung Shein were arrested by the police and taken to local police stations. They were subsequently transferred to Insein prison where they are to serve four months of imprisonment.

Response from the Government

1900. In a letter dated 12 January 2009, the Government of Myanmar responded to the above communication. The letter stated that Mr. Aung Thein and Mr. Khin Maung Shein orally presented to the court that they will repeal from representing as defence counsels of their clients. Due to their contempt against the judiciary system, Supreme Court (Yangon) heard their case on 6 November 2008 and sentenced them to four months imprisonment each on 7 November 2008. The following day they were sent to Insein Prison.

1901. During the court hearing, the defendants have not given any complaints that they did not enjoyed a fair trial nor give instruction to their lawyers not to be represented any longer. The two lawyers did not submit any written complaint to the court. They only submitted their letter of repeal to the Hlaing Township Court on 20 October 2008. To this end no further inquiry was being made since there was no complain submitted to the court.

Observations

1902. The Special Rapporteur is grateful for the Government's reply.

Follow-up to previously transmitted communications

1903. In a letter dated 14 February 2008, the Government responded to a joint urgent appeal of 13 December 2007. The Government reported that U Tin Hla was detained under the section 5 (i) of the Emergency Provisions Act 1950 and he had been released on 25 October 2007.

1904. In a letter dated 14 February 2008, the Government responded to a joint urgent appeal of 10 December 2007. The Government reported that U Aung Zaw Oo had illegal contact with Forum for Democracy in Burma which is an unlawful anti- government organization based in Thailand. It was found that he had received the financial assistance from that organization and attended the training. He illegally left from Myanmar to Thailand and then returned illegally to Myanmar. It was also found that he provided distorted information to Foreign News Agencies with the intention to destroy the interests of Myanmar people. He was therefore arrested on 3 December 2007 and legal proceedings had been instituted under section 17 (1) of the Unlawful Associations Act 1908, section 13(1) of Immigration (Emergency Provisions Act) 1947 and section 505(b) of the Penal Code.

1905. In a letter dated 22 April 2008, the Government responded to a joint urgent appeal of 21 November 2007. The Government reported that in July 2006, U Gambira and his brother Mr. Aung Kyaw Kyaw illegally contacted MPP, unlawful organization based in Mae Sot, Thailand and attended the course on Political Defiance conducted by FDB, unlawful organization based in Thailand. He also led to form the All-Burma Junior Monks Alliance and sent 20 Monks to attend the abovementioned trainings. He illegally crossed the border between Myanmar and Thailand. He received the financial support from AAPP and FDB, unlawful exiled groups and then instigated to cause civil unrest in the country. He was arrested on 4 November 2007. After due process of law, he has been charged under the section 13(1) of the Immigration (Emergency Provisions) Act, the section 17 (I) of the Unlawful Association Act and the section 124 (A) of the Penal Code. He is detained in the Central Prison and his family visits him once a week He is fit and healthy in the prison. Mr. Aung Kyaw Kyaw had illegal contact with Bo Kyi from AAPP, unlawful organization in Mae Sot and attended the course on Public Defiance conducted by FDB. He received the financial support from Bo Kyi; and instigated civil unrest in the country. On 17 October 2007, the authorities concerned arrested him while he was receiving the cash transferred by Bo Kyi. After due process of law, he has been charged under the section 13(1) of the Immigration (Emergency Provisions) Act, the section 17 (I) of the Unlawful Association Act and the section 124 (A) of the Penal Code. He is detained in the Central Prison and his family visits him once a week He is fit and healthy in the prison. Ms. Su Su Nway on 11 November 2007, she was arrested as she was attempting to incite civil unrest by placing a poster written antigovernment slogan at a public place. She has been charged under the section 124 (A), 130 (B) and 505 (B) of the Penal Code for causing fear or alarm to the public and thereby to disturb the public tranquillity. The authorities concerned conducted the necessary investigation and the court is still examining the witnesses. She is currently detained in the Insein Central Prison and her family regularly visits her. She is fit and healthy in the prison.

Observations

1906. The Special Rapporteur is grateful for the Government's replies.

Nepal

Urgent appeal sent on 25 July 2008

1907. The Special Rapporteur, together with the Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government concerning members of the National Alliance of Women Human Rights Defenders (NAWHRD), Ms. Bharati Singh, Ms. Sharda Chand, Ms. Naru Singh and Ms. Kalsa Mahara. On 16 July 2008, an urgent appeal was sent to the Government regarding the death of Ms. Laxmi Bohara, member of the NAWHRD, on 6 June 2008, and threats against other NAWHRD members. No response has yet been received from the Government. Members of the NAWHRD have been investigating Ms. Bohara's death, in particular in connection with women rights defenders' protection concerns.

1908. According to information received, on 21 and 28 June 2008, Ms. Bharati Singh received anonymous telephone calls, threatening that she would face "bad consequences" if she continued with her investigations into the death of Ms. Laxmi Bohara. On 17 June Ms. Kalsa Mahara also received an anonymous threatening telephone call. Ms. Sharda Chand has also been the victim of over twelve anonymous telephone calls in which she has received death threats and has been told not to intervene in Ms. Laxmi Bohara's case. On one occasion she was told that the members of the NAWHRD would be killed within seven days if investigations into Ms. Laxmi Bohara's case continued. Furthermore, in the morning of 27 June 2008, Ms. Sharda Chand was knocked down by an unknown motorcyclist. She sustained minor injuries. That afternoon Ms. Naru Singh and Ms. Kalsa Mahara were returning from a meeting of women human rights defenders by motorcycle when an unknown cyclist tried to stop them twice and briefly pursued them. On 2 July, Ms. Sharda Chand, Ms. Kalsa Mahara and Ms. Bharati Singh filed a joint complaint on those incidents at the Kanchanpur District Police Office.

1909. In the afternoon of 2 July 2008, a group of twenty or thirty men reportedly led by the brother of the late Ms. Laxmi Bohara's husband came to the district office of the NAWHRD and threatened Ms. Sharda Chand. The mother-in-law of the late Ms. Laxmi Bohara also went to the office with a group of women and shouted that the office should be set on fire and Ms. Sharda Chand should be killed. The crowd surrounded and entered her office, but was dispersed shortly after upon arrival of the police. Ms. Sharda Chand was also threatened by a similar group which had gathered outside her house. Ms. Sharda Chand filed two written complaints and some additional verbal complaints at the Kanchanpur District Police Office about these incidents.

1910. Concern was expressed that the threats and intimidation of the aforementioned members of the NAWHRD may be related to their legitimate work in the defense of human rights, in particular their investigations into the death of Ms. Laxmi Bohara. Further concern was expressed for the physical and psychological integrity of the members of the NAWHRD.

Observations

1911. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Nicaragua

Llamamiento urgente enviado el 8 de octubre de 2008

1912. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente recibido en relación con la Dra. Vilma Nuñez de Escorcía y las organizaciones no gubernamentales (ONG) que trabajan en Nicaragua. La Dra. Vilma Nuñez de Escorcía es Presidenta del Centro Nicaragüense de Derechos Humanos (CENIDH) y Vice-Presidenta de la Federación Internacional de Derechos Humanos en Nicaragua.

1913. De acuerdo con las informaciones recibidas, el 22 de septiembre de 2008, el CENIDH habría condenado agresiones y actos de violencia realizados por simpatizantes del Frente Sandinista de Liberación Nacional (FSLN) y miembros de los Consejos de Poder Ciudadano (CPC). En la madrugada del 26 de septiembre de 2008, unos individuos desconocidos habrían tirado aproximadamente 16 bujías eléctricas a las paredes exteriores de la casa de la Dra. Vilma Nuñez de Escorcía. Las bujías eléctricas habrían contenido pintura de roja y negra, los colores de la bandera del FSLN. Además se habrían cubierto el piso y las placas de los nombres de la Dra. Vilma Nuñez de Escorcía y su esposo en manchas rojas. La Dra. Vilma Nuñez de Escorcía habría presentado una denuncia a la policía pero todavía no se habría investigado el caso.

1914. En un incidente diferente, el 1 de octubre de 2008, el Viceministro de Cooperación Externa de Nicaragua se habría reunido con unas ONG. En esta reunión se habrían anunciado medidas para prohibir que las ONG en Nicaragua realicen “actividades partidarias”, y que las marchas, el alquiler de buses y el pago de mantas entren en “ningún plan operativo” suyo. También se habrían anunciado medidas para obligar que las ONG se comporten de modo “para-partidario”; medidas para revisar los convenios de las ONG internacionales y el marco legal de las ONG nacionales e internacionales en Nicaragua; y medidas para crear un mecanismo de “fiscalización conjunta” de los financiamientos recibidos por las ONG. Estas medidas seguirían un proceso, introducido en septiembre de 2008, de revisión del funcionamiento de 4.500 ONG registradas en Nicaragua. 700 de dichas ONG habrían sido investigadas por supuestamente no cumplir con los requisitos legales.

1915. El mismo día el Viceministro de Cooperación Externa de Nicaragua habría anunciado en directo en el Canal 4 que no dejará que las ONG reciban fondos extranjeros. Entre las ONG mencionadas por el Viceministro de Cooperación Externa se habrían encontrado Oxfam Gran Bretaña y el Centro de Investigación de la Comunicación. El Viceministro de Cooperación Externa se habría pronunciado a favor de la creación de una cláusula específica para que no haya “intervención en asuntos políticos” internos en Nicaragua en los convenios de las ONG.

1916. Se expresa preocupación que los actos de hostigamiento contra la Dra. Vilma Nuñez de Escorcía y las ONG que trabajan en Nicaragua podrían estar relacionados con sus actividades en la defensa de los derechos humanos. También se expresa gran preocupación por la integridad física y psicológica de la Dra. Vilma Nuñez de Escorcía y la de su familia.

Observaciones

1917. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Carta de alegaciones enviada el 26 de noviembre de 2008

1918. El Relator Especial envió una carta de alegaciones en relación al hecho de que, en el marco de las elecciones municipales del 9 de noviembre 2008, al menos veinte profesionales de la comunicación habrían sido agredidos y lesionados, incluyendo el Sr. Antenor Peña, la Sra. Rosa María Maliaños, el Sr. Nicolás Berríos, el Sr. Alvaro Montalbán, el Sr. Irvin Guerrero, el Sr. Yahoska Alvarez, el Sr. Fabio Gadea Mantilla, el Sr. Miguel Alvarez, la Sra. Sheyla Cano, el Sr. Osbaldo Rivas, la Sra. Jessica Caldera, el Sr. Iván Olivares, el Sr. Héctor Rosales, el Sr. Yader Montoya, el Sr. Kastalia Zapata, el Sr. Juan José Toruño, el Sr. Albert Poveda, el Sr. Ary Neil Pantoja, el Sr. Manuel Esquivel y el Sr. Octavio Sevilla.

1919. El 18 de noviembre, en horas de la tarde, aproximadamente cuarenta personas encapuchadas y armadas habrían entrado en las instalaciones de Radio Darío, Radio Metro Stereo y Radio Caricias, en la ciudad de León. Se alega que estos individuos habrían intimidado al personal de los medios y destruyeron todo en el paso.

1920. Asimismo, el 12 de noviembre, varios periodistas incluyendo el Sr. David Rivera presentador del Canal 12, el Sr. Nicolás Berríos y el Sr. Octavio Sevilla de Radio Ya, el Sr. Marlon Flores, camarógrafo de Canal 23 habrían sido agredidos mientras ejercían sus labores. Ese mismo día, en horas de la madrugada el vehículo en que se movilizaba el Sr. Berríos, habría sido quemado. El Centro Nicaragüense de derechos humanos (CENIDH) supuestamente habría solicitado a la Policía Nacional que se lleve a cabo las investigaciones correspondientes.

1921. Se expresó profunda preocupación que las agresiones proferidas contra los periodistas de los diferentes medios de comunicación pudiesen estar relacionados con su trabajo en la defensa de los derechos humanos.

Observaciones

1922. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Nigeria

Urgent appeal sent on 17 April 2008

1923. The Special Rapporteur, jointly with the Vice-Chairperson of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the then Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal on the situation of Ms. Sandy Cioffi, Ms. Tammi Sims, Mr. Cliff Worsham, Mr. Sean Porter, U.S. citizens and members of a Seattle-based film crew currently working in the Niger Delta on a documentary film project about the harmful impact of

oil production on the human rights and environmental situation in the Niger Delta since 2005 entitled “Sweet Crude”, and Mr. Joel Bisina, Nigerian citizen and founder of an organization named “Niger Delta Professionals for Development”. According to the information received:

1924. After having entered the country legally on 5 April 2008 and informing the competent authorities about their intention to work on a film, the above-mentioned persons were arrested by forces of the military Joint Task Force under the command of Brigadier-General Rimtiip Wuyep on 12 April in the Delta State while travelling on a boat near the town of Warri. The reason given for their arrests was that they were travelling without military clearance. Reportedly, no laws require such clearance.

1925. Following a six-hour interrogation by Brigadier-General Wuyep they were ordered to be placed into custody and transferred to a detention facility of the State Security in Abuja, where they are currently held without charge. Their defence lawyer, Mr. Bello Lubebe, has been denied access to his clients in the detention facility.

1926. Concern was expressed that the arrest and detention of the abovementioned persons might be solely connected to their reportedly lawful exercise of their right to freedom of opinion and expression, which includes the right to seek, receive and impart information and ideas of all kinds. In view of their incommunicado detention, further concerns were expressed as regards their physical and mental integrity.

Observations

1927. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations on 20 August 2008

1928. On 20 August 2008, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegations on the situation of Mr. Mallam Nuhu Ribadu, former Chairman of the Economic and Financial Crimes Commission. According to the information received, on 5 August 2008, Mr. Mallam Nuhu Ribadu was reportedly demoted from the rank of Assistant Inspector-General of Police to Deputy Commissioner of Police allegedly because his “promotion was irregular and done without regard for the laws guiding such exercise”. Attempts were also reportedly made to arrest him in Kuru, Jos, for questioning. However, it is alleged that these measures were taken on a retaliatory basis to prevent him from investigating alleged corruption of State officials and politicians.

1929. Concern was expressed that the demotion of Mallam Nuhu Ribadu and the reported attempts to arrest him may be linked to his non-violent activities in defense of human rights, i.e. his anti-corruption work.

Observations

1930. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 1 September 2008

1931. The Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal on the situation of Mr. Ibrahim Magu, a former official of the Economic and Financial Crimes Commission (EFCC). According to the information received, on 5 August 2008, Mr. Ibrahim Magu was reportedly arrested for possessing documents related to the EFCC's investigations into alleged corruption of Government officials. Mr. Magu remains in detention and no charges have reportedly been brought against him.

1932. Concern was expressed that the arrest and detention of Mr. Ibrahim Magu may be linked to his non-violent activities in defense of human rights, i.e. his anti-corruption work. Further concern was reported for his physical and psychological integrity.

Observations

1933. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations on 3 September 2008

1934. The Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegations concerning the killing of Mr. Paul Abayomi Ogundeji, a member of the editorial board of the Lagos-based private daily newspaper Thisday. Mr. Ogundeji was a former Features Editor of the Punch Newspapers, one time Editor of The Sunday Comet and Chief Press Secretary to former Lagos state deputy governor Mr. Femi Pedro. We would also like to seek information regarding the killing of another journalist, Mr. Godwin Agbroko, in 2007, as the investigation into the case reportedly remains inconclusive.

1935. According to information received, on 17 August 2008 at approximately 11 p.m., Mr. Paul Abayomi Ogundeji was shot dead near the Dopemu bridge, in a suburb of Lagos. Police reports claim that Mr. Ogundeji was ambushed by armed robbers who had earlier stolen a car. The police allege that Mr. Ogundeji was on his way home when he was stopped by the armed men and ordered to get out of his car. When Mr. Ogundeji refused to comply with these demands he was shot by the assailants and died at the scene. No items were reportedly removed from the Kia Sports Utility Vehicle (SUV) which Mr. Ogundeji was driving.

1936. According to other reports, however, eye witness accounts from local residents in the Dopemu area claim that Mr. Paul Abayomi Ogundeji was shot at close range by men in police uniforms who were manning a police checkpoint at the time. It is believed that an argument ensued between Mr. Paul Abayomi Ogundeji and one of the police officers when Mr. Ogundeji refused to step out of his car. The police officer then reportedly shot Mr. Ogundeji in the head before boarding the police vehicle with colleagues and leaving the scene. Mr. Ogundeji's body was later taken to the Lagos State University Teaching Hospital (LASUTH), by policemen from Idimu Division.

1937. An official police investigation has been opened by the Special Investigation Unit of the Police Force in Abuja in relation to the killing of Mr, Paul Abayomi Ogundeji. The investigation is reportedly being led headed by Commissioner M. Ali Amadu.

1938. The reports received regarding the killing of Mr. Ogundeji bear a preoccupying resemblance to reports regarding the killing of another journalist of the same publication 20 months earlier:

1939. Mr. Godwin Agbroko, chairman of the editorial board of Thisday, was killed on 22 December 2006, in similar circumstances. He was found dead at the wheel of his car, by a roadside in the Isolo district in Lagos, just after he had left his office. A police investigation was opened into the killing of Mr. Godwin Agbroko, and police initially pursued the theory of a botched robbery. However, apparently none of his personal belongings had been stolen, including a mobile phone worth several thousand Nairas. No further evidence of an attempted robbery was made public, and on 15 January 2007 the police announced that he may have been killed by “unknown assassins.” As of today, police investigations remain inconclusive and no arrests have been made in connection with Mr. Godwin Agbroko’s case. Mr. Agbroko had edited several newspapers during the military rule of 1993 to 1999 and was reportedly detained at least twice during those years.

1940. While the reported police investigation into the killing of Mr. Ogundeji was welcomed, concern was expressed that the aforementioned events could represent a direct attempt to prevent independent reporting in Nigeria.

Observations

1941. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 9 September 2008

1942. The Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal on the situation of Mr. Andrew Berends, an award-winning freelance filmmaker and journalist from the United States of America and Mr. Samuel George, a translator from Nigeria. According to information received, in the afternoon of 31 August 2008, Mr. Andrew Berends along with his translator, Mr. Samuel George were arrested by members of the Nigerian Security Services, in the southeastern city of Port Harcourt. They were then transferred to the local headquarters of the State Security Service. Mr. Berends and Mr. George were reportedly subjected to 36 hours of questioning, with no food and little water. Mr. Berends was then provisionally released overnight without charge but ordered to return the following morning. His passport, mobile phone and film equipment were confiscated. Mr. Berends and Mr. George remain in detention on charges of espionage.

1943. Prior to his arrest, Mr. Berends had legally entered Nigeria in April 2008 to complete a documentary he had been working on called “Delta Boys”. The film is sponsored by the New York based Tribeca Film Institute and documents the ongoing oil conflict in the Niger Delta.

1944. Concern was expressed that the aforementioned events may be solely connected to the reportedly lawful exercise of Mr. Andrew Berends and Mr. Samuel George's right to freedom of opinion and expression, which includes the right to seek, receive and impart information and ideas of all kinds.

Observations

1945. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Pakistan

Letter of allegations sent on 18 January 2008

1946. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegation to the Government concerning Ms. Saima Khawaja, student at LUMS Law Faculty, Ms. Erum Hassan, lawyer, Mr. Ahmed Basheer, lawyer, manager in Warid's Legal Affairs Department, Mr. Ikhlas Ahmed, driver of activist Umair Hassan - junior faculty at FAST-NUCES, Mr. Amanullah Kariapper, LUMS alumnus and software engineer, Mr. Mohammed Afaq, lawyer, Mr. Raza Mahmud, pharmacist at Fatima Memorial Hospital, Mr. Omar Pervaiz Kausar, software engineer, Mr. Jawaid Amin, social activist and Mr. Hassan Rehman, Master's student at FAST-NUCES.

1947. According to the information received, on 6 December 2007 at around 10 p.m., Ms. Saima Khawaja, Ms. Erum Hassan, Mr. Ahmed Basheer, Mr. Ikhlas Ahmed, Mr. Amanullah Kariapper, Mr. Mohammed Afaq, Mr. Raza Mahmud, Mr. Omar Pervaiz Kausar, Mr. Jawaid Amin and Mr. Hassan Rehman were arrested by the police while holding a peaceful candlelight vigil at the residence of Justice Siddiqui located in the Judges' Colony in G.O.R. Lahore. At the time of arrest, they were sitting inside the said Justice's residential premises in the compound. Their presence was part of a 24-hour voluntary vigil organised by the Student Action Committee and other social activists to prevent the police from forcefully evicting Justice Siddiqui and his family from his residence.

1948. The arrested were reportedly initially taken to the Race Course police station, and in the early morning of 7 December moved to Manawa Thana near the Wagah border. Later that day they were presented in front of the magistrate at the Lahore Kutchhery and were charged under the Maintenance of Public Order Act for allegedly disturbing local residents of G.O.R. They were also charged under Section 8 of the Anti-Terrorism Act by the Anti-Terrorism Court located near Dharampura. The men were sent to Camp Jail on Ferozepur Road under judicial remand while the two women were sent to the Kot Lakhpat Jail.

1949. On 9 December, Ms. Saima Khawaja and Ms. Erum Hassan were released on bail. On 10 December, the male detainees were transferred from the Camp Jail to house arrest at Mr. Kariapper's house. On 11 December, the Government dropped all charges against the 10 persons. While welcoming the release of all the aforementioned persons, concern was expressed that their arrest and detention may have been linked to their peaceful activities in defense of human rights.

Observations

1950. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 21 January 2008

1951. On 21 January 2008, the Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegation to the Government concerning Mr. Kamran Noorani, Mr. Salahuddin Ahmed, Mr. Naveed Noshad, Mr. Danish, Mr. Muhammad Faisal, Mr. Syed Mustafa Rizvi, Mr. Zafar Aslam and Mr. Asad Umar, all members of civil society organizations, who were arrested during the violent dispersal of a peaceful protest outside the Karachi residence of Mr. Justice Rana Bhagwandas.

1952. According to the information received, on the evening of 13 January 2008, protesters belonging to civil society groups reportedly gathered outside the Karachi residence of Justice Rana Bhagwandas and began to light candles. At this time, police arrived and allegedly used excessive force to disperse the protesters. The aforementioned were arrested and reportedly taken to Darakhshan Police Station, where they were allegedly charged with 'rioting armed with deadly weapons'. Initially the aforementioned were allegedly held incommunicado, but family and lawyers were later informed of their location. Those detained were reportedly released on bail approximately five hours after the arrest. The police allegedly tried to force these activists to sign an undertaking abjuring future participation in any protest as a condition of bail; however, this was withdrawn upon the refusal of those detained to sign such a document.

1953. The protest reportedly arose from the placing under house arrest, on 12 January 2008, of Mr. Justice Rana Bhagwandas, who had been removed on 3 November 2007 under the emergency powers decreed by President Musharraf. The Justice's house arrest reportedly came after he addressed the Karachi Bar Association. It is reported that no formal orders of detention were served on the judge; the police authorities allegedly informed him that he would not be allowed to leave his residence and posted police guard outside the house.

1954. Concern was expressed that the arrests of the aforementioned may have been directly related to their human rights activities. Further concern was expressed for the allegedly excessive force used by police during the dispersal of the protest as well as for the placing under house arrest of Mr. Justice Rana Bhagwandas, and the restrictions placed on his freedom of movement.

Response from Government

1955. In a letter dated 23 July 2008, the Government of Pakistan responded to the above communication. The letter stated that, on 13 January 2008, 20 to 25 people with sticks and banners gathered outside a house in Karachi, blocked the road and demonstrated against the Government. The gathering later became unlawful when it turned into a riot. The rioters did not cooperate when the police asked them to stop rioting. The six men mentioned above were therefore arrested while other rioters fled. No excessive force was used by the police and none of the human rights of the rioters were violated. All police action was carried out in accordance with the law. Mr. Justice Rana Bhagwandas was not under house arrest, nor was any restriction

placed on his freedom of movement. A case was registered against the six arrested men at Clifton Police Station (FIR No. 13/08/ under section 147/148/PPC). They were held at Darakshan police station before being released on their personal bonds being charged on a bail-able offence. Their families and lawyers were informed of their arrest.

Observations

1956. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 18 March 2008

1957. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegation to the Government concerning the ban of the report of the non-governmental organisation Asian Centre for Human Rights (ACHR), entitled "Pakistan: The Land of Religious Apartheid and Jackboot Justice: A report to the UN Committee Against Racial Discrimination" and dated of 8 August 2007, as well the situation of the members of the non-governmental organisation National Commission for Justice and Peace (NCJP).

1958. According to the information received, at its 71st session in August 2007, the Committee for the Elimination of Racial Discrimination (CERD) intended to review the implementation of the International Convention on the Elimination of Racial Discrimination by the Government of Pakistan in the absence of the 15th to 19th periodic reports of the State party which were overdue. In conformity with the established procedure of the treaty body system enabling non-governmental organisations to submit information to the members of the Committee, ACHR submitted the above-mentioned report. The report was made later available on the website of ACHR.

1959. On 25 January 2008, the Secretary to the Home Department Office of the Punjab Province issued the notification No. So (IS-III) 1-1/2004/Pt.II banning the publication of the above-mentioned report. The notice reads as follows: "WHEREAS, it has come to the knowledge of the Government of the Punjab that Asian Centre for Human Rights (ACHR) based at New Delhi, India has published a highly charged and biased report "Pakistan: The Land of Religious Apartheid and Jackboot Justice". The report is being distributed in Pakistan through "National Commission for Justice and Peace" which is an NGO floated/registered by the Catholic Church of Pakistan. Now, THEREFORE, in exercise of the powers conferred by Section-99-A Cr. P.C-1898, the Government of the Punjab is pleased to ban the above mentioned report and order to confiscate to the Government all its copies wherever found in the open market with the immediate effect and to take necessary action against the distributors under the relevant law."

1960. Section 99-A of Pakistan Criminal Procedure Code criminalizes matters which are allegedly "treasonable, a seditious, prejudicial to national integration (of Pakistan), abets riots, which is deliberately and maliciously intended to outrage the religious feelings of such class by insulting the religion or the religious beliefs". The offences are punishable under sections 123A, 124A, 154, section 295A, section 298A and section 298B and section 298C of the Pakistan Penal Code. Anyone found guilty of charges under these sections can be punished with life imprisonment. The notification by the Home Department of the Punjab is legally treated as a

complaint registered against NCJP. However, NCJP had reportedly no role either in the drafting of ACHR's report or its distribution. ACHR prepared the report based on standard methodology, including reports of various NGOs and media.

1961. On 4 March 2008, Father Emmanuel Yousaf, Mr. Mehboob Ahmed Khan and Mr. Peter Jacob, officers of NCJP, were summoned to appear before the Home Department Office of the Punjab Province on 10 March 2008. The 3 men went to the Home Department Office on 10 March as summoned, but the meeting did not take place since the Additional Secretary on Internal Security was reportedly not available.

1962. Concern was expressed that the ban imposed on the above-mentioned report of ACHR as well as the acts of intimidation against members of NCJP may be related to the non-violent activities of the two organizations in defense of human rights. Further concern was expressed that the ban of the ACHR report concerns a report submitted to a United Nations human rights treaty body.

Observations

1963. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 25 April 2008

1964. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning the killing of at least 14 people, including Mr. Haji Aftab Abbasi, a lawyer and Mr. Naeem Querashi, General Secretary of the Karachi Bar Association, and a number of others beaten or disappeared following recent outbursts of violence in Karachi.

1965. According to information received, on 9 April 2008, 14 people reportedly died in Karachi following a series of violent incidents in which six of the deceased, four lawyers, including Mr. Haji Aftab Abbasi and two clients, were reportedly burned alive. Reports from the Karachi Bar Association indicate that the whereabouts of 19 lawyers remain unknown and that they may have been abducted. More than 70 offices were reportedly ransacked and burned, including the office, residence and vehicle of Mr. Naeem Querashi. The offices of the Malir Bar Association were also razed. In addition, five journalists were severely beaten, with one, a female journalist working for a local television channel, sustaining a fractured arm in the incident. More than 50 vehicles were reportedly vandalized and burnt-out and the drivers of two private busses were shot dead.

1966. It was reported that these attacks, killings, burnings and abductions were carried out by members of a the Muttahida Quami Movement (MQM), allegedly following-up violent clashes between MQM members protesting outside the city court buildings and lawyers demonstrating in favour of the deposed Chief Justice. It was unknown whether any arrests had been made in connection with the aforementioned incidents.

1967. Concern was expressed that these most serious incidents could be related to the activities of the lawyers in defense of human rights, of the exercise of their right to freedom of expression and of the independence of the judiciary in Pakistan. In light of these very serious reports, grave concern was expressed for those lawyers whose whereabouts remain unknown.

Observations

1968. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 22 May 2008

1969. The Special Rapporteur sent a letter of allegation to the Government concerning recent notices issued by the Supreme Court regarding media coverage of judges.

1970. According to the information received, on 8 May 2008, the Pakistan Federal Union of Journalists, the GEO News TV channel and the Daily Jang published a report on an alleged meeting between the Federal Secretary of Interior and three Supreme Court judges, including the Chief Justice. On 9 May, one of the judges who participated in the meeting issued a notice to GEO News TV and the Daily Jang asking them to answer charges of seeking to exploit the court and to scandalize its judges. The judge also reportedly ordered the journalists to reveal their sources and stated that the media should not publish any reports involving a judge without prior clearance by court officials. On 12 May, the Supreme Court ordered GEO and the Daily Jang to produce transcripts of all news items published or broadcast since 3 November 2007, when a state of emergency was declared in Pakistan.

Observations

1971. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Letter of allegations sent on 17 June 2008

1972. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the question of torture, sent a letter of allegation to the Government concerning the arrest and detention of Mr. Abdul Wahab Baloch, Chief organiser of the Baloch Rights Council and well known peace activist, and Mr. Gulam Mohammad Baloch, President of the Balochistan National Movement. Both organisations are based in Karachi, Pakistan.

1973. According to information received, in the afternoon of 28 May 2008, Mr. Abdul Wahab Baloch and Mr. Gulam Mohammad Baloch were arrested while returning from a peaceful demonstration in Karachi. The protest had been organised by the Baloch National Front, to mark the tenth anniversary of nuclear tests carried out by Pakistan in the southern province of Chaghi, Balochistan in 1998, and to call for respect for basic human rights for the local population. Both Mr. Wahab Baloch and Mr. Mohammad Baloch were speakers at the event.

1974. After the demonstration, Mr. Wahab Baloch and Mr. Mohammad Baloch went to the Human Rights Commission of Pakistan in Karachi, where they were due to attend a meeting to discuss the issue of disappearances in Balochistan. Before reaching the Commission they were arrested by a number of individuals who covered their heads before forcing them into heavy duty jeeps. Mr. Mohammad Baloch and Mr. Wahab Baloch were taken to the Central Crime Investigation unit in Karachi, where they were detained overnight. In the early hours of the following morning, Mr. Mohammad Baloch was relocated to the Frere Police station where he was detained for a number of hours before being released on bail later that day. He was charged with delivering a provocative speech.

1975. Mr. Wahab Baloch was beaten repeatedly with fists, boots and sticks during the night of 28 May, whilst being interrogated about bombings in Balochistan. On the morning of 29 May, Mr. Wahab Baloch was transferred to an unknown location in an unregistered vehicle linked to several cases of missing persons. Later that same day he was injected with an unknown drug which invoked feelings of numbness and he subsequently lost consciousness for a number of hours. On 31 May, Mr. Wahab Baloch was again transferred to another location, where he was interrogated about the Watan Brigade, an unknown militant organisation. During his detention Mr. Wahab Baloch was moved on a number of occasions, subjected to ill-treatment, held in solitary confinement in small dark cells and severely beaten. His whereabouts were not known until 2 June 2008, when he was transported by jeep to Kala Pull Bridge in Karachi and thrown out of the vehicle. He did not sustain any injuries on this occasion and was able to then make his way home. It was feared that the detention and alleged ill-treatment of Mr. Abdul Wahab Baloch and Mr. Gulam Mohammad Baloch might be related to their activities in defense of human rights. Concern was also expressed that the afore-mentioned incident may represent a direct attempt to restrict the right to freedom of opinion and expression in Pakistan.

Observations

1976. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 22 September 2008

1977. The Special Rapporteur, together with the Special Rapporteur on freedom of religion or belief, sent an urgent appeal concerning threats made against members of the Ahmadiyya community.

1978. According to the allegations, thirty-four years after the adoption of the law related to the Ahmadiyya community in Pakistan, GEO Television broadcasted a programme on 7 September 2008 presented by Dr. Aamir Liaquat Hussain and which saw the participation of Maulana Muhammad Amin and Maulana Muhammad Shahidi. The programme included a panel discussion during which the participants reportedly said that, in reference to the beliefs of the Ahmadiyya community, people who held such beliefs were “Wajib-ul-Qatl” or “liable to death”. This phrase was reportedly used repeatedly during the programme.

1979. On 8 September 2008, Mr. Abdul Manan Siddiqi, President of the Ahmadiyya community in Mirpurkhaas was murdered whilst working in the local hospital. On 9 September 2008, Mr. Seth Muhammad Yousuf, President of the Ahmadiyya community in Nawab Shah was also murdered.

1980. It was feared that both Mr. Abdul Mannan Siddiqi and Mr. Seth Muhammad Yousuf were killed solely because of their association with the Ahmaddiya community.

Observations

1981. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal sent on 1 December 2008

1982. On 1 December 2008, the Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding ongoing threats and harassment against the Peshawar branch of Shirkit Gah and the Strengthening Participatory Organization (SPO). Shirkit Gah is a non-governmental organization (NGO) based in Lahore, which works on women's rights. The SPO is an NGO based in Dera Ismail Khan, which works on development and education.

1983. According to information received, on 20 December 2007, an unknown man called the Peshawar office of Shirkit Gah, threatening that the office would face dire consequences if it were not closed. The NGO immediately informed the police. On 9 August 2008, an email signed by an individual, whose identity is known, from the extremist group Tehreeke Taliban, Pakistan. The email ordered Shirkit Gah to close its office in Peshawar, mentioning that the NGO was working on women's rights issues and expressing the general wish to end NGO activities in the region. In particular objections were raised to female employees not wearing their veils and thereby tempting people towards sinful activities; to females coming out of the office and associating with people other than their relatives; to men having immoral relations with female employees; and to members of staff having had relations with prostitutes. The message claimed that there were photographs and videos to support all of these accusations. The Peshawar office of Shirkit Gah was then threatened that, if it did not take action based on this email, loss of life and of property would ensue. Shirkit Gah was also warned not to share the message with Government officials.

1984. On 4 November 2008, an email signed by Talib bhai (Talib brother) was sent to Shirkit Gah stating that the NGO mobilized women to participate in processions and warning for the last time that the office would have to be closed. The email threatened that, if the office was not closed, the consequences would be alarming: the women working for Shirkit Gah would be kidnapped and killed.

1985. On 8 November 2008, another email, signed by Faqat Talib Apko Sedha Rasta Dhekana y Wala (Talib - lead you for the right path), was sent telling Shirkit Gah that it had not acted on previous warnings and had thereby shown no care for the lives of its members. The email explained that there would be no more chances for Shirkit Gah and that the office would be

bombed. It blamed the Shirkit Gah for women divorcing and being able to approach the courts, claiming that there would be no pardon for the NGO and that it would have to face the consequences.

1986. Meanwhile, in May 2007, the Dera Ismail Khan office of the SPO began to receive threats by phone and mail. On 30 October 2007, at approximately 2.15 a.m., the staff hostel of the SPO in Battagram was bombed. Twelve staff members were injured with two of them being critically injured. Office equipment worth approximately 292,000 rupees was destroyed and the damage to the rented building reportedly cost 500,000 rupees. First Information Report (FIR) 422 was lodged at Battagram police station on the same day at approximately 2.45 a.m. On 27 September 2008, the offices of the SPO were looted, resulting in total loss of approximately 10 million rupees. FIR 549 was lodged at Cantt police station on the same day. In the same region, seven other bomb attacks were directed against NGOs and other organizations in 2007, namely the Peshawar office of the International Committee of the Red Cross (ICRC), the Battagram office of Save the Children, the offices of the National Rural Support Program in Ushu Kalam and Buner, and the office of Khwendo Kor in Karak.

1987. Concern was expressed that the threats and harassment against Shirkit Gah and the SPO may have been related to their work in the defense of human rights, in particular women's rights in the case of Shirkit Gah. Further concern was expressed for the physical and psychological integrity of the members of Shirkit Gah and the SPO. Fear was expressed that these incidents formed part of an ongoing trend of harassment against NGOs in the North West Frontier Province of Pakistan.

Observations

1988. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Papua New Guinea

Urgent appeal sent on 27 May 2008

1989. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal on the situation of Mr. Simon Erero, journalist with the Post Courier national daily. Mr. Erero is the laureate of the 2007 Best News Story of the Year award delivered during the Papua New Guinea Best Medias awards.

1990. According to the information received, Mr. Simon Erero recently received four threatening phone calls from unidentified people following his reporting on a bribery scandal allegedly involving several Papua New Guinean Government officials. In 2006, some US\$ 30 million were reportedly offered to Papua New Guinean officials to convince them to recognize Taiwan as an independent State. Because of these threats, Mr. Simon Erero has been forced to go into hiding.

1991. Concern was expressed that the threats against Mr. Simon Eroro may be related to his non-violent activities in defense of human rights, in particular in the exercise of his right to freedom of opinion and expression.

Observations

1992. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Urgent appeal on 19 August 2008

1993. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal on the situation of Mr. Jethro Tulin, an indigenous Ipili and human rights defender from Enga Province in Papua New Guinea. Mr. Tulin is also the Chief Executive of Akale Tange, a non-governmental organisation based at Porgera that has been documenting alleged human rights abuses associated with Barrick's Porgera Joint Venture Gold mine. Alleged extrajudicial killings at Porgera Joint Venture Gold mine were the subject of an allegation letter sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions on 18 January 2008.

1994. According to information received, on 4 August 2008, Mr. Jethro Tulin was attacked by three men wielding machetes. The attack took place in Mamale village, Laiagam, about 2 ½ hours by road from Barrick Gold's Porgera Joint Venture Mine. During the attack, one of the assailants reportedly threatened Mr. Tulin that he would not be permitted to return to Canada. Mr. Tulin suffered a broken arm in the attack and is reportedly seeking medical attention for his injuries.

1995. Prior to the attack, Mr. Tulin, along with Mr. Anga Atalu and Mr. Mark Ekepa of the Porgera Landowners Association, had visited Canada in an attempt to raise awareness of alleged human rights violations, including killings, reportedly being perpetrated by the Barrick mine's security forces on the indigenous population living near the mine site. During the visit in May, Mr. Tulin delivered a statement at the Barrick's Gold Annual General Meeting in Toronto about the alleged killings by Barrick's security forces. Since his return to Papua New Guinea, Mr. Tulin has received anonymous threats warning him that he should watch out for his own safety.

1996. On 17 July 2008, Mr. Tulin, along with members of the Porgera Landowners Association, were called to a meeting with the Community Affairs Officer of Barrick's mine, reportedly in an intimidating atmosphere, who stated that various organizations that have provided Mr. Tulin and his colleagues with support including Minewatch Canada, Conservation International and the United Nations are tainting Barrick's image abroad.

1997. Mr. Tulin has reportedly been forced to move to a secret location and his movements have been severely restricted.

1998. Concern was expressed that the acts of intimidation and harassment against Mr. Tulin may be linked to his non-violent activities in defense of human rights, i.e. his denouncing of the human rights situation of the indigenous population living in the vicinity of the Barrick's Porgera Joint Venture Gold mine.

Observations

1999. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Peru

Carta de alegaciones enviada el 10 de abril de 2008

2000. El Relator Especial envió una carta de alegaciones en relación con los Señores Juan Zapata Crizanto, periodista del diario "Panorama Cajamarquino", Hipólito Arroyo Carrera y Antonio Guadaña, reporteros de la emisora Radio Líder.

2001. Según las informaciones recibidas, el 3 de abril de 2008, los Señores Crizanto, Carrera y Guadaña habrían sido agredidos cuando cubrían una protesta contra la minera Yanacocha, en Porcón Bajo, Región Cajamarca. Los periodistas habrían sido golpeados por manifestantes, que también habrían intentado quitarles sus cámaras y grabadoras. Los reporteros habrían sufrido lesiones leves. Otros periodistas habrían tenido que huir del lugar al ser amenazados. Según informaciones, los hechos habrían sucedido en una carretera donde había presencia policial, sin que la policía impidiera las agresiones.

Observaciones

2002. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Carta de alegaciones enviada el 5 de mayo de 2008

2003. El Relator Especial, junto con el Relator especial sobre la promoción y protección de los derechos humanos en la lucha contra el terrorismo, envió una carta de alegaciones en relación con la Sra. Melissa Rocío Patiño Hinostroza, poeta y estudiante de administración de empresas.

2004. Según la información recibida, el 29 de febrero de 2008, la Sra. Hinostroza habría sido arrestada junto a otras seis personas en la ciudad de Tumbes cuando regresaba, en ómnibus, de asistir al Segundo Congreso de la Coordinadora Continental Bolivariana (CBB), que tuvo lugar en Quito, Ecuador. Los siete detenidos habrían sido acusados de "afiliación y colaboración con el terrorismo" en relación con su asistencia a dicha reunión. La CCB habría sido acusada de planificar un sabotaje a las reuniones de la Cooperación Económica Asia-Pacífico (APEC), que tendrán lugar en el Perú durante este año. Las seis personas detenidas junto a la Sra. Hinostroza serían ex-miembros del Movimiento Revolucionario Túpac Amaru (MRTA), un grupo marxista revolucionario. Si es declarada culpable, la Sra. Hinostroza podría recibir una sentencia de 20 años de prisión.

2005. Según las informaciones, la presencia de la Sra. Hinostroza en el ómnibus que transportaba a los ex-miembros del MRTA habría sido circunstancial. Su participación en el congreso de la CBB habría estado motivada simplemente por intereses culturales y no políticos. Según la fuente, las autoridades no habrían todavía producido evidencias suficientes que involucren a la Sra. Hinostroza en supuestas actividades terroristas. La Sra. Hinostroza se encontraría actualmente detenida en una prisión de máxima seguridad.

Observaciones

2006. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 16 de septiembre de 2008

2007. El Relator Especial envió un llamamiento urgente en relación con el Sr. Dante Francisco Espeza, corresponsal de la agencia de noticias INFOREGIÓN en los valles de los Ríos Apurímac y Ene. El Sr. Espeza es también director del programa Tribuna Libre de Radio La Pegajosa en el distrito de San Francisco, Departamento de Ayacucho.

2008. Según las informaciones recibidas, el 2 de septiembre de 2008, hacia las 8 horas, el Sr. Dante Francisco Espeza habría recibido una llamada telefónica amenazante. Un sujeto identificado con el alias de 'Julián' le habría advertido al Sr. Espeza que si continuaba informando "mal" sobre la hoja de coca, le mataría. Asimismo, este individuo le habría asegurado al Sr. Espeza que tenía órdenes de asesinarle y que conocía los movimientos de su familia. El Sr. Espeza recibió dicha llamada minutos después del término del programa 'Diálogo Ciudadano' producido por INFOREGIÓN. Durante dicho programa el Sr. Espeza habría criticado los cultivos ilegales de coca en la zona de los Ríos Apurímac y Ene.

2009. Se informó también que esta no es la primera vez que el Sr. Espeza habría recibido amenazas de muerte: el 9 de julio de 2008 recibió una amenaza durante la transmisión de su programa radial.

2010. Se expresó preocupación que las amenazas proferidas contra el Sr. Dante Francisco Espeza, podusien estar relacionadas con sus críticas a los narcotraficantes en la zona de los Ríos Apurímac y Ene. En vista de lo aquí resumido se expresó preocupación por la integridad física y psicológica del Sr. Espeza y de su familia.

Observaciones

2011. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente el 3 de octubre de 2008

2012. El Relator Especial, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos y la Presidenta-Relatora del Grupo de Trabajo sobre Detenciones Arbitrarias enviaron un llamamiento urgente, señalando al Gobierno la información recibida en

relación con los Sres. Humberto Paredes Vargas, Coordinador Regional de la Selva Central del Bloque Amazónico, Francisco Solano Cantoral Huamani, Secretario del Frente de Defensa de Chanchamayo y Fredy Palomino Ñahuero, Presidente del Frente Cívico de Defensa y Desarrollo de los Agricultores y Comunidades Nativas de Pichanaki.

2013. De acuerdo con las informaciones recibidas, el 17 de marzo de 2008, los Sres. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani y Fredy Palomino Ñahuero se habrían dirigido a Oroya para firmar un Acta de Compromiso con las autoridades policiales. El 28 de agosto de 2008, el Juez del Primer Juzgado Penal de la Provincia de Chanchamayo habría ordenado la captura inmediata de los Sres. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani y Fredy Palomino Ñahuero bajo acusaciones de “atentar contra el patrimonio, la seguridad y la tranquilidad pública”. Las acusaciones se basarían en un enfrentamiento violento en Pichanaki entre los miembros de la comunidad y la policía. Sin embargo, dicho enfrentamiento habría pasado el 17 de marzo de 2008, cuando los Sres. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani y Fredy Palomino Ñahuero habrían estado en Oroya. El 22 de septiembre de 2008, el Sr. Fredy Palomino Ñahuero habría sido detenido.

2014. Se expresó preocupación que las acusaciones contra los Sres. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani y Fredy Palomino Ñahuero, y la detención del Sr. Fredy Palomino Ñahuero, pudiesen estar vinculados con sus actividades en la defensa de los derechos de los pueblos indígenas en Perú. También se expresó preocupación por la integridad física y psicológica de dichos defensores de los derechos de los pueblos indígenas.

Respuesta del Gobierno

2015. Mediante carta fechada 13 de mayo de 2009, el gobierno respondió al llamamiento urgente. La carta comunicó que “el Estado peruano reconoce la labor de democratización que desarrollan los defensores de derechos humanos en nuestra sociedad, toda vez que actúan de manera pacífica en la promoción y en la protección de estos derechos; en ese sentido el Estado procura dotar de mecanismos legales efectivos que permitan su adecuado desarrollo”. El gobierno informó que el 6 de agosto del 2008, la Primera Fiscal Provincial Mixta de Chanchamayo formuló denuncia penal contra 10 personas. La acusación se fundó en la comisión de los siguientes delitos: “contra la tranquilidad pública”, “contra la seguridad pública”, “contra el patrimonio” y “contra la administración pública”. El gobierno informó que “el proceso contra los acusados se inició ante el Juzgado Especializado en lo Penal de La Merced, con el Expediente No 298-2008; sin embargo, debido a la falta de pronunciamiento de la Primera Fiscalía Penal respecto a la situación jurídica de los procesados, el expediente fue remitido nuevamente al juzgado competente. En ese sentido, la autoridad judicial mediante auto de fecha 28 de agosto de 2008, ordenó detención preventiva, sustentando tal decisión en la verificación de los requisitos contenidos en el artículo 135 del Código Procesal Penal, a saber, riesgo de fuga, pruebas ciertas de comisión del delito y duración de la sanción penal privativa de libertad superior a un año”.

2016. El gobierno informó que “la autoridad judicial reconoce el derecho de huelga como un derecho fundamental recogido en el artículo 21 del Pacto Internacional de Derechos Civiles y Políticos. A pesar de ello, identifica la existencia de límites al derecho, en tanto debe ejercerse respetando y cumpliendo las disposiciones internas del Ordenamiento Jurídico, es decir, sin causar daños tanto físicos como materiales”.

Observaciones

2017. El Relator Especial agradece al Gobierno por la respuesta a su comunicación.

Siguiendo de comunicaciones transmitidas previamente

2018. Con una carta en fecha 22 de agosto de 2008, el Gobierno respondió al llamamiento urgente del 12 de diciembre de 2006. El Gobierno informó que el señor Michael Carhuas, corresponsal del diario La Jornada, no ha presentado ninguna denuncia ante la Comisaría del Distrito de Tambo, Ayacucho, lugar donde ocurrieron los hechos señalados en el llamamiento urgente.

Observaciones

2019. El Relator Especial agradece al Gobierno por su respuesta.

Philippines

Urgent appeal sent on 14 March 2008

2020. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal to the Government concerning Misses Mary Ann B. Abiero, Marilyn Millares, Ria R. Amuyan, Jocelyn M. Lagman, Angelita Adriano and Messrs Jason I. Magtanong, Crisostomo San Juan, Roberto Baguio, Diomcio Sechico, Michael Amposta, JR Buensoceso, Alexanders Ligutan, Alan Pomido and Christopher Gandiga. The aforementioned are all members of the Kilusan para sa Pambansang Demokrasya (KPD), a non-governmental organization promoting democracy and the rule of law in the Philippines.

2021. According to information received, on 29 February 2008 members of the KPD were travelling in two vehicles to a peaceful demonstration organised by the KPD in Lubao, Pampanga, when they were stopped at Pasbul by agents of the Philippine National Police (PNP). The officers inquired as to the destination of the KPD members, who replied that they were going to Ramon Lingad Hospital in San Fernando to donate blood. The police officers then proceeded to escort them in that direction. When one of the KPD cars drove away the police ordered the other car to pull over and a van of armed and masked SWAT policemen arrived. The SWAT team searched the vehicles and interrogated the KPD members at gunpoint before taking them to the Pampanga Provincial PNP camp in San Fernando, where each of the KPD members was interrogated individually.

2022. At 3.30 p.m. that day, KPD leaders from Central Luzon came to inquire as to the legal basis for the detention. They were informed that the police were not satisfied with the photocopied documents of the driver of the vehicle and that the original copy was required. The detention of the KPD members was denied and they were released at approximately 4.00 p.m., without the driver's original documents having been produced. On their release, the KPD members went to join an inter-faith rally in San Fernando. The same police officers were present and warned the KPD members that they would be detained again if they did not leave immediately.

2023. Concern was expressed that the intimidation and detention of the aforementioned persons may be directly related to their activities in defense of human rights, particularly the activities of the KPD in the promotion of democracy in the Philippines. Further concern was expressed about potential future attempts to intimidate the above-mentioned persons.

Observations

2024. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 14 March 2008.

Letter of allegations sent on 23 April 2008

2025. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegations to the Government concerning the alleged termination of contract of three workers, including a union leader, and the suspension of 36 others, for holding a protest demanding the distribution of overdue benefits.

2026. It is reported that in December 2005, the Nagkahiusang Mamumuo sa Davao City Water District (NAMADACWAD) union and the Davao City Water district (DCWD), a government owned and controlled corporation, came up with a Collective Negotiation Agreement (CNA), which became final and executory on 26 May 2006; the agreement provided that Php 99 millions (approximately USD 2.3 millions) savings of the firm would be given as financial incentives to all the workers. On 16 May 2007, while the benefits had not yet been distributed, union leaders and workers held a picket in front of the DCWD offices.

2027. Pickets resumed in November 2007, during which, some protestors were wearing t-shirts calling for the release of the benefits and the resignation of the board's vice-chairperson, who supposedly opposes the implementation of the CNA. On 13 December 2007, the union sent a letter to the DCWD requesting that talks be resumed for the implementation of the CNA, to which no response was allegedly received. Further reports indicate that DCWD management threatened contract-based employees not to renew their contracts in 2008 if they remained members of the union, reportedly leading to the non-renewal of nine contracts and the resignation of 80 workers from the union.

2028. According to information received, on 19 March 2008, the general manager of DCWD issued a Memorandum informing of the dismissal of Rodrigo Aranjuez, president of the NAMADACWAD, Gregorio Cagola and Celestino Bondoc, as well as the suspension of 36 other workers for a period of two months, for committing "administrative offenses", such as wearing t-shirts containing messages demanding the provision of benefits and the resignation of one member of the board of the DCWD.

2029. Concern was expressed that the dismissal of Mr. Aranjuez, Mr. Cagola and Mr. Bondoc as well as the suspension of the 36 workers may be a form of retaliation linked to their non-violent activities in defense of human rights, in particular their work to promote workers' rights in the Philippines. Further concern was expressed that these measures may form part of a pattern of harassment against trade unionists in the Philippines.

Observations

2030. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 23 April 2008.

Letter of allegations sent on 30 April 2008

2031. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the question of torture, sent a letter of allegation to the Government concerning the reported violent dispersal of a demonstration held on 6 March 2008 in Manila.

2032. According to information received, on 6 March 2008 at about 3 p.m., approximately 500 protestors from the region of Southern Tagalog, arrived in front of the Department of Labour and Employment (DOLE) in Intramuros in Manila, after a four-day march. The march was organized by a group of labour organisations, the Pagkakaisa ng Manggagawa sa Timog Katagalugan-Kilusang Mayo Uno (PAMANTI-KMU), the Anakpawis (Toiling Masses) and the Bagong Alyansang Makabayan (BAYAN-Southern Tagalog), in order to protest against delays by the DOLE in addressing pending labour cases. The Labour Secretary refused to meet with representatives of the protestors, so they decided to stay in front of the building and voice their grievances. At around 7 p.m., two fire trucks from the Manila Fire Station were positioned close to the protestors, while forces from the Manila Police District (MPD) were stationed in front of the DOLE building. The protestors requested Colonel Viray from the MPD and Chief Superintendent Rogelio Rosales, district director of the MPD Station 5, to be allowed to stay until the next day. At 8:45 p.m., Chief Superintendent Rogelio Rosales ordered his policemen to disperse the protest.

2033. Subsequently the police used water cannons, truncheons, clubs, and bladed weapons against the protestors injuring 37 people (please refer to list below). Six persons - Marlon V. Torres, Nestor A. Villanueva, Philip S. Nardo, Jason A. Hega, Emmanuel J. Dioneda and Jay D. Aban, were arrested by the police, taken to the Manila Hospital and then to the Manila Police District at the United Nations Avenue. On 7 March they were transferred to the Regional Trial Court in Manila, where they were charged with "tumults and other disturbance of public order" and "direct assaults to persons in authority" under Batas Pambansa (BP 880) or the Public Assembly Act of 1985 and the Revised Penal Code. They were then released "for further investigation" by the prosecutor.

2034. The names of the alleged victims are:

1. Marlon V. Torres, 35, Public Information Officer for PAMANTI-KMU, a resident of Jude St, Cabuyao, Laguna. He suffered injuries to his head, a fractured bone on his right arm as mentioned in the Medical Certificate from the Ospital ng Maynila.
2. Nestor A. Villanueva, 50, a member of Samahang ng Magsasaka sa Buntog (SAMANA-PUMALAG). His left little finger was fractured and he sustained injuries to his head.

3. Jason A. Hega, 26, a member of KASAMA-TK-KMP and a political party Anakpawis. He sustained bruises on various parts of his body, cuts and abrasions to his upper buttock.
4. Philip S. Nardo, 23, a member of a political party Anakbayan (Youth of the Nation) in Cavite, a resident of Barangay (village) Fatima, Santos, Dasmaringas, Cavite. His head and left leg were injured.
5. Emmanuel J. Dioneda, 43, director for the Labor Education Advocacy Development and Services and Research Institute (LEADER), a resident of No. 992 P Vallejo, Sta. Rosa, Laguna. He suffered injuries.
6. Jay D. Aban, 28, a resident of No. 1039 Guevarra Street, Sta. Cruz Manila.
7. Leo Fuentes, 20, a student of the University of the Philippines Los Banos (UPLB) and chairperson of the University Student Council (USC). He suffered contusion and his right arm swelled.
8. Joseph Doinarsi, 27, a member of ANAKPUSO, a resident of San Pedro, Laguna. He suffered injuries to his right eye.
9. Rolando Gonzales, 36, a member of ANAKPUSO, a resident of San Pedro, Laguna. He was hit on his forehead and his back bears marks.
10. Joe Francisco, 26, a member of ANAKPUSO, a resident of San Pedro, Laguna. His right arm swelled following the beatings.
11. Luis Arikaya, 41, a member of Kalipunan ng Damayang Mahihirap (Kadamay), a resident of Sta. Rosa, Laguna. He suffered injuries on his left shoulder.
12. Jhun Torres, 19, a member of Kadamay, a resident of Sta. Rosa, Laguna. He suffered cuts, his left hand swelled due to beatings and his right knee wounded after he fell.
13. Tirso Bautista, 35, a member of Kadamay, a resident of Sta. Rosa, Laguna. His left belly swelled and bears marks.
14. Jay Fabella, 41, a staff member of Cabuyao Workers Alliance (Cawal). He suffered contusion to his right belly, arm and leg due to beatings. He was also hit on the head.
15. Lucesio Baril, 46, a worker for Toyota Motor Philippines, a member of the Toyota Motor Philippines Corporation Workers Association (TMPCWA), Kadamay National Office. He was hit on his right breast, left portion of his mouth, right shoulder and the forehead. His left little finger was cut off by a bladed weapon.
16. Virgilio C. Clandog, 33, a worker for Toyota Motor Philippines and a member of the TMPCWA. He was hit on the left portion of his head. He was beaten on the head, had a fractured finger on his left hand and injuries to his knee.

17. Neil Nacario, 28, a worker for Hanjin Garments, a member of Aniban ng Manggagawang Inaapi sa Hanjin (AMIHAN), a member of Cawal. He suffered abrasions to his right elbow and left hand.
18. Rommel Mariano, 40, a worker for Toyota Motors Philippines; a member of the TMPCWA. His left hand swelled; he was beaten on the back and head.
19. Federico Torres, 33, a worker for Toyota Motor Philippines; a member of the board of the TMPCWA-PAMANTI-K; he suffered injuries to his left palm and pelvis; his right knee and fingers also had cuts.
20. Francisco Jose, 26, a member of the Pamprobinsyang Ugnayan ng mga Magsasaka sa Laguna (PUMALAG). He was hit on his right hand and his elbow swelled.
21. Rolando Gonzales, 36, a member of the Pumalag. He was hit on his left hand, and the left portion of his back had abrasions.
22. Ronald Balcunit, 19, a member of the Solidarity of Cavite Workers (SCW). He suffered injuries to his left leg and right fingers. He has difficulties hearing on his right ear following being hit by high pressure water cannons. His lips were cut.
23. Reden Busadre, 33, a member of the National Coalition for the Protection of Workers Rights Southern Tagalog (NCPWR-ST). He was hit on the back, suffered abrasions to his right fingers.
24. Mark Anthony Baculo, 22, a member of the Southern Tagalog Cultural Network (STCN), a resident of No. 409 Jude Street, Barangay Sala, Cabuyao, Laguna. He suffered injuries to his left hand and the left portion of his back had contusion and abrasions.
25. Noel Sanchez, 41, a chief steward of the Union of Filipino Employees Drug Food Alliance-Kilusang Mayo Uno (UFE-DFA-KMU); coordinator for the Cawal. He was hit on the left portion of his belly due to police beating following which he suffered from stomach pain and swelling and had to vomit.
26. Noel Alemania, 43, acting president of the UFE-DFA-KMU; deputy secretary general of the PAMANTI-K- KMU. He suffered contusions on the right portion of his back, his left leg swelled due to police beatings and his stomach was hit by truncheons.
27. E. D. Cubelo, 36, a worker at the Toyota Motor Philippines, president of the TMPCWA. He suffered contusions to his back.
28. Wenacito Urgel, 35, a worker of the Toyota Motor Philippines, vice president of the TMPCWA. He suffered contusion to his left arm, cuts to his right elbow, abrasion to his left leg, abrasion and cuts to his left belly.
29. Roderick Vidal, 25, a worker for the Toyota Motor Philippines; a member of the TMPCWA; he suffered a broken index finger.

30. Rowell Delgado, 24, a worker for Toyota Motor Philippines, a member of the TMPCWA. He suffered abrasions to his body.
31. Rolando Mingo, 52, chairman of the Southern Tagalog Region Transport Sector Organization (STARTER) and Vice-Chairman ng Pinag-isang Lakas ng Transport Organization (PISTON). He sustained bruises on his head and his right leg and abrasions to his right wrist.
32. Romeo Legaspi, 46, chairman of the Pamantik, chairman of a political party Anakpawis in Southern Tagalog, president of the Organized Labor Association in Line Industries and Agriculture (OLALIA-KMU), president of the Lakas ng Manggagawa Nagkakaisa ng Honda Cars Phils (LMNH-OLALIA-KMU). He suffered bruises on his left forehead and his left breast.
33. J.M. Pamulaklakin, 24, a resident of Los Banos, Laguna.
34. Edgardo Laresma, 28, a member of the ROTOR-STARTER.
35. Jerold Rosales, 26, a staff of the LEADER.
36. Riza Janet Barrientos, 44, member of the Gabriela Women's Party (GWP-ST). She sustained bruises and swelling of her left arm.

2035. Concern was expressed that the arrest and detention of the aforementioned persons and the use of force against reportedly peaceful protestors may be linked to their activities in defense of human rights, in particular labour rights. Further concern was expressed that these events may form part of a pattern of harassment against human rights defenders advocating for the respect of labour rights.

Observations

2036. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 30 April 2008.

Urgent appeal on 20 June 2008

2037. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal to the Government concerning Mr. Kelly Muñoz Delgado, Secretary-General of the KARAPATAN Alliance for the Advancement of People's Rights in the Southern Mindanao Region of the Philippines. Mr. Muñoz Delgado's work includes response to reports of human rights violations, in particular those allegedly perpetrated by the Armed Forces of the Philippines (AFP) against indigenous peoples and farmers.

2038. According to information received, at approximately 10 a.m. on 16 May 2008, death threats, in the form of three text messages to Charm Radio, were made against Mr. Kelly Muñoz Delgado following an interview he had given at the station regarding the assassination of human rights defender Mr. Celso Pojas (addressed in letter of allegation PHL 7/2008, sent by the Special Rapporteur on the situation of human rights defenders

on 23 May 2008). One of the messages contained the threat “Ikaw nmn ang sunod jn mr. Kelly n iligpid. Siz fet below d ground kn Kelly (You are the next one to be eliminated, Mr. Kelly. You’re already six feet below the ground)”. Charm Radio forwarded the messages to Mr. Kelly Muñoz Delgado without disclosing the number of the phone from which the threats had been sent in accordance with the station’s policy on preservation of listener confidentiality.

2039. Reports also indicated that Mr. Kelly Muñoz Delgado had been under surveillance by unidentified armed men since the interview and that armed motorcyclists had been observed in front of the KARAPATAN offices in F Torres Street, Davao City.

2040. Concern was expressed that the threats made against Mr. Kelly Muñoz Delgado may be directly related to his work in defense of human rights and his publicizing of the killing of Mr. Celso Pojas. Following Mr. Pojas’ death, serious concern was expressed for the physical and psychological integrity of Mr. Muñoz Delgado.

Observations

2041. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 20 June 2008.

Urgent appeal on 9 July 2008

2042. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal to the Government regarding Mr. Raul S Quiboyen, Mr. Brendo D Morales and Mr. Joey S Ling of the Commission on Human Rights of the Philippines (CHRP). The CHRP investigates and reports on human rights violations in the Philippines before making recommendations to the Filipino government.

2043. According to information received, on 20 June 2008, Mr. Quiboyen, Mr. Morales and Mr. Ling were shot at when returning by boat from the island of Limaong after exhuming and carrying out an autopsy on the body of Madal Barorong, allegedly a victim of murder. They had been accompanied to the island by two policemen and two boat operators. Relatives of Madal Barorong followed on a second boat. The two parties were separated for an hour after the shooting began. When the relatives of Madal Barorong came to collect the members of the CHRP, they told them that their boat had been confiscated and presented four spent cartridges from an M16 rifle, three spent cartridges from a Garand, and three spent cartridges from an M14 rifle. Madal Barorong’s relatives reported that the attack had been carried out by a Sergeant whose identity was known to the Special Rapporteur and who was accompanied by the alleged murderer of Madal Barorong.

2044. The members of the CHRP immediately reported what had happened and handed in the cartridges at Vitali Police Station. On 23 June 2008, Atty. Jose Manuel S Mamauag, Regional Director of the CHRP, filed charges against the Sergeant, who is supposedly responsible for the attack against the members of the CHRP, for attempted murder. These charges were filed to the Sergeant’s Battalion Commander, to his Division Commanding General and to the Zamboanga City Police Office. So far there has been no response from the Battalion Commander or the Division Commanding General.

2045. Concern was expressed that the attack against the members of the CHRP may be directly related to their non-violent activities in defense of human rights, in particular their work to expose human rights violations in the Philippines. In view of the incident outlined above, serious concern was expressed for the physical and psychological integrity of the members of the CHRP.

Observations

2046. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 9 July 2008.

Letter of allegations on 9 July 2008

2047. The Special Rapporteur sent a letter of allegation to the Government concerning in relation to Mr. Robert Sison, host of the local radio programme Harana, and correspondent for the weekly newspaper Regional Bulletin, based in Lucena, Quezon province.

2048. According to information received, on 30 June 2008, Mr. Robert Sison was shot dead by two unknown individuals in the town of Sariaya, Quezon province. Mr. Sison was reportedly driving home with his two daughters, Ms. Liwayway Sison and Ms. Amirah Sison (also journalists with the Regional Bulletin), when two men on a motorcycle approached the car and opened fire. Mr. Sison was struck nine times and died at the scene. Ms. Liwayway Sison sustained a gunshot wound to the hand, while Ms. Amirah Sison escaped injury by reportedly playing dead. Prior to his death Mr. Robert Sison was involved in investigating crime and other local stories, some of which were reportedly critical of local officials.

2049. Concern was expressed that the aforementioned events could be related to Mr. Robert Sison's work as a journalist, and could represent a direct attempt to stifle independent reporting in the Philippines, thus restricting the right to freedom of expression in the country.

Observations

2050. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 9 July 2008.

Letter of allegations sent on 15 August 2008

2051. The Special Rapporteur sent a letter of allegation to the Government concerning in relation to the killing of Mr. Martin Roxas, program director with dyKR-Radio Mindanao Network (RMN) in Roxas City and of Mr. Denis Cuesta, radio broadcaster and programme director with dxMD-Radio Mindanao Network (RMN), in General Santos, Mindanao.

2052. According to information received, on 7 August 2008, Mr. Martin Roxas was shot dead in Roxas City, Capiz as he travelled home from work by motorcycle. Two unidentified individuals, who were also travelling by motorcycle, reportedly followed Mr. Roxas when one of them fired a shot fatally injuring him in the neck. Mr. Roxas was pronounced dead an hour after he was brought to the Capiz Emmanuel Hospital. Reports claim that Mr. Roxas had been harassed by three unidentified men in the same area a short time before the shooting and that the incident had been reported to the local police. Earlier the same day, Mr. Roxas had reportedly interviewed Mr. Antonio del Rosario, First District Representative in Capiz, regarding an alleged

anomaly in the financial aid given to destitute hospital patients during Mr. del Rosario's term as Mayor of Roxas City. Fictitious names had reportedly been identified on the list of recipients of the financial aid, and the alleged anomalous transaction had been discussed on Mr. Roxas' radio programme over a period of two weeks.

2053. On 4 August 2008, at approximately 4.30 p.m. Mr. Denis Cuesta was shot by a gunman riding pillion on a motorcycle. The incident happened as Mr. Cuesta was walking along a public street in General Santos City, South Cotabato. Mr. Cuesta sustained serious injuries to his head and spinal column. He never recovered consciousness after the attack and passed away in intensive care at a local hospital on 9 August 2008.

2054. A month prior to the attack, Mr. Cuesta had addressed a complaint in his radio program Sumbong at Aksiyon (Grievance Desk), by an individual whose village water supply had allegedly been contaminated. Following the broadcast, Mr. Cuesta reportedly received a telephone call from the secretary of the association believed to be responsible for the contamination, who expressed anger over Mr. Cuesta's report.

2055. Following the broadcast, Mr. Cuesta reportedly received a number of death threats and suspicious individuals were seen in the vicinity of the radio station. A police investigation has reportedly been launched into the two killings with arrests having been made in relation to the death of Mr. Roxas.

2056. Concern was expressed that the aforementioned events could form part of an ongoing campaign to prevent independent reporting in the Philippines, thus stifling freedom of expression in the country.

Observations

2057. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 15 August 2008.

Urgent appeal on 29 August 2008

2058. The Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General on the situation of the human rights defenders and the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal regarding threats against Fr Romeo Tagud, a priest in the Iglesia Filipina Independiente (IFI - Philippine Independent Church); and the harassment of members of Karapatan-Central Visayas, namely Mr. Dennis Michael J. Abarrientos, Secretary-General; Ms. Vimarie Arcilla, Public Information Officer; Mr. Jean H Suarez, Research-documentation Officer; and Ms. Concordia Oyoa, Direct-services Officer. Karapatan-Central Visayas is a member organization of the KARAPATAN Alliance for the Advancement of People's Rights.

2059. Previous threats against Fr Romeo Tagud were mentioned in an urgent appeal sent by the then Special Representative of the then Secretary-General on the situation of human rights defenders to your Government on 13 October 2006. The Government's responses to this urgent appeal were received on 23 October 2006 and 27 November 2006.

2060. According to new information received, Fr Romeo Tagud reportedly joined a delegation of Filipino Americans from the California-Nevada Annual Conference of the United Methodist Church, based in the United States of America, which visited the Philippines from 30 June to 2 July 2008. After Fr Romeo Tagud exposed human rights abuses allegedly committed by the military in certain villages, and the deterioration of respect for human rights on the island of Negros, particularly in areas of heavy military presence, the delegation decided to support a campaign against extrajudicial killings and other human rights violations in Negros. This raised the profile of human rights issues in Negros and attracted international attention. The military subsequently criticized the delegation in the local press for having supposedly violated the human rights of the residents of Linantuyan.

2061. On 1 August 2008, Fr Romeo Tagud took part in a press conference in Bacolod City. There he expressed the views of the IFI on poverty, corruption, extrajudicial killings, the implications of mining in Guihulngan City and Hinobaan, and other alleged human rights violations.

2062. On 3 August 2008, at approximately 6:30 a.m., Fr Romeo Tagud was given an envelope containing a bullet from an M16 armalite rifle by a girl of approximately five or six years of age whose identity is unknown. Fr Romeo Tagud had just participated in Sunday mass and was walking towards the parish house at the time. The girl told him that the envelope was an offering for the church.

2063. Meanwhile, since 18 June 2008, members of Karapatan-Central Visayas have been investigating the disappearance of a man who was allegedly abducted by members of the military in Negros on 11 June 2008. In response, the military reportedly publicly accused Ms. Vimarie Arcilla of working for the Maoist New People's Army rebels and declared that it planned to file charges against her for the kidnapping of a witness in the disappearance case. These charges are now lodged at the prosecutor's office in Dumaguete Central, Negros Oriental. They are allegedly unfounded and have been filed by the military as part of a smear campaign against those who speak out against them. The military had previously filed charges of multiple murders against Ms. Vimarie Arcilla in April 2006 after she had investigated other human rights violations supposedly committed by military members. These charges were dismissed by the Regional Trial Court 7, Branch 29 in Toledo City for "lack of probable cause".

2064. Since then threats have been sent sporadically to members of Karapatan-Central Visayas. On 21 August 2008, threats were sent simultaneously to Mr. Dennis Michael J Abarrientos, Mr. Jean H Suarez, Ms. Concordia Oyoa, and Ms. Vimarie Arcilla while they were in a meeting. On 24 August 2008, between 10.30 a.m. and 11.00 a.m., the four members of Karapatan-Central Visayas again received threats by text. Among the threats against the members of Karapatan-Central Visayas were the following messages: "I know what you are doing HR. Your time is up!!!" and "Stop your Fault-Finding Missions ... or suffer the consequences!!!"

2065. Serious concern was expressed that Fr Romeo Tagud could have been threatened for speaking out about human rights violations on the island of Negros. Serious concern was also expressed that the threats against members of Karapatan-Central Visayas and the accusations against Ms. Vimarie Arcilla could have may be directly related to their investigation of alleged human rights violations in Negros. Further concern was expressed for the physical and psychological integrity of Fr Romeo Tagud, as well as that of all members of Karapatan-Central

Visayas. It was feared that the threats against Fr Romeo Tagud and the members of Karapatan-Central Visayas may form part of an ongoing pattern of harassment against members of the IFI and other human rights defenders in the Philippines after the murders of Bishop Alberto Ramento and Fr Diniosio Ging-Ging, and the death threats against Fr Antonio Ablon, Fr Terry Revollido, Fr Sonny Teleron and Fr Marco Sulayao in 2006.

Observations

2066. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 29 August 2008.

Letter of allegations sent on 3 September 2008

2067. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegations regarding the failure to recognize the Bleustar Workers Labor Union (BWLU) as a trade union. According to information received:

2068. On 24 July 2008, over 40 members of the BWLU were dismissed from their jobs with the Bleustar Manufacturing and Marketing Corporation (BMMC) without receiving an adequate explanation. On 25 July 2008, there was a certification election to establish whether the trade union would be legally recognized. Although according to the Philippine Labor Code only laborers rather than employees in management positions have the right to vote in such elections, 28 BMMC employees in management positions were allowed vote in the certification election. Because the votes of the members of the BWLU who had lost their jobs were not counted, and because the votes of the BMMC employees in management positions were counted, the result of the Certification Election was not to legally recognize of the BWLU as a trade union. Consequently the BWLU is unable to defend the rights of its members as employees of the BMMC. Most notably the BWLU is unable to defend the rights of many female BWLU members who have reportedly been the victims of regular acts of sexual harassment, perpetrated by an employer whose identity is known, but who have remained silent about such acts out of fear of losing their jobs.

2069. Concern was expressed that the dismissal of the members of the Bleustar Workers Labor Union may be related to their legitimate activities in defense of its members' rights. Further concern was expressed for the physical and psychological integrity of the members of the Bleustar Workers Labor Union who have reportedly been subjected to sexual harassment.

Observations

2070. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 3 September 2008.

Follow-up to previously transmitted communications

2071. In a letter dated 29 January 2008, the Government responded to an allegation letter sent on 1 November 2007. The Government reported that "For two days, workers held demonstrations although they did not have the requisite permit that the law requires. While workers were staging their demonstration outside the building, DOLE officials held conciliation

talks with representatives of PLDT workers, with the management of the company being present on 10 October 2007. In the spirit of tolerance and conciliation, workers were allowed to hold demonstrations totally unhampered, except that the police had to warn them on the second day to break-up before nightfall. Police authorities also held dialogue with the demonstrators and it was agreed that the group would be given until 5:00 p.m. on 10 October 2008 to air their grievances. However, until 5:40 p.m. that day the group showed no sign of terminating their activity. The police only moved in to arrest some of the demonstration leaders after they resisted act police efforts to get them to disperse peacefully on their own. The arrested individuals were brought to OSMA for medical check-up and were turned over to the General Assignment Section ORGASM for filing of appropriate charges.

2072. The above individuals were apprehended for Violation of Batas Pambansa (BP) 880, Breach of Peace, Obstruction and Disobedience to Lawful Order”.

Observations

2073. The Special Rapporteur is grateful for the Government’s reply.

Republic of Korea

Urgent appeal sent on 10 July 2008

2074. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal to the Government regarding the candlelight protests and pro-democracy non-governmental organizations (NGOs): the People’s Solidarity for Participatory Democracy (PSPD), the Korea Alliance for Progressive Movement (KAPM), and the People’s Solidarity for Korean Progress (PSKP).

2075. According to information received, on 24 May 2008, candlelight vigils began against the Government’s decision to resume beef imports from the United States of America, amid public concerns related to health and food-safety. After this date up to 993 demonstrators were arrested or taken to police stations, whilst certain NGOs involved in the protests had their offices raided, their property confiscated and some of their members arrested. Charges against detainees reportedly included violations of the Law on Assembly and Demonstration, as well as in relation to obstruction of the police, and defamation and physical assault.

2076. The protests took place every night in major cities across the Republic of Korea. They started as a way of demanding renegotiations with the United States of America on importing beef to the Republic of Korea. However, concerns were also expressed about the privatization of public services and healthcare, as well as the ban on assembly and the overuse of force by the riot police. There were several complaints on the use of violence by riot police and violations of the right to assemble during the candlelight vigil. Members of the National Human Rights Commission of Korea (NHRCK), who were on monitoring duty during the vigils, were reportedly attacked by military police. Approximately 400 demonstrators were injured in the protests, and police stated that any future protests would be blocked.

2077. On 30 June 2008, the offices of the PSPD, the KAPM and the PSKP were raided by the Seoul Metropolitan Police. The PSPD is host to the secretariat of the People's Conference against Mad Cow Disease. The KAPM offices were raided by 50 police investigators who confiscated three computers as well as fire extinguishers and other protest equipment. The PSKP had 23 computers, documents and rally placards confiscated. Police arrested PSKP director Mr. Hwang Sun-won, as well as members Mr. Ahn Jin-geoul and Ms. Yoon Hee-suk. They were detained on charges of leading the illegal protests and violating the Law on Assembly and Demonstration.

2078. Concern was expressed that the arrests and the use of police violence against demonstrators in the candlelight protests, the raids on the offices of the PSPD, the KAPM and the PSKP, and the arrests of Mr. Hwang Sun-won, Mr. Ahn Jin-geoul and Ms. Yoon Hee-suk may be directly related to their non-violent activities in the defense of human rights. In view of the events outlined above, concern was expressed for the physical and psychological integrity of demonstrators in the candlelit protests as well as members of the PSPD, the KAPM and the PSKP.

Response from the Government

2079. In a letter dated 15 October 2008, the Government responded to the letter of allegations sent on 10 July 2008. The Government indicated that the four NGOs mentioned in the letter alleged that the Government restricted their right to freedom of opinion and expression and to freedom of assembly and demonstration during the candlelight demonstrations. Their allegations are based on incorrect and misleading facts. The Government protects the right to freedom of opinion and expression and the right to freedom of lawful and peaceful assembly and demonstration. In order to protect public order and the rights of other citizens, however, a minimum of measures against unlawful violent demonstrations as well as abusive exercise of the right to freedom of opinion and expression are necessary in accordance with international human rights laws and domestic laws. Articles 19(3) and 22 of the International Covenant on Civil and Political Rights prescribe that the exercise of rights may be subject to certain restriction for respect of the rights or reputation of others and for the protection of public order.

Observations

2080. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 28 July 2008

2081. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders and the Special Rapporteur on the question of torture sent a letter of allegations to the Government concerning the candlelit protests and the following human rights defenders and lawyers: Ms. Jae-Jung Lee, Ms. Young-Gu Kang, Mr. Joon-Hyeong, Ms. Jae-Jeong Lee and Mr. Gwang-Joong Kim, all members of Lawyers for a Democratic Society (MINBYUN); Mr. Jin-Geol Ahn, a member of People's Solidarity for Participatory Democracy and a team manager with the People's Association for Measures against Mad Cow Disease (an organization made up of 1,700 south Korean NGOs); Ms. Hee Sook Yoon, Vice-Chairperson of the Korea Youth Movement Council and Ms. Nae Rae Lee, a 21 year old student.

2082. The candlelit protests, along with human rights organisations People's Solidarity for Participatory Democracy (PSPD), the Korea Alliance for Progressive Movement (KAPM) and the People's Solidarity for Korean Progress (PSKP) were the subject of an allegation letter sent by the Special Representative on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10 July 2008.

2083. In May 2008, candlelit vigils began against the Government's decision to resume US beef imports, amid public concerns related to health and food-safety. Since they began, the protests have taken place every night in major cities across South Korea. The protest movement, which started as a way of demanding renegotiations with the US on importing beef to the Republic of South Korea, has since become a stage for a broad range of political grievances, from high fuel prices to health care privatisation and the cost of education.

2084. According to new information received, on 4 May 2008, after the first two candlelit protests took place, the Seoul Metropolitan Police Agency reportedly announced that those involved in posting articles on websites related to the protests would be summoned for questioning and that countermeasures would be taken to prevent future demonstrations. On 22 July, Justice Minister Kim Kyung-han proposed a plan to introduce a 'Cyber Defamation Law'. The plan was announced by the Korean Communications Commission (KCC) which reportedly stated that online networks and Internet portals would be punished if they did not comply with its order to remove content which is deemed to be defamatory.

2085. Since 4 May, over 1,000 protesters have reportedly been arrested and there have been numerous complaints related to the excessive use of force by riot police and violations of the right to assemble during the candlelight vigil. Reports claim that on 31 May and 1 June, police used fire extinguishers and water cannons fired at close range against largely peaceful demonstrators, causing serious injuries such as blindness, broken bones and concussions. On 17 July 2008, riot police reportedly dispersed thousands of citizens who were participating in candlelit protests, with water canons containing florescent material, apparently to identify protesters for arrest.

2086. Furthermore, in the morning of 26 June 2008, Mr. Joon-Hyeong Lee was monitoring one of the protests on behalf of MINBYUN's Human Rights Infringement Monitoring Team in Seoul. At the time, Mr. Lee was reportedly wearing a jacket which clearly indicated that he was attending the protest in his capacity as a monitor. At approximately 1 a.m., police officers reportedly attempted to disperse the crowd with water canons and a short time later used their shields to force an end to the protest. One of the police officers reportedly struck Mr. Lee on the head with his shield, causing him to fall to the ground unconscious. Mr. Lee was transferred to Seoul National University Hospital where he was treated for a fractured skull and internal bleeding.

2087. In the evening of 25 June 2008, Ms. Jae-Jung Lee and Ms. Young-Gu Kang were involved in monitoring one of the candlelit protests when they intercepted police reportedly arresting individuals who had failed to comply with demands to disperse. Ms. Lee and Ms. Kang were subsequently arrested by the police and taken to Ganbug Police Station in Seoul where they were detained for 24 hours. Earlier the same day, at approximately 4 p.m. Mr. Jin Geol Ahn and Ms. Hee Sook Yun were arrested for allegedly 'obstructing police in the course of duty'. At the

time, Mr. Jin Geol Ahn and Ms. Hee Sook Yun were participating in a demonstration outside Kyong-bok Palace in Seoul when police reportedly began to arrest protesters on the spot. When Mr. Jin Geol Ahn attempted to prevent the arrest of a minor, a number of police officers reportedly seized him from behind, while one of them forced him to the ground by the neck. Mr. Geol Ahn reportedly suffered bruising as a result of the incident and was taken to Jong-ro police Station along with 30 others.

2088. According to reports, MINBYUN lawyers Ms. Jae-Jeong Lee and Mr. Gwang-Joong Kim were arrested on 1 June 2008 and detained for 6 hours by police officers. Mr. Kim's arm was reportedly twisted during the interrogation, while Ms. Lee was apparently struck in the chest with a shield. On the same day, Ms. Na Rae Lee, who was participating in a candlelit protest, fell in front of a police convoy vehicle. A riot police officer who was close to Ms. Lee at the time reportedly began to kick Ms. Lee in the head while she was still on the ground. Ms. Lee managed to seek temporary cover under the vehicle, but was forced to roll out again because of the engine. She was reportedly treated for concussion in the local hospital. The assault on Ms. Lee was captured on video and has been aired on Munhwa Broadcasting Corporation (MBC), one of South Korea's main TV stations.

2089. Concern was expressed that the alleged arrests and the use of police violence against demonstrators during the candlelit protests, as well as the banning of protest related websites may represent a direct attempt to stifle freedom of expression in the country.

Response from the Government

2090. In a letter dated 15 October 2008, the Government responded to the letter of allegations sent on 28 July 2008. The Government indicated that the four NGOs mentioned in the letter alleged that the Government restricted their right to freedom of opinion and expression and to freedom of assembly and demonstration during the candlelight demonstrations. Their allegations are based on incorrect and misleading facts. The Government protects the right to freedom of opinion and expression and the right to freedom of lawful and peaceful assembly and demonstration. In order to protect public order and the rights of other citizens, however, a minimum of measures against unlawful violent demonstrations as well as abusive exercise of the right to freedom of opinion and expression are necessary in accordance with international human rights laws and domestic laws. Articles 19(3) and 22 of the International Covenant on Civil and Political Rights prescribe that the exercise of rights may be subject to certain restriction for respect of the rights or reputation of others and for the protection of public order.

Observations

2091. The Special Rapporteur is grateful for the Government's reply.

Russian Federation

Letter of allegations sent on 3 April 2008

2092. The Special Rapporteur sent a letter of allegations concerning the deaths of Mr. Ilyas Shurpayev, a correspondent for the Russian state television's Channel One and Mr. Gadzhi Abashilov, head of the state radio and television company in Dagestan.

2093. According to the information received, on 21 March 2008, Mr. Shurpayev was found dead in his apartment in Moscow. He had reportedly been strangled and stabbed, and his apartment was subsequently set on fire. Shortly before his death, Mr. Shurpayev reported in his blog that a newspaper in his native Dagestan had banned a column he had written and instructed the staff not to mention his name in the publication. The Investigative Committee within the Prosecutor General's Office reportedly opened an investigation on this case.

2094. On the same day, in a separate case, Mr. Abashilov was shot dead in his car in Makhachkala, Dagestan, by at least one unknown gunman. Prosecutor General Yuri Chaika reportedly opened an investigation and signalled that he attached a high priority to the case.

Response from the Government

2095. The Government responded to the above mentioned communication by informing that: "1. On 21 March 2008, in Makhachkala in the Republic of Dagestan, unidentified criminals fired an automatic weapon at the official car of Mr. A.M. Abashilov, Director-General of the Dagestan State Television and Radio Company. He died on the spot. The investigative department of the investigative committee attached to the office of the procurator of the Russian Federation for the Republic of Dagestan instituted criminal proceedings on the basis of evidence of an offence contrary to article 105 (Murder), paragraph 2, and article 222 (Unlawful arms trafficking), paragraph 2, of the Criminal Code of the Russian Federation. A task force composed of the most experienced officers of the Ministry of Internal Affairs of the Republic of Dagestan was created to solve the crime. In order to provide practical assistance in solving Mr. Abashilov's murder, two officers of the criminal investigation department of the Ministry of Internal Affairs of the Russian Federation were sent to Dagestan. A number of possible motives for the crime, including the possibility that it was related to Mr. Abashilov's professional activities, have been put forward and are being investigated. The investigation is being monitored by the Office of the Procurator General and the Ministry of Internal Affairs of the Russian Federation.

2096. 2. On 21 March 2008, in Moscow, during efforts to extinguish a fire in apartment 198 located at 2 Veshnie Vody St., block 2, the body of Mr. I.I. Shurpaev, a correspondent for Pervy kanal (Channel One) was discovered with signs of strangulation and a knife wound. It was established that the following items had been stolen from the victim's apartment: a Samsung mobile telephone, a laptop computer, a wristwatch and 150,000 roubles. As a result of the measures taken to solve Mr. Shurpaev's murder, it was established that two unknown men, later identified as Tajik citizens with whom Mr. Shurpaev was acquainted, had visited his apartment. On the day of the murder, the aforementioned persons took a plane from Moscow to Dushanbe.

2097. In cooperation with the Ministry of Internal Affairs of Tajikistan, under the international treaty of 29 March 2008 concerning legal assistance, the persons suspected of murdering Mr. Shurpaev were identified and arrested in Dushanbe. The victim's mobile telephone and wristwatch were found on their persons and confiscated. The motive for this crime was mercenary: the crime was committed with a view to gaining possession of the valuables in Mr. Shurpaev's apartment. At present, the outcome of an investigation indicates that the murders of these two journalists were not related.

Observations

2098. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 27 May 2008

2099. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegations to the Government concerning the prosecution of Mr. Yuri Samodurov, director of the Andrei Sakharov Museum and Human Rights Center. The Sakharov Center houses the only museum in Russia dedicated to human rights and has hosted exhibitions of photographs, children's drawings and other material illustrating past and present human rights abuses and violations.

2100. According to the information received, in March 2007, the Andrei Sakharov Museum and Human Rights Center hosted an exhibition showing provocative artwork that had been banned from several art galleries in Russia. The artwork reportedly depicts images that were considered by the prosecutor's office as being denigrating of Christianity. On 13 May 2008, following an investigation, Mr. Samodurov was charged with "inciting religious hatred" under Article 282 of the criminal code for hosting the exhibition. On the basis of article 15 of the Law on the Fight against Extremist Activities, if Mr. Samodurov is found guilty on the current charges, the Sakharov Center would have to issue a public statement distancing within five days from the court ruling from Mr. Samodurov's alleged extremist activities. Failure to do so could result in the dissolution of the Sakharov Center. On the basis of article 19 of the Law on NGOs; if Mr. Samodurov was found guilty he would have to resign from the organization's membership.

2101. The Special Rapporteurs were concerned that the Law on the Fight against Extremist Activities and NGO legislation can be used to silence human rights defenders. A similar situation already occurred with the closure of the Russian Chechen Friendship Society (RCFS), whose case had been brought to the attention of the Government in a letter sent by the then Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 8 February 2007, to which a response from the Government was had not been received (A/HRC/7/28/Add.1 paras. 1669-1672).

2102. Concern was expressed that the charges against Mr. Samodurov represented an undue limitation on his right to freedom of opinion and expression, including in the form of art, and might be linked to his legitimate human rights activities.

Response from the Government

2103. In a letter dated 18 July 2008, the Government responded to the communication of 27 May 2008. In its response, the Government informed that "on 23 May 2007, the Tagansky Interdistrict Procurator's Office in Moscow initiated criminal case No. 402588 on the grounds that the crime established by article 282 (1) of the Criminal Code of the Russian Federation had been committed through the holding of the exhibition "Forbidden Art 2006" on the premises of the A. Sakharov Museum and Civic Centre, Building 6, Zemlyanoy Val 57, Moscow.

2104. The preliminary investigation established that during the organization and holding of the above-mentioned exhibition from 7 March to 31 March 2007 acts were committed in public such as to incite hatred and enmity and to humiliate citizens on account of their attitude to religion.

2105. Y.V. Samodurov, the Executive Director of the international public organization, the Andrei Sakharov Fund - Public Commission to Preserve the Legacy of Academician Sakharov, and Director of the independent non-profit-making cultural organization the Andrei Sakharov Museum and Civic Centre for Peace, Progress and Human Rights (hereinafter referred to as "the Museum") and A.V. Erofeev, Head of the Latest Trends Department of the State Tretyakov Gallery, were accused of committing the crime established by article 282 (2) (b) of the Russian Criminal Code (commission of acts designed to incite hatred and enmity and humiliate a group of persons on account of their attitude to religion, perpetrated publicly and by prior agreement by a group of persons with the use of their official position).

2106. The inquiry into this crime by the investigative unit for the Tagansky district of the investigative office of the investigative committee at the Procurator's Office of the Russian Federation in Moscow established that Y.V. Samodurov and A.V. Erofeev selected for the publicly accessible exhibition "Forbidden art 2006" exhibits which visibly, demonstratively and publicly expressed a humiliating and insulting attitude to the Christian religion as a whole and to Orthodox Christianity in particular, as well as to religious symbols revered by believers and which aroused hatred and enmity. After this, Y.V. Samodurov gave permission to present the exhibition on the premises.

2107. The inquiry found that A.V. Erofeev and Y.V. Samodurov chose the collection of exhibits making up the exhibition not on the basis of their artistic value, but exclusively with a view to using them to convey more powerfully an unfavourable, emotional assessment and intolerance of citizens professing the Orthodox faith, and to offer a targeted, conscious and intentional presentation of blasphemous works. This fact is borne out by Y.V. Samodurov's attempt in his public statements to underpin his action with ideological and legal arguments that perverted the content of Russian legislation.

2108. A study conducted by a fine art expert in the course of the inquiry came to the conclusion that the exhibits presented in the exhibition contained aberrant language and that the positioning of elements of the exhibition near to religious symbols offended religious feelings and humiliated Orthodox believers. A psychologist's expert report concluded that the exhibits constituted an extremely cynical, sardonic insult to and a caricature of the religious convictions and feelings of Orthodox believers and that the exhibits undermined their human dignity on account of their attitude to religion. Hence the principles of the constitutional order of the Russian Federation, as established in articles 13 (5), 14 and 28 of the Constitution of the Russian Federation, which safeguard the principles of religious tolerance as the guarantee of civil peace and democratic society, were crudely breached.

2109. The investigation has now been completed and the accused are acquainting themselves with the case file. No complaint has been received from the accused or from any other participants in the criminal proceedings. In accordance with article 49 (1) of the Constitution of the Russian Federation everyone accused of committing a crime is considered innocent until his guilt is proved according to the rules established by federal law and confirmed by a court sentence which has come into legal force."

Observations

2110. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 24 June 2008

2111. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegations to the Government concerning Ms. Ksenia Ludan, an activist with the Other Russia coalition, an umbrella group of human rights organizations and a wide range of other civil society movements.

2112. According to information received, on 13 June 2008, Ms. Ludan was detained as she left the temporary isolation facility in Guilyarovskiy Street, Moscow, where she had served four days of administrative custody following her sentencing under Article 20.1 (minor offence) of the Administrative Procedural Code for her participation in a protest on the premises of the Russian Railways company on 9 June 2008. The protest was organized to call for the respect of workers' rights of the employees of the Russian Railways company. As Ms. Ludan was leaving the temporary isolation facility, plainclothes police agents of the UBOP organized crime unit, one of whom was identified as senior lieutenant Sergey Prikazchikov, stopped her and forced her into the vehicle.

2113. The police confiscated Ms. Ludan's mobile phone and brought her to the prosecutor's office of the North-Eastern administrative district of Moscow for interrogation. Reports indicated that Ms. Ludan was subjected to threats that she would be regarded as a suspect, not a witness, if she refused to answer their questions regarding two criminal cases of alleged extremism and vandalism and that she was forced to sign detention forms although she had not received any summons. Ms. Ludan was released on Friday evening.

2114. Concern was expressed that the detention, interrogation and intimidation of Ms. Ksenia Ludan may be directly related to her activities in defense of human rights, in particular workers' rights. In view of the nature of her detention, concern was expressed for the physical and psychological integrity of Ms. Ludan.

Response from the Government

2115. In a letter dated 4 September 2008, the Government responded to the communication sent on 24 June 2008. The Government reported that on 7 November 2007, the investigative authority of the investigative committee for Moscow attached to the Office of the Procurator of the Russian Federation instituted criminal proceedings (case No. 405127) on the basis of evidence of an offence contrary to article 214 (Vandalism), paragraph 2, and article 282 1 (Organization of an extremist association), paragraph 2, of the Criminal Code of the Russian Federation. On the night of 6/7 November 2007, unidentified individuals defiled the buildings of the area and district executive committees of the political party United Russia.

2116. In the course of the investigation, it was established that the unidentified persons, motivated by political hatred and enmity, sprayed paint on the walls of the buildings of the area and district executive committees of the political party United Russia; the buildings are situated

on Kominterna, Shirokaya and Polyarnaya streets in Moscow. The individuals scattered leaflets (signed on behalf of the National Bolshevik and Other Russia organizations) containing information about disagreement with the policy being conducted by the country's leaders and expressing political hatred towards members of the United Russia party. The persons who committed the aforementioned acts are members of the National Bolshevik Party, an extremist organization that has been dissolved pursuant to an enforceable court decision owing to that organization's engagement in extremist activities.

2117. During the investigation of the criminal case, information was received that Ms. Ludan might have information about the persons who took part in the commission of aforementioned offences. In this connection, the investigator decided to question Ms. Ludan as a witness in the criminal case. In accordance with article 38 of the Code of Criminal Procedure of the Russian Federation, the investigator instructed officers of the internal affairs authority of the Department for Combating Organized Crime for the North Eastern Administrative Area of Moscow to establish the whereabouts of Ms. Ludan, and summon her to appear before the body conducting the pretrial investigation.

2118. On 13 June 2008, officers of the internal affairs authority of the Department for Combating Organized Crime for the North Eastern Administrative Area of Moscow established the whereabouts of Ms. Ludan: on 9 June 2008, Ms. Ludan had been arrested for participating in an unauthorized action and brought to the internal affairs office for the Kransoselsk internal affairs authority for Moscow's Central Administrative Area. Pursuant to article 20, paragraph 1 (Disorderly conduct), of the Code of Administrative Offences of the Russian Federation, administrative proceedings were brought against Ms. Ludan for her participation in the aforementioned action.

2119. On 10 June 2008, the Meshchansky district court of Moscow sentenced Ms. Ludan to administrative arrest for a period of four days in a special holding centre for persons arrested for administrative offences by the Moscow Central Internal Affairs Authority.

2120. On 13 June 2008, Ms. Ludan was released from the special holding centre. Officers of the internal affairs authority of the Department for Combating Organized Crime for the North Eastern Administrative Area of Moscow arranged for Ms. Ludan's appearance in the investigative department, where from 2 p.m. to 3 p.m. she was questioned as a witness by Mr. K.V. Karasev, the investigator of the investigative department for the North Eastern Administrative Area of the investigative authority of the investigative committee for Moscow attached to the Office of the Procurator of the Russian Federation. The officers of the internal affairs authority of the Department for Combating Organized Crime for the North Eastern Administrative Area of Moscow did not take part in the questioning and were not present during the investigation; they did not exert any psychological or physical pressure on Ms. Ludan. A personal search of Ms. Ludan was not conducted, and objects and documents belonging to her were not confiscated.

2121. After questioning, Ms. Ludan left the building of the investigative department. She was not detained pursuant to articles 91 and 92 (Grounds and procedure for arresting a suspect) of the Code of Criminal Procedure of the Russian Federation.

2122. The employees of the internal affairs office have no information concerning the whereabouts of Ms. Ludan. Subsequently and up until the present, Ms. Ludan has not been subjected to any measures, including arrest, on the part of internal affairs officers. There is no information about the receipt by law enforcement agencies of complaints from Ms. Ludan concerning unlawful arrest, militia officers' use of psychological and physical pressure, threats of criminal prosecution, or the unlawful confiscation of property. The case file does not contain any information concerning Ms. Ludan's arrest by officers of the Department for Combating Organized Crime or by other individuals after she was questioned.

2123. At present, the director of the investigative authority of the investigative committee for Moscow attached to the Office of the Procurator of the Russian Federation has been instructed to organize an investigation, in accordance with article 144 (Procedure for investigating reports of offences) and article 145 (Decisions to be taken on the basis of the investigation of the report of an offence) of the Code of Criminal Procedure of the Russian Federation, into the reports concerning unlawful acts committed against Ms. Ludan by militia officers.

Observations

2124. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 2 July 2008

2125. On 2 July 2008, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegations concerning Mr. Anton Pavlovich Turin, a correspondent for the Samara Human Rights Information Agency Svoboda in the city of Samara in the Samarskaya Oblast. Mr. Turin participates in the monitoring of polling stations and voting commissions. He has also attended demonstrations and public actions in opposition to the use of torture by the authorities and military service.

2126. According to the information received, on the afternoon of 14 February 2008, two officers of the Organized Crime Department for the Samarskaya Oblast (UBOP) came to Mr. Turin's home and asked that he return with them to the police station. Only one of the officers identified himself as field officer of UBOP by giving a name which is known to us. Turin asked what the reason for their request was and if they had a summons. Reports indicate that the officers then became aggressive toward Mr. Turin and his mother and threatened to lodge an administrative complaint against the former if he did not accompany them to the station.

2127. While Mr. Turin believed they were returning to the District Internal Affairs Department, he was in fact brought to office 212 at the UBOP station, where his personal belongings were examined by an officer, whose name is also known to us. Another officer took Mr. Turin's mobile phone and left the room. Mr. Turin was verbally and then physically assaulted by the first officer, who hit him twice on the right side of his face, and threatened him with further physical violence. Mr. Turin screamed for help and the physical assault ended.

2128. The second officer returned and both began to question Mr. Turin about his activities in Russia and his family and friends. The first officer again reportedly threatened Mr. Turin, this time with planting narcotics on him and with preventative arrest, if he didn't calm down, stop

taking part in mass actions, and stop monitoring polling stations and voting commissions as a correspondent for Svoboda. Mr. Turin was then coerced into acknowledging in writing that he had been warned about the consequences of his “participation in mass actions” before being released.

2129. It was alleged that the detention and harassment of Anton Pavlovich Turin may be directly related to his activities in defense of human rights in the Russian Federation, in particular through his exercise of the right to freedom of assembly and freedom of expression.

2130. Following these reports, serious concern was expressed for the physical and psychological integrity of Mr. Turin. Further concern was expressed for measures which may seek to curtail the right to freedom of assembly and freedom of expression in the country.

Response from the Government

2131. In a letter dated 4 September 2008, the Government responded to the communication sent on 2 July 2008. The Government reported that in accordance with article 5 of the Federal Act No. 114-FZ of 25 July 2002 on measures to counter extremist activities, in February 2008 preventive measures were carried out in Samara with a view to identifying members of informal youth associations with extremist tendencies.

2132. In the course of the aforementioned measures it was established that Anton Pavlovich Tyurin, a correspondent for the non-governmental organization Samara Human Rights Information Agency “Svoboda”, took an active part in unauthorized actions of the National Bolshevik Party, the activities of which have been prohibited in the Russian Federation; the party itself has been declared extremist.

2133. On 14 February 2008, officers of the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province came to Mr. Tyurin’s apartment in order to hold a preventive talk with him. They showed Mr. Tyurin their service identification cards and suggested that he go with them to the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province.

2134. Mr. Tyurin voluntarily went to the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province, where a preventive talk was held with him. Mr. Tyurin was warned that, if he took part in unlawful actions, rallies, demonstrations or picketing, he might be arrested for an administrative offence. Mr. Tyurin’s personal affairs were not examined and were not confiscated. The members of the Department for Combating Organized Crime did not exert any psychological or physical pressure on him. After the talk, Mr. Tyurin left the building of the Department for Combating Organized Crime.

2135. It subsequently became known that provocative information concerning officers of the Department for Combating Organized Crime had been placed on the information resource www.svobodanews.ru.

2136. On 17 April 2008, the Sovetsky interdistrict investigative department of the investigative administration of the investigative committee attached to the office of the Procurator-General for

Samara province received a communication from Mr. A.V. Loshmankin, the founder of the non governmental organization Samara Human Rights Information Agency “Svoboda”, concerning the unlawful actions of officers of the Department for Combating Organized Crime attached to the Central Internal Affairs Administration of the Ministry of Internal Affairs of the Russian Federation for Samara province, who had arrested Mr. Tyurin and exerted physical and psychological pressure on him.

2137. In the course of the investigation conducted pursuant to article 144 (Procedure for investigating reports of offences) and article 145 (Decisions to be taken on the basis of the investigation of the report of an offence) of the Code of Criminal Procedure of the Russian Federation, the information concerning the unlawful detention of Mr. Tyurin and the use of force against him by officers of the Department for Combating Organized Crime attached to the Central Internal Affairs Administration of the Ministry of Internal Affairs of the Russian Federation for Samara province was not confirmed.

2138. A critical attitude must be taken to Mr. Tyurin’s claim that he suffered physical injury as a result of the use of force against him by officers of the Department for Combating Organized Crime, since Mr. Tyurin’s allegations were not confirmed during the investigation that was conducted.

2139. In light of the aforementioned circumstances, the fact that Mr. Tyurin was brought to the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province and that a talk was held with him cannot be linked with his human rights activities.

2140. On 30 July 2008, on the basis of the results of the investigation by the Sovetsky interdistrict investigative department of the investigative administration of the investigative committee attached to the Office of the Procurator-General for Samara province, the decision was taken not to institute criminal proceedings against the officers of the Department for Combating Organized Crime attached to the Central Internal Affairs Administration for Samara province in accordance with article 24, paragraph 1 (2), of the Criminal Code of the Russian Federation, since their actions did not reveal any evidence of an offence contrary to article 286 (Exceeding of official authority), paragraph 3 (a), or to article 127 (Unlawful deprivation of liberty), paragraph 1, of the Criminal Code of the Russian Federation.

2141. The Samara province procurator’s office reviewed the legality of the aforementioned procedural decision on several occasions. The Office of the Procurator-General of the Russian Federation is currently verifying the legality and justification of the decision.

Observations

2142. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 8 July 2008

2143. The Special Rapporteur sent a letter of allegations concerning Mr. Viktor Shmakov, Editor-in-Chief and Mr. Airat Dilmukhametov, journalist, with the newspaper *Provintsiyalnye Vesti*, in the Bashkortostan Republic.

2144. According to information received, on 25 June 2008, the Kirov District Court in the regional capital of Ufa, Republic of Bashkortostan, issued Mr. Viktor Shmakov and Mr. Airat Dilmukhametov with a two year suspended sentence for allegedly violating laws on media and extremism, as contained in the Constitution of the Russian Federation. Mr. Viktor Shmakov and Mr. Airat Dilmukhametov were also reportedly banned from working as journalists for a year. Furthermore, earlier in June 2008, the Kirov District Court ordered the closure of *Provintzialnye Vesti*, on the request of local prosecutors, amidst allegations that the newspaper had violated media and extremism legislation, including the alleged publication of extremist materials.

2145. According to reports, previously in 2006 a criminal case was initiated against Mr. Viktor Shmakov and Mr. Airat Dilmukhametov for their alleged involvement in extremist activities. On 28 April 2006, Mr. Viktor Shmakov was arrested by agents from the Federal Security Service (FSB), and sentenced to two months imprisonment while the FSB and Interior Ministry conducted a joint investigation into allegations of extremist activities. On 16 May 2006, the Supreme Court of Bashkortostan ordered Mr. Smakov's release, stating that the authorities did not have enough evidence to hold him. Reports claim that Mr. Smarkov was not released for another 48 hours following the Court's decision.

2146. Concern was expressed that the aforementioned events could represent a direct attempt to prevent independent reporting in Russia, thus stifling freedom of expression in the country.

Response from the Government

2147. In a letter dated 30 November 2008, the Government responded to the communication of 8 July 2008. At the time of the finalization of the current report, a translation of the reply was not available.

Observations

2148. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 29 July 2008

2149. On 29 July 2008, the Special Rapporteur, together with the Special Rapporteur a on the situation of human rights defenders and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. Zurab Tsetchoev, member of the "Mashr" human rights group, an organization which provides support for relatives of people who have suffered involuntary disappearances and ill-treatment at the hands of unidentified security servicemen in Ingushetia.

2150. According to information received, on 25 July 2008, at approximately 6 a.m., several vehicles, including three "Gazelle" minibuses and three vehicles for armed troops, stopped before Mr. Zurab Tsetchoev's house. Around 50 security officers approached the gate. When Mr. Tsetchoev opened the door, they held him at gunpoint and forced him to lay face-down on the ground. Some servicemen went into the house without showing any identification or search warrant. They searched the house, confiscated one computer and two mobile phones and drove Mr. Zurab Tsetchoev away in one of the minibuses.

2151. Subsequently, Mr. Zurab Tsetchoev was interrogated for about five hours. He was accused of sending lists containing the personal addresses of law enforcers to the website Ingushetiya Ru. When he denied sending these lists, he was beaten and asked to give the names of who had sent them. At approximately 12.10 p.m., Mr. Zurab Tsetchoev was left on a road in Ingushetia. He was picked up by colleagues and taken to hospital where he was treated for a broken leg, as well as bruising to both of his kidneys and both of his arms.

2152. During Mr. Zurab Tsetchoev's detention, his whereabouts were not known. The Ministry of Internal Affairs and the Prosecutor's Office denied any knowledge about Mr. Zurab Tsetchoev's detention or the grounds on which he had been detained.

2153. Concern was expressed that the detention and ill-treatment of Mr. Zurab Tsetchoev may have been directly related to his legitimate activities in the defence of human rights, in particular his work to provide support for victims of torture at the hands of security servicemen.

2154. In view of the events described above, concern was also expressed for the physical and psychological integrity of Mr. Zurab Tsetchoev.

Response from the Government

2155. In a letter dated 7 October 2008, the Government responded to the communication sent on 29 July 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

Urgent appeal

2156. On 15 August 2008, the Special rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Ms. Gulnara Rustamova, the representative of Mothers of Dagestan for Human Rights, an NGO based in Makhachkali, Republic of Dagestan, Russian Federation. The NGO deals with cases of young men who have disappeared since 2007.

2157. According to the information received, on 23 May 2008, in an interview published in the weekly 'Novoe Delo', Ms. Rustamova and other members of the NGO Mothers of Dagestan were accused by an anonymous officer of the Investigative Committee of the General Prosecutor of the Southern Federal District of Dagestan of supporting fighters living in the forest.

2158. On 6 June 2008 the daily 'Chernovik' published the proceedings of a meeting which was chaired by the President of Dagestan, Mr. Mukhy Aliev. According to the newspaper, when the President asked 'What does Rustamova need?', someone from among the participants replied: 'a bullet in the head'. The reply was allegedly attributed to Mr. Adilgirey Magomedtagirov, the Minister of Internal Affairs of Dagestan.

2159. On 4 July 2008, in yet another article in the weekly 'Novoe Delo', Ms. Rustamova was accused of cooperating directly with an insurgent killed in Makhachkaly.

2160. Concern was expressed that the harassment of, the threats against, and the slander campaign against Ms. Gulnara Rustamova and members of her family may be directly related to her activities in the defence of human rights.

2161. Further concern was expressed regarding the physical and psychological integrity of Ms. Rustamova.

Response from the Government

2162. In a letter dated 31 December 2008, the Government responded to the communication of 15 August 2008. In its reply, the Government provided the following information: “The Office of the Procurator of the Republic of Dagestan has checked on the allegations that slanderous information about Ms. G.L. Rustamova has been published in the Dagestan media in connection with her human rights activities. Ms. Rustamova is one of the leaders of Mothers of Dagestan for Human Rights, an organization whose main activity is assisting people in determining the whereabouts of disappeared and abducted relatives. The law enforcement agencies of the Republic of Dagestan do nothing to hinder this organization in its work.

2163. All queries about abductions and other questions raised by Ms. Rustamova are considered in accordance with the established procedure. Where there are grounds for doing so, any necessary checks are carried out and appropriate action is taken in response. The federal watchdog body for communications and the media in the Republic of Dagestan has investigated the material published on 23 May and 4 July 2008 in *Novoe Delo* and on 6 July 2008 in *Chernovik*, with assistance from the management board of the Argument Linguistic Experts’ Association, based in the Republic of Adygeya.

2164. An analysis of the material published in these newspapers has found no assertions that Ms. Rustamova and other staff of Mothers of Dagestan for Human Rights have aided or abetted military groups or been in contact with an insurgent, nor any insults or threats. The editorial boards of *Novoe Delo* and *Chernovik* have not been shown to have violated article 4 of the Mass Media Act.

2165. According to information from the Office of the President and the Government of the Republic of Dagestan, the dig at Ms. Rustamova reported in the *Chernovik* article “The Mass Media, Gimry and Balakhani ...”, published on 6 July 2008, was not made by anyone attending the meeting between the President of Dagestan and the heads of the Republic’s ministries and departments on 2 June 2008. It has also been established that staff at the main investigation department of the investigation committee in the Office of the Procurator of the Russian Federation for the Southern Federal District have never been interviewed by the media about Ms. Rustamova’s activities.”

Observations

2166. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations on 4 September 2008

2167. The Special Rapporteur, together with the Special Rapporteur a on the situation of human rights defenders and the Special Rapporteur on extrajudicial, summary or arbitrary executions,

sent a letter of allegations regarding Mr. Magomed Yevloyev, a well known journalist and founder of the independent news website ingushetiya.ru. The website is known as the main non-governmental source of information in the Republic of Ingushetia, and reports on alleged governmental corruption and human rights abuses.

2168. According to information received, on 31 August 2008, at approximately 1.30 p.m., Mr. Magomed Yevloyev was arrested as he disembarked from a plane at Nazran airport in Magas, Republic of Ingushetia. Mr. Yevloyev was then escorted to a waiting police vehicle. A short time later, Mr. Yevloyev sustained a gunshot wound to the head and was taken by police officers to hospital, where he died later that day.

2169. The Interior Ministry of Ingushetia stated that Mr. Yevloyev was killed “accidentally” while resisting arrest. An Investigative Committee spokesman in Moscow also issued a statement which indicated that Mr. Yevloyev was detained by police and died in an “incident” while being taken to police headquarters for interrogation. The office of the Prosecutor General of the Russian Federation has reportedly indicated that it will investigate the incident.

2170. Prior to his death, Mr. Yevloyev had been a vocal critic of the government, and particularly of the Regional President of Ingushetia, Murat Zyazikov. Mr. Zyazikov had reportedly threatened to shut down the website ingushetiya.ru on a number of occasions. In early August 2008, the Moscow City Court upheld a district court’s decision to shut down the website for allegedly “carrying extremist content”. Charges of “inciting ethnic hatred” were also being pursued by prosecutors.

2171. In October 2007, Mr. Yevloyev had accused the President of the Republic of Ingushetia, Mr. Zyazikov, on the ingushetiya.ru website of hiring hit-men to kill him. His family had also received threats from Ingush politicians. The current editor of ingushetiya.ru, Ms. Roza Malsagova, recently left the Russian Federation and has sought political asylum in France, alleging severe pressure on her by authorities, including through a number of criminal cases brought against her, in connection with her editing of the website.

2172. While the reported investigation by the Public Prosecutor into the killing of Mr. Magomed Yevloyev was welcomed, concern was expressed that the aforementioned events may represent a direct attempt to prevent independent reporting in Russia. This concern was reinforced by the fact that the killing of Mr. Yevloyev is one in a long series of murders of journalists in the Russian Federation, as reflected inter alia in the communication to the Government by the Special Rapporteur on summary executions of 30 October 2006.

Response from the Government

2173. In a letter dated 29 September 2008, the Government responded to the communication sent on 4 September 2008. The Government informed that on 31 August 2008, officers of the Ministry of Internal Affairs of the Republic of Ingushetia, acting on the instructions of the investigator of the Nazran internal affairs office to bring the witness M.Y. Evloev in for questioning, arrested Mr. Evloev at Nazran airport. It was necessary to take Mr. Evloev into custody by force because he had ignored the summons issued by the investigator.

2174. At approximately 2 p.m., in a motor vehicle on his way to the Nazran internal affairs office, Mr. Evloev received a bullet wound to the head and, despite the medical treatment provided by one of the Republic's hospitals, died. The militia officer who fired the shot testified that he had accidentally pulled the trigger of his pistol. He was looking out of the window of the vehicle, since he believed that the vehicle might be attacked. He held the pistol cocked, ready to fire. Suddenly he heard the other militia officer cry out and he turned in his direction. At this time, Mr. Evloev moved forward and his head came in contact with the pistol. It was at that moment that the pistol went off.

2175. Proceedings were instituted under article 109, paragraph 2 (negligent homicide owing to the improper discharge by a person of his professional duties), of the Criminal Code of the Russian Federation. The final classification of the offence will be provided at the concluding stage, once all the facts of the case have been investigated.

2176. The investigators are also considering several other possibilities, including the possibility that Mr. Evloev's death was connected with his public activities and that it occurred as a result of sudden personal animosity. The investigation is being conducted by the central investigative department of the investigative committee attached to the Office of the Procurator of the Russian Federation for the Southern Federal District.

2177. Mr. Evloev was a staunch critic of M.M. Zyazikov, President of the Republic of Ingushetia, and in general of the federal centre policy being conducted in the Republic. He openly propagated his views on the Internet site www.ingushetia.ru, which he owned. The Internet resource made active use of various Russian and foreign opposition - and often openly extremist - organizations.

2178. In connection with the repeated publication of extremist materials on the aforementioned website, on 6 June 2008 the Kuntsevo district court of Moscow decided to grant the request made by the procurator of Ingushetia for the closure of the website.

2179. On 12 August 2008, the Moscow city court upheld the decision of the Kuntsevo district court of Moscow to close the website www.ingushetia.ru. In August 2008, the Office of the Procurator for the Republic of Ingushetia instituted criminal proceedings against Mr. Evloev in connection with an explosion near the home of Zalmkhan Khautiev, the director of the monitoring department of the administration of the President of Ingushetia. It was precisely for the purpose of the initial inquiry into this criminal case that, on 31 August 2008, Mr. Evloev was being escorted by militia officers from the airport to the Nazran internal affairs office.

Observations

2180. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 15 September 2008

2181. The Special Rapporteur sent a letter of allegations regarding Mr. Dariusz Bohatkiewicz, a reporter and Mr. Marcin Wesolowski, a cameraman with Polish television station, Telewizja Polska (TVP), and Mr. Levan Guliashvili, a Georgian national and TVP driver.

2182. According to information received, on 8 September 2008, at approximately 4 p.m., Mr. Dariusz Bohatkiewicz, Mr. Marcin Wesolowski, and their driver Mr. Levan Guliashvili were arrested by members of a unit claiming to be from the South Ossetian police. The incident took place near the village of Karaleti, located in the buffer zone between South Ossetia and Georgia, when the crew had tried to enter the region to cover an expected Russian troop withdrawal. Reports claim that Mr. Bohatkiewicz, Mr. Wesolowski and Mr. Guliashvili were prevented from entering the village by Russian troops stationed at a checkpoint when they failed to produce press accreditation issued by the Russian Foreign Ministry. When the Telewizja Polska (TVP) crew tried an alternate route into Karaleti, they were then arrested and taken by car to an unknown location, where they were questioned for approximately 3 hours. The crew was subsequently transferred to the South Ossetian regional capital, Tskhinvali, where they were detained overnight. Their equipment and cell phones were confiscated. One of the crew members reportedly managed to send a text message to TVP's Tbilisi office before his phone was seized, saying that they had been detained and that they were not being mistreated.

2183. On 9 September, the crew members were released from detention and transferred to the custody of Russian peacekeepers who subsequently turned them over to Georgian authorities and Polish diplomats. Their equipment and car was returned to them undamaged.

2184. Concern was expressed that the aforementioned events may represent a direct attempt by authorities operating in South Ossetia to prevent independent reporting in the region, following the conflict between Georgia and the Russian Federation.

Response from the Government

2185. In a letter dated 29 October 2008, the Government responded to the communication of 15 September 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

Letter of allegations sent on 16 September 2008

2186. The Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegations regarding Mr. Alishayev. He was the host of a popular religious television programme, Peace to Your Home, which is broadcast on Islamic television station, TV Chirkei. On 2 September 2008, at approximately 6.30 p.m., two unknown individuals attacked Mr. Abdulla Alishayev while in his car in the village of Separatorny, near Makhachkala, the capital of the Republic of Dagestan. He sustained gunshot wounds to his shoulder and head. A short time later Mr. Alishayev underwent emergency surgery at Makhachkala's Central Hospital. He succumbed to his injuries the following day. The Dagestan Prosecutor's Office has announced the launching of a criminal investigation and the identification of a suspect.

2187. Mr. Miloslav Bitokov is the editor-in-chief of the independent weekly Gazeta Yuga in Kabardino-Balkariya. Gazeta Yuga is one of the few news outlets in Kabardino-Balkariya to openly criticize local authorities. On 2 September 2008 at 7.30 p.m., Miloslav Bitokov was attacked by unknown aggressors at the entrance of his apartment building in Nalchik, the capital of the Republic of Kabardino-Balkariya. His son Artur Bitokov found his father lying on the

ground in a pool of blood. Miloslav Bitokov was hospitalized with a concussion, broken nose and cheekbone, and lip lacerations. The attackers did not take their victim's cash or mobile phone. Miloslav Bitokov had reportedly received threats previously.

Response from the Government

2188. In a letter dated 13 November 2008, the Government responded to the communication of 16 September 2008. At the time of the finalization of the present report, a translation of the reply was not yet available.

Urgent appeal sent on 21 November 2008

2189. 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 human rights defenders, sent an urgent appeal regarding Ms. Carine Clément, Mr. Mikhail Beketov and Mr. Sergei Fedotov. Ms. Carine Clément is a Moscow-based French sociologist, and the director of the Institute of Collective Action. Ms. Clément is very active on housing rights and trade unions. Mr. Mikhail Beketov is a journalist and editor-in-chief of the Kimkinskaia Pravda newspaper, and is involved in the protection of environmental rights. Mr. Serguei Fedotov is the leader of a group supporting disenfranchised small landowners in the suburbs of Moscow.

2190. According to the information received, on 13 November 2008 Ms. Carine Clément was attacked near the Bilingua Club in downtown Moscow, on her way to a roundtable. Two unidentified men ran up to her from behind, and stabbed her in the thigh with a syringe containing an unidentified substance. On 12 November 2008, another assailant attacked Mrs. Carine Clément near her house. He insulted her and spat on her. Mrs. Clément filed a complaint with the police and went to the hospital for medical treatment.

2191. On 13 November 2008, Mr. Mikhail Beketov was found by a neighbour in his courtyard of his home in the Khimki district of Moscow. Mr. Beketov was severely beaten and was unconscious when he was taken to the hospital. He sustained a head injury, multiple broken bones, and other serious injuries.

2192. On 13 November 2008, Mr. Sergei Fedotov was attacked by two young men with baseball bats and pepper spray.

2193. Concern was expressed that the attacks on these human rights defenders working on economic and social rights, including on the right to adequate housing, in the Russian Federation may form part of a broader intimidation campaign. Further concern was expressed that the assaults on these defenders may be solely connected to their activities in the defence of human rights.

Response from the Government

2194. In a letter dated 10 February 2009, the Government responded to the communication of 21 November 2008. In its reply, the Government provided the following information: "On 14 November 2008, the investigative authority of the Internal Affairs Department of the Khimki district in Moscow Province instituted criminal proceedings on the basis of evidence of

an offence contrary to article 111, paragraph 1 (intentional causing of serious harm to health, endangering a person's life), of the Criminal Code of the Russian Federation in connection with the bodily harm inflicted on Mr. Beketov, the editor-in-chief of the Khimkinskaia Pravda newspaper.

2195. Mr. Beketov was found unconscious with multiple injuries on the premises of his domicile at 28, Gorky Street, Starbeevo housing block, Khimki, Moscow Province, at 7.50 a.m. on 13 November 2008. As the actions of the assailant are regarded as constituent elements of an offence contrary to article 30, paragraph 3, and article 105, paragraph 1, of the Criminal Code (attempted homicide), the criminal case was referred for further examination to the investigation department of the investigative committee under the Office of the Procurator of the Russian Federation for Moscow Province.

2196. Subsequently, several theories concerning the commission of the crime were put forward and are being checked, including in connection with Mr. Beketov's professional activities, critical publications in the newspaper and hostile personal relations. An investigation is currently being conducted and a task force is working on the case. Given the serious nature of the crime, the case is being monitored by the head of the Criminal Investigation Department of the Russian Ministry of Internal Affairs.

2197. On 13 November 2008, the Lotoshinsk municipal district Department of Internal Affairs in Moscow Province received a communication from Ms. Fedotov concerning an assault on her husband, Mr. Fedotov. On the same day, Mr. Fedotov also contacted the Department of Internal Affairs to report the assault. Following verification by the investigation office of the Lotoshinsk municipal district Department of Internal Affairs, on 19 November 2008 criminal proceedings were instituted on the basis of evidence of an offence contrary to article 116, paragraph 2 (a), of the Criminal Code (battery with criminal intent) in connection with the bodily harm inflicted on Mr. Fedotov by unknown individuals.

2198. According to the forensic expertise, a hematoma was found on Mr. Fedotov's left foot that did not constitute a risk to his health. The investigative authorities are checking several theories, including in connection with the public activities of the victim as head of the council of a pressure group of defrauded landowners in Moscow Province and the possibility of an assault having been committed with criminal intent. The investigation is continuing.

2199. Following Ms. Clément's statement that she had been assaulted on 13 November 2008 and that she had been stabbed in the thigh with a syringe on 10 December 2008, the investigation office in the Department of Internal Affairs of the Basmanny municipal district in Moscow instituted criminal proceedings on the basis of evidence of an offence contrary to article 213, paragraph 1 (a), of the Criminal Code (criminal mischief with objects employed as weapons). The investigation has not been concluded and is continuing. Moscow's Basmanny interregional procurator's office has ordered an investigation of the case".

Observations

2200. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal

2201. On 9 December 2008, the Special Rapporteur, together with the Special Rapporteur on the human rights defenders and the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal to the Government regarding the offices of the Memorial Research Centre, a non-governmental organization working on alleged disappearances in Saint Petersburg.

2202. According to the information received, on 4 December 2008, a group of seven unidentified men, some of them masked and armed with batons, broke into the offices of the Memorial Research Centre in Saint Petersburg. The group allegedly included two police officers, two members of the special reaction unit (SOBR), and an investigator assigned by the Saint Petersburg Prosecutor's Office. The men produced a search warrant from the Prosecutor's Office of Saint Petersburg and showed it to the three staff members who were already present in the offices. The search warrant was issued in connection with an investigation against the newspaper "New Petersburg", regarding an article titled "Here is the new candidate". The search warrant was allegedly based on Article 282 of the Criminal Code ("Incitement to racial and religious hatred"). The Court of St Petersburg ruled earlier, on 21 October 2008, that the article in question did not contain extremist content.

2203. The premises of the Memorial Research Centre were blocked during the entire day of 4 December 2008, and the telephone lines were cut. The lawyer of the Memorial Research Center was prevented from being present during the search of the office. As a result of the search, the digital archives and other documents were seized and removed from the office, including hard drives and USB keys, computer processors and certain documents. Among the materials seized were 20 years of archives on Soviet Gulags and repression.

2204. According to its staff members, the Memorial Research Center does not have any connection either with the newspaper "New Petersburg" or with the article in question.

2205. Concern was expressed that the break-in and search of the offices of the Memorial Research Centre-Saint Petersburg, as well as the confiscation of digital data and archives, may have been solely in connection with the human rights activities of the non-governmental organization. Further concern was expressed with regard to the potential loss of data and its misuse.

Response from the Government

2206. In a letter dated 21 January 2009, the Government responded to the communication of 9 December 2008. In its response, the Government provided the following information: "On 9 September 2008, the investigative branch of the central district investigative arm of the investigations committee attached to the Russian Federation procuracy in Saint Petersburg instituted criminal proceedings against Mr. A.V. Andreev, editor-in-chief of the newspaper Novy Petersburg, under article 282, paragraph 1, of the Criminal Code of the Russian Federation (Incitement to hatred or enmity and violation of human dignity).

2207. It had been established that on 21 June 2007 an article by Mr. K. Chernyaev entitled “Here is a real candidate” was published in the *Novy Petersburg* No. 27 (841). According to the findings of a psycholinguistic expert report, the text of the article contained statements that violated the dignity of individuals or groups on the basis of nationality or origin and excited national hatred or enmity.

2208. In the course of the investigation, information was received connecting Mr. Andreev with the activities of the Memorial Research Centre. Pursuant to a decision of 3 December 2008, between 12.21 p.m. and 5.20 p.m. on 4 December 2008 the investigator Mr. M.G. Kalganov, with the assistance of officers from the principal division of the Russian Ministry of Internal Affairs for the north-western federal area, conducted a search of the premises of the organization in question and confiscated computer hard disks, diskettes, compact discs, photocopies of particular issues of the newspaper *Novy Petersburg* and other materials. In accordance with the requirements of the Russian Code of Criminal Procedure, these items were bagged in the presence of witnesses.

2209. The question whether the confiscated documents are substantive evidence and whether they are to be returned will be decided during the pretrial investigation. The staff members of the organization who were present during the search tried to prevent the investigator and the police officers from carrying it out. Despite the investigating officer’s lawful demand, in reading out article 182, paragraph 8, of the Code of Criminal Procedure, that nobody should leave the premises until the search was finished and that the persons present must not communicate with one another or with anyone else, they tried to let outsiders into the premises. The Saint Petersburg law enforcement authorities have not received any complaints from representatives of the Memorial Research Centre that human rights violations were committed during the search.

2210. A check by the Saint Petersburg procuracy did not identify any breaches of the Code of Criminal Procedure in the course of the search. The organization’s lawyers have lodged a complaint alleging that the actions of the investigator Mr. M.G. Kalganov were unlawful. This complaint is due to be considered by a judge of the Dzerzhinsky district court in Saint Petersburg. The court hearing is scheduled for 16 January 2009.

2211. The municipal courts have not dealt with the question whether the article “Here is a real candidate” constitutes extremist material. As matters stand, there are no grounds for the procuracy to act. The criminal investigation is being conducted under the supervision of the Office of the Procurator-General of the Russian Federation.

Observations

2212. The Special Rapporteur is grateful for the Government’s reply.

Follow-up to previously transmitted communications

2213. In a letter dated 16 January 2008, the Government responded to the letter of allegations of 29 November 2007. The Government reported that according to the materials of the preliminary investigation, on 24 November 2007, Moscow residents Oleg Petrovich Orlov, born in 1953, Artem Dmitrievich Vysotsky, born in 1974, Karen Edvardovich Sakhinov, born in 1982, and Stanislav Valerevich Goryachikh, born in 1986, were abducted from the Hotel Assa

in the town of Nazran by unidentified armed individuals and driven away in a white Gazel car with no registration plates. They were subsequently released near the village of Nesterovskaya. All four citizens had been assaulted by the criminals. In connection with this incident, on 24 November 2007, the Nazran unit of the investigative office of the Investigative Committee within the Office of the Procurator of the Russian Federation for the Republic of Ingushetia opened criminal case No. 200707560126 on the basis of evidence of an offence contrary to article 139, paragraphs 1 and 2 (Unlawful entry into a residence involving the use or threat of force), article 144, paragraph 1 (Obstruction of the lawful professional activities of journalists through coercion to disseminate or refrain from disseminating information), and article 161, paragraphs 2 (a) and 2 (d) (Robbery committed by a group of persons by prior conspiracy and involving the use of force such as not to endanger life or health or the threat of such force), of the Criminal Code of the Russian Federation. A temporary response unit of the Ministry of Internal Affairs of the Russian Federation in the Republic of Ingushetia is conducting complex inquiries with a view to identifying and apprehending the individuals involved in committing the crime. The investigation of the case is continuing under the supervision of the Ministry of Internal Affairs of the Russian Federation and the Office of the Procurator-General of the Russian Federation.

Observations

2214. The Special Rapporteur is grateful for the Government's reply.

Saudi Arabia

Urgent appeal sent on 8 January 2008

2215. The Special Rapporteur, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Mr. Fouad Ahmad al-Farhan, married with two children, owner of a small IT company with the name of "Smart Info" and Internet "blogger". On his Internet site he has reportedly, amongst other things, been critical of Your Excellency's Government's handling of the cases of Mr. Sulieman al-Rushudi, Mr. Essam al-Basrawi, Dr. Saud al-Hashimi, Mr. Al-Sharif Saif al-Ghalib, Dr. Musa al-Qirni, Dr. Abdel Rahman al-Shumayri, Mr. 'Abdelaziz al-Khariji and at least three other persons. They have been in detention since 3 February 2007 and were the subject matter of a joint urgent appeal addressed to Your Excellency's Government 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, Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders on 8 February 2007, which has, unfortunately, remained without a reply by Your Excellency's Government to date. According to the information received, Mr. Fouad Ahmad al-Farhan was arrested by security agents at his office on 10 December 2007 and taken to his home, which was subsequently searched. It is believed that Mr. Fouad Ahmad al-Farhan is held in connection with his reportedly peaceful criticism of Government policies. The Ministry of Interior acknowledged his detention on 31 December 2007, but the exact reasons for his arrest have not been specified. Mr. Fouad Ahmad al-Farhan is currently being held in incommunicado detention at Dhaban Prison in the city of Jeddah.

2216. Prior to his arrest Mr. Fouad Ahmad al-Farhan had been warned by an official from the Ministry of the Interior that he was at risk of being interrogated. He believed that this would be in connection with his writings on prisoners in his web journal. In view of Mr. Fouad Ahmad al-Farhan's alleged incommunicado detention concern was expressed for his physical and mental integrity.

Observations

2217. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 8 January 2008.

Urgent appeal sent on 27 May 2008

2218. 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 the human rights defenders and the Special Rapporteur on the question of torture, sent an urgent appeal concerning the reported arrest and detention of Mr. Matrouk al-Faleh, an academic and human rights defender in Saudi Arabia.

Mr. Matrouk al-Faleh was the subject of three previous communications sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders on 30 May 2005; by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 26 April 2004; and by the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on torture and the then Special Representative of the Secretary-General on human rights defenders on 19 March 2004. While the receipt of the replies of the Government dated 18 August 2005 and 18 December 2004 was acknowledged, the mandate holders wished to seek clarification on new information received.

2219. According to the new information received, on 19 May 2008, officers from the secret police arrested Mr. Matrouk al-Faleh on the premises of King Saud University in Riyadh, where he teaches. Whereas his family was informed of his arrest later that same day, Mr. Matrouk al-Faleh has not been given access to a lawyer or allowed any visit since then. Mr. Matrouk al-Faleh's family has not been informed of the reasons for his detention or what the charges are, and his whereabouts are currently unknown.

2220. Two days before his arrest, on 17 May 2008, Mr. Matrouk al-Faleh had publicly criticized the harsh prison conditions in the overcrowded Buraida General Prison, where two other Saudi human rights defenders, Mr. Abdullah al-Hamid and Mr. 'Isa al-Hamid, are serving prison sentences. Mr. Abdullah al-Hamid and Mr. 'Isa al-Hamid were found guilty of "incitement to protest", charges that were brought against them after they had supported and taken part in a reportedly peaceful demonstration outside the Buraida General Prison. The demonstrators called for their relatives' rights to being promptly informed about the charges brought against them and to a fair trial to be respected or, alternatively, to release them.

2221. Mr. Al-Faleh's statement criticized the restrictive procedures in relation to visits, the unhygienic conditions, the overcrowding, and the bad quality of medical services in the prison. His statement was later reproduced on <http://www.menber-alhewar.info>, a Saudi website. According to the information received, on 19 May 2008, this site was blocked for persons in Saudi Arabia.

2222. Mr. Matrouk al-Faleh had previously been arrested in March 2004 after calling for political reform, and was sentenced to six years' imprisonment in May 2005 on charges that included "sowing dissent and disobeying the ruler." He was released after having been granted a royal pardon by His Majesty King Abdullah on 8 August 2005. Since his release he has reportedly not been permitted to travel abroad.

2223. Concerns were expressed that the arrest and detention of Mr. Matrouk al-Faleh might be solely connected to his reportedly peaceful activities in defending human rights and exercise of his right to freedom of opinion and expression.

2224. In view of the alleged incommunicado detention of Mr. Matrouk al-Faleh at an unknown place of detention, further concerns were expressed that he might be at risk of ill-treatment.

Observations

2225. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 27 May 2008.

Letter of allegations sent on 13 June 2008

2226. The Special Rapporteur, together with the Special Rapporteur on the situation of the human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations concerning Mr. Abdul Rahman Al Lahem, a human rights lawyer who has been active in defending the rights of women.

2227. According to information received, since 2004, a travel banned has been imposed on Mr. Abdul Rahman Al Lahem, banning him from foreign travel. Mr. Abdul Rahman Al Lahem recently received the International Human Rights Lawyer Award from the American Bar Association, but due to the travel ban he was unable to collect the award in person. Mr. Abdul Rahman Al Lahem has allegedly attempted to challenge the travel ban in an administrative court, but the case was refused by the court. In November 2007, Mr. Abdul Rahman Al Lahem's lawyer's license was revoked because he objected to the sentencing of a nineteen-year old female victim of rape. He has also previously been imprisoned for publicly speaking out against human rights abuses in Saudi Arabia as well as for defending three pro-democracy activists.

2228. Concern was expressed that the imposition of the travel ban on Mr. Abdul Rahman Al Lahem may directly be related to his peaceful professional activities in defending human rights and in particular women's rights. Concern was further expressed that the travel ban may be imposed to prevent the views of Mr. Abdul Rahman Al Lahem from reaching a foreign audience.

Observations

2229. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 13 June 2008.

Urgent appeal sent on 22 July 2008

2230. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal regarding Mr. Saleh Awad Saleh Al Hweiti, aged 62, born in Riyadh, where he studied and lived, stateless and therefore without any identity documents, a poet critical of the Government, who denounced poverty and the marginalisation of "Bidune". His poems have been published and broadcast on several Saudi and international web-sites and radio programmes.

2231. According to the information received, Mr. Saleh Al Hweiti was arrested on 27 October 2004. For one month his whereabouts were unknown. Then it turned out that, following an allegedly unfair trial he had been sentenced to 21 months of imprisonment for defamation of Government officials and was held in Al Alichia prison not far from Riyadh. During the interrogations leading to the verdict, he had repeatedly been beaten.

2232. Mr. Saleh Al Hweiti was then transferred to Al Hayr, where he should have been released on 27 September 2005. Although his family intervened on his behalf, he was released only 18 months later, on 5 April 2007 in Tabuk. Since he has no identity documents, the secret service ordered him to stay in the city and wait for clarification of his administrative situation.

2233. Six days later he was called in by the security services who arrested him again. He was then held secretly in different prisons until 20 January 2008, when he was allowed to make a phone call from Ta'ef prison. On 1 July 2008, he was again allowed to call from a prison in Jeddah.

2234. He has not yet been brought before a judicial authority and has routinely been subjected to beatings and other forms of ill-treatment during interrogations. As a result several of his face bones are fractured.

Response from the Government

2235. In a letter dated 25 November 2008, the Government replies to the urgent appeal of 22 July 2008, stating that the said person was detained on 30 April 2003 on the basis of a security-related charge (relevant to terrorist activities) and subsequently released on 23 April 2007. New accusations made against him then necessitated his detention once again on 29 April 2007 for purposes of questioning. Since his detention he has been treated in accordance with the judicial regulations in the Kingdom, which respect human rights and comply with the International Covenants and other conventions.

Letter of allegations sent on 15 August 2008

2236. On 15 August 2008, the Special Rapporteur, together with the Special Rapporteur on freedom of religion or belief, sent a letter of allegations concerning the arrest of Sheikh Tawfiq al-Amer from the Shi'a community in Ahsa district, Eastern province.

2237. According to the allegations, on 22 June 2008, Sheikh Tawfiq al-Amer was arrested and detained for a week without charge. The arrest of Sheikh al-Amer was reportedly linked to his criticism of an anti-Shi'a declaration made by 22 Wahhabi clerics, who had stated that Shi'as were "infidels" and "traitors" and a "great threat" to the Sunni majority in Saudi Arabia. In the mosque where he is Imam, Sheikh al-Amer argued on 14 June 2008 that such statements were dangerous to the community and asked the Government to prevent incitement to hatred and discrimination.

2238. Furthermore, it has been reported that members of the Shi'a community in Ahsa district face discrimination, for example that they do not get licenses to operate a private school or a kindergarten. In addition, some categories of jobs are allegedly forbidden for Shi'as, such as becoming a minister, government adviser, president of a public company, municipality president, diplomat or official in an Islamic organization financed by the Government.

Observations

2239. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 15 August 2008.

Serbia

Urgent appeal sent on 27 October 2008

2240. The Special Rapporteur, together with the Special Rapporteur on the situation of the Human Rights Defenders, sent an allegation letter regarding the intimidation and harassment against Ms. Sonja Biserko, Chairperson of the Helsinki Committee for Human Rights in Serbia (HCHRS). In 2008, Ms. Sonja Biserko published the Annual Report of the HCHRS for 2007. The report addressed crimes against humanity during the 1990s for which the Serbian administration in the Balkan region was allegedly responsible.

2241. According to new information received, in 2005 and 2006, Ms. Sonja Biserko suffered repeated break-ins at her home and physical attacks. These acts of intimidation were allegedly linked to a campaign which was launched by government officials and mainly targeted female leaders of Serbian human rights non-governmental organizations.

2242. Since 22 September 2008, the HCHRS has received many threatening letters, some of which have included death threats aimed specifically at Ms. Sonja Biserko. On 30 September 2008, approximately 100 to 130 members of ultra right-wing organizations in Serbia such as Movement 1389 and Protest stood outside the offices of the HCHRS for 15 minutes shouting threats against members of the organization and, in particular, Ms. Sonja Biserko. A large cardboard swastika was left outside the offices after the group had gone. Movement 1389 has been protesting against the arrest of Mr. Radovan Karadzic, who is mentioned in the Annual Report of the HCHRS for 2007, for over 70 days. Movement 1389 is also reportedly responsible for vandalizing HCHRS property.

2243. On 2 October 2008, Ms. Sonja Biserko's address and private details about her family were published by the newspaper *Tabloid* in an article about her. Further private information about her has been published on *Tabloid*'s website and the newspaper has referred to her as a "traitor of the homogeneous Serbianhood".

2244. Concern was expressed that the intimidation and harassment against Ms. Sonja Biserko and the HCHRS may be related to their legitimate activities in investigating and exposing violations of human rights in Serbia. Serious concern is expressed for the physical and psychological integrity of Ms. Sonja Biserko, as well all other members of the HCHRS.

Response from the Government

2245. On 15 December 2008, the Government replied to the letter sent by the Special Rapporteurs. In its response, the Government provided the following information:

2246. "Ms. Sonja Biserko filed, through her lawyer, to the District Public Prosecutor's Office in Belgrade criminal charges against Ms. Milica Grabez, journalist of the "*Tabloid*" daily newspaper. The charges were filed for criminal endangerment of safety punishable under Article 67, paragraph 2, in conjunction with paragraph 1 of the Criminal Code of the Republic of Serbia and instigation of ethnic, racial or religious hatred punishable under Article 134, paragraph 1, of the Basic Criminal Law. Regarding this case, a decision was brought that there were no grounds for initiating proceedings. This information was communicated to Ms. Biserko's lawyer on 14 December 2005. After the criminal charges had been dismissed by the District Public Prosecutor, her lawyer was able to take on criminal prosecution and institute criminal proceedings before the District Court and the Municipal Court in Belgrade.

2247. According to the report made by the Police Department of the City of Belgrade, with regard to the case No. Ktr 2305/07 of the Fourth Municipal Public Prosecutor's Office in Belgrade, an unknown person broke open the letter-box at the entrance to the building where Ms. Biserko lives and a sticker with the English text saying "a safe house for Ratko Mbdic" was affixed on the door to her flat. An extensive photographic documentation was submitted together with the report on CS investigation. However, by the date of submission of the report the Republic Prosecutor's Office, no perpetrators had been identified. Representatives of the Helsinki Committee also filed criminal charges to the same Prosecutor's Office regarding this case.

2248. Criminal charges were filed to the First Municipal Public Prosecutor's Office under No. Ktr.281/2008 against unknown persons (Yugoslav Liberation Resistance Movement), which were referred, on 12 February 2007, to the Ministry of Interior of the Republic of Serbia, Department of Public Peace and Order, for the purpose of collection of relevant information. In the case No. Ktn.2900/06, the charges brought against unknown persons ("Liberators of Serbia" were referred to the Serbian Ministry of Interior for the purpose of collection of necessary information. In the case No. Ktr.1867/07. Criminal charges were filed against unknown persons on 15 March 2007. In this case, Ms. Biserko was summoned on two occasions, on 12 October 2007 and 24 September 2008. In the case No. Ktr.20S8/08, a communication on criminal charges was received on 21 October 2008 and the person the charges were filed against was Dr. Mihailo Popovic.

Observations

2249. The Special Rapporteur is grateful for the Government's reply.

Somalia

Letter of allegation sent on 28 April 2008

2250. The Special Rapporteur sent a letter of allegation regarding the reported arrest of four journalists and a technician during a raid carried out in the premises of a radio station on 17 April 2008.

2251. According to information received, in the morning of 17 April heavily armed police raided privately-owned FM radio-station "Radio voice of Peace" in Mogadishu; they reportedly ordered the evacuation of its premises and closed down the station. It is further reported that during the raid, four journalists, Shafi'i Muhidin Islow, editor-in-chief; Abdikamil Yusuf Mohamud, reporter; Mohammed Ali Boston, reporter; and Mohammed Kafi Ali, reporter, and a technician, Ibrahim Abdi Hassan, were arrested and detained by the Criminal Investigation Department (CID) until the evening of 17 April. Although the reasons for the raid and the arrests were not officially disclosed, reports indicate that they may be linked to the radio station's coverage on 16 April of an attack by insurgents in the K4 area in Mogadishu.

Observations

2252. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 28 April 2008.

Urgent appeal sent on 29 August 2008

2253. On 29 August 2008, the Special Rapporteur sent an urgent appeal regarding Mr. Abdifatah Mohamed Elmi a Somali photojournalist and freelance journalist, Ms. Amanda Lindhout, a journalist from Canada and Mr. Nigel Brennan, a journalist from Australia.

2254. According to information received, on 23 August 2008, Mr. Abdifatah Mohamed Elmi, Ms. Amanda Lindhout and Mr. Nigel Brennan were abducted by unknown gunmen while travelling with their driver, identified as Mahad, along the Afgoye-Mogadishu road, located approximately 17 kilometres north of Mogadishu. The group had been on their way back from visiting a refugee camp at Afgoye, not far from the capital, where they interviewed individuals living in the camp. The alarm was raised when the group did not return to their hotel in Mogadishu that afternoon. The current whereabouts of Mr. Abdifatah Mohamed Elmi, Ms. Amanda Lindhout, Mr. Nigel Brennan and their driver are unknown. However, it is believed that they may have been held in the north eastern village of Suqa Holaha, before being moved to Jowhar, a town 90 kilometres north of the capital.

2255. The reasons for the abduction of these journalists are still unclear and no demands have apparently been made. However reports claim that their abduction appears to have been a well-planned operation. To date no group has admitted responsibility for the kidnapping. Mogadishu's interim mayor, Mr. Mohamed Osman Ali, has reportedly condemned the abduction and has initiated an investigation into the incident.

2256. While the reported investigation into the abovementioned events was welcomed, serious concern was expressed for the physical and psychological integrity of Mr. Abdifatah Mohamed Elmi, Ms. Amanda Lindhout, Mr. Nigel Brennan and their driver. Further concern is expressed that the abovementioned incident may represent a direct attempt to prevent independent reporting in Somalia.

Observations

2257. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 29 August 2008.

Sri Lanka

Urgent appeal sent on 14 March 2008

2258. The Special Rapporteur, jointly 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 human rights while countering terrorism, sent a communication concerning the case of Mr. N. Jasikaren, a former journalist with the Tamil language bi-monthly "Sariniher" and journalist with the web news service "Outreachsl.com" and owner of the Outreach Multimedia and E-Kwality Graphics, a printing press; Ms. Valarmathi Jasikaren, his wife; Mr. J.S. Tissanaygam, journalist with the "Sunday Times" and the "Daily Mirror" and chief editor of the "Northeastern - Herald" an English-language regional newspaper and "Outreachsl.com"; Mr. K. Wijayasinghe, a freelance journalist, who writes for the weekly newspaper "Ravaya", the daily "Mawbima" and "Outreachsl.com"; Mr. Udayen, a video editor for "Outreachsl.com"; and Mr. A.G. Lasantha Ranga, a video journalist for "Outreachsl.com".

2259. According to information received, Mr. N. Jasikaren was arrested by the Terrorist Investigation Department (TID) (a special police division that reports directly to the Secretary of the Ministry of Defence) at his office on the evening of 6 March 2008; during his arrest, his laptop and printed materials were seized by the TID. Mr. Jasikaren is being held at the TID offices in Colombo. Mr. Jasikaren's wife, Valarmathi Jasikaren, a marketing officer with Maharaja Broadcasting, was arrested on 6 March at their home on the same day. Mr. Jasikaren was assaulted by TID officers. Valarmathi Jasikaren suffers from a liver disease and underwent surgery a few weeks ago, and there is no indication that she has access to her medication in custody.

2260. J.S. Tissanaygam and K. Wijayasinghe were arrested by TID officers on 7 March at 11:30 a.m. when they went to TID offices to inquire about the arrests of Mr. Jasikaren and his

wife. Mr. Tissanaygam was detained incommunicado until late in the evening of 7 March, when his family was informed of his whereabouts. Both men are being detained at the TID offices in Colombo. Mr. Tissanaygam and Mr. Wijayasinghe's wives were allowed to visit them.

2261. Udayen was arrested at his home on 7 March. He was detained incommunicado until midnight and he is being held at the TID offices in Colombo.

2262. A.G. Lasantha Ranga was requested to report to the TID offices before 3 p.m. on 8 March. He has been detained since then at the TID offices in Colombo. Mr. Ranga's wife visited him on 10 March. Mr. Ranga was threatened by TID officers in front of her, stating that if Mr. Ranga had seen how Jasikaren and Tissanaygam were tortured "he would die on the spot". TID officers told her that she should not visit her husband with a lawyer.

2263. A seventh person, Mr. Siva Sivakumar, journalist and spokesperson for the Free Media Movement and chief editor of the Tamil-language newspapers "Sarinher" and "Adhavan", was also arrested on 8 March 2008. He was, however, released after a detention period of 12 hours during which a statement was taken from him. TID officers had gone to his home on the evening of 7 March to arrest him, but took his cousin into custody instead as he was absent. TID officers informed Mr. Sivakumar's relatives that his cousin would be released when he presents himself to TID offices, which he did in the morning of 8 March.

2264. With regard to the above persons who have been arrested, detention orders have reportedly been prepared pursuant to Regulation 21 of the Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulations No. 7 of 2006. However, to date none of the accused have seen the detention order. It is also not clear if it was the Secretary of the Ministry of Defence or a Deputy Inspector General (DIG) of the police who issued detention orders in this case. If detention orders have been issued, the detainees must be brought before a magistrate at least once every 30 days, but this is only to verify that the person is still being detained. Magistrates have no power to question, cancel or renew a detention order. Only the person issuing the detention order - the Secretary of Defence or the DIG - can renew, amend or cancel it.

2265. With regard to the cases of Mr. Jasikaren and his wife, TID officials have issued receipts acknowledging their arrests and citing as a reason aiding and abetting terrorist activities. No information has yet been given concerning the reason for the detention of the remaining persons and their arrests and detention have not yet been acknowledged by the TID. However, a few weeks before the arrests, authorities proclaimed that some websites reporting on human rights violations were a hindrance to the ongoing war.

2266. All meetings with relatives were held in the presence of TID officers. None of the above cited persons were allowed access to legal counsel. With a view to the allegations of ill-treatment and threats of ill-treatment in detention, serious concerns were expressed as regards the physical and mental integrity of the above-mentioned persons. Further concern was expressed that the arrest and detention of the above-mentioned persons might be solely connected to their reportedly peaceful exercise of their right to freedom of opinion and expression.

Observations

2267. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 14 March 2008.

Urgent appeal sent on 15 July 2008

2268. The Special Rapporteur, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on human rights defenders, sent an urgent appeal concerning the interrogation of staff of the Right to Life Centre, Law and Society Trust, Civil Monitoring Commission and Janasansadaya.

2269. According to the information received, on 12 July 2008, three persons from the Colombo Crime Division (CCD) went to the office of the Right to Life Centre and questioned two staff members about the history, objectives and details of their work. The questioning came as a result of the printing and distribution of two leaflets during a public demonstration on 10 December 2007. The CCD officers requested the two staff members to go to the CCD office situated in Colombo 9 (Dematagoda), where they were questioned further. Information about the staff members and their families was also recorded. They were instructed to ensure that the leaders of all four organisations present themselves at the CCD office the next day. On 13 July 2008, four representatives from the Right to Life Centre and Law and Society Trust went to the CCD office, where they were questioned for several hours on the information contained in the leaflet, details of the organisations and family information.

2270. Concern was expressed that the questioning of staff of the above mentioned organizations may be a form of harassment to discourage them from carrying out their legitimate work in defense of human rights.

Response from the Government

2271. In a letter dated 4 September 2008, the Government responded to the communication above. The Government reported that investigations were launched based on information received to the effect that the occupants of a vehicle were engaged in distributing pamphlets attempting to excite feelings of disaffection amongst the public in contempt of the administration of justice. The vehicle in question was searched by the security forces and police personnel, and a bundle of pamphlets, incriminating in nature, has been recovered. The owner of the vehicle stated that a person gave him the pamphlets when he stopped at a traffic light. The material in the pamphlet was provocative in nature, which would have aroused feelings of hatred towards security forces and the police.

2272. According to the details denoted in the pamphlet in its concluding page, readers were directed to the NGOs Right to Life; Law and Society Trust; Civil Monitoring Commission and Janasansadaya for inquiries. In terms of Regulation 29 of the Emergency Regulations, it would be an offence to publish any false statement likely to cause public alarm or disorder, creating communal tension. In the pamphlet in question certain statements have been made against the armed forces and the police and the activities in the performance of their duties. Therefore it was necessary to investigate the nature of the publication and to seek legal advice from the Attorney General. In the course of the police investigations no arrests or detention were made

and the investigators merely recorded statements. At no stage of the investigations were any threats or intimidations leveled on those who were subjected to questioning. The investigators conducted themselves within the law and had only performed their legitimate duties, which cannot be construed as harassment. The pamphlet, along with the statements, has been referred to the Attorney General for advice, which is awaited.

Observations

2273. The Special Rapporteur is grateful for the Government's reply.

Letter of allegation

2274. On 18 July 2008, the Special Rapporteur sent a communication concerning Mr. Namal Perera, a freelance Sinhala language journalist and deputy head of the advocacy section of the Sri Lanka Press Institute (SLPI), a media rights advocacy group.

2275. According to information received, on 30 June 2008, at approximately 6.30 p.m., Mr. Namal Perera, was attacked by a group of unknown individuals as he travelled by car, along with an official from the British High Commission, between Narahenpita and Kirulapone. Reports claim that the car in which Mr. Namal Perera and his colleague were travelling was followed by men on two motorbikes, before being intercepted by a white van. Four individuals wielding iron bars reportedly stepped out of the van and proceeded to attack Mr. Namal Perera's car, breaking the windows. The men attempted to drag Mr. Namal Perera from the car shouting that it was he that they were looking for. Mr. Perera managed to resist a potential abduction, however both he and his colleague were repeatedly beaten with metal bars before the attackers fled the scene. Mr. Namal Perera and his colleague were brought to Apollo hospital in Colombo where they were treated for their injuries. The aforementioned attack on Mr. Perera is allegedly linked to his work as a journalist, in particular recent articles he had written which criticised the government's actions in its campaign against secessionist Tamil rebels.

2276. According to reports a cabinet sub-committee, to be chaired by Minister Sarath Amunugamato, has been appointed by the Government to address ongoing attacks against journalists and the police are reportedly investigating Mr. Perera's case. While the establishment of the aforementioned sub-committee is welcomed concern is expressed that the attack on Mr. Perera may represent a direct attempt to prevent independent reporting in Sri Lanka, thus stifling freedom of expression in the country.

Observations

2277. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 18 July 2008.

Letter of allegation sent on 29 September 2008

2278. On 29 September 2008, the Special Rapporteur sent a communication concerning Ms. Radhika Devakumar, a correspondent for the state-owned Tamil-language newspaper Thinakaran. Ms. Devakumar was also working as a media secretary for an Eastern Province Minister.

2279. According to information received, on 8 September 2008, at approximately 7:30 p.m., Ms. Radhika Devakumar was attacked by unidentified individuals at her home in Batticaloa. The assailants reportedly fired three shots critically injuring Ms. Devakumar in the shoulder, abdomen and chest. Ms. Devakuma's family managed to transfer her to the local teaching hospital of Batticaloa where she underwent emergency treatment. She has since been moved to a hospital in Colombo where she remained in intensive care.

2280. 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.

Observations

2281. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 29 September 2008.

Urgent appeal sent on 22 October 2008

2282. On 22 October 2008, the Special Rapporteur, together with the Special Rapporteur on human rights defenders, sent a communication concerning Fr. Sarath Iddamalgoda, a founding member of the Christian Solidarity Movement (CSM). Fr. Sarath Iddamalgoda is a prominent leader in the CSM's current campaign to document the human rights and humanitarian crisis in the Vanni region, highlighting the abuses and suffering faced by civilians, particularly displaced people. It was said that this campaign seeks to raise awareness of the abuses faced by people affected by ongoing military operations, particularly the lack of security, food, medicine and shelter. The CSM provides reportedly independent information on these matters.

2283. According to information received, on 12 October 2008, Fr. Sarath Iddamalgoda was accused of distributing materials against the Government and the Armed Forces by the Deputy Minister of Ports and Aviation, a Member of Parliament from Negombo. The Deputy Minister of Ports and Aviation asked Fr. Sarath Iddamalgoda to cease these activities in Negombo, because "his group" was misleading innocent people. According to the Deputy Minister of Ports and Aviation, such campaigns should not be carried out without previous consultation with him. These comments were later reported in a Sinhalese newspaper.

2284. On 13 October 2008, the Deputy Minister of Ports and Aviation condemned the CSM's campaign at a public meeting in Negombo, referring specifically to Fr. Sarath Iddamalgoda. The Deputy Minister stated that the Presidential Advisor, a Member of Parliament, as well as the Church authorities, had been informed of this condemnation. He asked the CSM to stop its campaign, claiming that Catholic priests would no longer be respected if they involved themselves in such campaigns.

2285. The same day the Deputy Minister of Ports and Aviations' statement was televised on the news by Independent Television Network (ITN), a State-owned television channel, as well as on two other television channels, Rupavahini and Eye TV. On 16 October 2008, at approximately 7 p.m., the ITN news again condemned the CSM campaign. The news item and related video clips were also featured on the ITN webpage. No channel contacted the CSM for comments despite the contact details being made available by the leaflets which had given rise to the accusation against the CSM.

2286. Concern was expressed that the accusation against Fr. Sarath Iddamalgoda and the CSM may be directly related to their activities in raising awareness of human rights violations in Vanni. Given that four human rights groups were reportedly questioned, on 12 July 2008, about leaflets which they had distributed, further concern was expressed that the events described above may form part of an ongoing trend of restriction of freedom of expression in Sri Lanka.

Observations

2287. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 22 October 2008.

Follow-up to previously transmitted communications

2288. In a letter dated 28 July 2008, the Government responded to an urgent appeal of 4 May 2006. The Government reported that “the journalist, Ms. Sivaramaya Sivanathan, was arrested at the UNESCO World Press Freedom Day Conference. According to the Police, Ms. Sivaramaya Sivanathan had been arrested by the security officers when she had tried to enter the UNESCO World Press Freedom Day Conference held at the Bandaranayake Memorial International Conference Hall on 01.05.2006, without an invitation. Since only the invitees were allowed to participate in the conference, and she could not give a satisfactory explanation for her presence at the function, she was arrested and taken to the Cinnamon Gardens Police. Subsequently she was produced before the Magistrate’s court at Aluthkade and remained till 05.05.2006, pending completion of inquiry. After completion of inquiry, court has released her on 2 June 2006”.

2289. In a letter dated 2 September 2008, the Government responded to a letter of allegations of 8 December 2006. The Government reported that “based on the reports received from the Brigade and the unit concerned, the contents of the leaflets were full of malice against the army, written with the aim of agitating the people and disrupting the government’s efforts at bringing normality to the area. The persons mentioned in the communication acknowledged that they used the young male and the female in question to distribute these leaflets. None of the suspects had been detained in an Army Camp as alleged in the communication nor is information recorded about a complaint made by the alleged victims to the Police seeking redress of their grievances.

Observations

2290. The Special Rapporteur is grateful for the Government’s reply.

Sudan

Urgent appeal sent on 13 February 2008

2291. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers, sent a communication regarding Mr. Afandy Farah Mohamed Issa, 41 years old, Ethiopian national, who has lived in Sudan since 2006 and is a member of a registered political party in Ethiopia called “Benishangul People’s Liberation Movement”.

2292. According to the information received, Mr. Afandy Farah Mohamed Issa was arrested on 22 September 2007 by members of the Sudanese Security Services in el-Showak in the eastern part of the country and detained in the prison of Dabak, in the north of Khartoum. Before entering the Sudan Mr. Issa spent two months in Asosa prison in Ethiopia for reasons of his political activities in the country.

2293. Since Mr. Issa was transferred to the custody of the immigration police in Khartoum on 4 February 2008 there are strong indications that his deportation to Ethiopia is imminent. Up to this date he has not been granted access to legal representation.

2294. Concerns were expressed for the physical and mental integrity of Mr. Issa should he be returned to Ethiopia and re-arrested and detained in connection with his reportedly peaceful political activities.

Observations

2295. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 13 February 2008.

Letter of allegation sent on 28 April 2008

2296. The Special Rapporteur sent a communication concerning restrictions imposed on the Sudanese press.

2297. According to the information received, on 16 April 2008, Sudanese authorities prohibited the circulation of the following private newspapers: Al-Sudani, al-Ahdath, Ajras al-Huriya, al-Rai al-Shaab and the English language The Citizen. According to information received, the circulation of these newspapers was forbidden due to the publication of critical articles, including about censorship of the media by State authorities.

2298. The ban on the circulation of these newspapers is reportedly part of comprehensive restrictions on the media imposed on 6 February 2008. Since this date, agents of the National Security Service have been regularly visiting newspaper offices to review the contents of each edition prior to printing and distribution, removing articles that are deemed critical of State policies. This practice has reportedly contributed to removing references in the press concerning sensitive domestic and international events, including recent developments in Darfur and Chad.

2299. In a recent case, after several Arabic-language dailies reported the deaths of two detainees in police custody in Haj Yusif on 23 March, the Prosecutor for Press and Printed Material issued a public information ban on the incident. According to this prohibition, only information issued by the Office of the Police Spokesperson concerning this case is to be reported.

Observations

2300. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 28 April 2008.

Urgent appeal sent on 30 April 2008

2301. The Special Rapporteur, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a communication regarding the situation of Mr. Daoud Ahmed Altahier (chairperson of the Wadey Hauer University Students' Association, graduated from al-Ahlia University); Mr. Mohamed Ali Hmado (graduated from al-Nilen University); Mr. Esmail Ebaid Abakr (graduated from al-Nilen University); Mr. Adem Babkr Naiel (graduated from al-Nilen University); Mr. Ahmed Abdien Hamad Younies (graduated from al-Nilen University); Mr. Alfadel Omer Shamo (student at al-Delng University); Mr. Mubark Bakhiet Ebrahim (student at al-Delng University); Mr. Mahmud Naiel Mohamed (graduated from al-Delng University); Mr. Khalid Ahmed Mansor (aged 16, high school student in al-Delng).

2302. According to information received, these nine Darfuri students, all members of the Sudan Liberation Movement, were arrested in a house in the Hay al-Buga area of the town of el-Obeid in Northern Kordofan state on 23 February 2008. The arrests took place in the context of the elections for the Kordofan University Students Union, after violence erupted between Darfuri students, who claimed that the elections were rigged, and students affiliated with the ruling National Congress Party. The nine were initially kept in the custody of the Security Agents Office for approximately 35 hours, and were then transferred to the Shortat al-Qism al-Awsat police station. The nine men were ill-treated while in the custody of the security services: in particular, Esmail Ebaid Abakr lost his eyesight for several days following severe beatings and Daoud Ahmed Altahier bore marks where he had been hung by a rope.

2303. Alfadel Omer Shamo, Mubark Bakhiet Ebrahim, Mahmud Naiel Mohamed and Khalid Ahmed Mansor were released without charges on 26 February, while the other five men were released on 4 March and charged with illegal possession of weapons, rioting and penalty of rioting under articles 67 and 68 of the 1991 Criminal Act. The court dismissed the first charge at a hearing on 14 March, and a second hearing scheduled to take place on 24 April to decide on the second charges was postponed to 22 May. If found guilty under articles 67 and 68 of the Criminal Act, they face imprisonment of up to six months or a fine or up to 20 lashes.

Observations

2304. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 30 April 2008.

Letter of allegation sent on 18 September 2008

2305. The Special Rapporteur sent a communication regarding the reinstatement of the practice of censorship of newspapers.

2306. According to the information received, in early February 2008, the practice of regular censorship of newspapers by officials of the National Intelligence and Security Services (NISS) was reinstated, although there is no basis in Sudanese statutory law for such a measure.

2307. In May, June and July 2008, there were several reported incidents of censorship and intimidation of journalists in Khartoum, in particular with regard to coverage of the 10 May

attack on Ombudsman by the Justice and Equality Movement (JEM) and the 14 July decision of the Prosecutor of the International Criminal Court to request an arrest warrant against President Omar Hassen Al Bashir on charges of genocide, crimes against humanity and war crimes.

2308. According to reports, National Intelligence and Security Services (NISS) censors have been visiting newspaper offices late in the evening - in some cases less than an hour before the paper would go to press - at a point when, if censored, newspaper publishers are unable to salvage the next day's edition of the newspaper. The Arabic-language daily *Ajrass Al Huriya*, was reportedly prevented from printing and publishing on at least five occasions between 10 May and 10 June. When the NISS censors visited the paper on 16 May 2008, editors were reportedly told that the newspaper should stick to the "official line." On 19 June 2008, *Ajrass Al Huriya*'s editors initiated a four-day publishing strike in protest over the censorship. Publication of the newspaper resumed on 24 June 2008.

2309. On 14 May 2008, the premises of the Arabic-language daily *Alwan* were searched by the NISS. The newspaper's assets and materials were confiscated and its publication was suspended indefinitely on NISS orders. The measure was imposed on the same day that *Alwan* had published an article stating that a Sudan Armed Forces (SAF) aircraft had been allegedly shot down by JEM during the attack.

2310. On 18 May, Mr. Abdelmoniem Suleiman, a journalist from *Ajrass Al Huriya*, was summoned by NISS after the paper's censored articles accompanied by criticism of NISS press censorship had been published on an internet news site. He was held at an NISS office from 18 May, 1.00 p.m. until 2.15 a.m. on the following day and interrogated at length about his personal life and political views, subjected to humiliation and ridicule, and told that he should stop writing for Sudanese newspapers. Prior to his release, he was told to sign a paper stating that he would not publicly report about the NISS or any of its officers. He was also told, under the threat of being killed, that he should not tell anyone what happened to him in detention.

2311. Mr. Attaf Mohamed Mukhtar Taha, a journalist who works for the Arabic-language daily *Al Sudani*, was detained by the NISS for four hours in the late evening of 26 May, because he defended an article which NISS officers had decided to censor. He was taken to an NISS office at 9.30 p.m. and was reportedly forced to stand for nearly four hours. The journalist was insulted as being "dirty" and in need of a washing. He was then reportedly forced to stand facing a wall with his hands raised while cold water and later sewage water were poured over his head. Before being released, he was required to provide the NISS with extensive personal information and his contact details.

Observations

2312. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 18 September 2008.

Urgent appeal sent on 20 November 2008

2313. The Special Rapporteur sent a communication regarding the alleged arrest of 74 journalists and ongoing censorship and intimidation of the media.

2314. According to information received, on 17 November 2008, 74 journalists were arrested on the steps of the National Assembly in Omdurman. At approximately 10.30 a.m. 107 journalists had reportedly gathered peacefully outside the National Assembly with the intention of delivering a petition in protest of ongoing censorship of the media. Shortly after their arrival, two large police trucks arrived at the scene. Reports claim that there was a police presence of approximately 200-400 police officers. Approximately 45 minutes later police officers reportedly began arresting the journalists by loading them onto the police trucks. The journalists were then taken to Al Genobi police station in the south of Omdurman, where the majority remained in detention until 4.30 p.m.

2315. Previously, in the early morning of 11 November 2008, approximately 200 police and security forces reportedly surrounded and blocked access to the Khartoum offices of Ajrass Al Huriya where a group of journalists from multiple Sudanese newspapers were planning to assemble later that day. During the course of the morning, a group of approximately 100 journalists assembled peacefully inside the offices of the newspaper in preparation for a joint procession to the National Press Council to deliver a petition voicing the journalists' opposition to ongoing press censorship. The journalists decided not to go as a group but rather send a delegation of 20 of the most prominent journalists, who successfully departed the newspaper offices at 12.00 p.m. and reached the National Press Council without incident. A petition was submitted to the Constitutional Court on the same day by legal representatives for Ajrass Al Huriya. The remaining police and security departed the area at approximately 6.15 p.m. No arrests are known to have been made and there was no mention of the day's activities in any of the following day's newspapers.

2316. On 18 November, ten Sudanese newspapers suspended publication following the incident the previous day, as part of a growing protest against state censorship.

2317. Concern was expressed that the aforementioned events and reports of ongoing suspension of daily newspapers, printed newspaper editions and the confiscation of equipment, in addition to allegations of increased harassment, arrest, detention and interrogation of journalists may represent a direct attempt to prevent independent reporting in Sudan, thus stifling freedom of expression in the country.

Observations

2318. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 20 November 2008.

Urgent appeal sent on 28 November 2008

2319. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, 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 a communication regarding the situation of three human rights defenders, Messrs Amir Mohamed Suliman, Chairperson of the Khartoum Centre for Human Rights and Environmental Development (KCHRED), Abdel Monim Elgak, Regional Program Coordinator for the Strategic

Initiative for Women in the Horn of Africa (SIHA), and Osman Ali Hummaida, human rights researcher and member of the World Organization Against Torture (OMCT) Assembly of Delegates. Osman Ali Hummaida is also the former director of the London-based Sudanese Organization against Torture and a UK citizen.

2320. According to the information received, on 24 November 2008 at around noon, Abdel Monim Elgak and Osman Ali Hummaida were arrested by officers of the National Intelligence and Security Services (NISS) outside the offices of the Sudanese non-governmental organization SIHA in Khartoum 3. On the same day, Amir Mohamed Suliman was also arrested by NISS officers. All three men were taken to the political department of the NISS in Bahri (Khartoum North) for interrogation and were reportedly questioned on their human rights activities, in particular suspected cooperation with the International Criminal Court (ICC), which is currently investigating a request by the prosecutor for an arrest warrant against the Sudanese President on charges of war crimes, crimes against humanity and genocide.

2321. Messrs Amir Mohamed Suliman and Abdel Monim Elgak were released without charge in the evening of 24 November and early hours of 25 November respectively. On 25 November, Abdel Monim Elgak made a statement to a Sudanese online news outlet in which he criticized the arrests as a means to seek to intimidate Sudanese human rights defenders. That day, the NISS summoned him once more and detained him until the early hours of 26 November. About two hours after his release he was again arrested and detained until the early hours of the following day. Amir Mohamed Suliman and Abdel Monim Elgak were both summoned to return to the NISS office on 27 November at 11 a.m. to hand over bags and computers which NISS officers said they needed to examine. Amir Mohamed Suliman turned in the equipment and was allowed to leave.

2322. Mr. Osman Ali Hummaida remained in detention without charge and without contact with the outside world until 1 a.m. on 28 November, at which point he was released without charge. On the day after his arrest members of his family brought clothes and medicine for his asthma and high blood pressure to the office of the NISS but were not allowed to see him.

2323. On 25 and 26 November, both Abdel Monim Elgak and Osman Ali Hummaida were reportedly subjected to different forms of torture and other ill-treatment in order to force them to hand over their computers and other belongings which the NISS officers sought to confiscate. They were asked repeatedly whether they had cooperated with the ICC prosecutor and told to disclose details of information passed on to the prosecutor's office. Abdel Monim Elgak was reportedly so severely beaten on various parts of his body, including his head, and subjected to other forms of ill-treatment that he required medical treatment following his release. In an apparent effort to force Osman Ali Hummaida to turn over his electronic equipment, he was reportedly made to witness Abdel Monim El Gak being beaten and ill-treated so severely that he vomited.

2324. Osman Ali Hummaida was reportedly also subjected to beatings with black plastic pipes on his shins and feet, humiliated and subjected to serious threats, such as the threat of rape. He was detained in different detention facilities of the NISS in Khartoum, blindfolded during transports between detention facilities and subjected to sleep deprivation and 18-hour long

interrogations. During the fourth day of his detention he was reportedly twice hospitalized in the Amal hospital belonging to the NISS because his blood pressure had increased so severely that it required to be treated. Doctors in the hospital reportedly did not respond to his complaints that he had been subjected to beatings and sleep deprivation in NISS detention.

2325. In view of the reports of torture used on Mr. Osman Ali Hummaida and Mr. Abdel Monim Elgak and the medical condition of the latter, grave concern was expressed for the physical and mental integrity of the three human rights defenders. Further concern was expressed that the arrest and interrogation of Messrs Amir Mohamed Suliman, Abdel Monim Elgak and Osman Ali Hummaida may be linked to their non-violent activities in defence of human rights.

Observations

2326. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 28 November 2008.

Syrian Arab Republic

Urgent appeal sent on 8 January 2008

2327. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a communication regarding Mr. Fayez Sara, a journalist who contributes to several newspapers, including the Lebanese daily Assafir and the pan-Arab daily Al-Hayat. He is also a member of the network called “Committees for the Revival of the Civil Society (CRCS)”, which engages in human rights related and political discussions.

2328. According to the information received, on 3 January 2008, Mr. Sara was arrested by the security forces after appearing in response to a summons. His detention is believed to be related to his participation in a meeting of the National Council of the network “Damascus Declaration for Democratic National Change” held on 1 December 2007, which called for democratic change and political openness in Syria, and statements related thereto made by Mr. Sara during a TV programme on 1 January 2008. Moreover, Mr. Sara is the eighth signatory of the “Damascus Declaration” who are being detained by the authorities without any specific reasons given. He is being held incommunicado without charge and access to legal counsel or his family at the detention facilities of the State Security Branch in Damascus. Mr. Sara is suffering from a malfunctioning thyroid gland which requires constant observation and medical treatment.

2329. Concern was expressed that the arrest and detention of Mr. Sara may be related to his reportedly peaceful activities in defence of human rights. In view of his reported incommunicado detention and his state of health, further concern were expressed as regards Mr. Sara’s physical and mental integrity.

Observations

2330. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 8 January 2008.

Urgent appeal sent on 11 January 2008

2331. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders, sent a communication concerning Mr. Mohammed Haj Darwish, Dr. Ahmad Tohme and Dr. Walid Bunni, political activists, Mr. Jaber al-Shoufi; member of the executive board of the Committees for the Defence of Freedoms and Human Rights in Syria, Mr. Akram al Bunni and Mr. Ali al-Abdullah founder-member and member respectively of the Committee for the Revitalisation of Civil Society in Syria, Dr. Fida al-Hurani, a political activist, recently elected President of the National Council of the Damascus Declaration, and Dr. Yasser Tayser Aleiti, an intellectual. The aforementioned are reportedly the eight activists who remain in detention - together with Mr. Fayez Sarah who was the subject of a joint urgent sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders on 8 January 2008 - following a series of arrests, on 9 December 2007, of over forty human rights defenders and political activists on the part of the Syrian State Security Services.

2332. According to information received, the arrests allegedly took place following a meeting of 163 activists in Damascus on 1 December 2007. The meeting was reportedly organised by the Damascus Declaration for Democratic and National Change to address the issue of political reform in Syria, and resulted in the creation of the National Council of the Damascus Declaration, a collective movement of political activists and human rights defenders.

2333. On 2 January 2008, Syrian security forces allegedly arrested Mr. Rashid Satouf, who was released on 5 January. Subsequently, on January 7, 2008, the security forces summoned Mr. Mohammed Haj Darwish, member of the Human Rights Association in Syria and a founding member of the Committees for Revitalizing Civil Society in Syria, to the state security offices in Damascus, and later arrested him. To date, no charges have been made against any of the nine men detained, nor have they appeared before a court.

2334. Concern was expressed with regard to their physical and psychological integrity of the above-mentioned persons while in detention. Further concern was expressed that the arrest and detention of the aforementioned persons may be directly linked to their work in defence of human rights, in particular their efforts to promote civil and political rights in Syria.

Response from the Government

2335. In a letter dated 1 July 2008, the Government responded to the communication above. The Government noted that the persons mentioned in the communication were engaged in activities prohibited in the Syrian Arab Republic under ordinary law, which was established in 1949. The interviews with these persons confirmed that they had violated the regulations and laws in force in the Syrian Arab Republic. The facts were confirmed in writing in their confessions, during the police inquiry and also during the examination conducted by the investigating judge in the presence of their defence lawyers. The Damascus Public Prosecutor instituted proceedings against them under ordinary law.

2336. The transcripts of all the interviews with these persons confirm that they committed the offence of membership of an unauthorized association, the object of which is to alter the character of the State, and that they had issued a statement which aimed to incite sectarian and racial conflict and spread false information. They did so under the cover of disseminating democratic ideas, whereas in fact they violated articles 206, 285, 286 and 327 of the Criminal Code of 1949, as amended. On the basis of the above, the investigating judge in Damascus took the decision to refer the case to the judge to indict them for the aforementioned crimes. The indictment division judge referred the case to the Damascus Criminal Court for trial. Since the decision of the judge is subject to appeal, their defence counsel appealed it and the case is under consideration before the Trial Division of the Court of Cassation.

2337. The legal basis for their continued detention is the aforementioned indictment decision. Syrian law provides, in such cases, that they must be remanded in custody and brought for trial before the criminal court in the first instance. That court then considers whether to release them at its discretion. Consequently, they are not in arbitrary detention.

2338. In conclusion, the Government confirmed that all the prosecution, investigation and judicial procedures relating to these persons have been conducted in accordance with the regulations and general laws in force in the Syrian Arab Republic, which are in accordance with international standards and norms.

Observations

2339. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 4 February 2008

2340. The Special Rapporteur, together with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on torture, sent an urgent appeal concerning Mr. Marwan al-'Ush, geology engineer, Mr. Riad Seif, former member of the Syrian parliament and 'Damascus Spring' figurehead, Mr. Mohammed Haj Darwish, a member of the Human Rights Association in Syria and a founding member of the Committees for Revitalizing Civil Society in Syria, Dr. Ahmad Tohme, dentist, Mr. Fayez Sarah, a journalist and founding member of the Committees for Revitalising Civil Society in Syria, Dr. Walid al-Bunni, Mr. Jaber al-Shoufi, member of the executive board of the Committees for the Defence of Freedoms and Human Rights in Syria, Mr. Akram al-Bunni, a member and founder of the Committee for the Revitalization of Civil Society in Syria and Mr. Ali al-Abdullah, founder-member and member respectively of the Committee for the Revitalisation of Civil Society in Syria, Dr. Fida al-Hurani, recently elected President of the National Council of the Damascus Declaration, and Dr. Yasser Tayser Aleiti, an intellectual. The latter nine individuals had been the subject of an urgent appeal sent by the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 11 January 2008.

2341. According to information received, on 15 January 2007, Mr. Marwan al-'Ush was arrested by State Security officials. Since then, Mr. Riad Seif has also been detained. Both men, along with all the aforementioned persons, attended a meeting of 163 activists in Damascus

on 1 December 2007, reportedly organized by the Damascus Declaration for Democratic and National Change to address the issue of political reform in Syria. The meeting resulted in the creation of the National Council of the Damascus Declaration, a collective movement of political activists and human rights defenders calling for establishing a democratic system that respects citizens' rights, ensures freedom of speech and association, and ends discrimination based on religious or political beliefs.

2342. On 27 January 2008, Mr. Walid al-Bunni, Mr. Yasser al-'Eiti, Dr. Fida' al-Horani, Mr. Akram al-Bunni, Mr. Ahmad To'meh, Mr. Jabr al-Shoufi, Mr. Ali al-'Abdullah, Faye Sarah, and Mr. Marwan al-'Ush were all reportedly transferred to 'Adra prison in Damascus. Dr. Fida'a al-Horani was then transferred to the women's prison in Douma, on the outskirts of Damascus. Mr. Riad Seif was also transferred to 'Adra prison following his appearance before the investigating judge on 29 January 2008. The detainees have reportedly been detained on charges including "weakening national sentiments" "broadcasting false or exaggerated news which would affect the morale of the country", and joining an "organization formed with the purpose of changing the financial or social status of the state".

2343. All those detained are reported to have been ill-treated while in the custody of State Security officials at their base in Damascus; Mr. Ali al-'Abdullah is alleged to have been so severely beaten that he sustained a serious injury to his oesophagus and it is not known if he has received medical treatment. Furthermore, Mr. Riad Seif is reported to be suffering from advanced prostate cancer and urgently requires specialist treatment only available outside Syria.

2344. Serious concern was expressed that the latest arrest and detention of Mr. Marwan al-'Ush and Mr. Riad Seif, as well as the charges brought against all the detainees, may be directly related to their activities in defence of human rights, particularly the exercise of their right to freedom of expression and association. In view of reports of ill-treatment and the ill-health of Mr. Riad Seif, further concern was expressed for their physical and psychological integrity while in detention.

Response from the Government

2345. In a letter dated 1 July 2008, the Government responded to the communication above as well as the communication sent on 11 January 2008. The content of the reply is summarized above.

Observations

2346. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 25 February 2008

2347. 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 question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a communication regarding Ms. 'Aisha Afandi, aged 48, and Ms. Kawthar Taifour, aged 50, both members of the Kurdish minority in the Syrian Arab Republic. According to the information received, Ms. 'Aisha Afandi

and Ms. Kawthar Taifour were arrested by members of State Security Services on 28 November 2007. Ms. 'Aisha Afandi was arrested at 4 a.m. at her home in 'Ein al-'Arab (Qoubani); the place and exact time of the arrest of Ms. Kawthar Taifour is not known. Both women are believed to be currently held in incommunicado detention at the women's wing of al-Maslamieh Prison in Aleppo without charge or trial. Both do not have access to legal counsel or contact with their families. They are being held together with convicted criminals and pre-trial detainees.

2348. Syrian authorities have not yet disclosed any reason for their arrest and detention. It is believed that these measures might be linked to non-violent demonstrations by members of the Kurdish minority of Syria on 2 November 2007 in the cities of Qamishli and 'Ein al-'Arab (Qoubani).

2349. Ms. 'Aisha Afandi and Ms. Kawthar Taifour are members of an organisation calling itself "Democratic Union Party (PYD)", which is not authorised in Syria. Ms. Aisha Afandi's husband, Mr. Saleh Muslim, is a leading member of the "PYD".

2350. Ms. Afandi suffers from a brain cyst which affects blood flow to the brain and which can cause a loss of consciousness, especially in stressful situations.

2351. In view of their reported incommunicado detention, concern was expressed with respect to the physical and mental integrity of Ms. 'Aisha Afandi and Ms. Kawthar Taifour. Further concern was expressed as regards Ms. Afandi's state of health in detention. Finally, concern was raised that Ms. Afandi's and Ms. Taifour's arrest and detention might be solely connected to their reportedly peaceful exercise of their right to freedom of opinion and expression and their right to association, in defence of human rights of Kurds in Syria.

Response from the Government

2352. In a letter dated 3 April 2009, the Government replied to the communication above. In its response, the Government provided the following information:

2353. These two women were arrested for stirring up unrest in the town of Ayn al-Arab in the Aleppo governorate. They were detained in Aleppo Central Prison, in women's ward 4, where women accused of the same class of offences are held. Contrary to the allegation transmitted to the Office of the High Commissioner, the women were not held in incommunicado detention and were neither of them subjected to ill-treatment; the law safeguards their rights and deals severely with persons who violate the rights of women, even if they are in prison and on trial for various offences.

2354. The two women appeared before an Aleppo court on 20 August 2008 following an inquiry that was conducted in accordance with the due process norms laid down in the Constitution and Syrian law. The case and investigation files were deposited with the military prosecutor's office, which is the legal authority with jurisdiction for the offences with which the women were charged, namely, stirring up sectarian strife and unrest. The two women were brought to the military prosecutor's office on 21 August 2008 and were charged with the aforementioned offences. The case was filed with the chief judge of the lower military court in Aleppo before whom the two women appeared for examination on 22 August 2008. At the end

of the hearing, the judge decided to discharge the women and the decision was carried out that very day. The judge continues to review the rest of the case against the two women. If the proceedings had not been conducted fairly and transparently and the two women had received no assistance, the judge would not have released them at the first hearing. Thus, there is no truth to any of the allegations transmitted to the Office of the High Commissioner, including those concerning arbitrary detention and denial of freedom of expression and the exercise of rights.

2355. The Syrian authorities, furthermore, verified the legality of the arrest procedures and found no evidence that the rights and freedoms of the two women had been infringed or that the women had been placed in arbitrary detention or subjected to mental or physical torture or any other serious violation. The two women are Syrian nationals, who were given a legal hearing consistent with the international standards and norms laid down in the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights. Neither the families nor the legal representatives of the two women filed any complaints with the Syrian authorities before or after the letter from the Office of the United Nations High Commissioner for Human Rights arrived.

2356. As for the health of the two women, we should point out that the laws on prisons in the Syrian Arab Republic stipulate that health and medical care must be provided for all persons in detention. All prisoners receive free medical attention as soon as they enter prison. When Ms. Afandi arrived at the prison, the doctor of the prisoners' welfare association diagnosed her as suffering from an inflamed right ear, and treated her regularly throughout her time in detention. This was treatment that she had not received beforehand. Ms. Tayfur was diagnosed as suffering from diabetes, rheumatoid arthritis pain and chest pains. She also had a condition known as "Aleppo boil" (leishmaniasis of the skin) and received free treatment for these conditions throughout the time that she spent in prison. Contrary to the information given to the Office of the High Commissioner, she did not complain of suffering from psychological trauma or epilepsy.

2357. We also refer to the information at the beginning of the letter from the Office of the High Commissioner stating that Ms. Afandi and Ms. Tayfur are members of the Kurdish minority. There is no such designation in the Syrian Arab Republic; these two women are Syrian nationals and there is no reference in their identity cards or other papers, or those of any Syrian citizen, to membership of a minority or a majority. Everyone is equal before the law and no reference is ever made to a person's race, religion or confessional group".

Observations

2358. The Special Rapporteur is grateful for the Government's reply.

Letter of allegation sent on 3 April 2008

2359. The Special Rapporteur, together with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent a communication concerning Mr. Mazen Darwish, head of the Syrian Centre for Media Freedom and Freedom of Expression.

2360. According to the information received, on 12 January 2008, Mr. Darwish was detained for three days after publishing a report on riots that occurred in Damascus, criticizing the alleged failure of security agencies to protect civilians killed on that occasion. After his detention, Mr. Darwish was accused of “libelling and defaming the states’ bodies”, following a complaint made by the police station in the Damascus suburb of Adra. He appeared before a military tribunal on 17 March, when it was decided that his trial before a military court would take place on 15 April.

2361. Concern was expressed that the arrest and detention of Mr. Darwish and the charges against him may be related to his non-violent activities in defence of human rights, in particular the exercise of his right to freedom of expression.

Observations

2362. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 3 April 2008.

Urgent appeal sent on 22 April 2008

2363. The Special Rapporteur, together with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a communication regarding Karam Ibrahim Yousef. Mr. Karam Ibrahim Yousef is a writer and human rights defender active in defence of the human rights of the Kurdish community in Syria.

2364. According to information received, on 20 March 2008, Karam Ibrahim Yousef was shot in the head by Syrian Security Forces whilst he was photographing the national Kurdish celebrations of their traditional new year in the city of Qamishli. Due to his injuries he had to be hospitalized. His health condition remains critical.

2365. Karam Ibrahim Yousef has been interrogated repeatedly by the authorities, but no charges have been brought against him.

2366. Concern was expressed that the attack against Mr. Karam Ibrahim Yousef may be related to his peaceful human rights activities, in particular his work to defend the rights of the Syrian Kurdish community. Further concern was expressed that this attack may constitute part of a trend of escalating intimidation and acts of hostility against human rights defenders in Syria.

Observations

2367. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 22 April 2008.

Urgent appeal sent on 23 April 2008

2368. 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 question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a communication regarding Mohammed Badih al-Bab, a member of the National Organisation for Human Rights in Syria, a non-governmental organization which promotes human rights.

2369. According to the information received, on 2 March 2008 Mohammed Badih al-Bab received a summons and was subsequently arrested by military security forces in Damascus. Mohammed Badih al-Bab is currently in detention, but his exact whereabouts are unknown. He has been denied access to a lawyer and is not allowed any visitors. No charges have yet been brought against him.

2370. The reasons for his arrest remain unclear, but it appears that he received the summons following articles he has recently written, in which he criticised the Minister for Information, Mr. Mohsen Bilal. In 2000, Mr. Mohammed Badih al-Bab was sentenced to 15 years' imprisonment. He was released in 2005 following a presidential amnesty.

2371. Concerns were expressed that the arrest and detention of Mr. Mohammed Badih al-Bab might be solely connected to his peaceful activities in defending human rights and the exercise of his right to freedom of opinion and expression. In view of the reported incommunicado detention of Mohammed Badih al-Bab at an unknown place of detention, further concerns were expressed that he might be at risk of ill-treatment.

Observations

2372. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 23 April 2008.

Letter of allegation sent on 8 May 2008

2373. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a communication concerning Mr. Ahmed Al Haji Al Khalaf, a member of the Syrian branch of the Arab Organisation for Human Rights (AOHR).

2374. According to information received, on 22 April 2008, Mr. Ahmed Al Haji Al Khalaf was sentenced to 5 days imprisonment by the Military Tribunal of Raka (the North-east of the Syrian Arab Republic) for "defamation" and "weakening the moral of the State". Mr. Ahmed Al Haji Al Khalaf was sentenced after having published an article criticizing the lack of transparency and democracy in the functioning and the decision-making process of the Department of Education in Raka. Mr. Al Khalaf was released after the five days.

2375. Concern was expressed that the sentencing of Mr. Ahmed Al Haji Al Khalaf may be directly related to his activities in defense of human rights, particularly his exercise of the right to freedom of expression.

Response from the Government

2376. In a letter dated 29 October 2008, the Government responded to the communication sent on 8 May 2008. The Government reported that Mr. al-Khalaf was sentenced to 10 days' imprisonment for defaming a public authority. The sentence was commuted to 5 days' imprisonment after mitigating factors had been taken into account. Mr. al-Khalaf was released after serving his sentence.

2377. The sentence handed down to Mr. al-Khalaf was delivered according to the procedures and laws pertaining to trials and offences, and the defendant's right to freedom of opinion and expression was not infringed. Articles 378 and 244 of the General Criminal Code reflect provisions found in French law and many other laws throughout the world; they are not incompatible with the International Covenant on Civil and Political Rights.

Observations

2378. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 16 May 2008

2379. 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 a communication concerning Mr. Habib Salih, a writer and pro-democracy campaigner. Mr. Habib Salih was the subject of a communication sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on the 8 June 2005 which to date regrettably remains without a reply from Your Excellency's Government.

2380. According to the information received, on 9 May 2008, Mr. Habib Salih was arrested at the market in Tartus. No reason was given for his arrest, but it is believed that it is related to articles he wrote that were published on websites, among them the website Elaph (www.elaph.com), which is currently censored. On 25 July 2007, Telecommunications Minister Amr Salen reportedly ordered website owners to keep personal details of all writers publishing articles on their sites.

2381. Mr. Habib Salih has been arrested twice before in relation to his human rights activities. In 2002, he was sentenced to 3 years' imprisonment and was released on 9 September 2004. On 15 August 2006, he was sentenced to another 3 years' imprisonment under article 286 of the criminal code for "publishing false news" after accusing the Government of corruption and a lack of respect for human rights. He was then released on 12 September 2007.

2382. Concerns were expressed that the arrest and detention might be solely connected to Mr. Habib Salih's peaceful activities in defence of human rights, in particular his work in promoting democracy and freedom of expression in the country. In view of the reported incommunicado detention of Mr. Habib Salih at an unknown place of detention, further concerns were expressed for his physical and psychological integrity while in detention.

Response from the Government

2383. In a letter dated 20 October 2008, the Government responded to the above communication. The Government informed that Mr. Salih used the media to disseminate false information and incite sectarian strife, thus provoking chaos and unrest. These acts are punishable under the Syrian Criminal Code. Mr. Salih admitted the charges, which were based on solid facts and evidence, and was duly brought before the courts. The Office of the Public Prosecutor brought a public interest case against him under articles 285, 298, 307 and 377 of the Criminal Code for crimes punishable by law, including disseminating false information likely to provoke chaos and unrest.

2384. The investigating judge interviewed Mr. Salih in the presence of his defence lawyers. The case remains before the Syrian courts, which are the final authority in the matter, no party has a right to intervene in their work. The proceedings against Mr. Salih were taken in accordance with the law and international norms and criteria. Mr. Salih was arrested not because of his human rights activities, as Al-Sadr claims, but because he committed criminal acts. Moreover, his detention is not arbitrary but lawful. He is in excellent health and undergoes periodic free medical examinations. He has the right to periodic visits, receives excellent food and care and is provided with all services free of charge. Any complaints or grievances that Mr. Salih might have would be investigated by the relevant authorities.

Observations

2385. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 7 July 2008

2386. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a communication concerning Mr. Mohammed Badih al-Bab, member of the National Organisation for Human Rights in Syria.

2387. According to information received, on 29 June 2008, Mr. Mohammed Badih al-Bab received a sentence of six months' imprisonment after having been charged for potentially harming the state by "broadcasting false news" under article 287 of the Syrian Penal Code. On 2 March 2008, he was arrested after having written articles which criticised the Minister for Information. In 2000, Mr. Mohammed Badih al-Bab had previously been sentenced to fifteen years' imprisonment but was released in 2005 after a presidential amnesty.

2388. Concern was expressed that the imprisonment of Mr. Mohammed Badih al-Bab may be directly related to his activities in defense of human rights as member of the National Organisation for Human Rights. In view of that mentioned above, serious concern was expressed for the physical and psychological integrity of Mr. Mohammed Badih al-Bab while in detention.

Observations

2389. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 7 July 2008.

Urgent appeal sent on 16 July 2008

2390. 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 question of torture, sent a communication concerning Mr. Hammam Haddad, a university student, author of a magazine and writer of Internet articles.

2391. According to information received, on 5 May 2008 Mr. Hammam Haddad was arrested at his home in Damascus by state security forces. Although no reason was given for his arrest it is believed that it was carried out to prevent him from further giving publicity to cases of human rights violations in the Syrian Arab Republic in his publications. Mr. Haddad's current whereabouts are unknown.

2392. Concern was expressed that the arrest and detention of Mr. Hammam Haddad may be related to his work in the defense of human rights, in particular his work to expose human rights violations in the Syrian Arab Republic. In view of his reported incommunicado detention at an unknown location, concern was expressed for the physical and psychological integrity of Mr. Hammam Haddad.

Response from the Government

2393. In a letter dated 10 September 2008, the Government replied to the above communication. At the time of the finalization of the present report, a translation of the reply was not yet available.

Letter of allegation sent on 29 July 2008

2394. The Special Rapporteur sent a communication concerning restrictions imposed on the Syrian newspapers Al-Hayat and Al Moujtama'a Al-Iktisadi.

2395. According to information received, on 15 July 2008, Syrian authorities prohibited the distribution of the London-based daily Al Hayat. The distribution of this newspaper was reportedly forbidden due to the publication of an article written by Saudi journalist Mr. Daoud Al-Sharayan. The aforementioned article allegedly criticised the position taken by President Bashar el-Assad during his recent trip to France for the launch of the Union for the Mediterranean. Furthermore, in February 2008 the government had banned circulation of the magazine Al Moujtama'a Al-Iktisadi for reporting that several Syrian leaders had dual citizenship, with their second passport often being either American or Canadian.

2396. The ban on the circulation of these newspapers is reportedly part of comprehensive restrictions on the media imposed by the Government. Agents of the National Security Service have reportedly been visiting newspaper offices on a regular basis to review the contents of each edition prior to printing and distribution, removing articles that are deemed critical of State policies.

2397. Concern was expressed that the aforementioned incidents may represent a direct attempt to prohibit independent reporting in Syria, thus stifling freedom of expression in the country.

Observations

2398. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 29 July 2008.

Urgent appeal sent on 10 September 2009

2399. 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 a communication concerning Mr. Hammam Haddad, a human rights defender, author of a magazine and writer. Mr. Hammam Haddad had been the subject of an urgent appeal sent on 16 July 2008 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture, and Special Rapporteur on the situation of human rights defenders.

2400. According to the new information received, on 7 September 2008 Mr. Hammam Haddad was reportedly arrested by state security forces without an arrest warrant. The reason for his arrest is unknown, and he is held in an unknown location. On 5 May 2008 Mr. Hammam Haddad was arrested at his home in Damascus by state security forces. He was released on 28 July 2008 without charges.

2401. Concern was expressed that the arrest and detention of Mr. Hammam Haddad may be related to his work in the defense of human rights, in particular his work to expose human rights violations in the Syrian Arab Republic.

Observations

2402. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 10 September 2008.

Urgent appeal sent on 21 October 2008

2403. 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 a communication regarding the travel ban imposed against Mr. Akhtam Naisse, a lawyer, a founding member of the Committee for the Defense of Democratic Liberties and Human Rights in Syria (CDF), Director of the Cham Centre for Democratic and Human Rights Studies in Syria, and winner of the Martin Ennals Award for Human Rights Defenders in 2005.

2404. Communications were sent in relation to Mr. Akhtam Naisse by various mandate-holders on 15 November 2001, 16 February 2004, 9 March 2004, 11 June 2004, and 6 August 2004. A response from your Government was received on 20 September 2004.

2405. According to new information received, on 14 October 2008, Mr. Akhtam Naisse attempted to travel to the United Arab Emirates but was prevented from boarding the plane at Damascus Airport. He was detained for over two and a half hours by security forces at the airport. In the United Arab Emirates he was scheduled to participate in a regional human rights forum in conjunction with the fifth session of the Forum for the Future, an annual meeting which

focuses on political reform and sustainable development and is organized by the Group of Eight (G8) nations as well as Middle East and North African nations. The authorities reportedly told Mr. Akhtam Naisse that the travel ban had been imposed against him because various security forces are looking for him.

2406. Earlier in 2008, travel bans were imposed against various human rights defenders in Syria. For instance, between 16 and 19 April 2008, Messrs. Rasim Al Atasy, Mahmoud Maree and Ahmed Manjonah were prevented from traveling and subsequently could not attend the general meeting of the Arab Organisation for Human Rights.

2407. Concern was expressed that the imposition of the travel ban against Mr. Akhtam Naisse may be directly related to his activities in the defense of human rights. Further concern is expressed that this may form part of an ongoing trend of harassment against human rights defenders in Syria.

Response from the Government

2408. In a letter dated 8 April 2009, the Government replied to the above communication. At the time of the finalization of the present report, a translation of the reply was not yet available.

Urgent appeal sent on 31 October 2008

2409. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a communication concerning the sentencing of Dr. Fida al-Hurani, President of the National Council of the Damascus Declaration for Democratic and National Change; Mr. Ali al-Abdullah, a member of the Committee for the Revitalization of Civil Society in Syria; Mr. Akram al-Bunni, a founding member of the Committee for the Revitalization of Civil Society in Syria; Mr. Riad Seif; Mr. Fayez Sarah, a journalist and founding member of the Committees for Revitalizing Civil Society in Syria; Dr. Ahmad Tohme; Mr. Jaber al-Shoufi, a member of the executive board of the Committee for the Defense of Freedoms and Human Rights in Syria; Dr. Walid al-Bunni; Dr. Yasser Tayser Aleiti; Mr. Mohammed Haj Darwish, a member of the Human Rights Association in Syria and a founding member of the Committee for Revitalizing Civil Society in Syria; Mr. Marwan Al-Aach; and Mr. Tala Abu-Dan. All of these human rights defenders are members of the National Council of the Damascus Declaration for Democratic and National Change. The Damascus Declaration for Democratic and National Change was signed in October 2005 and calls for political freedom, respect for ethnic and religions minorities, and freedom of expression.

2410. Dr. Fida al-Hurani, Mr. Ali al-Abdullah, Mr. Akram al-Bunni, Mr. Riad Seif, Mr. Fayez Sarah, a journalist and founding member of the Committees for Revitalising Civil Society in Syria; Dr. Ahmad Tohme, Mr. Jaber al-Shoufi, Dr. Walid al-Bunni; Dr. Yasser Tayser Aleiti, and Mr. Mohammed Haj Darwish, were the subjects of urgent appeals sent on 11 January 2008 and 4 February 2008.

2411. According to new information received, on 29 October 2008, the president of Damascus' Assize Court sentenced the 12 members of the National Council of the Damascus Declaration for Democratic and National Change to 36 months' imprisonment. They had been charged with "publishing false information with the aim of harming the State", "membership in a secret

organization designed to destabilize the State”, and “inciting ethnic and racial tensions”. Those who have been sentenced have 30 days to appeal. 40 members of the Damascus Declaration for Democratic and National Change have been arrested since 1 December 2007, when 163 of its members met in Damascus to discuss democratic reform in Syria.

2412. Concern was expressed that the 12 members of the National Council of the Damascus Declaration for Democratic and National Change are unable to continue their activities in the defense of democracy while in prison. Further concern was expressed for the physical and psychological integrity of the 12 members of the National Council of the Damascus Declaration for Democratic and National Change during their imprisonment. It was feared that the sentencing of the 12 members of the National Council of the Damascus Declaration for Democratic and National Change may form part of an ongoing trend of harassment against pro-democracy activists in Syria.

Observations

2413. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 31 October 2008.

Thailand

Letter of allegations sent on 22 February 2009

2414. The Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government in relation to a group of human rights defenders and civil society activists, including Mr. Jon Ungphakorn, Chairperson of the NGO Coordinating Committee on Development (NGO-COD) Mr. Pairoj Polpetch, Secretary-General of the Union for Civil Liberty (UCL), Mr. Sirichai Mai-ngarm, member of the Labour Union of Electricity Generating Authority of Thailand, Mr. Sawit Kaewwan, leader of the Confederation of State Enterprise Labour Union, Ms. Supinya Klang-narong, Secretary-General of the Media Reform Campaign, Ms. Saree Ongsomwang, member of the Customer’s Network, Mr. Amnat Palamee, leader of the Confederation of State Enterprise Labour Union, Mr. Nutzer Yeehama, a member of the NGO Friend of People, Mr. Anirut Chaosanit, member of the Council of People’s Organizations Network in Thailand, and Mr. Pichit Chaimongkol.

2415. According to information received, on 22 January 2008, the aforementioned were reportedly summoned to the Metropolitan Police Bureau, where they were questioned for over four hours, before the presentation of charges, including: “trespass by using force or joining with more than two persons associating together to intrude forcefully or to cause harm”, “illegal gathering and using force with ten or more persons to cause damage or to give rise to public disorder”, “failing to disperse when ordered to by the police”, “collaborating with five or more persons to incite others to violence in one form or another to threaten the lives and safety of others”, and “collaborating to detain or restrict other persons.” The ten men requested 15 days to respond to the charges and submit more information to investigators. This was granted, as was their request for bail.

2416. These charges were reportedly brought after a complaint made by the Secretary-General of the National Legislative Assembly, in relation to a series of demonstrations which took place on 12 and 19-21 December 2007 in protest against attempts to pass eight bills with consequences for civil liberties in Thailand, particularly an Internal Security Bill, reportedly seen by many as an attempt to tighten government control prior to the general election on 23 December.

2417. In the course of the demonstration a number of those gathered, including Messrs. Jon Ungphakorn and Pairoj Polpetch reportedly entered the parliamentary building and discussed the Internal Security Bill with members of parliament. These exchanges were reportedly peaceful and the protesters dispersed following an announcement that debate of the Bill was suspended for the day. This subsequently proved to be untrue and the Internal Security Law was passed that evening.

2418. Concern was expressed that the charges brought against the aforementioned may have been directly related to their activities in defense of human rights, particularly their exercising of the right to freedom of expression and assembly.

Response from the Government

2419. In a letter dated 11 July 2008, the Government responded to the letter of allegations. The letter communicated that on 12 December 2007, around 100 demonstrators, led by Mr. Jon Ungphakorn in demonstrations outside the National Legislative Assembly (NLA), managed to get into the Parliament building during a meeting of the NLA. According to eyewitness and photographic evidence, forceful means were used by the demonstrators to disrupt the NLA meeting. They used 10 wooden ladders to climb across the fence into the Parliament grounds. 30 entered the lobby area while approximately 60 to 70 demonstrated just outside the meeting room building. Mr. Jon Ungphakorn admitted in his article published in the Bangkok Post on 19 December 2007, that the objective of his group was to put "great pressure" on the NLA to stop considering the eight bills "by non-violent but by more forceful means than usual". Mr. Jon Ungphakorn admitted that he was well aware that the action of his group "did not meet with the approval of the majority of the media and probably the majority of society". He also knew well that such forceful action was against the law. He further admitted that serious charges against him and his group could be expected. All the charges against him and the other nine activists were based on the situation on the ground that involved the use of force. Since their actions were against the law, all persons involved had to bear the legal consequences, regardless of the objective they may have had in conducting the protest. On 18 March 2008 the Metropolitan Police Bureau sent the investigation file to the Office of the Attorney General (OAG). After having considered the file the OAG requested further inquiries of the defendant's witnesses to ensure justice for all alleged persons before making a decision on prosecution. The OAG scheduled its decision as to whether to proceed with the prosecution for 21 August 2008.

Observations

2420. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 20 March 2008

2421. The Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal on the situation of the situation of Ms. Angkhana Neelaphaijit, wife of human rights lawyer Mr. Somchai Neelaphaijit, who disappeared four years ago. Ms. Neelaphaijit is currently part of the witness protection programme in Thailand. Ms. Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 September 2005 and of an urgent appeal sent by the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 March 2006. Most recently Ms. Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders pursuant to Commission on Human Rights resolutions on 16 March 2007, and another urgent appeal sent by the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Representative of the Secretary-General on the situation of human rights defenders on 26 February 2008. According to new information received.

2422. On 12 March 2008, Ms. Angkhana Neelaphaijit delivered a statement to the Human Rights Council to report on the latest developments and obstacles in the investigation of the disappearance of Ms. Angkhana Neelaphaijit's husband, Mr. Somchai Neelaphaijit, which occurred four years ago. Ms. Neelaphaijit made the following appeal to the Thai Government and the Department of Special Investigation: "1. To request the Thai government and the DSI to be sincere in bringing justice to this case and prosecuting the wrong doers including high ranking police officers as it is my believe that enforced disappearance is a heinous crime against humanity. 2. To request the DSI to be courageous and to call Pol Lt Col Thaksin Shinawatra, former Prime Minister of Thailand to give testimony as a witness in this case. Information has been received that a close colleague of Pol Lt Col Thaksin Shinawatra went to search for information and a picture of Mr. Somchai Neelapaichit at the Government Identification Information Center. In addition, Pol Lt Col Thaksin, himself, stated in an interview to all media on January 13, 2006, the day after the verdict of the First Court, that "he knows that Somchai has passed away because evidence suggests so ..." As Thaksin was Prime Minister at that time, this interview must be credible and he must have had enough evidence before saying this. 3. Contained in the verdict of the First Court testimony of a plaintiff witness reveals that "... Pol Maj Gen Krisada Phankongchuen received information from Pol Lt Col Wannaphong Kotcharath that Pol Lt Col Charnchai Likhitkhanthasorn had met with known group of people in front of the Crime Suppression Unit and who informed him that they are going to abduct a corrupted lawyer. Later, Pol Lt Col Charnchai informed Pol Col Tawee Sodsong about this information ..." Therefore, Pol Col Tawee Sodsong, who is now the Acting Director of the DSI has the responsibility to clarify whether he knew of Somchai Neelapaichit's disappearance. 4. To request the DSI to be very careful in this case and to try to compile strong evidence so that the wrong doers would be prosecuted. The DSI should not hurry to pursue the case in court without relevant and strong evidence. A lack of strong evidence means that real culprits will not be prosecuted or innocent people are being punished for crimes they did not commit. 5. To request

the Thai government to ratify International Convention for the Protection of All Persons from Enforced Disappearance in order to guarantee the safety and protection everyone from enforced disappearance. I strongly believe that the success of Somchai Neelaphaijit case is determined by the sincerity of the Government and the effectiveness of the DSI. Of particular concern is the fact that Pol Gen Sombat Amornwiwat, who was the former supervisor of the five accused persons standing trial in the case before, is now an advisor of the Ministry of Justice.”

2423. Concern was expressed that Ms. Angkhana Neelaphaijit may fear reprisals when returning to Thailand, after reading the above statement in her capacity as human rights defender.

Response from the Government

2424. By a letter dated 2 April 2008, the Government responded to the communication, indicating that it has continually cooperated with the Working Group on Enforced or Involuntary Disappearances by providing relevant information on the cases of the disappearance of Mr. Somchai Neelaphaijit and the safety of his wife, Ms. Angkhana Neelaphaijit, which are under the consideration of the Working Group. In November 2007, representatives from the Government agencies concerned met with the Working Group at its 83rd session in Geneva to provide an update on the latest developments in some outstanding cases, including that of Mr. Somchai Neelaphaijit. The Government states that it attaches great importance to the case of Mr. Somchai Neelaphaijit, which is currently under the investigation of the Department of Special Investigation (DSI), Ministry of Justice. To be more specific, certain progress and developments have been made and have helped the investigators to move forward. The Government believes that more information should be forthcoming as the investigation proceeds. The Government is determined to do its utmost and will leave no stone unturned in order to bring justice to the case of Mr. Somchai Neelaphaijit.

2425. With regard to the information regarding that Ms. Angkhana Neelaphaijit delivered a statement to the 7th session of the Human Rights Council (HRC) on 12 March 2008 to report on the latest developments in the investigation of the disappearance of Mr. Somchai Neelaphaijit, the Government points out that actually Ms. Angkhana Neelaphaijit made such remarks at the side-event of the 7th session of the HRC on 11 March 2008, organized by the Permanent Mission of France, in collaboration with a group of friends and the International Coalition against Enforced Disappearances. His Excellency Mr. Sihasak Phuanketkeow, Ambassador and Permanent Representative of the Kingdom of Thailand to the United Nations in Geneva, attended the said event and made an intervention responding to her concerns and reassuring her that the Royal Thai Government is seriously addressing this case and legal actions will be taken in accordance with gathered evidence and due process of law. The Government adds that what had transpired during that event was reported back to the Ministry of Foreign Affairs of Thailand as a matter of urgency. The Ministry of Foreign Affairs has subsequently conveyed this matter to the authorities concerned in Thailand for their consideration and further action.

2426. As for the concern on the safety of Ms. Angkhana Neelaphaijit and the transfer of her protection to police officers, the Government wants to clarify that the DSI has restructured the witness protection team, but the unit which provides protection for Ms. Angkhana Neelaphaijit is

still under the DSI, not the police authorities. Moreover, Angkhana Neelaphaijit continues to receive protection from the same team that she received in the past. In any case, the Thai authorities concerned stand ready to offer any necessary protection, if needed, to ensure her safety in accordance with the Thai law and Constitution.

Observations

2427. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 18 August 2008

2428. The Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal on the situation of Mr. Ismael Tae, aged 22 and a 4th year student at the Faculty of Science, Major Communication, Yala Rajabhat University; Mr. Amisi Manak, aged 22 and a 4th year student at the Faculty of Management Sciences, Major Finance, Yala Rajabhat University; Mr. Romlee Latae, aged 21 and a second year student at the Faculty of Science, Major Biology, Yala Rajabhat University; Mr. Ruslan Tuyong and Mr. Waerosalee Latae, aged 23 and 4th year students at the Faculty of Education, Management Program, Yala Rajabhat University. All five students belong to the Student Federation of Yala, a student organization involved in organizing human rights activities in Yala Province.

2429. Messrs Ismael Tae and Amisi Manak were the subject of a joint urgent appeal sent by the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 15 February 2008. No response of the Government of your Excellency has been received as of today. According to the information received:

2430. On 15 August 2008, Messrs Ismael Tae, Amisi Manak, Romlee Latae, Ruslan Tuyong and Waerosalee Latae were reportedly arrested by law enforcement authorities, and are reportedly held since then in Special Task force 11 in Yala. Prior to their arrest and detention, the five students were involved in fundraising activities in support of the forthcoming holding of their student camp.

2431. Concern was expressed that the arrest and detention of Messrs Ismael Tae, Amisi Manak, Romlee Latae, Ruslan Tuyong and Waerosalee Latae may be linked to their non-violent activities in promoting human rights in Yala province. In view of the previous reports of ill-treatment against Messrs Ismael Tae and Amisi Manak while in detention in Special Taskforce 11 in Yala which triggered the sending of the aforementioned urgent appeal in February 2008, further concern was expressed for the physical and psychological integrity of the five students while in detention.

Response from the Government

2432. By a letter dated 1 October 2008, the Government responded to the communication, sharing the following preliminary clarification (detailed clarification will be provided later).

On 17 August 2008, following a tip-off from a reliable source, the police authorities conducted a search of a private dormitory in Yala and found certain evidence with links to known perpetrators of violence in the Southern Border Provinces of Thailand. The authorities therefore invited the 5 students named in the communication, from Rajabhat University Yala, occupants of the dormitory, to provide information and clarification regarding the said evidence. They were not charged, and were released on 27 August 2008. The whole process was carried out in accordance with the Thai law and Constitution. The Vice-Rector and lecturers from Rajabhat University Yala were invited to witness the search and subsequent invitation to the students to provide information. The police authorities reported the results of the search to the Yala Provincial Court, in accordance with the established procedure. At no time were the students at risk of maltreatment by the authorities, as some have alleged. The Vice-Rector of Rajabhat University Yala, their lecturers as well as friends and families were allowed to visit the said students. A representative from the Cross Culture Foundation, an independent NGO, was also informed and aware of the whole process.

Observations

2433. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 15 September 2008

2434. The Special Rapporteur, along with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent a communication concerning Mr. Harry Nicolaides, an author from Melbourne, Australia.

2435. According to information received, on 31 August 2008, Mr. Harry Nicolaides was arrested at Bangkok airport where he was preparing to fly back to his native Australia. He was arrested 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 punished with between three to fifteen years imprisonment. The charges are reportedly related to a passage which appears in a novel, written by Mr. Nicolaides in 2005, entitled 'Verisimilitude'. The passage reportedly criticises the King's eldest son, Prince Bhumibol Adulyadej. Only 50 copies of the novel were reportedly published and 5 copies were ever sold.

2436. Mr. Nicolaides is reportedly being detained in a prison in Bangkok. He has received visits from his brother and his partner and foreign journalists have been permitted to interview him. On 2 September, Mr. Nicolaides submitted a request to be released on bail however the request was rejected on the grounds that he may attempt to leave the country. His passport is currently with the authorities. According to reports Mr. Nicolaides has issued a public apology and plans to submit another request for release on bail. If his case goes to trial Mr. Nicolaides could potentially face up to 15 years in prison.

2437. Concern was expressed that the aforementioned events may represent a direct attempt to stifle freedom of expression in Thailand.

Response from the Government

2438. In a letter dated 17 October 2008, the Government replied to the communication above. In its response, the Government offered some preliminary information and responses on the allegations. It affirmed that the arrest and detention of Mr. Nicolaides was not an arbitrary detention and did not involve any attempt to restrain freedom of expression in Thailand. It was undertaken under the rule of law and by the Court's order in compliance with Thai law and the applicable human rights norms and standards as stipulated in Article 9 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

2439. The Government informed that on 31 August 2008, Mr. Harry Nicolaides was arrested under a warrant issued by the Criminal Court stating that he had committed an offence under Section 112 of the Criminal Code, which states that "whoever defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent, shall be punished with imprisonment of three to fifteen years". As with Thai citizens, Mr. Nicolaides will be tried under due process of law in accordance with the Thai Criminal Procedure Code with transparency and justice. He was informed of his rights to remain silent and to have competent and independent counsel. He was allowed visits by his family members, his partner and consular staff from the Australian Embassy in Bangkok since the first day he was arrested. In addition, he was allowed to give interviews to foreign journalists.

Observations

2440. The Special Rapporteur is grateful for the Government's reply.

Tonga

Letter of allegation sent on 28 April 2008

2441. The Special Rapporteur sent a communication containing the following allegation. On 9 April 2008, the Government placed restrictions on the Tonga Broadcasting Commission, compelling it to stop broadcasting pre-recorded campaign speeches of candidates in order to allow a newly appointed editorial committee to edit these speeches. This editorial committee is composed of professionals with no prior experience in the media and includes the Chief Secretary to the Cabinet. According to sources, any reference to the pro-democracy protests of November 2006 is required to be deleted from campaign speeches. Furthermore, the editing process is reportedly slow, which may prevent some campaign speeches from being aired before the elections.

2442. Concern was expressed that the restrictions placed upon the Tonga Broadcasting Commission could prevent candidates from exercising their right to freedom of opinion and expression.

Response from the Government

2443. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 28 April 2008.

Tunisia

Appel urgent envoyé le 10 avril 2008

2444. Le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la torture et la Vice-Présidente du Groupe de Travail sur la détention arbitraire, a envoyé un appel urgent sur la situation de MM. Adnane Haji, secrétaire général du Syndicat de l'enseignement de base de Redeyef, Foued Khenaiissi, membre de l'Union locale du travail de Redeyef, Taëib Ben Othmane, membre du Syndicat de l'enseignement de base de Redeyef, et Boujomâa Chraïti, secrétaire général du Syndicat de la santé de Redeyef. Selon les informations reçues :

2445. Le 7 avril 2008, MM. Haji, Khenaiissi, Ben Othmane et Chraïti auraient été violemment interpellés par la police, au lendemain de leur participation à une réunion, à Tunis, portant sur la question du chômage des travailleurs du bassin minier de Gafsa, dans le sud-ouest de la Tunisie. Cette réunion serait intervenue dans un contexte où, depuis le début du mois de janvier 2008, un mouvement de protestation aurait vu le jour dans la région de Gafsa et environ 30 syndicalistes, étudiants et chômeurs auraient été arrêtés depuis le 6 avril 2008.

2446. M. Haji, qui souffre d'une insuffisance rénale, ainsi que MM. Khenaiissi, Ben Othmane et Chraïti auraient été frappés avant d'être arrêtés. Ils auraient ensuite été transférés au commissariat de Gasfa et l'accès à leurs avocats leur aurait été refusé.

2447. Des craintes sont exprimées quant au fait que l'arrestation de MM. Haji, Khenaiissi, Ben Othmane et Chraïti et les mauvais traitements dont ils auraient fait l'objet soient liés à leurs activités de défense des droits de l'homme, et en particulier à leurs activités syndicalistes. D'autres craintes sont exprimées au sujet de l'arrestation des manifestants lors du mouvement de protestation dans la région de Gafsa.

Réponse du Gouvernement

2448. Le 4 février 2009, le Gouvernement de la Tunisie a répondu à l'appel urgent du 10 avril 2008, indiquant qu'aucune personne portant l'identité de « Foued Khenaiissi », visée dans la communication, ne fait l'objet de poursuites judiciaires. La consultation des actes de procédure, dressés suite aux troubles enregistrés dans la région de Gafsa, démontre que l'identité susvisée ne correspond à aucune des personnes impliquées dans ladite procédure. S'agissant des prévenus Adnane Haji, Taieb Ben Othmane et Boujhemaa Chraïti, il convient de préciser que selon les éléments de l'instruction préparatoire diligentée par le Procureur de la République de Gafsa, une entente s'est constituée entre lesdits prévenus et autres, 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 la diffusion de tracts d'incitation à la commission d'acte d'agression et des voies de fait contre les agents de l'ordre, la fabrication et l'utilisation de cocktails Molotov, de barres de fer et de bâtons ainsi que de l'installation de barricades sur les voies publiques aussi bien que routières et ferroviaires. 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 agentes 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, aussi bien publics que privés, les voitures et les 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 gravement menacée. Contrairement à ce qui est allégué, les prévenus n'ont subi en aucune manière de mauvais traitements aussi bien lors de leur arrestation que pendant leur interrogatoire, par la police judiciaire, sur les faits qui leur sont reprochés. Le Procureur de la République a été, immédiatement, avisé de l'enquête préliminaire en cours et de la mesure de garde à vue décidée à l'encontre des prévenus pour une première période de 3 jours et ce, 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 des prévenus, dictée par les besoins de l'enquête. L'enquête préliminaire menée par la police judiciaire s'est donc effectuée en toute légalité sous le contrôle de la justice. La garde à vue des prévenus lors de l'enquête préliminaire menée par les officiers de police judiciaire est une mesure entourée, en droit tunisien, par toutes les garanties consacrées par l'article 9 du Pacte international relatif aux droits civils et politiques.

2449. 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, confiée à l'un des juges d'instruction près le tribunal de première instance de Gafsa, a été par la suite ordonnée par le réquisitoire du Procureur de la République en date du 20 juin 2008 aux fins d'instruire sur les faits reprochés aux prévenus et procéder à tous les actes nécessaires à la manifestation de la vérité. L'ouverture d'une information confiée à un magistrat constitue une garantie supplémentaire pour les prévenus, eu égard, d'une part, à son caractère inquisitoire offrant au prévenu, outre la présence à ses côtés de son avocat, la possibilité de contester les preuves à charge et par conséquent de se disculper, et par le fait, d'autre part, que toutes les ordonnances du juge d'instruction sont susceptibles d'appel devant la chambre d'accusation, agissant, selon les cas, en tant que second degré d'instruction ou chambre d'appel, ses ordonnances étant à leur tour susceptibles de pourvoir en cassation. Le juge d'instruction en charge du dossier a décidé, après interrogation des prévenus en présence de leurs avocats, en date du 23 juin 2008 de mettre en détention préventive Adnane Haji et Taieb Ben Othmane. Les détenus Adnane Haji et Taieb Ben Othmane jouissent, en prison, du droit de recevoir la visite de leurs avocats et des membres de leurs familles conformément à la réglementation en vigueur et sans restriction aucune. Dans le cadre de l'instruction préparatoire, le juge d'instruction en charge du dossier a procédé notamment à : l'audition du représentant de la municipalité de « Redeyef » qui a déclaré que les manifestants ont gravement endommagé les biens communaux notamment plusieurs poteaux d'éclairage public, des horloges publiques, un grand nombre de plaques de signalisation routière, presque tous les bancs publics, la barrière de protection d'un pont ainsi que les pavés sur de longues parties de la voie publique. Il a ajouté que les premières estimations des dommages s'élèvent à 160,000 dinars tunisiens ; l'audition 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 pierres et des coups de bâton ; le constat de dommages occasionnés à 20 voitures des forces de l'ordre (vitres brisées et traces de coups de pierres sur la tôle) ; l'interrogatoire des prévenus en présence de leurs avocats ; la saisie d'un grand nombre de bâtons de grande taille, de cocktails Molotov et de tracts d'incitations à la violence. Plusieurs dommages à des édifices publics et privés ont également été observés. 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. Le juge d'instruction a notifié l'ordonnance de renvoi devant la chambre d'accusation à chacun des prévenus. La garantie du double degré de juridiction au stade de l'instruction étant consacrée en droit tunisien, les prévenus ont décidé d'interjeter appel, devant la chambre d'accusation, de l'ordonnance de renvoi rendue à leur encontre par le juge d'instruction. Saisie du dossier, la chambre d'accusation a décidé le rejet du recours en appel et le renvoi des prévenus Adnane Haji, Taji, Taieb Ben Othmane et Boujemaa Chraïti devant la juridiction compétente pour répondre 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 ; Fourniture de lieux de réunion et de contribution pécuniaire aux membres d'une bande de malfaiteurs ; 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 ; obstruction à la circulation sur les voies publiques ; dommage volontaire à la propriété d'autrui ; fabrication et détention sans autorisation d'engins incendiaires ; jets de pierres sur les propriétés d'autrui ; distribution, mise en vente, exposition au regard du public, détention en vue de la distribution de tracts et de bulletins de nature à porter atteinte à l'ordre public ; collecte de fonds sans autorisation ; bruit et tapage de nature à troubler la tranquillité des habitants.

Observations

2450. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à la communication du 10 avril 2008.

Appel urgent envoyé le 6 juin 2008

2451. Le Rapporteur spécial, conjointement avec 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, a envoyé un appel urgent sur la situation de M. Slim Boukhdar, 39 ans et correspondant du journal panarabe basé à Londres Al Quds Al Arabi et du site internet de la chaîne de télévision satellitaire Al-Arabiya. Il publie aussi des articles sur plusieurs sites Internet dont Tunisnews et Kantara. M. Boukhdar a fait l'objet d'une lettre d'allégations envoyée par le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression le 12 décembre 2007. Selon les nouvelles informations reçues.

2452. Depuis son incarcération à la prison de Sfax, M. Boukhdar aurait contracté la gale en raison de conditions de détention précaires, notamment l'insalubrité de sa cellule et la privation de douche depuis un mois et demi, et les soins fournis par les autorités pénitentiaires s'avèreraient insuffisants. Par ailleurs, il est allégué que les provisions que l'épouse de M. Boukhdar lui apporterait seraient confisquées par les autorités pénitentiaires. Enfin, l'avocat de M. Boukhdar et la famille ne seraient plus autorisés à lui rendre visite depuis mi-avril 2008.

2453. Des craintes sont exprimées pour l'intégrité physique et mentale de M. Boukhdar. D'autres craintes sont exprimées quant au fait que les mauvais traitements dont serait victime M. Boukhdar soient liés à ses activités non-violentes de protection des droits de l'homme, en particulier dans l'exercice de son droit à la liberté d'opinion et d'expression.

Observations

2454. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 6 juin 2008.

Lettre d'allégations envoyée le 22 août 2008

2455. Le 22 août 2008, 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 Mme Sihem Bensedrine, journaliste, porte-parole et fondatrice du Conseil national pour les libertés en Tunisie, secrétaire générale de l'Observatoire pour la liberté de presse et lauréate du Prix de la Paix 2008 décerné par la Fondation danoise pour la paix. Mme Bensedrine a fait l'objet d'une lettre d'allégation envoyée par l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture le 16 avril 2008. Le Gouvernement a envoyé une réponse le 13 juin 2008. Selon les nouvelles informations reçues :

2456. Le 19 août 2008, Mme Sihem Bensedrine aurait été empêchée par la police des frontières de l'aéroport Tunis Carthage et la police politique d'embarquer pour le vol Tunis-Vienne. Dans un premier temps, ses effets et documents personnels auraient été fouillés méticuleusement dans la salle d'embarquement. Puis, les agents de police des frontières lui auraient intimé l'ordre de les suivre sans toutefois donner une raison spécifique. Devant son refus, plusieurs hommes en civil appartenant supposément à la police politique auraient pris la relève des agents de la police des frontières. Une heure plus tard, une fois la salle d'embarquement vide, une autre équipe de la police politique serait arrivée et aurait menacé Mme Sihem Bensedrine d'interdiction de quitter le territoire si elle n'obtempérait pas. Son avion ayant décollé, les agents de la police politique se seraient rués sur elle, la brutalisant et la bousculant jusqu'à ce qu'elle tombe à terre. Les agents auraient alors jeté au loin son sac à dos contenant son ordinateur portable, son sac à main et son passeport et l'auraient insulté et ordonné de regagner son domicile.

2457. De sérieuses préoccupations sont exprimées quant au fait que les actes d'harcèlement susmentionnés à l'égard de Mme Sihem Bensedrine seraient liés à ses activités non-violentes de promotion et protection des droits de l'homme.

Observations

2458. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse à la communication en date du 22 août 2008.

Lettre d'allégations envoyée le 27 août 2008

2459. Le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants et la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a envoyé une lettre d'allégations concernant Mme Zakia Dhifaoui, membre de l'Association de lutte contre la torture en Tunisie, de la section de Kairouan de la Ligue tunisienne des droits de l'Homme et du Forum démocratique pour le

travail et les libertés; M. Abdelaziz Ahmadi, enseignant; M. Mammam Amidi, instituteur; M. Fawzi Al Mas, technicien; M. Abdessalem Dhaouadi, enseignant; M. Kamel Ben Othmane, enseignant et M. Nizar Chebil, ouvrier. Mme Zakia Dhifaoui a fait l'objet d'un appel urgent envoyé par l'ancien Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 19 octobre 2005. Selon les informations reçues :

2460. Le 27 juillet 2008, Mme Zakia Dhifaoui, MM. Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebil auraient participé à Redeyef à une manifestation présentée comme pacifique dont le but était de dénoncer des actes de répression, notamment des arrestations, de la part des forces de l'ordre à l'encontre des habitants du bassin minier de Redeyev. Mme Zakia Dhifaoui aurait pris la parole au cours de cette manifestation.

2461. Le 14 août 2008, Mme Zakia Dhifaoui aurait été condamné par le Tribunal de première instance de Gafsa à huit mois de prison ferme pour « insubordination, troubles de l'ordre public, entraves à un fonctionnaire dans l'exercice de ses fonctions, détérioration des biens d'autrui et atteinte aux bonnes mœurs ». MM. Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebil auraient, quant à eux, été condamnés pour les mêmes charges à six mois de prison ferme.

2462. Des accusations de harcèlement sexuel et de menace de viol auraient été formulées au cours du procès par Mme Zakia Dhifaoui à l'encontre du chef du district policier de Gafsa, mais celles-ci n'auraient pas été retenues. De même, MM. Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebi auraient accusé ce même chef de leur avoir extorqués des aveux sous la torture, ce qui n'aurait également pas été pris en compte par le tribunal.

2463. Des craintes sont exprimées quant au fait que les condamnations de Mme Zakia Dhifaoui et MM. Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebil soient liées à leurs activités non-violentes de protection et promotion des droits de l'homme, et ce dans l'exercice de leur droit à la liberté d'opinion et d'expression ainsi que le droit de se rassembler pacifiquement.

Réponse du Gouvernement

2464. Par une lettre datée du 26 janvier 2009, le Gouvernement a indiqué que les prévenus Zakia Dhifaoui, Abdelaziz Ahmadi, Mammam Amidi, Fawzi Al Mas, Abdessalem Dhafaoui, Kamel Ben Othmane et Nizar Chebil ont tenté, sur le fond de certains troubles enregistrés dans la région de Gafsa, de transformer le mouvement de contestation pacifique en une véritable rébellion comme l'indique les actes d'agression et de voies de fait contre les agents de l'ordre ainsi que l'installation de barricades sur les voies publiques. Il est établi que les prévenus susvisés avaient pris, dans ce cadre, le 27 juillet 2008, la tête d'une manifestation au cours de laquelle ils ont procédé à l'obstruction de la voie publique devant toute circulation en y dressant des barricades par l'utilisation de pneus, de vide-ordures et de grosses pierres. Les forces de l'ordre, intervenant pour rouvrir la voie publique à la circulation et assurer la sécurité des personnes et des biens, avaient essuyé des jets de pierres et des coups de bâtons. Une voiture de

police a été gravement endommagée (vitres brisées et traces de coups de pierres sur la tôle). La sécurité publique s'était trouvée de ce fait gravement menacée. Contrairement à ce qui est allégué, les suspects, appréhendés en flagrant délit, n'ont subi aucune forme de mauvais traitement lors de leur arrestation. Ils ont été conduits au siège de la police judiciaire où ils ont été interrogés sur les faits qui leur sont reprochés. Le procureur de la République a été immédiatement avisé de l'enquête ainsi que de la mise des prévenus en garde à vue conformément à l'article 13 bis du Code de procédure pénale. Après clôture de l'enquête préliminaire, les prévenus ont été déférés au parquet qui a décidé d'émettre des mandats de dépôt à leur encontre et de les renvoyer devant la chambre correctionnelle pour répondre des chefs d'inculpation qui leur sont reprochés. Il est à noter que les prévenus ont avoué lors de leurs interrogatoires avoir procédé à l'obstruction de la voie publique devant la circulation et jeté des pierres sur une voiture des forces de l'ordre. Le procès s'est tenu publiquement devant le tribunal de première instance de Gafsa. Il a été procédé à l'interrogatoire d'usage des prévenus en présence de leurs avocats. Contrairement à ce qui est allégué, le tribunal n'a nullement refusé de consigner les allégations de mauvais traitement des prévenus dans les procès verbaux d'audience, ceux-ci font état d'allégations se rapportant à des aveux extorqués sous la contrainte, outre des soi-disant menaces de viol qui auraient été proférées contre Zakia Dhifaoui. Le tribunal a ensuite recueilli les plaidoiries des avocats. Après délibéré, le tribunal de première instance de Gafsa a déclaré les prévenus coupables des faits qui leur sont reprochés. Zakia Dhifaoui a été condamné à huit mois d'emprisonnement ; Abdelaziz Ahmadi, Mamar Amidi, Fawzi Al Mas, Abdessalem Dhaouadi, Kamel Ben Othmane et Nizar Chebil ont été condamnés quant à eux à six mois d'emprisonnement. Sur exercice de leur droit d'appel, les prévenus ont été de nouveau jugés par la Cour d'appel de Gafsa qui a décidé un non-lieu pour l'ensemble des prévenus des chefs d'inculpation de rébellion commise par plus de dix personnes non armées, outrage à fonctionnaire public à l'occasion de l'exercice de ses fonctions et atteinte publique aux bonnes mœurs. S'agissant des autres chefs d'inculpation, la Cour d'appel a décidé de ramener la peine de Zakia Dhifaoui de 8 mois à 4 mois et demi d'emprisonnement. Quant aux autres prévenus, ils ont bénéficié de réduction de peine. Fawzi Al Mas, Mammam Amidi et Abdessalem Dhaouadi ont vu leur peine réduite à 3 mois d'emprisonnement ; Abdelaziz Ahmadi, Kamel Ben Othmane et Nizar Chebil ont bénéficié d'un sursis à l'exécution. Les prévenus ont attaqué par voie de cassation le jugement de condamnation rendu à leur encontre. Le pourvoi a été rejeté en la forme ; les avocats des prévenus s'étant limités à présenter leurs pourvois sans les accompagner des mémoires indiquant les moyens du pourvoi et les griefs à l'encontre de la décision attaquée comme l'exige l'article 263 bis du Code de procédure pénale. Le jugement de condamnation est ainsi passé en force de chose jugée. Le 5 novembre 2008, Zakia Dhifaoui a bénéficié d'une libération conditionnelle décidée par le juge d'application des peines. Les autres prévenus ont également été libérés, soit après avoir purgé leurs peines, soit en vertu du sursis à l'exécution accordé à certains d'entre eux.

Observations

2465. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à la communication du 27 août 2008.

Appel urgent envoyé le 5 septembre 2008

2466. Le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme et la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, a envoyé un appel urgent concernant la situation de M. Tarek Soussi, membre de l'Association internationale de soutien aux prisonniers politiques. Selon les informations reçues :

2467. Le 27 août 2008, une dizaine de policiers en civil auraient interpellé M. Soussi à son domicile à Bizerte et l'auraient conduit vers un lieu inconnu. L'arrestation de M. Soussi ferait suite à son intervention par téléphone sur la chaîne de télévision satellitaire Al-Jazira au cours de laquelle il avait dénoncé l'interpellation abusive de sept individus.

2468. Des craintes sont exprimées quant au fait que l'arrestation de M. Soussi soit liée à l'exercice de son droit à la liberté d'opinion et d'expression. En raison de la détention incommunicado de M. Soussi, des craintes sont également exprimées pour son intégrité physique et psychologique.

Réponse du Gouvernement

2469. Par une lettre datée du 12 janvier 2009, le Gouvernement a indiqué que les investigations faites à la lumière des déclarations de M. Tarek Soussi ont révélé que les personnes visées dans l'interview de celui-ci sont des membres actifs d'une cellule terroriste ayant pour but de porter atteinte aux personnes et aux biens ; que les dites personnes faisaient l'objet de poursuites judiciaires confiées à l'un des juges d'instruction près du tribunal de première instance de Tunis ; que le parquet avait été immédiatement avisé de l'enquête préliminaire, menée par la police judiciaire contre lesdits individus ainsi que de leur mise en garde à vue et ce conformément aux dispositions de l'article 13 bis du Code de procédure pénale ; que les procès-verbaux d'audition des prévenus par la police judiciaire font état de la notification aux familles de la mesure de garde à vue décidée à l'encontre de leurs porches ainsi que du lieu de leur détention ; et que chacun des prévenus a expressément déclaré, lors de son interrogatoire par le juge d'instruction, que la mesure de garde à vue a été notifiée à leurs proches, ceux-ci s'étaient même déplacés sur place. Une enquête préliminaire a donc été ouverte à l'encontre de M. Tarek Soussi aux fins de procéder à tous les actes nécessaires à la manifestation de la vérité. L'allégation selon laquelle « une dizaine de policiers en civil auraient interpellé M. Tarek Soussi à son domicile à Bizerte et l'auraient conduit vers un lieu inconnu » est totalement erronée. Après clôture de l'enquête préliminaire, M. Tarek Soussi a été déféré au parquet et une instruction préparatoire à son encontre a été ouverte du chef de diffusion de fausses nouvelles de nature à troubler l'ordre public conformément à l'article 49 du Code de la presse. Le juge d'instruction a décidé, après interrogatoire du prévenu, de le mettre en détention préventive, conformément à l'article 85 du Code de procédure pénale. M. Tarek Soussi a sollicité, par le biais de son avocat, sa remise en liberté provisoire. Le juge d'instruction n'ayant pas donné suite à la demande, l'intéressé a saisi la chambre d'accusation en application de l'article 87 du Code de procédure pénale. Celle-ci a décidé, le 25 septembre 2008, de remettre l'inculpé en liberté jugeant ainsi que cette mesure n'est pas de nature à entraver le déroulement normal de l'instruction. Une fois la procédure achevée, le juge d'instruction a décidé de déférer M. Tarek Soussi devant la juridiction compétente pour répondre du chef de diffusion de fausses nouvelles de nature à troubler l'ordre public conformément à l'article 49 du Code de la presse. L'intégrité physique et morale de

M. Tarak Soussi durant la période de sa détention a été respectée et ce, conformément aux dispositions aux dispositions de l'alinéa 2 de l'article 13 de la Constitution tunisienne. Le prévenu a bénéficié durant la période de son arrestation de tous les soins médicaux nécessaires et ce gratuitement. Dès son admission en prison, il a bénéficié d'une visite médicale afin de faire un bilan global de son état de santé et déterminer, le cas échéant, s'il avait des besoins de soins spécifiques.

Observations

2470. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à la communication du 5 septembre 2008.

Lettre d'allégations envoyée le 5 novembre 2008

2471. 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 Mme Naziha Rjiba (alias Om Zied), écrivaine, journaliste, vice-présidente de l'Observatoire pour la défense des libertés de la presse, de l'édition et de la création (OLPEC), membre fondatrice du Conseil national pour les libertés en Tunisie (CNLT) et rédactrice en chef du journal en ligne Kalima. Mme Rjiba a fait l'objet d'un appel urgent envoyé par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et par l'ancienne Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 26 juillet 2006 et d'un appel urgent envoyé par l'ancienne Représentante spéciale du Secrétaire général sur les défenseurs des droits de l'homme le 31 décembre 2003. Le Gouvernement a envoyé ses réponses respectivement le 13 juin 2008 et le 30 janvier 2004. Selon les nouvelles informations reçues.

2472. Le 27 octobre 2008, Mme Naziha Rjiba aurait comparu devant le procureur de la République suite à un article intitulé « Il ont attaqué Kalima » paru dans le journal Muwatinoun dans son édition du 22 octobre 2008. Dans cet article, Mme Rjiba aurait dénoncé la récente attaque dont aurait fait l'objet le serveur qui hébergeait Kalima et serait revenue sur le fait que Kalima soit censuré depuis sa création.

2473. Par ailleurs, selon les informations reçues, le numéro 77 de Muwatinoun aurait été saisi en imprimerie pour avoir publié « des allégations contrevenant à la loi », « en application de l'article 73 du Code de la presse » et que « le dossier a été transmis au Ministère public ». Cette saisie serait en lien avec l'article signé par Mme Rjiba. Le directeur du journal n'aurait reçu aucune notification de saisie.

2474. Des craintes sont exprimées quant au fait que les poursuites judiciaires dont ferait l'objet Mme Rjiba soient liées à ses activités de défense des droits de l'homme.

Réponse du Gouvernement

2475. Par une lettre datée du 23 février 2009, le Gouvernement a indiqué que le journal Mouwatinoun avait publié, dans son édition n. 77 du 22 octobre 2008, un article intitulé "ils ont frappé Kalima" signé du pseudonyme Om Zied. Le Gouvernement a noté que ledit article est émaillé de propos fallacieux et injurieux destinés à véhiculer de fausses nouvelles de nature à

troubler l'ordre public. Le Gouvernement a informé que "les propos susvisés tombent sous le coup de l'article 73 du code de la presse qui dispose que 'le Ministre de l'intérieur pourra, après avis du secrétaire d'Etat auprès du Premier Ministre chargé de l'information et sans préjudice des sanctions pénales prévues par les textes en vigueur, ordonner la saisie de tout numéro d'un périodique dont la publication serait de nature à troubler l'ordre public'. L'application des dispositions de cet article a été rendue nécessaire au vu, notamment, des circonstances suivantes: l'imputation à l'Etat de la prétendue attaque, qui aurait visé le site de "Kalima", est une allégation totalement dénuée de tout fondement. Une telle accusation est d'autant plus grave qu'elle ne s'appuie sur aucun élément de preuve. La diffusion par voie de presse de telles allégations mensongères est un acte totalement inadmissible de nature à troubler l'ordre public. La crédibilité qui doit commander à toute activité de presse s'oppose fondamentalement à la diffusion de telles nouvelles avant la vérification de leur véracité". Le Gouvernement a aussi noté que l'usage d'expressions calomnieuses est manifestement attentatoire aux autorités du pays. Le Gouvernement a informé que "le Ministre de l'intérieur a décidé, conformément à l'article 73 du code de la presse, la saisie du numéro Mouwatinoun. Le ministère public a décidé, par ailleurs, de procéder à l'audition de l'auteur de l'article de presse susvisé ainsi que le directeur du journal ayant décidé de sa publication. L'instruction a révélé que le pseudonyme 'Om Zied' appartient à Mme Néziha Rjiba qui a été convoquée, ainsi que le directeur du journal, au parquet afin de recueillir leurs déclarations.

Observations

2476. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à la communication du 5 novembre 2008.

Suivi des communications précédemment transmises

2477. Le Gouvernement a répondu à la carte d'allégations de 10 décembre 2007 avec une carte envoyé le 1 février 2008. En retour, le Gouvernement voulait informer que M. Boukhdhir a été arrêté à Sfax le 26 novembre 2007 après avoir refusé de se soumettre à un contrôle d'identité par deux agents de police et proféré des propos obscènes à leur égard alors qu'il regagnait Tunis à bord d'une voiture de transport collectif privé. Il s'agissait d'un contrôle de routine auquel tous les autres passagers ont accepté de se soumettre. Le procès verbal constatant l'infraction et dressé à cet effet par le District de police de Sfax fait état de l'abstention de l'intéressé de répondre à l'interrogatoire ainsi que de la teneur de l'audition de deux témoins qui ont confirmé les faits qui lui sont reprochés. Traduit en état d'arrestation devant le juge cantonal de Sakiet Ezzeit (Sfax), l'intéressé a été condamné, le 4 décembre 2007, à 8 mois d'emprisonnement pour outrage fait par parole et gestes à un fonctionnaire à l'occasion de l'exercice de ses fonctions, 4 mois d'emprisonnement pour atteinte aux bonnes mœurs et à une amende pour non présentation de pièce d'identité. Il a interjeté appel et l'affaire a été enrôlée sous le n° 1017/2007. S'agissant de la prétendue grève de la faim observée par M. Boukhdhir pour réclamer un passeport, il convient de souligner que cette grève est sans objet dans la mesure où l'intéressé n'avait pas présenté de demande pour l'obtention d'un nouveau document de voyage. Pour ce qui est des conditions de détention, M. Boukhdhir est détenu dans des conditions normales à l'instar de tous les autres prisonniers et n'a subi, contrairement aux allégations qui vous sont parvenues, aucun mauvais traitement.

2478. Le Gouvernement a répondu l'appel urgent de 12 mai 2006 avec une carte envoyé le 1 février 2008. En retour, le Gouvernement voulait informer que « Il ressort des vérifications entreprises au sujet de la prétendue agression de plusieurs avocats, le 11 mai 2006, devant la Maison du Barreau à Tunis, que certains avocats, dont Messieurs Abderraouf Ayadi et Abderrazak Kilani, ont tente de s'attrouper sur la voie publique en y bloquant la circulation. L'intervention des agents de l'ordre pour les disperser d'une manière pacifique et dans le cadre de la légalité s'est confrontée à un refus d'obtempérer de la part de certains avocats. Pour ce qui est de la création de l'Institut Supérieur de la profession d'avocat, il y a lieu de souligner que la loi n° 2006-30 du 15 mai 2006 modifiant et complétant la loi n° 89-87 du 7 septembre 1989, portant organisation de la profession d'avocat, et relative a la création de l'institut supérieur de la profession d'avocat, constitue une reforme répondant a l'une des principales revendications des avocats. Elle s'inscrit dans le cadre des reformes entamées depuis quelques années en vue de promouvoir le système judiciaire et renforcer davantage les droits des justiciables. Il est d'autant plus surprenant que l'on rejette la structure proposée en arguant qu'elle va faire perdre à la profession d'avocat son indépendance du fait de son contrôle par le pouvoir exécutif. Faut-il rappeler que la nouvelle loi n'a pas mis en cause l'indépendance de cette profession. En effet, l'article premier de la loi du 7 septembre 1989 qui dispose que «la profession d'avocat est une profession libérale et indépendante ayant pour but d'aider a l'instauration de la Justice » n'a subi aucun amendement. D'ailleurs, la composition tripartite du conseil scientifique de l'Institut et sa direction qui sera confiée a un avocat et non plus au procureur général, directeur des services judiciaires du Ministère de la justice et des droits de 'Homme comme c'était le cas auparavant, confirment l'indépendance de ce conseil. Les dispositions de cette nouvelle législation ne diminuent en rien les prérogatives de l'ordre des avocats, étant donne que celui-ci maintiendra son droit de regard sur les stages et l'inscription au barreau».

2479. Le Gouvernement a répondu l'appel urgent de 26 juillet 2006 avec une carte envoyé le 13 juin 2008. En retour, le Gouvernement voulait informer que « il y a lieu d'indiquer que les investigations diligentées dans ce sens ont révélé' que les faits rapportées par l'intéressée sont infondés et qu'aucune plainte n'a été déposée a ce sujet. Pour ce qui est des prétendus empêchements d'accès au local du «Conseil national pour les libertés en Tunisie, CNLT, il importe de souligner que le CNLT est une formation n'ayant pas d'existence légal en Tunisie, dans la mesure ou un arrêté du Ministre de l'Intérieur avait fait opposition a sa constitution en raison du non-respect par ses fondateurs des conditions légales requises pour sa création. Un recours en annulation dudit arrêté a été introduit devant le Tribunal administratif et l'affaire suit son cours».

Observations

2480. Le Rapporteur spécial remercie le Gouvernement de ses réponses.

Turkey

Letter of allegations sent on 19 February 2008

2481. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning Mr. Orhan Kemal Cengiz, a lawyer, human rights defender and newspaper columnist, who is

currently working on the case of three men killed at the Zirve Christian publishing house on 18 April 2007. The mandate-holders also drew the Government's attention to information they had received in relation to the killing of Mr. Hrant Dink, who was a Turkish journalist of Armenian origin and an activist for democratic reform.

2482. According to information received, in November 2007, an article published in a local newspaper in the province of Malatya reportedly included details that could only have been learnt through the interception of Mr. Orhan Kemal Cengiz's telephone calls and e-mails concerning the aforementioned case. He later learned that a letter had been sent to the Malatya prosecutor accusing him of involvement in the murders. The letter also contained other false and defamatory information, the intention of which was reportedly to make him a target. In January 2008, Mr. Orhan Kemal Cengiz received a letter which contained both veiled and direct threats to his safety, which may have had the same origin as the letter to the Malatya prosecutor.

2483. Reports inform that Mr. Orhan Kemal Cengiz had requested that authorities provide a bodyguard to protect him, but that this request has not yet been granted. He had reportedly been threatened and intimidated on a number of occasions, intensifying since November 2007, when the trial of those accused of killing the three men at the Zirve publishing house in Malatya began.

2484. The mandate-holders further referred to the case of the killing of Mr. Hrant Dink, who was shot dead on the street in front of his office in Istanbul on 19 January 2007. Mr. Dink had also reported death threats to the police on numerous occasions, who had allegedly been aware of a plan to assassinate him for some months prior to his death.

2485. Concern was expressed that the intimidation of and threats made against Mr. Orhan Kemal Cengiz may be directly related to his work in defence of human rights, particularly on behalf of the three men killed in the aforementioned case. Serious concern was further expressed for Mr. Orhan Kemal Cengiz's physical and psychological integrity.

Response from the Government

2486. In letters dated 27 February, 25 March and 24 April 2008, the Government responded to the above urgent appeal. These letters confirmed that Mr. Orhan Kemal Cengiz lodged a complaint with the authorities, claiming that his telephone calls and emails were intercepted in order to influence the judiciary through misinformation on the case concerning the murder of the three employees of Zirve Publishing House in Malatya. The complaint was referred to the relevant for investigation, along with the request for security measures to be taken, as deemed appropriate to prevent any act of reprisal or retaliation. The investigation into threats against Mr. Orhan Kemal Cengiz had begun. Mr. Orhan Kemal Cengiz was provided with close protection whereby a law enforcement official was instructed to ensure his personal security in accordance with the Regulation on Protection Services.

2487. The first letter communicated that the Office of the Public Prosecutor of Malatya received an anonymous letter accusing Mr. Orhan Kemal Cengiz of involvement in the murder. However, the second letter confirmed that the trial of eighteen persons accused of murdering Hrant Dink had begun before the 14th Heavy Penal Court of Istanbul. Eight people had been arrested pending trial.

Observations

2488. The Special Rapporteur is grateful for the Government's reply.

Letter of allegation sent on 11 March 2008

2489. The Special Rapporteur sent a communication regarding reports that Serkis Seropyan and Aris Nalci, respectively owner and editor of the Turkish-Armenian "Agos" newspaper, are on trial before the Sisli 2nd Criminal Court of First Instance following an article published in "Agos" newspaper, and that two judges of the Court are allegedly biased as they were involved in the previous sentencing of Serkis Seropyan and "Agos" editor-in-chief Arat Dink.

2490. According to information received, Serkis Seropyan and Aris Nalci are on trial for having published on 9 November 2007 an article entitled "Intelligent Wood" criticising the sentencing of Arat Dink and Serkis Seropyan on 11 July 2007 under Article 301 of the Penal Code, which penalises "humiliating turkishness, the Republic and the organs and institutions of the State", for republishing Hrant Dink's comments about an "Armenian genocide". Serkis Seropyan and Aris Nalci were charged under article 288 of the Penal Code for "attempt to influence the judiciary", which provides a maximum sentence of four-and-a-half years imprisonment. Information received also indicates that two of the judges who sat in the first trial, judges Metin Aydin and Hakki Yalcinkaya, are sitting in the Sisli 2nd Criminal Court of First Instance, and that on this basis the defendants' lawyers have requested that the current case be heard by another court. It is reported that the court refused to withdraw from the case, and that the Chief Public Prosecutor decided to send the file to the Istanbul Duty Heavy Penal Court for a decision.

Response from the Government

2491. In a letter dated 16 April 2008, the Government replied to the communication above. In its response, the Government noted that an investigation against Serkis Seropyan and Aris Nalci had been initiated. The article was about a court decision on the conviction of these two individuals, therefore the investigation was based on the charge of attempting to influence the judiciary. During the investigation, a notification was sent to Seropyan and Nalci for prepayment of a fine, according to a provision stipulating such penalty for persons who publish comments or articles on an ongoing case or court proceedings which have not yet resulted with a final court decision. The fine was not paid by the two individuals within the prescribed time limit. Following the investigation, a case was initiated under Article 288/1 and Article 19/2 of the Press Law "attempting to influence the judiciary" at the 2nd Criminal Court of First Instance.

Observations

2492. The Special Rapporteur is grateful for the Government's reply.

Letter of allegation sent on 11 March 2008

2493. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegations to the Government concerning the situation of human rights defenders in Turkey, including Ms. Nalam Erkem, a lawyer and human rights defender, and formerly an active member of the "Torture Prevention Group" of the Izmir Bar Association, Messrs Kiraz Bicici and

Ridvan Kizgin, vice president and board member respectively of the Human Rights Association and Ms. Türkiye Bozkurt and Ms. Behiye Duman, both members of the Peace Mothers, an organization which opposes the conflict between Turkish Armed Forces and the Kurdistan Workers' Party (PKK).

2494. According to information received, Ms. Nalem Erkem is currently being tried for "misconduct in Office," reportedly as a result of her public disclosure of torture and mistreatment of children detained at the local Buca prison, while a member of the now defunct Torture Prevention Group.

2495. An Appeal Court in Bingol had recently upheld a Criminal Court verdict sentencing Mr. Ridvan Kizgin to 2 years and 6 months in prison. Mr. Kizgin had been convicted of offences under Article 281/1, 'hiding criminal evidence'. The charges had reportedly been brought in connection with of a report regarding the killing of 5 villagers in a village in Bingol. On 3 March 2008, Mr. Kizgin was transferred to Bingol (M Type) Closed Prison to begin his custodial sentence. Two other cases against Mr. Kizgin were reportedly pending appeal. Mr. Kiraz Bicici was also appealing a 5 month suspended prison sentence and fine of 1.350 lira handed down by Bingol Criminal Court to both he and Ridvan Kizgin on 14 November 2006.

2496. Both of the aforementioned men were convicted of offenses under article 301 of the Turkish Penal Code (article 159/1 of the former Penal Code) which stipulates that (i) public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey shall be punishable by imprisonment of between six months and three years, and that (ii) public denigration of the Government, the judicial institutions, the military or security structures shall be punishable by imprisonment of between six months and two years.

2497. On 14 February 2008, Ms. Türkiye Bozkurt and Ms. Behiye Duman were remanded to police custody after attempting to make a press statement in Taksim, central Istanbul. The two women were detained for six hours before being released. It is not known whether any charges were brought against them.

2498. Concern was expressed that these arrests, trials and convictions may be directly related to the activities of the aforementioned individuals in defense of human rights, particularly their exercise of the right to freedom of expression. Further concern was expressed for legislation which may seek to curb freedom of assembly and expression.

Response from the Government

2499. In a letter dated 2 April 2008, the Government responded to the communication sent on 11 March 2008. The Government stated that in the communication Turkey's legitimate fight against terrorism is, regretfully, referred to as "the conflict between Turkish Armed Forces and the Kurdistan Worker's Party". The Government stated that such a terminology is erroneous and unacceptable. Firstly, PKK-KONGRA-GEL is a terrorist organization, not a political party. It is included in the list of foreign terrorist organizations of many countries and inter-governmental organizations such as the EU and NATO.

2500. The Government also noted that it was also difficult to understand why the legitimate struggle by the security forces of a State against terrorists in order to protect the very basic human right, the right to life of its citizens had been defined as a “conflict”. The Government further informed that it would be only possible for the authorities to consider the letter after the above-mentioned references had been duly corrected.

Observations

2501. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegation sent on 17 April 2008

2502. The Special Rapporteur sent a communication regarding the detention of Vedat Kursun, editor of the newspaper “Azadiya Welat”.

2503. According to information received, Mr. Kursun was taken into custody on 5 February 2008, after the Diyarbakir Public Prosecutor charged him with having “continuously spread propaganda for the Kurdistan’s Workers’ Party (PKK)”, quoting the newspaper as referring to Abdullah Öcalan as “the leader of the Kurdish people”, “the leader of the Kurdish Democratic Confederation (KCK)”, “Honourable Öcalan” and “Leader Apo”, and members of the People’s Self-Defence Forces (HPG), an armed group associated with the PKK, as “HPG guerrillas”. The Prosecutor charged Mr. Kursun under articles 220/6 and 314/2 of the Penal Code and article 7/2 of the Anti-Terrorism Law. Two hearings were held on 4 and 25 March. The Diyarbakir Sixth Serious Crimes Court refused to release Mr. Kursun pending his trial. The next hearing was scheduled to take place on 15 April.

Response from the Government

2504. In a letter dated 29 May 2008, the Government responded to the communication above. In its response, the Government informed that Mr. Kursun has continuously been involved in the propaganda activities of an illegal organization. 31 incidents were brought before the Heavy Criminal Court of Diyarbakir between 22 January 2007 and 24 February 2008. He was tried under the charges of “propaganda for illegal organization, terrorist propaganda via media, praising crime and criminal as well as committing crime on behalf of an illegal organization without being a member”. On 6 November 2007, an indictment was issued against Mr. Kursun in connection with the articles published in a total of twelve editions of the newspaper “Azadiya Welat”. The charges against hi, were “committing crime on behalf of an illegal organization without being a member and terrorist propaganda via media”. Following the indictment, a case was commenced against Mr. Kursun before the 6th Heavy Penal Court of Diyarbakir. On 5 February 2008, Mr. Kursun was arrested on the basis of a warrant issued by the Court according to Article 100/3 of the Criminal Procedure Code. He was released on 29 April 2008 and the trial is under way. The Government also outlined relevant provisions of the Turkish legal system, including Article 220/6 of the Penal Code, Article 7/2 of the Anti-Terror Act and Article 100/3 of the Criminal Procedure Code.

Observations

2505. The Special Rapporteur is grateful for the Government’s reply.

Letter of allegations sent on 19 August 2008

2506. On 19 August 2008, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent a letter of allegations to the Government concerning excessive use of force by police officers against Mr. Ethem Açikalın and Mr. Hüseyin Beyaz. Mr. Ethem Açikalın is the President of the İnsan Hakları Derneği (IHD - Human Rights Association) and Mr. Hüseyin Beyaz is an administrator for the IHD.

2507. Messrs Ethem Açikalın and Hüseyin Beyaz were the subject of a letter of allegations sent by the then Special Representative of the Secretary-General on the situation of human rights defenders and the former Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 11 September 2007. A response from your Government was received on 8 January 2008.

2508. According to new information received, on 14 August 2008, Messrs Ethem Açikalın and Hüseyin Beyaz went to the offices of the Democratic Society Party (DTP) in Adana to observe potential human rights violations. The IHD had received a telephone call about the detention of several DTP administrators that morning and raids that were expected to be carried out on the DTP offices. When asked what they were doing there by members of the police, the IHD members responded that they were preparing a public report about the detentions. An argument ensued and the police officers attacked the IHD members, pushing them down the stairs of the building and thereby breaking the arm of Mr. Hüseyin Beyaz. A medical report later confirmed that Mr. Hüseyin Beyaz's arm had been broken.

2509. Afterwards, the Adana Police filed a complaint against the IHD members for failing to cooperate with police officers. The Adana Branch of the IHD has also filed a criminal complaint against the police officers.

2510. Concern was expressed that the members of the IHD were prevented from carrying out their legitimate activities in the defense of human rights through excessive use of force on the part of police officers.

Response from the Government

2511. In letters dated 22 September 2008 and 5 January 2009, the Government responded to the communication sent on 19 August 2008.

2512. The Government reported that on 13 August 2008, the Heavy Penal Court No. 8 in Adana issued a warrant, authorizing the officials of the Directorate for Security to conduct a search in the premises of the Provincial Office of the "Democratic Society Party" (DTP).

2513. On 14 August 2008, the law enforcement officials arrived at the premises of the DTP and waited for the lawyer of the DTP and mukhtar in order to carry out the search. The officials asked Ethem Acikalın, who was then at the entrance of the building with another person, as to which capacity they would be present during the search. They responded that they would observe the "raid". The officials explained that there would not be any "raid" in the premises and that they were there to execute a search warrant issued by the Court. The officials asked the President of DTP Provincial Office, Mehmet Zeki Karatas whether Ethem Acikalın in any way represented

the DTP in this proceeding. He confirmed that Ethiem Acikalin did not have any connections with the DTP. Therefore the officials requested him to leave the premises. Ethem Acikalin refused to leave and was forced to leave the building by the officials.

2514. The law enforcement officials immediately informed the prosecutor on duty about the events that took place on 14 August 2008. In accordance with the instructions of the prosecutor, an investigation was initiated against Ethem Acikalin. Husein Beyaz lodged a complaint with the Office of the Chief Prosecutor of Adana, alleging that his arm was broken by the law enforcement officials during the events. An investigation was initiated by the Prosecutor in connection with this complaint.

2515. Subsequently, a case was initiated against three law enforcement officials upon the indictment issued by the Chief Public Prosecutor in Adana on 25 November 2008 on the charge of causing Husein Beyaz to sustain injuries by negligence. This trial is underway in the First Penal Court of Peace in Adana.

Observations

2516. The Special Rapporteur is grateful for the Government's reply.

Follow-up to previously transmitted communications

2517. In a letter dated 21 January 2008, the Government responded to the letter of allegations of 21 November 2007. The Government reported that on 25 July 2007, an indictment was, indeed, issued by the Chief Public Prosecutor of Bagcilar, against Faruk Faker, the editor-in-chief of the "Yeni Asya" newspaper, on the charge of "violating publicly the secrecy of investigations" under Article 285 (paragraphs 1-3) of the Turkish Penal Code. Without prejudice to the defence rights and the exceptions prescribed by other laws, the proceedings in the investigation stage of criminal cases are confidential. This principle is stipulated in Article 157 of the Code of Criminal Procedure. In line with this principle, Article 285 of the Turkish Penal Code prohibits breaching the confidentiality of criminal investigations, publicly or through media. According to the indictment, the news articles published under the headlines "The case on the Council of State will be expanded" and "The investigation on the Council of State is expanding" on 23 June 2007 in the Yeni Asya newspaper, included references to the investigation file of the attacks carried out against the Council of State in May 2006. The Chief Public Prosecutor was of the view that these references amounted to the violation of Article 285 of the Turkish Penal Code. Faruk Faker refused to provide information on the identity of the correspondents who reported the abovementioned news. Therefore, the indictment was issued against Faruk Faker, as the editor-in-chief of the newspaper in question, under Article 11 of the Press Law, which stipulates the criminal responsibility of press officials for periodical and non-periodical publications, when the original reporter cannot be established in cases of offences committed via press. Upon the indictment, a case was initiated against Faruk Faker in the Second Criminal Court of First Instance of Bagcilar. The case is still underway.

Observations

2518. The Special Rapporteur is grateful for the Government's reply.

Turkmenistan

Urgent appeal sent on 2 July 2008

2519. The Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr. Sazak Durdymuradov, a contributing reporter for the Turkmen Service Radio Free Europe/Radio Liberty (RFE/RL), in Bakhaden.

2520. According to information received, on 20 June 2008, Mr. Sazak Durdymuradov was forcibly removed from his home in Bakhaden by members of the National Security Ministry (MNB). He was then transferred to a local psychiatric hospital located between the cities of Bakhaden and Ashgabat, before being taken to an MNB station in Bakhaden where he was severely beaten with a pipe, subjected to electroshocks and forced to sign a letter which stated that he agreed to stop reporting for RFE/RL.

2521. Mr. Durdymuradov's wife managed to see him at the MNB station on 24 June 2008. He told her that he had been diagnosed with mental instability at the psychiatric hospital. Mr. Durdymuradov is reportedly in good health and had never previously suffered from a mental disease.

2522. Mr. Sazak Durdymuradov may then have been relocated to a psychiatric hospital in the Lebap region, where critics of the Government are alleged to be forcibly abducted. However, Mr. Durdymuradov's whereabouts have not been confirmed. When contacted by RFE/RL staff MNB authorities denied knowledge of the case.

2523. With a view to his reported custody at an unconfirmed location, concern was expressed for Mr. Durdymuradov's physical and mental integrity. Further concern was expressed that the afore-mentioned events may represent a direct attempt to stifle independent reporting in Turkmenistan, thus restricting the right to freedom of opinion and expression in the country.

Observations

2524. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 2 July 2008.

Uganda

Letter of allegations sent on 22 September 2008

2525. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal on the situation of **George Oundo** and **Kiiza Brendah**. George Oundo and Kiiza Brendah work as lesbian, gay, bisexual and transgender (LGBT) activists, promoting and protecting the rights of the lesbian, gay, bisexual and transgender community in Uganda. According to the information received:

2526. On 10 September 2008 George Oundo and Kiiza Brendah were arrested in the home of Oundo, in the village of Nabweru, Wakiso district, outside Kampala. The policemen removed gay literature from Oundo's home, and transferred them to Nalukologolo police station.

On 11 September 2008 they were transferred to Nabweru police station, where they were subjected to extensive interrogation about lesbian, gay, bisexual and transgender (LGBT) human rights defenders. George Oundo and Kiiza Brendah were detained for seven days and released on 18 September 2008. They were held at the police station without charge and have not been brought before a court within the constitutional limit of 48 hours. Upon their release on 18 September they were ordered to present themselves at the police station again on 24 September 2008.

2527. Concern was expressed about the arrest and detention without charges of George Oundo and Kiiza Brendah. Concern was also expressed with regard to their physical and psychological integrity. Further concerns were expressed that the arrests and detention of George Oundo and Kiiza Brendah might be solely connected to the reportedly non-violent exercise of their right to freedom of opinion and expression, of assembly and of association.

Observations

2528. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to the communications of 22 September 2008.

United Republic of Tanzania

Letter of allegation sent on 10 January 2008

2529. The Special Rapporteur sent a communication concerning Messrs. Saed Kubenea and Ndimara Tegambwage, editors of the weekly newspaper Mwanahalisi.

2530. According to the information received, on 5 January 2008, Messrs. Saed and Tegambwage were attacked by three assailants with machetes in their office in Kinondoni, Dar es Salaam. They were allegedly beaten by the attackers, who also poured acid on their faces. Mr. Kubenea lost his sight and will need to undergo medical treatment abroad, whereas Mr. Tegambwage suffered severe head injuries. The two journalists, who reportedly received a series of death threats in the past, are well-known for the investigation of corruption scandals involving state authorities. The three attackers have yet to be identified.

Response from the Government

2531. In a letter dated 22 February 2008, the Government replied to the communication above. In its reply, the Government informed that Messrs Kubenea and Tegambwage were attacked by three unidentified persons armed with machetes on 5 January 2008 in their office. After physically attacking Messrs Kubenea and Tegambwage, the three attackers left without taking anything. The two journalists were sent immediately to the hospital; Mr. Kubenea was flown to India for treatment at Government's costs. Both journalists are now conducting business as usual. Police investigations started immediately after the assault and three suspects were arrested and arraigned in court with conspiracy to commit an offence and causing grievous harm to the two journalists. Mr. Kubenea rules out the possibility of the involvement of State organs in the assault. He believes the attack was organized by a group of disgruntled individuals who have been or are being affected by his mighty pen. The Government informed that it recognizes and respects the right to freedom of opinion and expression as enshrined in the Constitution and

international conventions. The Government informed that it strongly condemned the assault on the journalists and that the President of the Republic personally visited Mr. Kubenea in the hospital in Dar-es-salaam and the Tanzania High Commissioner in India visited him while in treatment there.

Observations

2532. The Special Rapporteur is grateful for the Government's reply.

United States of America

Urgent appeal sent on 30 July 2008

2533. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Mr. Athemay Sterling, a Colombian citizen. Mr. Athemay Sterling is Director of the Centro de Derechos Humanos e Interpretación Política de la Universidad Santiago de Cali en Defensa de los Derechos Humanos (Human Rights and Political Interpretation Centre at the University of Santiago de Cali for the Defense of Human Rights), and is a member of the Comité por la Defensa de los Derechos Humanos (CPDH - Permanent Committee for the Defense of Human Rights) in Colombia.

2534. According to information received, on 30 June 2008, Mr. Athemay Sterling arrived in the United States of America. His visa was cancelled upon arrival and he was held in administrative detention at the Krome detention centre in Miami Florida. For 48 hours, no food was provided and no explanation was given to him as to why he was being detained. He had allegedly undergone intensive interrogation in particular about presumed links with a former guerrilla group known as M-19.

2535. Mr. Athemay Sterling had been on his way to Washington to provide information to the Inter-American Commission for Human Rights regarding environmental and health rights violations in Colombia about which he had communicated with the commission. He had planned to stay in the United States of America until 22 July 2008. However, he currently remains in detention.

2536. On 30 July 2008, a hearing was held regarding the detention of Mr. Athemay Sterling. According to the immigration police he was undergoing an administrative procedure. No explanation for his detention was given by the immigration police.

2537. Concern was expressed that Mr. Athemay Sterling was unable to carry out his legitimate work in the defense of human rights while he was in detention. Further concern was expressed for the physical and psychological integrity of Mr. Athemay Sterling while he was in detention.

Observations

2538. The Special Rapporteur regrets that to date no response has been received from the Government regarding the aforementioned case.

Follow-up to previously transmitted communications

2539. In a letter dated 17 July 2008, the Government responded to the letter of allegations of 16 September 2005. The Government reported that “on August 28, 2005, Waleed Khaled, a reporter from Reuters news agency, and his cameraman, Haider Khadem, were reporting on an attack against an Iraqi police envoy in the Hay-al-Adil district of west Baghdad. U.S. military units were dispatched to Hay-al-Adil in response to the attacks against the Iraqi police, and, as described below, fired at the reporters car, killing Mr. Khaled and wounding the cameraman Mr. Khadem. The U.S. Government conducted a comprehensive investigation into the shooting of Mr. Whaled and concluded that no disciplinary action against military personnel was required. The U.S. Government Army investigation determined that the shooting followed the applicable rules of engagement, under which military personnel are authorized to use force if they feel someone poses an immediate threat or threatens the integrity of the operation. The investigation indicated that Mr. Whaled failed to use appropriate precaution upon entering a hostile environment; the investigation found that Mr. Khadem was hanging out of the car window, holding what appeared to be a potential explosive device or a rocket-propelled grenade launcher. The investigation later confirmed that this piece of equipment, which U.S. forces believed at the time to be a deadly weapon, was the video camera Mr. Khadem used to investigate the original attacks against the Iraqi police. The military officers perceived the failure of Misters Khaled and cameraman to slow their vehicle down as a potential threat, because of previous experiences by military personnel web suicide car bombers. Under these circumstances, U.S. military personnel used force against what appeared to be an immediate threat to their unit and civilian and military personnel nearby. The U.S. military rules of engagement promote the physical protection of journalists, as well as of over civilian The U.S. Government strongly supports freedom of the press and freedom of opinion, and tries to equip journalists with the tools and protection that will allow them to conduct their jobs in a safe and effective manner. Specifically, the U.S. military guidelines and protocols detail how journalists should conduct themselves when reporting from a conflict area. The codes of conduct and procedures pertaining to the proper conduct and engagement by journalists operating in hostile areas are put in place for the safety of the journalists. The responsibility to abide by these rules, however ultimately rests with the journalists, who must exercise discretion and caution in dangerous situations. The U.S. Government deeply regrets the loss of life and fully recognizes the important role played by the news media in Iraq and other hostile environments.

2540. In a letter dated 29 December 2008, the Government responded to the letter of allegations of 30 September 2005. The Government reported on those programs that have sought to advance the empowerment of women around the world. This was said to be a top priority for the United States, as the promotion and protection of the human rights of women. As described in the response, these priorities were said to be of particular impotence to the United States in Iraq where the United States has worked closely with the Iraqi Government and the international community and non governmental organizations (NGOs) to address gender-based violence and related issues. In cooperation with multiple stakeholders in Iraq, the United States implements women’s empowerment programming with focuses on security trainings, education and awareness building, and economic, politics and legislative reforms, stressing the importance of strengthening respect for the rights of women as a key element of democracy. The letter provides full description of those programs as above referred to.

2541. In a letter dated 17 July 2008, the Government responded to an urgent appeal of 24 August 2007. The Government reported that “Mr. El-Haj was transferred from Guantanamo Bay to his home country of Sudan in May, 2008, and future questions regarding this individual should be referred to the Government of Sudan. Prior to his transfer, Mr. El-Haj was detained by the Department of Defense at Guantanamo Bay because he was determined to be an enemy combatant. Under the law of war, countries may lawfully detain enemy combatants until the cessation of active hostilities. We would like to emphasize that Mr. El-Haj was not detained because he worked as a cameraman for Al Jazeera. Members of the media are not targeted as such by the U.S. or allied forces. With respect to the allegations described in your letter, we have no evidence to substantiate claims that Mr. El-Haj was mistreated at Guantanamo. The United States investigates claims of abuse and, where those allegations are deemed credible, we hold those responsible accountable. U.S. officials from all government agencies are prohibited from engaging in torture, at any times, in all places. All U.S. officials, wherever they may be, are also prohibited from engaging in cruel, inhuman, or degrading treatment or punishment against any person in U.S. custody, as defined by our obligations under the Convention against Torture. Further, as you may be aware, the United States Supreme Court has held that Common Article 3 of the Geneva Conventions applies in our armed conflict with Al-Qaeda. The United States applies these protections to all detained unlawful enemy combatants”.

Observations

2542. The Special Rapporteur is grateful for the Government’s replies.

Uzbekistan

Urgent appeal sent on 19 February 2008

2543. The Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government concerning Mr. Yusuf Juma and his son Mr. Bobur Juma. Mr. Yusuf Juma is a prominent writer and pro-democracy activist in Uzbekistan.

2544. According to information received, on 22 December 2007, Messrs Yusuf and Bobur Juma were arrested in the Tashkent region and were reportedly being held in the Otbozor Prison in the Bukhara region. According to reports from their lawyer, Mr. Ruhiddin Kamilov, who had visited them, Messrs Yusuf and Bobur Juma were being subjected to physical abuse by authorities, in the form of beatings, and verbal abuse on a daily basis. Mr. Samad Shukurov, the Prison Governor, had also allegedly threatened Mr. Ruhiddin Kamilov, informing him that he was to die soon.

2545. Mr. Yusuf Juma and his son were arrested on 22 December 2007 after staging a protest at the arrest of another of his sons, Mr. Mashrab Juma, in the run-up to the re-election of President Islam Karimov. Messrs Yusuf and Bobur Juma have reportedly been charged under two articles of the Criminal Code with “insulting” and “resisting representatives of power”. It was reported that Mr. Yusuf Juma had been openly critical of President Islam Karimov in his writings.

2546. Concern was expressed that the arrest and detention of Messrs Yusuf and Bobur Juma may be directly related to Mr. Yusuf Juma's activities in defence of human rights, particularly his exercising the right to freedom of expression, and his advocacy of democracy. In view of reports of ill-treatment, serious concern was expressed for the physical and psychological integrity of Messrs Yusuf and Bobur Juma.

Response from the Government

2547. In a letter dated 22 April 2008, the Permanent Mission of Uzbekistan in Geneva responded to the above communication. The letter stated that, on 10 December 2007, the procurator's office of the Karakul municipal district, Bukhara Province, initiated criminal proceedings under articles 219, part 2, and 140, part 3, of the Uzbek Criminal Code against Mr. Y. Zhumaev and his son, B. Zhumaev.

2548. The basis for prosecution was that they had publicly insulted, resisted the authority of and inflicted moderate bodily harm on a law enforcement officer of the Karakul municipal district, Bukhara Province, Mr. T. Itokov, who was attempting to stop illegal actions of Mr. Y. Zhumaev and his son, Mr. B. Zhumaev, which took the form of an unauthorized march with placards containing anti-constitutional material.

2549. According to the information available to the law enforcement agencies: Yusufzhon Ollokulovich Zhumaev (Yusuf Juma) was taken into custody on 17 December 2007 by the procurator's office of the Karakul municipal district, Bukhara Province, on charges of having committed offences listed in articles 140, part 3, paragraph (a) ("Insults") and 219, part 2 ("Resistance to authority or a person fulfilling a civic duty") of the Uzbek Criminal Code. He entered Bukhara municipal correctional institution UYa-64/IZ-3 on 22 December 2007.

2550. A medical examination showed him to be free of bodily harm; he did not visit the Bukhara forensic medical institute for an examination. His state of health was satisfactory. The letter further contended that, during his time at the correctional institution, he did not make any complaints to the medical service, nor any complaints or representations about unlawful acts by the institution's administration.

2551. Yusufzhon ugli Bobur (Bobur Juma) was taken into custody on 17 December 2007 by the procurator's office of the Karakul municipal district, Bukhara Province, on charges of having committed offences listed in articles 140, part 3, paragraph (a) ("Insults") and 219, part 2 ("Resistance to authority or a person fulfilling a civic duty") of the Uzbek Criminal Code. He entered Bukhara municipal correctional institution UYa-64/IZ-3 on 22 December 2007.

2552. A medical examination showed him to be free of bodily harm. During his time at the correctional institution, he did not make any complaints to the medical service and his state of health was satisfactory. During the time he was held in custody, he made no complaints or representations about unlawful acts by the institution's administration.

2553. The government stated that the detention conditions of Mr. Zhumaev and Mr. Yusufzhon ugli were entirely in accordance with the standards established by the Penal Enforcement Code of the Republic of Uzbekistan. Since their arrest, Mr. Zhumaev and Mr. Yusufzhon ugli had had one meeting with their counsel, Mr. R. Kamilov, who visited them

once on 2 February 2008. On 7 March 2008, Mr. Zhumaev and Mr. Yusufzhon ugli submitted a written dismissal of their counsel Mr. Kamilov to the procurator's office of Karakul municipal district. During Mr. Kamilov's meeting with his client Mr. Zhumaev, the prison administration uncovered a breach of security, i.e. counsel Kamilov gave the prisoner some papers, which the latter attempted to conceal surreptitiously on his person.

2554. In response to this, the prison staff stopped their meeting and invited Mr. Zhumaev to present the hidden papers for inspection. When Mr. Zhumaev was searched, photographs of a group of people picketing near the headquarters of the Office of the Procurator-General of the Republic of Uzbekistan were found upon him and confiscated, together with telephone numbers on a slip of paper, including some of telephone service subscribers in the Russian Federation. Counsel Kamilov was then asked to explain his actions, to which he cynically responded that "the prison administration is acting unlawfully".

2555. Counsel Kamilov was invited into the office of the prison governor, Lieutenant-Colonel S.U. Shukurov, for an explanation of the incident and in observance of legal standards. The latter explained to him the need to ensure respect for the rules in pretrial detention and remand facilities, in order to prevent collusion by persons in custody, and also explained that the papers and items confiscated from the prisoner could have been used for agitation and provoked unpredictable reactions among the prison population.

2556. In addition, he was told that in fulfilling their duties in accordance with their professional responsibilities, the prison staff had the task of imposing security measures and, in the specific case of remand facilities, preventing remand prisoners from having outside contacts. At the end of the discussion counsel Kamilov, in an inappropriate response to the administration's demands and having failed to draw the appropriate conclusions, left the premises of the institution, warning the administrator that he would complain about him and his staff.

2557. On the basis of the complaint by counsel Kamilov concerning unlawful actions by the staff of Bukhara municipal correctional institution UYa-64/IZ-3, an official investigation was carried out by the Bukhara procurator's office and an internal investigation was conducted by the Central Penal Correction Department of the Ministry of Internal Affairs, which established that the information about the use of physical force and psychological pressure against the detainees Y.O. Zhumaev and B. Yusufzhon ugli and threats to counsel Kamilov by the prison governor, Lieutenant-Colonel Z. Shukurov, was groundless and had been invented by counsel Kamilov himself.

2558. Yusufzhon ugli Mashrab was taken into custody on 5 December 2007 by the procurator's office of Karakul municipal district, Bukhara Province, on charges of having committed offences listed in article 104, part 1 ("Intentional infliction of serious bodily injury") of the Uzbek Criminal Code. On 11 March 2008, he was sentenced under article 104, part 1 ("Intentional infliction of serious bodily injury") of the Uzbek Criminal Code by Jondor municipal court, Bukhara Province, to four years' deprivation of liberty in a prison colony and was currently serving his sentence in correctional institution UYa-64/70, Qashqadaryo Province.

Observations

2559. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 27 March 2008

2560. The Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation to the Government concerning the alleged attack against human rights defenders during a peaceful demonstration in Tashkent on 13 March 2008.

2561. According to the information received, on 13 March 2008, approximately twenty human rights defenders gathered in Tashkent for a peaceful demonstration in front of the Office of the Prosecutor General. The demonstration was held to protest against President Karimov's third term as President, which they argued was in violation of an article of the Constitution that prohibits one person from holding the office for more than two consecutive terms.

2562. A group of women assaulted the protestors, injuring one protestor so badly that an ambulance had to be called. The police, who were reportedly observing the attack from the grounds of a nearby maternity hospital, arrived to inform the protestors that one of the women who had confronted them had died. Attacks by groups of women against protestors are said to be part of a campaign of the Uzbek secret services to intimidate human rights defenders and dissuade them from continuing with their work. These women are thought to be women from vulnerable groups in society who have committed minor offences. They are allegedly used by the Uzbek secret services to stage attacks such as this one, and in return the charges against them are dropped by the authorities.

2563. The mandate-holders expressed their fear that these human rights defenders had been targeted as a result of their human rights activities, in particular their work to campaign for democracy, human rights, and the rule of law in Uzbekistan.

Response from the Government

2564. In a letter dated 26 May 2008, the Government responded to the communication sent on 27 March 2008. The Government reported that according to information from the Office of the Prosecutor-General and the Ministry of Internal Affairs, at 11 a.m. on 13 March 2008, representatives of informal human rights organizations engaged in unauthorized picketing near the building of the Office of the Prosecutor-general of Uzbekistan.

2565. The picketers were invited into the Office of the Prosecutor-General for a talk. However, they declined the invitation and dispersed after 1 pm. It has not been established that women assaulted the picketers. The representatives of the informal human rights organizations did not apply to Uzbek law enforcement bodies in this connection.

Urgent appeal sent on 31 March 2008

2566. The Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Mr. Yusuf Juma, a prominent writer and pro-democracy activist, his two sons, Mr. Bobur and Mr. Mashrab Juma, and Mr. Ruhiddin Kamilov, their lawyer. Mr. Yusuf Juma was the subject of a communication sent on 19 February 2008 by the

Special Representative of the Secretary-General on the situation of human rights defenders, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

2567. According to allegations received, Yusuf, Bobur and Mashrab Juma were being detained in Otbozor Prison in the Bukhara region. They had been subject to verbal abuse and beatings on a daily basis by prison authorities since their arrest in mid-December 2007. Yusuf Juma had been recently examined at Bukhara's Medical Law Centre after he fainted from the torture he was subjected to. He was found to be suffering from heart and respiratory problems and had injuries from the beatings. Yusuf and Bobur Juma were being denied access to food and prevented from writing letters and meeting with their lawyer, Mr. Kamilov.

2568. Mashrab Juma was detained on allegedly fabricated charges in the run-up to the re-election of President Karimov, and was sentenced to three years' imprisonment. Yusuf and Bobur Juma have been charged under two articles of the Criminal Code with "insulting" and "resisting representatives of power". Yusuf Juma has been openly critical of President Islam Karimov in his writings. Mr. Kamilov was threatened by the prison governor, whose name is known to the mandate-holders, that he would soon be killed because he and Yusuf Juma were serving the interests of US imperialism.

2569. Concern was expressed for the physical and mental integrity of Yusuf, Bobur and Mashrab Juma, and in relation to acts of intimidation against their lawyer, Mr. Kamilov. Further concern was expressed that the arrest and detention of the three men may be directly related to the activities of Yusuf Juma for the promotion of democracy and freedom of expression in Uzbekistan.

Response from the Government

2570. The response from the Uzbek government, dated 22 April 2008, is summarized above as a response to the urgent appeal of 19 February 2008 which addressed the same case.

Observations

2571. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 24 June 2008

2572. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal in relation to Mr. Salijon Abdurahmanov, a founding member and leading journalist with Uznews.net, a member of the Real Union of Journalists of Uzbekistan, and a member of the Committee to Protect Individuals' Rights in Karakalpakstan. Mr. Abdurahmanov has also worked for Radio Liberty and the Institute for War and Peace Reporting, and has spoken out against human rights violations in Uzbekistan.

2573. Mr. Abdurahmanov was the subject of a letter of allegations sent by the then Special Representative of the Secretary-General on human rights defenders on 22 January 2007.

2574. According to information received, on 7 June 2008, Mr. Salijon Abdurahmanov was detained and charged under Article 276, Clause 2A of the Uzbek Criminal Code for the illegal production, purchase and storage of drugs without intent to sell. Salijon Abdurahmanov was stopped in his car by a traffic police officer accompanied by a drug enforcement officer with two sniffer dogs. The officers claimed that they had smelled something suspicious and subsequently searched the car, in which 114.8g of marijuana and 5.89g of opium were allegedly found.

2575. Following the arrest, Mr. Abdurahmanov's home was searched and his computer, books, documents and papers were confiscated. It was later reported on uzmetronom.com that Salijon Abdurahmanov admitted to using drugs, although reports indicate that he tested negative in a drug test. Salijon Abdurahmanov had expressed fears that he could be arrested for his outspokenness in defence of human rights and had been warned against writing in case it resulted in his detention.

2576. Concern was expressed that the arrest and charges against Mr. Salijon Abdurahmanov may have been directly related to his activities in defense of human rights, in particular through his exercise of the right to freedom of expression, and that the accusations of drug use may form part of a campaign to discredit him. Concern was expressed for the physical and psychological integrity of Mr. Abdurahmanov.

Response from the Government

2577. In a letter dated 19 July 2008, the Government responded to the above urgent appeal. The letter confirmed that a car driven by S.A. Abdurakhmonov was stopped by officers of the Ministry of Internal Affairs of the Republic of Karakalpakstan. It was found that Mr. Abdurakhmonov had no driving license or document of ownership of the vehicle. The vehicle was inspected and substances with a sharp odor were found under the petrol tank wrapped in cellophane and paper. The substances were confiscated in the presence of witnesses and were sent for forensic chemical analysis. According to the analysis, the confiscated substances were 114.18 grams of marijuana and 5.98 grams of opium.

2578. On 7 June 2008, criminal proceedings were initiated against Mr. Abdurakhmonov by the investigative department of the Nukus city internal affairs office under article 276, paragraph 2 (a) of the Criminal Code of Uzbekistan (Unlawful production, storage, purchase, carriage or transmission of narcotic or psychotropic substances in large quantities, without the purpose of sale). On 8 June 2008, he was arrested in accordance with article 221 of the Code of Criminal Procedure of Uzbekistan. On 9 June 2008, Mr. Abdurakhmonov was indicted in the criminal case under article 276, paragraph 2 (a) of the Criminal Code of Uzbekistan. On 10 June 2008, the Nukus municipal court chose the preventive measure of remand in custody for Mr. Abdurakhmonov.

2579. During the investigation, a search of Mr. Abdurakhmonov's home was authorized. A computer, a Dictaphone, a camera, and several documents were confiscated and sent for examination.

2580. According to forensic chemical analysis carried out on 17 June 2008, traces of hashish were found in wipe samples taken from Mr. Abdurakhmonov's hands and lips.

2581. The Ministry of Internal Affairs of Uzbekistan has not received any complaints or communications concerning the use against Mr. Abdurakhmonov of unauthorized methods during the conduct of the initial inquiry and the investigation. The arrest of Mr. Abdurakhmonov and the criminal proceedings against him are not connected with his human rights activities. The pretrial investigation of the case is continuing.

2582. In a letter dated 10 November 2008, the Government further replied to this communication. The Government informed that on 7 June 2008, the investigative department of the internal affairs office in the town of Nukus, Republic of Karakalpakstan, instituted criminal proceedings against Mr. Salijon Abduraimovich Abdurahmanov on the basis of evidence of an offence contrary to article 276, part 2, paragraph (a), of the Criminal Code of Uzbekistan. The grounds were as follows: on 7 June 2008, at approximately 7 p.m., on Dosnazarov Street in Nukus, a Zhiguli VAZ-2106 car with licence plate number 30 Y 3346 was stopped for a document check by officers of the traffic police and canine patrol squad of the Republic's Ministry of Internal Affairs, who were carrying out an operation to prevent and suppress illicit trafficking in narcotic drugs and psychotropic substances, known as Black Poppy 2008. During the check, it was ascertained that the car in question was being driven by Mr. Salijon Abduraimovich Abdurahmanov, who was unable to produce a driver's licence. In addition, Mr. Abdurahmanov was not the owner of the car. With his permission, a canine patrol officer and a police dog inspected the vehicle. As a result, substances with a specific odour were discovered hidden in the boot of the car, wrapped in a paper and cellophane package. In the presence of witnesses, these substances were confiscated for forensic analysis and sealed, and the appropriate documentation was completed.

2583. The results of the chemical analysis performed on 7 June 2008 showed that the substances found and confiscated from Mr. Abdurahmanov's car included 114.18 grams of marijuana and 5.98 grams of opium, which was wrapped in paper. On 9 June 2008, Mr. Abdurahmanov, defended by Mr. B. Abdurahmanov, was charged under article 276, part 2, paragraph (a), of the Criminal Code and remanded in custody by a criminal judge. On the basis of all the evidence gathered, it was decided that Mr. Abdurahmanov had intended to attempt the sale of a large quantity of narcotics. Accordingly, on 5 August 2008, pursuant to article 362 of the Code of Criminal Procedure, the charges previously brought against Mr. Abdurahmanov were amended, and he was charged under articles 25 and 273, part 5, of the Criminal Code.

2584. On 6 August 2008, the pretrial investigation was completed, and the criminal case was referred for trial, in accordance with the established procedure, to the Takhtakupyr District Criminal Court of the Republic of Karakalpakstan. The Takhtakupyr District Criminal Court found the accused, Mr. Abdurahmanov, guilty and sentenced him to 10 years' deprivation of liberty. It should also be noted that the Criminal charges brought against Mr. Akzam Olimovich Turgunov and Mr. Salijon Abduraimovich Abdurahmanov are in no way related to their human rights work. No complaints or statements from Mr. Turgunov regarding the use of unlawful investigation methods have been received by the Ministry of Internal Affairs of Uzbekistan.

Urgent appeal sent on 10 July 2008

2585. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding Ms. Mutabar Tadjibaeva, Chairperson of the human rights organization

Plammenoe Serdtse (Arden Hearts Club), co-founder of the national movement Civil Society, nominee for the 2005 Nobel Peace Prize, and winner of the 2008 Martin Ennals Award for Human Rights Defenders. Ms. Mutabar Tadjibaeva was the subject of numerous urgent appeals sent by Special Procedures mandates. Most recently she was the subject of an urgent appeal sent by the then Special Representative of the Secretary-General on the situation of human rights defenders on 19 December 2007. A response from the Government was received on 29 February 2008.

2586. According to information received, on 2 June 2008, Ms. Mutabar Tadjibaeva was released after serving two years of an eight-year prison sentence relating to 17 charges including slander of government bodies and membership of an illegal organization. A condition of her release was a three-year suspended sentence. While in prison she was required to sleep on wooden planks despite suffering from a condition of high blood pressure which could have been worsened by this situation. Ms. Mutabar Tadjibaeva stated that her health deteriorated significantly while in prison. During this time she was allegedly subjected to unnecessary surgery. She said that she was not given medical records or results of the surgery, nor an explanation why it was necessary.

2587. On 4 July 2008, Ms. Mutabar Tadjibaeva issued a statement claiming that her health remains under threat because she has not been allowed by the authorities to leave Margilan, the city where she lives, to seek the necessary post-surgery medical care.

2588. The release of Ms. Mutabar Tadjibaeva was welcomed. However, concern was expressed that the restriction of her movement and the three-year suspended prison sentence imposed on her may be linked to her legitimate human rights activities. Concern was also expressed for her physical and psychological integrity and the Government was urged to adopt the measures needed to ensure her access to appropriate medical care.

Response from the Government

2589. In a letter dated 19 July 2008, the Government responded to the above urgent appeal. The letter gave details of Mutabar Ibrgimova Tadjibaeva's original sentencing by the Tashkent provincial criminal court on 6 March 2003; the upholding of this sentence by the appeals chamber of this court on 30 May 2006; and the eventual commuting of the sentence to a three-year sentence which saw MI Tadjibaeva released from custody on 2 June 2008. It was also stated that, if a person serving a suspended sentence does not comply with the obligations specified by the court, the suspension may be revoked and the original penalty enforced. Finally, the letter stated that whether a citizen may travel abroad is decided by the internal affairs agencies at his or her place of residence.

Letter of allegations sent on 19 July 2008

2590. 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 Ms. Gulbahor Turayeva, human rights defender and pathologist from Andijan. Ms. Gulbahor Turayeva was the subject of a letter of allegation sent by the then

Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers on 9 May 2007, regarding a six-year prison sentence given to her. A response from the Government was received on 3 July 2007.

2591. According to information received, on 8 April 2008, Ms. Gulbahor Turayeva and her mother-in-law were forced by an agent of the National Security Department of Andijan, whose identity is known to the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, to criticize journalists from Ozodlik in an interview. Ozodlik is a radio station which has defended the legitimate work of Ms. Gulbahor Turayeva in defense of human rights. On 12 June 2008, a six-year prison sentence against Ms. Gulbahor Turayeva was changed to a suspended sentence with a three-year probation period. Under the conditions of her sentence Ms. Gulbahor Turayeva was forbidden from having any contact with human rights organizations. Her landline and mobile telephones were disconnected, under orders from the National Security Department and threats were made to stop her or her husband from using the internet.

2592. On 7 July 2008, the Press Center of the Initiative Group of Independent Human Rights Defenders published a complaint about the treatment of Ms. Gulbahor Turayeva during her probation period. On 9 July 2008, despite having offered to help Ms. Gulbahor Turayeva and her husband to find work the previous day, the same agent of the National Security Department who had forced Ms. Gulbahor Turayeva to criticize Ozodlik journalists began to threaten Ms. Gulbahor Turayeva's husband with imprisonment for having provided information to human rights organizations. Ms. Gulbahor Turayeva's husband was later summoned to the National Security Department.

2593. Concern was expressed that the actions taken against Ms. Gulbahor Turayeva and her husband may be related to their work in defense of human rights. Concern was also expressed for the physical and psychological integrity of Ms. Gulbahor Turayeva and her family, especially given that Ms. Gulbahor Turayeva has recently given birth to her fifth child.

Observations

2594. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 19 July 2008.

Urgent appeal sent on 29 July 2008

2595. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government concerning Mr. Utkir Pardaev, Chairperson of the Independent Human Rights Society of Uzbekistan in Dzhizhak district; Mr. Mampir Azimov, Chairperson of the HRSU in Dzhizhak district; Mr. Ihtiyor Hamroev, member of the Human Rights Society of Uzbekistan (HRSU); Ms. Saida Kurbanova, Chairperson of the HRSU in Pakhtakor district; and Mr. Zuyadullo Razakov, Chairperson of the International Human Rights Society of Uzbekistan in Dzhizhak district.

2596. Mr. Ihtiyor Hamroev has been the subject of three communications sent to your Government, on 11 August 2006, 23 January 2007, and 10 December 2007, in which concern was expressed that his detention and the subsequent extension of this detention may have been related to his and his father's legitimate human rights activity. We acknowledge receipt of your Government's response to the second of these communications on 6 February 2007.

Ms. Saida Kurbanova was the subject of two communications to your Government, sent on 4 April 2006 and 13 March 2008, regarding harassment and intimidation against her for her human rights activities. We acknowledge receipt of your Government's responses to both communications on 13 February 2007 and 22 April 2008 respectively. Communications have been sent regarding Mr. Utkir Paradaev on 26 May 2005 and 22 May 2006. We acknowledge receipt of your Government's response to the first of these communications on 29 June 2005.

2597. According to information received, Visa requests take 21 days to process according to the visa application system. However, the aforementioned human rights defenders have all waited longer than that amount of time for their visas to be processed and the process has yet to be completed.

2598. On 6 February 2008, Mr. Utkir Paradaev applied for an exit visa but has not yet received a reply. He complained in writing to the head of the Otdel vizy' i registratsiy (OVIR - Department of Visa and Registration) but received no reply. He has since complained in writing to the office of the Dzhizhak Municipal Prosecutor.

2599. On 4 March 2008, Mr. Mamir Azimov applied for an extension to his exit visa and on each of the four occasions when he has approached the OVIR has been told that no response has been received from Tashkent.

2600. On 16 March 2008, Mr. Ihtiyor Hamroev applied for an exit visa and paid 9,700 sums. He has asked for an explanation from the head of the OVIR six times and has been told that his application was refused under orders from the Uzbekistan National Security Service because of he was recently released from prison, having been granted an amnesty on 2 February 2008. He is currently seeking asylum in Kyrgyzstan because of fears that he will be arrested again.

2601. On 12 April 2008, Ms. Saida Kurbonova applied for an exit visa. She has approached the head of the OVIR eight times and has consistently been told that permission for her exit visa has not been granted in Tashkent. In April 2008 Mr. Ziyadullo Razakov also applied for an extension to his exit visa but has still not received a response.

2602. Concern was expressed that the aforementioned human rights defenders have not been granted exit visas because of their legitimate activities in the defense of human rights. Further concern was expressed that, without being able to leave Uzbekistan, they will not be able to carry out their work effectively.

Observations

2603. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 29 July 2008.

Letter of allegations sent on 5 August 2008

2604. 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. Igor Vorontsov, Director of Human Rights Watch (HRW) in Uzbekistan. At the time that the letter was sent Mr. Igor Vorontsov was reportedly waiting for the approval of his application for accreditation to work with HRW in Uzbekistan.

2605. Since 2004, various HRW employees in Uzbekistan have allegedly been restricted from doing their work. Former Director of the HRW office in Tashkent, Ms. Allison Gill, was forced to work outside Uzbekistan for several months between 2004 and 2005 when the Uzbek authorities refused to renew her visa. In spring 2005, Mr. Carlo Boehm, HRW's Tashkent associate at the time, was denied accreditation. So too was his successor, Ms. Mihra Rittmann, in 2007. Mr. Igor Vorontsov's predecessor as Director of HRW in Uzbekistan, Ms. Andrea Berg, was also denied accreditation in April 2007 before that decision was reversed.

2606. According to information received, in early February 2008, Mr. Igor Vorontsov began work as a representative for HRW in Uzbekistan and applied for accreditation with the authorities. His application was rejected on the grounds that he was not suitably qualified for the position, in a letter dated 8 May 2008 and signed by the Deputy Minister for Justice. HRW appealed this decision in writing on 12 June 2008, and in meetings with the Uzbek authorities between 2 and 4 July 2008. During these meetings the authorities affirmed that their problem was not with HRW but with the unsuitability of Mr. Igor Vorontsov as a candidate for the position. On 16 July 2008, the Uzbek authorities informed HRW by telephone that they would not be willing to reconsider their decision regarding Mr. Igor Vorontsov, although a non-Russian candidate would be considered.

2607. On 19 July 2008, Mr. Igor Vorontsov received a report from the HRW office in Tashkent which informed him that officers from the Ministry of Internal Affairs had been looking for him and that they had left a message to say that "it would not be advisable for the HRW representative to attempt returning to Uzbekistan". Soon afterwards, he received a telephone call from a man who claimed to be calling from the Ministry of Internal Affairs. The caller did not give his name but told Mr. Igor Vorontsov that he had been banned from entering Uzbekistan under regulation number 408. No further details were given about the content of the regulation or the reasons for the decision. Mr. Igor Vorontsov was told to make a request in writing if he wished for any further information.

2608. Concern was expressed that, being unable to re-enter Uzbekistan, Mr. Igor Vorontsov would be unable to carry out his peaceful and legitimate activities in defense of human rights as a representative of HRW. Further concern was expressed that the reluctance to approve Mr. Igor Vorontsov's accreditation might form part of an ongoing trend of harassment against human rights defenders in Uzbekistan, in particular those associated with HRW.

Observations

2609. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 5 August 2008.

Urgent appeal sent on 23 September 2008

2610. 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. Akzam Turgunov and Mr. Salijon Abdurahmanov.

Mr. Akzam Turgunov is the executive director of Mazlum, a non-governmental organization dedicated to the defense of human rights. He has also worked as a public defender in cases involving human rights violations. Mr. Salijon Abdurahmanov is a founding member and leading journalist with Uznews.net, a member of the Real Union of Journalists of Uzbekistan, and a member of the Committee to Protect Individuals' Rights in Karakalpakstan. He has also worked for Radio Liberty and the Institute for War and Peace Reporting, and has spoken out against human rights violations in Uzbekistan.

2611. According to new information received, on 11 July 2008, Mr. Akzam Turgunov was arrested in Manget, Karakalpakstan, on charges of extortion. While being held at a police detention centre in Nukus, he was taken to an investigator's office on 14 July 2008, where boiling water was poured on his back. On 4 September 2008, Mr. Akzam Turgunov's trial began at the Amudarya District Court in Nukus. It was resumed on 16 September 2008.

Mr. Akzam Turgunov may face up to 15 years imprisonment on charges of extortion under Article 165, Part 3 of the Criminal Code of Uzbekistan. The next hearing will be scheduled once a medical report on the alleged ill-treatment of Mr. Akzam Turgunov is available.

2612. Mr. Salijon Abdurahmanov was arrested on 7 June 2008, after drugs had reportedly been planted in his car. His trial before the Tahtakupir District Court commenced on 12 September 2008. The hearing was not open to the public. The police officers and the sniffer-dog specialist who had reported finding illegal drugs in Mr. Salijon Abdurahmanov's car were not present at the trial. Mr. Salijon Abdurahmanov has now been charged with "selling drugs in large consignment" under Article 25-273 (5) of the Criminal Code of Uzbekistan. The new charges against Mr. Salijon Abdurahmanov could result in a sentence of up to 20 years imprisonment.

2613. According to the Government's response to Special Procedures mandate holders, received on 19 July 2008: "on 9 June 2008, Mr. Abdurakhmonov was indicted [...] under article 276, paragraph 2 (a) (Unlawful production, storage, purchase, carriage or transmission of narcotic or psychotropic substances in large quantities, without the purpose of sale) [*italics added*] of the Criminal Code of Uzbekistan".

2614. In view of the above allegations of ill-treatment of Mr. Akzam Turgunov, concern was expressed for his physical and psychological integrity. Further concern was expressed that the above described arrests, detention and trials may have been related to the activities of Mr. Akzam Turgunov and Mr. Salijon Abdurahmanov in the defense of human rights. It is feared that the above incidents may form part of an ongoing pattern to restrict the work of members of Mazlum and other human rights defenders in Karakalpakstan.

Response from the Government

2615. In a letter dated 10 November 2008, the Government responded to the communication of 23 September 2008. In its response, the Government informed that on 7 June 2008, the investigative department of the internal affairs office in the town of Nukus, Republic of Karakalpakstan, instituted criminal proceedings against Mr. Salijon Abduraimovich Abdurahmanov on the basis of evidence of an offence contrary to article 276, part 2, paragraph (a), of the Criminal Code of Uzbekistan. The grounds were as follows: on 7 June 2008, at approximately 7 p.m., on Dosnazarov Street in Nukus, a Zhiguli VAZ-2106 car with licence plate number 30 Y 3346 was stopped for a document check by officers of the traffic police and canine patrol squad of the Republic's Ministry of Internal Affairs, who were carrying out an operation to prevent and suppress illicit trafficking in narcotic drugs and psychotropic substances, known as Black Poppy 2008.

2616. During the check, it was ascertained that the car in question was being driven by Mr. Salijon Abduraimovich Abdurahmanov, who was unable to produce a driver's licence. In addition, Mr. Abdurahmanov was not the owner of the car. With his permission, a canine patrol officer and a police dog inspected the vehicle. As a result, substances with a specific odour were discovered hidden in the boot of the car, wrapped in a paper and cellophane package. In the presence of witnesses, these substances were confiscated for forensic analysis and sealed, and the appropriate documentation was completed.

2617. The results of the chemical analysis performed on 7 June 2008 showed that the substances found and confiscated from Mr. Abdurahmanov's car included 114.18 grams of marijuana and 5.98 grams of opium, which was wrapped in paper.

2618. On 9 June 2008, Mr. Abdurahmanov, defended by Mr. B. Abdurahmanov, was charged under article 276, part 2, paragraph (a), of the Criminal Code and remanded in custody by a criminal judge. On the basis of all the evidence gathered, it was decided that Mr. Abdurahmanov had intended to attempt the sale of a large quantity of narcotics. Accordingly, on 5 August 2008, pursuant to article 362 of the Code of Criminal Procedure, the charges previously brought against Mr. Abdurahmanov were amended, and he was charged under articles 25 and 273, part 5, of the Criminal Code.

2619. On 6 August 2008, the pretrial investigation was completed, and the criminal case was referred for trial, in accordance with the established procedure, to the Takhtakupyr District Criminal Court of the Republic of Karakalpakstan. The Takhtakupyr District Criminal Court found the accused, Mr. Abdurahmanov, guilty and sentenced him to 10 years' deprivation of liberty. It should also be noted that the Criminal charges brought against Mr. Akzam Olimovich Turgunov and Mr. Salijon Abduraimovich Abdurahmanov are in no way related to their human rights work. No complaints or statements from Mr. Turgunov regarding the use of unlawful investigation methods have been received by the Ministry of Internal Affairs of Uzbekistan.

Observations

2620. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 28 October 2008

2621. The Special Rapporteur, together with 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. Salijon Abdurahmanov and Mr. Akzam Turgunov. Mr. Salijon Abdurahmanov is a founding member and leading journalist with Uznews.net, a member of the Real Union of Journalists of Uzbekistan, and a member of the Committee to Protect Individuals' Rights in Karakalpakstan. He has also worked for Radio Liberty and the Institute for War and Peace Reporting, and has spoken out against human rights violations in Uzbekistan. Mr. Akzam Turgunov has worked as a public defender in cases involving human rights violations and is the executive director of Mazlum, a non-governmental organization dedicated to the defense of human rights.

2622. According to new information received, on 10 October 2008, Mr. Salijon Abdurahmanov was sentenced to ten years' imprisonment by Nukus Court under charges of "selling drugs in large consignment" (Article 25-273, Part 5 of the Uzbek Criminal Code). These charges were different from the original charges brought against Mr. Salijon Abdurahmanov according to your Government's response to the communication sent by mandate-holders, received on 19 July 2008. In this response it was stated that "on 9 June 2008, Mr. Abdurakhmonov was indicted [...] under article 276, paragraph 2 (a) (Unlawful production, storage, purchase, carriage or transmission of narcotic or psychotropic substances in large quantities, without the purpose of sale) [*italics added*] of the Criminal Code of Uzbekistan". It is believed that the charges brought against Mr. Salijon Abdurahmanov may have been fabricated and that the evidence used against him may be based on the discovery of drugs which were planted in his car. The place where Mr. Salijon Abdurahmanov is currently detained is unknown.

2623. On 23 October 2008, Mr. Akzam Turgunov was sentenced to ten years' imprisonment by a court in Manget, Karakalpakstan, on charges of extortion (Article 165, Part 3 of the Criminal Code of Uzbekistan). He is currently in detention in colony 64/9, Nukus. Mr. Akzam Turgunov has reportedly been subjected to ill-treatment while in detention since 11 July 2008.

2624. Concern was expressed that the sentencing of Mr. Salijon Abdurahmanov and Mr. Akzam Turgunov may be related to their legitimate activities in the defense of human rights. Further concern was expressed that this may form part of an ongoing pattern to restrict the work of members of Mazlum and other human rights defenders in Karakalpakstan. In view of the allegations of the secret detention of Mr. Salijon Abdurahmanov and the ill-treatment of Mr. Akzam Turgunov, serious concern was expressed for his physical and psychological integrity.

Response from the Government

2625. In letters dated 10 November 2008 and 23 January 2009, the Government responded to the communication of 28 October 2008. The Government reported that, in accordance with the judgement handed down on 23 October 2008 by the Amudarin District Criminal Court of the Republic of Karakalpakstan, Mr. Akzam Olimovich Turgunov was found guilty of extorting 00,000 sum from Mr. O. Khuzhabaev and sentenced, under article 165, part 3, paragraph (a), of the Uzbek Criminal Code, to 10 years' deprivation of liberty, the punishment to be served in an ordinary-regime colony.

2626. In criminal appellate proceedings before the Supreme Court of the Republic of Karakalpakstan on 11 December 2008, the judgement in respect of Mr. Turgunov was upheld.

2627. By a judgement of the Takhtakupyr District Criminal Court of the Republic of Karakalpakstan of 10 October 2008, Mr. Salijon Abduraimovich Abdurahmanov was found guilty of attempting to illicitly sell narcotic substances - 114.18 grams of marijuana and 5.98 grams of opium - and sentenced, under articles 25 and 273, part 5, of the Uzbek Criminal Code, to 10 years' deprivation of liberty, the punishment to be served in an ordinary-regime colony.

2628. In criminal appellate proceedings before the Supreme Court of the Republic of Karakalpakstan on 19 November 2008, the judgement concerning Mr. Abdurahmanov was upheld.

2629. The commission by Mr. Turgunov and Mr. Abdurahmanov of particularly serious crimes was proved by the case files, and the sentence imposed was commensurate with their crimes.

Observations

2630. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal

2631. On 12 November 2008, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal concerning Mr. Abdurasul Khudoynazarov, a member of the Human Rights Society of Uzbekistan (HRSU) "Ezgulik". He has worked to combat corruption within the Uzbek law enforcement authorities.

2632. According to new information received, on 26 June 2005, Mr. Abdurasul Khudoynazarov was arrested. He was then condemned to nine years' imprisonment by the Criminal Court of Tashkent under Articles 165 and 168 of the Criminal Code of Uzbekistan on charges of extortion and fraud, respectively. He is currently detained in prison N64/1, where he is reportedly tortured and humiliated by prison guards on a daily basis. He informed his colleagues at HRSU about the conditions of detention in the prison and attempted to bring these conditions to the attention of the special prosecutor, but was subsequently placed in solitary confinement. From 12 to 24 June 008, he again attempted to protest against the conditions of detention but was given 15 more days of solitary confinement. On 1 September 2008, he attempted to hang himself to death but was stopped by the prison guards.

2633. Concern was expressed that the arrest, detention, and ill-treatment of Mr. Abdurasul Khudoynazarov may be related to his legitimate activities in the defense of human rights, in particular his work to expose corruption by the Uzbek law enforcement authorities and attempts to expose the poor conditions of detention in prison N64/1. Serious concern was expressed for the physical and psychological integrity of Mr. Abdurasul Khudoynazarov. Further concern was expressed that the ill-treatment of Mr. Abdurasul Khudoynazarov may form part of an ongoing trend of harassment against members of HRSU.

Response from the Government

2634. In a letter dated 29 December 2008, the Government responded to the communication of 12 November 2008. In its response, the Government informed that the convicted criminal Rasul hudoyazarov was born on 13 August 1956 in the town of Angren, in Tashkent province. He had previously been sentenced on 5 June 2001 by the Angren municipal court to six years' deprivation of liberty under articles 210 (2), 205 (1) and 209 (2). On 22 August 2001 he was released under a presidential amnesty decree.

2635. In the current case, on 12 January 2006 he was sentenced to nine years and six months' deprivation of liberty by the Angren municipal criminal court, under articles 227 (2), 168 (1), 165 (2), 59 and 61 of the Criminal Code. According to the judgement, in June 2005, Mr. Khudoyazarov, while working as a defence and emergency response instructor at the Uzbekkumir Joint Stock Company and presiding over the Ezgulik human rights association in Angren, accused the son of Ms. M. Eshonkulova, Mr. M. Eshonkulov, of theft and filed a slanderous statement with the law enforcement authorities. He forced Mr. Eshonkulov to hand over his property, and in July 2005 was arrested in his office upon receiving US\$ 300. He is serving his sentence at the UY 64/21 penitentiary. He has been diagnosed by the prison medical unit as having chronic bronchitis, and has on several occasions been treated as an out-patient under this diagnosis.

2636. Since beginning his sentence, he has been subjected four times to disciplinary measures for violating prison regulations; he has been confined in the disciplinary section twice, each time for five days. He has been granted seven long and seven short visits. In August 2007 he was allowed a visit by a lawyer, Ms. V.A. Inoyatova. On checking, it has been established that Mr. Khudoyazarov has not attempted suicide during his sentence, and has not reported or complained to the prison governor about being subjected to torture or degrading treatment. On 31 August 2008 the administrative board refused Mr. Khudoyazarov's transfer to an open prison because of his breaches of prison regulations. Uzbek criminal law contains no articles punishing human rights activities. So-called "human rights defenders" who are in places of detention have committed specific crimes, violating the country's laws. How can criminals, offenders against law and order, be called "human rights defenders"? The enforcement of prison regulations under current national law is not an infringement of convicts' rights and legitimate interests.

Observations

2637. The Special Rapporteur is grateful for the Government's reply.

Venezuela (Bolivarian Republic of)

Carta de alegaciones enviada el 20 de junio de 2008

2638. El Relator Especial envió una carta de alegaciones en relación con el Sr. Pierre Fould Gerges, vicepresidente y el Sr. Tannous Fould Gerges, presidente del diario Reporte Diario de la Economía de Caracas.

2639. De acuerdo con las informaciones recibidas, el 2 de junio de 2008, hacia las 5:30 de la tarde, el Sr. Pierre Fould Gerges, se habría detenido en coche perteneciente a su hermano (el Sr. Tannous Fould Gerges), en una gasolinera en Chuao, un barrio al sureste de Caracas. Según se informa, dos desconocidos en una motocicleta negra se le habrían acercado al Sr. Pierre Fould Gerges, disparándole en el cuello y en el tórax por lo menos 12 veces. El Sr. Pierre Fould Gerges fue declarado muerto en el lugar del crimen.

2640. Desde junio de 2007, varios directivos del periódico habrían recibidos amenazas de muerte por teléfono y correo electrónico, incluyendo al Sr. Tannous Fould Gerges. Según los informes, dentro de las 58 amenazas recogidas por el diario, uno de los mensajes de correo electrónico se titulaba “ya verás cuando la cobremos con tu familia”. Se alega que dichas amenazas pudieran estar vinculadas con la línea editorial del diario, la cual ha sido crítica de la corrupción gubernamental en el país.

Respuesta del Gobierno

2641. Mediante carta fechada 12 de agosto de 2008, el gobierno respondió al llamamiento urgente. La carta comunicó que “el Ministerio Público informó que, los acontecimientos se produjeron en la ciudad de Caracas, en las inmediaciones de la estación de servicio de Texaco ubicada en la urbanización de Chuao, calle Araure, Municipio Baruta, en fecha 02 de junio de 2008. Igualmente, informó el Ministerio Público que en el interior del vehículo automotor, el cual además había impactado, se encontró sin vida el cuerpo que más adelante sería indentificado como de Pierre Fould Gerges, presentando heridas producidas por el paso de proyectiles disparados por un arma de fuego. No consta, ni se desprende de la información aportada por el Ministerio Público la hora a la que presuntamente ocurrieron los hechos ni que los impactos hayan sido producidos por ‘desconocidos en una motocicleta negra’”. El Gobierno informó que una investigación fue iniciada ex officio inmediatamente después de que el día 2 de junio de 2008 la Brigada ‘F’ del Cuerpo de Investigaciones Científicas, Penales y Criminalísticas recibió una llamada reportando la novedad ocurrida en la estación de servicio Texaco. El Gobierno también proporcionó informaciones sobre las medidas judiciales y administrativas iniciadas con relación al caso.

Observaciones

2642. El Relator Especial agradece al Gobierno por su respuesta.

Carta de alegaciones enviada el 24 de septiembre de 2008

2643. El 29 de septiembre de 2008, la Relatora Especial sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión enviaron una carta de alegaciones, señalando a la atención del Gobierno la información recibida en relación con la expulsión de Venezuela de los Sres. José Miguel Vivanco y Daniel Wilkinson, Director Ejecutivo y Subdirector respectivamente de la división para las Américas de Human Rights Watch (HRW). HRW es una organización no gubernamental bien conocida e independiente que investiga violaciones de los derechos humanos en todas las regiones del mundo.

2644. De acuerdo con las informaciones recibidas, el 18 de septiembre de 2008 HRW presentó un informe sobre la situación de los derechos humanos en Venezuela que se llamaba Una Década de Chávez: Intolerancia política y oportunidades perdidas para el progreso de los derechos humanos en Venezuela. Horas después, unos 20 hombres armados, algunos de los cuales llevaban uniforme, se habrían dirigido al hotel de los Sres. José Miguel Vivanco y Daniel Wilkinson en Caracas para expulsarles de Venezuela. Se les habrían confiscado los teléfonos celulares y no les habrían permitido ponerse en contacto con sus embajadas respectivas. Les habrían llevado al aeropuerto en coches y les habrían puesto en un avión para Sao Paulo, Brasil.

2645. El día anterior, el Ministro de Relaciones Exteriores y el Ministro del Interior y Justicia habrían declarado que HRW actuaba en coordinación con los Estados Unidos de América. También dichos Ministros habrían acusado a los Sres. José Miguel Vivanco y Daniel Wilkinson de violar la Constitución y las leyes de la República Bolivariana de Venezuela, de agredir a las instituciones venezolanas, y de inmiscuirse ilegalmente en los asuntos internos del país.

Observaciones

2646. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Llamamiento urgente enviado el 11 de diciembre de 2008

2647. El Relator Especial envió una comunicación en relación con GLOBOVISIÓN, una estación de televisión privada especializada en información que se transmite por señal abierta limitada a las ciudades de Caracas y Valencia. Entre su programación destaca el programa de opinión y de producción independiente Aló Ciudadano, difundido en vivo y directo.

2648. Según las informaciones recibidas, el 23 de noviembre de 2008, se celebraron en Venezuela las elecciones regionales. En horas de la madrugada del día siguiente GLOBOVISIÓN habría transmitido en vivo el boletín oficial de resultados de la autoridad electoral (CNE). En este primer boletín, el CNE habría dado los resultados de los candidatos resultados electos en casi todas las Gobernaciones del país, salvo en los estados Carabobo y Táchira, los cuales fueron dados pocas horas después. GLOBOVISIÓN y otros medios de comunicación venezolanos habrían dado cobertura en vivo a las declaraciones del para aquel entonces candidato opositor a la Gobernación del Estado Carabobo, el Sr. Enrique Salas Feo (hoy ya proclamado oficialmente Gobernador de Carabobo). Al poco tiempo la autoridad electoral habría anunciado que el candidato opositor Salas Feo había ganado las elecciones.

2649. Según los informes, horas más tarde de ese mismo día, el Presidente de la República, Hugo Chávez, en una rueda de prensa con corresponsales extranjeros difundida por radio y televisión habría ordenado a CONATEL abrir un procedimiento contra GLOBOVISIÓN diciendo que el “gobierno está dispuesto a hacer cumplir la ley, para que se abra una investigación, porque inmediatamente comenzaron ya a dar como ganadores de manera irresponsable. Vean ustedes la irresponsabilidad de ese canal, que en mi modesta opinión debe ser sancionado severamente, ¡ya basta!, ¡ya basta!, ¡ya basta!”.

2650. Asimismo, el 27 de noviembre de 2008, CONATEL supuestamente habría notificado a GLOBOVISIÓN que había iniciado un nuevo procedimiento sancionatorio en su contra por considerar que la misma habría difundido, durante la cobertura de dichos comicios regionales y municipales en la madrugada del lunes 24 de noviembre de 2008, mensajes que constituirían apología o incitación a alteración del orden público; en los términos del artículo 29 de la Ley de Responsabilidad Social en Radio y Televisión, refiriéndose específicamente a las palabras del Sr. Salas Feo.

2651. Posteriormente, el 13 de octubre de 2008, el Sr. Rafael Poleo (editor del periódico independiente “El Nuevo País”) habría sido entrevistado en calidad de invitado en el programa Alo Ciudadano, donde habría criticado al Gobierno, haciendo énfasis en la crisis económica, y señalando que como consecuencia de todo ello el Gobierno del Presidente Chávez llegaría a su fin. También habría hecho una comparación entre el Presidente Chávez y Benito Mussolini y luego habría manifestado: “yo digo con preocupación que Hugo va a terminar como Mussolini, colgado con la cabeza para abajo”. Inmediatamente el conductor del programa habría interrumpido para advertirle al Sr. Poleo: “tú no puedes decir eso”, quien entonces aclaró que lo decía sólo “de manera precautelativa”.

2652. El 16 de octubre de 2008 CONATEL habría notificado a GLOBOVISIÓN que con base en la Ley de Responsabilidad Social de Radio y Televisión había iniciado un procedimiento sancionatorio en su contra por considerar que aquella habría difundido mensajes en su programa Aló Ciudadano del 13 de octubre que constituirían apología o incitación a alteración del orden público. Dicha Ley establece que en caso de programas independientes el medio de comunicación no es responsable por los contenidos que allí se difunden (Artículo 28). Además señala que en caso de programas en vivo y directo no hay responsabilidad alguna cuando se ha sido diligente para impedir que continúe el contenido ilegal (Artículo 34).

2653. La sanción que según el texto de la Ley podría ser impuesta a GLOBOVISIÓN por este nuevo procedimiento, de acuerdo con la norma citada, sería la suspensión de sus transmisiones hasta por 72 horas continuas. Una vez impuesta esta primera sanción, en caso de que ocurriera una reincidencia en la falta procedería la revocatoria definitiva a de la concesión de GLOBOVISIÓN.

Observaciones

2654. El Relator Especial lamenta no haber recibido respuesta del Gobierno a la comunicación arriba mencionada en la fecha de finalización de éste informe.

Viet Nam

Letter of allegation sent on 29 August 2008

2655. The Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an allegation letter concerning several incidents of allegedly arbitrary killings of indigenous Degar individuals by your Government’s security forces.

2656. According to the information received, on 14 April 2008, Y-Cung Nie, born in 1982, from the village of Buon Cuor Hdang, district of Cu Mgar in Daklak province, took part in a demonstration at the commune of Ia Knuéc to demand the release of three Degars arrested on 9 April. Not long after he arrived home on the same day, security police from the district of Cu Mgar arrested him in his home and took him into a nearby wooded area. Soon thereafter, the security police returned to the village and told Y-Cung Nie's parents and family that they had killed him and wanted the family to go pick up his corpse and bury it.

2657. The security police threatened the family not to tell anyone about Y-Cung Nie's death, particularly not Degars living in the United States. They said that they would come back and kill them all if they did. When the family went to pick up the corpse, they saw that he had been beaten beyond recognition. His face and body were covered with blood, his skull was fractured and his entire body was bruised. The security police watched the family while they cleaned and dressed the corpse and stayed until the burial had taken place on 16 April 2008 to prevent pictures of the corpse from being taken.

2658. Y-Song Nie, a 24-year-old man from Buon Pok village, commune Ea Ken, district Krong Pac in Daklak province, married with children, and Y-Huang Nie, aged 23, from Buon Kreh village, commune Ea Ken, district Krong Pac in Daklak province, married with children, also took part in the same demonstration on 14 April 2008. They were on their way back to their villages from Ia Knuéc when they were detained by security police. The security police broke both men's legs, both their hands and cracked their skulls. The security police then returned the remains to the families and ordered them to bury the corpses. They gave each of the families one 100 kg bag of rice and one million dong (corresponding to 66 USD). The security police also told the families: "If anyone of you reports this incident to the international community or to Kok Ksor [President of the Montagnard Foundation, Inc.], we will come and kill all of you."

2659. On 22 June 2008, A Lat, aged 61, and A Brin, aged 46, two men from Plei Kuk Gyer village, commune of An Thanh, Dak Bo district in Gialai province, were among a group of approximately 35 Degar Catholics trying to cross a lake in canoes to reach a sacred place near Ploi Hamong Katu village, as they would do twice a month. When they approached the other side of the lake security police ambushed them and began throwing heavy rocks at the canoes. A Lat and A Brin were hit by rocks on their heads, fell into the lake and drowned. The families wished to bury their dead at the sacred site, but the security forces forced them to carry the corpses back to their village for burial.

2660. On 9 August 2008, Y-Phit Kbuor and his two sons encountered soldiers on the road back to their village Buon Tri after fishing at the river of Ea Kin about 20 km from the village. The soldiers stopped them and ordered them to raise their hands. However, while they were raising their hands, the soldiers opened fire at them. Y-Phit Kbuor died on the spot, while his two sons escaped and returned home to their village. Many villagers accompanied the family to pick up the corpse of Y-Phit Kbuor. At the site of the incident, they found the soldiers still there. The soldiers apologized, said that they had made a mistake, and paid the family ten million dong (approximately \$660 USD) for the coffin and the cost of the burial ceremony.

Responses from the Government

2661. By a letter dated 29 October 2008, the Government responded to the communication, indicating that:

2662. “When receiving your above said letters the professional agencies of Viet Nam carried out an investigation on the alleged cases mentioned in your letter. They found out that in Gia Lai province, there is no village named after Plei Kuk Dyers, no district named after Dak Bo, but there is a district named after Dak Po. They also found out that there were no men named after A Lat and A Brin who were drowned in a lake on 22 Merle 2008. They found a report saying that two persons were drowned on 25 June 2008. These two persons were Dinh Lak, born in 1948 and Dinh Prin, born in 1961. They together with eight persons of ethnic minority are residing at Kuk Kon village, An Thanh commune, Dak Po district, Gia Lai Province. When hearing the news that Virgin Mary would appear at Dak Mon commune, Dak Ha district, Kon Tum province, they went to this place (Dak Mon commune) to participate in their religious activity on 25 June 2008. On the way back, their boat was upturned, causing the drowned death of Dinh Lak and Dish Prig.

2663. Therefore, the information mentioned in your letter that A Lat, aged 61 and A Brin, aged 46, from Plei Kuk Gyer village, An thanh commune, Dac Bo district, Gia Lai province, were drowned by the security forces, was untrue.

2664. The results of the investigation showed that all alleged cases mentioned in your letter were wrong, thus causing great difficulties for and took the investigators much time to verify the cases. Moreover, investigations of wrong cases waste a lot of resources while Viet Nam is still poor and needs scarce resources for her socio-economic development programmes in general and for the development of the ethnic communities in particular.”

Observations

2665. The Special Rapporteur is grateful for the Government’s reply.

Yemen

Letter of allegation sent on 3 April 2008

2666. The Special Rapporteur sent an allegation letter concerning the banning of the monthly publication Abwab, the weekly Al-Sabbah, and the website aleshteraki.net as well as the prosecution of Mr. Nayef Hassan, editor of the daily Al-Sharea and Mr. Abdulkarim Al-Khaiwani, a freelance journalist.

2667. According to the information received, on 14 March 2008, the first issue of the monthly Abwab, which is printed in Dubai, was seized by the authorities upon arrival in Sanaa airport. It is reported that the main reason for this confiscation was that its cover was considered to be disrespectful to the President.

2668. On the same day, distribution of the weekly Al-Sabbah, which takes a critical stance regarding the Government, was prohibited by the Ministry of Information due to an alleged “failure to respect legal procedures” when it was created.

2669. Reportedly, access to the website aleshteraki.net, which voices the opinions and views of the main opposition party, has also been blocked since 12 March.

2670. Mr. Hassan and Mr. Al-Khaiwani are currently being prosecuted for disseminating reports that are “liable to undermine army morale”, for which it is reported they could be sentenced to death.

Observations

2671. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 3 April 2008.

Urgent appeal sent on 10 April 2008

2672. The Special Rapporteur, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Mr. Yahya Ghaleb Ahmed, Mr. Ali Dahmas, Mr. Abdelhameed Taleb Muthana, all three members of the Yemeni Socialist Party Central Committee in Dhaleh, Mr. Hassan Baa’um, member of the Political Bureau of the Yemeni Socialist Party, his son, Mr. Salem Hassan Baa’um, Mr. Ahmed Omar bin Fareed, Mr. Ali Haitham Al-Ghareeb, Mr. Jamal Obadi, Mr. Hassan Zeid Yahya, representative of Hizb al-Haq in Abyan, Mr. Amer Al-Suri, Mr. Muhamad Aidarus Al-Nakhli, Mr. Muhamad Jazem, Ms. Nakhla Ali Omar, Mr. Said Ali Omar, Mr. Husine Fadhl Amzib, Mr. Ahmed Harmal, journalist, Mr. Jameel Qasem Muhamad, Mr. Muhamad Obadi Musa, Mr. Abdelqawi Najeeb, Mr. Abdelkarim Obayd Al-Tihami, Mr. Muhamad Ali Fatini, Mr. As’ad Muthana Saleh, Mr. Muhamad Naji Husein, Mr. Ali Muhamad Sweileh, Mr. Mohsen Hameli Saad, Mr. Fadhl Muhamad Muqbel, Mr. Khaled Muthana Obadi, Mr. Omar Ali Abdallah, Mr. Samed Ahmed Qasem, Mr. Abdallah Hamud, Mr. Muhamad Saleh Hamadi, Mr. Qaed Said, Mr. Muhamad Ali Said, Mr. Fawaz Ali, Mr. Akram Al-Qubbati, Mr. Najeeb Al-Mikhlafi, Mr. Mansour Abdelmula, Mr. Ahmed Al-Tamimi, Mr. Amin Ali Farhan, Mr. Fahd Al-Yusufi, Mr. Muhamad Al-Shamiri, Mr. Abdu Muhamad Al-Rasani, Mr. Amin Abdu Ali, Mr. Bashir Al-Raymi, and Dr. Omar Al-Murshidi. According to the information received, the persons mentioned above and others, whose identity could not yet be ascertained, have been arrested by Yemeni security forces on 31 March and 1 April 2008 in the cities of Aden, al-Dhali’, Abyan, and Taz, as well as in the region of Radfan, the main city of which is Habilayn. A number of the detainees are held incommunicado at unknown places of detention. A number of the arrests took place with unnecessary violence in the middle of the night at some of these persons’ homes.

2673. The reasons for their arrests remain unclear. However, it is reported that the above-mentioned persons support the protests and activities of retired soldiers and would-be recruits from the Southern Governorates of Yemen who have raised concern about discrimination when seeking employment and with respect to salaries and pensions in comparison to retired soldiers from the North of the country.

2674. Mr. Akram Al-Qubbati, Mr. Najeeb Al-Mikhlaifi, Mr. Mansour Abdelmula, Mr. Ahmed Al-Tamimi, Mr. Amin Ali Farhan, Mr. Fahd Al-Yusufi, Mr. Muhamad Al-Shamiri, Mr. Abdu Muhamad Al-Rasani, Mr. Amin Abdu Ali, Mr. Bashir Al-Raymi, and Dr. Omar Al-Murshidi were arrested on 1 April in Tazewal after a demonstration of solidarity with the arrests carried out on the previous day. They reportedly remain in detention.

2675. Some of the persons had been previously arrested in the months of August and September 2007 for taking part in protests at Liberty Square, Aden, and in al-Mukalla.

2676. Concerns were expressed that the arrest and detention of the above mentioned individuals might be solely connected to their reportedly peaceful activities in favour of retired soldiers and to their protest against perceived discrimination. In view of the reported incommunicado detention at unknown places of detention of some of the detainees, further concerns are expressed that they might be at risk of ill-treatment. The situation of retired soldiers has already been the subject matter of a joint urgent appeal 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 independence of judges and lawyers and the Special Rapporteur on the question of torture on 15 August 2007, which has regrettably remained without a reply from Your Excellency's Government to date.

Responses from the Government

2677. By a letter dated 6 May 2008, the Government responded to the communication, indicating that: "The persons in the question raised in your above mentioned communication were arrested based on instructions from the Office of the Attorney General, and cases filed against them have been forwarded to the Office of the Attorney General for legal action".

Observations

2678. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 16 May 2008

2679. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent a letter of allegations concerning Mr. Fahad Al-Qarni.

2680. According to the information received, on 5 April 2008, Mr. Fahad Al-Qarni was arrested by agents of the Political Security Organization of Taiz on his way to a festival in Aden. He was charged with inciting an armed overthrow of the government and insulting the President.

2681. The Office of the Attorney General issued a detention order against Mr. Fahad Al-Qarni for a period of seven days, but he is allegedly being detained until he submits a written apology for publicly expressing his opinions regarding the alleged corruption of the President and the government. Mr. Fahad Al-Qarni has reportedly been ill-treated by security agents while in detention.

2682. Mr. Fahad Al-Qarni has previously been arrested and imprisoned for recording songs critical of government policies, in July 2006. If Mr. Fahad Al-Qarni is found guilty he could be sentenced to up to six years of imprisonment.

2683. Concern was expressed that the arrest and detention of Mr. Fahad Al-Qarni might solely be connected to his reportedly peaceful activities in defending human rights, in particular the exercise of his right to freedom of opinion and expression. Further concerns were expressed for his physical and psychological integrity while in detention.

Response from the Government

2684. In a letter dated 4 September 2008, the Government responded to the communication. The Government reported that a review by the competent court had been conducted on Mr. al-Qarni's case and he was sentenced to one and a half years imprisonment, and fined to 500.000 Yemeni Riyals for instigating an armed mutiny during his participation in a public political rally.

Observations

2685. The Special Rapporteur is grateful for the Government's reply.

Letter of allegations sent on 16 June 2008

2686. The Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of the human rights defenders, sent an urgent appeal concerning the sentencing to six years' imprisonment of journalist and human rights defender Mr. Abdul-Karim al-Khaiwani. Mr. al-Khaiwani is former Editor-in-Chief of the pro-democracy online newspaper Al-Shoura, and he is also a well known pro-democracy activist and a campaigner for the right to freedom of expression in Yemen.

2687. According to information received, on 9 June 2008, Mr. Abdul-Karim al-Khaiwani was sentenced to six years' imprisonment by a state security court in Sana'a for allegedly conspiring with anti-government rebels. He has been charged with insulting the President and "demoralising the military", as well as having alleged links with an al-Houthi terrorist cell, based on articles written about the Sa'ada war in Yemen.

2688. According to reports, the newspaper for which Mr. Abdul-Karim al-Khaiwani works has been closed and his website has been blocked. His family has also been subjected to physical abuse and threats. In 2004, Mr. Abdul-Karim al-Khaiwani was sentenced to one year of imprisonment for allegedly supporting the late Hussain Badr al-Din al-Huthi, a cleric from the Zaidi community. On 20 June 2007, he was arrested at his home by plain clothed members of the National Security who reportedly dragged him from his bed and assaulted him. His arrest was linked to allegations of association with an al-Houthi terrorist cell, accusations which are claimed to have been fabricated.

2689. Mr. Abdul-Karim al-Khaiwani has previously reported on human rights violations against the Zaidi community and those suspected of having links to al-Houthi. On 27 August 2007, after having been released from prison on bail, Mr. Abdul-Karim al-Khaiwani was abducted and tortured by a gang of armed men. It is believed that this attack was linked to a report he was

about to publish on conditions in Yemeni prisons. On 17 June 2008, Mr. Abdul-Karim al-Khaiwani was due to travel to London to accept Amnesty International's "Special Award for Human Rights Journalism under Threat."

2690. Concern was expressed that Mr. Abdul-Karim al-Khaiwani sentencing to six years' imprisonment is linked to his legitimate work to provide information about the 4-year old conflict in Sa'ada, promote democracy and the right to freedom of expression in Yemen.

Observations

2691. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 16 June 2008.

Urgent appeal sent on 14 August 2008

2692. The Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal concerning Mr. Louay Abdulwahab Ali Al-Mouayyad, aged 24, residing at Freedom Avenue, journalist and human rights defender, member of the « Organisation for democratic rights and liberties », executive director of the portal 'Free Yémen'.

2693. According to the information received, Mr. Louay Abdulwahab Ali Al-Mouayyad was arrested at his home on 20 June 2008 by several security services (Al Amn Assiyassi) officers in civil clothes accompanied by some militaries. They did not present any arrest warrant and did not explain the reasons for arrest. They then took him to an unknown place. That evening the family was advised to prepare his laptop and the medicine he needs. The family was also able to speak to Mr. Al-Mouayyad. Since then the family has not had any information about his whereabouts in spite of many attempts to find out where he is with the security services and the Prosecutor's office.

2694. With a view to the alleged secret detention of Mr. Al-Mouayyad, concern was expressed for his physical and mental integrity, in particular since he might not have access to the medication he needs.

Response from the Government

2695. In a letter dated 22 October 2008, the Government informed that Mr. Louay Abdulwahab Ali Al-Mouayyad had been released.

Observations

2696. The Special Rapporteur is grateful for the Government's reply.

Follow-up to previously transmitted communications

2697. In a letter dated 31 October 2008, the Government responded to a joint urgent appeal of 31 August 2007. The Government reported that "The Napha Society for the Defense of Prisoners and Human Rights substituted and continued the work of the 'Friends of the Prisoner

Society' also know as 'Ansar El-Sageen'. On 31 August 2006, the Minister of Defense declared the 'Friends of the Prisoner Society' to be an unlawful organization based on its connections with the Hamas terrorist organization. This decision stated that the declaration is also valid for any other name in which the organization shall be named in the future, including any section, branch, group or faction of it. As a result, though the organization changed its name, according to the Minister's decision it remains an unlawful organization. Furthermore, according to information presented to the Minister of Defense and the Commander of the IDF Forces in the West Bank, the Napha Society continues to maintain various connections with the Hamas terrorist organization. Due to all of the above and the threat posed by the Napha Society for public safety and the security of the state of Israel, the decision remains firm".

Observations

2698. The Special Rapporteur is grateful for the Government's reply.

Zimbabwe

Letter of allegations sent on 26 February 2008

2699. The Special Rapporteur, together with the then Special Representative of the Secretary-General on the situation of the human rights defenders, the Special Rapporteur on the right to education and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations regarding a group of teachers and members of the Progressive Teachers' Union (PTUZ), including Messrs Takavafira Zhou (president), Raymond Majongwe (secretary general), Harrison Mudzuri, Landistoun Zunde, Oswald Mudziva, Bernard Shoko, Charles Mubwandarika, and Ms. Linda Simande, currently involved in a campaign entitled "Save our Education" which highlights shortcomings in the education system in Zimbabwe. According to information received:

2700. On 19 February 2008, the aforementioned members of the Progressive Teachers' Union (PTUZ) were reportedly engaged in a peaceful protest, distributing leaflets in Harare as part of the "Save our Education" campaign.

2701. While on Fourth St, the protesters were accosted by a number of unidentified youths, who reportedly brought them to a building used by the ruling political party, the Zimbabwe African National Union - Patriotic Front (ZANU-PF), where they assaulted them.

2702. The assailants reportedly hit and kicked the protesters with clenched feet, open palms, booted feet and iron rods. One female teacher was reportedly stripped naked in front of her male colleagues and assailants, and had her genital area repeatedly stepped upon. During the assaults, the victims were accused of being activists from the opposition party Movement for Democratic Change.

2703. Reports indicate that police officers arrived and took the teachers to Harare central police station where it is believed they may also have been subjected to ill-treatment. Lawyers were reportedly initially denied access to the teachers by one Detective Chief Inspector Manjengwa; with one lawyer being forcibly escorted from the police station. Offers to transfer the teachers to hospital were rejected by police despite their need of medical attention. They were eventually

transferred to Harare Central Hospital in a pick-up truck, from where, after several hours delay awaiting medical attention, they were transferred to the Avenues Clinic, where they were admitted for treatment.

2704. Concern was expressed that the assault and ill-treatment of the aforementioned persons may be directly related to their activities in defense of human rights, particularly their exercising of the right to freedom of expression and assembly. In view of reports of their ill-treatment, further concern was expressed for their physical and psychological integrity.

Responses from the Government

2705. By a letter dated 2 April 2008 (resent on 13 May and 1 July 2008), the Government responded to the communication, indicating that the persons named in the communication are all facing police investigations. On 19 February 2008, the Progressive Teachers Union of Zimbabwe members went to ZANU PF Harare Provincial Headquarters where they threw fliers within the party premises. The fliers contained MDC political messages. This did not go down well with the ZANU PF supporters who were at the party headquarters. Subsequently a skirmish ensued between the ZANU PF supporters and members of the teachers association who were led by Raymond Majongwe. The police got wind of the disturbances and upon arrival at the party headquarters, arrested nine members of the teachers association and two ZANU PF youths. Observations made by the police at the time of arrest were that indeed some of the members of the Progressive Teacher's Association had sustained injuries as a result of the scuffle. All the suspects were taken to the police station where initial documentation was done and arrangements made for the injured to be taken to hospital. At no time were the suspects subjected to any form of ill-treatment by the police as alleged in the communication. It was important for suspects to be taken to a government hospital first, to facilitate for the obtaining of a medical report that would be acceptable in court since the injuries were as a result of an assault that was subject of investigation. It is not true that they were assaulted by unidentified youths. Two ZANU PF youths Trymore Chikupala (33) and Cleopas Gutsa (26) are being charged for assaulting them. At no stage did the police assault or ill-treat them. It is also not true that the injured were denied access to medical attention, as it is the police who ferried the suspects in a police vehicle to a government hospital. It is unfair to suggest that the delay in attending to the suspects at the hospital can be apportioned to the police. The police do not run hospitals but police stations. The Government indicated that it did its part by taking them to the hospital. In Zimbabwe most of the operation vehicles are pick-ups and to infer that we should have used a more comfortable vehicle is also misplaced. It is a blatant lie that the accused were released without any charge. Members of the PTUZ were charged for contravening Chapter 46 of the Criminal Codification Reform Act Chapter 9.23, 'Criminal nuisance'. After their discharge from the Avenues Clinic, they appeared in court on 5 March 2008 and were released on \$50 million bail each while the two ZANU PF youth were also released under the same bail conditions. They will appear before a court on 19 March 2008.

Observations

2706. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 7 April 2008

2707. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Mr. Barry Bearak, a Johannesburg-based journalist with the New York Times, and another journalist, whose identity has not yet been disclosed by Your Excellency's Government.

2708. According to information received, on 3 April 2008 the police raided the York Lodge in Harare, a hotel where many foreign journalists have been staying to cover the 29 March 2008 elections, and arrested five foreign journalists, including Mr. Bearak. Three of the arrested journalists were later released. Mr. Bearak is reported to be maintained in detention, for allegedly practising journalism without accreditation in violation of the Access to Information and Protection of Privacy Act. The identity of the second detained journalist has not been disclosed by police spokesman Wayne Bvudzijena, who confirmed the arrests.

Observations

2709. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 7 April 2008.

Urgent appeal sent on 16 April 2008

2710. The Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Mr. Frank Chikowore, freelance journalist accredited with the Media and Information Commission and the Zimbabwe Electoral Commission. Mr. Chikowore was the subject of an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent on 24 May 2005, which has regrettably remained without a reply by your Excellency's Government to date.

2711. According to the information received, on 15 April 2008 at 11 a.m., Mr. Chikowore was arrested by four policemen wearing anti-riot gear and three plain-clothes police officers. The policemen took Mr. Chikowore to his home, where they seized a computer, a recorder and a camera, before arresting him. He is currently being held in an unknown location. His lawyer has tried to obtain information about his whereabouts with the Harare police headquarters, which denies that Mr. Chikowore is being held.

Observations

2712. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 16 April 2008.

Urgent appeal sent on 22 April 2008

2713. The Special Rapporteur, together with the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal regarding reports of intimidation, violence and torture as a form of retribution or victimization in the aftermath of

recent elections. According to the information received, between 29 March and 14 April 2008, 160 cases of injury resulting from organized violence and torture have been treated by various doctors with many of the patients still remaining in hospital. One third of the patients were women. A fifth of the victims were members of the opposition Movement for Democratic Change (MDC) and another 20 per cent were involved in the elections for the Zimbabwe Electoral Commission (ZEC). Nine patients sustained fractures (broken bones), reportedly typical of “defence injuries”, resulting from the victim raising his or her hands and arms to protect the face and upper body from assault.

2714. At least two politically motivated murders, 15 abductions of women, 288 cases of homes destroyed through politically motivated arson subjecting 175 families and 14 persons to displacement, and 48 cases of assault took place during this period. The majority of persons displaced are said to be women and children. About 70 MDC members have been arrested in the last few days.

2715. The above-described violence has been perpetrated by police officers, soldiers and members of the ruling Zanu PF party as part of a retributive and reprisal campaign mainly in rural areas, where people have voted for opposition candidates. In many instances victims were told that they were being victimized because they support the opposition; they were accused of “celebrating the MDC victory”, “of selling the country to the whites” and/or “of being responsible for the rigging of elections in favour of the MDC”.

2716. Reports also indicate that the authorities are targeting the independent local and foreign media, attempting to impede reporting on the current situation and the aftermath of the election, by resorting increasingly to police harassment and the arrest and detention of journalists; the deportation of one foreign journalist has been reported.

2717. In parallel, the State-controlled media is reportedly airing programmes and songs encouraging violence, such as “Mr. Government” by Man Soul Jah, which celebrates the Government’s land seizures and calls for the decimation of perceived political sell-outs (the song says: “We are living like squatters in the land of our heritage ... give me my spear so that I can kill the many sell-outs in my forefathers’ country.”) and a well known song encouraging people to take up arms and fight for their freedom aired by ZTV. Moreover, reports have appeared that there are plans to entrust the distribution of food aid to the military in order to control the population through the politicization of food distribution.

Response from the Government

2718. By a letter dated 11 June 2008, the Government responded to the letter of allegations, indicating that, among other things, “it is indeed true that some isolated and localised cases of violence have occurred in the country during the post-election period, but nothing to the scale painted by the MDC-T in its current diplomatic and information offensive.

2719. There is overwhelming evidence which points to the fact that the MDC-T premeditated and planned this violence well ahead of the March 29th 2008 Harmonised Elections as part of its grand strategy aimed at inviting foreign intervention. By contrast, without attempting to diminish its culpability where warranted, the ruling Zimbabwe African National Union (ZANU-PF)’s actions have largely tended to be reactive, self-defensive and retaliatory. Government wishes to

reassure the esteemed Council that there is no rule of law or governance deficit in Zimbabwe. The overall security situation is under control and not in decline. The ZRP, acting alone under its constitutional mandate and without recourse to the Zimbabwe Defence Forces (ZDF), has been able to contain this violence. Government is in firm control and exercising its legitimate mandate to protect all its citizens, without discrimination.

Observations

2720. The Special Rapporteur is grateful for the Government's reply.

Urgent appeal sent on 30 April 2008

2721. The Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding the situation of Frank Chikowore, freelance journalist accredited with the Media and Information Commission and the Zimbabwe Electoral Commission, on behalf of whom an urgent appeal was sent on 16 April 2008 by the vice-Chairperson of the working Group on arbitrary detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

2722. On 15 April 2008, Mr. Chikowore was arrested by police officers. His lawyer tried to obtain information about his whereabouts with the Harare police headquarters, which at first denied that Mr. Chikowore was being held.

2723. According to additional information received, Mr. Chikowore has been detained from the time of his arrest on 15 April to 21 April at the Harare Central Police Station, and then transferred to a remand prison in Harare. It is reported that although the police made numerous accusations against Mr. Chikowore, no charges have yet been brought against him. It is further reported that on 17 April, Mr. Chikowore's lawyer filed an urgent High Court application requesting that his client be hospitalized for abdominal and chest pains, but that to date, Mr. Chikowore has not received any medical treatment.

Observations

2724. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 30 April 2008.

Urgent appeal sent on 8 May 2008

2725. 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 concerning the situation of Mr. Dzimbabwe Chimnga, lawyer and member of the non-governmental organization Zimbabwe Lawyers for Human Rights (ZLHR). Mr. Chimnga was the subject of an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 March 2007.

2726. According to the information received, on 2 May 2008, on his way to Swaziland to attend the 43rd Ordinary Session of the African Commission on Human and Peoples' Rights, Mr. Dzimbabwe Chimnga was approached by security agents before the immigration desk at

Harare International Airport. A total of nine confidential sets of documents were reportedly seized. These documents were case files of communications and complaints set to be argued by a ZLHR legal team against the Government of Zimbabwe. Also taken were copies of pre- and post-elections reports. The security agents recorded the personal and professional details of Mr. Chimbga, and warned him that they were going to “deal with [him] when [he] return[s] to Zimbabwe”.

2727. Concern was expressed that these acts of intimidation against Mr. Chimbga and the seizure of the aforementioned documents may be solely related to his non-violent activities in defense of human rights.

Observations

2728. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 8 May 2008.

Urgent appeal sent on 16 May 2008

2729. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture sent an urgent appeal to the Government regarding Mr. Lovemore Matombo and Mr. Wellington Chibebe (or Chibhebhe), respectively President and Secretary-General of the Zimbabwe Congress of Trade Unions (ZCTU), and Mr. Raymond Majongwe, General Secretary of the Progressive Teachers’ Union of Zimbabwe (PTUZ).

2730. Both Mr. Matombo and Mr. Chibebe were the subject of an urgent appeal jointly sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 15 September 2006. In addition, Mr. Chibebe was the subject of two joint urgent appeals by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders, dated 15 February 2005 and 21 August 2006. Mr. Majongwe was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to education, Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders on 25 February 2008. While we appreciate the reply of your Government to the communication sent on 21 August 2006 and 25 February 2008, we regret that responses to the communications of 15 February 2005 and 15 September 2006 have not yet been received.

2731. According to new information received, on 8 May 2008, Mr. Lovemore Motombo and Mr. Wellington Chibebe were both arrested allegedly in connection with May Day speeches, during which they spoke about the political crisis due to the postponement of the announcement of the election results, and the ensuing wave of violent intimidation of opposition supporters. They were charged with “inciting people to rise against the Government and reporting falsehoods about people being killed”. On 6 May, heavily armed police personnel had come to

their homes to search them. On 7 May, they voluntarily reported to the police station, but were not taken in before 8 May 2008. They are currently held at the Harare Remand Prison. They have applied for release on bail, but the High Court of Zimbabwe will not deliver its judgment on this application until 19 May 2008.

2732. On 16 May 2008, Mr. Raymond Majongwe was arrested by the police at the High Court of Zimbabwe in Harare while he was attending the bail hearing of Mr. Lovemore Matombo and Mr. Wellington Chibebe. This arrest was allegedly in connection with the work of PTUZ in documenting the harassment of teachers at their workplace within the context of the current political violence in the country.

2733. Concern was expressed that the arrests of Mr. Lovemore Matombo, Mr. Wellington Chibebe and Mr. Raymond Majongwe may have been related to their work in defence of human rights, and in particular, to their reportedly peaceful exercise of the right to freedom of expression. Further concern was expressed for their physical and psychological integrity while in detention, especially because both Mr. Lovemore Matombo and Mr. Wellington Chibebe were reportedly severely tortured in police custody in September 2006. Finally, concern was expressed that these latest incidents may have formed part of a continuous pattern of harassment and repression of Zimbabwe's human rights defenders, including trade union leaders.

Response from the Government

2734. By a letter dated 1 Juillet 2008, the Government responded to the letter of allegations, indicating that: "The correct facts are that Raymond Majongwe, Bwandarika (39), Rabat Hoary (35), Takavarika Zhou (40), Benard Zhou (52), Leviciuos Ziunde (38), Harrison Mudzuri (36), Oswald Madziva (38) Linda Fumaphanda (31) are indeed members of the Progressive Teachers Association of Zimbabwe.(PTUZ). On 19 February 2008 the Progressive Teachers Association of Zimbabwe members went to ZANU PF Harare Provincial Headquarters where upon they threw flyers within the party premises. The flyers contained abusive political messages and this did not go down well with the ZANU PF youths who were at the party headquarters. Subsequently a skirmish ensued between the ZANU PF youths and members of the teachers association who were led by Raymond Majongwe. The Police got wind of the disturbances and upon arrival at the party headquarters, arrested nine members of the teachers association and two ZANU -PF youths.

2735. Observations made by the Police during the time of arrest were that indeed some of the members of the Progressive Teacher's Association had sustained injuries as a result of the scuffle. All the suspects were taken to the Police station where initial documentation was done and arrangements made for the injured to be taken to hospital. At no time were the suspects subjected to any form of ill treatment. It was important for suspects to be taken to a Government hospital first, to facilitate for the obtaining of a medical report that would be acceptable in court since the injuries were as a result of an assault that was subject to investigation.

2736. It is therefore not true that they were assaulted by unidentified youths. Two ZANU PF youths Trymore Chjkupula (33) and Cleopas Gutsa (26) are facing assault charges. It is also not true that the injured were denied access to medical attention, as it is the Police who ferried the suspects in a Police Vehicle to a Government hospital. It is unfair to suggest that the delay in

attending to the suspects at the hospital is attributable to the Police. We did our part by taking them to the hospitals. In Zimbabwe most of our operational vehicles are pick-ups and to infer that we should have used a more comfortable vehicle is also misplaced. It is a blatant lie that the accused were released without any charge. All were discharged from the Avenues Clinic and appeared in court on the 5th of March 2008. Members of the Progressive Teachers Association were charged for contravening Chapter 46 of the Criminal Codification Reform Act Chapter 9.23, Criminal nuisance and were released on 50 million Zimbabwe dollars bail each while the 2 ZANU PF youth were also released on the same bail conditions. The matter is still pending at Court. Harare Central Crime Register number 387/02/08 refers”.

Observations

2737. The Special Rapporteur is grateful for the Government’s reply.

Urgent appeal sent on 3 June 2008

2738. The Special Rapporteur sent an urgent appeal to the Government regarding Messrs Bernet Hasani Sono, Resemate Boy Chauke and Simon Maodi alias Musimani, employed by the television network Sky News, Mr. Craig Markram Edy, Mr. Sidney Saize, freelance journalist, Mr. Mathew Takaona, President of the Zimbabwe Union of Journalists, and Mr. Frank Chikowore, freelance journalist.

2739. According to the information received, on 23 May 2008, Messrs Bernet Hasani Sono, Resemate Boy Chauke and Simon Maodi were arrested and detained by police officers in Esigodini, Matabeleland South province, for possessing broadcasting equipment reportedly belonging to Sky News. Mr. Craig Markram Edy was also arrested as the material of the journalists was reportedly found in his home. On 30 May, they were convicted by Matabeleland provincial magistrate for violation of Section 33 of the Post and Telecommunications Act. However, they have not been sentenced yet because of a number of legal issues which need to be solved before a sentence can be passed.

2740. On 16 May 2008, Mr. Sidney Saize was assaulted by unknown assailants in Mutare on his way home, accusing him of “selling the country”. They offered him a lift home in an unmarked car, and after few miles, they kicked him with booted feet and punched him. They later left him on the roadside.

2741. On 17 April 2008, Mr. Mathew Takaona was assaulted and robbed by individuals reportedly wearing military uniforms.

2742. On 15 April 2008, Mr. Frank Chikowore was arrested on arson charges during an opposition strike. He was later released on bail pending trial. The trial dates are yet to be determined.

2743. Serious concerns were expressed that the arrest and detention of Messrs Bernet Hasani Sono, Resemate Boy Chauke and Simon Maodi and Frank Chikowore, and the assault against Messrs Sidney Saize and Mathew Takaona could be linked to their exercise of their right to freedom of opinion and expression.

2744. Further concerns were expressed at the crackdown on national and foreign media following the aftermath of the 29 March elections.

Observations

2745. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 3 June 2008.

Urgent appeal sent on 6 June 2008

2746. 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, sent an urgent appeal regarding the situation of Mr. Philimon Sajeni, member of the human rights non-governmental organisation Crisis in Zimbabwe Coalition (CZC) and another member whose identity has yet to be confirmed; Ms. Jenni Williams, national coordinator of Women of Zimbabwe Arise (WOZA), a grassroots organization working to promote and protect women's activism, Ms. Magadonga Mahlangu, co-leader of WOZA, and 12 other WOZA members, including one male belonging to WOZA's sub-division, Male of Zimbabwe Arise; members of the Zimbabwe Election Support Network (ZESN) whose identities have yet to be confirmed; and Mr. Musaiona Shortgame, a Gutu Resident Magistrate who has recently presided over several cases of political violence.

2747. Since 2004, Ms. Jenni Williams, Ms. Magadonga Mahlangu and several other WOZA members were the subject of several communications sent:

2748. On 29 September 2004 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. No response from your Government has been received as of today.

2749. On 19 April 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. No response from your Government has been received as of today.

2750. On 20 May 2005 by the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. No response from your Government has been received as of today.

2751. On 28 June 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders. We acknowledge receipt of the response of your Government received on 31 August 2005.

2752. On 16 February 2006 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the then Special Representative of the Secretary-General on the situation of human rights defenders. We acknowledge receipt of the response of your Government received on 31 March 2006.

2753. On 15 September 2006 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders. No response from your Government has been received as of today.

2754. On 7 December 2006 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the then Special Representative of the Secretary-General on the situation of human rights defenders. We acknowledge receipt of the response of your Government received on 15 December 2006.

2755. On 12 June 2007 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders. We acknowledge receipt of the responses of your Government received on 19 June and 4 September 2007. According to new information received:

2756. On 30 May 2008, Mr. Philimon Sajeni was arrested, together with another member, at the premises of the CZC by law enforcement officers and alleged Central Intelligence Organisation (CIO) agents. After searching the premises for broadcasting equipment, the authorities drove the 2 CZC members around for some time before releasing them with no charges. On 2 June 2008, four men allegedly belonging to the CIO urged the guard of the CZC office to inform them about the activities of the Coalition. The guard refused to open the gate, and the four men warned him that they would come back.

2757. On 28 May 2008, Ms. Jenni Williams, Ms. Magadonga Mahlangu and 12 other WOZA members were arrested in Harare during a reportedly non-violent demonstration. The police reportedly used force to apprehend the demonstrators. They are all charged with distributing materials likely to cause a breach of the peace under Section 37 of the Criminal Law (Codification and Reform) Act. Ms. Jenni Williams is further charged for publishing or communicating false statements prejudicial to the State under Section 31 of the same Act. On 30 and 31 May 2008, some WOZA members appeared in court and were granted bail. However, the State prosecutor appealed the decision and the 14 WOZA have since remained in custody: the 13 female WOZA members are being held at Chikurubi Maximum Security Prison; the male WOZA member is being held at Harare Central Remand Prison. Conditions of detention in both facilities are reportedly difficult. The 14 WOZA members are due to appear in court again on 6 June 2008. In mid-May 2008, three ZESN members were reportedly assaulted by members of the Zimbabwe African National Union - Patriotic Front militia in Mt Darwin East,

Mutyandaedza village. They were later transported to Mt Darwin District Hospital for treating fractured arms, fractured fingers, deep cuts and bruises. However, admission to the hospital was reportedly denied to them.

2758. On 21 April 2008, the car of Mr. Musaiona Shortgame, parked outside his home in Mupandawana Growth Point, was set on fire by three unidentified individuals who ran away when Mr. Shortgame came out. Mr. Shortgame reportedly received a series of death threats prior to this incident.

2759. Serious concerns were expressed that the arrest of Mr. Philimon Sajeni and his CZC colleague, the arrest and detention of Ms. Jenni Williams, Ms. Magadonga Mahlangu and 12 other WOZA members, the assault against the three ZESN members and the threats and act of harassment against Mr. Musaiona Shortgame may be related to their reportedly non-violent activities in defense of human rights, in particular for some of them in the exercise of their right to freedom of opinion and expression. Further concern was expressed that these incidents may form part of a pattern of harassment against human rights defenders in the aftermath of the 29 March elections.

Observations

2760. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 6 June 2008.

Urgent appeal sent on 27 June 2008

2761. The Special Rapporteur, together with the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal concerning the following cases:

2762. Mr. Michael Dubem (Shurugwi district), died on 01 May 2008 after being assaulted by Zanu PF supporters, Mr. Tapiwa Meda, Mr. Alex Chiriseri and Mr. Joseph Madzuramhende (Centenary district), died on 05 May 2008 after being assaulted by a youth gang and a soldier, Mr. Crispen Taero (Mt Darwin district), died in April 2008 after having been attacked by a members of the Central Intelligence Organization and Zanu PF supporters, Mr. Biggie Zhuwawo (Muzarabani district), died in April 2008 after being abducted by Zanu PF youths), Mr. Crispen Chiutsi (Guruve district), died in April 2008 after being attacked by Zanu PF youths), Ms. Tatenda Chibika (Mutoko district), died on April 2008 after being beaten by Zanu PF youths and war veterans, Mr. Tapiwa Mbwanda (Hurungwe district), died on 05 April 2008 after an attack by Zanu PF youths, Mr. Marunde Tembo (Mudzi district), died in April 2008 after being assaulted by Zanu PF youths, Mr. Moses Bashitiayo (Mutoko district), died in April 2008 after being attacked by soldiers and Zanu PF youths, Brighton Mabwera, aged 4 years (Murehwa district), burnt in April 2008 after the parents were assaulted and their house was set on fire by Zanu PF supporters, Mr. Manyimo Tennyson (Muzarabani districted), was ill-treated as a result of which he died at Bakasa Base on 23 and 24 April 2008, Mr. Tabitha Marume (Makoni west district), was shot by government agents on 01 April 2008, Mr. Moses Makewa (Wedza district), died on 1 April 2008 after being attacked by Zanu PF supporters, Mr. Peter Tom Butao (Mudzi North district), died on 29 April 2008 after being tortured by Zanu PF members, Mr. Sage Muza (Hoyuyu 2 Mutoko district), died on 08 May 2008 after an attack by Zanu PF supporters,

Mr. Manuel Nelson (Hopley/Harare), died on 09 May 2008 after an attack by Zanu PF youths, Mr. Godfrey Jemedze (Mazowe district), died on 09 May 2008 after being attacked by Zanu PF supporters and members of the army, Mr. Elias Madzivanzira (Kahari) (Shamva district), died on 11 May 2008 after an axe attack on him and his wife by Zanu PF supporters, Temba Muronde (Mudzi north), was abducted at Vhombozi river, taken to Magwada Base where he was given rat poison and pesticide and killed him with an axe after a week by Zanu PF youths and militia on 14 April 2008, Ms. Ratidzai Dzenga (pregnant) (Muzarabani district), died on 01 April 2008 after being heavily assaulted Zanu PF youth, Mr. Better Chokururama, Mr. Cain Nyevehe and Mr. Godfrey Kauzani (Murehwa district), died on 14 May 2008 after an attack by Zanu PF supporters, Mr. Abia Chaparira (Mt Darwin district), died on 11 May 2008 after being assaulted and tortured by Zanu PF youths and war veterans, Ms. Gloria Mukaiwa (Centenary district), died on 17 May 2008 after being assaulted by Zanu PF youths, Mr. Tonderayi Ndira (Harare), killed in May 2008 after abducted from his home by an armed Zanu PF gang, Mr. Manyuke Nyamukapa (Murehwa district), died on 20 May 2008 after being abducted by Zanu PF youths, Ms. Rosemary Maramba (UMP district), died on 20 May 2008 after being assaulted by Zanu PF supporters, Mr. Action Nyadedzi (UMP district), died on 20 May 2008 after being abducted by Zanu PF youths, Mr. Chitsungo (Headman) (UMP district), died on 20 May 2008 after being abducted by Zanu PF youths, Mr. Taurai Matanda (Buhera district), died on 24 May 2008 after being shot by a soldier, Mr. Edson Zaya (Shamva district), died on 16 May 2008 after being assaulted by Zanu PF youths and war veterans, Mr. Besta Bakari (Shamva district), died on 16 May 2008 after being attacked by Zanu PF youths, Mr. Phanael Mubaira (Mt Darwin district), died on 19 May 2008 after being abducted and ill-treated by Zanu PF, Elias Madzivanzira (Shamva district), was fatally assaulted with an axe by Zanu PF youths and war veterans on 11 May 2008, Ms. Edna Lunga (Kwekwe district), died on 11 April 2008 abducted and assaulted by Zanu PF youths, Mr. Marera (Mutoko district), died on 15 April 2008 after being abducted and beaten by Zanu PF youths and army members, Mr. Wiseman Tapera (Mutoko district), died on 08 April 2008 after being assaulted by Zanu PF youths and war veterans, Mr. Lever Katsande (Mudzi district), died on 27 April 2008 after being abducted and beaten by Zanu PF members, Ms. Nancy Chidzidzi and Mr. Taurai Chihuri (Mutoko district), died on 31 May 2008 after being shot by a government agent, Mr. Mariseni Kasambarare (UMP district) was killed on 13 May 2008 by Zanu PF supporters, Mr. Norman Mabhoi (UMP district), was killed on 28 May 2008 by Zanu PF supporters, Ms. Patricia Matonganhau (Mutoko district), was killed on 20 May 2008 by Zanu PF supporters, Gibson Nyandoro (Zvimba Norton), was abducted by war veterans and Zanu PF youths and later found dead close to Norton, Mr. Washington Nyangwa, Mr. Chiron Mbano (Zaka district, died on 04 June 2008 after an attack by soldiers on their MDC office at Jerera Growth point), Mr. Owen Hativagone (Marondera district), died on 16 May 2008 after being tortured for 2 days by Zanu PF supporters, Mr. Bloke Kanyemba (Harare), died on 05 June 2008 after being attacked by Chipangano Zanu PF gang, Ms. Pamela Guruve (Dube) and her child Mashoko, aged 6 (Harare), burned on 8 June 2008 when their house was set on fire by Zanu PF supporters, Mr. Farai Gambe (Rusape district), died on 15 June 2008 after being shot by a soldier close range, Mr. Daniel Nhende (Epworth district), died on 08 June 2008 after being abducted and assaulted by Zanu PF youths, Mr. Delite Mushonga (Epworth district), died on 11 June 2008 after being beaten up by Zanu PF youths, Fushirayi Dofu (Mazowe), was assaulted and badly injured by local Zanu PF youths accompanied by members of the army in civilian clothes that he was admitted at Howard hospital where he died on 10 May 2008, Dumhasani Hapazari (Chiredzi), was abducted on 4 June by army members based in Chiredzi at buffalo range and found dead on 6 June 2008,

Kenedy Dube (Mwenezi), kidnapped by a gang of Zanu PF supporters riding in Zanu vehicles and found dead on 14 June 2008, Ms. Sophia Chingozho (Buhera), was beaten by a Zanu Pf youth gang and war veterans in Buhera and died in hospital, Ms. Dadirayi Chipiro (Mhondoro district), died on 08 June 2008 after being mutilated and burned by Zanu PF members, Mr. Victor Mungazi (Magunje district), died on 14 June 2008 after being abducted by Zanu PF youths, Mr. Simba Chikova (Zaka district), died on 13 June 2008 after tortured to death by Zanu PF youths, Mr. Elliot Machipisa (Hurungwe district), died on 17 June 2008 after being abducted by Zanu PF youths, Mr. Morgan Chishamba (Harare), died on 19 June 2008 after an attack by Zanu PF supporters, Simba Magetsi (Gokwe), was abducted by local war veterans and Zanu PF youths and found dead on 19 June 2008, Mr. Yuana Jenti, Mr. Archford Chipiyo, Mr. Ngoni Knight and Mr. Tyson (Chitungwiza district), died on 19 June 2008 after being abducted by Zanu PF youths and State agents.

2763. In view of credible reports by numerous sources on the escalating level of violence in the wake of the second round of the presidential elections, we wished to express our strongest concern that the above mentioned cases appeared to be part of a systematic and widespread campaign of violence against citizens seeking to express their democratic opinions and elect the Government of their choice.

Observations

2764. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 27 June 2008.

Urgent appeal sent on 30 June 2008

2765. 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 regarding the situation of lawyers, judges and human rights defenders in Zimbabwe, in particular Mr. Mawadza, Bindura Provincial Magistrate; Ernest Jena, lawyer; and Mr. Trust Maanda, Zimbabwe Lawyers for Human Rights Regional Project Manager. According to the information received, on 23 June, Magistrate Mawadza was attacked and assaulted by Zimbabwe African National Union - Patriotic Front (ZANU-PF) youths as he left a supermarket in Bindura. He had previously granted bail to detained Movement for Democratic Change (MDC) activists. Mr. Mawadza continues to live in fear as no protection has been provided by the state.

2766. On 24 June 2008, around 9:00 a.m., Mr. Ernest Jena was abducted from his office by ZANU-PF youths who forced him into a green car. Some of the youths came back to his office looking for his assistant, Mr. Mashayamombe. They told Mr. Mashayamombe that Mr. Jena was at a base in Bindura. There are three ZANU-PF bases in Bindura, i.e. in Chiwaridzo, Chipadza and another. Mr. Jena was scheduled to appear before Magistrate Mr. Mawadza to argue matters of other detained activists. Reports from Mashonaland Central province suggest that Mr. Jena is being taken around to ZANU-PF militia bases across the province and being 'taught a lesson'. It is reported that he was last seen or heard of at a base in Chiweshe. However, his concrete whereabouts continue to remain unknown.

2767. On 23 June 2008, between 10.00 p.m. and 12.00 a.m., the police attempted to search the house of Mr. Trust Maanda without a warrant. When Mr. Maanda refused to open the door, they forced the gardener to open the gate. The police then searched the gardener's lodgings, but could not find anything of interest. They interrogated and threatened the gardener and then requested him to appear at the police station at 9:00 a.m. the following day.

2768. On 24 June 2008, just before midnight, Mr. Trust Maanda returned home after working late when his way was blocked by several ZANU-PF militias waving placards. When he stopped the car, three or four of the militia forced him to turn the car and drive back to town. He called Mr. Tinoziva Bere, Law Society of Zimbabwe Counselor, who drove to meet him. The two met and had to wait at a roadblock at Mutare Teachers college gate where they asked the police officers for help. However, they refused to assist and referred the two to Mutare Central Police. They were required to wait at that police station until they received reports that the militias had moved away from Mr. Maanda's house. Mr. Bere then escorted Mr. Maanda to his house around 1.15 a.m. and left only after Mr. Maanda had entered his house.

Observations

2769. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 30 June 2008.

Letter of allegations sent on 3 July 2008

2770. The Special Rapporteur sent an allegation letter concerning the arrest and detention of freelance journalists, Mr. Frank Chikowore and Mr. Edgar Mwandambira in Harare. Mr. Frank Chikowore was previously the subject of an allegation letter on 24 May 2005 and of an urgent appeal on 3 June 2008, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

2771. According to new information received, in the morning of 27 June 2008, at approximately 09.30 a.m., Mr. Frank Chikowore and Mr. Edgar Mwandambira were arrested by police officers at Mhofu Primary School, in the suburb of Highfield, Harare. The journalists had reportedly approached the presiding officer at the polling station to request permission to cover election proceedings which were taking place at the school, at the opening of the run-off presidential elections. As Mr. Frank Chikowore and Mr. Edgar Mwandambira were leaving the polling station, they were reportedly stopped by a police official, and were subsequently arrested and taken to the Criminal Investigation Department (CID) Law and Order section in Harare. Reports claim that both Mr. Frank Chikowore and Mr. Edgar Mwandambira were detained overnight at Machipisa police station, before being released the following day.

2772. Concern was expressed that the aforementioned incident could represent a direct attempt to stifle independent reporting in Zimbabwe thus restricting the right to freedom of opinion and expression in the country.

Observations

2773. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to his communication of 3 July 2008.

Urgent appeal sent on 8 July 2008

2774. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government regarding Ms. Jenni Williams and Ms. Magodonga Mahlangu, National Coordinator and Co-leader of Women of Zimbabwe Arise (WOZA) respectively. WOZA is a grassroots organization which works to promote and protect women's activism.

2775. Since 2004, nine other communications were sent regarding Ms. Jenni Williams, Ms. Magodonga Mahlangu and several other WOZA members. The most recent one was sent on 6 June 2008, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on violence against women. No response from the Government was received.

2776. According to new information received, on 3 July 2008, Ms. Jenni Williams and Ms. Magodonga Mahlangu were released on bail after over one month's detention in Chikurubi Maximum Prison in Harare. They were scheduled to stand trial on 17 July 2008 on charges of "distributing material likely to cause a breach of the peace" under Section 37 of the Criminal Law (Codification and Reform) Act.

2777. Ms. Jenni Williams was also charged with "causing disaffection among defence forces" under Section 30, and "publishing or communicating false statements prejudicial to the State" under Section 31 of the Criminal Law Act. She faced a maximum of 20 years' imprisonment whilst Ms. Magodonga Mahlangu faced a maximum of 5 years' imprisonment.

2778. The two human rights defenders were previously arrested on 28 May 2008 in Harare at a peaceful demonstration against violence perpetrated by the state. 12 other members of WOZA were also arrested. They too were charged under Section 37 of the Criminal Law Act, were scheduled to stand trial on 17 July 2008, and faced a maximum of 5 years' imprisonment.

2779. Serious concerns were expressed that the charges brought against Ms. Jenni Williams, Ms. Magodonga Mahlangu and the 12 other members of WOZA may have been related to their non-violent activities in the defense of human rights, in particular their work against state-sponsored violence in Zimbabwe. Further concern was expressed that these incidents may have formed part of a pattern of harassment against human rights defenders in the aftermath of the 29 March elections.

Observations

2780. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 8 July 2008.

Urgent appeal sent on 27 October 2008

2781. 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, the

Special Rapporteur on the right to education and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal in relation to demonstrations organised by the Zimbabwe National Students Union (ZINASU) and Women of Zimbabwe Arise (WOZA).

2782. Previous communications were sent to your Government by various mandate-holders regarding ZINASU on 15 May 2006, 19 February 2007, 20 March 2007 and 20 July 2007. Responses from your Government were received on 21 May 2004, 5 August 2004, and 12 October 2007. Several communications have been sent regarding WOZA. Most recently, the Special Rapporteur on the situation of human rights defenders sent a communication regarding Ms. Jenni Williams and Ms. Magadonga Mahlangu of WOZA on 8 July 2008. No response has yet been received from your Government.

2783. According to information received, on 14 October 2008, at approximately 2.15 p.m., over 500 demonstrators gathered outside August House to present a petition to the Government of Zimbabwe in defence of their right to education. The petition reportedly addressed sanitation problems in colleges, uninhabitable student residences, educational materials, access to education and quality of education, academic freedom and institutional autonomy, and the closures of schools in Zimbabwe. The demonstrations included a march which was disrupted four times by armed riot police from the Zimbabwe Republic Police (ZRP).

2784. The President of the ZINASU, Mr. Clever Bere; the Secretary-General, Mr. Lovemore Chinoputsa; the Legal and Social Affairs Secretary, Mr. Courage Ngwarai; a General Councillor, Ms. Edwina Burira; and a Youth Forum member, Mr. (or Ms. ??) Tawanda Mutema, were all arrested.

2785. Some demonstrators were also hospitalised because of police violence. The Gender and Human Rights Secretary, Ms. Priviledge Mutanga was assaulted, sustaining head injuries and a swollen arm. Mr. or Ms. Obert Masaraura, a General Councillor from Midlands State University, also sustained serious head injuries.

2786. On 16 October 2008, a different peaceful demonstration was organised by WOZA to call for food to be provided for all Zimbabweans. Police reportedly used force against demonstrators, including the Co-leader of WOZA, Ms. Magadonga Mahlangu, with batons breaking one woman's finger and causing bruises to another two women. Nine arrests were made in total. Seven demonstrators who had been arrested before the demonstrations began were released on the same day without charge after the intervention of a lawyer. However, on 17 October, Ms. Jenni Williams, the National Coordinator of WOZA, and Ms. Magadonga Mahlangu were remanded in custody until 21 October 2008. They are reportedly denied the right to access a lawyer, and it is not clear what charges were brought against them.

2787. Serious concern was expressed that the action taken against the demonstrators mentioned above may be directly related to their legitimate activities in the defence of human rights. Further concern was expressed for the physical and psychological integrity of both groups of demonstrators. It is feared that these incidents form part of an ongoing pattern of harassments against demonstrators petitioning to defend human rights in Zimbabwe.

Observations

2788. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 27 October 2008.

Urgent appeal sent on 4 December 2008

2789. The Special Rapporteur, jointly 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 Ms. Jestina Mukoko, director of the non-governmental organization Zimbabwe Peace Project, and members of the non-governmental organization Zimbabwe Lawyers for Human Rights (ZLHR) as well as Mr. Wellington Chibebe, Secretary-General, and other members of the Zimbabwe Congress of Trade Unions (ZCTU), including Mr. Zansi Mabunda, Mr. Charles Chikonzo, Mr. Denzel Mushayi and Mr. Ngoni Nyanhete. Mr. Chibebe was the subject of an urgent appeal jointly sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights defenders on 16 May 2008; an urgent appeal jointly sent by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the then Special Representative of the Secretary-General on the situation of human rights defenders on 15 September 2006; and two joint urgent appeals by the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the then Special Representative of the Secretary-General on the situation of human rights defenders, dated 15 February 2005 and 21 August 2006.

2790. According to the information received, in the early hours of 3 December 2008, Ms. Mukoko was reportedly arrested at her home in Harare by a group of approximately 15 armed men, allegedly belonging to the Central Intelligence Organisation. She was then taken to an unknown location and her whereabouts are currently unknown.

2791. On 3 December 2008, at approximately 10.00 a.m., Messrs Mabunda, Chikonzo, Mushayi, Nyanhete and 28 other members of the Zimbabwe Congress of Trade Unions (ZCTU) were arrested in the town of Gweru. The ZCTU members had gathered in order to present a petition to the Regional Governor to protest against the limits placed on the daily amount of cash that can be withdrawn from banks. The group was prevented from presenting the submission to the Governor and was taken to Gweru Central Police Station. A further 10 members of ZCTU, including the Union's Secretary-General, Mr. Chibebe, were arrested in the Central Business District of Harare. The demonstration had been organized in order to present a similar petition to that prepared by their colleagues in Gweru, to Mr. Gideon Gono, the Governor of the Reserve Bank of Zimbabwe. Reports claim that prior to the arrests, police and armoured vehicles had cordoned off Samora Machel Avenue in Harare and that at least five people were beaten by police officers. On the same day, the premises of ZLHR in the southern city of Bulawayo were raided by the police. Members of ZLHR were reportedly accused by the police of supporting the petition of the ZCTU. No arrest was undertaken.

2792. Serious concern was expressed that the arrest and detention of Ms. Jestina Mukoko, Mr. Wellington Chibebe, Mr. Zansi Mabunda, Mr. Charles Chikonzo, Mr. Denzel Mushayi, Mr. Ngoni Nyanhete and other members of the ZCTU, as well as the police raid on the premises of ZLHR may be linked to their human rights advocacy work. Further concern was expressed for the physical and mental integrity of Ms. Jestina Mukoko, Mr. Wellington Chibebe, Mr. Zansi Mabunda, Mr. Charles Chikonzo, Mr. Denzel Mushayi, Mr. Ngoni Nyanhete and other members of the ZCTU while in detention.

Observations

2793. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 4 December 2008.

Urgent appeal sent on 10 December 2008

2794. The Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government the situation of Mr. Zacharia Nkomo, brother of the human rights lawyer Mr. Harrison Nkomo; Mr. Broderick Takawira, provincial coordinator of the Zimbabwe Peace Project (ZPP); and Mr. Pascal Gonzo, ZPP driver.

2795. Ms. Jestina Mukoko, Director of the ZPP and Board Member of the Zimbabwe Human Rights NGO Forum, was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders on 4 December 2008.

2796. According to the information received, on 5 December 2008, Mr. Zacharia Nkomo was reportedly abducted by four unidentified men at his home in Masvingo. The whereabouts of Mr. Nkomo were unknown at the time when the urgent appeal was sent.

2797. On 8 December 2008, at the ZPP premises in Harare, a group of five unidentified men, after luring the ZPP security guard, abducted Messrs Broderick Takawira and Pascal Gonzo. The whereabouts of Messrs Takawira and Gonzo are currently unknown. A complaint was filed with the police by the non-governmental organization Zimbabwe Human Rights Lawyers.

2798. Grave concern was expressed that the abductions of Messrs Zacharia Nkomo, Broderick Takawira and Pascal Gonzo may have been linked to their non-violent activities in defence of human rights or to the human rights activities of their relatives, and may have formed part of a renewed pattern of harassment against human rights defenders in Zimbabwe. Further concern was expressed for their physical and psychological integrity.

Observations

2799. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted a reply to their communication of 10 December 2008.

Annex

**COMMUNICATIONS SENT BY THE SPECIAL RAPPORTEUR ON THE
PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF
OPINION AND EXPRESSION**

(January-December 2008)^a

- Total number of communications: 420
- Number of individual victims: 1,116
- Communications sent to 80 countries
- Government replies: 45.9 per cent
- Further information from source: 38.3 per cent
- Follow-up: 21.6 per cent

^a General statistical information on communications sent by Special Procedures in 2007 is available on OHCHR website: www.ohchr.org.