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

**Report of the Special Rapporteur on the right to food, Jean Ziegler**

**Addendum**

**Summary of communications sent and replies received  
from Governments and other actors**

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\* 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

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

## CONTENTS

<i>Chapter</i>		<i>Paragraphs</i>
<i>Page</i>		
Introduction .....	1 - 7	3
<b>II. GOVERNMENTS</b>		
ARGENTINA .....	8 - 10	5
AUSTRIA .....	11- 12	7
BOTSWANA.....	13 - 14	9
BRAZIL .....	15- 26	12
BURUNDI .....	27	21
CAMBODIA.....	28 - 29	22
CHINA .....	30- 31	23
COLOMBIA .....	32 - 39	26
DEMOCRATIC REPUBLIC OF CONGO.....	40	32
ECUADOR .....	41 – 45	32
FRENCH GUINEA.....	46	36
GERMANY .....	47- 48	38
GHANA .....	49- 52	39
HONDURAS.....	53- 56	42
INDIA .....	57- 63	44
ITALY .....	64- 65	53
LAO PEOPLE’S DEMOCRATIC REPUBLIC.....	66- 69	55
MEXICO .....	70- 77	58
MYANMAR .....	78	67
NEPAL .....	79- 80	67
NIGER.....	81	68
PARAGUAY.....	82	70
PERU.....	83-84	71
PHILIPPINES .....	85-87	72
SOCIALIST REPUBLIC OF VIETNAM .....	88-91	74
SWITZERLAND .....	92-94	77
THAILAND .....	95	78
TURKEY.....	96-98	80
UGANDA .....	99	82
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND .....	100	83
UNITED REPUBLIC OF TANZANIA.....	101-102	83
<b>III. OTHER ACTORS .....</b>		<b>86</b>
AGENCE FRANCAISE DE DEVELOPPEMENT .....	103- 104	86
ASIAN DEVELOPMENT BANK.....	105-106	86
EUROPEAN COMMISSION .....	108	88
NEWMONT GHANA GOLD LIMITED .....	109-111	89
SYNGENTA LIMITED.....	112-116	89
WORLD BANK.....	117-118	91

## I. INTRODUCTION

1. In the context of his mandate, the Special Rapporteur on the right to food receives a large number of communications alleging violations of the right to food and related rights worldwide. Such communications are received from national, regional and international non-governmental organizations, as well as intergovernmental organizations and other United Nations procedures concerned with the protection of human rights. This addendum to the report of the Special Rapporteur contains, on a country-by-country basis, summaries of communications, including urgent appeals, allegation letters and follow-up relating to the Special Rapporteur's mandate for the period 2 December 2006 to 4 December 2007 and the responses received until 21 January 2008. The Special Rapporteur urges all Governments and other actors who have not yet done so to respond promptly to his communications and, in appropriate cases, to investigate allegations of the violation of the right to food and related rights and to take all steps necessary to redress the situation.

2. The Special Rapporteur has sought to condense details of communications sent and received. To the extent that his resources permit, the Special Rapporteur continues to follow up on communications sent and monitors the situation where no reply has been received or where questions remain unanswered.

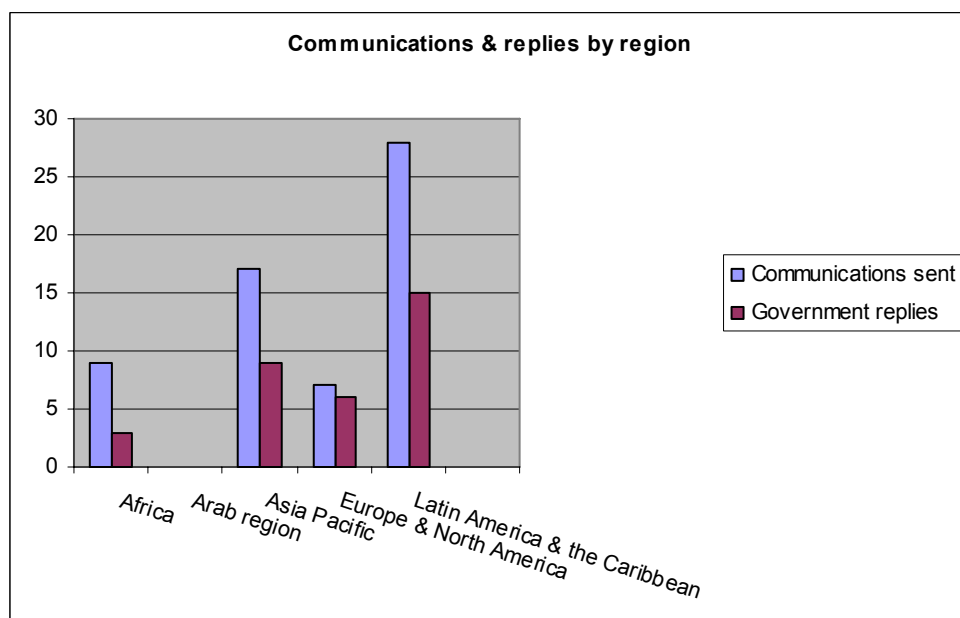
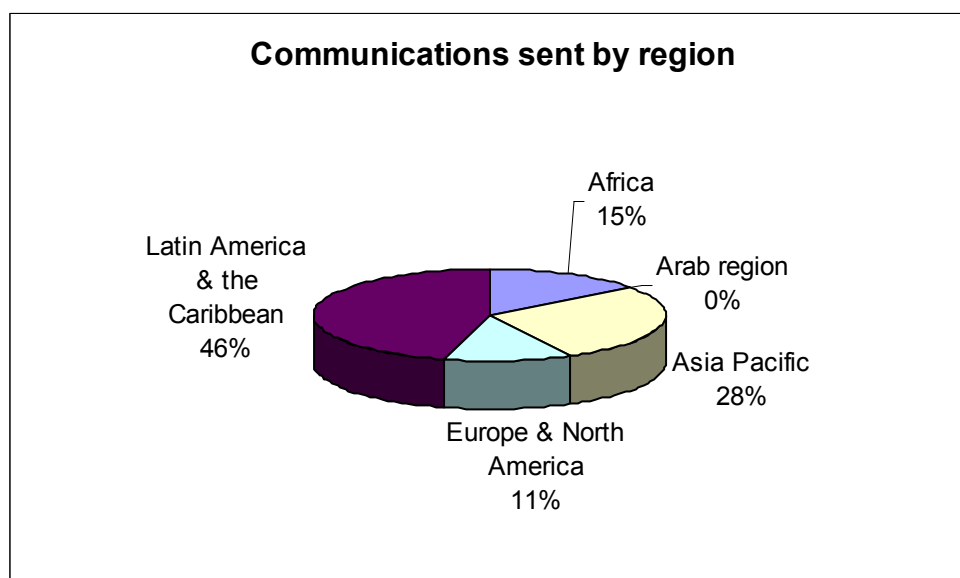
3. During the period under review, the Special Rapporteur sent a total of 61 communications concerning the right to food to 31 Member States as well as 8 communications to other actors including international and regional financial institutions (the World Bank and the Asian Development Bank), regional organizations (European Commission) national development agencies (Agence Française de Développement), transnational corporations (the Syngenta Company and the Newmont Ghana Gold Ltd.) and private foundations (Bill and Melinda Gates Foundation). Where appropriate, the Special Rapporteur has sent joint urgent appeals or letters with one or more special procedures of the Human Rights Council where the allegations raised relate to the right to food as well as to rights addressed under other mandates.

4. Since the establishment of his mandate in 2000, the Special Rapporteur has worked continuously, together with the United Nations Office of the High Commissioner for Human Rights, to better publicize his mandate and raise awareness among civil society. In 2007, as in previous years, there has been a marked increase in the cases reported to the Special Rapporteur and on which he called Governments attention. However it should be emphasized that the communications presented in this document in no way reflect the full extent of the serious obstacles that still remain in the realization of the right to food of all around the world.

5. Out of the 61 communications sent to Member States, 33 replies were received and out of the eight communications sent to other actors, eight replies were received. The Special Rapporteur welcomes these replies as he considers them a useful way to engage in constructive dialogues in relation to specific cases, issues or situations. The Special Rapporteur, however, regrets that a number of the Governments he corresponded with, have failed to respond at all. The Special Rapporteur considers these communications as still outstanding, and encourages Governments to respond to them and to address all concerns raised.

6. The Special Rapporteur included a heading called follow-up in which either he or Governments provided further substantive comments in relation to the correspondence on a specific case and/or issue.

7. The Special Rapporteur included below graphs to assist in the visualization of pattern and trends.



## II. GOVERNMENTS

### Argentina

#### Comunicaciones enviadas:

8. El 9 de febrero de 2007, el Relator Especial junto con el Relator Especial sobre una vivienda adecuada como elemento integrante del derecho a un nivel de vida adecuado y sobre el derecho de no discriminación a este respecto llamaron la atención del Gobierno respecto de algunas cuestiones relacionadas con las modificaciones del sistema de provisión del agua y saneamiento para la ciudad de Buenos Aires y sus alrededores. Según los Relatores Especiales, resultaba preocupante que el proyecto de ley hubiese sido enviado al Congreso sin publicidad y sin un previo debate participativo. A su vez, pareciera ser que el proyecto de ley no preveía la consulta y participación de los usuarios y de las organizaciones de la sociedad civil respecto de las decisiones de la Agencia de Planificación - que sería responsable de establecer y modificar los planes de expansión de los servicios - y de la Autoridad de Aplicación - que tendría a su cargo la determinación de las tarifas. Los Relatores Especiales hicieron un llamado a la Administración para que se incluyese en el proyecto de ley una tarifa social que estuviese disponible para todas las personas de escasos recursos que lo necesitasen, y que fuese asequible conforme a su capacidad de pago. Además, los Relatores Especiales hicieron un llamamiento a la Administración para que en el proyecto de ley se estableciesen criterios que priorizasen la extensión de los servicios y el alcance de los programas de subsidios para aquellas áreas y viviendas carentes de recursos y se las excluyese de la obligación del pago de conexión al servicio. Llamaron a la administración a establecer estándares mínimos y conformes a los principios de derechos humanos en materia de calidad y presión de agua, así como criterios que asegurasen el mantenimiento y progresivo mejoramiento, dentro de los recursos disponibles, de la calidad y presión que estuviesen establecidos en la ley.

9. El 27 de marzo de 2007, el Relator Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre una vivienda adecuada como elemento integrante del derecho a un nivel de vida adecuado y sobre el derecho de no discriminación a este respecto enviaron un llamamiento urgente al Gobierno de Argentina en relación con los supuestos desalojos de comunidades diaguitas de sus tierras tradicionales en la provincia de Tucumán. Según la información, el día 2 de marzo, la policía habría procedido al desalojo de 22 familias indígenas de sus viviendas ubicadas en las tierras ancestrales de la comunidad indígena de Los Cuartos en el valle de Tafi, destruyendo estas viviendas e incluso incendiando algunas de éstas. Asimismo, la policía habría hecho un uso excesivo de la violencia en contra de miembros de estas familias, incluyendo niños, mujeres y ancianos, con un saldo de 15 comuneros heridos por el impacto de balas de goma. Se informaba de que el desalojo forzoso de la comunidad de Los Cuartos era consecuencia de la medida cautelar provisoria otorgada por la juez Dra. Emma Lidia de Nucci, del Juzgado Penal de Instrucción II, para asegurar la propiedad de dos familias que supuestamente cuentan con títulos de dominio privado sobre las tierras ancestrales de la comunidad. El mismo día, en una acción supuestamente promovida por el gobierno de la provincia de Tucumán, la policía ecológica de Montero y el Director de Flora y Fauna de dicho gobierno habrían allanado las viviendas de varias familias indígenas que se dedican a la

producción y venta de artesanía en los Menhires del Valle de Tafi. En el curso de dicho allanamiento, los funcionarios policiales habrían roto las puertas de las viviendas y confiscado las artesanías de los comunitarios. Como consecuencia de dicha acción, varios comuneros habrían resultado heridos. Junto con los sucesos acaecidos el 2 de marzo de 2007, se habrían iniciado otros procesos de desalojo de distintas familias diaguitas de sus viviendas y tierras ancestrales en la provincia de Tucumán. Según las informaciones recibidas, un primer proceso estaría en curso para desalojar a la familia Moya de la comunidad indígena de Amaicha de Valle como resultado de la orden emitida en primera instancia por un tribunal local. La familia carecería de título de posesión ancestral de sus tierras tradicionales, sobre las que existirían títulos por parte de terratenientes no indígenas que nunca habrían ejercido la posesión. Otros dos procesos de desalojos habrían sido iniciados contra dos familias en la comunidad indígena de Quilmas. Uno se habría iniciado a raíz de una supuesta compraventa realizada por Rafael Marcos González, de 91 años de edad, a quien se le habría hecho firmar el contrato sin conocimiento del alcance del acto jurídico. Otro proceso de desalojo se habría iniciado contra la Sra. De Caro, de 70 años de edad, cuyas tierras habrían sido vendidas sin su consentimiento. Una cuarta amenaza de desalojo habría sido recibida por la familia Donato Nieva de la comunidad indígena de Tolombón, a raíz de un juicio promovido por una familia de terratenientes. Según las informaciones recibidas, dicha familia se habría visto forzada a suscribir un contrato de arrendamiento con los terratenientes que ostentan el título privado sobre las tierras ancestrales de la comunidad. Sin embargo, dichos contratos carecerían de validez, en la medida en que se suscribieron bajo presión y aprovechándose del analfabetismo de los miembros de la familia indígena, así como de su ignorancia de las consecuencias jurídicas de dicho acto. Los Relatores Especiales recibieron información sobre una situación similar descrita en relación con aproximadamente otras 20 familias de la vecina comunidad indígena de Rodeo Grande. Según las alegaciones, estos desalojos entraban en contradicción con la protección otorgada a las tierras indígenas por la Constitución de la Nación Argentina y por la Ley nacional N° 26160 de emergencia en la propiedad y posesión indígena.

### **Comunicación recibida**

10. Mediante comunicación de fecha 4 de julio de 2007, el Gobierno remitió información suministrada por la Secretaría de Derechos Humanos del Ministerio de Justicia y Derechos Humanos. El Gobierno informó que la Unión de Pueblos de la Nación Diaguita denunció el 6 de marzo de 2007 estos hechos, solicitando la intervención inmediata de la Secretaría de Derechos Humanos. El Gobierno confirmó que el 2 de marzo de 2007 tuvo lugar el desalojo de varias familias de la Comunidad de Los Cuartos en el Valle de Tafi. La comunidad solicitó la inscripción de su personería en el año 2000 ante el Instituto Nacional contra la Xenofobia, la Discriminación y el Racismo (INADI) y obtuvo su registro en 2005. Sólo un sector de dicha comunidad fue materia de desalojo por presunta propiedad privada de un tercero mientras que el resto de la comunidad, donde habitan 17 familias, son terrenos públicos. El desalojo de dichas familias se sustentó en el proceso incoado por el Juzgado Penal de Instrucción N° 11. El Gobierno confirmó que hubo una extralimitación de la policía en la ejecución del desalojo, ya que desalojó la totalidad del predio cuando se ordenaba sólo una parcela. Además, el Gobierno reconoció que se produjo abuso de autoridad por las lesiones ocasionadas y la destrucción de viviendas. El Gobierno indicó que los hechos ocurrieron cuando se encontraba vigente la Ley N° 26160 de emergencia en la propiedad y posesión indígena, que suspende los desalojos en las tierras que habitan las comunidades indígenas por el plazo de cuatro años y ordena al Instituto Nacional de Asuntos Indígenas (INAI) a que, en el término de tres años, realice acciones necesarias a fin de

revelar las tierras en las que habitan las comunidades indígenas. En este sentido, el INAI propuso la constitución de una red nacional de articulación con el objetivo de garantizar los derechos y la participación de las comunidades en el transcurso del programa de revelamiento territorial. La red está conformada por la Secretaría de Derechos Humanos, la Secretaría de Ambiente y Desarrollo Sustentable, el INADI y la Defensoría del Pueblo de la Nación. El desalojo de la comunidad del valle de Tafi fue discutida en una reunión de la Red Nacional de Articulación, que decidió llevar a cabo una visita a la comunidad para verificar los hechos en el terreno el día 12 de abril de 2007, manteniendo una reunión con los comuneros afectados. En relación con el allanamiento de viviendas de varias familias dedicadas a la producción y venta de mercaderías en los Menhires del Valle, el Gobierno informó de que se estaban realizando en la actualidad las gestiones correspondientes para el esclarecimiento de los hechos. En relación con los avisos de desalojo de la comunidad de Quilmas, se informó de que la comunidad había intervenido para la restitución de los predios a sus legítimos poseedores, y que los comuneros se encontraban en posesión de los mismos. Por último, el Gobierno informó de que no contaba con información en relación con las amenazas de desalojo de miembros de las comunidades de Amaicha del Valle y Tolombón.

### **Austria**

#### **Communication received:**

11. The Government's letter of 21 December 2006 sent in response to the Special Rapporteur communication of 16 October 2006 (A/HRC/4/30/Add.1, 18 May 2007), explained that in Austria, the Federal Minister of Finance is legally competent to decide upon an application for an export guarantee. Once a positive decision is taken, the export guarantee is then carried out by Oesterreichische Kontrollbank AG (OeKB), which also processes the applications. The Government claimed that OeKB is committed to high standards of Corporate Social Responsibility, based inter alia on the October 2004 Value Statement of the Berne Union of Credit and Investment Insurers, of which it is a member. The Government further explained, prior to a decision on any project likely to have a significant effect on the local population and the environment, OeKB carries out an environmental impact assessment based on OECD standards, notably on the OECD Recommendation on Common Approaches on Environment and Officially Supported Export Credits as well as the Statement on Export Credits and Hydropower Projects. It was stated that in 2004, Austria amended its Environmental Information Act to allow for access of the public to environmental information which can be made available in the context of the assessment of export guarantees. In December 2005, Austrian exporters inquired with Oesterreichische Kontrollbank AG (OeKB) whether export guarantees for their deliveries of machinery and engineering services for the Ilisu Hydro Electric Power Project in Turkey would be available. Similar requests were submitted to the official export risk guarantee agencies of Switzerland and the Federal Republic of Germany. It was reported that, since December 2005, when Austrian exporters sought export guarantees for their deliveries of machinery and engineering services for the Ilisu Dam project, the three export risk guarantee agencies have reviewed the environmental impact assessment reports and action plans submitted to them by the exporters and the buyer. It was assured that in compliance with the above-mentioned OECD Recommendation on Common Approaches on Environment and Officially Supported Export Credits, the export credit agencies have benchmarked the project against the standards and guidelines published by the World Bank Group. These are in particular, the World Bank Procedures and Operational Policies regarding environmental assessment, physical cultural resources, involuntary resettlement, safety of dams and

international waterways. The Government stated that, in the course of this review process, OeKB experts, together with governmental experts from Austria, Germany and Switzerland, undertook a fact-finding mission to the Ilisu region in August 2006, where they also held consultations with a wide range of representatives of the government, local authorities and local population groups affected by the project. The Government also indicated that, at a meeting in October 2006, the OeKB together with its German and Swiss partners presented to the Turkish buyers a catalogue of conditions that covered the entire range of concerns regarding the effect of the project on the region and its population. According to these conditions, individuals and families affected by the project must, upon resettlement and receipt of compensation, be able to sustain their livelihoods at least on the same level as before resettlement. The Government indicated that the Minister of Finance would take a final decision on the export guarantee only upon receiving satisfactory assurance regarding the fulfilment of the above-mentioned conditions. Their implementation would be monitored by OeKB.

### **Follow-up**

12. On 12 April 2007, the Special Rapporteur thanked the Government for useful information sent to him on 21 December 2006 regarding a possible Austrian export credit guarantee for the participation of the Austrian company Andritz in the Ilisu Dam and Hydro-Electric Power Plant Project, which could reportedly have a negative impact on the human rights including the right to food of the affected population. Whilst the Special Rapporteur welcomed the Resettlement Action Plan (RAP), he informed the Government that, as communicated to the Turkish Government, the reports that he continued to receive indicated that it was not yet clear whether such action plan was legally binding in the Turkish domestic legal system and whether it could be used as basis for legal recourse in case the affected individuals had any grievances. It appears that, for example, there was no provision in the Turkish national legislation for minimizing resettlement. This is an important requirement in World Bank and OECD standards. Similarly, it appeared that current national compensation provisions and calculation rates were not yet in line with international standards as well as income restoration strategies. According to these reports, the organisational set up and management of the resettlement and reconstruction process were not yet sufficiently clear and the action plan still lacked an adequate analysis of who was responsible for what and how the various management responsibilities at the central and provincial level would be coordinated. The Special Rapporteur continued to receive claims that the RAP did not yet specify how the external co-financing agencies and their Governments would be kept informed and would be able to monitor the resettlement performance and the adherence to the requirements that they have set for supporting this project.



## **Botswana**

### **Communication sent**

13. On 22 November 2007, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, brought to the Government's attention information received regarding alleged violations of the human rights of the Gana and Gwi indigenous communities (also known as "the San" or "the Bushmen") in the Central Kalahari Game Reserve ("CKGR" or "the Reserve"). The Special Rapporteurs took note of the important developments that have taken place in recent months concerning the situation of the rights of the Gana and Gwi peoples over their traditional lands at the Reserve. In particular, the Special Rapporteurs noted the path-breaking decision adopted by the High Court of Lobatse on 13 December 2006 in response to the case brought in 2002 by 220 San on behalf of "all other persons with the same interest" who had been evicted by the Government from their traditional lands. The Supreme Court's ruling concluded that the San had been unlawfully deprived from their traditional lands in the Reserve and that the Government's denial to allow the entry of former residents into CKGR, as well as their refusal to issue game licenses to remaining residents, was unlawful and unconstitutional. Despite the important affirmation of the rights of the San communities by the High Court, numerous communications continued to be received indicating that the Court's decision was not being fully implemented by the authorities. As a result, the San kept facing numerous impediments in the effective enjoyment of their rights over their traditional lands and resources, including the denial of access to land by traditional residents who were evicted from the Reserve; the prohibition of traditional subsistence hunting, and the impediments in their access to water sources. Furthermore, numerous reports were received concerning alleged arrests of and acts of violence against the San. Despite the Court ruling, the information received indicated that authorities have denied access to the CKGR to those San who were not part of the 220 original applicants in the case before the High Court, or the dependent child or spouse of original applicant, who were allegedly still required to obtain a permit to enter the Reserve. It has also been reported that Wildlife Officers have denied access to the Reserve as well as to the wives and children of the original applicants. Even though a number of permits have been granted to some of the San that have expressed their wish to return to their traditional lands, the reports received indicated that these permits were restricted to periods of one or two months of duration. Any person who remained in the Reserve after the permit had expired could allegedly face prosecution and imprisonment under the National Parks and Game Reserve Regulations of 1 April 2000. This was a cause of major concern, especially considering that many permit holders were unable to read or write, and therefore, had no way of knowing whether their permits were about to expire. Moreover, the information received stated that the San recurrently received eviction threats as a result of the herds they introduced in the reserve for their traditional subsistence herding. On 13 September 2007, Wildlife Officers allegedly entered into the Reserve in order to force the San to leave their dwelling after a disease known as gal sarcoptic had been discovered in their herds. Between 200 and 250 San were given an eight-day ultimatum to leave the reserve, which was seemingly deferred. Allegedly, the San were still facing the threat of eviction. According to the information received, until 2002, water had been pumped from a borehole at the community of Mothomelo village and was trucked to the other Gana and Gwi communities living in the Reserve. Subsequent to the 2002 eviction, the authorities reportedly terminated the supply of water and dismantled the pump from the borehole in Mothomelo. Following the High Court's ruling, the San have reportedly expressed their wish to install a pump over the borehole in Mothomelo in order to organise their own water

supplies in the reserve. In February 2007, the Attorney General allegedly refused this request on the grounds that the borehole was Government property. Nevertheless, the authorities have seemingly suggested to the San to apply to the Department of Wildlife for a permit to use the borehole, which they reportedly did in April 2007. Besides the fact that no response was given to them until a communication was sent by the Special Rapporteur to the Government, officials inside the reserve and in the resettlement camps have reportedly told the San that they would not be allowed to use the borehole. According to the information received, authorities have continued denying the San the right to hunt within the Reserve and the hunting permit. In this connection, the Attorney-General has reportedly been cited as stating, in a letter to the applicants' counsellors dated 15 March 2007, that hunting would only be permitted in the Wildlife Management Area outside the Reserve. This situation was allegedly contrary to the High Court's decision, which concluded that the refusal by the Government to issue Special Game Licenses was unlawful and unconstitutional. The Court also concluded that the denial of the right to hunt was tantamount to the denial of the right to life as enshrined in the Constitution of Botswana. It has further been alleged that this situation was contrary to Section 45 of the National Parks and Games Reserves Regulation of 1 April 2000. It was reported that the limitations imposed to the San's hunting practices, linked to the restrictions in their access to water sources, could be part of a conscious policy to deprive them from their means of subsistence, forcing the San to abandon their traditional lands inside the Reserve.

In addition to the above, numerous allegations of arrest and illtreatment of members of the Gana and Gwi communities by Wildlife Officers were received. According to the allegations, at least forty-eight San were arrested since the Court's ruling for hunting illegally in the CKGR, most of them arrested since June 2007.

### **Communication received**

14. By letter dated 21 December 2007, the Government in response to the communication of 22 November 2007, stated that its interpretation of the Court's judgment was known to the applicants and their respective attorneys. Unrestricted access into the CKGR was granted to the 189 applicants (as well as additional 30 residents), their spouses and minor children. In addition, those who relocated at the time but were not applicants in the case would have to obtain entry permits - valid for 3 months (renewable) –, which would be provided at the entrance gate of the reserve. The Government rejected that the entry into the Reserve was denied to the applicant's wives and children. With regards to the introduction of stock into the Reserve, the Government affirmed to have informed the residents that domestic animals were not allowed inside the CKGR for purposes other than hunting. Concerning the alleged recurrent threats of eviction and the reported events occurred on 13 September 2007, the Government confirmed that they were unknown to the Wildlife Department.

As to the alleged denial of access to water, the Government stated that it used to provide the residents before the relocations with water, but the Court ruled that the Government was not obliged to restore services. Therefore the services were terminated; however, the residents of the Reserve were informed of the possibility to make their own arrangements to bring in unlimited amount of water into the Game Reserve for daily use. According to the Government, although the decision of the Court declared both unlawful and unconstitutional the ceasing of issuance of

the Special Game Licenses by the Government, this did not mean that the residents were automatically entitled to those licenses. The decision to issue Special Game Licenses is discretionary. In addition, the applicants have to show their condition of dependants on hunting and gathering for their sustenance. The Government asserted that there was evidence that the mentioned licenses were being abused, as beneficiaries tended to engage in commercial biltong sales to nearby villages. Finally, the Government said that ill-treatment and torture were inconsistent with their law and practice and declared their non-awareness of the allegations of arrest and ill treatment of the members of the Gana and Gwi communities by Wildlife Officers. Investigation on the cases referred by the Special Rapporteurs would be instituted, the results of which would be communicated as soon as available.

## **Brazil**

### **Communications sent**

15. On 12 January 2007, the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and the Special Representative of the Secretary-General on the situation of human rights defenders addressed a letter to the Government regarding allegations received about the plans to construct a tourist resort in the municipality of Itapipoca, in the state of Ceará. According to the information received, the proposed resort would be constructed in areas that indigenous Tremembé communities consider to be part of their traditional lands. The formal procedure for the delimitation, demarcation and titling of these lands was allegedly still ongoing regardless of a previous consultation with the concerned communities. The Tremembé indigenous communities, who represent approximately 5,000 individuals, live in the municipalities of Itarema, Acaraú and Itapipoca, in the State of Ceará. On 5 May 2003, the Córrego João Pereira indigenous land, in the municipalities of Itarema e Acaraú, was granted legal recognition by presidential decree. The area covered by the presidential decree does not include the lands of the Tremembé communities of São José and Buriti, in the municipality of Itapipoca, which reportedly migrated into their current lands during the 1980s, as a result of increased drought and population pressure. According to the information received, the lands belonging to these communities had not yet been officially demarcated and titled. The procedure for the demarcation of the Tremembé of São José and Buriti reportedly started in 2004, when the National Foundation on Indigenous Affairs (FUNAI) established an interdisciplinary working group to conduct a study of the area, the first step in the procedure of titling of indigenous lands under the 1973 Indian Statute. The study carried out by the FUNAI working group reportedly concluded that there was no indigenous population in the area. This conclusion was challenged by an independent expert research carried out in December 2004 by specialists of the Ceará State University, which concluded that the Tremembé indigenous community of São José and Buriti depend highly on the land and natural resources in the area for their subsistence activities. The publication of this independent research allegedly led FUNAI to implement a decision to conduct a new official study on the area. Officials from FUNAI and the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA) visiting the Tremembé communities in November 2006 reportedly stated that the new study would be undertaken in 2007. While the Tremembé still awaited the legal recognition of their lands, a large tourist scheme, known as Cidade Nova Atlântica, had reportedly started to be built in areas belonging to the lands that the Tremembé occupied and used for their traditional subsistence activities. The planned scheme would reportedly include as many as 28 hotels and resorts, several golf courses and other leisure areas, covering an area of 3,200 hectares. According to an independent assessment, the proposed scheme would result in environmental degradation, and it would seriously limit the Tremembé's capacity to access and use the lands and natural resources they depended on for their traditional subsistence economies. For instance, the construction of the tourist resort would allegedly block the streams leading to the Mundaú River, on which the Tremembé depended on for water, fishing and traditional mining, further causing the depletion of lagoons and the destruction of the vulnerable mangrove system. The affected communities claimed that they had not been consulted on this project and that various petitions remained unanswered. The construction company has reportedly been operating in contravention of an injunction lodged by the Federal Public Prosecutor's Office in 2004, subsequently upheld by a decision of 9 May 2006 of the Regional Federal Court of the 5th

Region. The Court decision suspended the company's license to build until an evaluation of the Tremembés' claims over their lands has been completed by FUNAI. It was alleged that despite the court's order, the company has continued to prepare the land for construction, fencing off areas they intend to build on, burning vegetation and cutting down numerous trees. Moreover, the plans to construct the Cidade Nova Atlântica tourist scheme had led to increased tension in the area, and members of the São José and Buriti communities had reportedly been the object of numerous threats and intimidation by private security guards working for the construction company as well as local police officers. On 4 November 2006, approximately 200 members of the Tremembé communities led a peaceful blockade at an access road to the construction site. This prevented trucks from delivering materials and equipment. This result in a group of armed men reportedly arriving to threaten the Tremembé protestors. It was further reported that company security guards and local police had repeatedly blocked the well which the Tremembé depended on for water, cut down numerous trees, and threatened to kill them if they were found fishing in the nearby river. Armed police have reportedly been seen driving around the Tremembé village in company cars, intimidating them. According to the information received, the Tremembé had lodged formal complaints at the local police station and at the Office of the State Attorney of Ceará, but have received no response. The Special Rapporteurs and the Special Representative of the Secretary-General expressed concern that the construction of a tourist resort in areas claimed to be part of indigenous lands could contravene the existing constitutional and legal provisions protecting the rights of indigenous peoples to their lands and natural resources, as well as various provisions of the international instruments to which Brazil is a party.

16. On 20 February 2007, the Special Rapporteur brought to the Government's attention, allegations received concerning the potential negative impact that the construction of two dams in Santo Antonio and Jirau on the Madeira River, one of the principal tributaries of the Amazon located in the State of Rondonia, could have on the right to food of the affected populations. According to these allegations, some 3,000 people or more would be forced to move from their homes as a result of the dams' construction. In addition, these allegations claimed that these projects could have a serious impact on migratory fish stocks affecting thousands of riverbank dwelling families. Fish are reportedly the principal protein source of these families. It was also reported that thousands of people living downstream could face declining crop yields as a result of the loss of the annual deposition of fertile silt on the flood plains. The Special Rapporteur also brought to the attention of the Government allegations that in July and August 2006 more than 1,800 families in Marabá, State of Pará, were evicted from their land where they had built homes, started schools, cultivated crops and reared animals. Although these families were permitted to live on their land, following the evictions, they were reportedly forced to move to campsites in the fields nearby or by the side of the road where they could not have access to their usual forms of livelihoods. According to these allegations, since their houses, schools and crops were destroyed during the eviction by the Batalhão de Choque da Polícia Militar, an elite state police force, they had to subsist on hand outs from the Instituto Nacional de Colonização e Reforma Agrária (INCRA). The allegations received also claimed that 1,400 other families could be at risk of forced evictions from their land. It was reported that these families formed part of a larger group numbering around 12,000 who were waiting for a decision concerning their land rights for several years. Many of them were reportedly occupying land deemed "unproductive" and, therefore, eligible to be handed over to the occupying families. Allegedly, INCRA was still in the process of determining whether the previously unproductive land should be handed over to the families even though six of the ranches were reported to be illegally situated on federal land. In addition, five were found to be using forced labour. The Special

Rapporteur brought to the attention of the Government allegations received that the four Quilombola communities of Pontal dos Crioulos (Community Campinhos) in Amparo do São Francisco-Sergipe have faced, for many years, a conflict with the nearby landowners. According to these allegations, already at the end of 2002, the landowners, in an attempt to expand their plantations of rice and benefit from the water of the Lagoa Natural dos Campinhos, managed to interrupt the entry of the water into the lagoon which caused the death of thousands of fish and affected the access to food and livelihoods of the Quilombola community Pontal dos Crioulos. Following this incident, it was reported that an administrative process was put in place in order to delimit the area of the lagoon and hand over its use to the Quilombola communities. However, it was reported that that this process and the parallel one to delimit the land of the Quilombola communities were proceeding at a slow pace. At the same time, the land that provided these communities with access to sufficient food was reportedly bought by the landowner José João Guimarães de Lima, mayor of the city Telha-Sergipe. In addition, the allegations received claimed that the rice which these communities managed to grow in 2006 was destroyed by the landowners' animals. The situation of food insecurity that these communities were facing due to the violence and harassment allegedly created by the police and other state agents was also reported.

17. On 15 March 2007, the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples sent a letter expressing their concern regarding the information that the authorities of Mato Grosso do Sul State had suspended, for a period of approximately three months, the supply of basic food rations to the Dourados reservation, which is home to some 11,000 members of the Dourados Guarani Kaiowá indigenous community. In 2005, State authorities began providing baskets containing basic food stuffs (known as *cestas básicas*) to a number of indigenous communities, after 21 indigenous children died of malnutrition in the previous year. Distribution of these food baskets was allegedly suspended in December 2006 in order for the recently elected authorities to audit the expenses of the previous government. While welcoming the resumption of distribution of emergency food baskets to a number of indigenous communities, the reports indicated that, since the provision of the food baskets stopped, three children from the Dourados Guarani Kaiowá indigenous community died. On 24 January, a 9-month-old baby from the village of Bororó died after two weeks in hospital. The hospital's doctors reportedly confirmed that the baby had anaemia as a result of advanced state of malnutrition. A 2-year-old child from the village of Jagurapirú died on 11 February, allegedly as a consequence of malnutrition. In addition, on 25 February, a 10-month-old boy from Bororó village reportedly died of severe malnutrition, hours after being taken to the village health clinic. It was alleged that staff at the clinic had given him some vitamins and sent him home. According to the information received, 36 other children from the Dourados community were receiving treatment at a specialist medical unit. It was alleged that 8 per cent of children of the Dourados reservation remained at risk of malnutrition. In addition, the reports indicated that the above cases were illustrative of a more complex and structural situation which these communities have faced over many years. The root causes of this situation appeared to lie in deep-seated discrimination against indigenous people; the size of the land allocated to these communities, which was insufficient in the light of the size of the population; and the slow bureaucratic process for the recognition and allocation of land to these indigenous communities. Whilst acknowledging that the provision of basic food stuffs was not ideal and may interfere with the traditional cultural practices of these communities and generate food dependency, the Special Rapporteur noted that it was a key emergency measure to

avoid further deaths caused by starvation. Furthermore, the Special Rapporteurs called upon the relevant federal and state authorities to continue to implement those measures necessary to address and redress the structural factors including land demarcation and allocation and support to agricultural practices.

### **Communications received**

18. By letter dated 17 April 2007, in response to the letter sent on 15 March 2007, the Government acknowledged that the Government of the State of Mato Grosso do Sul had indeed suspended, in January 2007, the weekly distribution of 11,000 baskets containing 22 kg of basic food each to the Guarani-Kaiowá families, claiming budgetary shortcomings as the reason for the suspension. However, the Government stated that, according to the National Foundation of Indigenous People (FUNAI), this interruption did not affected other actions that were being carried out since 2003 with the aim at supplying the needs of the Guarani-Kaiowá indigenous communities of Dourados in the field of health and food security. In its response, the Government informed that it had begun distributing 5,500 complementary basic food baskets of 45kg each to the indigenous families affected by the interruption on the distribution of basic food baskets by the government of Mato Grosso do Sul. At the end of March 2007, the government of Mato Grosso do Sul resumed the regular distribution of 11,000 basic food baskets. With regards to the death of the two Guarani-Kaiowá children in the beginning of 2007, the Government explained that both children, since their birth, were being taken care by professionals of the Indigenous System of Food and Nutrition Monitoring (SISVAN), which indicated that the hypothesis of death caused by malnutrition was unlikely. The Government further stated that the increase in the number of children in the health centres of the region in the beginning of 2007 was due to a precautionary measure put in place until a final solution for the distribution of basic food baskets was found, according to which any children with preliminary signs of weight loss had to be sent to the Centre of Nutrition Rehabilitation. The Government stressed that the implementation of those actions dramatically reduced child mortality and malnutrition in the region. The Government's response highlighted the fact that, besides measures designed to transfer food and to monitor the nutrition situation of the indigenous communities concerned, a number of so-called "structuring actions" have also been carried out, including development projects with a special focus on food security. The Government finally acknowledged that, in order to overcome the difficulties faced by the indigenous community Guarani-Kaiowá, it was necessary to find a solution for the demands and disputes linked to the occupation of territories traditionally claimed by them. FUNAI reiterated its commitment to seek legal means to guarantee the homologation and the demarcation of those lands. By letter of 23 July 2007, the Government provided an updated on the situation. The Government informed of the establishment by Decree of 19 April 2007 of the Integrated Indigenous Policies Managing Committee of Gran Dourados. In addition, the Government informed the Special Rapporteur of the restructuring of FUNAI's representation, with the establishment of a Regional Executive Administration responsible for the Cono Sur area in Mato Grosso do Sul. The Government's note further provided additional information on the new Emergency Food Security Programme. According to the Government, these measures had promoted an improvement of the food security of the indigenous communities of the Dourados reservation. The Government also announced the plan to substitute the provision of food stuffs with food-production projects. In addition, the Government stated that the lands available for the Guarani- Kaiowá communities could be insufficient to provide for their livelihood. In this regard, the Government indicated the need to regularize the situation of reserve lands, particularly in the vicinity of rivers, with a view to recuperating lands traditionally occupied by the communities concerned.

19. El 19 de julio del 2007, el Gobierno presentó informaciones adicionales relacionadas con la situación de los indígenas Guaraní-Kaiowá y Guaraní-Ñadéva, en la reserva de Dourados, state of Mato Grosso do Sul. El Gobierno reconoció la situación de amenaza a la seguridad alimentaria en que se encontraban las poblaciones, pero afirmó que estaría movilizando los recursos necesarios para sanar al problema. Además, el Gobierno informó acerca de la realización de cambios de carácter administrativo inmediatos y del planeamiento de un nuevo programa de atención a las poblaciones indígenas de Mato Grosso do Sul. Fue señalado el hecho de que el Presidente de la República ha determinado la creación de una misión especial para verificar la situación in loco. En esta oportunidad se creó informalmente el importante Comité Gestor de Acciones Indigenistas Integradas de la Gran Dourados, el cual fue posteriormente formalizado. El Gobierno también comunicó la creación del Programa Emergencial de Seguridad Alimentaria, el cual está encabezado por la FUNAI y tiene por objetivo la distribución de canastas básicas y apoyo simultáneo a las acciones estructurantes de producción de alimentos. Por fin, el Gobierno afirmó haber retomado el control de la seguridad alimentaria de las poblaciones en cuestión.



## Communications sent

20. On 8 June 2007, the Special Rapporteur sent a communication to the Government concerning allegations that occupation of farmers' land by the sugar cane agro-industry continued in the Region of Baixo Parnaíba, state of Maranhão, particularly in the Chapadinha, Brejo, Anapurus and Mata Roma localities, despite recommendations submitted to the relevant federal and state authorities. In addition, a fact-finding mission was carried out in 2005 by the National Rapporteurs on the right to adequate food, water and rural land and on human rights and the environment. According to these allegations, farmers who did not have legal titles over their land continued to be evicted through threats and harassment. It was reported that , more violent methods were reportedly used on occasion. In addition, it seemed that which affected fishing livelihoods of the affected communities. It was also reported that the agro-industry was affecting the local communities' access to the forests and their traditional extractive activities that, together with access to land, provided them with sufficient economic subsistence and adequate food. The Special Rapporteur also received allegations that some farmers activists in the Movimento do Trabalhadores Rurais Sem-Terra (MST) who have occupied the Fazenda Guerra in the Coqueiros do Sul Municipality questioning its social function, were obliged to deal with violent and abusive methods by military forces who were trying to force them out from the land. It was further reported that the key to sustaining farmer's their livelihoods and access to sufficient and adequate food was possession of their land.

21. On 8 June 2007, the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and 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 brought to the attention of the Government information received concerning the situation of Raposa Serra do Sol (RSS), in the state of Roraima, including the traditional lands of over 16,000 Ingariko, Macuxi, Patamona, Taurepang and Wapichana people. The situation in RSS was the subject of a joint communication sent to the Government of Brazil by the Special Rapporteur and the Special Rapporteur on adequate housing on 18 March 2005, calling on the Government to address the demarcation of RSS as a matter of urgency. According to several reports received in recent years, the process of demarcation of Raposa Serra do Sol began formally in 1977, when the National Foundation on Indigenous Affairs (FUNAI) began its first activities aiming at the identification of indigenous lands. In 1993, FUNAI finally presented a conclusive proposal for RSS's demarcation, which was formally endorsed by the Ministry of Justice in 1998 through the Portaria Ministerial No. 820/98. Pursuant to this new administrative ruling, physical demarcation was carried out by FUNAI in 1999. The various delays in the process of demarcation and titling of RSS led to the filing of a petition before the Inter-American Commission on Human Rights, which in March 2004 issued precautionary measures to protect the rights of the indigenous communities of the area. Following the procedure established in Brazilian legislation, the demarcation of RSS was ratified by presidential decree on 15 April 2005. Inter alia, the decree called for the removal of non-indigenous occupants present in the area of Raposa Serra do Sol within a reasonable timeframe and, in any event, not over the deadline of a year after the approval of the presidential decree. According to the allegations, it was only in April 2006 that FUNAI proceeded to inform all of the non-indigenous occupants of their options, including receiving or contesting the compensation offered to those in good faith, allowing them to leave the area. However, it was reported, that the measures taken by the Government did not led to the effective removal of powerful rice growers. Their refusal to leave indigenous lands increased the tension in the area. The continued presence of rich rice growers and producers in RSS with farms whose size ranges

from 1,300 to nearly 9,000 hectares, and the lack of effective measures to demarcate and title the indigenous territory have reportedly generated continued tension in the area as well as continuing deforestation and burning, soil erosion, water and soil contamination and illegal fishing, which has affected communities' livelihoods and food security. It also appears that the rice growers have built illegal dams and had carried out unsustainable agricultural practices. On 1 March 2007, the Inter-American Commission on Human Rights renewed the precautionary measures originally issued in December 2004, calling on Brazil to protect the indigenous communities of RSS. It was also the subject of a letter to Brazil dated 14 March 2007 from the Committee on the Elimination of Racial Discrimination, which expressed its concern at the situation, asking for further clarification regarding the removal of rice growers and measures adopted to protect the indigenous peoples of RSS. According to the additional information, on 12 August 2005, a group of major rice growers (Itikawa Industria e Comercio Ltda, Ivalcir Centenaro, Luiz Afonso Faccio, Paulo Cesar Justo Quartiero and Nelson Massami Itikawa) filed an injunction at the Supreme Federal Court (STF), seeking the suspension of the presidential decree (MS. 25.483-1). This group had allegedly opposed official notices and other administrative procedures of removal, and remains in the area to this day. In March 2007, FUNAI notified the remaining rice growers personally that they would have to leave RSS by a new deadline of 30 April 2007. This decision was equally opposed by the same group of rice growers, which filed a new injunction at the STF. On 3 May 2007, the STF issued a decision suspending the removal of the rice growers and any land restitution to the indigenous communities, until a final decision is taken regarding the pending injunction of August 2005. The Special Rapporteurs expressed the concern that the recent Supreme Court decision will entail further delays in the process of demarcation and titling of RSS, and that the continuous presence of rice growers in the area may lead to additional violations of the rights of the indigenous communities living in the area. Concern has also been expressed about the possibility that a forthcoming decision of the Supreme Court may invalidate the 2005 presidential decree, and thus the legal recognition of indigenous peoples' rights over their traditional lands in RSS, in favor of powerful economic groups with an interest in the area.

22. On 2 July 2007, the Special Rapporteur together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders brought to the Government's attention information received concerning Mr. Antonio Santos do Carmo, rural worker and member of the Movimento de los Trabajadores Sin Tierra (MST), a movement which works for land rights and agrarian reform in Brazil. According to information received, on 2 May 2007, Mr. Santos do Carmo, along with a group of MST members, were ambushed by unknown individuals, in front of the Hacienda São Felipe, near the motorway connecting Belem de Para with Brasilia. The assailants, some of them allegedly belonging to the military police, entered the MST camp and began to attack those inside. Mr. Santos do Carmo was violently assaulted and died from bullet wounds to the chest and throat. Other MST members were also injured in the attack. After the incident, MST members blocked the road between Belem and Brasilia as a form of protest and demanded that representatives from the National Institute for Agrarian Colonization and Reform, and the federal Government take action to resolve the situation in the area. It was alleged that the following day, a man suspected of having t

23. On 19 July 2007, the Special Rapporteur together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-

discrimination in this context, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and the Special Representative of the Secretary-General on the situation of human rights defenders, brought to the attention of the Government information they had received concerning the attack against members of indigenous communities of the Surumú region, in Terra Indígena Raposa Serra do Sol (RSS), in the state of Roraima. The Special Rapporteurs expressed their appreciation on the STF decision of 4 June 2007, overturning its earlier injunction and thus allowing the removal process to move forward. They noted, however, that this decision did not resolve all of the other pending legal challenges that are still before the Court in relation to the demarcation, titling, and removal process in RSS. In spite of this favorable STF decision, the Government has not publicly announced a new expected date for the total removal of non-indigenous occupants pursuant to the Presidential Decree of 15 April 2005. In addition, the Special Rapporteurs referred to the information they had received concerning new threats and attacks against members of the RSS indigenous communities reportedly perpetrated by non-indigenous occupants who are opposing the process of demarcation and titling of the indigenous land. According to this information, on 14 June 2007, seven members of the indigenous communities of the Surumú region initiated an action of peaceful reoccupation of a traditional place known as Paruwani, part of the ancestral lands of the Makuxi indigenous people, located in the proximities of the rice farm “Depósito e Canadá”. As part of this action, they started the construction of housing structures in the area. Since the beginning of the reoccupation, they started to receive threats from agricultural workers from the neighboring farm. The Special Rapporteurs expressed concern for the security of the members of RSS indigenous communities as a result of their peaceful defense of their traditional lands and their continuous calls for the demarcation and titling of their lands pursuant to the Presidential Decree of 15 April 2005, as well as the continuous presence of rice growers in the area may lead to additional violations of the rights of the communities living in the area. Particular concern was expressed with regard to the alleged direct involvement of local and national authorities in the attack of 14 June 2007.

24. On 9 November 2007, the Special Rapporteur together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and the Special Rapporteur on violence against women, its causes and consequences, brought to the Government’s attention information received concerning the human rights situation of the Guarani Kaiowá community of Nhanderu Maragatu, in the state of Mato Grosso do Sul, including recent allegations regarding abuses perpetrated by private security guards contracted by local farmers. The reported abuses against local communities by personnel of private security companies was the subject of a joint communication recently sent by the Special Rapporteur and the Chairperson of the Working Group on the use of mercenaries on 8 November 2007 (BRA 18/2007). According to the information received, the Guarani Kaiowá community of Nhanderu Maragatu, integrated by 500 members, have been gradually expelled from their traditional lands in Mato Grosso do Sul by the opening of large commercial farms. Since 1999, they lived in an area of 26 hectares on the margins of road MS 384, in tarpaulin shacks, in the access to the ranches Fronteira, Morreo Alto and Cedro. Since 2004, the Guarani Kaiowá started to reoccupy their traditional lands which are now in the hands of private owners, occupying an area of 400 hectares within the boundaries of several private farms. The Nhanderu Maragatu Indigenous Land was officially recognized by Presidential Decree of 28 March 2005, which ratified the demarcation previously undertaken by the National Indian Foundation (FUNIA) of the Guarani Kaiowá traditional lands. The land demarcated included an area of 9,317 hectares within the municipality of

Antônio João, in the State of Mato Grosso do Sul. The process of official recognition of the Nhanderu Marangatu indigenous land was however suspended by an injunction of the President of the Federal Supreme Court (STF) on July 2005, in response to an appeal filed by local farm owners, ordering the forceful eviction of the Guarani Kaiowá settlement in the Fazenda. According to the information, on 15 December 2005, the eviction took place with the support of more than 150 members of the armed forces, including Federal police and military police. During their eviction, several of their properties were set on fire by private security guards contracted by local farmers. As a result of this eviction, the community was resettled in the earlier location of 26 hectares on the margins of the road MS 384, in precarious conditions. During their resettlement, they reportedly experienced severe shortage of food and water, and unsanitary conditions, and numerous cases of malnutrition and maladies of the community's children were reported. According to the information received, in August 2007, the Guarani Kaiowá community, in the framework of an agreement between the authorities and the local ranchers, returned to occupy 100 hectares of their traditional lands within the area homologated by the Presidential Decree, in order to allow for the asphaltting of road MS 384. In their current location, the community awaits the final decision of the courts in order to take possession of their traditional lands, as identified in the 2005 Presidential Decree. In addition, allegations were received regarding alleged human rights violations perpetrated by private security guards employed by local farm owners against the members of the Guarani Kaiowá community of Nhanderu Marangatu. It has been reported that these abuses have increased after the indigenous community was evicted from their traditional lands on 15 December 2005. It is further reported of the intention of intimidating community members against their attempts to recover their traditional lands.

25. On 15 November 2007, the Special Rapporteur brought to the Government's attention that he has written to Syngenta Company in order to raise his concerns about the reported situation of insecurity at the farmers' encampment at the company's experimental field trial at Santa Teresa do Oeste, Parana State. In his letter to Syngenta, he communicated that according to information received, in February 2006, activists from Via Campesina and the Landless Workers Movement (MST) began occupying the land where this company had carried out experiments on GMO in Santa Teresa do Oeste to denounce the alleged illegality of such experiments and to re-claim this land for it to be used by these farmers as source of livelihoods and as means to feed their families. According to these reports, the GMO experiments on this land were found by the national environmental agency (IBAMA) to be in violation of national environmental law as the transgenic soy was planted six kilometers from Iguacu National Park, a protected natural reserve, which has a 10 kilometers exclusion zone. According to the information received, in November 2006, the State Government issued a decree to expropriate this land in order to turn it into an agro-ecology centre. According to the information, in February 2007 this decree was suspended by the court following Syngenta's submission of an injunction. It has been reported that this suspension did not amount to an eviction order as these are two different judicial process and the activists therefore remained on the land. It has been further reported that they left the land peacefully in July 2007 and re-occupied it on 21 October 2007. In addition, the Special Rapporteur communicated to Syngenta that the reports he received indicate that insecurity at the encampment recently exacerbated following violent attacks by your company's private armed security guards on 21 October 2007. According to these reports, during the attacks, one farmer activist and one of the militia men were killed, while five other activists were severely wounded.

26. On 30 November 2007, the Special Rapporteur brought to the Government's attention allegations received that the Prefecture of the city of Sao Paulo decided to reduce the nutritional value of school meals. These school meals are part of a programme that aims at distributing food to 116 education establishments in the eastern area of the city. According to these allegations, although local nutritionists recommend that a 100 kg of food meal should contain 7 kg of meat, 2 kg of carrots and 3 kg of other vegetables, following the Prefect's decision, a 100 kg of food meal will now contain 0,5 kg of meat, 0,8 kg of carrots and 1 kg of other vegetables. According to the information received, this decision has been opposed by the President of the Brazilian Association of Nutrition. Although information received indicated that this decision was based on the need to widen the number of possible bidders in the procurement process and to accelerate this process, additional information claimed that this decision was taken following pressure from a multinational company that is already contracted to distribute milk to city schools. In addition, the Special Rapporteur followed up his earlier communication dated 8 June 2007 where he brought to the Government's attention allegations regarding the situation of physical and food insecurity of the 2,500 farmers who, in February 2006, had occupied the Fazenda Guerra in Coqueiros do Sul municipality, with the support of the landless movement MST. These farmers allegedly occupied the Fazenda to call the Government's attention to the promise made three years earlier to expropriate the area for the settlement of small peasant farmers. The area of the Fazenda Guerra is reported to occupy 30 percent of the total area of the municipality and to provide for approximately 20 jobs. Its expropriation for the settlement of small farmers' families is reportedly expected to generate around 450 direct employment possibilities and stimulate agriculture and related economic activities in the region. According to the reports received, in March 2006 the families occupying this area were forcibly evicted, including through excessive use of force. In April 2006, these families returned to the area. According to the allegations received, the situation of insecurity appears to have exacerbated since September 2007 when the landless movement MST started a march to remind the Government of the promise to expropriate this land. This action has allegedly escalated tensions as the military and police authorities have reportedly reacted by announcing their intention to impede the march with all necessary means.

## **Burundi**

### **Communication envoyée**

27. Le 6 décembre 2006, le Rapporteur spécial, conjointement avec l'Expert indépendant sur la situation des droits de l'homme au Burundi, la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, a attiré l'attention du Gouvernement sur les arrestations et le maintien en détention par les autorités, dans la station de police de Ngozi, de 11 hommes, suspectés d'être impliqués dans les activités du mouvement des Forces Nationales de Libération (FNL) : M. Jean Berchmans Bangirinama, M. Michel Ndagijimana, M. Bernard Ndayisenga, M. Euphrem Ndayize, M. Narson Ndizeye, M. Norbert Nkeshimana, M. Daniel Ntirandekura, M. Onésime Nsengiyumva, M. Emmanuel Nzeyimana, M. Astère Majambere et M. Clément Misigaro. Selon les informations reçues, suite à leurs arrestations entre mars et octobre 2006 sur la base de suspicions quant à leur implication dans les activités des FNL, les onze (11) détenus auraient été transférés le 10 novembre 2006, du camp militaire de Ngozi à la station de police de

Ngozi. Toutes les personnes seraient détenues dans une même cellule étroite située à proximité des toilettes et souffriraient de problèmes de santé physique et mentale sérieux. Certaines d'entre elles auraient souffert de dysenterie due aux conditions insalubres de la prison. Certains prisonniers se seraient vu refuser un traitement médical. Tous ces détenus auraient été privés de nourriture adéquate et ne mangeraient apparemment que des graines de maïs non cuites. Dans la prison, les prisonniers n'auraient pas accès à l'eau potable.

## **Cambodia**

### **Communications sent**

28. On 5 February 2007, 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, brought to the Government's attention information received concerning allegations that numerous cases of economic land concessions have encroached upon the rice fields and farm land of communities, depriving them of their source of livelihoods and leading to food shortages. For example, it was alleged that at a concession in Sre Ambel district, Koh Kong province (granted to two companies partly-owned by Senator Ly Yong Phat) the concession company has destroyed local villagers' rice fields and orchards to make way for a sugarcane plantation. According to the allegations, some villagers have lost all of their agricultural land: those whose rice fields were destroyed are currently surviving on rice from last year's harvest, but do not know what they will do next year, when they have no rice remaining and no rice to harvest. Similarly, at the Global Agricultural Development and Asia World Agricultural Development concessions in Sambo district, Kratie province, companies granted economic land concessions have destroyed villagers' agricultural land, which has affected their current and future livelihoods. These allegations claimed that the activities of economic land concessions also restrict communities' access to forests, where they collect non-timber forest products to supplement their diet or to sell to earn a living. Without access to non-timber forest products, many communities will lose an important source of livelihoods. The reports also indicated that cases of forced evictions in urban areas have negatively impacted on communities' livelihoods. In Phnom Penh, for example, it was alleged that the livelihoods of families have been compromised by their eviction from the Tonle Bassac area and relocation to sites far from the city. For example, in Andong – one of the relocation sites –, it was reported that many families have been deprived of their means of livelihoods due to the distance of the relocation site from Phnom Penh and the high cost of transport. Previously, they were reportedly able to sell food around central Phnom Penh. In addition, in Andong, water would not be provided by the government and people have to pay for it.

29. On 7 June 2007, 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 and the Special Rapporteur on the question of torture, brought to the Government's attention information received regarding forced evictions and home demolitions in the coastal town of Sihanoukville, that reportedly took place on 20 April 2007. According to the information received, police forcibly evicted 117 families from the community of Mittapheap 4, in the coastal town of Sihanoukville, following a protracted land dispute which came into the open in 2006 when a complaint was filed with the Mittapheap 4 commune chief,

claiming the villagers were “illegal squatters”. However, it was alleged that no competent judicial authority has made a determination of the land ownership claim, as is required under the 2001 Land Law of Cambodia, according to which, person(s) who have lived on a plot of land for more than five years without any land ownership-related disputes are entitled ownership of the land. Allegedly, most of the affected villagers had been living on the concerned land since 1985, at which time there were only 53 families. According to the reports, although the families concerned have fulfilled all requirements of the land ownership, they have never officially received title for the land from the government, despite their repeated requests. Reportedly, over 100 homes were destroyed during the evictions that took place on 20 April, leaving an estimated 200 to 300 villagers without shelter and homeless. Many of the forcibly evicted families are now reported to be living in destitution along the roadside of National Road 4 under tarpaulins provided by NGOs. The Special Rapporteurs were informed that these already poor and marginalised families, mostly small-scale fishermen and beach vendors, now lack food and drinking water. They have reportedly lost their meagre livelihoods, and presently depend on the humanitarian assistance given by a network of NGOs, which is also helping the injured, sick and traumatised, including many children. According to the reports, local authorities began in 2006 some negotiations with 17 of the families in an attempt to resettle them, but these families allegedly rejected an offer of US\$500 per family or alternatively a plot of land allegedly in an area too far from the sea for them to continue making a living from fishing. On 19 January 2007, over four months before the eviction, the Sihanoukville municipality reportedly issued an eviction order giving the villagers seven days' notice to clear the area. However, reports indicated that this eviction order was issued without any judicial oversight and was not preceded or followed by any consultation with most of the families concerned. The reports received suggest that the forced evictions and house demolitions carried out were actions taken by the police and military police while executing a separate warrant issued by the Sihanoukville Municipal Court to search for illegal weapons. No such weapons were allegedly found.

## **China**

### **Communication sent**

30. On 3 October 2007, 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 and as Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, brought to the Government's attention information received regarding the severe impact of resettlement programs and forced evictions that are being implemented in Tibetan areas of the People's Republic of China (PRC). According to the information received, tens of thousands of Tibetans are being negatively affected by nomad settlement and resettlement, land confiscation and fencing policies, which are mainly implemented in Golok (Guoluo) and Yushu districts of Qinghai province, but also in the Tibet Autonomous Region (TAR) and other provinces that have large Tibetan populations, including Gansu, Sichuan and Yunnan. Allegedly, these policies have had a very adverse impact on the traditional lifestyles and living patterns in Tibetan areas, affecting directly the fabric of traditional Tibetan life and devastating the economy of these communities. The implementation

of these policies contributes to the challenges that Tibetan cultural and religious identity face today. The reports received indicate that in many rural areas, inhabitants are evicted from their homes and forced to move into newly built, Chinese-style dwellings as a result of infrastructure projects, mining activities and hydropower projects. The government policies reportedly also include the forced resettlement of herders, who have been required to slaughter most of their livestock and move into newly built housing colonies or near towns, abandoning their traditional livelihoods and way of life. In addition, it was reported that both farmers and herders are told to take grassland and farmland in particular out of production in return for a guaranteed 10-year grain subsidy. The allegations received claimed that displacement and forced resettlement resulted in hardship and lower standard of living for many herders and their families. According to these allegations, in certain areas with a usual holding of up to a hundred or more yaks, sheep and goats per household member, a limit of five livestock per household member has now been enforced and the exceeding stock has to be slaughtered or allowed to die. In addition, it was reported that for one yak over the limit allowed, herders have to pay a fine of about 1,000 yuan (USD 130). An estimated 2.25 million herders live with their herds in the Northern and Eastern regions of the Plateau. Although they have reportedly a unique way of life, adapted to a harsh and challenging environment as reflected in their beliefs, attitudes and habits, it is reported that from the official point of view, subsistence herders are seen as destitute and any measures taken to provide them with better access to cash economy, road network or urban housing is seen as an improvement. According to the information received, a number of public policies have affected herders' ability to maintain their livelihoods and usual access to food over the past 50 years. It was reported that a campaign, which is implemented mainly in the TAR, entails the forced reconstruction of homes according to strict specifications along roads and close to rural towns. It was alleged that it forces the poorest of the poor to take on loans which they find difficult to repay, while the designs of the new housing do not allow Tibetans to continue to practice their traditional means to generate income. Reportedly, since the launch in 2003 of the "ecological migration policies", the provincial government of Qinghai resettled 28,000 people and constructed 14 "migrant urban districts." Moreover, in 2005, Du Ping, director of the Western Development Office under the State Council, China's cabinet, stated that 700,000 people in western China had been resettled since 2000 because it was "the most effective way to restore land to a healthy state." According to the information received, the policies are geared to introduce the affected populations into the urban economy for their benefit, but allegedly often result in greater impoverishment, dislocation and marginalization in the new communities. Housing opportunities and cash or food handouts are often offered in return for compliance with the policies, but allegedly the proposed compensations are not honored in a timely way and may create dependency. According to the allegations received, although national legislation requires that those who are to be moved out from their land or to have their property confiscated must be consulted and eventually compensated for their losses and although Articles 41 and 111 of China's Constitution guarantee the right to consultation as does the 1989 Administrative Procedure Law, it was alleged that when relocation decisions are made, there is a lack of due process, including transparency, consultation in advance of planned relocations, and the right to challenge proposed relocations before an independent arbiter.

### **Communication received**



31. On 21 December 2007, the Government replied to the above communication. At the time of the finalization of this report, the reply was still under translation. A summary will, therefore, be provided in the Special Rapporteur's next addendum on communications.

## Colombia

### Comunicación recibida

32. El 21 de febrero de 2007, el Gobierno remitió una nota de 36 páginas en respuesta a una comunicación del 20 de junio de 2006 (A/HRC/4/30/Add.1, 18 May 2007), en la cual el Relator Especial y el Relator Especial sobre los derechos humanos y las libertades fundamentales de los indígenas llamaron la atención del Gobierno sobre informaciones recibidas en torno a los supuestos impactos sobre las comunidades indígenas del Ecuador de las aspersiones aéreas llevadas a cabo por Colombia en el área fronteriza con dicho país, en el marco del denominado “Plan Colombia” para la erradicación de cultivos ilícitos en las comunidades indígenas. En dicha nota, el Gobierno explicó, en primer lugar, el contexto de hecho y de derecho en que se estaban adelantando las actividades de aspersión de cultivos ilícitos. Colombia indicó que tradicionalmente ha cumplido con sus obligaciones internacionales en materia de lucha contra las diversas facetas del problema de las drogas ilícitas. El Gobierno señaló, en este sentido, que los grandes esfuerzos nacionales durante los últimos cuatro años se han traducido en la erradicación total del cultivo de amapola y la reducción a la mitad de las hectáreas cultivadas del arbusto de coca. En su comunicación, el Gobierno presentó asimismo el marco institucional colombiano en la lucha contra el problema mundial de las drogas. El Gobierno proporcionó información sobre el Programa de Erradicación de Cultivos Ilícitos con Herbicida Glifosato (PECIG), plan adoptado con el fin de erradicar los cultivos ilícitos en el territorio nacional y mitigar, según el Gobierno, los graves impactos ambientales ocasionados por estos cultivos y su posterior procesamiento en drogas como la cocaína y la heroína. Según la información proporcionada por el Gobierno, la composición de la mezcla utilizada en el Programa de Aspersiones era conforme con los estándares internacionales establecidos para el uso y manejo de este tipo de sustancias. El Gobierno informó que el herbicida glifosato ha sido una de las sustancias químicas más estudiadas a escala mundial, con respecto a los efectos sobre la salud humana y el medio ambiente. Fueron citados como apoyo algunos de los informes realizados. El Gobierno también afirmó que el PECIG daría estricto cumplimiento al Decreto N° 1843 de 1991, por el que se reglamenta el uso de plaguicidas en el territorio nacional y su no aplicación sobre centros poblados, escuelas y cuerpos de agua. Este cumplimiento estaría certificado por el Instituto Colombiano Agropecuario (ICA), mediante actividades de seguimiento. Según la información remitida por el Gobierno, el Ministerio del Medio Ambiente, Vivienda y Desarrollo Territorial, en ejercicio de sus funciones de evaluación, control y seguimiento asignadas por la legislación nacional ha adelantado, en forma periódica, visitas de verificación y seguimiento a las actividades de erradicación de cultivos ilícitos en el territorio nacional, contenidas en el marco de ejecución del PECIG. El Gobierno indicó, además, que se creó un mecanismo de Atención y Verificación de Quejas, que permitiría a las entidades coordinadoras del Programa de Erradicación de Cultivos recibir, tramitar y resolver las quejas y denuncias por daños ocasionados con esta actividad a pobladores de los territorios asperjados. En lo que se refiere al municipio de El Charco, el Gobierno indicó que, al tiempo de la presente comunicación, se había presentado un total de 208 quejas por presuntos daños a plantaciones legales, de las cuales 109 se encontraban concluidas porque no completaron la información solicitada para poder continuar con el trámite dentro del término legal y 6 quejas fueron rechazadas al haberse encontrado que en la fecha y lugar reportados no se realizaron operaciones de aspersión. Además, 93 quejas se encontraban en proceso de investigación, de las cuales 69 a la espera de

información por parte del quejoso y 24 bajo análisis del grupo de quejas. En relación con la supuesta denuncia presentada ante la Defensoría del Pueblo del Ecuador en diciembre de 2001, en la que se recogía que a consecuencia de las fumigaciones de principios del año 2.560 hectáreas de cultivos legales habrían sido afectadas y más de 11.828 animales habrían resultado enfermos o muertos, la respuesta del Gobierno indicó que el PECIG se adelantaba exclusivamente sobre cultivos ilegales ubicados en el territorio nacional, por lo cual no sería posible que existiera correlación alguna entre las labores de aspersión aérea en Colombia y las a que se hizo referencia.

### **Comunicación enviada**

33. El 29 de mayo de 2007, el Relator Especial y el Relator Especial sobre los derechos humanos y las libertades fundamentales de los indígenas señalaron a la atención del Gobierno la información recibida en relación con la situación de la comunidad indígena Yukpa, del Resguardo Iroka, en el departamento del Cesar. De acuerdo con la información recibida, desde el mes de diciembre de 2006, al menos 20 menores indígenas yukpas habrían fallecido debido a un cuadro de desnutrición severa además de padecer diarreas y problemas respiratorios. Según la información, la situación alimentaria y nutricional de la comunidad yukpa del resguardo Iroka habría empeorado durante la reciente temporada de incendios, en marzo de 2007, que destruyó aproximadamente 4.000 ha de tierra fértil. Esta tierra era utilizada por 300 familias yukpas para el cultivo de plátano y yuca, constituyendo la principal fuente de sustento para estas familias. Asimismo, el río Casacará, la principal fuente de agua para las familias indígenas, habría sido contaminado por los efectos de los incendios. Se reportó asimismo que la situación que atravesaba la comunidad yukpa del resguardo Iroka sería el resultado de la ausencia de medidas adecuadas para atender su situación de alta vulnerabilidad. En este sentido, se informó que, a pesar de que una manifestación fue organizada por los indígenas en agosto de 2006 para alertar al Gobierno de su crítica situación alimentaria y nutricional, las autoridades competentes supuestamente no actuaron de manera adecuada para soventar el problema. A esta situación se le sumaría el enfrentamiento entre los indígenas y colonos no indígenas procedentes del vecino municipio de Becerril, como consecuencia del asentamiento de estos últimos en tierras ancestrales de los yukpas, incluyendo áreas al interior del perímetro del resguardo indígena. Se indicó que este conflicto habría contribuido a limitar el acceso de la comunidad a cazar en estas zonas y, como consecuencia, a una alimentación adecuada basada en sus prácticas tradicionales de subsistencia.

### **Comunicaciones recibidas**

34. Mediante comunicación de 10 de julio de 2007, el Gobierno remitió la nota de 28 de junio del Ministerio de Relaciones Exteriores que contenía información respecto a las medidas llevadas a cabo por las entidades gubernamentales a nivel tanto nacional como local, así como por la Defensoría del Pueblo y por las autoridades indígenas competentes, para brindar solución a la problemática de desnutrición que afrontaban las comunidades Yukpas, y en particular sus niños. El Gobierno informó de que el Instituto Colombiano de Bienestar Familiar, entidad nacional comprometida con la protección integral de la familia y en especial de la niñez, ha señalado que la situación de esta comunidad ha sido objeto de análisis por parte de instituciones gubernamentales en conjunto con las comunidades asentadas en la serranía del Perijá. Según el

Gobierno, de este dialogo quedó claro que la información sobre los 20 menores muertos en el mes de diciembre de 2006 era imprecisa. De acuerdo con los registros oficiales de la Secretaría de Salud y de la institución prestadora de servicios de salud Dusakawi, además de la información suministrada por el cabildo gobernador del resguardo de Irota, se constató que durante el año 2006 ocurrieron dos muertes de menores de esa comunidad producto de asfixia secundaria causada por la quema de bosques, además de seis muertes de niños yukpas por enfermedad diarreica aguda e infección respiratoria aguda y tres por desnutrición. El Gobierno también informó acerca de la constitución de una Comisión Interinstitucional que realizó una visita el 13 marzo 2007 a las comunidades yupkas del resguardo de Iroka, en la cual se evidenciaron problemas de salud en miembros de la comunidad a causa de la situación alimentaria y nutricional, así como a las infecciones respiratorias originadas por los incendios forestales. Con base a los resultados de esta visita, el Ministerio del Interior y de Justicia, a través de su Subdirección de Asuntos Indígenas, coordinó acciones urgentes dirigidas a la atención de la población. Se acordó disponer a través del Programa Mundial de Alimentos (PMA) una cantidad de alimentos para atender la urgencia y realizar un censo para determinar el número de familias afectadas por los incendios forestales. Las autoridades locales, departamentales y nacionales estarían trabajando en un plan de acción inmediato con el propósito de atender integralmente esta comunidad. Además, se estaría coordinando la implementación del programa de “Recuperación Nutricional” con las entidades de salud. En relación con la garantía del derecho al territorio, el Ministerio de Agricultura y Desarrollo Rural informó que dentro del marco de la Comisión Nacional de Territorios Indígenas (CNTI) se había priorizado el saneamiento de los resguardos Iroka y Socorra. Se informó, finalmente, de que las acciones de adquisición y adjudicación de predios invadidos, requeridos y ofertados en la jurisdicción de los municipios de Codazzi, Becerril y La Paz se adelantarían teniendo en cuenta la disponibilidad logística y presupuestal.

35. Mediante comunicación con fecha 17 de julio de 2007, en adición a su nota precedente, el Gobierno informó a los Relatores que el consejo Nacional de Atención Integral a Población Desplazada había aprobado el “Plan integral para el apoyo a comunidades indígenas en alto grado de vulnerabilidad y riesgo” según Acuerdo 005 del día 13 de junio de 2006, en el marco del cual fueron incluidas las comunidades indígenas Yupka. Según la información del Gobierno, para garantizar la ejecución del Plan se programó la formulación del Plan de Acción con la participación de las entidades departamentales, locales y autoridades indígenas. Además la correspondencia del Gobierno indica que en respuesta a la emergencia alimentaria del mes de febrero, se había gestionado desde la Dirección de Etnias del Ministerio, la Agencia Presidencial para la Acción Social y la Cooperación Internacional y el Alcalde del Municipio de Becerril – Cesar, la entrega de 8,240 raciones individuales alimenticias, correspondientes a tres toneladas, cuyo valor fue de 6, 454,691 de pesos para 103 familias Yupkas.

36. Mediante comunicación con fecha 19 octubre 2007, el Gobierno remitió a los cuidados del Relator Especial y del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas información complementar respecto a la comunicación de los Relatores Especiales del 29 de mayo de 2007 sobre la situación de vulnerabilidad de la comunidad indígena Yukpa del Resguardo Iroka, en el Departamento del Cesar. El Gobierno informó que dicha comunidad fue incluida dentro del Plan Integral de Atención a Comunidades Indígenas en Extremo Grado de Vulnerabilidad y Riesgo de Desaparición, el cual había sido aprobado el 13 de junio de 2006 en el Consejo Nacional de Atención Integral a la Población Desplazada. La estrategia del Plan Integral fue explicada. Por último, se señaló que las medidas tomadas en el marco de dicho Plan estarían encaminadas a

mejorar la situación general de los miembros de la comunidad indígena Yukpa, lo que incluiría aspectos como la salud, la alimentación, la vivienda, el saneamiento básico y la implementación de proyectos productivos para mejorar la situación económica.

### **Comunicación enviada**

37. El 30 de julio de 2007, el Relator Especial y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas llamaron la atención del Gobierno en relación con la situación de inseguridad alimentaria de las comunidades indígenas y afrocolombianas, en particular las de Unión Chogorodó, Mamey Dipurdú, Chintadó, Quiparadó, Salaquí, Juifubur y La Punta, pertenecientes a los municipios de El Carmen del Darién y Riosucio, en el departamento del Chocó. Asimismo, los Relatores Especiales transmitieron al Gobierno las alegaciones recibidas en torno al supuesto uso excesivo de la fuerza por parte del ESMAD en contra de la protesta llevada a cabo por miembros de las comunidades indígenas del departamento del Chocó para denunciar el supuesto incumplimiento de los acuerdos firmados con el Gobierno en materia de salud y educación. Como consecuencia de dicho uso excesivo de la fuerza, se reportó la muerte de un bebé, la desaparición de dos niñas a las que se consideran muertas y el aborto forzoso de una mujer, así como un alto número de heridos leves. Los Relatores Especiales también recibieron informaciones relativas al fallecimiento de niños pertenecientes a las comunidades indígenas y afrocolombianas debido a un cuadro de desnutrición severa y a la falta de una atención oportuna en salud. En el mes de marzo de 2007, se habría registrado la muerte por desnutrición de doce niños/as y tres adultos indígenas en los municipios de El Carmen del Darién y Riosucio. Durante el mes de abril de 2007, también en el municipio de El Carmen del Darién se habría registrado el fallecimiento de dos gemelos indígenas menores de 1 año como resultado de un cuadro grave de desnutrición sumado a deshidratación, gastroenteritis y diarrea severa. Adicionalmente, en el hospital Francisco de Asís de Quibdó, capital del Chocó, estarían internados una veintena de niños y niñas con signos graves de marasmo y desnutrición. Según las informaciones recibidas, la situación alimentaria y nutricional de las comunidades indígenas y afrocolombianas arriba mencionadas sería consecuencia, entre otros factores, de la inseguridad en que vive la población de la región en el contexto del conflicto armado que se recrudeció en el Chocó a partir de 1996. Esta inseguridad habría llevado a la suspensión de las siembras en las tierras de las comunidades y al impedimento de llevar a cabo la cacería de subsistencia. Además, la ausencia de medidas adecuadas para atender la situación de alta vulnerabilidad y para poner freno a la corrupción generalizada en la gestión de las ayudas gubernamentales dedicadas a estos colectivos en nada ayudaría a la resolución de este serio problema enfrentado por el departamento del Chocó. Según las informaciones, la situación de crisis alimentaria en el departamento del Chocó habría sido el desencadenante de las protestas indígenas a partir de finales de abril de 2007. Según los datos, el 27 de abril de 2007 el Gobierno habría firmado un acta con los dirigentes de las comunidades indígenas afectadas por la situación de crisis alimentaria en la región, incluyendo una serie de acuerdos para la mejora de esta situación, así como otras peticiones en materia de educación, vivienda y otros derechos humanos. Ante el supuesto incumplimiento de dicho acuerdo, el 21 de mayo de 2007, unas 1.000 personas, en su mayoría pertenecientes a las comunidades embera-katío, habrían bloqueado la carretera Medellín-Quibdó en el lugar denominado “El Dieciocho”, municipio de El Carmen de Atrato (departamento del Chocó). El 25 de mayo de 2007, otro numeroso grupo de indígenas procedentes del Alto Andágueda (Chocó) habría bloqueado la carretera Pereira-Quibdó, en el lugar Puente La Unión, junto a la localidad de Santa Cecilia, municipio de Pueblo Rico, en el departamento de Risaralda. El 26 de mayo de 2007, un ESMAD de Risaralda habría comenzado a levantar forzosamente, y sin previo

aviso, el bloqueo de la carretera Pereira-Quibdó. En el curso de dicha operación, los efectivos del ESMAD habrían lanzado gases lacrimógenos y disparando balas de goma contra los manifestantes indígenas, a los que habrían también golpeado indiscriminadamente con bolillos. Dichos efectivos habrían también destruido la comida, enseres de cocina y otras pertenencias de los manifestantes, que habrían quemado o arrojado al río San Juan. Como consecuencia de dicho operativo, se habría denunciado la desaparición de dos niñas, que supuestamente se habrían separado de sus madres a consecuencia de los gases lacrimógenos. Se temía que ellas hubiesen caído al río San Juan, cuyo caudal se encontraba alto a causa de las recientes lluvias. Se alegaba asimismo que los familiares no habrían obtenido apoyo de la Cruz Roja o de la Defensa Civil para la búsqueda de las niñas. Las niñas permanecían desaparecidas a la fecha de la presente comunicación, dándoseles por muertas. Según las informaciones recibidas, tras este primer operativo, los manifestantes habrían sido trasladados en camiones policiales hasta la localidad de Guarato, en el departamento del Chocó, donde se les habría asegurado que podían continuar con su manifestación pacíficamente. A su llegada a esta localidad, y viendo que los vehículos policiales no se detenían, algunos manifestantes habrían saltado de los mismos, como consecuencia de lo cual la policía se habría visto obligada a detener la marcha. Los manifestantes habrían procedido entonces a un nuevo bloqueo de la carretera, lo que conllevó al desalojo forzoso del nuevo bloqueo, con los mismos medios que en el operativo anterior. Según las alegaciones recibidas por los Relatores Especiales, una niña indígena de 6 meses, posiblemente enferma, habría empeorado y fallecido como consecuencia de los gases lacrimógenos inhalados y la falta de atención médica posterior. Se denunciaba asimismo que la señora Melva Bidicha Baniamá habría sido internada en un hospital y habría abortado a consecuencia de la inhalación de gases lacrimógenos y del temor experimentado ante la violencia de la fuerza pública en el curso de la operación de desalojo. Se alegaba que un total de 46 personas habrían resultado heridas leves como consecuencia de las quemaduras y de los golpes recibidos en el curso de ambas operaciones policiales. Asimismo, se reportaron casos de maltrato verbal a los dirigentes de las comunidades por parte de efectivos de la policía. De acuerdo con las informaciones recibidas, ninguna de estas personas habría recibido atención médica.

### **Comunicación recibida**

38. Mediante comunicación de fecha 14 de diciembre de 2007, el Gobierno contestó a la comunicación de los Relatores Especiales datada de 30 de julio de 2007. Respecto a la crisis alimentaria en el Departamento del Chocó a la que hicieron referencia los Relatores Especiales, el Gobierno informó que diversas autoridades del orden nacional y regional estarían realizando varias acciones y gestiones focalizadas a mejorar la situación de salud de las comunidades del Departamento de Chocó. Las acciones y gestiones del Instituto Colombiano de Bienestar Familiar (ICBF) hacia las comunidades indígenas y afrocolombianas que residen en el Departamento de Chocó fueron mencionadas, especialmente la implementación de dos Centros de Recuperación Nutricional en los municipios de Quibdó y Carmen del Darién; la cobertura plena del programa de desayunos infantiles, atendiendo 100% de los niños y niñas chocoanos hasta los 6 años, la construcción del Plan de Seguridad Alimentaria para el Departamento de Chocó, entre otras. También fueron informadas las acciones y gestiones de la Dirección General de Salud Pública del Ministerio de Protección Social de Colombia como el fortalecimiento del Programa Ampliado de Inmunizaciones, del Programa de Prevención y Control de las Enfermedades Prevalentes y de la Política de Salud Sexual y Reproductiva. Finalmente, la contribución de la Dirección General de Calidad del Ministerio de Protección Social de Colombia para la mejora en la situación de la salud en el Departamento de Chocó fue

brevemente analizada. Respecto al fallecimiento de 12 niños en marzo de 2007 presuntamente por la crisis alimentaria en el municipio del Carmen del Darién, Departamento del Chocó, el Gobierno informó que la investigación penal para el esclarecimiento de los hechos ya se había puesto en marcha. En relación con el presunto uso excesivo de la fuerza por parte del grupo ESMAD de la Policía Nacional en el levantamiento del bloqueo indígena de la vía que comunica a los Departamentos de Risaralda y Chocó, ocurrido en 26 de mayo de 2007, el Gobierno presentó el orden cronológico y algunas precisiones generales acerca de los hechos según la información recibida por la Policía Nacional. El procedimiento policial de despeje del bloqueo por parte de los manifestantes indígenas se habría realizado, entre otros motivos, para garantizar el acceso alimentario de los habitantes del Departamento de Chocó, puesto que el referido bloqueo implicaba la retención de camiones. Según los datos de la Policía, hubo una tentativa de diálogo con los indígenas con el fin de levantar el bloqueo de la carretera o realizarlo de forma escalonada, lo que habría sido rechazado por los manifestantes. El Gobierno precisó que el procedimiento policial no requirió un mayor grado de confrontación con los indígenas. Fue resaltada la diligente labor de la Policía en la búsqueda de los menores extraviados a causa de la manifestación. Respecto a la presunta desaparición de las dos niñas referidas en la comunicación de los Relatores Especiales, el Comando de Policía Nacional en el Departamento de Risaralda precisó al Gobierno que inicialmente se obtuvo información de que las dos niñas se encontraban junto al Resguardo Indígena del Aguasal. Durante las actividades de indagación para la verificación de dicha información hubo la confirmación de la aparente ubicación de las menores reportadas como extraviadas. Sin perjuicio de las positivas informaciones indicadas, el Comando de la Policía Nacional en el Departamento de Risaralda se encontraría atento a la conformación de una Comisión Humanitaria por parte del Ministerio Público de Colombia con el fin de que se pudiera confirmar la presencia de las menores en la Comunidad Indígena Aguasal. En lo concerniente a la presunta muerte de la niña indígena de 6 meses presuntamente a causa de los gases lacrimógenos utilizados en el levante del bloqueo, la Policía habría informado al Gobierno que no existían denuncias reportes formales referentes a los hechos. En relación con el supuesto aborto sufrido por la señora Melba Baniama Cheche en consecuencia de los disturbios y de los operativos policiales, la Policía informó al Gobierno que tales informaciones deberían ser descartadas, puesto que según la historia clínica del hospital donde estuvo ingresada, la señora en mención padeció tan solamente de una pancreatitis leve. Por fin, frente al presunto caso de agresiones físicas y verbales, así como la aparente destrucción de alimentos y pertenencias de los indígenas por parte de la Policía, no habría pruebas fehacientes que pudiesen confirmar tales conductas. Fue señalado, además, que en el momento de realizar el proceso de desbloqueo de la vía, mediante la utilización de dos cartuchos de gas lacrimógeno, los nativos abandonaron el sector en forma violenta y desordenada, momento en el cual pudo generarse la posible destrucción de pertenencias por parte de ellos mismos, así como los presuntos extravíos de personas que posteriormente fueron ubicadas en sus respectivos resguardos. El Gobierno hizo constar que una investigación penal por los eventuales delitos de abuso de autoridad y lesiones personales ya estaba en marcha con el fin de esclarecer el ocurrido.

## **Seguimiento**

39. Mediante comunicación de fecha 22 de agosto de 2007, el Gobierno contestó a la comunicación del 15 de agosto de 2006 (A/HRC/4/30/Add.1, 18 May 2007), enviada por el Relator Especial junto con el Relator Especial sobre los derechos humanos y las libertades fundamentales de los indígenas por la cual se solicitaba información sobre la situación en la que se encontraban las comunidades indígenas asentadas en la cuenca del río Atrato. Sobre el

presunto bloqueo económico a las comunidades del río Atrato, el Gobierno informó que las unidades militares con jurisdicción en la cuenca del río Atrato adoptaron en los primeros meses del 2006 medidas dirigidas a evitar que miembros de las comunidades indígenas fuesen utilizados por los grupos armados al margen de la ley para el transporte de provisiones que pudiesen facilitar acciones terroristas dirigidas a afectar las elecciones parlamentarias de marzo de 2006. Según el Gobierno, las medidas fueron transitorias y no se presentó una situación de aguda crisis alimentaria.

## **Democratic Republic of Congo**

### **Communication envoyée**

40. Le 22 décembre 2006, le Rapporteur spécial, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, a attiré l'attention du Gouvernement sur la situation d'un détenu à la prison centrale Munzenze, M. Bahati Faustin. Selon les informations reçues, M. Bahati Faustin, âgé de 20 ans, serait célibataire et habitant de Katwiguru, groupement de Binza en territoire de Rutshuru dans la province du Nord-Kivu. Le 10 janvier 2006, M. Faustin aurait été arrêté par les agents de la police nationale congolaise du sous-commissariat de Katwiguru en territoire de Rutshuru pour avoir acheté une radio volée. Il reconnaît ce fait. Toutefois, comme motif d'arrestation son dossier indiquerait : « complice d'un vol à main armée ». Quatre jours après son arrestation, M. Faustin aurait été acheminé à l'auditorat militaire de Goma, puis transféré à la prison centrale Munzenze le 16 janvier 2006. Onze mois plus tard, l'enquête de l'inspecteur de l'auditorat ne serait toujours pas close. Selon les informations reçues, les autorités en charge de la prison n'auraient plus distribué de nourriture aux prisonniers depuis deux semaines. Etant donné que M. Bahati Faustin ne reçoit pas de visites, il ne mangerait presque pas.

### **Ecuador**

### **Comunicación enviada**

41. El 9 de enero de 2007, en respuesta a la comunicación del Relator Especial datada del 30 noviembre 2006 (A/HRC/4/30/Add.1, 18 May 2007), el Gobierno remitió a la atención del Relator Especial algunas aclaraciones preparadas por la Comisión de Estudios para el Desarrollo de la Cuenca del Río Guayas (CEDEGE) sobre el Proyecto Multipropósito Quevedo-Vinces, más conocido como Proyecto Baba. El Gobierno informó que con el fin de tomar los correctivos necesarios se elaboró un nuevo diseño del proyecto, lo cual pasó a incluir las medidas de remediación propuestas por el Relator Especial y otras adicionales. Adjunto a la carta estaba el informe de la CEDEGE, en el cual se explicó las variaciones que se hicieron en el diseño original del proyecto. A parte de las informaciones técnicas mencionadas, también se señaló que en el proyecto no sólo estaría contemplado el pago de las unidades habitacionales afectadas sino



que estaría también contemplada la implementación de un programa de reasentamiento. También se puso de relieve en el informe que el nuevo diseño ya había sido sometido a un estudio de impacto ambiental y, en consecuencia, ya contaba con la respectiva Licencia Ambiental emitida por el Ministerio del Ambiente del Ecuador. Por fin, fue explicado el motivo por el cual no serían verdaderos los argumentos del Relator Especial respecto a ciertas consecuencias ocurridas en la represa Daule-Peripa.

## **Seguimiento**

42. El 20 de marzo de 2007, el Relator Especial agradeció al Gobierno por su respuesta y dio seguimiento a las informaciones que se le remitieron sobre el nuevo diseño del Proyecto Multipropósito Quevedo-Vinces preparado por la Comisión de Estudios para el Desarrollo de la Cuenca del Río Guayas (CEDEGE). Según las informaciones recibidas, el número proporcionado en la respuesta de la CEDEGE no habría sido armonizado con el proporcionado por el Estudio de Impacto Ambiental (EIA). De acuerdo al EIA, el número de personas afectadas por inundación de sus tierras sería de 191 personas. Este número solamente correspondería a las personas que se verían afectadas por la inundación del área donde viven. Sin embargo, no estarían comprendidas en el número total las personas que serían directamente privadas por la destrucción de sus medios de subsistencia y por la instalación de estructuras e infraestructuras conexas. Según estas informaciones, el estudio no consideraba a las familias que realizaban sus actividades económicas, sociales y culturales en el río Baba y que no necesariamente vivían en la zona a inundar por el proyecto. Se afirmó que en el valle donde se habría realizado la obra, no sólo habitarían propietarios de inmuebles sino familias de comunidades negras que no poseían títulos de propiedad y que por derecho consuetudinario serían propietarias de la tierra donde estarían viviendo y trabajando. El otorgamiento y usufructo de una hectárea y el otorgamiento de una casa como parte de la compensación monetaria no restituirían los niveles de vida adecuados de las poblaciones y su reinserción en la vida productiva. Complementariamente, de acuerdo con la información recibida, parecía ser que el proyecto sólo contemplaría como área afectada el área donde se construiría la primera represa, a pesar de que el proyecto incluye infraestructuras conexas, como por ejemplo el trasvase hacia la represa Daule – Peripa y otros diques a lo largo del trasvase que ocasionarían a su vez el represamiento del río en otras áreas. Se alegó que no sólo se habría afectado a los recintos de los cantones asentados inmediatamente río abajo del proyecto como Buena Fé y Valencia, sino al resto de la población ribereña de la provincia de Los Ríos; esto sería de 302.605 habitantes o sea el 50% del total de la población de la provincia de Los Ríos, que se asienta a lo largo del río y que se dedica en buena parte a la agricultura de subsistencia y a la pesca artesanal. Ante esta situación, las comunidades río abajo se verían afectadas por la disminución del caudal del río en un 80%, lo que disminuiría su pesca aún más o la eliminaría completamente. De acuerdo con la información recibida, los pescadores de la región habrían denunciado que la pesca se habría reducido drásticamente en los últimos años debido a factores como la contaminación de los ríos, la pesca indiscriminada, los pesticidas utilizados en los monocultivos etc. A pesar de esto, la pesca seguía siendo parte integral de la dieta de las familias, consecuentemente manteniendo su seguridad alimentaria, por lo que con la construcción de la represa se estaría perdiendo el ingreso económico y poniendo en riesgo la soberanía alimentaria de las familias. Se alegó también que la disminución del caudal tendría consecuencias negativas en la producción agrícola, ya que las tierras se secarían y bajaría la producción de subsistencia al no contar con

suficiente agua para regar los cultivos. Además, la población tendría que cavar pozos aún más profundos para encontrar agua por que se disminuiría el nivel freático al haber el represamiento en un determinado lugar. El cambio que se daría en los flujos de los ríos afectaría también la calidad del agua utilizada por las poblaciones asentadas en las riberas de los ríos o aledañas a la represa. Según los informes, el EIA no ofrecía datos sobre los efectos de la construcción de la represa en la calidad del agua río abajo en función de las descargas de los asentamientos poblacionales y las zonas agrícolas. Además, el EIA no habría hecho un estudio de los impactos que traería la construcción de la represa en la población asentada en el río Babahoyo. Las informaciones recibidas también indicaban que el proyecto seguía sin integrar suficientemente la participación y la opinión de la población afectada, que, al contrario, habría sido reprimida por la fuerza. Supuestamente, la información sobre el proyecto todavía no había llegado a un gran número de los que serían afectados. De acuerdo con la información recibida, aunque la licencia ambiental hubiera sido otorgada al Consorcio Hidroenergético del Litoral (CHL), la información no se habría dado a conocer de manera pública incluso en la página del ministerio del ambiente. Según estas informaciones, el EIA habría sido criticado al no presentar los componentes mínimos que requiere un estudio de impacto ambiental. La Alianza Mundial para el Derecho Ambiental (ELAW) también criticó el estudio por varias razones. Respeto a la represa Daule – Peripa, los informes recibidos indicaron que la construcción y funcionamiento de esta represa habría disminuido la calidad y disponibilidad de agua de los ríos y pozos que las comunidades aledañas utilizaban para su abastecimiento. Por ejemplo, en el recinto de los Ángeles, los campesinos afirmaron que muchos ríos se habrían convertido en sucias cloacas mientras que las fuentes de los esteros que servían de suministro de agua se habrían secado. Según los informes, a pesar de la promesa de las autoridades de dotar de servicios básicos a esta comunidad, parecía ser que siquiera un servicio médico había sido enviado para hacer frente a los problemas de salud que se habían denunciado por la mala calidad del agua que consumiría la población. Se afirmó que la población infantil habría sido la más afectada. De acuerdo con la información recibida en el cantón Pichincha, en la provincia de Manabí, también aledaño a la represa, se observó que el color del agua sería oscuro, su olor sería fétido y su composición no sería más apta ni para el consumo de los animales. A pesar de esto, en muchos recintos ubicados río abajo de la represa se seguiría utilizando esa agua para consumo humano. La población del cantón Pichincha afectada por la represa habría denunciado que diariamente se perdían vidas humanas al no haber vías de acceso a los centros de atención más cercanos. Los habitantes del recinto de Barraganete - comunidad que quedó aislada dentro del lago de la represa – habrían dado testimonios sobre la desesperación que se sufría ante la dificultad en llegar rápidamente a un hospital cuando necesario. De acuerdo con la información recibida, 20 mujeres habrían fallecido en proceso de parto a bordo de lanchas que no habrían podido avanzar por la barrera infranqueable que forman los lechuguinos. En el recinto de Santa Teresa, aledaño a la represa, se habrían dado testimonios de que el relleno del embalse habría destruido la única vía de comunicación que tenían los campesinos para transportar sus productos. La falta de vías imposibilita la comercialización de la poca producción que se puede realizar en esa zona. Según la información recibida, el 60 y 70% de la población padecería de desnutrición, sobretudo las personas de tercera edad y mujeres.

## **Seguimiento**

43. El 23 de julio de 2007, el Gobierno presentó aclaraciones en respuesta a la comunicación del Relator Especial datada de 20 marzo 2007. Primeramente, el Gobierno señaló que el Proyecto Multipropósito Quevedo-Vinces sería una obra de inmensa trascendencia y repercusión para el Ecuador, en especial para el sector agrícola. Se informó que las observaciones del Relator Especial serían tomadas en cuenta a fin de converger con los propósitos de desarrollo equitativo y humanista del Gobierno Nacional. Según la interpretación del Ministerio del Ambiente de Ecuador acerca del Estudio de Impacto Ambiental (EIA), los 191 habitantes afectados corresponderían a la población real a ser afectada dentro de todo el proyecto. Respecto a los daños provocados y las compensaciones, fue posible comprobar que la población reasentada que recibió una nueva casa y una hectárea de terreno mejoró su calidad de vida ya que pasó a poseer un pozo de agua. Además, se puso de relieve el hecho de que habían procesos de difusión del proyecto y de sus impactos, así como de proyectos de mejora de la calidad del agua dentro del programa de relaciones comunitarias. Por fin, el Ministerio del Ambiente informó que el Estudio del Impacto Ambiental fue aprobado en base a la legislación ambiental vigente en el Ecuador y que se hizo público a través de dos diarios de información y de la página web del Ministerio del Ambiente. Juntamente con la carta fueron enviados dos documentos: Tabla Diseño Original Vs. Diseño Básico – Comparación Socio-Ambiental; Cronograma de Construcción del Proyecto Baba.

44. Mediante correspondencia del 2 agosto de 2007, el Gobierno remitió al Relator Especial un disco compacto (CD) de parte del Ministerio de Agricultura y Ganadería del Ecuador con información de utilidad para el Relator Especial respecto del estudio del impacto ambiental, aspectos legales y técnicos, impacto socio-ambiental y manejo financiero del Proyecto Multipropósito Quevedo-Vinces.

### **Comunicación recibida**

45. Mediante correspondencia de 2 agosto de 2007, el Gobierno remitió al Relator Especial, en respuesta a su comunicación del 10 de febrero de 2006 (A/HRC/4/30/Add.1, 18 May 2007), un ejemplar del informe presentado en mayo de 2007 por la Comisión Científica Ecuatoriana intitulado “El sistema de aspersiones aéreas del Plan Colombia y sus impactos sobre el ecosistema y la salud en la frontera ecuatoriana”. En esta carta el Gobierno afirma que dicho informe demuestra, sobre bases científicas sólidas y fundamentadas, el grave efecto que estas aspersiones aéreas tienen sobre la salud orgánica y genética, salud mental, destrucción agro social, pérdidas de recursos alimentarios, impactos en el ecosistema boscoso, impactos en las redes tróficas, sucesión ecológica, fenología, efectos en las interacciones ecológicas, surgimientos de superrazas, efectos sobre los sistemas acuáticos y sus comunidades biológicas, e impactos sobre otras especies animales. El Gobierno aspira que este informe contribuya a una percepción mas clara y objetiva de la situación que confronta la zona fronteriza colombo-ecuatoriana por efecto de las aspersiones aéreas.

## French Guiana

### Communication envoyée

46. Le 30 novembre 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a attiré l'attention du Gouvernement sur les informations reçues concernant la situation des autochtones Wayanas et Emerillons des villages Kayodé (Cayodé) et Elahé (Elae), sur les rives de la rivière Waki-Tampok, dans la commune de Maripasoula en Guyane. Ces populations seraient confrontées à des problèmes de pollution de leur environnement par le mercure, causés par des activités illégales d'orpailleurs. En outre, les orpailleurs clandestins auraient récemment intensifié leurs violences à l'encontre des populations s'opposant à ces activités. Les zones d'habitat de ces populations auraient été exclues du « cœur » du Parc amazonien de Guyane récemment créé, alors que la protection prévue pour celui-ci pourrait être un moyen de protection de l'environnement des populations autochtones (C). Concernant la pollution des rivières par le mercure, depuis la fin du XIX<sup>ème</sup> siècle, les activités illégales d'orpaillage qui seraient exercées dans différents sites en Guyane seraient responsables de rejets de mercure dans l'environnement, estimés à plusieurs centaines de tonnes. Depuis la publication en 1995 d'un inventaire des richesses minières du sous-sol guyanais, les sites d'orpaillage illégaux seraient de plus en plus nombreux. Les cours d'eau à l'ouest de la commune de Maripasoula ainsi que le fleuve Maroni et ses affluents, seraient particulièrement touchés par ces activités. Les villages Kayodé et Elahé – dont la population est estimée à 1.400 et 300 personnes respectivement –, appartenant aux peuples Wayanas et Emerillons se trouvent dans la commune de Maripasoula. Ces populations habitent sur les rives de la rivière Waki-Tampok (affluent du fleuve Maroni), en aval des sites d'orpaillage illégaux. Ces activités auraient des conséquences néfastes sur la pêche alors que celle-ci constitue une source importante de l'alimentation ainsi que la principale activité traditionnelle de subsistance de ces populations. De plus, les activités illégales d'orpaillage causeraient l'intoxication des membres de ces communautés, due à la consommation des quelques poissons restant infectés au mercure. Des études soutiennent ces allégations. Les conséquences seraient particulièrement néfastes chez les jeunes enfants, chez qui des lésions importantes seraient observées. Un nombre anormal de malformations néonatales et de grossesses non abouties aurait été observé dans ces villages. Selon les informations reçues, la tension entre les orpailleurs et les autochtones du village de Kayodé serait, depuis le mois de septembre, de plus en plus grande. Les allégations reçues indiquent que le 25 septembre 2007, la chef coutumier du village de Kayodé, Mélanie Aliman He, aurait choisi d'empêcher, avec des membres du village, la montée des pirogues d'orpailleurs sur le haut de la rivière Waki-Tampok. Ceux-ci auraient alors tiré en direction du village et blessé un membre de la communauté. Au début du mois d'octobre, un membre du même village aurait essuyé des coups de fusil alors qu'il pêchait. En vue de la montée du climat d'insécurité, le Rectorat de la Guyane aurait décidé de fermer les écoles du village et de rapatrier les enseignants à Maripasoula. De plus, selon les informations reçues, les amérindiens des villages de Kayodé et Elahé ne bénéficieraient pas d'une protection juridique effective vis-à-vis des activités d'orpaillage responsables de la pollution de l'environnement sur leur terre traditionnelle. Dans ce contexte, ces villages auraient

réclamé l'intégration de leurs zones d'habitat dans le centre du Parc de Guyane, de façon à bénéficier de la conservation de la nature tout en poursuivant leurs activités de subsistance. Le Décret n° 2007- 266, publié le 27 février 2007, a officialisé la création d'un « Parc amazonien de Guyane ». Sur la commune de Maripasoula, le « cœur » englobe les sources du Maroni et de ses affluents (Waki-Tampock, Marouini). En revanche, les villages Kayodé et Elahé, en aval, n'auraient pas été retenus pour en faire partie. Ceci malgré les demandes des peuples autochtones concernés et malgré les conclusions de la Commission d'Enquête Publique sur la création du parc. Ces dernières indiqueraient pourtant la nécessité d'intégrer les zones d'habitat des populations amérindiennes de cette zone dans le centre du parc. Cette exclusion laisserait ainsi ces populations vulnérables face à l'activité minière qui ne serait interdite que dans le centre du Parc.

## Germany

### Communications received

47. On 14 February 2007, the Government replied to the letter sent by the Special Rapporteur on 16 October 2006 (A/HRC/4/30/Add.1, 18 May 2007), regarding allegations that the company Züblin had submitted an application to relevant authorities for an export risk guarantee of approximately Euro 100 million for the Ilisu Dam on the River Tigris, in south-eastern Turkey. The Government explained that in December 2005, German exporters applied for official export credit guarantees for their tunnel construction work and engineering services in the context of the Ilisu project. The three export risk guarantee agencies (ECA) from Germany, Austria, Switzerland, have reviewed the environmental impact assessment reports and action plans submitted to them by the exporters and the buyer. In compliance with the OECD Recommendation on Common Approaches on Environment and Officially Supported Export Credits, the export credit agencies have benchmarked the project against the standards and guidelines published by the World Bank Group. These are in particular, the World Bank Procedures and Operational Policies regarding environmental assessment, physical cultural resources, involuntary resettlement, safety of dams and international waterways. In this context, the ECAs involved have exercised a comprehensive evaluation of the measures foreseen to safeguard respectively restore the livelihoods of the people affected by the project, including measures to secure access to sufficient and adequate food. The ECAs and the Turkish buyer also recognize the provision in the OECD Common Approaches which says that members should ensure that procedures are in place to monitor as appropriate, the implementation of projects, to ensure compliance with the conditions of their official support. In October 2006, the three ECAs reached an understanding with the relevant Turkish authorities on terms of reference for the Project Implementation Unit to be installed. Resettlement and its aspects concerning the right to food have been one of the focal points of the agreement and include, among others, regulations on: compensation payments, income restoration (during the construction of the dam and after the completion of the dam), distribution of land (including replacement values), a livelihood restoration plan, labor/skills demand projections, infrastructure and public benefits, transaction costs and continued farming. In addition, the authorities guarantee a grievance redress mechanism for all resettlement issues. To monitor the implementation of the agreed measures, it was reported that a Committee of Experts will be established. In close cooperation with, but independently of, the Project Implementation Unit, these national and international experts are entitled and obliged to monitor closely the implementation process with a view to reducing the negative impacts for the affected population. According to the information received, the Committee of Experts will report directly to the three ECAs on a regular basis. With regard to the impacts on fishery, the reply enclosed a draft sample for the income restoration measures focusing on reservoir fishery. The ECAs also undertook a study on fish species in the Tigris and the other reservoir to assess the changes on fish population (e.g. due to change of flowing to stagnant water) and to evaluate decrease of fish population (e.g. due to deterioration of water quality). This study will include mitigation and compensation measures in case of severe decline. To improve the water quality in the Tigris river and the reservoir, agreement has been reached on waste water management treatment plants to be built and, if necessary, measures in agricultural activities to be implemented. The water quality will be monitored throughout the

guarantee period. The government claimed that they insist on transparent information about all aspects of the project through the construction period and beyond.

### **Follow-up**

48. On 12 April 2007, the Special Rapporteur thanked the Government for the comprehensive reply and useful information sent to him. Whilst the he welcomed the Resettlement Action Plan (RAP), he would like to inform the government that, as communicated to the Turkish Government, the reports received indicated that it is not yet clear whether such an action plan is legally binding in the Turkish domestic legal system and whether it could be used as basis for legal recourse in case the affected individuals had any grievances. He asked the Turkish Government to clarify these aspects as well as what steps they intend to take in order to align national legislation and standards to international legislations and standards. It appeared for example that there is no provision in the Turkish national legislation for minimizing resettlement whereas this is an important requirement in World Bank and OECD standards. Similarly, it appeared that current national compensation provisions and calculation rates are not yet in line with international standards as well as income restoration strategies. According to these reports, the organisational set up and management of the resettlement and reconstruction process are not yet sufficiently clear and the action plan still lacks an adequate analysis of who is responsible for what and how the various management responsibilities at the central and provincial level will be coordinated. The Special Rapporteur requested the Turkish Government to provide additional details on the proposed organizational arrangements. He also conveyed to the Turkish Government that the information received claimed that the emphasis of the RAP is primarily on the conduct of expropriation and dislocation of the affected population resident in the project area, while sufficient attention is yet to be dedicated to the process for the reconstruction of the economic basis and productive systems of the uprooted population. According to reports, a high percentage of people who may be affected by this project are still not adequately informed. The information received also claimed that the RAP does not yet specify how the external co-financing agencies and their Governments will be kept informed and will be able to monitor the resettlement performance and the adherence to the requirements that they have set for supporting this project.

## **Ghana**

### **Communications sent**

49. On 22 March 2007, the Special Rapporteur wrote to the Government concerning allegations that rivers and streams in Obuasi have been polluted with arsenic, iron, manganese and heavy metals from past gold mining activities by Anglo American's subsidiary, AngloGold Ashanti (AGA) and its predecessor, Ashanti Goldfield Corporation (AGC). According to these allegations, new cases of serious water pollution and flooding are still occurring and alternative

sources of water provided by AGA such as public standpipes are contaminated, broken or obsolete. The allegations received claimed that an estimated 60 local streams in Obuasi are now contaminated and pose a significant hazard to local people who used to benefit from these streams for drinking water, fishing and irrigation. Research studies estimated that levels of arsenic, iron and manganese sampled from local water sources ranged from 1.7 to 38 times higher than governmental safety levels. It seemed that many streams and rivers in this area have been polluted as a result of spillage and leaking from tailing dams. For example, the river Fena has reportedly been polluted by open-pit and “heap Leach” methods. Cyanide leakage due to flooding and dam failure, such as incidents in south and north Dokyiwa in 1996 and 1998, have further exacerbated the problem leading to the abandonment of villages such as Badukrom and Attakrom. An effluent discharge in November 2005 from AGA’s Pompora Treatment Plant into the Kwabrafo, a tributary of the Jimi River, has allegedly contaminated these rivers and deprived villages and towns such as Sansu, Odumase, Akofuom, Jimiso Kabraba of their access to clean fresh water. According to the allegations received, new water pollution continues to occur in a number of places, such as for example at Anwiam where water is being discharged directly into the settlement and in Abompekrom village where many houses and a village school were flooded by toxic water from the containment lake at the nearby AGA’s plant, believed to contain cyanide and other pollutants from ore processing. In addition, the reports indicated that areas of land in Obuasi previously used for cultivation have been contaminated with, for example, mercury, zinc and arsenic, through gold mining activities and toxic water pollution. This has reportedly contributed to erode people’s access to livelihoods and food.

50. On 20 April 2007, the Special Rapporteur wrote to the Government concerning allegations that community members in the village of Teberebie in the Wassa West District of the Western Region, have had limited access to their farms which they have cultivated for many generations and to their only source of income and means to procure sufficient and adequate food as a result of the location of a number of waste rock dumps in the area. According to these allegations, these dumps have resulted from the operations of the Iduapriem gold mine of the AngloGold Ashanti and which the International Finance Corporation of the World Bank has supported through 45 million USD loans. The allegations received claimed that the waste rock dumps of this particular mine, which have grown steadily in size and height, have been taking over land previously used for farming including traditional and subsistence agriculture. It was alleged that for most villagers access to their farm land has become difficult since almost all the routes to their farms have been blocked by tons of waste rock dumped in the area. It was also reported that no measures have been taken to redress this situation. In addition, the reports indicated that streams nearby the village have been contaminated with toxic substances that appear to run off from the waste rock dumps. According to these reports, the water is no longer safe for drinking and, as a result, women and children have to walk long distances in search for safe drinking water. It appeared that fish that used to thrive in these streams have disappeared due to water contamination. These reports also claimed that three boreholes, which were provided by the mining company, are all out of order and villagers have either to use their scarce financial resources to buy bottled water or walk long distances to search for safe drinking water.

### **Communication received**



51. On 25 July 2007, the Government replied to the letter sent by the Special Rapporteur on 20 April 2007 regarding the allegations that community members in the village of Teberebie, in the Wassa West District, have had limited access to their farms as a consequence of the activity of a mine. The Government affirmed having conducted appropriate investigations. They stated that about 80% of the farmers in question have received payment and that in the remaining cases non-payment is due to on-going court cases. In addition, they informed that the company decided to secure some lands for the farmers, although this had not yet materialised. Regarding water and according to the Government's information, the community is serviced by one stand pipe and two boreholes. The letter reported that during the 2006 dry season, a combination of events led to the temporary shortage of water in the community. It was stated that it was due to faults on the stand pipe and on one of the boreholes and not to deliberate deprivation as alleged. The Government also informed that the Teberebie community and the mine have formed joint committees that handle social problems that crop up in the area. Concerning the case of contamination of farmlands and streams in the Obuasi area, the Government affirmed that further investigations are being undertaken to establish the authenticity of the allegations. The letter ends by assuring that the Government is committed to fulfil not only the international human rights instruments it has ratified, but also to uphold the fundamental rights of all its citizens, as enshrined in the country's Constitution. However, the Government stated that it would not superintend over the sort of issues alleged to be happening in Teberebie.

### **Follow-up**

52. On 3 October 2007, the Special Rapporteur expressed his thanks for the useful information provided to him in the Government's letter dated 25 July 2007 in response to his request for clarification on the alleged violations of the right to food and drinking water of the community members in the village of Teberebie in the Wassa West District of the Western Region. In addition, the Special Rapporteur brought to the Government's attention further allegation received that the monitoring mechanisms on environmental and social issues like the Monitoring Advisory Group (MAG) are not fully operational and have not yet worked to the benefit of the affected people. For example, since the establishment of the Resettlement Action Plan (RAP) in 2003 – which provides for the setting up of MAG –, information received indicated that this Group met for the first time in March 2006 after a farmer from Teberebie was seriously wounded by a gunshot allegedly from private security personnel when he and other farmers were trying to access their land. According to the allegations received, the commitment made in the RAP to give out a specified portion of land for agricultural purposes to the farmers of Teberebie, whose usual access to land was restricted due to a waste dump, has not yet been met, four years after the RAP was finalised and the MAG started working. Despite the establishment of a Resettlement Committee, reports claimed that AngloGold Ashanti Iduapriem Ltd. decided not to allocate any such land and took this decision without discussing it with the affected communities. As a result of losing their main livelihood sources and not being provided with new ones, it has been reported that the people of Teberebie have suffered hunger and malnutrition. The RAP recognised that access to land is the key to realize the right to food in agricultural communities such as that living in Teberebie, and stipulated that land-for-land replacement is an important mitigation measure to counter the project-related impacts thus implying that cash compensation was insufficient. The failure to implement this plan could pose a major threat to food security and the realisation of the right to food in this area. Furthermore,

information received indicated that displacement of farmers continues as the waste dump keeps growing preventing them from accessing their land, and that fishponds have been destroyed.

## **Honduras**

### **Comunicación enviada**

53. El 18 de diciembre de 2006, el Relator Especial señaló al Gobierno la información recibida en relación con los hostigamientos que las campesinas organizadas en el “Movimiento de Mujeres 10 de junio” habrían sufrido de parte de los guardianes del Centro Universitario Regional del Litoral Atlántico (CURLA). Según la información recibida, desde junio de 2001 más de 60 mujeres campesinas habrían solicitado y ocupado un terreno ocioso estatal de 69 hectáreas, situado en la aldea San Juan Pueblo, municipio La Masica, departamento Atlántida en el norte del país. Parecía que la Universidad Autónoma de Honduras, a través de su dependencia del norte, el CURLA, no habría utilizado el terreno durante nueve años, no cumpliendo, por lo tanto, con la función social para la cual el Instituto Nacional Agrario (INA) le había asignado el terreno en 1992. Se afirmó que las mujeres campesinas trabajaban esta tierra desde más de cinco años realizando muchos esfuerzos para lograr que el INA les entregase la tierra en el marco de la reforma agraria vigente. Ellas tenían varios proyectos productivos en una diversidad de hortalizas, maíz, frijoles, frutas y proyectos de gallinas y peces. Además, los informes recibidos indicaron que el CURLA habría promovido medidas de represión en contra de las mujeres campesinas, en particular un desalojo forzoso el 6 de febrero de 2002 y la recién destrucción de parte de los cultivos de las mujeres por la seguridad privada a servicio del CURLA. El Relator Especial también señaló al Gobierno la información recibida en relación con los abusos de 32 campesinas y campesinos, miembros del “Movimiento Campesino Vallecito”, situado en Sinaloa, departamento de Colón, el 6 de octubre de 2006. Según estas informaciones, dos campesinos habrían quedado heridos de bala y los demás habrían sufrido golpes por parte de los agentes policiales. Se afirmó también que cuando los campesinos habrían presentado la denuncia por los hechos de violencia, los dos agentes de la policía no habrían aceptado recibirla y habrían amenazado con detenerlos. Las informaciones recibidas mencionaron que las víctimas formaban parte de las 88 familias campesinas que habían sido asentadas por el INA en un predio y desalojadas forzosamente hace varios meses. Parecía ser que, desde el desalojo forzoso, estas familias habrían seguido viviendo en condiciones precarias en un centro de acopio sin alimentación suficiente y vivienda adecuada.

### **Comunicación recibida**

54. El 29 de enero de 2007, el Gobierno respondió indicando que había realizado investigaciones precisas sobre los hechos ocurridos el 6 y el 7 de octubre de 2006. Resultó que en estos días el ingeniero Alejandro Sandoval Rosales, entonces encargado del proyecto de la UNAH, se habría presentado a las oficinas de la DGIC a denunciar el robo de palma,

manifestando que había un grupo de campesinos llamado Movimiento de Campesinos Vallecito robando fruta de palma africana perteneciente a la UNAH y cargándola en un camión. Los investigadores verificaron que la fruta depositada en el camión había sido cortada de la plantación que pertenecía a la UNAH. Los agentes entonces se dirigieron hacia las oficinas de la UNAH, donde fueron agredidos por campesinos vallecitos. Según el Gobierno, aproximadamente unos 50 campesinos, todos armados con armas blancas, agredieron a los agentes y les despojaron de sus armas de reglamento y de sus prendas personales. Llegada la Policía Nacional, los campesinos no quisieron entregar las armas y las pertenencias personales que habían quitado a los agentes y, por tal razón, hubo necesidad de utilizar la fuerza para controlar el conflicto. De acuerdo con el Gobierno, se habría procedido al arresto y posterior traslado de los campesinos a las oficinas DGIC para la realización de las diligencias correspondientes.

### **Seguimiento**

55. El 15 de marzo de 2007, el Relator Especial agradeció el Gobierno por su respuesta. Según las informaciones recibidas, pareció que en relación con la denuncia interpuesta por el ingeniero Luis Alejandro Escobar hubo una confusión de fecha. Según estas informaciones, existía una acusación criminal por el delito de usurpación en contra del movimiento campesino de Vallecito presentado por el señor Escobar en el juzgado de Letras Seccional de Tocoa a través de la Fiscalía. La denuncia supuestamente se había presentado a mediados de septiembre 2006, por lo que la Fiscalía había solicitado una orden de desalojo. El juez habría ordenado que previo a emitir una orden de desalojo se investigue el predio en conflicto en virtud de que el Instituto Nacional Agrario (INA) también reclamaba su titularidad. Los informes indicaron que la policía no poseía normalmente conocimientos técnicos ni competencia para determinar a quien correspondía la titularidad de un terreno. Esta es una competencia del INA. Además, según estos informes, los campesinos portaban machetes en cuanto el machete es una herramienta indispensable para la recolección de palma africana para cortar la fruta de la palma y no los portaban con la intención de luchar. Las informaciones recibidas también alegaron que todos los campesinos habían sido esposados y registrados mientras se encontraban de rodillas contra el suelo, lo que habría facilitado la aparición de las prendas personales que la policía afirmó haber sido robado por ellos. Al contrario, los campesinos afirmaron que había sido la propia policía que les había robado algunos de sus objetos personales como cadena de oro, teléfono móvil y dinero. Respeto a los hechos ocurridos el 6 de octubre de 2006, los informes recibidos indicaron que los campesinos de Vallecito volvían de trabajar cuando vieron a la policía y el camión con palma confiscado. Dos personas que estaban cargando la fruta de palma estaban dentro del coche de la policía. Parecía que al ver la policía los campesinos habrían acudido al coche para enseñar la autorización que les permitía recoger fruta de palma de la propiedad, autorización que les había sido otorgada por el Sub-director del INA Marco Tulio Cartagena. Supuestamente los policías habrían dicho que la autorización no tenía ningún valor y empezaron a insultarlos y burlarse de ellos. Se afirmó que los campesinos habrían intentado convencer a los policías de liberar a las dos personas detenidas en el coche pero sin éxito. Tampoco los campesinos querían que la policía se llevara el camión porque no había presentado orden de arresto ni autorización para confiscar el camión, y la palma era la única fuente de alimento para los campesinos y sus familias. Se alegó que cuando la policía había tratado de atropellar a los campesinos para huir sin conseguirlo, el Señor Escobar y trabajadores del CURLA habían disparado contra los campesinos hiriendo en el brazo derecho al Señor Juan Ramírez. Supuestamente, en ese momento el Señor Escobar habría llamado a la policía pidiendo

refuerzos y al poco tiempo habrían llegado 30 efectivos de la policía preventiva sin orden de arresto. Se afirmó que los campesinos habían intentado nuevamente negociar pero la policía empezó a golpear y disparar contra los campesinos hiriendo al Señor Antonio Ramírez al pie derecho. Supuestamente los campesinos heridos de bala tuvieron que esperar horas antes de recibir atención médica. Pruebas documentales incluso fotografías, videos y informes médicos recibidos habrían confirmado que algunos campesinos habían sido heridos de bala. Por último se afirmó que, aunque habían sido liberados, la policía había detenido ilegalmente a 28 campesinos incluso niños y ancianos durante periodos variables de dos a seis días.

### **Comunicación enviada**

56. El 21 de julio de 2007, el Relator Especial juntamente con el Relator Especial sobre una vivienda adecuada como elemento integrante del derecho a un nivel de vida adecuado y sobre el derecho de no discriminación a este respecto señalaron a la atención del Gobierno la información recibida en relación con las amenazas de desalojo forzoso con las que 74 familias campesinas del movimiento “Tierra Nuestra” situadas en Los Limones, municipio de La Lima, departamento de Cortés, se veían enfrentadas. La comunidad de Los Limones habitaba desde 1951 un terreno ubicado dentro de las fincas bananeras de La Tela Railroad Company. Según la información recibida, los miembros de la comunidad habían vivido allí durante toda su vida, puesto que trabajaban para la compañía o eran descendientes de personas contratadas por la empresa. Según los informes, el movimiento campesino “Tierra Nuestra” estaría constituido por 74 familias, 178 personas, entre ellos 45 niños y niñas. En el año 2005, la empresa quiso trasladar la comunidad a otras tierras con el objetivo de sembrar palma africana en los terrenos donde las familias campesinas habían vivido y cultivado granos básicos y hortalizas. Aunque algunos de los miembros de la comunidad aceptaron la oferta, otros la rechazaron dado que no estaban de acuerdo con las condiciones de la propuesta. Según la información recibida, desde aquel momento estas familias habrían sido víctimas de varias formas de violencia e intimidación. Según los informes, en 2005, agentes de la empresa de seguridad de la compañía supuestamente habían destruido con tractores las viviendas de los campesinos y árboles frutales, afectando sus recursos económicos. En el mismo año se alegó que les habrían cortado el agua y la energía eléctrica, los cuales supuestamente seguirían sin conectar. Mientras tanto, la comunidad continuaría abasteciéndose de agua a través de un tubo que escasamente surtía a todas las necesidades de las familias. Además, según la información recibida, en noviembre de 2006 se les habría impedido a los campesinos el transporte de frutas al mercado, afectando los recursos que les procuran acceso a una alimentación adecuada y suficiente. Últimamente, 17 miembros de la comunidad habrían sido procesados por usurpación, aunque en esta tierra desde años.

### **India**

### **Communications sent**

57. On 23 April 2007, 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 brought to the Government's attention allegations received whereby, following the threat of imminent forced evictions in the Nandigram rural area of East Midnapur district, West Bengal, violent clashes between government security forces and villagers protesting against these evictions occurred in January and March 2007, that have resulted in numerous injuries and deaths. According to these allegations, on 31 July 2006, the State Government of West Bengal signed an agreement with an Indonesian corporation part of the Salim Group to implement various developmental projects jointly with the state-owned Industrial Development Corporation, including the creation of a Special Economic Zone (SEZ) in Nandigram for the establishment of a large chemical production project, spreading across approximately 4,000 to 8,000 hectares of land. It was alleged that the implementation of such a plan will lead to the eviction of around 40,000 to 100,000 villagers who live in this area, mainly small and marginal farmers, sharecroppers and agricultural labourers, and that no compensation or rehabilitation package has been proposed to them so far. According to information received, the affected people depend on the partly irrigated and fertile agricultural lands in which they live in, to grow mainly paddy and vegetables for personal consumption, and as cash crop, betel leaves (Pan). Allegedly, without access to these lands, their subsistence and livelihoods would be put in danger and the realisation of their right to food, jeopardized, given that they would be unable to find alternative livelihood opportunities. In addition, it was reported that approximately 80% of the population of Nandigram belongs to scheduled caste and minority communities, who lack access to adequate productive resources, education, health and other social facilities. It has been reported that on 3 January, the police attacked a peaceful demonstration, firing at least 15 rounds to quell agitated villagers in Nandigram, resulting in at least 4 injuries. Furthermore, on the night of 6 January, two villages (Sonachura and Tekhali) were attacked by an unidentified group, allegedly in connection to the ruling party in West Bengal, with bombs and guns, while allegedly the police refused to intervene even though they were informed at the time by local villagers. Reportedly at least 8 people died in January, including children, and at least 20 others have been injured. Petitions were introduced by the aggrieved peasants into the High Court and Apex Court, yet so far the state government has failed to arrest the culprits. Reports indicated that farmers have carried out attacks on local government offices in the area forcing them to flee elsewhere. According to information received, on 13 March 2007, local villagers demonstrated in front of Nandigram Police Station, protesting against the announced entry of the police in Nandigram. It was alleged that on 14 March 2007, shortly after midnight, Rapid Action Force, Eastern Rifles and other West Bengal state security forces, about 5,000 men strong, entered the Nandigram area to restore the severed communication links with the region, which had been cut off by protesters who reportedly had set up road blocks on all access roads to it and had driven out all cadres of the governing state party transforming it into a 'no-entry' zone for the state administration. It was further alleged that in the villages of Sonachura and Gokulnagar, these men fired tear gas, rubber bullets and finally live ammunition against the group of protesters, mainly women, trying to prevent their entry by forming a human shield. As a result, it has been reported that at least 14 villagers were killed and over 100 seriously injured. Some of them were admitted to Nandigram Block Primary Health Centre and Tamluk Sub-Divisional Hospital. Reports did not indicate the actual number of casualties which could range above 50. Allegation received indicated that injured and dead people were carried to different locations in an attempt to cover up the actual number of casualties; some dead bodies were supposedly thrown into the Haldi River. One report indicated

that 27 bodies were found on the banks of the river Haldi, and at least 19 persons are reported missing. Further reports indicated that many women in the villages were raped, huts were demolished and burned down by police forces and state government activists. In relation to these incidents, the Special Rapporteurs would like to make reference to the recent communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions which provides further details on the alleged massacre of 14 March 2007 in Nandigram (UA G/SO 214 (33-24) IND 8/2007). The current situation is allegedly preventing the children to go to the schools in the area, which are closed for now, and the women from going to the market. According to reports received, hundreds of families, especially labourers, have been without any income for days, and as a result many families have not been able to feed themselves properly, and have not been able to have peaceful sleep over weeks. In a broader context, it appeared that in a bid to boost national economic growth, the Central Government has been promoting SEZs across the country. In this regard, the reports received indicated that the West Bengal State Government plans to set up at least six other major industrial projects in the state, including SEZs, necessitating the acquisition of at least 10,000 hectares of land. With regard to the Singur case, which has already been the subject of a previous communication sent by the Special Rapporteur on 22 August 2006 (AL Food (2000-6) IND 24/2006) it has been reported that in order to acquire land from the peasants in the area to be handed to a car manufacturing plant owned by Tata Motors, the government ordered the peasants to stop sowing paddy on their land and accept their decision to acquire the land and evict them, allegedly offering only a one-time monetary compensation which is not considered adequate. The situation there has also deteriorated over the past months, with reports stating that fences have already been erected around 997 acres of land with the use of police forces. Allegedly, following a period of increased violence, on 2 December 2006, the police beat up several villagers, set their homes on fire and arrested several people, and on 8 December 2006, they indiscriminately attacked protesters at a peaceful rally with lathis, severely injuring several protesters and media personnel. It was further reported that on 18 December 2006, a teenager activist was raped and murdered inside the fenced area. Information received stated that the Supreme Court would review the land acquisition process since it was alleged that the state has not followed the proper procedures to acquire land to be given to the private company. However, it was reported that 15,000 villagers remain under the threat of losing their livelihood resources due to eviction from their lands.

58. On 23 May 2007, the Special Rapporteur brought to the Government's attention allegations received concerning violations of the right to food and other related human rights. Allegations received claimed that a large number of people from various villages including Chopan, Dudhi, Urao, Dhangar, Chero, Buyiya, Gond, Chamar and Myorpur in Uttar Pradesh face the risk of becoming disabled due to fluorosis. It appeared that 386 people including 98 children have already incurred in disabilities due to fluorosis. Fluorosis is reportedly a condition which damages permanently bones and teeth and which is caused by uncontrolled consumption of fluorides through water or inhalation of polluted air. According to tests carried out in 2004 by the Indian Council for Medical Research, it appeared that the fluoride content in the water samples taken from the tube wells in these areas showed at levels five to six times the acceptable ones. This region which remains dry throughout most of the year reportedly depends on deep water tube wells for their water supply. Disability caused by fluorosis has allegedly prevented the affected population, mainly manual labourers, to access jobs. Furthermore reports alleged forced displacement and evictions of farmers in Dadri, Uttar Pradesh, following the State Government's decision to acquire at very low rates nearly 1,000 hectares of farmland, part of

which is to be sold to and part leased to the Reliance Energy Group's (REG) proposed gas-based 3,740 MW power plant. It was reported that around 2,700 persons have been served eviction notices and fear displacement and threat to their livelihoods and access to food. In addition, it was reported that 300 families who are landless and used to work on the common lands have likewise experienced difficulties in accessing their usual means to procure sufficient and adequate food. Allegations received claimed that the proposed Tipaimukh Dam in Manipur State may cause displacement leading to physical and cultural dislocation, loss of subsistence resources and other human rights violations of the affected communities. In particular, these allegations claimed that, the construction of the proposed dam would submerge a total area of 288.60 square kilometres, including approximately the cultivable lands of around 90 villages (77 villages in Manipur State and 13 in Mizoram State). It was also alleged that around 12 villages situated in the Barak Valley would be completely submerged. The information received indicated that the proposed dam, to be located 500 metres downstream from the confluence of Barak and Tiuvai rivers, on the south-western corner of Manipur State, would affect the livelihoods of more than 40,000 people who would be rendered landless, and thus deprived of their usual access to the natural resources and products on which their livelihoods depend. The main sources of livelihood of the affected people are reportedly agriculture and horticulture. This information also claimed that the proposed dam would affect a large number of people belonging to the Zeliangrong and Hmar tribes whose ancestral lands, sacred sites and traditional occupations would be affected. It was reported that large areas of cultivated and cultivable land of these tribes, particularly in the Tamenglong district and some of the orchard areas in the Churachandpur district would be submerged. It appeared that, despite the Manipur Assembly Resolution of 22 July 1998 not to implement the construction of the dam, in 2001 the Governor-in-council approved the project and in 2003, the Memorandum of Understanding for the execution of the dam was signed between the authorities and the North East Electric Power Corporation Limited (NEEPCO). Furthermore, allegations received claimed that the State Government in Uttarakhand has been increasingly acquiring agricultural land for industrial purposes. This has reportedly made it difficult for the Dalits who were evicted in 1993 from the Ambedkar Nagar village, district of Kashipur, Uttarakhand, following the demolishment and levelling of this village, to repossess their land. The 154 Dalit families from Ambedkar Nagar village were reportedly forcibly evicted only a day after the land commissioners had verified that they were the rightful owners of the land. This was confirmed by the 1996 ruling of the Supreme Court which also recognised them as rightful owners of these lands. However, it was reported that the local landlord chased the families, assisted by local police forces, and grabbed their land. Since then, it was reported that the families have been unable to return. They reportedly settled in a nearby village but none of them has been compensated for the loss of land. This has allegedly affected their access to livelihoods and sufficient and adequate food. It appeared that in 2005, the Government expropriated this land from the landlord with the intention to regulate the area for industrial purposes. Further allegations received indicated that 18 Musahar families from Sarai village, Pindra Block, Varanasi district, Uttar Pradesh, were deprived for a prolonged time of ration cards. According to these allegations, in 2006, 15 of these families were given yellow cards which are issued to those families whose living conditions are identified below the poverty line (BPL) whereas the remaining three families have yet to be granted any ration card. Further allegations received indicated that a number of poor farmers in Badepur, Dhebhua, Nagapur in Badagaon Block and Pindrai, Chuppepur, Aswalpur in Pindrai Block, Varanasi district, Uttar Pradesh while being denied water for irrigation are under pressure to pay water taxes for the water they have not yet received. Lack of water for irrigation has allegedly affected their livelihoods and access to sufficient food whereas paying for water taxes they reportedly have to use their scarce financial resources which could

procure them with additional access to food. According to these allegations, despite the various complaints lodged by the affected farmers, no measure has yet been taken to redress the situation. In addition, it was alleged that farmers who have protested are harassed by the police and threatened to be detained. Further allegations received claimed that several families in Alhadapur village, Amedkar Nagar district, Uttar Pradesh, face acute food shortages due to the failure of the local administration to provide the necessary food and other social support as stipulated by law. According to these allegations, Juli, the 5-year-old daughter of Mr. Laxmi Chandra Jaiswal suffers from grade IV malnourishment and weighs only 7 kilogram. Similarly it was alleged that Mr. Shri Ram Lakhan Kanauja who is 65 years old and does not have a job, is severely malnourished. Mr. Abdul Haq and his wife are reportedly blind, elderly and unemployed. It appeared that they are suffering from malnourishment and have not yet received any help from the district administration.

59. On 7 June 2007, 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, brought to the Government's attention information received concerning the following cases: Allegations received claimed that farmers in Jagatsinghpur in the eastern state of Orissa, protesting against their proposed displacement for a new industrial project, have feared forced evictions at the hands of the police. According to these allegations, tensions have raised after approximately 1,000 police officers encircled Dhinkia, Nuagaon and Gadakujang panchayats in April 2007, apparently preparing to enter the area which has seen protests by farmers for the last 14 months. The farmers have reportedly protested against their displacement due to an integrated steel plant by the South Korean firm, POSCO, which could affect their access to adequate and sufficient food. The allegations claimed that adivasis indigenous communities in Ghateha village, Rewa district, Madhya Pradesh, are at continuous risk of forced evictions involving use of violent methods over land disputes. According to these allegations, on 19 April 2007, approximately 50 police vehicles and bulldozers under the direction of the police and Forest Department officials arrived at the village to evict villagers without a court order. Villagers resisted and during the confrontation it was alleged that police fired teargas shells and bullets injuring six people. It was also alleged that villagers' thatched huts and other structures were destroyed with bulldozers or burnt down and property was looted. It was reported that these adivasis communities have been cultivating for at least four years the land in question which amounts to 375 hectares and upon which their livelihoods and access to sufficient and adequate food depends. In December 2006, the Parliament passed legislation recognizing the land rights of adivasis communities across the country. As a result, in March 2007, the adivasis communities in Ghateha claimed this land to be theirs by erecting thatched huts. While these communities claim that since 1974 the land has been categorized as non-forest land and that they can therefore legally cultivate it, the State Forest Department contends that their action amount to encroachment on forest land. On 5 April 2007, the department framed charges of encroaching on forest land against 17 adivasis activists, nine of whom were subsequently arrested and detained in Rewa jail.

60. On 11 July 2007, the Special Rapporteur brought to the Government's attention information received concerning allegations that the National Rural Employment Guarantee Act (NREGA) has not been implemented in at least 22 districts of Uttar Pradesh (Lakhim pur Kheri, Sitapur, Hardoi, Barabanki, Unnao, Raebareilly, Jalaon, Fatehpur, Hamirpur, Mahoba, Lalitpur, Pratapgarh, Banda, Kaushambi, Chitrakoot, Kushinagar, Gorakhpur, Azamgarh, Jaunpur, Chandauli, Mirzapur, Sonbhadra) where some of the residents would be eligible to be included



under the NREGA scheme. According to these allegations, the rural poor, who ought to be the beneficiaries of the NREGA programme, still do not have access to work which could contribute to provide them with a source of income and means to procure sufficient and adequate food. This is reportedly mainly due to inefficiency and corruption in the local administration and to exploitation of rural poor by feudal landlords. This programme aims at guaranteeing employment for 100 days per year to those identified as beneficiaries who are then issued with job cards. Further allegations claimed that approximately 100,000 weavers in Bajardiha, Varanasi city in Uttar Pradesh, live in dire conditions where their children and families are faced with starvation, malnutrition and related illnesses. According to these allegations, Bajardiha is one of the most densely populated areas in Varanasi where most of the population are weavers. It was reported that due to depression in weaving industry, many of these weavers have abandoned weaving but have found it difficult to find alternative jobs. As a result, their families have reportedly suffered from malnutrition and its consequences. A similar situation is reported to have occurred in the Mirzamud weavers' community in Varanasi district.

61. On 11 July 2007, the Special Rapporteur together with the Special Representative of the Secretary-General on the situation of human rights defenders brought to the Government's attention information received concerning the arrest and detention of human rights activists Mr Medha Paktar, head of Narmada Bachao Andolan, Mr Gutam Bandhopadhyay and Mr Yogini Khanolkar of Nadi Ghati Morcha (NGM), Mr Simpreet Singh and Mr Mukta Srivastava of the National Alliance of Peoples Movements (NAPM), Sister Celia of the Domestic Workers Union, based in Bangalore, Ms Nidhi Agarwal of the Saheli Women's Collective and 55 other individuals. The aforementioned organisations campaign for water rights and mobilise tribal people, Adivasi, farmers, environmentalists and human rights activists against the construction of the Sardar Sarovar Dam across the Narmada River in Gujarat. Mr. Santhosh Patel, a member of the People's Vigilance Committee on Human Rights (PVCHR) since 2000 and PVCHR fellow, is also an active campaigner for the right to water and supporter of villagers living in Varanasi district who have been deprived of water since 2004. The information received indicated that in the afternoon of the 22 March 2007, 62 individuals gathered outside the Planning Commission Office (Yojana Bhavan), New Delhi, in order to speak with the Deputy Chair of the Planning Commission on World Water Day. According to the information, at approximately 14:00pm, police and members of the Rapid Action Force (RAF) dispersed the crowd, arresting 62 peaceful protesters including the aforementioned individuals. It is reported that the police used excessive force whilst conducting the arrests tearing some of the female protesters clothing. Those arrested were reportedly detained at the Parliament Police Station where they were obliged to sign blank arrest memos. Later that evening, all of the male detainees and two females were presented before the judicial magistrate and remanded in custody until 5 April 2007. They were released a short time later and no charges were brought against them. According to the information received, in the morning of 26 March 2007, in a separate incident, Mr. Patel was arrested and detained by officers from the Phulpur Police station in the Varanasi district in the village of Badepur. No reason was given for his arrest. According to reports, the authorities have reportedly insisted that the farmers pay water tax, threatening them that if they do not pay they will be arrested and imprisoned. As a result of the situation in the area, farmers organized various protests in November 2006 and on 12 December 2006. Villagers submitted a request to the District Magistrate of Varanasi to exempt them from paying water tax. On 10 January 2007, an Amin (an official who collects revenue in the district) went to Chuppepur village of Pindra Block to collect the water tax, where encountered

individuals who told him to leave the village. The Amin reportedly responded by threatening the villagers that he would ask the police to beat them before arresting them. He subsequently lodged a complaint with the police about some of the villagers including Mr Patel. Mr Patel was later released on bail on 29 March 2007, and no charges were brought against him. Concern was expressed by the Special Rapporteurs that the aforementioned events were directly related to the work of Mr Medha Paktar, Mr Gutam Bandhopadhyay, Mr Yogini Khanolkar, Mr Simpreet Singh, Mr Mukta Srivastava, Sister Celia, Ms Nidhi Agarwal and Mr Santhosh Patel in defence of human rights and in particular the right to food and water.

62. On 19 July 2007, the Special Rapporteur, jointly 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 and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, sent an allegation letter to the Government of India concerning the alleged threat of eviction of Adivasi families in the state of Chhattisgarh. According to the information received, numerous Adivasi families faced eviction from their traditional land due to the plan to construct a Tata steel plant in the Lohadiguda Block, Bastar District, Chhattisgarh. The Bastar District is home of the Gonds, Abhuj Maria, Darda Maria, Bison Horn Maria, Munia Doria, Dhruva, Bhatra, Halba and other Adivasi peoples, constituting 70 per cent of the population. These groups are protected by special legal safeguards following the declaration of the Bastar district as a Schedule Area (V) under the Indian Constitution. The construction of the Tata steel plant was allegedly the result of a memorandum of understanding (MoU) signed on 4 June 2005, between Tata Iron and Steel Company Ltd. (TISCO), a part of the transnational company Tata Group, and the Industrial and Mineral Resources Department of Chhattisgarh State Government. The MoU would not reportedly become a public document until the Tata company has entered into a formal agreement with the state Government and all clearances have been granted as provided for in the memorandum. According to the allegations, the MoU provides that the Chhattisgarh State Industrial Development Corporation (CSIDC) would acquire an extension of 53,000 acres of private lands in the Lohadiguda Block, in Bastar district, close to Jagdalpur town. CSIDC would subsequently hand the land over to TISCO within a period of six to nine months after having received the formal application from the company, on a long-term lease of 99 years. The operation of the proposed steel plant would further involve the extraction of large quantities of iron ore, coal, dolomite, limestone and other minerals; the pumping of an estimate of 35 million gallons of water per day from adjacent rivers; the construction of rail and road links, plants, pipelines, residential colonies and other infrastructure. The reports claimed that the area affected by the construction of the Tata steel plant belonged to the ancestral lands of more than 10 Adivasi villages of Lohadiguda Block, including Dabapal, Dhuragaon, Bade, Paroda, Beliapal, Belar, Badanji, Takarguda, Sirisguda, Kumhali, and Chindgaon, that had traditionally relied on this land for their livelihoods and access to food. The proposed plant would result in the eviction of an estimated 1,500 families from these villages. Reportedly, neither the village council meetings nor the families directly affected by the plan had been consulted by the state Government before it took the decision of allocating their lands to this project. According to the reports, the compensation package offered by the authorities to the affected families was perceived to be insufficient to fully compensate for the loss of livelihood that the displacement would cause. In this connection, it was reported that compensation would be restricted to those families that can prove land ownership. This would allegedly exclude a large number of potentially affected small sharecroppers and have not been found to be eligible to land titles. For those families that could provide such a title, the

monetary compensation would be limited to 50,000 rupees (Rs) per acre for non-irrigated land, including grazing land; Rs 76,000 per acre for non-irrigated single-crop land; and Rs100,000 per acre for irrigated double-crop land. Payment for planted trees and other properties had not allegedly been included in the compensation packages. The Special Rapporteur had further been informed that on 23 February 2007, a notification of land acquisition was published without giving the mandatory 30 days required by the law for filing objections, thus officially initiating the compulsory land acquisition process. On 4 March 2007, the process was suspended for unknown reasons. The potential displacement that the proposed plant construction would cause could also exacerbate the climate of insecurity that the members of tribal communities in the Bastar district have been living with and could contribute to fuel violent incidents.

63. On 19 October 2007, the Special Rapporteur brought to the Government's attention information received concerning the following allegations of violations of the right to food and other related human rights: According to the information received, in Shankarpur village, Varanasi district, Uttar Pradesh, the distribution of food grains has not reached the intended beneficiaries, the majority of whom reportedly belong to the scheduled caste/tribe communities of this village, including the Musahar, Khatic Dhobi, Gaund, Chamar and Rajbar communities. According to these allegations, this may aggravate the already precarious food security situation of these communities. The received reports indicated that due to mismanagement and corruption, the food grains intended for these communities are instead sold in markets for personal profit. In addition, according to the information received, ration cards of those eligible to receive them have been cancelled and new ones issued allegedly on the basis of political affiliation. The allegations further indicated that misappropriation of funds and assets available under various Government welfare schemes, which aim at improving poor families' access to sufficient and adequate food, have taken place in other States including Madhya Pradesh and Orissa. Further allegations claimed that the 18-month-old Alina Shain, of Mahmoodpur area, Lohtha Panchayath of Kashi Vidhya Peed Block, Varanasi district, Uttar Pradesh, died from malnutrition and related health consequences on 13 September 2007. Alina Shain was the youngest daughter of Mr. Ansar Ahmed a handloom weaver who reportedly finds it difficult to earn his living due to the current crisis in the weaving sector. Alina, whose mother died six months ago, was allegedly cared for by her paternal grandmother. According to these allegations, Alina was taken to the local Angawadi centre in Lohtha, the Government-run centre tasked with providing nutritious food and primary health care to poor children and mothers. The allegations received claimed that Alina was not provided any such support from the local Angawadi. In addition, the reports received indicated that although Alina's grandmother is entitled to old-age pension, she has not yet received it. According to further allegations received, approximately 400 families in Asanahar village of Pati panchayat, Sonbadra district, Uttar Pradesh, have been unable to access the benefits to which they are reportedly entitled to under various Government welfare programmes. Asanahar village was forced to relocate in higher lands as it found itself within the catchment area of the Rehand and Obra Thermal Power Stations which were built in the sixties and seventies in this area. This appeared to have affected local villagers' ability to access essential services. According to these allegations, those villagers entitled to ration cards have to walk at least 15 kilometres to reach the nearest ration shop. In addition, it has been reported that villagers often find this shop closed during working hours, and that they are given a lower quantity of food grains than what they should be entitled to. The information received also indicated that those villagers, who have a job card and should be entitled to receive a minimum of 100 days of work under the Jawahar Rozgar Yogna programme, have not yet been employed by the State Government. In addition according to these reports, the source of drinking water for this village has been contaminated by industrial

establishments like the Hindalco Canoria Chemicals and Carbon Black, which reportedly discharge their waste into the Renu River, which has now turned into a lake. Further allegations claimed that at least five children living in the Raitara Musahar area, Varanasi district, Uttar Pradesh, have been suffering from malnutrition and related health consequences. Their lives are currently at risk. The situation of the five children was reported to be as follows: 5-years-old Mulayam, son of Ms. Reshma Musahar and Mr. Sajeevan, reportedly weighs 10 kilos, has been suffering grade III malnutrition and lost his vision in his left eye due to malnutrition. His parents allegedly earn 50 Rupees per day from their work in the farm of the local village head. Although it has been reported that the doctor of the public health centre certified that Mulayam had been suffering from malnutrition, he could not reportedly be admitted to hospital for lack of appropriate facilities. 5-years-old Maya Musahar has been reportedly suffering from Grade IV malnutrition. She is the daughter of Ms. Jiyuti and Mr. Patalu Musahar who are labourers for the local village head, earning approximately 50 Rupees per day. Although it has been reported that the doctor of the public health centre certified that Maya had been suffering from malnutrition, she could not reportedly be admitted to hospital for lack of appropriate facilities. 2-years-old Rema Musahar has been reportedly suffering from Grade IV malnutrition. Rema is the daughter of Ms. Lalmani and Mr. Ashok Musahar who reportedly work as daily labourers for the local village head. Rema's parents do not appear to hold a ration card which could give them access to subsidized food grains. Although it has been reported that the doctor of the public health centre certified that Rema had been suffering from malnutrition, her parents were unable to seek further medical assistance for lack of money. 3-years-old Tinni Musahar and, his sister, one-year-old Sushila Musahar have been suffering from acute malnutrition. Tinni reportedly weighs nine kilos and Sushila five kilos. Their lives seem at risk in the absence of immediate medical care. Their father, Mr. Kanayya, is reportedly unemployed and finds it difficult to earn a living. The Special Rapporteur also followed up his communication dated 16 August 2006, whereby he brought to the Government's attention allegations that the residents of Jai Bheem Nagar (JBN), in Meerut City, Uttar Pradesh, did not have access to safe drinking water and were therefore compelled to consume contaminated water. JBN, a slum located on the banks of the Kali Ganga River in Meerut city with a population of approximately 10,000 people, mostly Dalits, did not reportedly have any provision of municipal water. It was reported that JBN residents were compelled to consume water from private and government hand pumps, water allegedly polluted, discoloured and contaminated with heavy metals like chromium, cadmium, lead, iron and mercury many more times above the accepted limits. Whilst the Special Rapporteur welcomed the approval by the State Government of a project to construct an overhead water tank which could provide safe drinking water to JBN residents, information received indicated that implementation of this project has come to a standstill and could unlikely be completed by the end of December 2007 as originally foreseen.

## Italy

### Communication received

64. On 5 July 2007, the Government replied to the Special Rapporteur's letter of 17 August 2006 (A/HRC/4/30/Add.1, 18 May 2007) on the management of the integrated water system of Messina, Sicily. Firstly, the Government reiterated its full commitment to the enforcement of the relevant international obligations (International Covenant on Economic, Social and Cultural Rights) and regional obligations (Article 49 of the Maastricht Treaty devoted to "Services" and Framework Directive 2000/60/CE on the protection of water systems in the EU) it has assumed as well as to its constitutional framework particularly the principle of non-discrimination (Article 3 of the Constitution), the right to health and the local autonomy. The Government also stated that over the last decade, priority has been given to adopt and implement policies devoted to the guarantee of full and effective coverage of the water system across the country. To this end, local authorities have established Environmental Authorities, pursuant to Act No. 36/94 (the so-called "Galli Law"), with the primary aim of organizing an integrated water system. This law provides that, *inter alia*, the body in charge of the organization of the water system may be selected by awarding a public franchise (concessione pubblica) or "by incorporating a wholly publicly-owned company". Concerning the specific case raised by the Special Rapporteur, given the failure of ATO 3 Messina to implement the procedures for entrusting the management of the water service, the Commissioner in charge of the water emergency in Sicily, appointed a lawyer, Mr. G. Immordino, by Decree No. 596/2006 who was mandated to initiate the procedure for entrusting the management of the local water service. According to the information provided by the Government, the ad-hoc Commissioner ("commissario ad acta") favoured the award to a public franchise and therefore called for a public tender. However a group of municipalities in the ATO 3 Messina Consortium challenged this decision and sought to have it annulled by the courts. In this regard the Regional Administrative Court referred the case to the Constitutional Court without suspending the tender, which, however, failed to attract any response. The Government's letter continues explaining that, by Note No. 3381 of 6 February 2007, the Sicilian Regional Agency for Waste and Water, which replaced the Commissioner for water emergency, requested ATO 3 Messina to convene an urgent meeting with relevant stakeholders in order to re-launch the procedure for entrusting the management of the integrated water service. According to the Government's information, up until the time of finalizing its letter, none of these tasks had been discharged. The Government acknowledged that failure to entrust the management of the integrated water service has prevented the implementation of those measures related to the system of drinkable water, sewage and water treatment provided for under the three-year Operational Plan (POT). In addition, it acknowledged that this situation merits the utmost attention and stated that it would like to provide the Special Rapporteur with additional information as soon as it becomes available.

### Communication sent

65. On 22 October 2007, the Special Rapporteur sent a communication to the Italian Government that he warmly welcomed the initiatives undertaken by the Government to consult a range of stakeholders on the revision of its breast milk substitutes marketing regulations. The Special Rapporteur stated that he hopes that this process will provide a good opportunity to the Government to consider giving full effect to the provisions of the International Code for Marketing of Breast milk Substitutes (hereafter referred to as the Code). Revised EU Directive

2006/141 has also encouraged Governments of the European Union to give, at a minimum, full effect to the provisions of the Code and to set even higher standards. In this regard, the Special Rapporteur declared that he understands that a number of stakeholders have made suggestions so as to bring the proposed revised regulations in line with the standards set by the Code, including, for example, that marketing restrictions should apply not only to breast milk substitutes but also to complementary food promoted as substitutes, feeding bottles and teats, and that marketing practices targeting pregnant women or mothers of infants and children up to three years of age, such as contact through direct mail, websites, baby clubs and telephone care-lines, should be prohibited.

## **Lao People's Democratic Republic**

### **Communication received**

66. On 4 January 2007, following the joint letter from the Special Rapporteur and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people dated 3 November 2006, the Government provided additional information on the implementation of the Nam Theun 2 Project. They affirmed that the food security was well ensured for the people resettled on the plateau as well as for those affected by the construction of the project. In addition, they denied the claims made by some NGOs and stressed the fact that the Nam Theun 2 Company made public on its website [www.namtheun2.com](http://www.namtheun2.com) information that refuted the mentioned claims. It was also informed that the implementation of the referred project was being monitored not only by the Government but also by several external independent entities such as the Environment and Social Panel of Experts, the Lenders' Engineers, the GOL Engineers, the World Bank, the Asian Development Bank, the Agence Française de Développement, and others. Annexed to the letter was a detailed reply on issues raised in the Special Rapporteurs' communication. It was described therein that one of the objectives of the Nam Theun 2 Project was to improve the livelihood of affected population, including food security, and that a social program was developed to achieve this objective. The steps of the compensation and livelihood project were detailed and the values of reference for the compensation payment were specified. It was stressed that compensation amounts varied from one household to the other, depending on the losses and values of their lost assets. Considering that there was no clear understanding of the project's policies on the part of communities concerned as well as the public at large, it was reported that campaigning teams started working towards strengthening their communications with local communities as to enhance the understanding. It was further explained that for the marginally affected households who lost less than 10% of their incomes, the provisional compensation would be paid in one installment; for the seriously affected households who lost more than 10% of their incomes, the provisional compensation would continue to be paid to them until their livelihoods were restored. Where double cropping existed, the provisional compensation would be paid for double crops. Regarding the measures to be taken to prevent shortage of food on the Nakai plateau resettlement and measures to facilitate access to local markets during the rainy season, it was informed that the relocation program was still taking place during the rainy season and that the project provided a transitional assistance package. Even though the rainy season could cause some inconvenience for people to move around, it was alleged that the moving households demonstrated to be eager and enthusiastic to move to their new places of settlement. Considering the reduction of grazing areas, the herd size would have to be reduced and some households using Nakai as grazing ground would probably not be able to maintain the same herd size. The socio-economic impact and optimization of the available land for resettling families was being monitored. Based on the land resources mapping and analyses of potentials, livelihood making options would be further worked out with each household. In respect to the market access for products, preliminary provisions were being developed in the Strategic Development Plan. It was once again emphasized that the development of the resettlement and livelihood restoration program followed a consultative and participatory process audited and approved by several international financial institutions with the effective participation of the

affected communities. Finally, it was said that the Nam Theun 2 Project was designated to mitigate the negative impacts of possible bad water quality in the reservoir.

### **Follow-up**

67. On 3 October 2007, the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people thanked the Government for its reply on 4 January 2007 in response to their communication sent on 3 November 2006 (A/HRC/4/30/Add.1, 18 May 2007) on the potential impact of the construction of Nam Theun 2 dam on the human rights. The Special Rapporteurs were encouraged by the exhaustive information provided by the Government concerning the measures being taken to ensure the food security of the people resettled in the Nakai Plateau and other communities affected by the construction of the project as a matter of priority. In addition, the Special Rapporteurs brought to the Government's attention allegations received concerning the situation of various villages, including the Vietic indigenous communities that will likely be affected by the construction of the dam, particularly with regard to their food security and access to land and natural resources. With regards to food security in the Nakai Plateau Area, including access to water and other natural resources, the Special Rapporteurs have been informed that there continue to be problems with the livelihood restoration plans for the affected communities in three principal project areas: the Nakai Plateau resettlement; the Project (construction) Lands Compensation; and the Xe Bang Fai Downstream Program. According to the information received, concerning the Nakai Plateau resettlement area, there seems to be widespread confusion among local villagers concerning the exact scope of their compensation entitlements. In this regard, according to the reports, people who have lost approximately 10% of their land as a result of the dam construction have not been compensated and have not been informed of their right to be compensated according to existing plans. Moreover, the reports received claimed that the project income targets for the resettlers are unlikely to be met, and that the area currently selected for their resettlement is not appropriate for continuing their traditional livelihoods. In addition, the reports documented the various problems faced by resettled families as a result of constant water shortages and of the rapid deterioration of temporary shelters, in the absence of more definitive solution to their housing. Concern has been expressed regarding the situation of the Vietic indigenous communities, which have inhabited the Nakai Plateau since time immemorial. The information received alleged that the proposed resettlement area (Area 7) does not respond to the community's expressed views concerning their resettlement, including their request to be resettled within their spirit territory and to be clustered in a village of their own. Moreover, the reports received indicated serious malfunctioning of the Village Forestry Association (VFA) in Nakai. According to the information received, the VFA is still not fully functioning, and is reportedly thwarted by widespread corruption and illegal logging. This situation seems to be at least partly connected to the attribution of the VFA's management to an official of the Ministry of Agriculture and Forestry, which has reportedly led to a number of irregularities in the functioning of the association and deprived it from its original community-based spirit. The reports received also pointed at the existence of problems in the implementation of resettlement plans and livelihood restoration options for communities displaced from the project lands. Similar to the situation described in relation to the Nakai Plateau, problems reportedly exist as a result of inadequate access to water and delayed construction of replacement houses. In addition, there also seems to be overall lack of understanding of existing entitlements, and the lack of compensation for the loss of fish raises special concern. This situation seems to be linked to the fact that the Resettlement Action Plans for Project Lands were disclosed nearly two years after the affected villages lost their lands and



assets as a result of the project. In addition, the reports indicated the existence of problems in the process of identification of suitable alternative lands for resettlement, lead in turn to a pattern of inequalities in the distribution of available land. According to information received, the implementation of the Downstream Livelihood Restoration Program was then experiencing serious delay, to the effect that it would apply only to 21 villages –10% of the 226 villages that were expected to be affected. Furthermore, the allegations received also indicated that the resources assigned to that program are clearly inadequate to face the needs of all affected villages emerged following the implementation of the project. In relation to the actual operation pilot projects under the Livelihood Restoration Program, concern has been expressed that the communities are unfairly bearing the risk involved in those projects. This has seemingly been the case of the pig raising scheme, whose failure has left many villagers in a situation of insolvency due to their obligation to pay back the cost of the animals to the Village Saving Funds. Furthermore, according to the allegations received, concern has been expressed about the lack of plans for the removal of biomass at least in the reservoir area, an issue that was already raised in the letter of 3 November 2006. The information received claimed that failure to clear biomass from the reservoir area will result in water quality problems and would decimate fish in both the reservoir area and downstream. Many of the above allegations appeared to be connected to the lack of access by local villagers and other stakeholders to official information on the Naum Theun 2 project, which would seem to have contributed to generating a climate of concern and uncertainty concerning several environmental and social components of the project. In this connection, it has been alleged that the lack of disclosure of key reports related to the Naum Then 2 project contradicts the provisions of the National Policy on Environmental and Social Sustainability of the Hydropower Sector (2005), which provides that all large hydropower projects must produce a full environmental impact assessment and management plan and a comprehensive monitoring and evaluation framework based on independent mechanisms. The information received suggested that this policy was not yet fully implemented.

### **Communication sent**

68. On 10 May 2007, the Special Rapporteur together with the Independent Expert on Minority Issues, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons and 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, brought to the Government's attention information received that thousands of men, women and children from the Hmong ethnic minority, who have been living and hiding in the jungle and on the run from the military, having been driven to destitution as well as lacking food, water, clothing, housing and medical care. According to these allegations, these people are unable to cultivate crops because they fear that it would make them easily detectable by the military particularly from the air. They reportedly live from what they can gather in the forest although it is alleged that they do not pick up any visible quantity of wild fruit in certain areas in order to evade being found and do not hunt animals. The information received indicated a high level of malnutrition within this group particularly of children who have reportedly distended bellies, bleached hair and skinny frames as a result. The reports claimed that regular violent attacks around and on encampments and its inhabitants have led to continuous displacement which affect their right to an adequate standard of living including shelter, drinking water and food. According to these reports, armed attacks by the military on people in the jungle have occurred on many occasions while they forage for food including roots and husks. For example, it was reported that in one of these incidents, in April 2006, 17 children were among the 26 people who were killed while they were searching for food.

**Communication received**

69. On 3 August 2007, the Government replied denouncing the accusations as groundless and unsubstantiated. The Government stated that there has never been either a policy or practice of the Lao PDR Government to deprive its own people of their right to an adequate and equitable standard of living. On the contrary, international reports from the United Nations and international assistance agencies allegedly confirm that the Government has put into implementation a long-term socio-economic development strategy with a view to moving the country out of least developed status by the year 2020. It was stated that the Country has strong development and humanitarian policies that serve the people's interest and improve their living conditions.

**Mexico****Comunicación ebviada**

70. El 15 de marzo de 2007, el Relator Especial, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre una vivienda adecuada como elemento integrante del derecho a un nivel de vida adecuado y sobre el derecho de no discriminación a este respecto enviaron una carta de alegación al Gobierno de México en relación con el Proyecto Hidroeléctrico La Parota. Los Relatores Especiales agradecieron al Gobierno de México por las detalladas informaciones enviadas así como por su cooperación. Los Relatores Especiales señalaron al Gobierno informaciones adicionales recibidas en relación con dicho proyecto. De acuerdo con estas informaciones, la Comisión Federal de Electricidad (CFE) habría incurrido en desacato en relación con las resoluciones judiciales del Tribunal Unitario Agrario de Distrito 41 y del Juzgado Tercero de Distrito, que decretan la protección a los terrenos comunales afectados por la construcción de la represa y prohíben a la CFE que invada estos terrenos para efectuar obras y acciones relacionadas con la represa. Esta prohibición afectaría a la construcción de carreteras de acceso para la construcción de la represa hidroeléctrica que, de acuerdo con el proyecto original de La Parota, afectarían a cuatro de las comunidades amparadas por las resoluciones judiciales. Según las alegaciones, a pesar de las resoluciones judiciales, se estaría construyendo la carretera que comunica Tunzingo con el poblado de San Isidro Gallinero, y que atraviesa el núcleo agrario de Cacahuatpec, y para ello se habría introducido maquinaria en los terrenos comunales de Cacahuatpec. Asimismo, se informa de los planes para construir la carretera entre Dos Arroyos y Los Huajes, Altos del Camarón, Agua de Perro y La Venta, que contaría ya con un presupuesto asignado. Según las informaciones recibidas, un grupo de personas, que se habrían identificado como miembros de un comité para la construcción de la carretera, se habrían presentado en el núcleo Dos Arroyos en diciembre de 2006 para comunicar que abrirían un nuevo camino de la autopista del Sol a la localidad y para dialogar con los dueños de los terrenos que se verían afectados. Según las informaciones recibidas, la construcción de estas carreteras no estaría siendo llevada a cabo por la CFE, sino por el gobierno de Guerrero. Según

las alegaciones recibidas las autoridades estatales estarían sirviendo de conducto a la CFE para llevar a cabo estas obras, y que su mediación sería una maniobra para evadir el cumplimiento de las resoluciones judiciales mencionadas. Se alega también que, aun si estos dos caminos fueran obras del Gobierno del Estado, serían ilegales, ya que ni el Gobierno estatal ni el Gobierno federal, cuentan con los convenios de ocupación previa que exige la Ley agraria para la realización de trabajos relacionados con La Parota, y que los terrenos ejidales y comunales que serían afectados con las obras de las carreteras no han sido expropiados ni han cobrado el derecho de vía. Junto con la situación de desacato a las resoluciones judiciales que protegen a las comunidades afectadas por la construcción de la represa, los Relatores Especiales han recibido alegaciones en torno a supuestas inconsistencias existentes en los documentos preparatorios del proyecto. Así, los datos relativos al número de personas afectadas por la construcción de la represa proporcionados por el Gobierno (3.039) no concordarían con la cifra que sostienen los comuneros y ejidatarios que habitan la zona (25.000), ni con la manifestación de impacto ambiental (MIA) del proyecto de 2004, que indica que unas 2.488 personas se verían afectadas en localidades totalmente inundadas, y otras 7.697 personas en localidades inundadas parcialmente. Específicamente, el poblado de Dos Arroyos, ubicado en el municipio de Acapulco y con una población de 2.100 habitantes, que se vería inundado parcialmente, no fue incluido en la lista de poblados afectados aportada por el Gobierno. También se alega que no se hace mención con respecto al número de los afectados indirectos (río abajo), que sufrirán por la sequedad y salinidad de las tierras, ni tampoco respecto a las 14 comunidades que según el mismo proyecto de la CFE se verán evacuadas en un segundo momento a causa de la construcción de dos represas de mitigación. Los Relatores Especiales tuvieron también conocimiento de las disposiciones relativas a la compensación de los comuneros afectados incorporadas en el documento Participación comunitaria en el reacomodo de poblados del proyecto hidroeléctrico La Parota elaborado por la Dirección de Proyectos de Inversión Financiada, Subdirección de Construcción, Coordinación de Proyectos Hidroeléctricos de la CFE. Dicho documento se referiría a la dotación de mejores viviendas a los afectados, pero no mencionaría la restitución de tierras de cultivo ni la indemnización. De acuerdo con la información recibida, no existiría ninguna experiencia precedente en el país en la que los reubicados por las presas hayan mejorado sus condiciones de vida gracias a las formas de compensación derivadas de proyectos, citándose los ejemplos de las represas del Caracol (1986), la de Los Huites (1994) y la de El Cajón (en curso). Los afectados por la construcción de la represa declaran no haber recibido información suficiente sobre el proyecto por parte de la CFE que les permita valorar los costos y beneficios del proyecto. En la misma MIA (capítulo IV sobre el impacto socioeconómico del proyecto, en la parte llamada “elementos críticos”) se reconoce que “[a] pesar de los esfuerzos realizados por la CFE, la labor informativa no ha podido transmitir con claridad los impactos que sufriría cada una de las comunidades”. En relación con la reunión pública de información sobre la MIA que tuvo lugar el 24 de agosto de 2004, se alega que este mecanismo es de naturaleza eminentemente ambiental y que por lo tanto no tomó en cuenta las afectaciones sociales del proyecto, incluyendo cuestiones agrarias o de derechos humanos, y que por tanto no puede considerarse como un procedimiento válido de consulta en relación con todos los aspectos del proyecto. Esta situación de falta de información no favorecería las negociaciones que se llevarán a cabo próximamente con las partes afectadas, habiendo generado un clima de confusión e incertidumbre en las comunidades y contribuyendo a la división al interior de las mismas. Se informó también de que se produjeron múltiples irregularidades en las asambleas comunales y ejidales convocadas para la discusión del proyecto al interior de las comunidades afectadas. Se alega que en las asambleas realizadas, los campesinos incluidos en las listas (padrones) de los que tienen derecho al voto constituirían un porcentaje mínimo de la población, ya que las listas no se encontrarían actualizadas y sólo se

tomarían en consideración a las personas que tienen derechos agrarios sobre las tierras y no a los poseedores, avecinados y ciudadanos en general que viven en la zona. Asimismo, de acuerdo con las informaciones recibidas, cuatro de las asambleas realizadas (bienes comunales de Cacahuatpec y ejidos Dos Arroyos, Los Huajes y La Palma) habrían sido impugnadas y sujetas a procedimientos administrativos, habiéndose producido supuestas violaciones a los procedimientos establecidos en la Ley agraria. Entre otras se menciona: que las convocatorias no fueron circuladas en los núcleos agrarios que debían participar en ellas; que no fueron expuestas en lugares visibles y no se expidieron en los tiempos previstos por la ley; que se impidió con el uso de la fuerza pública la participación de los campesinos opositores al proyecto; que no se verificó el quórum establecido para que legalmente se votara la expropiación de las tierras; y que las asambleas no se llevaron a cabo, según establece la ley, en los lugares tradicionales sino en municipios aledaños. Aunque el Gobierno cita el artículo 25 de la Ley agraria para justificar el cambio de lugar habitual debido a las supuestas amenazas de los opositores al proyecto, se alega que no se respetaron los tiempos de convocatoria previstos en el mismo artículo, lo que dificultó el traslado y la participación de varias personas con derecho a participar. Por último, se recibieron alegaciones en relación con la situación de inseguridad, hostigamiento y manipulación que sufren los afectados, y que no les permitiría trabajar y emprender los proyectos productivos de desarrollo que les permitirían mejorar su economía campesina. Ha sido también alegado que desde que hace tres años los afectados han emprendido actividades de defensa de sus derechos, habrían sido obligados a abandonar el trabajo, las actividades cotidianas y las familias, y a vivir constantemente bajo presión y temor de ser desalojados en contra de su voluntad.

71. El 19 de marzo de 2007, el Relator Especial, juntamente con la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Representante Especial del Secretario-General para los defensores de los derechos humanos señaló al Gobierno información recibida en relación con la situación siguiente. De conformidad con las informaciones recibidas, el Sr. Jesús Emiliano García, dirigente de la organización denominada Frente Democrático Campesino (FDC), organización con presencia en el Estado de Chihuahua, había sido arrestado el 9 de marzo de 2007, hacia las 13h00 horas, por agentes de la Agencia Federal de Investigaciones (AFI) quienes no habían presentado orden de captura alguna. Según las informaciones recibidas, el Sr. García había sido detenido en las afueras de las oficinas del FDC, ubicadas en la calle Coronado de la ciudad de Chihuahua, en presencia de su esposa, Sra. Victoria Hernández Olmos, que se encontraba en estado de siete meses de embarazo. Ha sido alegado que al igual que su marido, la Sra. Hernández Olmos habría sido amenazada y maltratada por los agentes. El operativo de la Agencia federal de Investigaciones había contado con el apoyo de agentes de la policía municipal y de la policía del Estado. El Sr. García había sido conducido esposado a un vehículo sin placas de identificación. Inmediatamente después del arresto, la esposa del Sr. García se había dirigido a las oficinas de la Procuraduría General de la República (PGR) con el fin de verificar su paradero y si realmente las personas que habían realizado la aprehensión habrían sido agentes de dicha institución. El Subdelegado le había informado que su marido estaba detenido en el Centro de Rehabilitación Social (CERESO) de Chihuahua y que su caso sería llevado ante el Décimo Juzgado de lo Federal. Al día siguiente, personal judicial se había trasladado al CERESO para tomar la declaración del Sr. García. Dicha diligencia se había realizado sin la presencia de abogado defensor. El Sr. García se había negado a hablar. Se afirmó también que esta persona, al igual que los dirigentes del FDC, Sres. Rogelio Ruelas, Francisco Escalante, Javier Castillo y Víctor M. Quintana, habrían sido denunciados por sabotaje por la delegación en Chihuahua de la Secretaría de Agricultura, Desarrollo Rural, Pesca y Alimentación (SAGARPA). El sabotaje está considerado como un delito grave, sin derecho a

fianza, tipificado por el Código Penal del Estado Federal. La acusación habría sido presentada luego de la movilización realizada por el FDC el 19 y 20 de febrero para solicitar la puesta en marcha de un programa emergente para la preparación de tierras para la siembra de maíz y frijoles. La denuncia de la SAGARPA habría sido tramitada con extrema rapidez y celeridad, no habiéndose notificado a los denunciados. La denuncia habría sido desproporcionada, sin mayor fundamento, de carácter político y habría sido formulada con el objeto de amedrentar a quienes protestaban contra funcionarios de la delegación SAGARPA de Chihuahua. Se afirmó también que anteriormente la SAGARPA se habría limitado a interponer denuncias por daños, pero esa vez habría denunciado sabotaje. En su comunicación el Relator Especial expresó preocupación por la posibilidad que estos eventos pudieran estar relacionados con la actividad en defensa de los derechos humanos del Frente Democrático Campesino, en particular su trabajo en atender las demandas de los campesinos pobres.

### **Comunicación recibida**

72. El 17 de agosto de 2007, el Gobierno respondió, indicando que el Sr. Jesús Emiliano García había sido detenido el 9 de Marzo de 2007 por agentes de Delegación de la Agencia Federal de Investigaciones en Chihuahua; sin embargo, dicha detención se habría llevado a cabo en cumplimiento a una orden de aprehensión emitida por la autoridad jurisdiccional competente. El 27 de febrero de 2007 se había consignado una averiguación previa, en la que se había ejercitado acción penal en contra de Jesús Emiliano García, Francisco Escalante Corona, Victor Quinta Silveira, Javier Castillo Domínguez y Rogelio Ruelas, por su probable responsabilidad en la comisión del delito de sabotaje, previsto y sancionado en el primer párrafo del artículo 140 del Código Penal Federal. El 28 de febrero de 2007 la Juez había dictado orden de aprehensión en contra de las citadas personas, al considerar que de la averiguación previa se habían desprendido suficientes elementos para acreditar el cuerpo del delito y la probable responsabilidad de los indiciados, de conformidad con la legislación mexicana. El 9 de marzo de 2007 agentes de la Agencia Federal de Investigaciones habían dado cumplimiento a la orden de aprehensión girada en su contra. Los agentes federales se habían identificado plenamente con el Sr. Jesús Emiliano García, haciéndole saber que se contaba con una orden de aprehensión en su contra y mostrándole el documento. El Gobierno también precisó que el Sr. García, cuando recibió el mandamiento de detención, comenzó a agredir física y verbalmente a los agentes federales, oponiendo resistencia a su arresto. El Sr. García fue trasladado a las instalaciones de la subdelegación de la Procuraduría General de la Republica, en donde le fue practicado el examen médico legal por la perito médico forense, quien al suscribir el dictamen correspondiente señaló que Sr. García no presentaba huellas de lesiones traumáticas externas recientes al momento de su examen médico legal. El 9 de marzo de 2007, el Sr. García rindió su declaración preparatoria, negándose a declarar ante el Juez y acogiendo a la fracción II del artículo 20 constitucional. El 14 de marzo de 2007 el Juez determinó que procedía dictar auto de libertad a favor del Sr. García. De los hechos antes reseñados se desprendió que el Estado Mexicano en todo momento habría actuado en estricto apego a la legalidad y respetando plenamente los derechos del Sr. Jesús Emiliano García. De acuerdo con lo señalado por la Procuraduría General de la República, en ningún momento se habría agredido a ninguna persona, menos aún a la esposa del Sr. García. Se habrían cumplido las formalidades que la legislación mexicana prevé para la integración de una averiguación previa y su radiación ante la autoridad judicial.

### **Comunicaciones enviadas**

73. El 20 de abril de 2007, el Relator Especial señaló al Gobierno información recibida en relación con la situación de los campesinos del Carrizalillo en el municipio de Eduardo Neri, estado de Guerrero, la cuya tierra y acceso a sus fuentes habituales de sustentamiento estarían amenazadas por las operaciones mineras en la zona. Según la información recibida, el Carrizalillo es un pueblo campesino pobre de dos mil habitantes que se ha históricamente mantenido de la producción del mezcal y del cultivo del maíz, aunque sus tierras contienen oro, plata, zinc y uranio. Según los informes, en 1994 la empresa minera mexicana Peñoles S. A. de C. V. empezó a hacer trabajo de exploración y a verificar las posibilidades de extraer oro de las parcelas y tierras de uso común. Los informes afirman que Peñoles firmaría con los ejidatarios contratos de ocupación temporal para 900 hectáreas de sus tierras por 1,475 pesos anuales por hectárea utilizada. La empresa Newmont se asoció luego a Peñoles. En 2005, Peñoles y Newmont cedieron sus derechos a la empresa minera Luismin S.A. de C.V. para explotar a cielo abierto la mina "Los Filos". Según los informes, la Luismin no renegociaría el pago por la renta

de las tierras. Sin embargo, aseguraría a los ejidatarios que les va a contratar como trabajadores en la mina y que les va a otorgar la concesión para el acarreo del mineral. Según los informes recibidos, en cuanto la Luismin tiene el mandato de extraer el mineral, la compañía empezaría a delimitar y encerrar todas las parcelas, lo que impediría a los campesinos de acceder a sus tierras y a seguir cultivándola afectando de tal manera su acceso a una alimentación suficiente y adecuada. Parece que la Luismin invada parcelas donde no cuenta con el contrato de ocupación temporal y realice daños sobre las parcelas. Según los informes, el 8 de enero de 2007, el pueblo del Carrizalillo se organizó en la Asamblea Permanente de Ejidatarios y Trabajadores del Carrizalillo e inició un plantón a la entrada de los Tajos, Los Filos y el Bermejil asentándose en sus tierras ejidales, impidiendo el paso de la empresa a la mina, para exigir la revisión y renegociación de los contratos de ocupación temporal. Según las alegaciones, el 25 de enero de 2007, cien policías estatales y municipales, varios de ellos armados, habrían desalojado a golpes a los ejidatarios quienes estaban en el plantón. Tras a este acontecimiento 70 campesinos habrían sido privados de su libertad durante cuatro horas, entre ellos mujeres y niños.

74. El 6 de junio de 2007, el Relator Especial señaló al Gobierno información recibida en relación con la situación en San Francisco Ocotlán donde los habitantes alegaban ver amenazado su acceso al agua por la perforación de seis pozos de 150 metros de profundidad por parte del gobierno estatal para abastecer a la Ciudad de Puebla. San Francisco Ocotlán cuenta con 10,027 habitantes y según esta información aproximadamente el 20% de la comunidad cuenta con agua potable. Según los informes los nuevos pozos afectarían el acceso al agua de pobladores de San Francisco Ocotlán, y a los municipios de Acuexcomac, Cebonilla, Miguel Xoxtla, Moyotzingo, San Antonio Mihuacan, San Tlaltenango, Santa Ana Xalmimilulco, Texmelucan, Tlaxcalancingo, Zacatenco, Zoquiapan y parte del estado de Tlaxcala. Según los informes, el problema parecía iniciar el 13 de diciembre de 2006 cuando algunos pobladores de San Francisco Ocotlán se dieron cuenta que el Sistema Operador de los Servicios de Agua Potable y Alcantarillado de Puebla (SOAPAP) había enviado dos perforadoras para nuevos pozos sin notificación ni ningún documento oficial del proyecto. Según los informes, la perforación de pozos y su extracción indiscriminada no garantizarían el reabastecimiento natural de los mismos y la comunidad se abastecería de agua con la compra de pipas, agua que tiene un alto costo considerando los ingresos de las familias y que además es de mala calidad. Según las alegaciones recibidas las autoridades habrían puesto en marcha proyectos urbanos donde se construirían unidades habitacionales en terrenos donde no habría agua suficiente para cubrir los servicios de abastecimiento de agua o bien, a comunidades cercanas se les privaría del agua de sus pozos para abastecer a estas unidades habitacionales. Además, se estaría vendiendo las tierras a empresas extranjeras, las cuales les garantizarían tener y extraer agua de pozos para uso industrial sin ningún criterio de sustentabilidad. El Relator Especial también señaló al Gobierno información recibida en relación con el incidente que ocurrió el 9 de septiembre del 2006 cuando Pedro Hernández Pérez y Juan Rodríguez Martínez, indígenas tsotsiles, habitantes de la comunidad El Huitepec Ocotál Segunda Sección, municipio de San Cristóbal de Las Casas, estaban trabajando la tierra que han cultivado por generaciones. Según esta información, aproximadamente a las 10.00, habrían sido detenidos por elementos de la Policía Municipal y personas que se identificaron como inspectores de la Procuraduría Federal de Protección al Medio Ambiente (PROFEPA) quienes les habrían dicho que estaban cometiendo un delito al cultivar en esas tierras y que eran propiedad del Municipio de San Cristóbal de Las Casas y el Gobierno del Estado habría acordado considerarlas Áreas Naturales Protegidas. Según los informes, los dos campesinos habrían sido trasladados ante la Agencia del Ministerio Público de la

Federación en San Cristóbal de Las Casas acusados de tala de árboles y cambio de uso de suelo forestal. Después de 24 horas de detención habrían obtenido su libertad después de pagar una fianza de 15,000 pesos. Según la información recibida, las 17 familias tsotsiles de esta comunidad habrían poseído por generaciones una extensa porción de bosques, aproximadamente 102 hectáreas, que mantienen y disfrutan como parte de su territorio y de donde obtienen los principales alimentos para su sustento. La creación del Área Natural Protegida El Huitepec-Los Alcanflores, donde se ubica esta comunidad, habría sido anunciada trámite acto publicado el 28 de septiembre del 2006 por un diario de circulación estatal supuestamente sin consulta con la comunidad afectada.

75. El 20 de julio de 2007, el Relator Especial, juntamente con el Representante Especial del Secretario-General para los defensores de los derechos humanos señalaron a la atención del Gobierno información recibida en relación con Santiago Perez Alvarado, defensor de derechos humanos y abogado de derechos humanos quien ha encabezado la resistencia de campesinos e indígenas del sur del estado de México contra proyectos hidráulicos del Cutzamala. De acuerdo con la información recibida, el 5 de julio del 2007 Santiago Pérez Alvarado fue detenido alrededor de las 19.40 horas mientras estaba conduciendo. Según testigos, cuatro hombres vestidos de civil rompieron el vidrio del vehículo del Sr. Pérez Alvarado y procedieron a darle golpes. Al día siguiente de su detención, la jueza lo puso en libertad, pero al salir aparecieron agentes de la Agencia de Seguridad Estatal (ASE) que lo detuvieron de nuevo por otra causa pendiente en el distrito de Temascaltepec. El Sr. Pérez Avarado fue llevado por los agentes a Temascaltepec donde lo acusaron de secuestro, supuestamente cometido en el año 1999. En el momento de la detención, el Sr. Pérez Avarado estaba apoyando a los habitantes que forman parte del Comité por la Defensa de los Recursos Naturales del Río Temascaltepec en sus negociaciones para resolver el conflicto relacionado con las obras de construcción de la presa El Temascaltepec. A través de dicha presa, se podría ver dañada la vida productiva y económica de la región. El Sr. Pérez Avarado también ha apoyado las luchas de los campesinos e indígenas en el Valle de Toluca y suroeste del Estado de México contra el desarrollo de un centro de sky en el Parque Nacional Nevado de Toluca, sitio de culto para los indígenas y zona importante para las reservas de agua. Se teme que estos susodichos incidentes puedan estar relacionados con las actividades de Santiago Perez Alvarado en defensa de los derechos humanos, en particular los derechos de los campesinos e indígenas del sur del estado de México. También se quiere expresar preocupación por la integridad física y psicológica del Sr. Perez Alvarado mientras está encarcelado.

76. El 30 de agosto de 2007, el Relator Especial juntamente con 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 y el Representante Especial del Secretario-General para los defensores de los derechos humanos señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. Jair Pineda y el Sr. Armando Mendoza Ponce. Los Srs. Pineda y Mendoza Ponce son miembros del Frente Amplio Opositor (FAO), una agrupación de organizaciones ecologistas locales que está en contra de un proyecto minero en el Cerro San Pedro, en el estado de San Luis Potosí. El mencionado proyecto está supuestamente contaminando el agua local con cianuro y destruyendo la montaña de San Pedro por el uso de explosivos. Según la información recibida, el 5 de agosto del 2007, el Sr. Jair Pineda habría hablado con dos empleados de la empresa minera del Cerro San Pedro. A la una de la



mañana cuando iba en su automóvil habría sido seguido por los dos trabajadores que conducían un vehículo de la empresa minera. Según los informes, los hombres lo habrían alcanzado y le habrían ordenado que saliera del auto. Cuando el Sr. Pineda se negó, los dos hombres lo habrían seguido hasta las afueras del pueblo donde el Sr. Pineda pudo escapar. La misma noche, un grupo de hombres armados habrían llegado a la casa del Sr. Mendoza Ponce en Cerro San Pedro. Los hombres habrían disparado cuatro veces al vehículo del Sr. Mendoza Ponce que estaba estacionado en frente de la casa. Al denunciar el ataque a las autoridades, el Sr. Mendoza Ponce les habría informado que los hombres eran conocidos, y que eran los mismos hombres que habrían disparado contra los vehículos de otros activistas unos meses antes. Se expresa profunda preocupación por la seguridad e integridad física del Sr. Jair Pineda y del Sr. Mendoza Ponce, así como por la de los demás miembros del Frente Amplio Opositor. Además se teme que estos eventos puedan estar relacionados con la actividad de los miembros de dicha organización en la defensa de los derechos humanos, en particular con el trabajo que llevan a cabo en la protección de los recursos naturales de la comunidad de Cerro San Pedro.

77. El 16 de noviembre de 2007, el Relator Especial junto al Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y al Relator Especial sobre una vivienda adecuada como elemento integrante del derecho a un nivel de vida adecuado y sobre el derecho de no discriminación a este respecto señalaron a la atención del Gobierno la información recibida en relación con la situación de la comunidad huichola (wixárika) de Bancos de San Hipólito, en el Municipio de Mezquital, estado de Durango. De acuerdo con la información recibida, la comunidad de Bancos de San Hipólito es una comunidad wixárika que se encuentra ubicada en el Municipio de Mezquital, en el estado de Durango. En tiempos inmemoriales, la comunidad de San Hipólito formó parte de la misma unidad territorial de la vecina comunidad de San Andrés Cohamiata. Las tierras de ambas comunidades fueron reconocidas en un título virreinal otorgado por la Corona Española en 1725. Sin embargo, según se informa, tras el procedimiento de confirmación y titulación de bienes comunales de San Andrés Cohamiata, Bancos de San Hipólito quedó segregado y sin reconocimiento sobre su territorio, el cual fue otorgado a un núcleo de población formado por colonos mestizos, San Lucas de Jalpa, por (Resolución Presidencial de 28 de julio de 1981, posteriormente confirmada por acta de posesión y deslinde de 28 de julio de 1981.) San Lucas de Jalpa, que carecería de presencia ancestral en el territorio, habría asumido desde entonces tanto la titularidad de las tierras como la representación agraria de Bancos de San Hipólito. A pesar de esta situación irregular, la comunidad indígena de Bancos continuaría usando sus tierras tradicionales, de conformidad con su derecho consuetudinario, usos y costumbres, en un área aproximada de 10,720 hectáreas, que se encuentran dentro de las tierras formalmente reconocidas a San Lucas de Jalpa. En dicha área, según los informes, los miembros de la comunidad de Bancos practican todavía la agricultura rotativa, de acuerdo con criterio de pertenencia a linajes familiares tradicionales. Dicha actividad agrícola procura a esta comunidad acceso a los alimentos necesarios para su subsistencia y está íntimamente vinculada con ceremonias y ofrendas en lugares sagrados, que se considera que refuerzan las relaciones recíprocas con el mundo natural y con sus ancestros. Existiría una correlación entre los centros ceremoniales, los lugares sagrados y el número de rancherías, cuyo gran número y dispersión serían la consecuencia de la topografía accidentada, de la escasez del agua y de la dispersión de la agricultura itinerante. Desde 1968, las autoridades de Bancos habrían emprendido una serie de acciones legales ante las autoridades mexicanas para lograr el reconocimiento formal de sus tierras a través de un procedimiento de dotación, sin conseguirlo. A raíz de los trabajos de

regularización realizados por el Programa de Certificación de Derechos Comunales (PROCEDECOM), implementado por la Secretaría de la Reforma Agraria, a favor de San Lucas de Jalpa, la comunidad de Bancos habría interpuesto recursos ante el Juzgado de Distrito en Materia Administrativa en el estado de Durango, en 2000, y ante el Tribunal Agrario del Distrito VII del estado de Durango, en 2002. El 27 de octubre de 2007, el Tribunal Superior Agrario del estado de Jalisco emitió la sentencia definitiva sobre el caso. En su sentencia definitiva, el Tribunal Superior Agrario habría confirmado la propiedad de las tierras a favor del núcleo agrario de San Lucas de Jalpa, ordenando a la comunidad indígena de Bancos de San Hipólito a que entregara a favor de la primera las tierras de las que se encuentra en posesión, con excepción de “aquellas áreas de asentamiento humano, construcciones en donde radican los indígenas huicholes y de superficies destinadas a la agricultura.” El 10 de agosto de 2007, la comunidad habría interpuesto un recurso de amparo ante la autoridad constitucional en contra de la sentencia agraria. Según las alegaciones, la obligación de restitución dictada por el Tribunal Superior Agrario afectaría a la mayor parte del territorio que tradicionalmente usa y ocupa tradicional Bancos de San Hipólito de conformidad con sus usos y costumbres, incluyendo áreas ceremoniales y de significación espiritual, rancherías, pastos, bosques, fuentes de agua y áreas reservadas a la agricultura itinerante. Según las informaciones recibidas la ejecución de dicha sentencia equivaldría al desalojo forzado de la comunidad de sus tierras ancestrales, privándola de cualquier posibilidad de supervivencia material y cultural como comunidad. Se alega asimismo que la situación jurídica que enfrenta ahora la Comunidad de San Hipólito sería el resultado de la falta de adecuación en el derecho interno mexicano de las normas internacionales en materia de los derechos de los pueblos indígenas sobre sus tierras y recursos naturales, que incluyen el derecho de estos pueblos sobre la totalidad de los territorios que han usado tradicionalmente. Los Relatores Especiales han expresado preocupación por lo que la Comunidad de Baños de San Hipólito pareciera carecer de mecanismos eficaces en el derecho interno para la defensa de los derechos sobre su territorio, tal y como son reconocidos por las normas internacionales.

## **Myanmar**

### **Communication received**

78. On 26 January 2007, the Government replied to the Special Rapporteur's communication of 19 July 2006 (A/HRC/4/30/Add.1, 18 May 2007) concerning the alleged land confiscation cases in Mon State, Magwe Division and Yangon Division. Regarding Mon State, the Government informed that in order to encourage rubber plantation in the region, the local authorities reclaimed fallow lands therein and systematically allocated them to those who superintended the actual cultivation of land. Considering that some farmers who were not satisfied with such allocations lodged formal complaints, the local authorities redressed the situation by reallocating their lands or awarding them substitute land. According to the Government, the allegation that the Tatmadaw confiscated private rubber plantations in Thanbyuzayat township, Mon State is baseless. Concerning Magwe Division, the authorities concerned informed that the farmers agreed to relinquish their ownership over their land upon due payment. Finally, in respect to Yangon Division the authorities found that the alleged confiscated lands were granted to use as the Steel Plate Factory owned in accordance with the Farmland Nationalization Act 1953. Approximately 200 acres were transferred to the Ministry of Energy for the construction of fertilizer factory and about 800 acres were also transferred to the Department of Human Settlement and Housing Development to establish industrial zone. Although these lands were nationalized for the national projects in accordance with the prevailing law, the owners of the lands were compensated with prevailing price.

## **Nepal**

### **Communication sent**

79. On 22 August 2007, the Special Rapporteur together with the Independent Expert on Minority Issues, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people brought to the Government's attention information received concerning the situation of the right to food of two specific communities in the country, including indigenous and minority population, located around the Royal Chitwan National Park (RCNP), in Nawalparasi District. In the first case, information was received concerning the Ramandar settlement in Makawanpur District, Manahari, where there are approximately 1,200 households, mostly composed of Tamang and Chepang (Tsepeng) indigenous communities and Dalits. According to this information, these families were resettled in 2002 in this area as a result of displacement caused by floods and landslides. The settlement area consists of a small, de-forested hillside with no infrastructure, located within the RCNP's buffer-zone area. The allegations claimed that the new settlement area for the above communities provides space for housing but does not have

adequate areas for food cultivation. The initial 108,415 square meters of land permitted to attribute 339 square meters per family. With the increase in the number of households, the land availability continues to decrease and currently each family can have access to 85 square meters, which was reported to be insufficient to respond to the basic needs of all family members throughout the year. According to the reported estimates, in a good season this land could produce from 15 to 20 Kg. of maize, which reportedly does not feed a family longer than a few weeks. It was also reported that, despite the presence of several tube wells within walking distance, the residents of the Ramandar settlement are denied access to the wells and must obtain its water from a nearby stream where the water is reportedly murky and dark. In the second case, information was received concerning the situation of the Piprahar indigenous community (Majhi-fisherman and Bote-boatman) who has lived for decades as fishers on the vicinities of RCNP. The community's primary source of food was traditionally the fish caught in the Narayani River. It was alleged that these means of securing adequate food for the community were lost with the establishment of RCNP. According to the allegations received, RCNP has a mandate to protect and breed crocodiles, which requires abundant amounts of fish to survive and, to this end, the park's authorities declared a ban on fishing in the Narayani River, thus limiting the Piprahar community's traditional fishing practices. It appears that the Piprahar community has now only access to fishing in the tributary streams, which does not seem to provide a sufficient amount of fish to fulfil their dietary requirements. It also appears that additional restrictions on the size of fishing nets were introduced, and that in some cases fishing nets of these communities were burnt by the authorities. Families caught fishing in the river and collecting vegetables in the nearby forest experienced beatings and fines. It was further reported that, while some members of the community have been able to adapt to new means of livelihoods such as porters, labourers and workers in agricultural fields, others who try to derive their livelihoods from their traditional economies are unable to access sufficient and adequate food. In addition to the above, the situation of the Pripahar community seems to have deteriorated as a result of the displacement of the community due to the flooding of late 2006, which have forced them to abandon their settlement on the river banks and resettle in the nearby highlands in extremely poor and temporary conditions, and they have reportedly received no appropriate humanitarian assistance.

### **Communication received**

80. On 11 September 2007, the Government acknowledged receipt of the communication from the Special Rapporteurs regarding the Ramandar settlement and the Piprahar indigenous community and informed that it forwarded it to the capital.

### **Niger**

### **Communication envoyée**

81. Le 10 octobre 2007, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, le Rapporteur spécial sur les conséquences néfastes des mouvements et déversements illicites de produits et déchets toxiques et nocifs pour la jouissance des droits de l'homme et le Rapporteur spécial sur le droit qu'a toute personne de jouir du meilleur état de santé physique et mentale possible, a attiré l'attention du Gouvernement sur les informations reçues concernant les activités minières réalisées sur des territoires habités ancestralement par les populations nomades Touarègues du nord Niger ainsi que sur l'impact de ces activités sur l'environnement de ces populations. Selon les informations reçues, le peuple pasteur Touareg se trouve majoritairement dans la région d'Agadez et s'organise sous l'autorité de chefferies reconnues par l'Etat. L'appartenance à une chefferie donne au groupe le droit d'usage et de jouissance du territoire de la chefferie. Par l'intermédiaire de filiales nigériennes, le groupe français Areva y exploite des mines d'uranium depuis des décennies. Il semblerait que ces activités aient, de par une teneur en radioactivité très élevée, causé des dégâts importants à l'environnement. La conséquence immédiate serait la destruction par les rejets radioactifs des espaces forestiers et pastoraux, desquels les communautés Touarègues ont traditionnellement dépendu pour leurs activités de subsistance. En effet, l'eau du nettoyage du minéral, irradiée, serait rejetée, polluant ainsi les nappes phréatiques et par conséquent les puits. A long terme, ces activités entraîneraient une radioactivité par l'air, la terre et l'eau. Les mesures de protection et de sécurité sur les sites d'exploitation seraient inexistantes ou très largement insuffisantes. De nombreux cas de maladies et de décès ont été recensés depuis les années 1970. Les évacuations sanitaires seraient tardives ou refusées par les hôpitaux miniers. Par ailleurs, les rapports reçus ont exprimé des craintes quant aux conséquences négatives de ces activités minières, entraînant des changements drastiques dans les modes de vie des communautés Touarègues. Comme conséquence du pompage massif des ressources en eau, et du bruit permanent de ces activités d'exploitation, les activités d'élevage seraient rendues très difficiles, ce qui entraînerait le départ des populations nomades. D'après les informations reçues, en mai 2007 de nouvelles concessions minières ont été accordées à des sociétés étrangères dans le bassin de Tim Mersoi, dans la région d'Agadez. Toutes ces concessions affecteraient aussi les terres traditionnelles des communautés Touarègues. Celles-ci n'auraient été ni informées ni consultées au sujet de ces nouvelles implantations. Au contraire, selon des informations rapportées, il y eu des tentatives de les expulser de ces territoires. Apparemment, aucune mesure n'aurait été prévue pour indemniser les communautés affectées.

## **Paraguay**

### **Comunicación enviada**

82. El 1 de mayo de 2007, el Relator Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas señalaron a la atención del Gobierno la información que recibieron en relación con la comunidad indígena de Yakye Axa. Según las informaciones recibidas, el Gobierno todavía no había dado cumplimiento a la sentencia de la Corte Interamericana de Derechos Humanos a favor de esta comunidad. Esta situación dejaba a los miembros de Yakye Axa en una situación de extrema vulnerabilidad, en la medida en que continuaban siendo excluidos de sus tierras tradicionales así como del acceso a los recursos que garantizaban su subsistencia. La Corte Interamericana de Derechos Humanos identificó violaciones de los derechos a la vida, a la propiedad, a las garantías judiciales y a la protección judicial de la comunidad de Yakye Axa y a título de reparación determinó que el Estado del Paraguay debería llevar a cabo las siguientes medidas: entrega de las tierras tradicionales a la comunidad indígena; entrega de bienes y servicios básicos necesarios para la subsistencia mientras las tierras no fuesen entregadas; creación de un fondo destinado exclusivamente para la compra de tierras; implementación de un programa y un fondo de desarrollo comunitario; adopción en el derecho interno de medidas legislativas, administrativas y otras necesarias para garantizar el efectivo goce del derecho a la propiedad; realización de un acto público de reconocimiento de la responsabilidad del Estado; publicación y transmisión radial de la sentencia en el plazo de un año; pago por concepto de daño material, costos y gastos. En comunicación de fecha 18 de septiembre de 2006, la Corte Interamericana de Derechos Humanos precisó el modo de cumplimiento de las disposiciones antes referidas, indicando que, en relación con la atención inmediata a los miembros de la comunidad, el Estado debería presentar información específica, de forma que la Corte pudiese distinguir los bienes y servicios entregados a la comunidad Yakye Axa de los entregados a otras comunidades. Según las informaciones recibidas, a pesar del tiempo transcurrido desde que la Corte Interamericana hiciera pública su sentencia, el Paraguay no habría llevado a cabo las medidas requeridas para dar pleno cumplimiento a las medidas de reparación ordenadas por dicho tribunal. En este sentido, según las alegaciones, el Estado no habría llevado a cabo la entrega de las tierras reclamadas por la comunidad -la estancia Loma Verde. Se informó también que el Estado ha dado a conocer por distintas vías su reticencia a reconocer la estancia Loma Verde como el terreno a ser entregado a la comunidad. De la misma manera, con respecto a la creación de un fondo destinado exclusivamente a la compra de tierras, se informó que el aporte realizado hasta la fecha era insuficiente para la adquisición de la tierra. Por otra parte, según las informaciones recibidas, la tierra reclamada por Yakye Axa estaría siendo objeto de trabajos de desmonte y deforestación, que traerían consigo serias alteraciones del hábitat ancestral de la comunidad y que pondrían en peligro la capacidad de los indígenas a continuar con sus formas tradicionales de vida una vez recuperadas sus tierras. En lo que se refiere a la entrega de bienes y servicios básicos necesarios para la subsistencia de la comunidad en tanto esté sin tierras, se reportó que el Estado habría sido renuente a informar de manera precisa sobre las acciones realizadas. Según las informaciones, la atención médica a los miembros de la comunidad no habría mejorado de manera significativa, llevándose a cabo diagnósticos sólo superficiales a los enfermos y un suministro de medicamentos limitado. Además, no se habría cumplido con la obligación de suministrar agua potable a la comunidad, siguiendo ésta dependiente de los pozos de agua

ubicados en las tierras reclamadas en los que bebe el ganado, exponiéndose así al contagio de enfermedades. La entrega de víveres era insuficiente y no alcanzaba a toda la comunidad. Como consecuencia de esta situación general, los miembros de la comunidad seguían viviendo en condiciones de extrema pobreza. Se alegó asimismo que no existían partidas presupuestarias específicas necesarias para cubrir los gastos de estos servicios sociales. En relación con la implementación de un programa y fondo de desarrollo comunitario, se informó que si bien se estableció un comité de implementación para estos efectos, sólo se habían realizado dos reuniones. Se alegó, sin embargo, que en dichas reuniones no habían sido elaboradas actas con compromisos específicos por parte del Estado y que no se habrían establecido ni el cronograma ni la metodología de trabajo. En lo que se refiere a la adopción en el derecho interno de medidas para garantizar el efectivo goce del derecho a la propiedad, se indicó que el Estado no había realizado ninguna modificación del marco legislativo e institucional existente para hacer efectivo el goce del derecho a la propiedad de los pueblos y comunidades indígenas del Paraguay. Por último, según las informaciones, el Estado no había cumplido con la obligación de publicar partes determinadas de la sentencia y de transmisión radial, ni había procedido al pago de la totalidad de la compensación establecida por la sentencia por concepto de daño material, costos y gastos.

## **Peru**

### **Comunicación enviada**

83. El 19 de diciembre del 2006, el Relator Especial señaló a la atención del Gobierno la información recibida en relación con las amenazas que el proyecto minero Río Blanco estaría poniendo al acceso a una alimentación adecuada y al agua de las poblaciones de la zona norte del Perú. Este proyecto está ubicado en el rincón noreste de la región Piura en las provincias de Huancabamba y Ayabaca, a 50 metros de la frontera con Ecuador en territorios que son propiedades de las comunidades campesinas de Yanca y Segunda y Cajas. El proyecto tiene por objetivo la explotación de un yacimiento de cobre, mediante tajo abierto simple y por flotación, y su duración prevista es de 32 años. Según las informaciones recibidas, la empresa minera Majaz, que en el 2001 obtuvo los derechos de la concesión minera en la región Piura, es de propiedad de Monterrico Metals plc con base en Londres que opera exclusivamente en Perú. Aunque el proyecto se encuentre todavía en fase de exploración, ha sido alegado que podría tener un impacto negativo en las actividades productivas agrícolas y pecuarias de las comunidades campesinas de la zona y de las poblaciones de las partes bajas, ya que las operaciones de la minera estarían ubicadas en las nacientes de cuenca de ríos importantes para la región y podrían causar daño a la cualidad y cantidad de agua para la cultivación y para el uso doméstico. Este proyecto podría también constituir un riesgo para la cultivación de café orgánico que es producido en 27 mil hectáreas de tierra para la venta en el mercado internacional. Parece que esta producción puede garantizar los ingresos de más de 30 mil familias campesinas. De modo parecido, 12 mil hectáreas de tierra para el cultivo de arroz y 8 mil hectáreas para el cultivo de bananas, yuca y cana de azúcar que sirven a alimentar las poblaciones de la provincia de San Ignacio serían amenazadas por el proyecto.

84. El 4 de octubre de 2007, el Relator Especial se dirigió al Gobierno con motivo de celebrarse el 16 octubre 2007 el Día Mundial de la Alimentación, cuyo lema era el “Derecho a una Alimentación Adecuada”. El Perú, y muchos otros países del mundo, padecen una grave situación de inseguridad alimentaria y nutricional que afecta a todos los ciudadanos y especialmente a los niños más pobres. Conciente de ello, el Relator Especial se felicitó con el Estado peruano por haber aprobado y ratificado todos los tratados internacionales que protegen este derecho humano, y que en la Décimo-Quinta Política de Estado del Acuerdo Nacional se haya comprometido a la “Promoción de la Seguridad Alimentaria y Nutricional”. En su comunicación el Relator indicó que le parecía que los programas alimentarios todavía no habían logrado articularse con el conjunto de las políticas sociales del Estado, pese a los esfuerzos realizados en el país desde hace más de veinte años.e. En este sentido, el Relator recomendó definir un marco institucional que permitiera asignar nuevas responsabilidades al Estado y a los ciudadanos, puesto que el libre ejercicio del derecho a la alimentación adecuada es una tarea de todos. En este sentido, el Relator precisó que sería muy importante que el Perú considerase la posibilidad de seguir el rumbo de países como Brasil o Guatemala, que modificaron su ordenamiento jurídico incorporando el derecho a la alimentación en normas no meramente declarativas. En tal sentido, el Relator expresó su satisfacción con el proyecto de “Ley del Derecho a una Alimentación Adecuada”, presentado a fines de la segunda legislatura del año 2006 y en cuya elaboración han participado muchos de los profesionales peruanos más calificados en materia de seguridad alimentaria y nutricional, y expresó su deseo de que tal proyecto fuese aprobado en el plazo más breve posible.

## **Philippines**

### **Communication sent**

85. On 5 April 2007, the Special Rapporteur brought to the Government's attention allegations received concerning a number of extrajudicial killings of agrarian reform activists throughout the country but particularly in Bondoc Peninsula (Quezon Province), Western Visayas (Iloilo, Negros Occidental and Negros Oriental) and Southern Mindanao (Saranggani, Davao Norte, Compostella Valley). In this connection, he followed up the communication sent on 6 June 2006 by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders (AL G/SO 214 (107-5) G/SO 214 (33-23) PHL 7/2006) which brought to the Government's attention information concerning the alleged extrajudicial executions of Mr. Vicente Denila, member of the Camansi Farm Workers' Cooperative (CFWC) and an active defender of farmers' rights, Mr. Rico Adeva, a land rights activist and staff member of the Task Force Mapalad (TFM), Mr. Porferio Magsalang, an active defender of rural workers and Chair of the Pambansang Katipunan ng Makabayang Magbubukind (PKMM), Mr. Enrico Cabanit, Chairperson of WADECOR Employees Agrarian Reform Beneficiaries Association Inc. (WEARBAI) and Secretary General of Pambansang Ugnayan ng mga Nagsasariling Lokal Organisasyon sa Kanayunan (National Coordination of Local Autonomous Rural People's Organisations- UNORKA), Reverend Andy Pawican, a pastor with the United Church of Christ in the Philippines and a defender of the rights of rural workers. There has not yet been any reply



to this communication and nobody has reportedly been brought to justice for any of these killings. The information received alleged that Mr. Hernan Baria, one of the leaders of the Asao Farmers and Residents Association (AFRA), was killed in June 2005 in Sitio Asao, Barangay Lawis, Municipality of Balasan, Iloilo and that Mr. Pepito Santillan, a farmer and member of the Task Force Mapalad (TFM) was killed on 25 January 2007 in Hacienda Velez-Malaga, Barangay Robles, La Castellana. He was allegedly the sixth members of the TFM to be killed in Negros Occidental since 2001. It was alleged that nobody has been brought to trial for these killings. In addition, the reports received claimed that, throughout the country, agrarian reform activists and tenants in landholdings affected by the Comprehensive Agrarian Reform Law (CARL) have had to endure various forms of harassment including indiscriminate firing at their homes or while harvesting, life threats and attempted killings, property and crop destruction, dispossession of land and crops and violent and illegal arrests. According to these reports, there has also been a significant increase in criminal cases being filed against agrarian reform petitioners. The charges are reportedly filed by the landowners' agents and include qualified theft, malicious mischief, trespassing, libel and estafa (fraud). This situation of continuing harassments and threats has reportedly led to the eviction and displacement of a great number of families and to the erosion of their usual economic or physical access to adequate food and to the means of its procurement. In addition, the information received claimed that even where agrarian reform beneficiaries have been issued certificates of land ownership award, the relevant authorities do not assist them in the installation process including preventing landowners from opposing the redistribution of land and from carrying out criminal acts, threats and harassments against the agrarian beneficiaries.

### **Communications received**

86. On 12 April 2007, the Government wrote to the Special Rapporteur that information from concerned authorities was still being awaited with regard to the cases of Rev. Andy Pawikan, Vincente Denilla, Porferio Magsalang, Enrico Cabanit, Hernan Baria and Pepito Santillan. On the case of Mr. Rico Adeva, one of the subject of the joint letter of the the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary General on Human Rights Defenders, the reply was conveyed to mandate holders on 11 September 2006. Investigations on the case have led to the filing of a complaint against the perpetrators.

87. On 19 June 2007, the Government provided further information concerning the alleged killings of the agrarian reform activists. Investigation disclosed that on 27 March 2007, Mr. Denilla was shot by two unidentified armed men. The victim was a beneficiary of a parcel of land from Mr. Deogracias Erac, under the Comprehensive Agrarian Reform Program (CARP), which was believed to be the cause of the dispute between the two. Further investigation would be conducted on the case. The suspects of the killing of Mr. Porferio Magsalang were identified as members of an underground movement of the Kabankalan City, Negros Occidental area. The victim's secret linkage with military intelligence was perceived as the reason behind the murder. A case of murder was filed against the suspects. The presiding judge issued an order of arrest against the suspects. Investigation on the killing of Mr. Enrico Cabanit disclosed that the murder

appeared to be connected with his position as Secretary-General of UNORKA-Mindanao. It was believed that the victim's active advocacy in the promotion of the farmer's welfare had put him in conflict with different influential personalities and groups in the area. The case could not be taken to court due to the non-cooperation of Mr. Cabanit's daughter. Meanwhile, further investigation to identify the mastermind of the killing was still being conducted. Investigations revealed that Rev. Pawikan Andy was killed during an encounter between members of the Philippine Army and a group of communist terrorists. Also, investigations disclosed that on 24 January 2007, a shooting incident occurred when a group of Task Force Mapalad and Agrarian Reform beneficiaries tried to occupy land being cultivated by the labourers of the Hacienda Malaga. On the following day, a group of persons that introduced themselves as members of the Philippine Army went to the house of Mr. Pepito Santillan and killed him. The investigations on this case were still ongoing and charges against the suspects were being prepared. Finally, investigation on the case of Mr. Hernan Baria was still ongoing.

### **Socialist Republic of Vietnam**

#### **Communication sent**

88. On 12 December 2006, 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 brought to the Government's attention information received concerning allegations that the resettlement plans for those displaced by the Son La Hydropower Project are inadequate thus threatening people's access to livelihoods and food. According to these allegations, on 12 November 2002, the National Assembly approved the construction of this project which is expected to submerge 24,000 hectares of land, including 8,000 hectares of agricultural land and 3,000 of rich forested areas and which requires a large resettlement of people. By 2010 the project is expected to displace 91,000 people or 18,968 households in the three provinces of Son La, Lai Chau and Dien Bien. Allegedly most of the displaced persons are expected to be moved between 50 to 100 kilometres away from their current homes and will be left with no access to the Da River (Black River), the main source of livelihood for most of them. The allegations received claimed that although a resettlement master plan exists, specific guidelines have not been developed and implemented by local authorities in a timely manner. As a result, it was reported that many people are resettled before necessary infrastructure is in place. These allegations also claimed that the shortage of land in the area has made the provision of "land for land" compensation difficult and most of the displaced remain without any agricultural land and therefore access to livelihoods. It appears that the land which will be given to those displaced will be taken from host communities, potentially leading to inter-community conflicts. Further allegations received claimed that hydro dams on the upper Srepok River may affect the access to livelihoods and food of the Cambodian villagers who are expected to be affected by hydro operations upstream. According to these allegations, the livelihoods of an estimated 11,000 people, mostly ethnic minorities living along the Cambodian stretch of the Srepok River may be seriously disrupted by a series of dams that Electricity of Viet Nam plans to build on this river within five years. The largest dam, Buon Kuop, has been reportedly under construction since 2003 and is expected to be completed in 2008. The reports indicated that the people

expected to be affected depend upon the river for fishing, drinking, household use, irrigation, livestock and transportation. Land is reportedly mainly used for agricultural activities by these communities. Home, backyard and riverbank gardening is greatly practiced and a high diversity species are grown. Paddies are usually found away from the river but these depend on early wet season full river flow whose water is channelled by various means into fields. It was reported that people residing along the downstream area of the Srepok River base their subsistence economy on available resources in the area and rely on water, cultivation land and forest. At the moment, the food security situation was reported to be good for most of the riverside population and their nutritional status was reported satisfactory. The reports received claimed that the communities living downstream of the Srepok River may not be able to practice riverbank gardening if there are unpredictable water level fluctuations due to the dams.

### **Communication received**

89. On 7 March 2007, the Government replied indicating that better living conditions for the resettled persons is a consistent policy of Vietnam before construction of hydropower projects. With regard to the Son La Hydropower Project, in 2004 the Prime Minister approved a master plan on the displacement and resettlement. It was reported that the approved resettlement sites meet the requirements on agricultural and residential land and also that the infrastructures were built before the displaced persons resettled. They gradually would have integrated into their new communities. Therefore, according to the Government, there have been no signs of potentiality leading to conflicts between the displaced communities and the host ones. The Government alleged that there were no cases where the resettled persons do not have sufficient agricultural land. However, the provision of land to some resettled households was late due to complicated procedures in some localities. In addition to the compensation, the Government provided the resettled households with further financial assistance. The initial problem to ensure sufficient water resources would have been resolved. With regard to the hydro dam on the upper Srepok River, studies were conducted by the SWECO-Groner consulting company together with the Institute for Water Research of Norway, to assess the impacts caused by this construction to the environment and life of the people living in the lower section of the river. It was reported that they concluded that the information in the joint allegation letter relating to the construction of hydro dams on the upper Srepok River was not accurate.

### **Follow-up**

90. On 23 May 2007 the Special Rapporteur together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living thanked the Government for the useful information sent to them on 7 March 2007 (Ref. 69/VNM.07) in response to their communication related to the inadequacy of the resettlement plans for those displaced by the Son La Hydropower Project and on the possible negative impact that the construction of the hydro dams on the upper Srepok River may have on access to livelihoods and food for the Cambodian villagers situated downstream. Concerning the resettlement plans for those displaced

by the Son La Hydropower Project, the Special Rapporteur brought to the Government's attention that allegations continued to be received on cases where basic infrastructure was not ready and on many sites where the water systems were not in place before people moved. According to the information received, some sites have very limited sources of water and this has caused problems between host communities and settlers. It was reported that the main problem with these resettlement plans remains the lack of sufficient arable land for the displaced persons. It was alleged that in a number of cases, the authorities have not allocated any agricultural land to those being resettled that in the meantime have lost their original land and are left with no means of livelihood and procuring food after resettlement. The reports indicated that the most productive land has already been allocated especially in Son La Province and as a result the affected people will have to move further where land is available and where the soil structure may be different. This may reportedly lead to greater food insecurity and changes in livelihood as many will not be able to cultivate the same crops they once grew. According to these reports, following resettlement, a good number of people have lost means of earning income, mainly due to land scarcity and/or lack of arable land. It was also reported that construction has contaminated water sources in some resettlement areas. For example, in Pa So village, Phong Tho district, Lai Chau province, which is expected to become a large resettlement town, the stream water that households use daily becomes contaminated upstream due to construction of the new town. Garbage is also reportedly discarded directly into the stream used by households. Concerning the hydro dams on the upper Srepok River, allegations were received that claimed that there has not yet been any civil society participation within this process. Further allegations claimed that the Srepok River is a critical resource for at least 11,000 people in communities along the river in the Cambodian provinces of Ratanakiri, Stung Treng and Mondulakiri and that hydro development, as currently planned, may have serious negative impacts on people's livelihoods and food security. Cambodian villagers claimed that water fluctuation has become irregular, deep water pools have become shallower, riverbank erosion has increased, human and animal health has been affected by bad water quality, unnatural floods have destroyed riverside rice and farm fields affecting their access to food, unreliable water flows have forced people to migrate in search of employment and food and fishery resources have declined affecting villagers' adequate food and means of its procurement. According to the allegations received, Cambodian villagers along the Srepok River obtain 90 per cent of their protein from its fish and fear that the river may undergo important changes as the neighbouring Sesan River which is reportedly damned and has reportedly affected the livelihoods and access to food of 55,000 people living downstream due to erratic water fluctuations, widespread flooding, poor water quality, loss of riverbank gardens and diminished fish stocks. In addition, the first major flood on the Sesan River caused by the Yali Falls Dam, which was due to a coffer dam bursting during its construction, caused loss of lives and swept away property, livestock and crops in dozens of communities downstream in Vietnam and Cambodia. It was also reported that in this case, SWECO underestimated the downstream effects of Yali and subsequent dams on the Sesan River and that compensation has yet to be provided to the affected villagers. Concerning the SWECO Groner's Environmental Impact Assessment (EIA), the reports received indicated that this is not a complete EIA as it still lacks feasible environmental mitigation measures, alternative operating scenarios to minimize downstream damages, compensation options and benefit-sharing mechanisms for communities in northeast Cambodia which may be affected by the hydro development on the Vietnamese side of the Sre Pok River. It was also reported that this EIA does not yet include an analysis of economic losses due to the dams' expected negative impact on downstream fishing, agriculture, hunting and other types of natural resources and does not identify responsibility for implementing the recommendations it makes, including the financial resources available. It

appears that the EIA fails to comply with international standards as well as Vietnamese and Swedish standards related to dam projects.

### **Follow-up**

91. The Government replied on 22 August 2007. With regard to the resettlement plans for displaced people by the Son La Hydropower Project, the Government stated as in its previous response that the planned resettlement sites meet the requirements on production and residential land. Furthermore, it was stated that there are no cases where resettled persons are not provided with agricultural land and left with any means of livelihood and that there is enough water provided to them. It was reported that the shortcomings in the drinking water supply are overcome. Concerning the new town of Pa So village, it was reported that the construction of the permanent drinking water supply system has been finished and provides the villagers with clean water. With regards to the hydro dams on the upper Srepok River, the Government stated that the SWECO's EIA report aimed at ensuring objectiveness and was conducted by experienced international experts as well as experts from Cambodia and Vietnam. Furthermore, it was assured that so far the water flow has not been intervened; no dams and reservoirs have been built. Therefore, it was reported that there are no negative impacts on the water quality that could influence the health of the people and domestic animals.

## **Switzerland**

### **Follow-up**

92. On 12 April 2007, the Special Rapporteur thanked the Government for the useful information sent to him on 1 December 2006 in response to his communication of 16 October 2006 (A/HRC/4/30/Add.1, 18 May 2007) regarding a possible Swiss export credit guarantee for the participation of the Swiss companies Alstom Schweiz, Va Tech Schweiz, Stucki and Colenco in the Ilisu Dam and Hydro-Electric Power Plant Project which could reportedly have a negative impact on the human rights situation, including the right to food of the affected population. He brought to the Government's attention that he continued to receive reports that indicated that it was not yet clear whether such an action plan was legally binding in the Turkish domestic legal system and whether it could be used as basis for legal recourse in case the affected individuals had any grievance. He asked the Turkish Government to clarify the referred aspects as well as to express the steps they intended to take in order to align national legislation and standards to international ones. It seemed that there was no provision in the Turkish national legislation for minimizing resettlement whereas this was an important requirement in World Bank and OECD standards. Similarly, it appeared that national compensation provisions and calculation rates were not yet in line with international standards as well as income restoration strategies. According to these reports, the organisational set up and management of the resettlement and reconstruction process did not appear to be sufficiently clear and the action

plan still lacked an adequate analysis of who was responsible for what and how the various management responsibilities at the central and provincial level would be coordinated. In this regard, the Special Rapporteur requested the Turkish Government to provide additional details on the organizational arrangements. Information that continued to be received also claimed that the emphasis of the Resettlement Action Plan (RAP) was primarily on the conduct of expropriation and dislocation of the affected population resident in the project area, while sufficient attention still needed to be dedicated to the process for the reconstruction of the economic basis and productive systems of the uprooted population. Again, further details regarding the relationship between the management of the resettlement process and the management of the main engineering construction of the dam were asked to the Turkish Government. In addition, the reports indicated that no mention was made in the RAP about an eventual unwillingness of some groups to agree to its provisions, possibility that should not be neglected considering that a high percentage of people who are to be affected by this project were still not adequately informed. As a consequence, the Special Rapporteur explained that he had requested the Turkish Government to describe the measures they planned to undertake in order to make the action plan widely understood and available in local languages, as well as the ones to avoid forced evictions. The information received also pointed out that the RAP did not yet specify how the external co-financing agencies and their Governments would be kept informed and able to monitor the resettlement performance and the adherence to the requirements that they had set for supporting this project. In this sense, the Turkish Government was once again kindly asked to provide some more information.

93. The Special Rapporteur found important that the Swiss Government and their export credit guarantee agency be informed on the alleged shortcomings of the RAP while monitoring the construction and resettlement processes.

### **Follow-up**

94. In reference to the Special Rapporteur's correspondence dated 12 April 2007, the Government replied on 21 June 2007. In this letter the Government expressed its awareness regarding the direct communications between the Special Rapporteur and the Turkish Government. It also recalled that a substantial amount of information in the areas of the Special Rapporteur interest was available at the website [www.ilisu-wasserkraftwerk.com](http://www.ilisu-wasserkraftwerk.com), which was established especially for the Ilisu project. The concerns regarding the independent monitoring and reporting mechanisms in the area of resettlement mitigation measures can also be found on the mentioned website. The Government stressed that Export Credit Agencies have paid particular attention to establishing appropriate mitigation measures and monitoring and reporting mechanisms. Moreover, relevant information on the structure and competence of the Committee of Experts, which is assigned to review the action plans, implementation plans, studies, monitoring reports and documentation, can also be found on the website. Finally, the Government informed that in order that the local concerned population may obtain information in the Turkish language, translations of the relevant pieces were also inserted on the website.

### **Thailand**

**Communication sent:**

95. On 8 October 2007, the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people brought to the Government's attention information received concerning the situation of the alleged seizure of the ancestral lands of the Akha indigenous people living in the Hooch Yoh, Pah Nmm and Pai ah Pai villages, in the Chiangrai Province. According to the information received, Hooch Yoh is made up of five villages, all traditionally inhabited by the Akha indigenous people: Hooch Yoh Pah Soh (upper), Middle Hooch Yoh, Hooch Yoh proper, Akha and Lahu, located in the Haen Taek area of Ampur Mae Fah Luang, Chiangrai Province. The Hooch Yoh village, which has been occupied by the Akha for generations, used to be the home of more than 1,500 people until their lands allegedly started to be seized in 2003 as a result of the Highland Development Station project. According to the information received, the Highland Development Station was conceived in 2002 as a Royal Project of the Queen of Thailand, in cooperation with the Department of Agriculture, the National Park, Wildlife and Plant Conservation Department, the Department of Land Development, the Royal Irrigation Department and the Department of Agriculture Extension. The objective of the station was to serve as a "center of knowledge on agriculture for the hill tribe people," allowing these people to "absorb the knowledge and develop proper occupational skills, as well as an understanding of the need to conserve the natural resources". According to information received, the project reportedly affects areas that had been "cleared and abandoned at Doi Bae Lae, Baan Khun Om Had Nok, Moo 5, Sob Kong Subdistrict, Om Koi District, Chiang Mai Province." According to the reports received, since the implementation of the project started in 2003, the establishment of the Highland Development Station has involved the forceful seizure of a total 8,500 rai (1,600 hectares) of the traditional lands of the Hooch Yoh village. The seizure of the land allegedly led to the massive dispossession of the Akha community members, leaving them with a few land plots around the village, and to the loss of their traditional livelihoods. It was alleged that the implementation of the project has further involved the destruction of standing crops of which Hooch Yoh villagers relied for their subsistence economies. All these actions have reportedly been carried out by Thai army and forestry armed police. Hooch Yoh Akha villagers were not reportedly consulted before the establishment of the project in their traditional lands, nor did they consent to it, and it is reported that they have not yet been compensated for their loss. The seizure of the Hooch Yoh village land has allegedly contributed to deteriorating the socio-economic situation of the Akha community, including their food security. According to the information received, as a single alternative for their lost livelihoods, local villagers have been offered employment by the project in order to perform agricultural work in the lands they previously possessed, in exchange for salaries that fail to meet the national minimum wage. The information received also indicates that, as a result of the seizure of the traditional land, many young Akha women have been compelled to work as prostitutes in order to support their families and replace income loss. The seizure of the land of the Hooch Yoh village was reportedly accompanied by widespread harassment of local Akha villagers by members of the military and forestry personnel involved in the Highland Development Station project. Villagers were reportedly threatened with arrest if they continued to work their lands. It was alleged that in November 2003, several forestry trucks came to Hooch Yoh with armed forestry officials who arrested eight villagers, including pregnant women, working in or near their fields. The villagers were taken at Ampur Mae Fah Luang police station, and were requested to pay a fine of 100,000 baht (\$2,500). In March 2004, two foreign

volunteers were reportedly arrested by the military and later released without charges. Similarly, in April 2004, a foreign advocate was jailed for nine days with no formal charges before being deported from the country. According to the reports received, since the land seizure started occurring in 2003, other Akha villages' land has been seized as the project has been increasingly expanding in the same area. In particular, the reports document the seizure of lands and water resources belonging to the villages of Pah Nmm Akha or Pai a Pai, across from the Hooh Yoh Akha valley, as well as the destruction of standing tea crops. Concern has been expressed that the situation of landlessness and dispossession currently faced by the Hooh Yoh village may spread to other neighbouring Akha communities.

## **Turkey**

### **Communication received**

96. On 11 December 2006, the Government responded to the communication sent by the Special Rapporteur on 11 October 2006 (A/HRC/4/30/Add.1, 18 May 2007), enquiring about the possible impact on the human rights, including the right to food, of the affected populations and the environment in consequence of the construction of the Ilisu Dam and Hydro-Electric Power Plant Project on the River Tigris. The Government brought to the attention of the Special Rapporteur an Information Note on the Ilisu Dam and Hydro-Electric Power Plant Project, which contained information regarding the resettlement and compensation plans envisaged within the framework of the project. The Information Note explained that the referred project concerns the production of renewable and clean energy, which would positively impact the economic and social development of Turkey. It was stated that the region would enjoy extensive economic prosperity, especially because of the enormous number of direct and indirect employment that would be created as well as the improvement of infrastructure which would have to take place. The intention of the Government is to implement these projects as an economic catalyser for the underdeveloped east of Turkey, to fight the present poverty and to lead the area to the living conditions of the prospering west of Turkey. According to the Government, the Ilisu project would contribute to stabilise the society in this area by developing agricultural activities, improving environmental standards and life standards of local people. It was alleged that the building of dams at the Tigris is inevitable in order to adjust the water quantities, avoiding the regular floods and drought. The Government further confirmed that resettlement of population would be needed and would be done in accordance to high international standards. It was explained that the Turkish system provided for fair compensations for all those who would eventually lose dwelling or land and also for unpropertied residents. It was reported that in general, there are two options for compensation to select: to demand resettlement into an at least equal rural or urban area; to choose for financial compensation, which allows the free selection of the new settlement. The Special Rapporteur was also informed about a Resettlement Action Plan (RAP) that had been prepared based on residents' interviews and surveys conducted in the region. The Turkish Government also admitted that the Ilisu project would have certain effects on the environment, but they assured that the impacts would be low and, in various aspects, positive. It was stated that the Government and the consortium committed themselves to adhere to the high international



standards. In addition, the improvement of water quality, flora and fauna was also stressed. Finally, it was said that the construction and operation of the power plant would not only create job opportunities but also would encourage tourism and fishery.

## **Follow-up**

97. On 12 April 2007, the Special Rapporteur thanked the Government for the letter and comprehensive information sent to him on 11 December 2006 in response to his earlier communication (A/HRC/4/30/Add.1, 18 May 2007). He stated that he continued to receive reports that indicated that it was not yet clear whether such an action plan was legally binding in the Turkish domestic legal system and whether it could be used as basis for legal recourse in case the affected individuals had any grievance. It seemed that, for example, there was no provision in the Turkish national legislation for minimizing resettlement whereas this is an important requirement in World Bank and OECD standards. Similarly, it appeared that current compensation provisions and calculation rates were not yet in line with international standards as well as income restoration strategies. According to these reports, the organisational set up and management of the resettlement and reconstruction process were not yet sufficiently clear and the action plan still lacked an adequate analysis of who was responsible for what and how the various management responsibilities at the central and provincial level would be coordinated. The information received also claimed that the emphasis of the RAP was primarily on the conduct of expropriation and dislocation of the affected population resident in the project area, while sufficient attention was yet to be dedicated to the process for the reconstruction of the economic basis and productive systems of the uprooted population. In addition, the reports indicated that in the RAP no mention was made of the eventuality that some groups could be unwilling to agree to its provisions. According to these reports, a high percentage of people who were to be affected by this project were still not adequately informed. The information received also asserted that the RAP did not yet specify how the external co-financing agencies and their Governments would be kept informed and able to monitor the resettlement performance and the adherence to the requirements that were set for supporting this project.

## **Follow-up**

98. On 7 June 2007, the Turkish Government replied to the Special Rapporteur's letter dated 12 April 2007, in which he requested further information about the Resettlement Action Plan (RAP) of the Ilisu Dam and Hydroelectric Power Plant (HEPP). The Government brought to the Special Rapporteur's attention that the RAP of the Ilisu and HEPP was updated according to the rules and regulations of the World Bank, the IFC and the Turkish national legislation in order to mitigate the consequences for the people affected by the project. They further explained that the RAP aimed to reduce and prevent the negative effects of the project as much as possible, to compensate all the material losses and to improve the living standards of the people affected. It was stated that the cultural heritage which would be inundated by the reservoir of the Ilisu Dam has been properly identified. Additionally, an Expert Committee was established to monitor and

control the activities concerning the resettlement, the cultural heritage, and the environment for the seven years of construction period as well as the operational phase of the Ilisu Dam and HEPP. It was also reported that the Governments of Germany, Austria and Switzerland decided to endorse the credit arrangements for the construction of the Ilisu Dam and HEPP on 28 March 2007. To conclude, the Government stated that additional information on the project could be found on the website [http://www.dsi.gov.tr/ilisu\\_yype.pdf](http://www.dsi.gov.tr/ilisu_yype.pdf). Annexed to their letter was the “Ilisu Dam and HEPP Project Update of Resettlement Action Plan – Final Report”, a document issued by the Ministry of Energy and Natural Resources from the Republic of Turkey.

## Uganda

### Communication sent

99. On 19 October 2007, the Special Rapporteur brought to the Government's attention information received concerning the economic exploitation of a group of peasants in Naluwondwa Parish, Madubu sub-county, Buwelka Constituency, Mubende district which has produced a precarious food security and housing situation for these communities. According to the allegations received, in August 2001, approximately 2000 people were evicted from their permanent land of abode. During this eviction, the allegations received indicated that houses were demolished, property destroyed and staple crops like cassava and potatoes were ruined in order to clear the way for a coffee plantation. According to the information, the military was involved in carrying out this eviction, acting on the orders of the Resident District Commissioner. The land was reportedly leased to a German-based company, Neumann Kaffee Gruppe, which operates as a coffee exporting company and which is registered in the country as Kaweri Coffee Plantation Ltd. Supported by the Uganda Investment Authority (UIA), Kaweri Coffee Plantation was reported to be the biggest coffee plantation in the country where coffee is one of the major export crops and accounts for most export revenues. According to the information received, in June 2002 the African Development Bank (ADB) approved a loan of USD 2.5 million to finance the plantation project. Information further indicated that approximately 50 among the evicted peasants have been employed as casual labourers on the coffee plantation. They and the other casual labourers on the plantation, approximately a thousand persons, earn around 2000 Uganda Shillings (approximately 1 USD) for 10 hours of work per day. According to this information, this income, which fails to meet the standard set at 6,000 Shillings (approximately 3 USD) by the minimum wage regulation, does not procure them access to sufficient and adequate food.

## **United Kingdom of Great Britain and Northern Ireland**

### **Communication sent**

100. On 4 October 2007, the Special Rapporteur wrote to the Government that he welcomes the initiatives undertaken by it to consult a broad range of stakeholders on the revision of its breast milk substitutes marketing regulations. The Special Rapporteur stated that he hopes this process will provide a good opportunity to the Government to consider giving full effect to the provisions of the International Code for Marketing of Breast milk Substitutes (hereafter the Code). Revised EU Directive 2006/141 has also encouraged Governments of the European Union to give, at a minimum, full effect to the provisions of the Code and even to set higher standards. In this regard, the Special Rapporteur declared that he understands that a number of stakeholders have made suggestions so as to bring the proposed revised regulations in line with the standards set by the Code, including, for example, that marketing restrictions should apply not only to breast milk substitutes but also to complementary food promoted as substitutes, feeding bottles and teats, and that marketing practices targeting pregnant women or mothers of infants and children up to three years of age, such as contact through direct mail, websites, baby clubs and telephone care-lines, should be prohibited.

## **United Republic of Tanzania**

### **Communication sent**

101. On 28 August 2007, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Representative of the Secretary-General on the situation of human rights defenders, drew the attention of the Government to information received regarding the alleged threats to the Hadzabe indigenous community as a result of the granting of a hunting license to a private company on the Hadzabes' traditional lands. In addition, they brought to the attention of the Government allegations concerning the detention of Richard Baalow, a Hadzabe spokesperson and member of the Hunter-Gatherer Forum of East Africa, in relation to his activities in defense of the rights of the Hadzabe community. The Hadzabe community, numbering between 1,200 and 3,000 people, is one of Africa's last surviving hunter-gatherer indigenous peoples. For millennia, the Hadzabe have inhabited the acacia forest and scrubland south of the Ngorongoro, where they currently occupy an area of approximately 2,000 square kilometers under the jurisdiction of 10 villages in the Mbulu and Karatu Districts, in the Manyara region. They depend on their traditional lands and surrounding natural resources for their daily livelihood and survival, and notably on traditional hunting and gathering of wild fruits, roots, and honey. The communities' rights over their lands derive from their traditional occupancy and use. In addition, the Hadzabe have formally recognized authority over the Mongo wa Mono village, in Mbulu District, based on the Village Land Act No. 5 of 1999, and Local Government Act No. 7 of 1982. The Mongo wa Mono village has a Title Certificate of Occupancy for 99 years issued 8

June 1991. Currently, the basin and surrounding forest is managed by the Hadzabe through the Mongo wa Mono village council as a community conservation site. The site, which was the result of a participatory land-use planning and zoning exercise facilitated by local NGOs and later endorsed by district authorities, includes two “traditional economy and conservation zones” that exclude livestock and agriculture. According to the allegations received, the Wildlife Division of the Ministry of Natural Resources and Tourism, responsible for the management of wildlife areas outside of national parks, has historically allocated hunting blocks encompassing the land of local villages without due respect to their vested rights and without consulting the affected communities. Reportedly, the Wildlife Division already started granting hunting blocks to private companies over the Yaeda Valley/Lake Eyasi area in 1989. The Parliament launched an official enquiry into the situation in 1993, eventually leading to the revocation of all permits in 1995, based on the findings that these permits did not bring up positive benefits to the local communities. Regarding the granting of a hunting license in Hadzabe traditional lands, according to some reports, members of the royal family of the United Arab Emirates, from Abu Dhabi, including Crown Prince Hamdan bin Zayed and Mohamed bin Zayed, Chief of Staff of UAE Air Force, proprietors of the firm Tanzania United Arab Emirates Safari Ltd. Company, submitted on 7 April 2005 requests for a new hunting license for the Yaeda Valley/Lake Eyasi block to the Wildlife Division, Ministry of Natural Resources and Tourism, under regulations 4 and 5 of the Wildlife Conservation (Tourist Hunting) Regulations 2000. In its request, the company reportedly explained its intention to enter with the Tanzanian authorities into a five-year contract to establish a tourist hunting park in an area of 2,267 square kilometers for the enjoyment of the royal family of Abu Dhabi. The area covered by the request would affect the Yaeda Valley area, in the Mbulu District, and the Matala area, in the Karatu District. The company promised to protect and restore the environment in the area and to provide economic assistance and social services to the communities concerned. On 16 April 2005, Tanzania United Arab Emirates Safari Ltd. Company forwarded its request to the Mbulu District Council authorities. On 23 June 2005, the Mbulu District Council reportedly gave a preliminary authorization to the company to implement its hunting project with regard to the Yaeda Chini area, in exchange for various development projects for the district as a whole. In January 2006, after a number of meetings concerning the project between the company, district authorities and local villages, the Mbulu District Council Commissioner sent a formal communication to the Ministry of Tourism and Natural Resources, requesting the Ministry’s approval as requested by the Tanzanian legislation. In an interview published in the journal *The Guardian* on 21 August 2006, the Chairman of Mbulu District Council, Damian Isaay, acknowledged that the lower Yaeda Valley area had been leased out to Tanzania United Arab Emirates Safari Ltd. Company as a hunting ground. As regards the Karatu District, Tanzania UAE Safari Ltd. submitted an application to the district authorities on 20 April 2005. The request referred to the Matala area, including lands under the administration of the Matala and Dumcheland villages, in which the Hadzabe people are also found. On 12 July 2005, the Karatu District Council initially approved the project, on the conditions that the company would implement development activities in the area and respect the culture, beliefs and religion of the local communities. However, according to the reports, the Karatu District Council has so far postponed the formal signature of the agreement with the company alleging insufficient information, particularly with regard to the impact on the Hadzabe communities whose livelihoods depend on the natural resources in Lake Eyasi Basin. It was alleged that the Hadzabe traditional authorities have not been duly consulted in relation to the request for a hunting permit in the Mbulu District, and that they have not given their free, prior, and informed consent to it. In particular, the reports pointed to the fact that, as registered local authorities, the Mongo wa Mono village council and the councils of other villages in which the Hadzabe live should have been consulted before the Mbulu District

authorities took a formal decision affecting the lands belonging to these villages. In this connection, it was reported that representatives of the Tanzania United Arab Emirates Safari Ltd. Company and the Mbulu District authorities held a meeting at the Mongo wa Mono village on 8 September 2005. This has been cited as proof of the consent by the Hadzabe community to the proposed plans. However, the meeting was reportedly aimed at informing the village about future plans, but not to consult or to seek the consent of the community, which would have only shown initial interest on the project based on a number of conditions. Similarly, from the information received, it would seem that the Hadzabe community has not been involved in ongoing discussions concerning the request for a hunting permit at the Karatu District level. Even if it has been reported that the hunting concession will benefit the Hadzabe in the form of schools, roads and other services offered by the safari company as a form of compensation, significant concerns have been expressed that it will terminate the community's control over the vital hunting and gathering areas that they have traditionally relied on for their subsistence, thus affecting their access to food, and that it will lead to the displacement of many thousands of community members. Moreover, in as much as the Hadzabe currently face a situation of extreme vulnerability as a result of the loss of their traditional habitats, the operation of a hunting area in their traditional territory could have a devastating impact on their culture and traditional lifestyle, which could then lead to their eventual disappearance as a distinct culture. In addition, the Rapporteur brought to the Government's attention the specific case of Hadzabe leader Richard Baalow, a member of the Hunter-Gatherer Forum of East Africa, allegedly arrested and detained in connection with his participation at the meeting that took place in Mongo wa Mono village on 25 April 2007, organized by the Commissioner of Human Rights and Good Governance, the District Game Officer and other District officials, regarding the hunting lease. During this meeting, Baalow reportedly raised critical questions regarding the Commissioner's attempt to convince community members to accept the lease. Even though he was subsequently released from prison, Baalow was reportedly suspended from his employment. According to the allegations, he faced charges under article 89 (1) (b) of the Penal Code for alleged breach of the peace during the meeting at Mongo wa Mono village. Concern was expressed that Baalow's arrest may be related to his vocal role in the defense of the rights of the Hadzabe indigenous community and his opposition to the hunting project.

### **Communication received**

102. On 13 December 2007, the Government replied to the Special Rapporteurs' letter dated 28 August 2007 and informed them that the arrest of Mr. Richard Baalow by the Police during the village assembly meeting was not related to his role in defending the rights of the Hadzabe people but due to his disorderly behavior which was in breach of public peace and tranquility. It was further confirmed that Tanzania UAE Safaris Ltd was allocated a hunting block, but the license was issued by a competent authority, in accordance with the laws and regulations governing wildlife utilization in the country, and under certain conditions. It was stressed that the Government set an annual monitoring and evaluation mechanism to ensure that the wellbeing of the local community is observed. Also enclosed in the letter was the statement made by the Permanent Mission of the United Republic of Tanzania at the resumed session of the Human Rights Council in December 2007. In this document, the Government affirmed that it was striving to heed to all the fundamental principles concerning indigenous peoples in dealing with the Hadzabe community. Finally, Tanzania's commitment to the human rights cause as well as its preparedness to advance further the international human rights norms and standards was reiterated.

### **III. OTHER ACTORS**

#### **Agence française de développement**

##### **Communication received**

103. By letter dated 7 February 2007, the Agence française de développement provided the same information that the World Bank provided concerning the Nam Theun 2 Hydropower Project in the Lao People's Democratic Republic (see below). The Agence française de développement replied to a letter from 3 November 2006 (A/HRC/4/30/Add.1, 18 May 2007), where the Special Rapporteur, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, wrote to the World Bank and to the Bank's country office in the Lao People's Democratic Republic, the Asian Development Bank, and the Agence française de développement, informing them that the Special Rapporteurs had engaged in a dialogue with the Government of the Lao People's Democratic Republic in relation to the impact of the construction of Nam Theun 2 on the human rights of the affected population.

##### **Follow-up**

104. On 5 October 2007, the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people thanked Mr. Woitellier from the Agence française de développement for his willingness to continue the dialogue on the potential impact of the construction of Nam Theun 2 dam over the human rights, including the right to food, of the affected communities and for the additional information that was sent to the Special Rapporteur on 7 February 2007 in response to his communication of 3 November 2006. However, allegations received indicated persisting problems related to the situation of various villages and indigenous communities, which are likely to be affected by the construction of the dam, and particularly as regards their food security situation and access to land and natural resources. In this regard, the Special Rapporteurs shared with the Agence française de développement the same concerns that had been raised with the Government.

#### **Asian Development Bank**

##### **Communication received**

105. By letter dated 8 February 2007, the Asian Development Bank reported that the World Bank's response (see below) concerning the Nam Theun 2 Hydropower Project in the Lao People's Democratic Republic reflected their views. The Asian Development Bank replied to a letter from 3 November 2006 (A/HRC/4/30/Add.1, 18 May 2007), where the Special Rapporteur, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, wrote to the World Bank and to the Bank's country

office in the Lao People's Democratic Republic, the Asian Development Bank, and the Agence française de développement, informing them that the Special Rapporteurs had engaged in a dialogue with the Government of the Lao People's Democratic Republic in relation to the impact of the construction of Nam Theun 2 on the human rights of the affected population. However, the Asian Development Bank added the following comments: (a) The preparation of the Nam Theun 2 Hydropower Project included a very careful participatory process, and that measures have been designed to ensure that resettlement and restoration of livelihoods is undertaken in an effective and sustainable manner; (b) The Project Social Development Plan has been prepared in full compliance with the Asian Development Bank's policies on indigenous people, and a multilayer system regularly monitored the implementation of the project; (c) Finally, the Asian Development Bank is providing technical assistance to the Ministry of Finance of the Government for capacity-building in revenue management, for the purpose of poverty reduction in the country.

### **Follow-up**

106. On 5 October 2007, the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people thanked Mr. Cooney from the Asian Development Bank for his willingness to continue the dialogue on the potential impact of the construction of Nam Theun 2 dam on the human rights, including the right to food, of the affected communities and for the additional information that was sent to the Special Rapporteur on 8 February 2007 in response to his communication of 3 November 2006. However, allegations received indicated persisting problems related to the situation of various villages and indigenous communities, which are likely to be affected by the construction of the dam, and particularly as regards their food security situation and access to land and natural resources. In this regard, the Special Rapporteurs shared with the Asian Development Bank the same concerns that had been raised with the Government.

## **Bill and Melinda Gates Foundation**

### **Communication sent**

107. On 12 March 2007, the Special Rapporteur brought to Mr. & Mrs. Gates and their foundations attention with regards to information received that some of the proposals and ideas of this Alliance for a Green Revolution in Africa may not have taken into account the failures of the original Green Revolution. For example, the failures of the first Green Revolution have reportedly taught that rural development requires the redistribution of land and resources, a fair and stable market and sound agro-ecological management in order to be sustainable. In this regards, studies in Mexico and India revealed that the Green Revolution favoured a minority of economically privileged farmers and led to the concentration of land and resources. Another reported lesson learnt from the Green Revolution is that diversity is an important nutritional resource of poor communities but the spread of modern varieties was accompanied by loss of local crop varieties and a trend toward monoculture which reduced dietary diversity and increased malnutrition. The Special Rapporteur declared that he encourages this initiative and the other organisations involved in this Alliance to take stock of the first Green Revolution and build on the lessons learnt in order to work towards the same goal of fulfilling the right to food for all the people living in Africa.

## **European Commission**

### **Communication received**

108. By letter of 12 January 2007, the European Commission replied to the Special Rapporteur's letter dated 30 November 2006 (A/HRC/4/30/, 19 January 2007), in which concern was expressed regarding the revision of the European Community legislation on infant formula and follow-on formula. The European Commission believed that the reports that continued to be received by the Special Rapporteur were misleading on the topic. It was further stated that the points argued by the Special Rapporteur were not in line with the advice or recommendations of other bodies. The amended legislation reflected the outcome of the discussions held during the meeting with member States. Finally, the European Commission called the attention of the Special Rapporteur for the fact that the International Code of Marketing of Breast-milk Substitutes was adopted by the World Health Assembly as a recommendation and had no binding effect.



## **Newmont Ghana Gold Limited**

### **Communication sent**

109. On 11 July 2007, the Special Rapporteur brought to the company's attention allegations received that the monitoring mechanisms set up in relation to the AngloGold Ashanti mine at Iduapriem are not fully operational and have not yet worked to the benefit of the affected people. This was due to a misunderstanding as the Rapporteur is aware that the mine project at Iduapriem, on which he called attention concerning its alleged negative impact on the right to food of the affected population (see above Ghana), is under the responsibility of another corporation.

### **Communications received**

110. On 18 January 2007, the company replied to the letter sent on 20 October 2006 (A/HRC/4/30/Add.1, 18 May 2007) by the Special Rapporteur to the Executive Director of the World Bank Group concerning the goldmine operation of Newmont Ghana Gold Ltd at Ahafo in Ghana. The company communicated that information on environmental and social issues, mitigation and outcomes for the Ahafo communities affected by the mine could be found at the website: <http://www.newmont.com/en/operations/projectpipeline/ahafo/docs/indreviews.asp>. It was affirmed that project-impacted people at Ahafo were gaining access to land, agricultural inputs and training in a systematic way through a formal program framework that Newmont put in place with the assistance of the International Finance Corporation (IFC), government agencies, community group and leaders and local NGOs. Further, Newmont recognized its responsibility for the impacts that were brought about through the Ahafo project but stated its commitment to make the lives of the people in the region better. All the programs that were being developed and implemented were mentioned. Details on these programmes could be found at: [www.NewmontGhana.com](http://www.NewmontGhana.com). Preliminary studies of economic impacts of the project demonstrated increased cash flow within the communities and improvements on people's standard of health. Finally, although the mine was not able to employ everyone who needed employment in the area, the company stated that it was working hard to provide training and skills development for hundreds of youth and was giving priority to local people for jobs, contracts and service provision.

111. On 24 August 2007, the company replied to the Special Rapporteur's letter of 11 July 2007 indicating that the project mine at Iduapriem is under the responsibility of the AngloGold Ashanti company and providing an internet address for the reports on the external monitoring of the Ahafo mine project.

## **Syngenta**

### **Communication sent**

112. On 12 December 2006, the Special Rapporteur wrote to Mr. Pragnell's company that he received allegations that Paraquat, one of the most widely used pesticides globally, has threatened the right to life, health and food of a large number of people. The injuries suffered are debilitating and sometimes fatal. According to these allegations, Paraquat cannot be used safely, particularly not on plantations and small farms. Moreover, there is no antidote. The most severe effects are reportedly found in developing countries, where Paraquat is often used under high risk conditions. Poverty exacerbates exposure to hazardous chemicals as workers have no means to protect themselves. In addition, not only workers seem to be at risk but also the general public. The information received indicated that there have been several instances where Paraquat residues in soybeans and potatoes were found above the maximum recommended limit. According to reports, a widespread practice which puts workers and the general public at a considerable health risk is the application of pesticides up to the time of harvest, for example on cotton or vegetables. Furthermore, Paraquat may pose threat to the soil, the surface and the groundwater, thus affecting crops and drinking water. Therefore the Special Rapporteur would be grateful to receive information on the measures taken by Mr. Pragnell's company to address these problems.

### **Communication received**

113. On 23 January 2007, Syngenta acknowledged receipt of the Special Rapporteur's letter and affirmed its commitment to corporate responsibility. It was informed that the company's Head of Global Public and Government Affairs was informed about the different questions raised and would provide a response as soon as possible.

### **Follow-up**

114. On 19 February 2007, the Special Rapporteur thanked Mr. Pragnell, CEO of Syngenta, for his reply of 23 January 2007. The Special Rapporteur indicated that he would be most grateful if Syngenta could address the concerns expressed in the allegation letter of 12 December 2006 in order to report to the Human Rights Council about the discussions.

### **Follow up**

115. On 23 February 2007 the company replied to the Special Rapporteur's letter of 19 February 2007, stating that the company is leading, global provider of innovative solutions that help farmers protect their crops from disease and pests and land from erosion due to wind and water. Through the technologies it uses, the company claims to contribute to a sustainable supply of high quality food. Concerning the allegations raised by the Special Rapporteur, the company indicated that the pesticide Paraquat has been marketed for over 40 years and is sold in approximately 100 countries globally. According to the company, this product has an enviable reputation in improving the yield and quality of agricultural products, as well as providing a technology for the preservation of soil, by destroying weeds but at the same time leaving the root network intact. The company claims that it has invested heavily in research into the proper use and safety of this product and on the basis of its knowledge and experience, it does not recognize the allegations reported by the Special Rapporteur. The company stated that they found no evidence that this product cannot be used safely even with expected deviations from the recommendations for using it. In addition the company stated that it regretted those cases

where the product is abused in circumstances far beyond its intended use. Finally the company affirmed that it stands ready to continue discussing about these issues.

### **Communication sent**

116. On 15 November 2007, the Special Rapporteur followed up his previous letters of 12 December 2006 and 19 February 2007. In addition the Special Rapporteur brought to the company's attention concerns related to the reported situation of insecurity at the farmers' encampment at the company's experimental field trial at Santa Teresa do Oeste, Parana State, Brazil. According to the reports received by the Special Rapporteur, in February 2006 activists from Via Campesina and the Landless Workers Movement (MST) began occupying this land to denounce the alleged illegality of the company's experiments on GMO and to claim the land for it to be used by these farmers as source of livelihoods and as a means to feed their families. According to the reports received, the GMO experiments on this land were found by the national environmental agency (IBAMA) to be in violation of national environmental law as the transgenic soy was planted six kilometres from Iguaçu National Park, a protected natural reserve, which has a 10 kilometres exclusion zone. The Special Rapporteur was also informed that in November 2006 the State Government issued a decree to expropriate this land in order to turn it into an agro-ecology centre and that in February 2007 this decree was suspended by the court following the company's submission of an injunction. However, this suspension did not reportedly amount to an eviction order as these are two different judicial process and the farmers therefore remained on the land until when they left it in July 2007. It was reported that they then re-occupied this land on 21 October 2007. Following the re-occupation, the Special Rapporteur was informed that insecurity at the encampment exacerbated as violent attacks by the company's private armed security guards, during which one farmer activist and one of the militia men were killed and fine other activists severely wounded, were reported to him.

## **World Bank**

### **Communication received**

117. By letter of 2 February 2007, the World Bank replied to a letter from 3 November 2006 (A/HRC/4/30/Add.1, 18 May 2007) where the Special Rapporteur, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, wrote to the World Bank and to the Bank's country office in the Lao People's Democratic Republic, the Asian Development Bank, and the Agence française de développement, informing them that the Special Rapporteurs had engaged in a dialogue with the Government of the Lao People's Democratic Republic in relation to the impact of the construction of Nam Theun 2 on the human rights of the affected population. The Government provided information concerning the Nam Theun 2 Hydropower Project in the Lao People's Democratic Republic, as well as the address of their project-dedicated website. The World Bank reported that the investor (NTPC) entered into a Concession Agreement (CA) with the Government of the Lao People's Democratic Republic on 3 October 2002. The Bank, through the Nam Theun Social and Environmental Project (NTSEP), is providing partial financing of measures to mitigate environmental and social impacts of the project. In addition, the Bank was assisting the Government in the development and implementation of priority poverty reduction and environmental programmes which in the future will be funded, in accordance to the Bank, from revenues to be generated by the project. The World Bank reported that the environmental and

social undertaking of the parties were developed through a lengthy participatory process, including affected parties and other stakeholders, and were fully documented in the Environmental Assessment and Management Plan and the Social Development Plan, which deal with involuntary resettlement and indigenous people's issues. In addition, it was affirmed that a robust monitoring and supervision system ensure effective implementation of all environmental and social obligations. Moreover, there was an open annual stakeholder's forum at which civil society representatives were invited. In relation to the Special Rapporteurs' concerns about the difficulty for the authorities to take an impartial position in the balance on commercial returns against social concerns, the World Bank reported that the purpose of the project was to improve the livelihoods of the affected population. In relation to the alleged lack of adequate compensation for loss of land, the World Bank reported that the compensation consisted in the form of cash and replacement housing and livelihood restoration. Moreover, the World Bank explained how interim compensation shall be provided if necessary. Where double cropping exists, interim compensation was paid for double crops. Regarding the allegedly impeded access to transitional villages during the rainy season, making food and water delivery difficult, the World Bank reported that the relocation programme continued through the rainy season and that, while the rainy season caused inconvenience during the move, the households moving showed eagerness and enthusiasm to move to their new sites. Moreover, according to the information, the project provided an assistance package. Concerning the question of their buffalos and the possibility of growing rice in the new plots, the World Bank reported that, given the reduced grazing areas, the number of buffalo would probably need to be reduced. However, project staff was working with the communities and households on these issues. Concerning access to markets, the World Bank reported that it was expected that the construction force would provide a temporary market for their produce during the project implementation period, and that the challenge lay in the post-construction years. In relation to the concern over inadequate plan for clearing the biomass from the reservoir before impoundment whereby the decomposing vegetation could cause water quality problems in the new reservoir, the World Bank explained that NTPC would engage experts to study further the various options for biomass clearance and their implications on various aspects of the reservoir operation, including fishery and water quality. A decision was expected to be reached in a few months that would be reviewed by the Bank for compliance with agreed environmental-quality standards. In relation to indigenous communities' consultations, the World Bank reported that the development of the resettlement programme followed a consultative and participatory process with the affected communities, throughout many years. Concerning the World Bank operational policy regarding the protection of the rights of the affected indigenous peoples' communities, the World Bank reported that the resettlement programme was developed with the objective of improving the livelihoods of the indigenous communities. According to the World Bank, food insecurity has been a grave challenge facing the population on the Plateau for many years. With this programme, the affected households were expected to significantly improve their livelihoods.

### **Follow-up**

118. On 5 October 2007, the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people thanked Mr. Gulati and Mr. Illangovan from the World Bank for their willingness to continue the dialogue on the potential impact of the construction of Nam Theun 2 dam on the human rights, including the right to food, of the affected communities and for the additional information that was sent to the Special Rapporteur on 2 February 2007 in response to his communication of 3 November 2006.

However, allegations received indicated persisting problems related to the situation of various villages and indigenous communities, which are likely to be affected by the construction of the dam, and particularly as regards their food security situation and access to land and natural resources. In this regard, the Special Rapporteurs shared with the World Bank the same concerns that had been raised with the Government

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