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**CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF
FREEDOM OF EXPRESSION**

The right to freedom of opinion and expression

Addendum

Summary of cases transmitted to Governments and replies received*

* The present document is being circulated in the language of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions

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Introduction

1. This addendum to the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression gives an account of actions undertaken by the Special Rapporteur between 1 January and 31 December 2003. It also contains in summary form the replies received from Governments to his communications, as well as observations of the Special Rapporteur where considered appropriate.
2. Owing to restrictions on the length of documents, the Special Rapporteur has been obliged to reduce considerably details of communications sent and received. As a result, replies from Governments could not be published in their entirety.

SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED

Afghanistan

Communications sent

3. On 14 August 2003, the Special Rapporteur sent an urgent appeal concerning **Mer-hossin Mahdawi**, chief editor of the *Aftaab* weekly newspaper, and **Ali Reza Payam**, a journalist working for the same publication. It was reported that on 17 June 2003, the newspaper was allegedly closed down, its editor and deputy editor were arrested and accused of blasphemy for publishing articles on the interpretation of Islam and for its adaptation to the wording of the new Afghan Constitution, and released a week later. It was further reported that on 17 July 2003, the Darul Efta or Fatwa Department of the Supreme Court of Afghanistan recommended to the Kabul Provincial Court to condemn the two journalists for blasphemy, a sentence carrying the death penalty. It is also reported that adjudications (Fatwas) issued by that department are not final and binding on the Court. Nonetheless, fears were expressed that the recommendation of the Fatwa Department of the Supreme Court may constitute a great deterrent to the promotion and protection of freedom of opinion and expression in your country.
4. On 22 December 2003, the Special Rapporteur sent an urgent appeal referring to the case of **Ms. Malalai Joya**, a member of the Loya Jirga (Constitutional Council) representing the Farah province. It was reported that Ms. Joya criticized, during the morning session of the Loya Jirga on 17 December 2003, the position of influence given to some faction leaders, appointed as chairpersons of important committees of the Loya Jirga. It is reported that while Ms. Joya was speaking, the Chairman interrupted her and ordered her expulsion from the Council. At the same time, some of the delegates began insulting Ms. Joya and others are said to have threatened to kill her. Ms. Joya was eventually allowed to remain in the Council. This incident came after other female members of the Loya Jirga complained of receiving second-class treatment from their colleagues.

Observations

5. The Special Rapporteur regrets that no response had been received from the Government at the time this report was finalized.

Albania

Communication sent

6. On 2 October 2003, the Special Rapporteur sent a communication concerning the daily newspaper *Kaho Jonë*, which allegedly became the target of Government intimidation following the publication of articles critical to the Prime Minister. A few days after the publication of these articles, five different Government agencies reportedly sent inspectors to check the compliance of the newspaper's parent media company with financial, labour and other regulations. It was also reported that while the inspections were lawful, their timing, unusual nature and surrounding circumstances raised suspicions that they might be used to retaliate against the newspaper. It seemed that the inspectors had also seized all financial documentation of the "Koha" media group, which included two daily newspapers, one television station and one radio station, apparently making it difficult for the group to conduct everyday transactions.

Observations

7. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

Algeria

Communications envoyées

8. Le 22 août 2003, le Rapporteur spécial a adressé une communication au gouvernement concernant des rapports faisant état de la décision du 14 août 2003 de suspendre plusieurs journaux indépendants. Selon les informations communiquées au Rapporteur spécial, *Le Soir d'Algérie*, *Liberté*, *El Watan*, *Le Matin*, *El Khabar*, *l'Expression* et *El-Raï* auraient été suspendus après avoir été sommés par les autorités de payer leurs dus à l'imprimerie d'État avant le 17 août. Il semblerait que l'un de ces journaux, *Liberté*, aurait payé ses dettes par chèque certifié en présence d'un huissier, mais aurait tout de même été suspendu. Certains rapports indiquent que cette suspension pourrait être due au fait que ces journaux soient critiques vis-à-vis du gouvernement.

9. Le 24 septembre 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une communication au gouvernement dans laquelle ils faisaient état de renseignements selon lesquels près de 400 personnes qui se seraient rassemblées le 26 mars 2003 à Alger en soutien aux familles de personnes disparues auraient été violemment dispersées par les forces de l'ordre. Des mères de disparus, parmi lesquelles des femmes âgées, auraient été maltraitées par la police et certaines d'entre elles se seraient évanouies. Une reporter de nationalité hollandaise aurait été malmenée et ses films confisqués. Cinq personnes auraient été arrêtées et gardées dans les fourgons de la police avant d'être relâchées peu après. Le rassemblement aurait été bloqué devant le siège de la Commission nationale consultative de promotion et de protection des droits de l'homme (CNCPPDH), et les participants empêchés de se rendre

devant la présidence de la République. Plus tard, des agents de la Compagnie républicaine de sécurité auraient assailli les familles des personnes disparues alors même qu'elles s'apprêtaient à rejoindre le siège de leur association. Les Rapporteurs spéciaux indiquent également que des faits similaires se seraient produits dans le passé. En particulier, le 6 novembre 2002, une trentaine de membres de familles de disparus s'était réunie devant la CNCPPDH et s'étaient ensuite dirigée vers la présidence de la République. Les familles auraient alors été bloquées dans leur marche par les forces de l'ordre. Certaines personnes auraient été par la suite bousculées et battues. Tout le quartier aurait ensuite été quadrillé par les services de sécurité. Il semblerait que ce rassemblement avait fait suite aux déclarations du président de la CNCPPDH, qui se serait prononcé sur la manière de régler le problème des disparus, le 3 novembre 2002, dans le journal *Echourouk El Yaoumi*, en préconisant de remettre aux familles de disparus la somme de 100 millions de centimes, ainsi qu'un acte de décès et de clore ainsi les dossiers.

10. Le 29 septembre 2003, le Rapporteur spécial a envoyé une communication au Gouvernement algérien concernant des informations selon lesquelles, depuis le 14 août 2003, des membres du personnel de certains journaux d'opposition auraient été interpellés et convoqués par la police, et placés sous contrôle judiciaire dans le cadre de ce qui pourrait être assimilé à une campagne d'intimidation à l'encontre de la presse indépendante. Comme mentionné dans la communication du Rapporteur spécial du 22 août 2003, il semblerait que, le 14 août, les journaux *Le Matin*, *Le Soir d'Algérie*, *Liberté*, *L'Expression*, *El Watan*, *El Khabar* et *El-Raï* auraient été sommés de payer leurs créances aux imprimeries d'État, avant le 17 août. À la suite de cela, il semblerait que des convocations de la police judiciaire auraient été adressées à **Farid Alilat**, directeur du quotidien *Liberté*, **Saïd Chekri**, son rédacteur en chef, **Ali Ouafek**, son directeur de la coordination, et au journaliste **Rafik Hamoun**, qui se seraient présentés au commissariat le 28 août. Le 1^{er} septembre, de nouvelles convocations auraient été adressées à sept collaborateurs du journal *Liberté*: son ancien directeur, **Outoudert Abrous**, **Farid Alilat**, **Saïd Chekri**, le caricaturiste **Ali Dilem**, le chroniqueur **Mustapha Hammouche** et les journalistes **Rafik Benkaci** et **Mourad Belaïdi**. Le 3 septembre, Farid Alilat, Saïd Chekri, Ali Ouafek et Rafik Hamoun auraient été déférés devant le procureur et le juge d'instruction, puis mis en liberté provisoire, et Mustapha Hammouche et Mourad Belaïdi se seraient présentés devant la police judiciaire pour une audition. Le même jour, **Mohammed Benchicou**, directeur du quotidien *Le Matin*, aurait à son tour reçu une convocation. Le 6 septembre, **Fouad Boughanem**, directeur du *Soir d'Algérie*, aurait reçu une troisième convocation, et le 8 septembre, des mandats d'amener, signés par le procureur de la République, auraient été délivrés à l'encontre d'Ali Dilem et de Mohammed Benchicou, qui auraient été interpellés par la police judiciaire et conduits au commissariat central d'Alger. Ils auraient été inculpés le lendemain pour offense au chef de l'État, puis mis en liberté provisoire. Il semblerait que leur arrestation aurait provoqué un attroupement sur la voie publique, au cours duquel trois reporters photographes auraient été conduits au poste de police, puis relâchés. Le 11 septembre, **Ahmed Benaoum**, patron du groupe de presse Err-raï el Aam, aurait été arrêté, après un dépôt de plainte pour «faux et usage de faux», semble-t-il pour deux affaires de droit commun datant d'une vingtaine d'années, placé sous contrôle judiciaire, puis relâché. Le 16 septembre, Fouad Boughanem aurait été interpellé devant La Maison de la presse à Alger, et conduit au commissariat central, puis relâché quelques heures plus tard. Des

journalistes, venus protester contre son arrestation au commissariat, dont la directrice de la rédaction du *Soir d'Algérie*, **Malika Boussouf**, le rédacteur en chef du *Soir d'Algérie*, **Badreddine Manâa**, et **Rabah Abdallah**, secrétaire général du Syndicat national des journalistes, auraient été interpellés, puis relâchés.

11. Dans la même communication, le Rapporteur spécial a soulevé le cas de **M. Hassen Bouras**, correspondant du quotidien *El Djazairi* dans la localité d'El Bayadh (sud-ouest du pays), qui aurait été frappé violemment et légèrement blessé au couteau le 20 janvier 2003 par deux personnes qui seraient les fils de notables locaux, membres de l'Organisation nationale des moudjahidin (ONM). M. Bouras aurait porté plainte contre ses agresseurs, mais il semblerait que ces derniers demeureraient en liberté et il n'est pas établi qu'une enquête ait été ouverte à leur encontre par la police. Selon les informations reçues, cet incident aurait fait suite à la publication par le journaliste, qui serait également membre de la Ligue algérienne pour la défense des droits de l'homme, d'une lettre signée d'un membre de l'ONM dénonçant le passé du Secrétaire actuel de l'Organisation. Il semblerait que M. Bouras aurait été condamné à la suite de cette publication à six mois de prison avec sursis et 10 000 dinars d'amende par le tribunal correctionnel d'El Bayadh pour diffamation.

12. Le Rapporteur spécial s'est également référé dans la même communication aux informations qui lui sont parvenues, selon lesquelles, le 10 décembre 2002, la police aurait empêché une marche vers Alger organisée à l'occasion de la Journée internationale des droits de l'homme par des membres de la communauté berbère. Selon les informations reçues, la police aurait arrêté plusieurs dizaines de manifestants originaires de Kabylie, parmi lesquels **Khaled Guermah**, père d'un adolescent qui aurait trouvé la mort alors qu'il était en garde à vue (le Rapporteur spécial avait envoyé une communication au Gouvernement marocain à ce sujet le 26 juillet 2002, à laquelle le gouvernement avait répondu par lettre datée du 31 octobre 2002 [voir E/CN.4/2003/67/Add.1, par. 13 et 23]). Il semblerait qu'une centaine de manifestants se soit réunie sur une des principales places de la capitale, mais, alors qu'ils se dirigeaient vers le bureau des Nations Unies, la police serait intervenue pour interdire la manifestation et aurait procédé à l'arrestation de plusieurs participants à la manifestation.

13. Le 2 octobre 2003, le Rapporteur spécial a envoyé une communication conjointement avec le Rapporteur spécial sur la question de la torture et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme relative au cas de **Salah-Eddine Sidhoum**, médecin et défenseur des droits de l'homme, qui se serait rendu aux autorités algériennes le 29 septembre 2003 après neuf années passées dans la clandestinité. Il semblerait que le docteur Sidhoum aurait été arrêté une première fois le 20 juin 1992 et détenu pendant 10 jours après avoir dénoncé les supposées violations des franchises hospitalières par des gendarmes. En septembre 1994, dans une lettre ouverte au Président, il aurait publiquement dénoncé de supposées pratiques de torture, d'exécutions extrajudiciaires et de disparitions forcées. Il aurait été, par la suite, victime d'une campagne de diffamation l'accusant d'appartenir à un réseau de soutien à des groupes terroristes. Selon les informations reçues, le 18 décembre 1994, le lendemain de la diffusion sur Canal Plus, chaîne disponible en Algérie, d'un documentaire de la BBC dans lequel M. Sidhoum aurait dénoncé de graves violations des droits de

l'homme par les autorités, en particulier la torture, trois hommes armés, prétendument des forces de sécurité, se seraient présentés à son domicile d'El Mouradia et auraient questionné sa famille sur ses mouvements. Les hommes auraient menacé sa tante, Aktouf Sakina, ainsi que de revenir tuer M. Sidhoum et de détruire sa maison. À la suite de ces événements, le docteur Sidhoum aurait décidé de vivre dans la clandestinité. Le 10 mars 1997, M. Sidhoum aurait été condamné par contumace à 20 ans de réclusion pour activités terroristes selon l'article 87 du Code pénal. Il aurait néanmoins poursuivi ses activités de défenseur et participé à une étude publiée le 11 janvier 2002 sur de supposées violations des droits de l'homme commises par les autorités. Le 15 décembre 2002, deux hommes en civil se seraient présentés à son domicile avec un mandat d'arrêt à son encontre et exigé en son absence que sa femme se présente à sa place au commissariat d'El Madania, ce qu'elle aurait refusé de faire. Le 29 septembre 2003, M. Sidhoum aurait décidé de sortir de la clandestinité et se serait présenté au parquet d'Alger afin de faire opposition au jugement de 1997. Après que le procureur lui aurait signifié qu'il serait à nouveau entendu dans quelques semaines, le docteur Sidhoum aurait été arrêté et conduit à la prison de Serkadji. Il aurait entamé une grève de la faim pour protester contre ses conditions de détention et aurait été placé, par mesure disciplinaire, en isolement dans une cellule, dans laquelle la lumière serait allumée en permanence. Des craintes auraient été exprimées quant à de possibles attentats contre l'intégrité physique du docteur Sidhoum et quant à son accès à un procès équitable.

14. Le 19 décembre 2003, le Rapporteur spécial a envoyé une communication aux autorités algériennes, dans laquelle il indique que **Hassen Bouras**, journaliste et défenseur des droits de l'homme, aurait été condamné, le 6 novembre 2003, par le tribunal d'El Bayadh à deux années de prison ferme et une interdiction d'exercer sa profession de journaliste pendant cinq années, pour diffamation. Il semblerait que deux articles parus dans le journal *El Djazairi* seraient à l'origine de cette condamnation. Selon les informations communiquées au Rapporteur spécial, M. Bourras aurait été emprisonné entre le 6 novembre et le 2 décembre, date à laquelle il aurait été remis en liberté provisoire par le tribunal de Saida, semble-t-il à la suite d'une grève de la faim.

15. Dans la même communication, le Rapporteur spécial a soulevé le cas de **Sid Ahmed Semiane**, ancien chroniqueur au journal *Le Matin* et connu sous le nom de plume SAS, et résidant à l'étranger, qui aurait été condamné par contumace à six mois de prison ferme pour diffamation par le tribunal de Sidi M'Hammed d'Alger, à la suite de plaintes déposées à son encontre par le Ministère de la défense.

16. Le Rapporteur spécial a, dans la même communication, appelé l'attention des autorités sur le cas de **Farid Alilat**, directeur du quotidien *Liberté*, qui aurait été condamné à quatre mois de prison avec sursis et 100 000 dinars d'amende pour «offense au chef de l'État», en vertu de l'article 144 *bis* du Code pénal, à la suite d'un article paru dans l'édition du 11 août du journal qui alléguait que plusieurs personnalités auraient bénéficié du patrimoine du Ministère des affaires étrangères.

17. En relation avec ces trois cas, le Rapporteur spécial a souligné que des sanctions pénales, et en particulier l'emprisonnement, ne semblent pas proportionnelles à un exercice effectif du droit à la liberté d'opinion et d'expression.

Communications reçues

18. Le 17 septembre 2003, le gouvernement a envoyé une réponse à la communication du Rapporteur spécial du 22 août 2003, dans laquelle il est indiqué que les journaux *El Khabar*, *Liberté*, *Le Matin*, *Le Soir d'Algérie*, *L'Expression* et *El-Rai* ont été suspendus de fait, les sociétés d'impression ayant procédé à l'arrêt de leurs prestations de service envers ces publications, sur la base de dettes de ces dernières, dont le montant est fourni dans la réponse du gouvernement. Le gouvernement souligne que ce litige est de nature strictement commerciale, et que les journaux *Liberté*, *El Khabar* et *Le Matin* sont reparus dans les kiosques dès que leurs dettes auprès des sociétés d'impression ont été acquittées.

19. Par communication en date du 6 novembre 2003, le gouvernement a répondu à la communication du 24 septembre 2003, indiquant que, le 26 mars 2003, des familles de présumés disparus se sont rassemblées devant le siège de la CNCPPDH, comme elles le font tous les mercredis matin depuis quelques années. Alors que le rassemblement allait prendre fin, des personnes étrangères au groupe de familles auraient rejoint ces dernières et les auraient incitées à se déplacer jusqu'au siège de la présidence de la République, en empruntant l'un des axes routiers les plus importants de la capitale, ce qui aurait provoqué un encombrement important de la circulation et contraint les forces de police à intervenir pour inviter les manifestants à se déplacer. Alors que certaines personnes auraient refusé d'obtempérer, la police a recouru à leur dispersion forcée, et quelques personnes qui semblaient être les incitateurs de cet attroupement auraient été interpellées et relâchées aussitôt.

20. Le 19 novembre 2003, le gouvernement a répondu à la communication qui lui avait été adressée le 29 septembre 2003, en indiquant que, dans le cas de Ahmed Benaoum, il fait l'objet de poursuites engagées à son encontre à la suite de plaintes déposées contre lui par le directeur général de l'entreprise nationale de construction navale et par le Bureau du foncier agricole de la wilaya d'Oran, et les informations judiciaires se poursuivaient au moment de l'envoi de la communication.

21. Concernant Hassen Bouras, le gouvernement indique qu'il aurait porté plainte contre trois personnes, identifiées nommément dans la communication du gouvernement, pour coups et blessures volontaires, et que, le 8 juin, deux de ces personnes auraient bénéficié d'un non-lieu, confirmé en appel du ministère public par la chambre d'accusation. La troisième aurait été renvoyée devant le tribunal et condamnée pour blessures légères à une amende. D'un autre côté, M. Hassen Bouras aurait été poursuivi pour diffamation et condamné le 13 janvier 2003 à six mois de prison avec sursis et 10 000 dinars d'amende, condamnation contre laquelle un appel a été interjeté.

22. Concernant les cas des journalistes des journaux *Le Matin*, *Liberté*, *Le Soir d'Algérie* et *L'Expression*, le gouvernement a indiqué dans la même communication que les journalistes cités dans la communication font l'objet de poursuites engagées à leur encontre par le parquet de la République près le tribunal d'Alger au chef d'offense au Chef de l'État en vertu de l'article 144 *bis* (par. 1) du Code pénal. Le gouvernement souligne qu'aucun des ces journalistes n'aurait été détenu.

23. En date du 14 octobre 2003, le gouvernement a répondu aux allégations concernant M. Salah-Eddine Sidhoum, fournissant des détails concernant les procédures judiciaires à son encontre. Par communication en date du 21 octobre 2003, le gouvernement a informé les Rapporteurs spéciaux que M. Sidhoum avait été acquitté par le tribunal criminel d'Alger et libéré le jour même.

Observations

24. Le Rapporteur spécial remercie le Gouvernement algérien pour ses réponses.

25. Le Rapporteur spécial réitère sa requête d'entreprendre une visite officielle en Algérie, comme indiqué dans sa lettre du 8 décembre 2003.

Argentina

Comunicaciones enviadas

26. El 25 de febrero de 2003 el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente con respecto al caso de **Carla Britos**, propietaria y directora del periódico mensual *La Tapa* en Guernica, provincia de Buenos Aires. Según la información recibida, Carla Britos continuaría siendo víctima de amenazas de muerte y actos de intimidación. La amenaza más reciente se habría producido el 14 de febrero de 2003, cuando Carla Britos se encontraba cerca de su casa y habría sido abordada de manera violenta por tres individuos no identificados que habrían amenazado con matarla a ella y a su familia. Carla Britos habría denunciado las amenazas de muerte ante la Fiscalía de La Plata, provincia de Buenos Aires. Se teme que estas amenazas también puedan estar relacionadas con los artículos sobre casos de corrupción publicados en el periódico *La Tapa*. El periódico habría informado sobre casos de corrupción en el municipio de Presidente Perón en los que estaría implicado el ex intendente, actualmente miembro de alta graduación del Servicio de Inteligencia del Estado (SIDE). También habría informado sobre la presunta paliza que habrían sufrido tres maestros a manos de la policía tras una manifestación que tuvo lugar el 29 de mayo de 2002.

27. El 18 de julio de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió otro llamamiento urgente con respecto al caso de **Carla Britos**. Según la información recibida, Carla Britos continuaría siendo víctima de actos de intimidación. El acto más reciente se habría verificado poco después de la medianoche del 13 de julio de 2003, cuando Carla Britos y su familia oyeron un ruido en el exterior de la casa mientras dormían en el interior. Más tarde, sobre las tres de la madrugada, Carla Britos, su esposo y sus cuatro hijos, se habrían despertado a consecuencia del humo que invadía sus dormitorios. La parte trasera de su casa de madera estaba ardiendo. Habían conseguido apagar el fuego y alertaron a los policías quienes estuvieron supuestamente estacionados a unos 20 metros de la casa.

28. El 1.º de octubre de 2004, el Relator Especial envió una comunicación en relación con los incidentes ocurridos en las inmediaciones del Puente Pueyrredón. El día 26 de junio de 2002 se habría presentado un choque entre la policía y los manifestantes conocidos como piqueteros y desocupados quienes intentaban cortar el paso en el puente de Pueyrredón, el cual da acceso a la ciudad de Buenos Aires. De acuerdo con las informaciones recibidas, la policía de la Provincia de Buenos Aires habría desatado una fuerte reacción contra los manifestantes, dos jóvenes de 20 y 25 años habrían muerto y otras 60 personas habrían resultado heridas. Alrededor de 50 personas habrían sido detenidas. En una conferencia de prensa que se habría realizado en la puerta de un hospital, la directora del centro habría anunciado ocho personas heridas de bala, tres de las cuales habrían tenido que ser intervenidas inmediatamente. Igualmente se informó de que, de acuerdo con las denuncias, seis de los manifestantes habrían sido heridos con balas de plomo y que en total habrían sido entre 50 y 60 los heridos de diversa consideración.

29. El 24 de octubre de 2004, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió otro llamamiento urgente con respecto al caso de **Carla Britos**. De acuerdo con las informaciones recibidas, el 5 de octubre de 2003, Carla Britos habría sido forzada a ingresar a un vehículo por un hombre que le habría apuntado con una pistola en la espalda. Habría sido conducida al interior del mencionado vehículo junto con otros dos hombres quienes le habrían amenazado. Asimismo se alega que aparte de las medidas de protección policial con las que contaría Carla Britos, las autoridades no habrían ejercido acciones en contra de los responsables de tales amenazas. Se teme que este incidente, al igual que los anteriores, guarde relación con la publicación en el periódico *La Tapa* de artículos sobre casos de corrupción en el municipio de Guernica, provincia de Buenos Aires.

Comunicaciones recibidas

30. Por cartas de fechas 5 y 11 de marzo de 2003, el Gobierno de la República Argentina contestó a la comunicación del Relator Especial de fecha 25 de febrero de 2003 sobre el caso de **Carla Britos**. El Gobierno indicó que se tomó conocimiento de la denuncia efectuada por la Sra. Britos el 14 de febrero de 2003, y consultado acerca del establecimiento de una custodia del domicilio de la víctima expresó su conformidad al respecto. El Gobierno informó que en la comunicación cursada por la Jefatura Departamental de la Plata consta que el día 25 de febrero 2004, el titular de la Unidad Funcional de Instrucción se hizo presente en la misma, interiorizándose sobre la implantación de una consigna policial en el domicilio de Clara Britos, la que se ordenó en ese momento. En consecuencia, se estableció que desde esta fecha se dispondría la afectación de un móvil en custodia de la familia de la víctima de las amenazas referidas. El Gobierno se comprometió a mantener informado al Relator Especial respecto de los avances que se llevaran a cabo en las investigaciones judiciales del caso de Carla Britos.

31. Por cartas de fechas 4, 5 y 6 de agosto de 2003, el Gobierno de la República Argentina contestó a la comunicación del Relator Especial de fecha 18 de julio de 2003 sobre el caso de **Carla Britos**. El Gobierno transmitió un informe producido por el Adjunto Fiscal de la Fiscalía de Cámara del Departamento Judicial de la Plata. El informe indicaba que ningún delito de incendio del cual fuera víctima Carla Britos había sido

comunicado al interesado. Por otra parte, el Gobierno indicó además que el Subcomisario de la Comisaría Presidente Perón no tuvo referencia alguna, de ningún hecho de incendio del cual fuera víctima Carla Britos. Por carta de fecha 18 de agosto de 2003, el Gobierno indicó que había solicitado una pericia en el domicilio de Carla Britos respecto al incendio mencionado y que los resultados indicaban que no se podía evidenciar del examen realizado por el cuerpo de bomberos ni del contenido de los testimoniales la existencia de una acción deliberada que originara dicho foco.

32. Por carta de fecha 3 de noviembre de 2003, el Gobierno de la República Argentina contestó a la comunicación del Relator Especial de fecha 24 de octubre de 2003 en relación con las persistentes amenazas en contra de la periodista **Carla Britos**. Al respecto, el Gobierno informó que las autoridades solicitaron información a las siguientes autoridades: el Ministerio de Seguridad de la Provincia de Buenos Aires, la Secretaría de Derechos Humanos del Ministerio de Justicia, Seguridad y Derechos Humanos, la Secretaría de Derechos Humanos de la Provincia de Buenos Aires y la Subsecretaría de Justicia de la Provincia de Buenos Aires.

33. Por carta de fecha 11 de noviembre de 2003, el Gobierno de la República Argentina contestó a la comunicación del Relator Especial de fecha 1.º de octubre de 2004 en relación con los incidentes ocurridos en las inmediaciones del Puente Pueyrredón el 26 de junio de 2002. El Gobierno transmitió al Relator Especial el informe elaborado por el Ministerio de la Seguridad de la Provincia de Buenos Aires, el cual incluía los protocolos de autopsia, las declaraciones testimoniales y las primeras conclusiones. El informe aclaró que según surge de los testimonios citados, de las fotografías y videos analizados, después de la ejecución del delito, el personal policial habría ayudado a eludir las investigaciones de la autoridad, a sustraerse a la acción de ésta, y habría omitido denunciar el hecho. Asimismo, el personal policial habría procurado la desaparición y ocultamiento de rastros, pruebas e instrumentos del delito. En cuanto a directivas que se deberían impartir para la prosecución de la investigación en el orden interno, y ampliando las citadas en las conclusiones sobre el doble homicidio, se deberían llevar adelante todas las medidas necesarias para la identificación del personal policial que habría actuado en el ocultamiento y destrucción de pruebas. Por carta de fecha 28 de noviembre de 2003, el Gobierno remitió al Relator Especial un informe de la Secretaría de Derechos Humanos de la Provincia de Buenos Aires sobre los incidentes en Avellaneda. Finalmente, el Gobierno se comprometió a mantener informado al Relator Especial respecto de los avances que se produzcan en las investigaciones por los incidentes acaecidos en las inmediaciones del Puente Pueyrredón.

Observaciones

34. El Relator Especial da las gracias al Gobierno de la República Argentina por sus respuestas.

Armenia

Communications sent

35. On 17 March 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning the organization **Helsinki Citizens' Assembly** and its coordinator, **Arthur Sakunts**. It had then been reported that, on 14 March 2003, the premises of the Helsinki Citizens' Assembly Vanadzor office (HCAV) were allegedly set on fire. Unknown individuals allegedly broke a window of the front door and destroyed the main part of the office with firebombs. This attack was said to be linked to the organization's role as active protestor of the results of the recent presidential elections in Armenia. It was reported that during the electoral process, the Helsinki Citizens' Assembly denounced a number of alleged irregularities of the process, including bribery, unequal press coverage, suppression of opposition candidates and supporters, pressurizing of electoral commission representatives, falsification of votes, amongst others. Furthermore, Arthur Sakunts was allegedly arrested on 15 March 2003, after the mayor of Vanadzor allegedly denied HCAV the permission to hold a meeting outside its offices to inform the population of the alleged irregularities that it had monitored during the electoral process.

36. On 2 October 2003, the Special Rapporteur sent a communication regarding information according to which, on 18 July 2003, the applications of the **A +** and **Noyan Tapan** stations were rejected by the National Broadcasting Commission for the third time since their frequencies were assigned to other stations on 2 April 2002, one year prior to the general elections, after both stations had broadcast criticism against of the President and the Government (see E/CN.4/2003/67/Add.1, paras. 33 and 36). It was reported that the legal basis on which the licences had been refused, after the Commission said their plans "were not good enough", was not clear. According to information received, the two stations were also unsuccessful in bidding on 11 June 2003 for licences that would have enabled them to broadcast for seven years.

Communications received

37. In a letter dated 27 March 2003, the Government replied to the urgent appeal of 17 March 2003 and stated that, according to information submitted by the police, the application of **HCAV** for permission to hold a meeting in a city park was turned down by the Mayor of Vaznador because there was construction going on in the park. It was however suggested to Mr. Sakunts that the meeting could be held in the area next to the Vanadzor Sports Palace. Despite that, Mr. Sakunts called for a public meeting in front of the office of HCAV, which is a residential area. People were crowded on the street, making noise, disturbing residents of the area and disturbing traffic, including ambulances. Police officers asked Mr. Sakunts to stop the meeting but the latter publicly informed the crowd of this request and qualified it as a personal harassment. As he refused to obey the police and continued to shout into his loudspeaker, he was taken to the Vanadzor Police Department. The Police filed a case with the Court of First Instance of the Lori Marz and Mr. Sakunts was sentenced to 10 days administrative detention, in accordance with article

182 of the Code of Administrative Offenses. Mr. Sakunts was released on 25 March 2003. Concerning the fire, the Government responded that the Fire Department intervened immediately and that a thorough investigation revealed that the fire had been caused by electric cables in the ceiling placed in violation of fire regulations.

Observations

38. The Special Rapporteur thanks the Government of Armenia for its reply, but awaits a response to his communication of 2 October 2003.

Azerbaijan

Communications sent

39. On 10 February 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning residents of Nardaran village. In the early morning of 5 February 2003, approximately 200 police officers reportedly entered the village to arrest persons responsible for organizing or participating in demonstrations against the authorities. It was alleged that a number of demonstrators were beaten with clubs, truncheons and gun butts, sprayed with an unknown substance and shot by the police forces. Although some of the demonstrators were allegedly in need of hospitalization, they reportedly did not want to leave the village for fear of arrest and further ill-treatment. **Yakhshibeyov Hamid Ibrahim oglu, Rahibzade Aliabbas Safqulu oglu, Huseynov Aliakbar Hummat oglu, Hasanov Seyid Azer Hamza oglu, Alhasov Mikayil Hadjiali oglu, Hashimov Anar Farhad oglu, Talybzade Niyazi Ahmadaga oglu and Abbasov Ali Miryasif oglu**, were reportedly arrested during this police operation. It was believed that they had been held without access to their lawyers.

40. On 4 June 2003, the Special Rapporteur sent a communication jointly with the Special Rapporteur on torture concerning **Suleiman Mamedii**, the editor-in-chief of *Hurriet*, the newspaper of the Democratic Party of Azerbaijan (ADP), **Seimur Verdizade**, correspondent of *Bu Gyun* newspaper, **Aibeniz Velikhanly** and **Parvin Sadai**, correspondents of *Milletin Sesi* newspaper, **Raghim Gadinov**, correspondent of *525-ci qezet* newspaper and **Rasim Mustafaoglu**, an editor of *Hurriet*, who were said to be among a number of journalists who were reportedly assaulted by the police on 12 May 2001, while they were reportedly covering a demonstration of approximately 2,000 people organized by the ADP in Fizuli square, in the centre of Baku, to demand the release of political prisoners. According to the information received, Suleiman Mamedii was beaten and detained by the police; Seimur Verdizadewas and Raghim Gadinov were beaten by men in civilian clothing who were also believed to have broken their tape recorders; Aibeniz Velikhanly and Parvin Sadai sustained minor injuries allegedly inflicted by the police; and Rasim Mustafaoglu sustained minor injuries allegedly inflicted by men in civilian clothing who are also said to have confiscated his journalist identification.

41. On 10 June 2003, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning a

peaceful demonstration that took place in Baku on 25 May 2003 protesting the treatment of opposition members in Parliament, which was violently suppressed by police officers resorting to an excessive use of force. The crowd included journalists, human rights defenders and members of Parliament. The police officers, carrying batons, beat the demonstrators and arrested many of them. At least 50 demonstrators were wounded. Some of the demonstrators had been sentenced to jail terms, and others fined.

42. The same urgent appeal referred to reports according to which, on 3 June 2003, a **demonstration against a new electoral law** was allegedly attacked and broken up by members of the police forces equipped with riot gear in Muchfinga Street, Baku. At least **20 persons were arrested**, including 11 members of the ADP, members of the Azerbaijan Popular Front (APF) and members of the Musavat party. Among those arrested were **Gasan Kerimli**, ADP Deputy President; and **Sardar Djalaloglu**, APF Secretary-General. Several journalists were attacked, including **Parviz Peshimli** from *Politika*; **Natik Zeylanov**, from *Radio Liberty*; and **Midjad Daglar** and **Tair Tagiev**, from *Khurriet*.

43. On 2 October 2003, the Special Rapporteur sent a communication concerning the following cases:

(a) On 8 September 2003, a group of opposition journalists were covering the arrival of Popular Front activist Fuad Mustafaev for police questioning outside the police headquarters in Baku. It was reported that police officers, led by the Deputy Chief of Police, dispersed Popular Front supporters and then assaulted the journalists, although they clearly identified themselves as such. The following journalists were reportedly attacked and beaten: **Khalig Bakhadur**, of the daily *Azadlyg*, **Azer Rashidoglu** and **Matin Yasharoglu**, of the daily *Zerkalo*, **Ray Karimoglu**, editor of *Milli Yol*, **Mirdjavid Rahimov**, of the "Space" television channel, **Khadidzha Ismailova** of the daily *Ekho*, **Mudfig Abdullayev**, editor of the daily *Bu Gyun*, and **Hagani Safaroglu** of the weekly *Avropa*. It was also reported that two journalists who filmed the attack were taken to the police station, where their recording of the attack was reviewed, and later returned to them.

(b) On 26 July 2003, **Rauf Arifoglu**, editor-in-chief of *Yeni Musavat*, **Aflatun Amashov**, head of the Press Council, **Arig Aliyev**, head of the journalists' union *Yei Nasil* and President of the Baku Press Club, **Mehman Aliyev**, head of Turan Information Agency, **Ganimat Zakhidov**, managing editor of "Azadliq", **Gunduz Takhirli**, member of the Press Council and journalists from *Yeni Musavat* **Alkan Hasanli**, **Safar Hummatov**, **Mirza Zeylanov** and **Murshud Hasanov**, were reportedly taken into police custody near Mr. Arifoglu's residence as they were going to the Press Club. Allegedly, no reason was given for their arrest. According to a statement by the Ministry of Internal Affairs, the detainees had violated traffic laws and insulted and attacked the police, but it was alleged that the police's operation was well planned and that the police was waiting for them outside Mr. Arifoglu's residence. All journalists were released an hour and a half after their arrest, which apparently came on the same day as the Justice Minister's statement that the media were trying to destabilize the country prior to the 15 October 2003

presidential elections, and that he would crack down on the media that failed to respect the ban on undermining the President's "honour and dignity". This statement was apparently later repeated by the Prosecutor General.

(c) On 4 May 2003, the offices of the opposition newspaper *Yeni Musavat* were reportedly attacked by some 30 men, who also assaulted the newspaper's deputy editor-in-chief **Gabil Abbasoglu** and **four journalists**. It was believed that these people were angered by a recent series of articles published in the newspaper on President Aliyev's poor health. The police allegedly briefly detained four of the attackers but brought no charges against them.

(d) On 20 May 2003, two journalists from the opposition weekly *Mukhalifet*, editor-in-chief **Rovshan Kabirli** and **Yashar Agazade**, were reportedly convicted by the Yasamal District Court in Baku to five months imprisonment for libelling a member of Parliament and close relative of President Aliyev. The two journalists were allegedly immediately released, but were considered as convicted criminals. In this respect, the Special Rapporteur indicated that criminal sanctions for libel and defamation are not deemed proportional with an effective exercise of the right to freedom of opinion and expression.

(e) Reports indicated that the newspaper *Yeni Musavat*, associated with the Musavat opposition political party, may have been harassed on the basis of its critical stance towards the ruling political party in the process of preparing the general elections due to take place in October 2003. Between 4 November and 26 December 2002, twelve legal suits were allegedly brought against the newspaper by government officials or businessmen with close ties to the Government, after the newspaper published detailed materials about the investigation abroad of the family of President Aliyev, as well as accounts of alleged violations of the law by the authorities during the 1998 and 2000 elections. There had been allegations of violations of the Civil Procedural Code in relation to these lawsuits, and that army officers had held pickets in front of the newspaper's offices. Finally, it was alleged that from 1998 to 2001, a number of journalists of *Yeni Musavat* had been attacked, kidnapped and arrested.

(f) On 5 September 2002, journalists of the daily newspaper *Khurriyet*, including its editor-in-chief **Ayдын Guliyev**, had allegedly received death threats after the newspaper published an article accusing a senior customs official, whose name is known to the Special Rapporteur, of being involved in petrol trafficking. It was reported that individuals identifying themselves as friends of the official threatened Mr. Guliyev and the journalists, and said that the offices of *Khurriyet* would be blown up if there were any more articles about that person. It was also reported that Mr. Guliyev's call to the authorities to provide protection had gone unanswered. Finally, on 3 September 2002, unidentified vehicles allegedly crashed into Mr. Guliyev's car.

(g) **Elmar Huseynov**, publisher and editor-in-chief of the magazine *The Monitor* and **Eynulla Fetullayev**, a reporter, were reportedly found guilty on

29 July 2002 by Baku's Yasamalsky District Court of defamation and sentenced to pay a fine and to publish a retraction. After this condemnation, *The Monitor* could allegedly not be printed, since both the State printing company "Azerbaijan" as well as the private printers "Ekspress", "CBS" and "BPP" refused to print the magazine, citing "orders from above". In addition, it was reported that Mr. Huseynov and the magazine had been under the authorities' scrutiny since 1998, when a first defamation suit was filed against it, which led to its suspension for two years. The magazine resumed publication in 2000 under the name *Monitor Weekly*, when officials of the Justice Ministry reportedly threatened to close the magazine if it did not publish an apology for what were deemed as misleading statements contained in one of the magazine's articles in 1998. It was also reported that on 23 April 2000, tax inspectors closed down the printing company publishing the magazine and later allowed it to reopen on the condition that it ceased to print the *Monitor Weekly*. They reportedly then sealed the magazine's Baku offices on alleged tax violations, and later the same month, the Economic Court allegedly suspended the publication and froze its assets after a private company complained that it was "propagating false information".

(h) The newspaper *Famida* was reportedly sued for defamation after it published on 21 July 2001 an article accusing the Deputy Prosecutor of being incompetent and having been transferred, for this reason, from the Prosecutor's office to the department of observation of traffic regulations. It was reported that the Yamasal District Court ruled against the newspaper on 1 October 2001 and ordered its closure and a fine of 100 million manat (approximately three times the monthly turnover of the media outlet), on the basis of article 19 of the Mass Media Law and article 23 of the Civil Code. The newspaper reportedly appealed the decision to the Supreme Court, but the sentence was not suspended until the verdict of the Supreme Court, therefore creating an important economic loss for the company.

44. On 7 October 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders regarding the alleged expulsion from Nakhchivan of a team of election monitors and youth activists from Serbia, sponsored by the Open Society Institute (OSI), an organization which supports democratic initiatives, and the alleged attacks against **Novella Jafaroglu** and **Sadagat Pashaeva**, respectively chair and member of the Association for the Protection of Women's Rights, **Saadat Benaniarly**, head of the Azerbaijan Chapter of the International Society for Human Rights and **Melhat Nassibova**, director of the Nakhchivan human rights resource center. According to information received, Novella Jafaroglu, Saadat Benaniarly and Sadagat Pashaeva went to Nakhchivan on 25 September 2003 to open *Bizim Nakhchivan*, the first independent newspaper in the region. It was reported that in parallel, the three women and Melhat Nassibova organized publicity, accommodation and venues for a series of OSI sponsored workshop on voting rights and election monitoring, to be held on 28 September 2003 in Nakhchivan in preparation of the upcoming presidential elections on 15 October 2003. On 27 September, a few hours before the election training team was reportedly due to arrive in Nakhchivan, the four women were allegedly beaten and thrown tomatoes at by a group of some fifty women in front of

the Nakhchivan human rights resource centre. The police, who allegedly arrived an hour later, allegedly advised the four women to leave Nakhchivan, as they reportedly claimed not to be able to guarantee their safety. On 28 September, Novella Jafaroglu, Saadat Benaniarly and Sadagat Pashaeva reportedly went to Nakhchivan airport to leave, and were allegedly severely beaten by a crowd for approximately fifteen minutes as they were about to board the plane. According to the information received, Government security personnel at the airport took no action, and disappeared while the beating was taking place. On the same day, the police reportedly arrived at the resource centre and allegedly asked the workshop participants to leave, before forcibly placing the election training team on a flight to Baku. Police also allegedly ordered a second team of Serbian election educators on their way to Ordubat to turn around. Concern had been expressed that the attacks against Novella Jafaroglu, Saadat Benaniarly and Sadagat Pashaeva, and Melhat Nassibova may be related to their human rights work, in particular with regards to their work on elections.

45. On 21 October 2003, the Special Rapporteur sent an urgent appeal concerning the alleged abduction of **Azer Qarachenli**. On the night of 15 October 2003, Azer Qarachenli, a journalist with the Baku-based weekly *Avrora*, was allegedly kidnapped by members of the special police forces wearing black masks. According to information received, Mr. Qarachenli was in front of the Musavat party headquarters when he was abducted. The police reportedly denied having arrested or detaining him.

46. On 22 October 2003, the Special Rapporteur sent a letter of allegation regarding a number of **cases related to the October 2003 Presidential election**:

- (a) In the run-up to the 15 October 2003 Presidential elections, there had allegedly been a pattern of intimidation against opposition candidates and supporters, journalists and others, numerous instances of violence and excessive use of force by the police, and indications that conditions for campaigning of governing party candidates and opposition candidates were manifestly unequal, in particular as the media coverage was concerned.
- (b) It was further reported that the composition of the Central Election Commission was favouring the ruling party, and that local non-governmental observers were often prevented from monitoring the vote. For example, it was reported that the NGO "For the Sake of Civil Society" was able to register with the local election commission in the Baku district only 25 of its 500 observers.
- (c) Reports also indicated that the authorities often refused to grant adequate venues for opposition rallies, or otherwise obstructed opposition rallies, and attempted to limit public participation in opposition events, sometimes even closing roads to prevent participation in opposition rallies. It was further reported that police violence against and arrests of opposition activists and supporters, as well as journalists covering opposition rallies, had been endemic during the period leading up to the election, and that several opposition rallies had been violently dispersed by the police. In this respect, it was reported, for example, that on 21 September 2003, Baku city authorities reportedly gave permission to the

Musavat party's candidate Isa Gambar -one of the most popular opposition candidates - to hold two rallies in the capital, but confined the rallies to two small movie theatres that could seat only around 500 persons each. When large crowds tried to listen from outside the cinemas, hundreds of police armed with rubber batons reportedly violently dispersed the crowds, beating and injuring dozens of civilians, journalists, and party leaders gathered outside.

(d) Members of the opposition were allegedly often arrested by the police and held incommunicado for several days. For example, on 5 September 2003, Taliat Aliev, a member of the ADP political council, was reportedly abducted by plainclothes officials as he made his way home from the ADP office. He was allegedly taken to the offices of the Ministry of Internal Affairs' Organized Crime Unit, where the chief of the Criminal Investigation Department reportedly accused him of organizing armed groups within ADP. The next day, he was reportedly taken to the Nariman District Court and accused of resisting arrest. The judge reportedly sentenced him to seven days of detention. He was reportedly then taken back to the Organized Crime Unit, where he was allegedly regularly beaten by the chief of the Criminal Investigation Department and the head of the Banditry Unit. It was reported that the detention was kept secret, and it took the ADP four days to finally locate Mr. Aliev.

(e) On 6 September 2003, officials in civilian dress reportedly abducted Gabir Rzayev, the deputy chief of the UMID opposition party (which supports the candidacy of Musavat leader Isa Gambar) while he was shopping with his wife in Sumgait, a town close to Baku. He was reportedly taken first to the Organized Crime Unit's offices, and then to the Narimanov District Court, where he was reportedly accused of making a public disturbance in Baku and sentenced to five days of detention. It was reported that when he tried to explain that the charges against him were false, six officers took him out of the courtroom and started kicking him. He was reportedly then taken back to the Organized Crime Unit, where he was allegedly accused of organizing armed groups for UMID and Musavat, and organizing a coup d'état. Allegedly, when he refused to sign a confession, he was beaten by a group of officers, and was interrogated everyday by a colonel who worked in the investigation office. It was further reported that for four days, no one knew his whereabouts until his relatives finally went to the Narimanov District Court and located him.

(f) Reports also indicated the substantial presence of unauthorized people, often local executives, directing the work of the election commissions, acting in an intimidating way or instructing electors how to vote, as well as the widespread presence of video cameras filming the voting process, creating an atmosphere of coercion vis-à-vis electors, who sometimes did not feel free to vote according to their mind.

(g) On the day of the elections and during the post-election demonstrations, some journalists and media workers were reportedly harassed or detained by the police. Below is a list of journalists who were allegedly harassed and/or arrested

by the police, either while trying to report on the voting process or on opposition demonstrations:

- **Aslan Abdullayev**, correspondent for the magazine *Molla Nasreddin*. Reportedly harassed by the head of polling station No14/91;
- **Metanet Aliyeva**, *Impuls* weekly. Reportedly harassed while practicing her duty in polling station No. 22/22;
- **Hafiz Aslanov**, *Space TV* and *Azadliq* daily. Reportedly arrested;
- **Salim Azizoglu**, *Yeni Musavat* daily. Reportedly attacked in polling station No1/25 in Baku;
- **Khayal Babayev**, *Azadliq* daily. Reportedly arrested;
- **Vidadi Bayramov**, Salyan regional correspondent of *Hurriyyet* daily. Reportedly forced to leave polling station No11/59;
- **Fakhreddin Hajibeyli**, regional correspondent of *Radio Liberty*. Was reportedly beaten by authorities in Agdam region;
- **Parviz Hashimli**, *Uch Noqte* daily. Reportedly arrested in Ganja city and released after three hours;
- **Murshud Hasanov**, *Yeni Musavat* daily. Reportedly attacked in polling station No 1/25 in Baku;
- **Safar Humbatov**, *Yeni Musavat* daily. Reportedly attacked in polling station No 1/25 in Baku;
- **Mubariz Jafarli**, correspondent with *Yeni Musavat*. Reportedly harassed in polling station No 15 in Baku;
- **Madine**, independent journalist. Was reportedly harassed in polling station No 13/38;
- **Mahir Mammedli**, correspondent with *Yeni Musavat*. Reportedly harassed in polling station No 15 in Baku and arrested;
- **Mushfiq Mammedli**, *Baki Khaber* daily. Reportedly arrested by Baku police;
- **Mukhtar Nabiyev**, magazine *Kriminal*. Reportedly arrested;
- **Tahir Pasha**, chairman of the Journalists War Veterans Association. Reportedly harassed in polling station No 15 in Baku;
- **Eynulla Qarayev**, *Fedai* newspaper. Was reportedly not allowed to enter any polling station in Ujar region by order of local authorities;
- **Firudin Quliyev**, regional correspondent of *Qerbin Sesi* in Shamakhi. Was reportedly prevented from attending polling process;
- **Kenan Rahimov**, *Baki Khaber* daily. Reportedly arrested;
- **Abasali Rustamli**, *Azadliq* daily. Reportedly detained by Sabail District police in Baku;
- **Elnur Sadiqli (Sadiqov)**, regional correspondent of *Azadliq* daily in Ganja. Reportedly detained and beaten by police and released after three hours;
- **Alesker Sadiqov**, *525-ci qezet*. Reportedly detained by police;
- **Konul Shamilqizi**, correspondent with *Yeni Musavat* daily. Reportedly attacked in polling station No1/25 in Baku.

The following journalists were reportedly beaten by the police, and it was reported that some of them had to be treated in hospital with head or back injuries:

- **Shirkhan Agayev**, *Proqnoz* weekly;
- **Besti Alibeyli**, *525-ci qezet*;

- **Nabi Alishov**, *Hurriyyet* daily;
- **Elza Alishova**, *Jumhuriyet* daily;
- **Tahir Aliyaroglu**, *Hurriyyet* daily;
- **Arif Aliyev**, *Tezadlar* weekly;
- **Tural Bagirov**, ATV;
- **Shahla Bayat**, Azerbaijan Public Association Journalists Without Borders;
- **Nijat Daglar**, *Baki Khaber* daily;
- **Mahammed Ersoy**, *Milli Yol* biweekly;
- **Azer H.Hasret**, Secretary General, Azerbaijan Journalists Confederation;
- **Cahangir Hassanli**, *525-ci qezet* daily;
- **Boyukkishi Heydarli**, *Yeni Musavat* daily;
- **Adil Huseynov**, *Hurriyyet* daily;
- **Emin Huseynov**, Turan information agency;
- **Namiq Huseynov**, AzerPress IA;
- **Fuad Husyenquliyev**, Interfax-Azerbaijan;
- **Sabina Iskenderli**, Interfax-Azerbaijan;
- **Aqil Jamal**, *Azadliq* daily;
- **Gunduz Karimoglu**, *525-ci qezet* daily;
- **Elkhan Karimov**, photojournalist with Turan information agency;
- **Sahil Kerimli**, Lider Television;
- **Behruz Maharremov**, ATV;
- **Vasif Mammedov**, *Baki Khaber* daily;
- **Vuqar Mammedov**, Space TV;
- **Asif Marzili**, Editor-in-chief of *Tezadlar* weekly;
- **Zabil Muqabiloglu**, *525-ci qezet* daily;
- **Terlan Muradov**, ATV;
- **Lale Musaqizi**, *Jumhuriyet* daily;
- **Metanet Muslimqizi**, *Baki Khaber* daily;
- **Efqan Qafarli**, *Jumhuriyet* daily;
- **Novrus Qariboglu**, *Milli Yol* biweekly;
- **Ilkin Quliyev**, Turan IA;
- **Zafer Quliyev**, Turan IA;
- **Mirjavad Rahimov**, Space TV;
- **Kenan Rovshanoglu**, *Jumhuriyet* daily;
- **Nazim Sabiroglu**, *Yeni Musavat* daily ;
- **Parviz Sadayoglu**, *Hurriyyet* daily;
- **Mansura Sattarova**, *Jumhuriyet* daily;
- **Etibar Savalan**, *Galajak gun* weekly;
- **Serkerde Serkhanoglu**, *Hurriyyet* daily;
- **Eynulla Umudlu**, *Galajak gun* weekly;
- **Konul Valiyeva**, *Baki Khaber* daily;
- **Farrukh Zarbaliyev**, Space TV.

47. On 22 October 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **police violence and mass arrests**

during demonstrations on the night of the 15 October 2003 presidential elections and the following day. According to information received, thousands of opposition supporters demonstrated in the streets of Baku. It was reported that once the protesters began to congregate, police and military forces immediately surrounded them. It is reported that the protesters reportedly drove away members of the security forces and marched to Azadliq (Freedom) Square, and that during their march, some protesters beat some police officers and soldiers, destroyed a number of police and military vehicles, and damaged government buildings along the way. Soon after the opposition protesters arrived at Azadliq Square, several thousands of riot police and military troops reportedly surrounded the square, stormed the opposition protest and beat protesters, allegedly using tear gas, rubber bullets, police dogs and truncheons. It was reported that the police also attacked and severely beat local members of the press, even after they identified themselves as journalists. It was also reported that government forces surrounded and violently attacked the headquarters of the main opposition party, Musavat, allegedly severely beating at least 50 opposition members, who were reportedly shouting pro-opposition slogans outside the Musavat headquarters when they were attacked.

48. Reports also indicated that at least **190 opposition leaders and supporters** had been arrested since 16 October 2003. In particular, it was reported that on the night of 17 October 2003, all the deputy chairpersons of the opposition Musavat party, **Sullhaddin Akper, Ibrahim Ibrahimli, Arif Hajily** and **Mirbaba Babayev**, were arrested by employees of the Department to Combat Organized Crime of the Ministry of the Interior. **Iqbal Agazade**, UMID party's leader, **Logman Abdullayev**, deputy chairman of the Popular Front party, and his son **Elchin Abdullayev**, as well as **Vagif Hajibeyli**, chairman of the Ahjar party, were also reportedly arrested on the same night. **Sardar Jalaloglu**, secretary-general of the ADP, was allegedly arrested at his home on 18 October 2003, and **Panah Huseinov**, chairman of the Khalq party and former prime minister, was reportedly arrested on 19 October. It was reported that **Isa Gambar**, the Musavat party candidate for the presidential election, had been placed under house arrest. According to reports, all opposition leaders were detained at the Department to Combat Organized Crime of the Ministry of the Interior, but the place of detention of other arrested people was reportedly unknown. It seemed that no charges had been brought against those arrested.

49. Other reports indicated that **members of the group "Our Azerbaijan" and members of civil society organizations** which had supported the candidacy of Isa Gambar might have been targeted. In particular, it seemed that **Mehti Mehtiev**, director of the Human Rights Resource Centre, was arrested at his home on 18 October; **Itimar Asadov**, chairman of the Karabakh Invalids Association, was arrested on 17 October. It was also reported that security forces attempted to arrest Ilgar Ibrahimoglu, a major religious leader and the head of the Centre for the Protection of Conscience and Religious Freedom, who had allegedly received refuge in the Embassy of Norway after two of his associates, Azad Nazimanoglu and Najaf Allahverdiyev, were arrested on 17 October.

50. The authorities were also said to have detained **local opposition activists** in villages and towns throughout Azerbaijan. For example, on 17 October 2003, the police in the town of Saatli had reportedly arrested **Agarza Miriev**, the local Musavat chief; **Beibala Akperov**, his deputy; **Mikhail Humbatov**, chair of the local ADP branch;

Chingiz Umudov, the local chief of the Liberal Party; and Fakhreddin Abdiev, the local chief of the Azerbaijan Popular Front Party (APFP). The chairpersons, or their deputies, of the Musavat branches in the following areas were also said to have been arrested: Ali Bairamli, Gazakh, Gabala, Ismaili, and Jalilabad, Sumgait; the head of the ADP branches in Ali Bairamli, Imishli, and Zagatla; the chairs of the Azerbaijani National Independence Party (ANIP) branches in Ganja, Quba, and Shamkir; and the chairs of the APFP branches in Jalilabad and Siazan; the head of the UMID party in Ali Bairamli.

51. Finally, it was reported that the authorities had arrested dozens of opposition members who served as **observers and polling station officials** during the 15 October election, who had reportedly refused to sign vote tallies from their polling stations that they believed were fraudulent. In the town of Ganja, it seemed that 32 opposition polling station officials were detained for having refused to sign fraudulent vote tallies.

52. On 24 October 2003, as a follow-up to his urgent appeals sent on 21 and 22 October 2003 and to the letter of allegation of 22 October 2003, the Special Rapporteur sent another urgent appeal, having received information according to which the offices of the opposition daily *Yeni Musavat*, located in the same building as the Musavat opposition political party, had been closed on the morning of 16 October 2003 and had then reportedly been placed under the control of governmental special security forces. It was reported that journalists have not been able to access the building since then.

53. On 3 December 2003, the Special Rapporteur sent an urgent appeal regarding **Rauf Arifoglu**, editor-in-chief of *Yeni Musavat* and one of the leaders of the main opposition political party Musavat, who reportedly began a hunger strike on 1 December 2003 to protest against his treatment by the authorities. According to information received, Mr. Arifoglu was summoned to the Prosecutor General's Office on 27 October 2003, where he was interrogated about street clashes between opposition protesters and the police and army in the wake of the presidential elections on 15 October. After being interrogated, he was reportedly summoned to the Nasimi District Court in Baku, which reportedly charged him with resisting the authorities and organizing street clashes, and ordered him placed in custody and kept under investigation for three months. If found guilty, Mr. Arifoglu reportedly faced up to 12 years in prison. It was reported that although the authorities should have been interrogating Mr. Arifoglu while he was in detention to determine whether he was guilty and to investigate the case, it seemed that no action had been undertaken in this regard. Mr. Arifoglu, who claimed that he was not guilty, reportedly went on hunger strike along with approximately 50 imprisoned opposition members, to protest their detention and the charges against them, for exercising their political rights. It was further reported that a number of other journalists who were not imprisoned had joined the hunger strike, such as *Yeni Musavat* editor Zahid Safaroglu and Shahin Agabeyli, editor-in-chief of *Milli Yol* weekly, which has been suspended since the elections.

54. On 22 December 2003, the Special Rapporteur sent an urgent appeal, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Ilgar Ibragimoglu**, the leading coordinator of the Centre for the Protection of

Conscience and Religious Freedoms (DEVAMM) and secretary general of the International Religious Liberty Association (IRLA Azerbaijan), who was reportedly arrested on 3 December 2003 for a three-month period on the orders of the Nasimi District Court of Baku. According to information received, the court hearing was extremely short and Mr. Ibragimoglu's lawyers were not heard. It was reported that he was accused of disturbing public order and resisting representatives of the authorities, in the aftermath of the presidential elections on 16 October 2003. It was alleged that this action might have been directly linked to the participation of DEVAMM in the work of the democratic coalition "Bizim Azerbaijan", a coalition of around 30 political parties and NGOs in support of the candidacy of Isa Qmbar, the chairman of the opposition Musavat party.

55. The same urgent appeal referred to acts of harassment against the members of the committee for the protection of Mr. Ibragimoglu's rights, composed notably of members of DEVAMM and IRLA, which was created after his arrest. In the evening of 4 December 2003, approximately at the same time, in different parts of Baku, the homes of the press secretary of DEVAMM, Mr. Seymur Rashidov, and of the driver of DEVAMM, Mr. Shahin Gasanov, were reportedly visited by officers from the local police departments, who, without showing any official paper, asked the above persons to come to the police department. As Mr. Rashidov was not at home at that time, the policemen allegedly called him on his mobile phone and told him that he must appear on 5 December at 9 a.m. at the 27th police department of Yasamal district. Mr. Rashidov was summoned to the Prosecutor's office on 11 December, where he was interrogated and released.

Communications received

56. On 16 September 2003, the Government replied to the communication of 4 June 2003 concerning the cases of **Suleiman Mamedii, Seimur Verdizade, Aibeniz Velikhanly, Parvin Sadai, Raghim Gadinov** and **Rasim Mustafaoglu**, and indicated that during the inquiry conducted by the investigative division of the Baku Central Police Department, these journalists declared that, on 12 May 2001, no illegal actions were committed against them, that they had sustained no bodily injuries and that they had not appealed to the State authorities. Furthermore, of the journalists referred to in the communication, only *Khurriyat* correspondent Mamedov was brought to Nasiminskiy district police station No. 22, at approximately 16.45 p.m. on 12 May 2001, for participating in an unauthorized street procession that day, and was then released at about 17.55 p.m. after having been given a warning. In his statement to the police, Mr. Mamedov indicated that no illegal actions of any kind were committed against him and that it was only during the unauthorized street procession that he lost his professional identification papers. Finally, the inquiry also revealed that declarations and complaints were not received at the Baku procuratorial bodies concerning the alleged beatings of 12 May 2001.

57. On 21 November 2003, the Government replied to the communication of 2 October 2003 and provided the following observations:

- **F. Mustafae**v was summoned to the Baku police investigation department in the afternoon of 8 September 2003, following an incident involving him and presidential candidate Mr. Gadjiyev during a live television broadcast. On the same

day, media representatives gathered outside the Baku central police station in order to obtain more information. In the afternoon, the police announced the arrival of Mr. Mustafaev, but the media representatives ignored this announcement and attempted to break into a secure area of the station. This unlawful activity disturbed the peace and normal working pace of the police station and nearby establishments. The journalists named in the communication were among those who gathered at the station. Following cautionary discussions and insistent demands by the police, the media representatives vacated the administrative entrance and then dispersed. No illegal action, physical pressure or influence was used against them by the police.

- On 26 July 2003, the editor-in-chief of *Yeni Musavat*, Mr. **Arifoglu**, and journalists who were accompanying him (10 people in total), were detained when their vehicle driver violated road traffic laws. They were taken to the 37th Khatain district police station. On arrival at the police station, the journalists refused to give their names. After Khatain district police chief M. Mikhailov intervened, the journalists were promptly released. The police did not take any illegal action against them.

- On 4 May 2003, Faramaz Novruz oglu Allakhverdiev, Rashadat Sahib oglu Jafarov, Vagif Jafar oglu Jafarov and Rovshan Kyamil oglu Mamedov went to the publishing office of *Yeni Musavat*, where they shouted abuse at journalists. They were taken into custody by officers from the Sabail district police station and charged pursuant to article 296 (rowdy behaviour) of the Administrative Code of Misdemeanours. The Sabail district court sentenced Mr. Allakhverdiev and Mr. Jafarov to two weeks' administrative detention, and Mr. Jafarov and Mr. Mamedov to 10 days administrative detention, respectively. No information has been received by the police regarding threats supposedly made against the editor-in-chief and other journalists from the newspaper *Khurriyet* on 5 September 2002.

- Concerning *Yeni Musavat*, 10 enforcement orders have been sent to the Ministry of Justice law enforcement service for implementation. These were for the enforcement of court rulings between 2001 and 2003, ordering the publication of retractions or the payment of damages to natural or legal persons under the law on the protection of honour and dignity. Despite numerous requests, *Yeni Musavat* has not responded and is avoiding fulfilling them.

- With regard to the magazine *Monitor*, due to a counterclaim made against the magazine *Monitor Weekly* by the publishing house Nina on 11 May 2000, the Economic Court of the Republic of Azerbaijan ordered *Monitor Weekly* property to be seized and the distribution of the magazine suspended. The order was sent to the law enforcement department of the Yasamal district court in Baku. On their arrival at the magazine's premises, the bailiffs learned that its property had already been seized by the Tax Ministry. On 15 May 2000, the bailiffs communicated information to this effect to the Economic Court. Moreover, concerning the defamation cases, the court's decision was taken in response to actions brought by the Ministry of Defence for damages and the protection of honour and dignity. The court order partly satisfied the suit for the publication of false information in an article entitled "A Report to the Minister of Defence of the Republic of Azerbaijan, Mr. Safar Abiyev", published in

the edition of 6 April 2002, requiring a retraction to be published in the following edition of the magazine, and a total of 50,000,000 manats to be withheld from the author of the article, Eynulla Fetullayev, and the magazine's editorial board. On appeal, the district court's ruling was amended and the total sum to be withheld from Eynulla Fetullayev and the editorial board of the magazine was reduced to 10,000,000 manats. The High Court considered and upheld the ruling of the Appeal Court in judicial review on 12 March 2003.

- Concerning *Mukhalifat*, Rovshan Kabirli and the journalist Yashar Agazade were sentenced to five months imprisonment by the Yasamal district court in Baku, but were amnestied and released the same day. In this regard, it has been established that on 24 April 2003, an application was made to the court by Jalal Aliev, a member of the Milli Majlis (Parliament) to mount a criminal investigation on special charges under articles 147.1 and 148 of the Criminal Code. By a judgement dated 20 May 2003, the Court sentenced both men to five months imprisonment. They were released under an amnesty, decreed by the Milli Majlis on 6 May 2003 on the occasion of the celebration of the victory over fascism during the Second World War. On 16 July 2003, the Court of Appeal upheld the district court's ruling.

- Concerning the case against *Famida*, a district court of Baku ruled on 1 October 2001 that the publication and distribution of this newspaper should cease and that a sum equal to three months' average financial outlay should be withheld for the benefit of the claimant. On 6 December 2001, the Court of Appeal considered and rejected an appeal by the editor-in-chief of the newspaper. The court order was enforced on 19 December 2001. On 4 January 2002, the claimant personally requested that the payment to him ordered by the court should not be enforced, and renounced the sum credited to him.

58. On 14 November 2003, the Government replied to the urgent appeal of 7 October 2003 and indicated that an official inquiry had been undertaken following the application made by Novella Jafarova, Sadagat Pashayeva and Saadat Benenyarly on 2 October 2003. According to the investigation, on 27 September 2003, as they were approaching the Human Rights Resource Centre in Nakhchivan, the women were violently attacked, insulted by a group of unidentified women who threw eggs and tomatoes against them. Although the incident was reported to the Municipal Police Division, the officer on duty, Farzaliyev, neglected his official duties and failed to send the police forces immediately. Mr. Abbasov, a police inspector, arrived two hours after the incident was reported and Mr. Hassanov, chief of the Police Security Division, within three to four hours. No record of the incident was taken nor any step to identify the attackers. On 28 September 2003, the same women referred to in the urgent appeal were again attacked by a group of 15 to 20 unidentified women at the Nakhchivan airport as they were departing for Baku. In the absence of the police, the violence was stopped by the other passengers. The three women and a Mrs. Nassibova reported physical injuries inflicted during the incident, but refused to undergo forensic examination. Pursuant to Order Nr. 85 of 3 October 2003 by the Minister of internal affairs of the Autonomous Republic of Nakhchivan, the following disciplinary measures were taken related to the incident of 27 September: reprimand for the Major Farzaliyev Jeykhun, duty officer at the Municipal Police Division of

Nakhchivan, a reprimand for the Senior Lieutenant Abbasov Chingiz and a warning for Major Hassanov Mahir. According to Order Nr. 90 of 1 November 2003, the following disciplinary measures were taken against officers of the Nakhchivan Airport police related to the incident of 28 September: a strict reprimand for Senior Sergeants Mamamdov Husseyn and Rassulov Gahraman and a warning for Lieutenant Colonel Mustafayev Rasim. These measures were approved by the Ministry of Internal Affairs of the Republic of Azerbaijan. Finally, there was no investigation regarding the expulsion of instructors and young activists from Nakhchivan since the three women referred to in the communication had not complained about this particular matter.

59. On 20 November 2003, the Government replied to the urgent appeals of 21 and 24 October 2003. The Government stated that it was well known that upon completion of the presidential elections on 15 October 2003, more than 400 supporters of the Mussavat party organized a demonstration in front of the headquarters further to illegitimate and provocative calls made by the party leader, Issa Gambar, before and during the election day. In violation of the provisions of the Law on Freedom of Assembly, the protesters also made unfounded allegations that the elections had not been regular, blocked the traffic and attempted to attack the Central Election Commission in order to change the result of the elections. The protesters have neglected numerous warnings made by the authorities that remained restraint in a very tense situation and fiercely attacked the police with stones, sticks and iron rods, as a result of which 22 police officers were wounded, six of whom seriously. During the same night, Mr. Sahib Kerimli, a reporter from a leading television channel, was brutally beaten by Mussavat supporters. Thanks to a number of legal measures taken by the authorities, the riots have not expanded and 15 of the most active rioters were detained, including some media representatives involved in various violent incidents, in a number of cases manifesting open disobedience to the calls made by the police. Regarding allegations of ill-treatment in detention, an internal inquiry was undertaken following the complaint made by Mr. Aflatun Amamshov, chairman of the Press Council of the Republic of Azerbaijan. The inquiry revealed that a group of mass media representatives, instead of tracing the ongoing events in an objective and unbiased manner, joined the rioters and were involved in violent actions. Some of them failed to have any identity documents or other element pertaining to their profession. For example, Mr. Azar Aliyev, editor-in-chief of *Avropa* newspaper, was detained not as a mass media representative, but for violating the legislation on public assemblies and disobedience to calls from the police. Because he did not want to be differentiated from other demonstrators, Mr. Aliyev did not present identity documents during his detention. Pursuant to a measure taken by the Binagadi District Court on 16 October 2003, he was sentenced to 10 days of administrative arrest. During the inquiry, Mr. Aliyev denied having been subjected to any form of physical ill-treatment while in detention, an assertion that he confirmed later at a press conference. Although the inquiry did not reveal any illegal actions against journalists, the evidence that had been gathered was kept in the ongoing criminal case and if evidence were found of illegal action taken by the police, a legal assessment of the latter would follow immediately.

60. On 24 November 2003, the Government replied to the joint urgent appeal of 22 October 2003. It declared that the radical opposition, reluctant to recognize the positive developments in the country, including the formation of a democratic state based on the

rule of law, had always manifested an irreconcilable attitude towards the constructive proposals of the authorities. Those destructive forces called for disobedience on the eve and during the night of the presidential elections. Representative of the two main opposition parties, Mr. Issa Gambar and Mr. Igbal Aghazadeh have called for active participation of supporters, including for criminal acts for which some of them even received remuneration. On 15 October 2003, when the vote was completed, a group of 400 supporters of the Mussavat party gathered in front of the headquarters of the party as explained in the above letter of 20 November 2003. On 16 October 2003, despite promises that they would not organize such actions, leaders of the Mussavat party and activists of the Democratic Party of Azerbaijan arranged a number of riots in various parts of the capital. In the afternoon of the same day, 3000 activists gathered in front of the Carpet Museum in Sabayil district of Baku. They attacked the police, and a number of police officers as well as civilians were wounded. Public transport was disrupted, windows and entrances of 123 offices, institutions and shops were damaged, as well as 43 motor vehicles. The total damage was evaluated at 5 billion manats.

61. A number of criminal cases have been opened as a result of the incidents of 15 and 16 October 2003. So far, the investigation conducted by both the Ministry of Internal Affairs and the Office of the Prosecutor have revealed that 86 police officers, 68 soldiers and military officers and 66 civilians suffered serious injuries and that a 5-year-old child, one soldier, nine police officers and four civilians were severely injured. One man died. A total of 625 persons were detained for active participation in the riots and for other different offences, 90 of whom were indicted. All received legal assistance. On 25 October 2003, for humanitarian reasons, all of them were set free by the Court of Appeal. Meanwhile, some international organizations as well as local media had mentioned alleged arbitrary arrests, including unsubstantiated allegations of torture and other forms of ill-treatment in the places of detention.

62. Zulfugarov Mahbub, chairman of the Imishli regional branch of DPA, Oridjov Ramiz and Veliyev Gunduz, chairmen of Ghandja city and Shamkir regional branches of the National Independence Party of Azerbaijan, Amirkhanov Vidadi, deputy chairman of the Ali Bayramli regional branch of Mussavat, Umudov Chingiz, chairman of the Saatli regional branch of the Liberal party were not subjected to any enforcement measures and were not detained. On the contrary, the participation in the riots of Nuraddinov Nazim and Dashdemirov Sadig, chairman and deputy chairman of the Gabala region branch, Asadbeyli Behruz, chairman of the Sumgayit city branch and Bayramov Elkhan, secretary of the Gazakh regional branch of Mussavat, were proved, and arrests warrants were accordingly issued. Other persons were detained for various administrative offences. The arrest of 32 members of the opposition in Ghandja is untrue. Only two members of the election commission were administratively arrested and later released.

63. The Government mentioned that Mehdiyev Mehdi, Ilgar Ibrahimoglu and his supporters, Azad Narimanoglu and Allahverdiyev, were not arrested. It also stated that no persons arrested in connection with the events that took place near the Mussavat headquarters were kept at the Organized Crime Department of the Ministry of the Interior. However, since after the incidents of 16 October 2003 a too large number of persons were arrested for the capacity of the police offices of the city, and given the proximity of the

Organized Crime Department, 18 persons were kept at this place. Those detainees had no trace of injury and none applied for medical assistance. Only Ibrahim Ibrahimli, deputy chairman of the Mussavat party, complained of a headache and was given medical assistance, but he later publicly denied having been subjected to ill-treatment.

64. On 26 December 2003, the Government responded to the communication of 22 October 2003 and reiterated that at the end of the 15 October 2003 presidential elections, following provocative calls made by the Mussavat party leader and presidential candidate Isa Gambar, more than 400 party members and supporters, contrary to the Freedom of Assembly Act, held an unauthorized rally at the party headquarters. Police officers detained many of the organizers and those actively taking part in the rally. Some of them were placed in administrative detention by court order, the Office of the Procurator General instituted criminal proceedings against others, and an investigation was opened. Several journalists, who had joined the crowd and taken part in the unlawful actions, were amongst those held in administrative detention. However, the journalists were released on 21 October without the application of any preventive measures against them. A joint statement was made for the press by the Ministry of Interior and the Office of the Prosecutor General in connection with the events that had taken place on 15 and 16 October 2003 in Baku. The Minister of the Interior held several meetings with representatives from various international organizations and brought exhaustive information to their attention. A meeting was also held in the Ministry with the secretary-general of the NGO Reporters sans frontières, Robert Ménard, who was presented with detailed information.

Observations

65. The Special Rapporteur thanks the Government of Azerbaijan for its replies, but awaits a response to the other communications.

66. The Special Rapporteur would also like to reiterate his wish to undertake an official visit in Azerbaijan, as expressed in his letter of 8 December 2003.

Bangladesh

Communications sent

67. On 13 January 2003, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Saleem Samad**, a journalist and correspondent for the NGO Reporters Without Borders, for whom an urgent appeal was sent on 2 December 2002 (see E/CN.4/2003/67/Add.1, para. 66). According to information received, a month after being arrested for working with journalists from the British television Channel 4, Mr. Samad was secretly transferred on 1 January 2003 from Dhaka prison to a prison in Gazipur, 60 km north of Dhaka, and his family and lawyer were not allowed to visit him since then. It is further reported that the High Court ordered on 24 December 2002 the release of Mr. Samad, requesting the Government to present evidence in court showing why his detention should not be declared illegal and the reason for continuing to hold him under the Special

Powers Act. The Government allegedly refused to do so, and on 31 December tried to get court permission to take him back to police headquarters for further interrogation.

68. The Special Rapporteur sent an urgent appeal on 11 March 2003, referring to the situation of **Rafiquel Tuhin**, correspondent of the daily *Janakantha* in the northeastern town of Habiganj, who on 1 March 2003 was reportedly attacked by 20 alleged supporters of the Jamaat-e-Islami movement, armed with knives and hockey sticks, against whom no legal action had been taken at the time the communication was sent. Some days before this event occurred, Mr. Tuhin had published an article allegedly involving a Jamaat-e-Islami activist in a reported rape. He is said to have received death threats after the article was published. At the time of writing, none of the alleged attackers have reportedly been arrested.

69. In the same communication, the Special Rapporteur referred to the case of **Dilip Kumar**, correspondent of the *Prothom Alo* daily newspaper, who was reportedly arrested in the Kishoreganj district on 3 March 2003, allegedly in relation to a report he recently published on violent incidents and fraud in local elections.

70. On 17 June 2003, the Special Rapporteur sent another urgent appeal on the cases of **Mahfuz Anam**, **Matiur Rahman** and **Abdul Jalil**. It was reported that on 3 June 2003, a letter written by Abdul Jalil, secretary general of the opposition party Awami League, was published by the *Daily Star* and the *Prothom Alo* newspapers, in which Mr. Jalil was expressing his opinion about the candidature of a senior government official to an executive position in an international organization. The official in question allegedly filed a complaint before the Dhaka Metropolitan Magistrate Court under the Penal Code, which is said to provide for up to two years imprisonment for "defamation". Following the complaint, arrest warrants were allegedly issued on 11 June against Mahfuz Anam, the editor and publisher of the *Daily Star*, Matiur Rahman, the editor of *Prothom Alo*, and Abdul Jalil.

71. On 20 June 2003, the Special Rapporteur sent an urgent appeal to the Government with respect to the situation of journalist **Tipu Sultan**, **members of his family** and **Bakhtiar Islam Munna**. It is alleged that Tipu Sultan was brutally attacked in his hometown of Feni in January 2001, after he published an article criticizing a local politician. According to the information received, Tipu Sultan, members of his family and Bakhtiar Islam Munna who allegedly saw the beating, have all been warned that they would be killed if the case against those who carried out the attack was not withdrawn. It is reported that, on 17 September 2001, the police filed a case before a court in Feni against 13 people accused of the attack. Two of the accused are allegedly in detention, three have allegedly been released on bail, and the rest are reportedly absconding. Preparation for a hearing, including notification in the official gazette for absconders to surrender, was allegedly under way when the communication was sent. However, it is alleged that in June 2003, when Tipu Sultan returned to visit his family in Feni, they and Bakhtiar Islam Munna were reportedly threatened by those allegedly responsible for the attack.

72. On 20 August 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent an urgent appeal concerning **Hiramon Mondol**, a local correspondent for the daily *Dainik Bartaman*, who was reportedly beaten with batons, hockey sticks and rifles by police and members of a special police unit assigned to combat organized crime in the south-western city of Khulna on 8 August 2003. According to information received, the police then bound his hands and feet and took him to Paikgacha camp before transferring him to the Khulna prison infirmary, where he was allegedly still detained at the time the communication was sent. It is further reported that the arrest came a few days after Mr. Mondol wrote an article about theft of fish from Baroyariya market, the perpetrators of which were reportedly members of the police special unit mentioned above. At the time the communication was sent, he was reportedly being prosecuted for theft under a "speedy trial" procedure introduced in 2002 which does allegedly not give enough time to the accused people to prepare their defence.

73. On 23 October 2003, the Special Rapporteur sent a letter of allegation to the Government, regarding the following cases:

- On 31 July 2003, about 20 members of the Jatiyatabadi Chhatra Dal (JCD), a student group allegedly associated with the ruling Bangladesh Nationalist Party (BNP), reportedly attacked **Hasan Jahid Tusher**, reporter of the *Daily Star*. According to the information received, he was beaten with iron rods, dragged down the stairs from his third-floor room and left outside the dormitory. The attackers were allegedly shouting that he had no right to stay in the dormitory as he had written reports against them. Mr. Tusher had reportedly written several articles detailing JCD attacks on students who belong to opposition political groups.
- On 20 July 2003, in Dhaka, members of a criminal gang reportedly attacked **Shafiq Shaheen**, reporter for the daily newspaper *Manabzamin*. It is alleged that the attack was in reprisal for an article Mr. Shaheen had written on the gang's illegal activities. According to reports, his assailants stopped him in the streets, slapped him, kicked him and then took him to a house occupied by a person, whose name is known to the Special Rapporteur, believed to be the group's leader. It is reported that Mr. Shaheen was then beaten with hockey sticks. According to the information received, the police arrested Mr. Shaheen along with several of his assailants, and released them all afterwards. It is not clear whether Mr. Shaheen's assailants were charged and prosecuted for this attack.
- On 30 April 2003, in Sitakunda, **Atahar Siddik Khasru**, a reporter for the daily *Ittefaq*, was reportedly abducted by three men, two of whom had guns. According to the information received, he was pushed into a taxi and was driven to an unknown location. Mr. Khasru was reportedly tortured by his captors. He allegedly reported that during conversations, his captors made repeated references to the secretary-general of the BNP's Sitakunda chapter, whose name is known to the Special Rapporteur, as being their "boss". It is alleged that this person had threatened Mr. Khasru on the day of his kidnapping because of his support to the journalist Mahmudul Haq, who had, according to information, reported on corruption of politicians and police in Sitakunda.

- On 30 October 2002, three journalists, **Saiful Islam, Omar Ali Sani** and **Babu** working respectively for the newspapers *Dainik Jugantor*, *Dainik Ittefaq* and *Dainik Gono Jagaron*, were reportedly arrested in Agailjhara for extortion. However, it is alleged that their arrest could be linked with recent articles they have published about illegal tree felling. It is also alleged that a senior police officer fabricated false evidence against them.

- On 24 August 2002, **Belal Chowdury**, reporter for the local newspaper *Dainik Thikana* was reportedly physically attacked and beaten unconscious in a Faridpur market by five people armed with machetes and axes. According to the information received, his brother filed a complaint with Faridpur police but it is alleged that at the time the communication was sent, no action had been taken against the assailants.

- On 28 July 2002, in Dhaka, riot police reportedly charged with batons, lobbed off teargas shells and fired several rounds of rubber bullets against students who were demanding the reopening of the Dhaka University, closed the day before. According to the information received, over **60 students** – among whom **Sjuat, Sampad, Noor Abdullah Saeed, Mafiz, Joy, Muyeen, Romel, Tanim** and **Rajiv** - and **five teachers** were injured. It is also alleged that Jatiyotabadi Chhatra Dal-JCD activists joined with the police. They allegedly followed students trying to take shelter in the library compound, where they reportedly attacked them with firearms, sticks and rods. Several journalists, including **Zahidul Islam** of the *Daily Star* and **Dipak** of the *Daily Provat*, were also reportedly beaten by the JCD activists.

- On 22 March 2002, journalists from Ekushey TV, ATN News and Channel-i News were reportedly prevented from entering the Parliament building during deliberations on a new bill on public safety. According to reports, anti-riot police officers and guards were posted around the Parliament to block the journalists from these private television stations from entering the building.

74. On 4 December 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture sent an urgent appeal regarding **Mr. Nuruzzaman**, a businessman, who was alleged held without charge in Moulvi Bazar prison in Bangladesh. Mr. Nuruzzaman was reportedly arrested by police in the early hours of 18 November 2003 and taken to Sri Mangal police station in Moulvi Bazar. At about 10 p.m. on 20 November, he was reportedly beaten severely in his cell in police custody by two civilians in the presence of the police, leaving him badly injured. At around midnight, Mr. Nuruzzaman's condition reportedly deteriorated and police took him to Osmania hospital in Sylhet. He was reportedly forced to wait outside the hospital entrance. At about 3 a.m., his condition became critical and he was finally admitted and received treatment for his injuries. He was later released from hospital, although his state of health at the time the communication was sent was unknown.

75. According to reports, several weeks earlier, Mr. Nuruzzaman had given a press conference in which he accused a local Member of Parliament (MP) of extortion. Shortly thereafter, the MP whom he accused reportedly filed a criminal defamation case against him. Mr. Nuruzzaman's lawyers went to the High Court and obtained his release on bail. It

is reported that in an apparent move to ensure his arrest, members of the MP's party filed two complaints against him in another city, Sylhet. Mr. Nuruzzaman and his lawyers were unaware of these charges, which led to his arrest and detention on 18 November. It is reported that the two assailants in Sri Mangal police station were close associates of the accused MP. Moreover, the doctors in Osmania hospital were allegedly told by political activists from the MP's party not to admit Mr. Nuruzzaman.

76. Finally, reports indicated that in an apparent attempt to ensure that Mr. Nuruzzaman be remanded in detention, supporters of the accused MP filed five complaints against him. Mr. Nuruzzaman's lawyers reportedly obtained bail on all but the most recent of these complaints, and it is reported that if bail is not granted in this case, Mr. Nuruzzaman may be returned to police detention.

77. On the same date, the Special Rapporteur sent another urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding reports of the arrest in Dakha, on 29 November 2003, of **Salah Uddin Shoab Choudhury**, editor of the magazine *Blitz* and head of the Bangladeshi branch of the International Forum for the Literature and Culture of Peace (IFLAC) - an organization of writers who campaign for peace. He was reportedly arrested as he was about to leave for Israel to take part in a symposium organized by the Hebrew Writers' Association. It was reported that he was accused of spying for Israel on the basis of the text of a speech he was to have given on the role of the media in the dialogue between Muslims and Jews, and that he could be charged with "sedition", a crime punishable by death.

78. Mr. Choudhury was reportedly detained by police at Dakha airport as he was about to board a flight to Tel Aviv via Bangkok, and a judge reportedly granted the police permission to detain him for seven days. He was then reportedly held in Dhaka's Cantonment police station, where secret service officers were said to have interrogated him. The secret services reportedly claimed that documents found in Choudhury's briefcase - especially the text of his speech and reports on the human rights situation in Bangladesh - were evidence of his spying on behalf of Israel. Reports indicate that a few hours after his arrest, police seized all the computer equipment, including printers and CD-ROMs, at the offices of his magazine and his home. It is reported that in his speech, Mr. Choudhury stressed the key role that the news media in Muslim countries have to play in constructing peace in the Middle East.

Communications received

79. On 10 January 2003, the Government, further to its communication dated 29 November 2002, provided additional information in relation to the Special Rapporteur's communication of 27 November 2002 (E/CN.4/2003/67/Add.1, paras. 64 and 74), indicating that **Zaiba Malik** and **Bruno Sorrentino** were released from detention on 11 December 2002 and returned to their respective countries. The Government indicated that the two journalists recognized having entered the country concealing their professional identities.

80. On the same date, the Government responded to the Special Rapporteur's communication dated 24 December 2002 (E/CN.4/2003/67/Add.1, para.), indicating that **Shahriar Kabir** and **Muntasir Mamum** were released from detention on 7 and 9 January 2003, respectively. They were lawfully charged and the judicial process was still under way at the time of the Government's response.

81. On 21 January 2003, the Government sent a response to the Special Rapporteur's communication dated 13 January 2003 regarding **Saleem Samad**, indicating that Mr. Samad was released from detention on 19 January 2003 and that he was lawfully charged and the judicial process was still under way at the time of the Government's response.

82. On 23 January 2003, the Government replied to the Special Rapporteur's communication dated 17 May 2002 (E/CN.4/2003/67/Add.1, para. 57), indicating that on 2 May 2002, six journalists – **Delwar Hossain** (*Dainik Purbanchal*), **Sheikh Ahsanul Karim** (*Dainik Manab Zamin*), **Rezaul Karim** (*Dainik Ittefaq*), **Babul Sardar** (*Dainik Janakantha*), **S.M. Tajjudin** (*Dainik Prabartan*) and **Azadul** (*Dainik Runner*)- received death threats by an anonymous caller and lodged a General Diary with the local police, which made inquiries into the complaint. Necessary steps were taken by the police to ensure the security of the journalists.

83. The Government also provided information on the case of **Jahangir Alam Akash**, of the daily *Sangbad*, referred to in the same communication of the Special Rapporteur. The police which recorded the complaint in Puthia Police Station of Rajshato on 8 May 2002, did not find conclusive evidence on the allegations made.

84. In the same letter, the Government responded to the allegation concerning **Niaz Mohammad Khan Bitu**, and indicated that Mr. Bitu, who reportedly also belongs to the ruling BNP, submitted a formal complaint on 28 April 2002 against 11 persons to the officer-in-charge of Brahmanbaria Police Station, who registered a formal case under section 143/448/323/324/307/379 of the Penal Code. At the time the response was sent, the case was still under investigation.

85. On 27 May 2003, the Government responded to the communication dated 20 June 2003, indicating that the filing of the case relating to the attacks on **Tipu Sultan** in January 2001 led to the charge sheet and arrest of 13 persons suspected of being responsible for the attacks. At the time the response was sent, the investigation was still under way, and Mr. Sultan had received medical treatment free of charge at the leading Government-owned Orthopaedic Hospital in Dhaka.

Observations

86. The Special Rapporteur wishes to thank the Government for its responses, and awaits further responses to his communications dated 11 March, 17 June, 20 August, 23 October 2003 and his two communications dated 4 December 2003.

87. Furthermore, the Special Rapporteur would like to reiterate his request to undertake an official visit in the country as expressed in his letter dated 8 December 2003.

Belarus

Communications sent

88. On 12 June 2003, the Special Rapporteur sent an urgent appeal concerning the **situation of freedom of the press** in Belarus. In particular, it had been reported that since 22 May 2003, the Ministry of Information had allegedly suspended the activities of four newspapers. A fifth newspaper had allegedly been turned away from the state printing press, while a sixth was allegedly under investigation. Three other newspapers had allegedly received warnings that, under the press law of Belarus, they may be subject to immediate closure or suspension at the will of the Ministry. The *Belorusskaya Delovaya Gazeta (BDG)* and its supplement, *BDG Confidential*, were allegedly suspended for three months on 28 May 2003, reportedly accused of misguiding public opinion and defaming the Belarusian President. According to information received, four weekly newspapers, *Solidarnost*, *Ekho*, *Predprinimatelskaya Gazeta* and *Belarus Today*, subsequently agreed to help *BDG* publish despite the suspension, by including the flag, masthead and content of the *BDG* as supplements within their own papers. On 4 June 2003, the Ministry issued two warnings to *Ekho* for allegedly violating article 11 of the Belarus Press Law, and then ordered that the paper be suspended for three months, with immediate effect. The warnings alleged that by running the flag and masthead of *BDG*, *Ekho* had illegally changed its name, and that by publishing political and economic stories it had violated its registration as a “leisure” paper covering cultural affairs. Further information received indicated that on 6 June 2003, the Ministry of Information and the State Control Committee launched an investigation of *Solidarnost*, and ordered its offices “sealed.”

89. The same urgent appeal referred to information according to which, on 3 June 2003, the satirical newspaper *Navinki* received an order from the Ministry of Information, suspending it for three months as of 22 May 2003. It was alleged that on 20 May, a Minsk district court fined the paper’s editor, Pavel Konovalchik, for insulting the President. The Ministry had reportedly issued two warnings to *Navinki* for allegedly defaming the President.

90. Finally, it was reported that the Minsk newspaper *Narodnya Volya* was awaiting a court date for an appeal it made regarding a warning it received on 22 May 2003 from the Ministry of Information. The warning was allegedly made for reporting on court proceedings without the judge’s permission.

91. On 30 September 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, regarding the situation of **Viasna**, a human rights organization working for the defence of constitutional rights. According to the information received, on 2 September 2003, the Ministry of Justice allegedly lodged a complaint against Viasna with the Supreme Court, reportedly because the organization had allegedly violated electoral laws by participating in independent monitoring of the last presidential election, and drawing the attention of the international community to alleged violations. On 23 September 2003, a pre-trial hearing reportedly took place confronting both parties. The date of the hearing

had not been communicated at the time of the urgent appeal. Fears had been expressed that these proceedings may be aimed at liquidating the organization in order to prevent it from conducting its human rights activities.

92. On 29 October 2003, the Special Rapporteur and the Special Representative of the Secretary-General on the situation of human rights defenders sent a new urgent appeal concerning the situation of the **Viasna Human Rights Centre**, **Ales Belyatsky**, head of the organization, **Vladimir Labkovich** and **Valentin Stefanovich**, two lawyers representing the organization in court, and five other members. According to the information received, on 28 October 2003, a judge of the Supreme Court of Belarus reportedly ordered the liquidation of the Viasna Human Rights Centre. It is reported that the judge dismissed all charges but the violation of electoral regulations, which was held sufficient to dissolve the organization. According to the information received, the ruling was reportedly contested by the above-mentioned persons and five other members of the organization, who allegedly started a sit-in in the courtroom to denounce what they saw as a politically motivated decision. They were reportedly detained by the police after they refused to leave the building and charged with disobedience to police orders under article 166 of the Civil Code. They were expected to stand trial on 29 October 2003.

93. On 27 November 2003, the Special Rapporteur sent a communication regarding the following cases:

(a) On 23 September 2003, a Minsk court reportedly ordered the ***Myestnoye Vremya Press*** daily and its publisher to cease their activities, following a complaint from the Tax Ministry, which claimed that the paper had failed to notify them of a change in its legal address. This decision seemed to follow a decision of 27 November 2002 by the Information Ministry, revoking the licence of the “*Myestnoye Vremya*”. Reports indicated that the newspaper was forced to change its address following a ruling by the Minsk District Executive Committee of 6 November 2002, allegedly annulling a previous decision to approve the rental of the newspaper’s premises. . On this basis, it was reported that the newspaper found a new location in Minsk and notified the Minsk Regional Executive Committee of their intention to modify their statutes to reflect the change of address. It was reported that in the meantime, the Minsk Regional Executive Committee invalidated the newspaper’s licence on 21 November 2002, on the ground that the newspaper’s publisher had failed to submit the required documentation on time, although the deadline was allegedly on 6 December 2002. The decision to revoke the newspaper’s licence reportedly followed the announcement by the newspaper to establish regional correspondents in view of the 2003 local elections;

(b) On 18 September 2003, the Leninsky District Court in Minsk had reportedly sentenced trade unionist **Alexander Yaroshuk** to ten days of administrative detention for contempt of court. It was reported that the sentence was brought on by an article by Mr. Yaroshuk, entitled “Pyrrhic Victory, or Chronicle of a Diving Trade Union” published in the *Narodnaya Volya* newspaper on 21 August 2003, accusing the authorities of having disbanded the Belarusian Union of Air Traffic

Controllers and describing the court session for the hearing of the union's case as “a show whose end was planned in advance”;

(c) On 28 June 2003, **Pavel Selin**, correspondent in Minsk of the Russian television network NTV, was reportedly summoned to the Internal Affairs Ministry, where he was allegedly told to leave the country within the next 24 hours. It was believed that this decision to expel Mr. Selin followed a report by Mr. Selin, broadcasted on NTV on 25 June, about the funeral of one of Belarus' most celebrated authors, Vasil Bykau, known for his criticism of the President. The report indicated that the authorities had obstructed the funeral procession, reportedly mistaking it for an opposition rally. It was reported that Mr. Selin was stripped of his accreditation in Belarus, declared persona non grata and banned from entering Belarus for five years;

(d) On 29 May 2003, the newspaper *Belaruskaya Delovaya Gazeta* ceased publication for three months, reportedly on a 28 May order of the Information Ministry. It was reported that this order followed three warnings of the Ministry against the newspaper on 20, 21 and 22 May, for defaming the President and publishing information about court proceedings without obtaining proper authorization. The warnings reportedly stemmed from a poll, published on 18 April, asking whether the President should use his presidential plane for personal use; a 29 April article about the trial of former Minsk Tractor Work director on charges of corruption; and a series of articles in January and March about the trial of the former director of the state food company Belgopishcheprom. It was reported that, although the newspaper appealed the warnings with the Oktyabrsk District Court, the Ministry took the decision to order to suspension of the paper for three months;

(e) On 3 October 2002, a law on the “**Insertion of Changes and Amendments in the Law on Freedom of Denomination and Religious Organizations**” was adopted, which allegedly restricts the right of religious organizations to disseminate materials, in particular by imposing “religious analysis” by the State Administrative Body of Religious Affairs prior to dissemination of the material, which is mandatory for imported religious materials and whenever religious literature is to be delivered to libraries. The possible sanctions reportedly include the “liquidation” of the responsible organization and the discontinuation of the material. In addition, it was reported that only religious organizations which are duly registered may produce and disseminate religious literature under article 26(1) of the law. Furthermore, article 26(5) of the law allegedly allows only companies established by religious organizations to publish religious literature, while article 26(8) reportedly restricts the distribution of these materials to places owned by religious organizations or places which have been approved by “local executive or management bodies”;

(f) On 16 September 2002, **Dmitry Filipovich, Mikhail Tarasyuk and Georgiy Salomyanik** were reportedly arrested by the police for staging an unauthorized demonstration in front of the Presidential Administration to mark the

third anniversary of the disappearance of opposition leader Viktor Gonchar and his friend, businessman Anatoly Krasovsky. The three men were reportedly distributing leaflets questioning the whereabouts of the disappeared men. It is reported that the demonstration lasted around 50 minutes, after which the police interrupted it and took the three men mentioned above to the Leninsky police station, where they were allegedly kept approximately three hours. It was reported that they were then brought to the court of Lenin District in Minsk, where they received a warning and were released;

(g) **Mikhail Podolyak**, a journalist, and his newspaper *Nasha Svoboda* were reportedly sentenced on 2 August 2002 to fines of 15 and 100 million Belarusian roubles respectively, for libelling Anatoly Tozik, president of the Committee for State Control. It was reported that the amount of this fine threatened the survival of the newspaper. Reports also indicated that on 1 August 2002, the police seized all the computers of the newspaper.

Observations

94. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized and reiterates his wish to undertake a follow-up mission to Belarus, as expressed in his letter of 8 December 2003.

Benin

Communication envoyée

95. Le 29 septembre 2003, le Rapporteur spécial a envoyé une communication au Gouvernement béninois concernant le cas d'**Étienne Houessou**, directeur de publication du journal *Le Télégramme*, et de trois de ses collaborateurs, qui auraient été interpellés par des policiers, puis brutalisés et conduits au commissariat central de Cotonou le 1^{er} avril 2003. Selon les informations reçues par le Rapporteur spécial, M. Houessou, qui s'était enfui au moment de l'arrestation, se serait présenté au commissariat quelques heures plus tard, où il aurait été battu et détenu jusqu'à 19 heures. Il semblerait que ces journalistes auraient été accusés d'avoir publié des informations fallacieuses et injurieuses dirigées contre le directeur général de la police nationale et un commissaire.

Observations

96. Le Rapporteur spécial regrette de n'avoir pas, à ce jour, reçu de réponse à sa communication.

Bolivia

Comunicaciones enviadas

97. El 27 de enero de 2003 el Relator Especial, juntamente con el Relator del Grupo de Trabajo sobre la Detención Arbitraria, la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de las poblaciones indígenas, envió un llamamiento urgente en relación con las protestas que habrían tenido lugar en el país en torno a la situación de la región cocalera del Chapare. Según las informaciones recibidas, la intervención de la policía nacional y las fuerzas armadas para reprimir las protestas habría resultado en varios muertos y heridos. Se informó de que el 13 de enero de 2003, en la localidad de Chimoré, **Esteban García**, de aproximadamente 42 años de edad, habría sido herido en el maxilar inferior. Por la gravedad de la lesión habría sido evacuado a la ciudad de Santa Cruz. El hecho habría ocurrido mientras las fuerzas de la policía y el ejército reprimían a productores de hoja de coca que bloqueaban la carretera de Cochabamba a Santa Cruz. Se alegó que el 13 de enero de 2003, en diferentes puntos de la ciudad de Cochabamba; como la Plazuela Busch, la Plazuela San Sebastián, la Laguna Alalay, terminal de buses y algunos otros sectores de la ciudad, las fuerzas de orden y seguridad habrían procedido a detener de manera presuntamente arbitraria e ilegal a más de 168 ciudadanos. Se alegó que los detenidos habrían sido trasladados a diversas unidades militares, como la de la fuerza aérea. Entre los detenidos se habría encontrado la ciudadana **Judith Camargo**, miembro voluntario de la Asamblea Permanente de Derechos Humanos de Cochabamba. Se informó de que, el 17 de enero 2003, otras 320 personas habrían sido arrestadas y trasladadas a la base aérea militar en la ciudad de Cochabamba.

98. Durante los incidentes se informó de que habrían muerto más de cuatro personas por proyectiles de armas de fuego. Estas serían: **Rómulo Gonzales Terán; Félix Ibarra; Willy Hinojosa; Victor Hinojosa; Escaldercio Orellana**. Asimismo, se habría constatado la muerte de **Tomasa Condori**, hecho que habría ocurrido en la localidad de Shinaota en circunstancias no esclarecidas. **Adrián Martínez**, trabajador minero de 48 años también habría muerto tras recibir el impacto de un proyectil de arma de fuego. El hecho habría ocurrido en la carretera La Paz – Oruro en el lugar denominado Cruce de Machacamarquita, el 19 de enero de 2003. Asimismo se recibió información sobre **Iver Quispe**, 21 años, en Palo Blanco, Entre Rios, quien habría sido encontrado en la carretera con rasgos de tortura según versión de los campesinos. Al respecto se recibió información indicando que las Fuerzas Armadas habrían establecido que fue atropellado el 19 de enero. Entre los heridos se encontrarían las siguientes personas: **Cabezas Miguel, Cabezas Constantino, Condori Jacinto, Escalera Norberto, Flores Moya Ariel, García Esteban, García Paula, González Juan José, Herrada Claros Celso, Hidalgo Richard, Lazarte Silvia, Ledezma Humberto, Lizarraga Luis Antonio, Luna Luna Víctor, Mercado Javier, Morales Butron Cesar, Morales Flores Máximo, Velásquez Rocío, Aurelio Estalla García y Félix Fernández Quispe**. Según las informaciones recibidas, la situación en torno a las protestas seguiría tensa. En vista de las presuntas violaciones de los derechos humanos que se alegó habrían sido cometidas entre el 13 y el

17 de enero 2003, el Relator Especial expresó preocupación por la vida y la integridad de las personas que continuaban protestando.

99. El 1º de octubre de 2003, el Relator Especial envió una comunicación en relación con los incidentes ocurridos en las manifestaciones realizadas del 13 al 15 de enero de 2003. De acuerdo con las informaciones recibidas, la policía y el ejército del departamento de Cochabamba habrían reprimido de manera violenta y desproporcionada estas manifestaciones por parte de diferentes sectores de la sociedad (jubilados, cultivadores de coca, campesinos y estudiantes). **Tres personas** habrían muerto en las regiones de Aguirre, Parotani, Chimore y Colomi, y docenas habrían sido heridas como consecuencia del uso de municiones vivas contra los manifestantes. Igualmente se informó que en el departamento de Cochabamba, alrededor de **165 personas** (20 mujeres y 145 hombres) habrían sido detenidas y habrían recibido malos tratos en las instalaciones militares en las que habrían permanecido detenidas.

100. El 15 de octubre de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la cuestión de la tortura, la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de las poblaciones indígenas, envió un llamamiento urgente en relación con los acontecimientos ocurridos en el país del 20 de septiembre al 13 de octubre de 2003. Según las informaciones recibidas, al menos **50 personas**, tres de ellas soldados, habrían fallecido y centenares habrían resultado heridas durante el despliegue de acciones combinadas de la policía y el ejército con el fin de neutralizar manifestaciones y romper bloqueos impuestos por manifestantes en distintas partes del país desde el 20 de septiembre de 2003. En particular, 14 personas habrían muerto en la ciudad de La Paz el 13 de octubre. En el desarrollo de dichas operaciones, las fuerzas militares y policiales habrían hecho uso excesivo de la fuerza, en particular con la supuesta utilización de armas de guerra y de grueso calibre, con el fin de repeler a los manifestantes. Se alegó igualmente que varios manifestantes habrían sido detenidos y que manifestaciones y bloqueos de caminos ya habrían tenido lugar en el país durante las semanas anteriores por parte de sindicalistas, campesinos, mineros, indígenas y otros actores sociales que habrían exigido al Gobierno el abandono de un proyecto de venta de gas y la aprobación de un programa que beneficie a los habitantes locales. El Relator Especial expresó preocupación entorno a la posibilidad de que nuevos enfrentamientos pudieran aumentar el número de víctimas entre la población civil.

Comunicación recibida

101. Por carta de fecha 10 de diciembre de 2003, el Gobierno de Bolivia contestó a las comunicaciones del Relator Especial de fechas 1.º y 15 de octubre de 2003 y transmitió copia de las notas recibidas de la Cancillería de la República de Bolivia, que hacen relación con las investigaciones sobre los acontecimientos suscitados en el país del 20 de septiembre al 13 de octubre de 2003, en la llamada “guerra del gas”. El Gobierno boliviano también informó al Relator Especial de que debido a lo complejo de las investigaciones, que conllevan acumular antecedentes sobre aproximadamente **56 muertes**

certificadas y más de **200 personas heridas**, no se cuenta con información oficial en forma inmediata sobre los dichos acontecimientos.

Observaciones

102. El Relator Especial da las gracias al Gobierno de Bolivia por su respuesta, si bien espera otra respuesta a su comunicación de fecha 27 de enero de 2003.

Botswana

Communication sent

103. On 19 November 2003, the Special Rapporteur sent an urgent appeal to the Government regarding the reported suspension by the Ministry for Communications, Science and Technology on 12 November 2003 of the phone-in segment of the popular morning programme “**Masa-a-sele**” (“Morning has broken”), which will reportedly as a result become a “music and announcement” programme, rather than the interactive programme it formerly was. It is also reported that the Minister for Communications, Science and Technology said that the Government would defeat its objective of an “educated and well-informed society by 2016” if a “one-sided programme” such as the phone-in portion of “Masa-a-sele” were to be allowed to continue in its current format, adding that the suspension is indefinite. It is believed that the programme might have been suspended because opposition parties have used it to attack the ruling Botswana Democratic Party (BDP) when the elections were approaching, and after “Masa-a-sele” opened its phone lines to the public to comment on the President’s State of the Nation address delivered on 10 November.

104. In the same communication, the Special Rapporteur indicated that he received information according to which the Minister for Communications, Science and Technology said that Botswana Television (BTV) would stop covering political parties, including the ruling party, with the exception of special events such as political conferences, due to “inadequate human capacity at the television station”, but that this order would not affect coverage of the President and the Vice-President because “they represent the nation in their positions”.

Communications received

105. On 10 September 2003, the Government sent a reply to the Special Rapporteur’s communication dated 26 July 2002, regarding the reported cancellation of the radio programme “Live Line” by the office of the Director of Information and Broadcasting thirty minutes before its scheduled time on 22 April 2002 (E/CN.4/2003/67/Add.1, para. 88). In its reply, the Government indicated that at the time the broadcast was cancelled, the President was having public meetings to address allegations by some sectors of the society that the Constitution did not adequately recognize certain tribes and gave more prominence to others. The Government emphasized that these debates had reached levels which had the potential of disrupting the unity and stability of the country, and in this context, the Minister for Presidential Affairs and Public Administration indicated that

certain media were overemphasizing the negative and divisive expressions of intolerance. On this basis, the Government took the decision to cancel the feature as it was of the view that it was not opportune. The Government underlines that this decision was not brought to the attention of either the High Court or the Ombudsman, and that since then, both Radio Botswana and Botswana Television have continued to broadcast shows which they consider to be of public interest, in which participants express their views freely.

Observations

106. The Special Rapporteur thanks the Government of Botswana for its reply, but he awaits a response to his communication dated 19 November 2003.

Brazil

Communication sent

107. On 17 October 2003, the Special Rapporteur and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government of Brazil concerning the alleged killings of **Flávio Manoel da Silva**, a key witness in the investigations into the actions of extermination groups operating in the cities of Itambé and Pedras de Fogo, and of **Gerson Jesus Bispo**. Both men reportedly provided information to the Special Rapporteur on extrajudicial, summary or arbitrary executions during her country mission to Brazil conducted from 16 September to 8 October 2003. According to the information received, on 23 September 2003, Flávio Manoel da Silva met with the Special Rapporteur in Itambé, Pernambuco, and allegedly reported that he had been shot several times by a civil police officer in Pedras de Fogo on 19 October 1999. On 27 September 2003, Flávio Manoel da Silva was allegedly killed by two shots to the head. In addition, Gerson Jesus Bispo reportedly met the Special Rapporteur in late September 2003, in Santa Antonio de Jesus, and reportedly discussed the death of his brother, Antônio Carlos de Jesus Bispo, who was reportedly killed on 1 August 2002 by a death squad allegedly linked to the police. On 8 October 2003, Gerson Jesus Bispo was allegedly shot at four times on his way to work. Concern has been expressed that Flávio Manoel da Silva and Gerson Jesus Bispo were targeted due to their reporting of extrajudicial killings. It has been reported that death threats were allegedly received by other witnesses who met with the Special Rapporteur, and fears have been expressed that more witnesses may be at risk of being targeted or killed.

Observations

108. The Special Rapporteur regrets that no reply had been received from the Government of Brazil at the time this report was finalized.

Burkina Faso

Communication envoyée

109. Le 29 septembre 2003, le Rapporteur spécial a envoyé au gouvernement une communication concernant le cas de **Christophe Koffi**, correspondant de l'agence France-Presse et de l'organisation non gouvernementale (ONG) Reporters sans frontières à Ouagadougou, qui aurait été interpellé dans la soirée du 7 août 2002 par quatre hommes en civil qui l'auraient conduit à la brigade de gendarmerie de Ouagadougou. Il semblerait qu'aucun motif d'inculpation n'ait été fourni par les gendarmes. Lors de l'interpellation, des documents et ordinateurs appartenant au journaliste auraient été saisis.

110. Dans la même communication, le Rapporteur spécial a indiqué que, selon les informations qui lui avaient été transmises, il semblerait que la lumière n'ait pas encore été faite sur l'assassinat du directeur de l'hebdomadaire *L'Indépendant*, **Norbert Zongo**, qui avait été retrouvé carbonisé dans son véhicule, avec trois compagnons, le 13 décembre 1998. Il est rapporté que, jusqu'ici, un adjudant du Régiment de la sécurité présidentielle (RSP) soit le seul inculpé dans cette affaire, dont l'état de santé suscite de nombreuses inquiétudes, et que, sans lui, il semblerait que le juge d'instruction ne puisse plus recueillir de preuves et d'éléments suffisants pour remonter dans la hiérarchie des responsabilités. Il est également rapporté que le rapport rendu par la commission d'enquête indépendante chargée de déterminer les causes de la mort de M. Zongo aurait établi que les mobiles du meurtre seraient liés aux enquêtes menées par le journaliste, notamment sur ses récentes investigations concernant la mort du chauffeur d'un conseiller à la présidence. Le rapport aurait également mentionné les noms de six membres du RSP qui seraient suspects dans cette affaire, mais qui n'auraient pas été inquiétés par la justice jusqu'à présent.

Observations

111. Le 3 décembre 2003, le gouvernement a indiqué au Rapporteur spécial qu'une réponse détaillée lui parviendrait d'ici au 15 janvier 2004. À cause de sa date tardive, cette réponse n'a pas pu être intégrée dans le présent rapport.

Cambodia

112. On 6 February 2003, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, expressed concerns about reports that **Eva Galabru**, a representative of the environmental NGO Global Witness, might be sued by the State on charges of disinformation. The charges were reportedly made following a statement by Global Witness describing acts of violence allegedly committed by law enforcement officials against representatives of forest communities participating in a peaceful gathering in Phnom Penh on 5 December 2002. The representatives were reportedly planning to make representations to the Department of Forestry and Wildlife. According to the information received, Eva Galabru was the subject of similar charges before the Phnom Penh Municipal Court in March 2002 and the victim of a violent attack by men armed with sticks on 30 April 2002.

113. Additional information indicates that **Uch Kim Nary**, the Director of the Cambodian NGO Peaceful Women for the Environment, was threatened with arrest by the police on suspicion of helping to organize the gathering of 5 December 2002.

114. Le 23 octobre 2003, le Rapporteur spécial a envoyé une lettre d'allégation se référant aux cas décrits ci-dessous:

(a) **Chuor Chetharith**, rédacteur en chef adjoint de la radio Ta Prum, liée au parti d'opposition royaliste FUNCINPEC, et membre du parti FUNCINPEC, aurait été abattu le 18 octobre 2003, à Phnom Penh, d'une balle tirée à bout portant par deux hommes en moto devant les studios de la station de radio. Ses meurtriers auraient réussi à prendre la fuite. Selon les informations communiquées, il semblerait que ce meurtre ait été motivé politiquement et ait été une réponse à la ligne éditoriale critique de la station de radio Ta Prum vis-à-vis du gouvernement. Il semblerait d'ailleurs que le Premier Ministre Hun Sen avait déclaré le 14 octobre que la station de radio Ta Prum devrait «mieux contrôler ses programmes» en référence à des critiques dont il avait fait l'objet ;

(b) le 21 mai 2003, une manifestation pacifique organisée pour protester contre le retrait de l'immunité parlementaire de Cheam Channy, un membre du Parlement élu dans la province de Battambang, aurait été violemment dispersée par les forces armées. Selon les informations reçues, 13 personnes auraient été blessées. Il semblerait que les opérations auraient été dirigées par la police du district de Chamcarmon et du commissariat de Phnom Penh. Des bâtons électriques auraient été utilisés contre les manifestants, qui auraient également été menacés d'être arrêtés ;

(c) le 5 décembre 2002, une manifestation pacifique rassemblant environ 150 représentants de communautés forestières devant le bâtiment du Département des forêts à Phnom Penh aurait été dispersée par la police et la gendarmerie, qui auraient fait un usage excessif de la force. Selon les informations reçues, les officiers de police et de gendarmerie auraient battu, donné des coups de pied et utilisé des bâtons électriques contre les manifestants. Sept d'entre eux auraient reçu des soins médicaux à la suite de cet incident, et **Hem Sao**, un chef de village de la province de Preah Vihear, âgé de 29 ans, serait mort quelques heures plus tard, vraisemblablement à la suite de l'utilisation de bâtons électriques contre lui.

Observations

115. Le Rapporteur spécial regrette qu'au moment de la rédaction du présent rapport aucune réponse n'avait été reçue du gouvernement sur ses communications.

Cameroon

Communications envoyées

116. Le 7 août 2003, le Rapporteur spécial a envoyé une communication au Gouvernement camerounais concernant le cas de **Rémy Ngono**, animateur de la Radio Télévision Siantou (RTS), qui aurait été arrêté le 5 août 2003 par la gendarmerie nationale de Yaoundé et incarcéré à la prison centrale de Kondengui, en application d'une décision de justice rendue par défaut il y a plus d'un an, condamnant le journaliste à six mois de prison ferme pour diffamation. M. Ngono animait «Kondré chaud», une émission satirique très écoutée, dans le cadre de laquelle il aurait repris, en l'été 2002, des accusations de malversation à l'encontre d'un homme d'affaires faites par l'un de ses anciens collaborateurs. Le 7 juillet 2002, M. Ngono aurait été condamné à six mois de prison ferme par défaut. L'animateur n'aurait été notifié de sa peine que le 24 juillet 2003, soit plus d'un an après le prononcé du verdict et aurait été emprisonné dans la semaine qui a suivi. À cet égard, le Rapporteur spécial a souligné qu'en vertu du principe de proportionnalité de la peine, des sanctions pénales, en particulier l'emprisonnement, pour diffamation ne semblent pas proportionnelles à un exercice effectif du droit à la liberté d'opinion et d'expression.

117. On 3 October 2003, the Special Rapporteur sent a communication to the Government concerning information he received according to which, although the law in Cameroon provides for privately owned broadcast media, the Government has allegedly ignored all requests for authorization to broadcast from private television and radio broadcasters, thus forcing them to operate illegally. For example, information indicates that, on 23 May 2003, privately owned radio station **Freedom FM** was reportedly closed down the day before it was to be launched. The closure was apparently ordered by the Communications Minister, although it is reported that the radio station's media group had completed all the registration formalities. It is further reported that, on the same day, the police surrounded and sealed the offices in Douala of the radio station, preventing anyone from entering the building. It is reported that the station's managers were not given permission to enter their offices in order to service the station's equipment and shelter it from humidity. It is feared that this decision might be politically motivated, as the radio station's owner, **Pius Njawé**, had reportedly been detained several times in the late 1990s, allegedly for his critical stance against the President.

118. In the same communication, the Special Rapporteur referred to reports that, on 19 February 2003, two privately owned television channels, RTA and Canal 2, were closed down on the orders of the Communications Minister on the grounds that they were operating illegally, and provincial governors suspended the terrestrial broadcasting of the channels. It seems that RTA and Canal 2 were authorized to carry the programmes of foreign media but not to broadcast their own. It is alleged that this decision came after RTA and Canal 2 broadcast a number of political debates in which the Government was criticized.

119. In his communication dated 3 October 2003, the Special Rapporteur reported that he was informed that, on 14 April 2003, **Haman Mana**, editor of the privately owned

daily paper *Mutations*, was reportedly arrested at the newspaper's offices in Yaoundé. It seems that he was not formally accused of anything, but it is reported that the police mentioned that a complaint had been filed by the President's office against him. Mr. Mana was held at police headquarters in the city and not allowed any visitors. It is further reported that, the night before his arrest, the computer disk containing the following day's issue of the paper was seized by police at the printers (Sopecam), reportedly on the orders of the Secretary of State for Defence, and that two printing foremen, **Moïse Moundi** and **Étienne Kenfack**, were questioned for several hours at Defence Ministry offices and roughed up by the police. According to information received by the Special Rapporteur, the 14 April issue of *Mutations* contained an in-depth report on the succession to President Biya. The paper's front-page headline read "After Biya: the uncertainties of an era that is ending", and this article is believed to be the reason for Mr. Mana's arrest and the seizure of the newspaper's 14 April issue.

120. In the same communication, the Special Rapporteur brought to the attention of the Government the case of **Paul Nyemb Ntoogue** (known under the pen name "Popoli") and another cartoonist with the newspaper *Le Messenger*, who were reportedly stopped at a makeshift police checkpoint set up about 50 metres from the paper's offices on 30 November 2002. According to the information received, the police first told Mr. Ntoogue that he was insulting people, and added that as he had not been arrested yet, he should not think that he could get away with poking fun at the President. It is reported that the police officer started beating Mr. Ntoogue about the head and shoulders, telling the other police officers that he had said President Biya was good for nothing. All the other police officers are said to have then started beating Mr. Ntoogue for about 10 minutes. According to the information received, Mr. Ntoogue was injured on the head, back and feet. It is reported that Mr. Ntoogue has been receiving phone threats prior to this incident. In 2000, according to the information received, he went into self-imposed exile in a neighbouring Southern African country. Six months later, he returned to Cameroon, but it is alleged that the phone threats had begun anew.

121. Le 4 décembre 2003, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication relative au harcèlement supposé d'**Alh Wakil** et de **Bouba Dirva**, deux membres du Mouvement pour la défense des droits de l'homme et des libertés (MDDHL), et de **Madeleine Afité**, Présidente d'Action des chrétiens pour l'abolition de la torture (ACAT) à Douala. Selon les informations reçues, le 28 novembre 2003 à 23 heures, Bouba Dirva aurait reçu la visite de deux gendarmes armés en tenue civile à son domicile à Kousséri près de Maroua. Les gendarmes lui auraient signifié qu'il était sur une liste de personnes recherchées. Ils seraient partis en lui extorquant la somme de 100 000 francs CFA. Le 29 novembre 2003, le domicile d'Alh Wakil aurait été fouillé sans mandat. De même, le 23 novembre, le lendemain du retour de Madeleine Afité de Genève, où elle aurait participé à la trente et unième session du Comité contre la torture, les serrures de son lieu de travail auraient été forcées. Le 28 novembre 2003 à environ 21 heures, trois policiers auraient été vus sillonnant les alentours de la maison des parents de Madeleine Afité. Au même moment, cette dernière aurait reçu un coup de téléphone anonyme de personnes cherchant à savoir où elle se trouvait. Des craintes ont été exprimées que ce harcèlement supposé pourrait être lié à la publication d'un rapport par la

Fédération internationale des ligues des droits de l'homme (FIDH) sur la torture au Cameroun, au cours de la rédaction duquel les chargés de mission de la FIDH auraient rencontré Alh Wakil et Madeleine Afité.

122. À la même date, le Rapporteur spécial a envoyé, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, un appel urgent concernant les menaces de mort qu'il aurait reçu **Franka Nzounkekang**, directrice de l'ONG Human Rights Defense Group (HRDG). Selon les informations communiquées, le 22 novembre 2003, aux environs de 21 h 40, Franka Nzounkekang aurait reçu la visite d'un homme faisant référence à un communiqué de presse publié par HRDG sur les violations des droits humains contre le peuple borroros mettant en cause son employeur, qui serait également un ami personnel du Président Biya. L'homme lui aurait alors demandé de l'accompagner mais, devant son refus, il serait parti. Deux jours plus tard, Franka Nzounkekang aurait été informée qu'un fonctionnaire de la police spéciale aurait déclaré qu'une opération spéciale se préparait contre le HRDG et qu'elle serait elle-même arrêtée. Le 26 novembre 2003 vers 22 heures, le taxi dans lequel elle se trouvait aurait été suivi par une voiture de marque Toyota Starlet dont les occupants n'ont pas été identifiés. Le chauffeur du taxi, ayant semble-t-il noté que les feux de la Toyota étaient éteints, aurait fait demi-tour et serait parvenu à semer la voiture. Le même jour, le Ministre des communications aurait publié un communiqué de presse condamnant un document sur la torture au Cameroun publié par la FIDH le 31 octobre 2003, en collaboration avec HRDG et d'autres organisations de défense des droits de l'homme camerounaises. Ce communiqué de presse aurait allégué que certaines ONG ternissent l'image du Gouvernement camerounais. Le 27 novembre 2003 vers 17 heures, Mme Nzounkekang aurait reçu un coup de téléphone anonyme l'avertissant qu'une personnalité de haut rang aurait ordonné de la tuer et il lui aurait été conseillé de faire attention. Des craintes ont été exprimées quant à la sécurité de Franka Nzounkekang, vraisemblablement en relation avec sa contribution à l'élaboration du rapport alternatif de la FIDH pour le Comité contre la torture.

Communications reçues

123. Le 1^{er} mars 2003, le gouvernement a envoyé une communication en réponse à l'appel urgent envoyé conjointement le 10 octobre 2002 par le Rapporteur spécial, le Rapporteur spécial sur la question de la torture et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, concernant les cas de **Nchendze Henry, Edwin Limfouyuy, Joseph Jumrau, Thomas Kombau, Tobias Koungso, Agbor Nfaw Joseph, Enow John Enow, Tabe Daniel Agbor, Tambe Atem Valery, Ojong Samuel Ndip et Shinyuy George** (voir E/CN.4/2003/67/Add.1, par. 99). Dans cette communication, le gouvernement indique que, le 23 mars 1997, des membres du Southern Cameroon National Council (SCNC) avaient provoqué des émeutes sanglantes à Kumbo, pris d'assaut la brigade de Jakiri, assassiné un garde et volé son arme de service et des munitions. Malgré l'information judiciaire devant le tribunal militaire de Yaoundé, les responsables n'avaient pas été identifiés. Le 8 septembre 2002, des éléments de la compagnie de gendarmerie de Kumbo ont appréhendé Edwin Limfouyuy, membre du SCNC, dénoncé comme ayant participé aux événements de 1997, alors qu'il revenait dans

le pays; cette arrestation a été suivie de l'arrestation de cinq autres membres du SCNC, Nchadze Henry, Tobias Kongnso, Joseph Jumbah, George Shinyuy et Kumbah Moses Punsu. Au cours de l'enquête, l'arme volée au gendarme assassiné a été retrouvée chez une tierce personne (qui ne figurait pas dans la communication des Rapporteurs spéciaux), qui a été traduite devant le tribunal militaire de Bafoussam en compagnie de George Shinyuy et d'une troisième personne (qui ne figurait pas dans la communication des Rapporteurs spéciaux). Les personnes mentionnées dans la communication du gouvernement ont été transférées à Bafoussam où elles sont poursuivies devant le tribunal militaire pour assassinat, détention illégale d'armes de guerre et placées sous mandat de dépôt du 9 janvier 2003. Elles sont représentées par un avocat, et ne se plaignent pas de torture, mais déplorent devoir exécuter certains travaux dans le cadre de la prison ainsi que de la mauvaise qualité de la nourriture.

124. Dans la même communication, le gouvernement indique que la mort de George Shinyuy est due à un arrêt cardiaque consécutif à une mydriase, conséquence d'un diabète non soigné. Le gouvernement indique également que le certificat de décès délivré par l'hôpital catholique de Shinsong indique qu'il n'a été décelé aucune trace de sévices corporels sur le corps du défunt.

125. Le gouvernement indique également dans la même communication que, le 27 septembre 2002, les personnes suivantes ont été interpellées à Mamfé: Agbor Nfaw Joseph, Enow Enow Joseph, Tabe Daniel Agbor, Tambe Valery Atem, Ojong Samuel Ndip, ainsi qu'une autre personne dont le nom ne figurait pas dans la communication des Rapporteurs spéciaux, et qui a été libérée quelques jours plus tard en raison de son état de santé critique. Ces personnes ont retrouvé la liberté à la suite de l'enquête policière d'usage.

126. Le gouvernement souligne enfin que ces personnes n'ont pas été arrêtées parce qu'elles sont anglophones.

Observations

127. Le Rapporteur spécial remercie le gouvernement pour sa réponse à sa communication du 10 octobre 2002; il regrette de n'avoir pas reçu, à ce jour, de réponse à ses communications du 7 août, du 3 octobre et du 4 décembre 2003.

Central African Republic

Communications envoyées

128. Le 18 juillet 2003, le Rapporteur spécial a envoyé une communication faisant état des rapports concernant la condamnation, le 26 juin 2003, de **Michel Ngokpele**, directeur de publication du journal *Le quotidien de Bangui*, à six mois de prison ferme par le tribunal correctionnel de La Lobaye, pour «diffamation par voie de presse» et «incitation à la haine ethnique». Selon les informations reçues, *Le quotidien de Bangui* aurait publié, à la mi-mai 2003, un article faisant état de présumées malversations financières intervenues à la pharmacie de cession de l'hôpital de M'Baiki, chef-lieu de La Lobaye. M. Ngokpele

aurait été arrêté le 18 mai et gardé dans les locaux de la police à Bangui avant d'être transféré à la maison d'arrêt de M' Baiki. Le 19 juin, le journaliste aurait comparu devant le tribunal de grande instance de M' Baiki.

129. À cet égard, le Rapporteur spécial a souligné le principe de proportionnalité de la peine, en indiquant notamment que des sanctions pénales, en particulier l'emprisonnement, pour diffamation ne semblent pas proportionnelles à un exercice effectif du droit à la liberté d'opinion et d'expression.

130. Dans la même communication, le Rapporteur spécial a soulevé le cas de **Ferdinand Samba**, directeur de publication du quotidien *Le Démocrate*, paraissant à Bangui, qui aurait été arrêté le 11 juillet 2003 au siège du Groupement des éditeurs de la presse privée et indépendante de Centrafrique (GEPPIC), et qui serait, depuis, détenu dans les locaux de la police du commissariat du port à Bangui. L'arrestation de M. Samba serait liée à la publication d'un article intitulé «Kaga Bandoro, les Fronts populaires de libération passent à l'attaque», dans lequel il était fait état de supposées exactions commises par des militaires incontrôlés qui séviraient dans la zone de Kaga Bandoro, ville située à 300 km au nord de Bangui.

131. Le 13 octobre 2003, le Rapporteur spécial a envoyé une communication concernant les cas suivants:

(a) la station panafricaine Africa No. 1 et Radio France Internationale (RFI) ne seraient plus captées à Bangui depuis le 25 octobre 2002, date de la tentative de coup d'État, pour la première et depuis le 16 novembre 2002 pour RFI. Il est allégué que, le 9 novembre, le Chef de l'État se serait plaint de la couverture de RFI et aurait déclaré: «Si vous continuez, j'arrêterai RFI en FM à Bangui». Il est aussi rapporté que, le 19 novembre, le Ministre d'État à la communication aurait démenti les allégations selon lesquelles il aurait coupé les émetteurs de ces deux stations. Il aurait déclaré qu'il pourrait s'agir d'une panne technique due à de fortes pluies ou des coups de tonnerre ;

(b) selon les informations reçues, il semblerait que, le 17 novembre 2002, Thierry Oberlé, envoyé spécial du quotidien français *Le Figaro*, aurait été refoulé à l'aéroport de Mpoko de Bangui par la police de l'air et des frontières. Il est rapporté que cette décision n'aurait pas été motivée;

(c) le 14 novembre 2002, **Joseph Benamse**, correspondant de l'agence américaine Associated Press et de la radio britannique BBC, aurait reçu des menaces par un chauffeur de la présidence de la République qui serait également, selon les informations transmises au Rapporteur spécial, responsable d'une milice armée. Il est rapporté que le chauffeur, qui était semble-t-il accompagné par sept soldats armés, aurait suivi la voiture de M. Benamse et l'aurait contraint à s'arrêter. Il lui aurait ensuite reproché le manque d'objectivité dans la couverture des événements qui ont secoué le pays.

Observations

132. Le Rapporteur spécial regrette de n'avoir pas, à ce jour, reçu de réponses à ses communications.

Chad

Communications envoyées

133. Le 18 février 2003, le Rapporteur spécial a envoyé un appel urgent concernant la situation de **Nadjikimo Bénoudjita**, directeur de publication du journal *Notre Temps*, et **Mbainaye Bétoubam**, journaliste pour *Notre Temps*, qui auraient été condamnés le 6 février 2003 pour diffamation à six mois d'emprisonnement ferme et à une amende de 100 000 francs CFA (FCFA), ainsi qu'à une interdiction d'exercer leur profession pendant huit mois. Le juge aurait en outre ordonné la fermeture de *Notre Temps* pour trois mois et le versement de 2 millions de FCFA à titre de dommages et intérêts. Selon les informations reçues, les deux journalistes auraient été condamnés suite à la publication, dans le numéro 106 de *Notre Temps*, d'un article mentionnant des témoignages relatifs à des traitements inhumains et dégradants dont auraient été victimes des personnes accusées de vol de bijoux appartenant à une haute fonctionnaire du Ministère de la femme, qui aurait estimée avoir été diffamée par le journal après que les journalistes eurent fait allusion à son rôle de plaignante dans cette affaire. Pendant le procès, les deux journalistes auraient été interdits de citer leurs témoins et les avocats de la défense se seraient retirés en signe de protestation.

134. Le 23 octobre 2003, le Rapporteur spécial a envoyé un appel urgent au gouvernement en relation avec la situation de la radio associative Liberté-FM qui aurait été fermée pour une durée indéterminée le 21 octobre 2003 par le Ministère de la sécurité publique, apparemment à la suite de la diffusion d'une chronique très critique envers le Président Idriss Deby. Il semblerait que, le 17 octobre, le rédacteur en chef de la radio, **Dobian Assingar**, avait été rappelé à l'ordre par le Haut Conseil de la communication sur ordre du Ministre de la communication et que, le 21 octobre, un arrêté du Ministère de la sécurité publique aurait été adopté, stipulant: «La radio FM-Liberté est fermée à compter de ce jour, jusqu'à nouvel ordre, pour fonctionnement illégal et comportement déviant». Il semblerait que cette station de radio avait été mise en demeure de cesser la diffusion de débats politiques lors de la campagne pour l'élection présidentielle en 2001, et en 2002 elle aurait été suspendue trois semaines pour trouble à l'ordre public après avoir couvert une manifestation d'étudiants au Cameroun.

Observations

135. Le Rapporteur spécial regrette de n'avoir pas, à ce jour, reçu de réponses à ses communications.

Chile

Comunicación enviada

136. El 1.º de octubre de 2003, el Relator Especial envió una carta de comunicación en relación con el empresario **Eduardo Yáñez**, el cual habría sido condenado a 61 días de prisión por el delito de desacato contra la Corte Suprema. De acuerdo con las informaciones recibidas, los hechos que habrían motivado la querrela por calumnia contra altas autoridades del país se habrían producido el 27 de noviembre de 2001, cuando el periodista habría criticado al poder judicial durante la emisión del programa “El Termómetro” del canal Chilevisión. También se informó que el juez habría dispuesto que el periodista no estuviera obligado a cumplir su pena en prisión a cambio del pago de una multa y de su periódica presentación ante las autoridades encargadas de su custodia.

Comunicación recibida

137. Por carta de fecha 14 de octubre de 2003, el Gobierno de Chile contestó a la comunicación del Relator Especial de fecha 1.º de octubre de 2003 relativa al caso de **Eduardo Yáñez**. El Gobierno informó que, no existiendo “ánimo de injuriar”, elemento subjetivo esencial, no pudo existir el tipo básico que es el delito de injuria y, al no existir éste, no pudo existir el delito complementario, que es el desacato, por lo cual procedió a absolver al encausado. Por las consideraciones precedentes, la Corte de Apelaciones de Santiago declaró revocada la sentencia apelada de fecha 31 de enero de 2003 dictada por el tribunal *ad quo* y absolvió al procesado del requerimiento formulado en su contra.

Observaciones

138. El Relator Especial da las gracias al Gobierno de Chile por su respuesta.

China

Communications sent

139. On 28 March 2003, the Special Rapporteur sent, jointly with the Special Rapporteur on the question of torture, an urgent appeal concerning **Jiang Lijun**, an Internet activist, who was reportedly secretly arrested on 6 November 2002. He was reportedly taken to Beijing's Quincheng Prison, and it is reported that for the first four months of his detention, Jiang's wife, Yan Lina, was unable to obtain any documentation regarding his arrest or his whereabouts. On 25 March 2003, the Beijing Public Security Bureau is said to have told her that her husband had been officially arrested on 14 December 2002, and charged with "incitement to subvert State power". According to the information received, Jiang Lijun was one of the many Internet activists arrested in late 2002, including **Liu Di** and **Li Yibin** in Beijing, **Ouyang Yi** in Sichuan, **Zhang Yuxiang** in Nanjing and **Tao Haidong** in Xinjiang (who was reportedly sentenced to seven years in prison). It is believed that Jiang Lijun's arrest is connected to the arrest of Liu Du and Yi Libin; the authorities also allegedly believe that he is the leader of the group of Internet activists, because of his age and relative level of influence.

140. On 1 July 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture, concerning **Zhao Changqing, Ouyang Yi, Dai Xuezhong, Jiang Lijun, He Depu, Han Lifa** and **other alleged political dissidents** who are reportedly in detention in the context of an open letter to China's 16th Party Congress. This open letter was reportedly later signed by 192 individuals calling for political reform: in particular, a reassessment of the 1989 democracy movement; the release of all prisoners allegedly detained for their political activities; the ratification of International Covenant on Civil and Political Rights; the review of domestic law to bring it into conformity with international treaties; and the expansion of democratic elections from the villages and municipalities to national elections. Zhao Changqing was reportedly arrested on 4 November 2002 and formally charged with inciting subversion of State power on 25 June 2003, allegedly for having drafted the open letter. It is reported that Zhao Changqing was suffering from tuberculosis at the time of his arrest and that his health seriously deteriorated while in detention.

141. On 4 July 2003, the Special Rapporteur sent an urgent appeal, following up on previous appeals sent on 11 April and 28 May 2002, with regard to the situation of **Yao Fuxin** and **Xiao Yunliang**, whose appeals against their 9 May 2003 sentences for "illegal assembly and demonstration" were dismissed on 27 June 2003. It was reported that the appeals were dismissed in a closed hearing in the Liaoyang City Detention Centre in Liaoning province.

142. Reports also indicate that Yao Fuxin's lawyer was allegedly not notified of the appeal hearing and became aware of it only by chance the night before. Xiao Yunliang's lawyer was reportedly only notified of the judgment after the hearing had taken place. Further reports mention that family members and members of the public who tried to attend the hearing were allegedly prevented from doing so by officials, who prevented their entry to the place where the hearing was held and gave incorrect information about the time at which the hearing was to begin. The hearing was reportedly completed within 30 minutes.

143. It is alleged that Yao Fuxin and Xiao Yunliang had been sentenced to prison terms of seven and four years, respectively, on charges of subversion for their leadership in the movement protesting corruption at the Liaoyang City Ferro-Alloy Factory, for seeking payment of wages in arrears and unemployment compensation from the Government.

144. On 22 July 2003, the Special Rapporteur sent an urgent appeal concerning the case of **Jae Hyun Seok**, a freelance photojournalist from the Republic of Korea who regularly worked for international magazines and publications. He was reportedly arrested on 18 January 2003 in Yantai, Shandong, while he was photographing refugees from the Democratic People's Republic of Korea attempting to board two fishing boats bound for the Republic of Korea and Japan. According to the information received, on 22 May he was sentenced to two years in prison on charges of human smuggling and the appeal may be heard later in July. Seok was reportedly held in Yantai Prison while awaiting his appeal. Although he had access to legal counsel, he was apparently not allowed to receive visitors, including family members.

145. On 23 July 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent a communication regarding the case of **16 individuals thought to be HIV-positive**, some of whom may be suffering from AIDS, who were reportedly detained by police in Xiaongqiao village, Shangai county, Henan Province. It was alleged that at least some had been beaten while in custody. Thirteen of them were reportedly arrested on 22 June 2003 during a violent raid by approximately 600 police officers and other unidentified men in Xiaongqiao village. According to the information received, during the raid a number of villagers, including children, were beaten with metal rods and electroshock batons. It is reported that those arrested were charged with “robbery” and “attacking government offices”.

146. It is believed that this raid may have been provoked by an earlier incident which allegedly took place in the provincial capital, Zhengzhou, between 19 and 22 June 2003, when up to 100 HIV-positive villagers protested the lack of adequate health care in Xiongqiao. During that incident, at least three persons were allegedly arrested and taken back to Xiongqiao, where they were believed to remain in custody. This might also be linked to an earlier confrontation between demonstrators and the police, which allegedly took place on 17 June 2003 in nearby Wulong township, where around 100 villagers reportedly went to the township government office to present a petition asking for better health care services. On that occasion, an argument allegedly broke out between villagers and officials, leading to a violent confrontation in which several villagers damaged cars and assaulted officials.

147. On 24 July 2003, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the alleged arrest, on 13 June 2003, of **Luo Yongzhang**, a freelance writer. Luo has published online articles on issues ranging from the plight of people with disabilities in China to the need for constitutional reform for greater human rights protection and the absence of legal protection for free speech in the country. According to the information received, national security officials arrested Luo at his apartment, in the capital of Jilin Province, Changchun, searched his home, and confiscated his computer, printer and copies of his writings. Luo was allegedly held in custody at the Detention Centre No. 3 in Changchun, and it was not clear whether he had formally been charged.

148. On 27 August 2003, the Special Rapporteur sent an urgent appeal relating to the case of journalists **Kim Seung-jin** and **Geum Myeong-soek**, from the Republic of Korea, who were reportedly arrested by Shanghai police on 7 August 2003 and were reportedly since detained on charges of "organizing illegal border crossings and attempting to forcibly enter a foreign school in Shanghai". According to information received, the two journalists were filming refugees from the Democratic People's Republic of Korea who were attempting to gain asylum by forcibly entering a school run by the Government of Japan.

149. On 26 September 2003, the Special Rapporteur sent a communication referring to information according to which on 3 September 2003, the Sichuan Province State Security

Police arrested **Li Zhi** on charges of "conspiracy to subvert State power". It is reported that Li Zhi was initially detained on 8 August along with his wife, who was released the same day. It is alleged that their home was searched, and Li Zhi's computer and other property were seized. It is believed that his arrest is linked to Li Zhi frequently expressing his views on Internet bulletin boards and in chat rooms. It is alleged that the police said that Li Zhi was found to have communicated with overseas dissidents through Internet chat rooms. It is reported that under the charge of subversion Li Zhi could be sentenced to up to 15 years in prison.

150. On 9 October 2003, the Special Rapporteur and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health jointly sent an urgent appeal concerning the reported sentencing of **Ma Shiwen**, Deputy Director of the Office of Disease Control in the Henan Health Department, to eight years of imprisonment. This was allegedly for circulating to HIV/AIDS activists a restricted government report, which reportedly blamed the national Ministry of Health, the army, illegal blood centres and the lack of information about HIV/AIDS, for the spread of HIV to villagers who sold their blood in Henan province. According to information received, Ma was arrested in August 2003 and charged with circulating State secrets by using his computer to send the report to AIDS activists in China. It is reported that he had already been arrested and released on the same charges earlier in 2003.

151. On 21 October 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Zhang Yi Nan**, a leading historian of the unofficial Chinese House-Churches movement and the author of a document entitled "The United Appeal" addressed to the Government and to the authorized Churches on behalf of four of the largest unofficial or unauthorized Churches, and **Xiao Biguang**, a campaigner for religious freedom and workers' rights, a lawyer and a law lecturer at Beijing University, as well as the legal adviser to Gong Shengliang, a leader of the unofficial South China Church, who is reportedly in prison. According to the information received, Mr. Zhang and Mr. Xiao were arrested on 26 September 2003 in Central Henan Province's Lushan County, by members of the Public Security Bureau Police, while attending a friend's wedding. It is reported that they were held at an undisclosed location since their arrest. It is also reported that members of the police searched Zhang's home and confiscated his computer and other property. Zhang was reportedly charged with conspiracy to subvert the national Government, under article 105 of the Criminal Code. This is allegedly the first time that authorities have used this charge against a member of the unofficial House-Churches movement. No charges were reportedly filed against Xiao. It was also reported that calls to the County Government and Provincial Religious Affairs Bureau were unanswered. **Ding Guizhen**, Mr. Zhang Yi Nan's wife, who was reportedly also arrested on 26 September 2003, was later released.

152. On 24 October 2003, the Special Rapporteur sent a letter of allegations relating to information he received on the cases summarized below:

(a) *Caijing*, a bimonthly business news magazine, was reportedly banned by the authorities and its 20 June 2003 edition was barred from newsstands. According to the information received, no official reasons were given for the banning of the magazine, but it is suspected that it could be linked to the publication of an article regarding a bank loan scandal allegedly involving government officials and an article on the impact of the SARS virus;

(b) *Beijing Xinbao*, a weekly news tabloid run by the national newspaper *Workers' Daily*, was reportedly shut down and its editors were allegedly sacked for having published an article critical of the Government in its 4 June 2003 edition. According to officials, the article, entitled "Seven disgusting things in China", allegedly violated national publication regulations;

(c) Internet journalists **Xu Wei, Jin Haike, Yang Zili and Zhang Honghai** were reportedly sentenced on 28 May 2003 to 10 years' imprisonment for Xu Wei and Jin Haike, and eight years for Yang Zili and Zhang Honghai, allegedly on subversion charges. According to reports, they were arrested on 13 March 2001 and charged with subversion. On 28 September 2001, the Beijing Intermediate Court reportedly initiated trial proceedings but it is reported that no verdict was announced at the time. The proceedings reportedly resumed in April 2003. The four journalists, all recent college graduates, allegedly participated in the Xin Qingnian Xuehui ("New Youth Study Group") and were meeting regularly to write articles and circulate them through the Internet. During their trial in September 2001, the prosecutors reportedly focused predominantly on the group's writings and in particular on two essays, entitled "What's to be done?" and "Be a new citizen, reform China". It is reported that these articles were cited as evidence of the group's intention to overthrow the Chinese Communist Party's leadership and the socialist system and subvert the regime of the people's democratic dictatorship;

(d) **Huang Qi**, publisher of the *Tianwan* web site (www.6-tianwang.com), for whom a communication was sent on 26 July 2002, was reportedly sentenced on 9 May 2003 to five years' imprisonment and one subsequent year without political rights on alleged charges of "splitting the country" and subversion. According to the information received, he was arrested on 3 June 2000 and charged with subversion. On 14 August 2001, the Chengdu Intermediate Court in Sichuan Province reportedly held a closed trial after postponing the trial date several times. According to reports, his family was not notified of the sentencing hearing and allegedly only learned of his conviction after his wife called the court;

(e) **Deng Shiying** (f), from Longtan District, Jilin City in the Province of Jilin, was reportedly arrested on 15 September 2002 while she was distributing Falun Gong material. It is reported that she was sentenced to seven years in prison, and sent to the Jilin Province women's jail in early March 2003. She was reportedly beaten regularly during her detention, allegedly to force her to renounce the practice of Falun Gong, and as a result she became too weak to eat correctly. She was then allegedly force-fed by prison guards, but she continued to grow weaker.

Reports indicate that, on the morning of 18 July 2003, Deng's family, who was reportedly not allowed to visit her during her detention, was instructed to pick her up at the prison. It seems that she was already unconscious when they arrived, and they took her to the hospital for emergency treatment. Deng reportedly died in the hospital on 19 July 2003;

(f) **Sun Guo, Wang Yanqing and Wang Xueyong** were reportedly arrested on 5 September 2002 by police officers from the Biguo Town police station in Zhaoyuan City, while distributing Falun Gong pamphlets. They were reportedly then transferred to the Zhaoyuan City detention centre. It seems that, on 25 March 2003, Mr. Sun was sentenced to eight years in prison and Wang Yanqing and Wang Xueyong were sentenced to seven years in prison each, during a closed trial. They were reportedly sent to Jinan No. 1 prison in Shandong Province to serve their sentence. Their families were reportedly not informed about the trial and were not notified of their sentence;

(g) On 31 August 2002, at around midnight, the police carried out a raid at the Beijing home of **Yeo Shi-Dong**, a correspondent for the Republic of Korea newspaper *Chosun Ilbo*. According to the information received, the police searched his house and questioned him for two hours, although they reportedly did not have a warrant. The police reportedly seized documents relating to his investigation into refugees from the Democratic People's Republic of Korea, his passport and those of family members, his Chinese residence certificate and his press card. He was reportedly informed, as they were leaving, that he had broken the law by failing to report his recent change of address to the local police station;

(h) On 31 August 2002, access to the Internet search engines Google and AltaVista was apparently blocked inside China and became inaccessible to users in the country. It is reported that a law enacted on 1 August 2002 required all China-based web sites to exercise control over their contents or risk being closed down. It seems that a number of China-based Internet companies signed a public pledge on "self-discipline", committing themselves to investigate and block web sites on the basis of their content, which it seems Google and AltaVista refused to do;

(i) On 24 August 2002, **Wan Yanhai**, web publisher and HIV/AIDS activist, was reportedly arrested by public security agents and detained on suspicion of "leaking State secrets". It is reported that Wan, a former employee of the Ministry of Health, started the AIDS Action Project in 1994 to raise awareness about HIV/AIDS in China and to support the rights of AIDS-infected people. The authorities reportedly closed down the AIDS Action Project in July 2002, and reportedly interrogated a number of Wan's colleagues. It is reported that Wan's arrest might be related to his reporting on his web site on the spread of AIDS in the Henan Province, and for publishing extracts from a government report thereon. Reports indicate that Mr. Wan was released on 20 September 2002;

(j) On 24 July 2002, **Li Dawei** was reportedly sentenced to 11 years' imprisonment by the Intermediate Court in Tianshui City, Gansu Province, allegedly for "subverting State power". According to the information received, he has been detained since 14 April 2001 and the charges against him reportedly came after he had downloaded about 500 articles from the Internet, printed them out, and compiled them into about 10 unpublished volumes;

(k) **Tao Haidong**, Internet writer, was reportedly arrested at his home in Urumqi on 9 July 2002. According to the information received, his trial began on 8 January 2003 and was allegedly conducted in secret at the Urumqi people's court. He was reportedly found guilty of having posted material on the Internet that allegedly incited people to subvert the Government and was sentenced to seven years' imprisonment. It is reported that the sentence was disclosed by the *Official People's Court Daily* on 16 February 2003 but the date of the court's decision is unknown. According to reports, he was arrested on suspicion of espionage after having posted articles on both Chinese and overseas web sites allegedly predicting the collapse of China's economy and criticizing China's leaders;

(l) **Zhao Longzi**, 28, and his wife **Luo Na**, 25, were reportedly arrested in June 2000 along with two other practitioners of Falun Gong in Beijing. It is reported that they were arrested in Tiananmen Square as they were participating in a peaceful appeal to the central Government in favour of Falun Gong. It is reported that they were escorted back to Tibet where they were allegedly sentenced to a two-year term of forced labour;

(m) **Hao Xiuqin** (f) was reportedly arrested on 11 May 2002 on Tiananmen Square in Beijing, while she was appealing for Falun Gong. It seems that she was standing in the middle of the square, holding a Falun Gong banner, when she was arrested. Xiuqin was reportedly detained in a detention camp in Yuanshi County, Hebei Province, and later sentenced to five years' imprisonment. It is believed that she was held at the Mancheng Prison of Baoding City in Hebei Province;

(n) **Zhou Yongnian, Wei Qishan, Ma You, Wang Delong, Zhu Nannan, Ma Changfeng, Zhang Feng, Jian Chunxia, Wu Chunru** and **Li Zhuhua** were reportedly arrested on 8 December 2000 in Zhou Yongnian's home, where they were practising Falun Gong. It seems that policemen from the Tongzhou District Police Department surrounded Zhou's house in Beijing, arrested the occupants and confiscated computers, copy machines used to print Falun Gong materials and some money. It is reported that, on 6 April 2001, Mr. Zhou was sentenced to nine years in prison for printing Falun Gong material. It is also reported that Ma You and Ma Changfeng were sentenced to five and a half years in prison; Wei Qishan, Wang Delong, Zhu Nannan, and Zhang Feng to four and a half years in prison; Jian Chunxia and Wu Chunru to three and a half years in prison and Li Zhuhua to three years in prison on the same charge;

(o) **Jiang Zhong**, from Qingdao city in the Province of Shandong, was reportedly arrested in July 1999 and sent to the Hanting detention centre of Weifang, allegedly for having sent e-mails about Falun Gong to Hong Kong. It is reported that Jiang was sentenced to three years in prison in April 2000, and that he was sent to Weibei Farm to serve his sentence;

(p) **Liu Jinyin**, former Deputy Director of the Laishui County Appeals Bureau, Hebei Province, was reportedly arrested in April 2000 as she was, according to the information received, appealing for Falun Gong to the National Council of People's Representatives. It is reported that she was severely beaten by guards until she lost consciousness. In June 2000, her case was reportedly tried in Court following an order from the Laishui County Government. However, according to reports, as she was recounting her own experience of Falun Gong, the audience applauded and the judges reportedly decided to postpone the trial. The trial reportedly resumed in December 2000 and, according to our information, heavy shackles were put on her feet and her mouth was taped in order to prevent her from speaking. She was reportedly sentenced to five years in prison;

(q) **Shan Lihua** from Jingxing County, Hebei Province, was reportedly arrested on 10 February 2000 at her Falun Gong practice site by the police from the Weishui Town police station, allegedly because she wrote letters to the Office of the United Nations High Commissioner for Human Rights (OHCHR) to appeal in favour of Falun Gong. She was reportedly beaten at the police station, and was allegedly sentenced to three years' imprisonment on 1 October 2000. Similarly, **Bai Yuhong** is reported to have been arrested on 5 February 2000 by officers from the Weishui Town police station, allegedly for having signed her name to a letter to OHCHR to appeal for Falun Gong. She was reportedly beaten during her detention by a police officer from the Weishui Town police station and by police officers from the Criminal Police Squad. It is believed that she was sentenced to three years' imprisonment in October 2000.

153. On 24 October 2003, the Special Rapporteur and the Special Rapporteur on the question of torture jointly sent an urgent appeal concerning **He Depu**, an alleged political dissident, who was reportedly in detention. His case was already included in a joint urgent appeal sent by the Special Rapporteur and Special Rapporteur on the question of torture on 1 July 2003. Mr. He was reportedly tried on 14 October 2003 by a Beijing court, which will reportedly announce its verdict and pass sentence within 40 days. According to the information received, the trial lasted only two hours and He Depu was allegedly constantly interrupted when he tried to take the floor, in particular when he tried to inform the court about alleged mistreatment he suffered while in detention.

154. He Depu, allegedly a member of the banned China Democracy Party, was reportedly arrested on 4 November 2002, on the grounds that he has used the Internet to distribute messages "inciting subversion". He Depu had reportedly signed an open letter to the 16th National People's Congress calling for political reform. It is also reported that He Depu's wife was not informed of his whereabouts from the moment of his arrest until his

trial. Finally, it is reported that He Depu's condition deteriorated significantly since his arrest and that he appeared at his trial in a poor health.

155. On 28 October 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Cheng Jun Liu**, who was reportedly arrested in March 2002 after he allegedly assisted in broadcasting footage on the reported prosecution of Falun Gong over cable TV signals in Changchun City and Songyuan City. It is said that at the time of his arrest he was shot in the thigh by the police and his hand was burned. He was reportedly sentenced to 19 years in Jilin Prison in September 2002, where he was allegedly severely beaten and subjected to ill-treatment. As a result, in October 2003 he was reportedly transferred to Changchun City Central Hospital, where he was believed to be in a very poor physical state.

156. On 29 October 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Yan Jun**, an Internet activist who is believed to have been detained since 2 April 2003, and reportedly formally arrested on 9 May 2003. It is reported that, during his detention at Xi'an No. 1 Detention Centre, he was repeatedly subjected to beatings by other prisoners, allegedly under the encouragement of the Public Security Police. On 28 June 2003, his nose was reportedly broken and he was transferred to the hospital for treatment. He reportedly made official complaints about this treatment but it is alleged that officials have not passed them to the Office of the Procurator. Yan was reportedly charged with subversion in closed proceedings at the Intermediate People's Court in Xi'an on 24 October 2003. It is reported that the details of the charge state that he had posted criticisms of the Government of China on the Internet. According to the information received, he had also signed open letters calling for governmental reform.

157. On 30 October 2003, the Special Rapporteur sent an urgent appeal with respect to reports according to which the Culture Ministry announced on 28 October 2003 that all **Internet cafés** will have to install surveillance software to monitor their customers' activities. According to information received, surveillance systems were already installed in the central province of Sichuan and the eastern province of Guangxi, and these systems, which are reportedly to be installed in all of China's Internet cafés by mid-2004, would make it possible to collect personal data on Internet users, store a record of all the web sites they visit and alert the authorities when they view "unlawful content".

158. On 14 November 2003, the Special Rapporteur sent, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on violence against women, its causes and consequences, an urgent appeal relating to the situation of Ms. **Yang Fenglian**, a teacher at the Mining Engineering College in Handan City, Hebei Province, and **her 16-year-old daughter**, who were reportedly arrested on 1 October 2000 in Beijing for appealing to the Government to stop persecuting Falun Gong. They were reportedly escorted back to Handan City and detained in the Handan City Second Detention Center. At the end of 2000, Ms. Yang was reportedly sentenced to one year of forced labour, and sent to the Shijiazhuang Labor Camp in Hebei Province, where she was allegedly beaten, shocked with electric batons, handcuffed, hung

up in the air, and deprived of sleep. Her daughter was reportedly handcuffed and fitted with heavy shackles, and she was reportedly shocked four times throughout her entire body with high voltage electric batons. Two of those times she was allegedly stripped naked. After nine months of detention, family members were reportedly forced to pay 3,000 yuan bail. After returning home, she was reportedly expelled from her school. Yang was released after one year. After her release the officials at her college reportedly monitored her every day. It is reported that Yang's husband was not allowed to work, and the head of his work unit tried to force him to divorce her.

159. It is further reported that on 2 November 2002, 30 policemen from the Kaiyuan Police Station and the Hanshan Police Station again arrested Ms. Yang and her daughter at their home, and took them to the Hanshan Police Station. The Chief of the Hanshan Police Station, whose name is known to the Special Rapporteurs, reportedly ordered the Chief of the Kaiyuan Police Station, Wang Lin, and other policemen to shock Yang simultaneously with electric batons in an attempt to have her renounce her practice. Her head was reportedly badly swollen and her arms were covered with blisters. She was reportedly sent to the Handan City Second Detention Centre, where she reportedly developed arrhythmia and discharged blood in her stool every day. Her weight was said to have dropped from 63 to 41 kilos. After 10 months of detention and reportedly being forced to pay 2,000 yuan in bail, she was released. Yang's daughter was reportedly released after three months and a payment of 10,000 yuan in bail.

160. On 27 September 2003, after she had been home for one month, the College's Secretary of the Party Committee, the Department Secretary of the Party Committee, the Chief of the Security Department - whose names are known to the Special Rapporteurs - and others, allegedly accosted Ms. Yang while she was on the way to the supermarket, and forcibly sent her to the Xihuanlu re-education centre. She reportedly went on a hunger strike to protest the detention. After she was force-fed, she vomited blood and lost consciousness several times. It is reported that the "610 Office" ordered her to be secretly transferred to Shijiazhuang City. Her whereabouts were reportedly unknown at the time the communication was sent.

161. In the same communication, the Special Rapporteurs addressed the case of Ms. **Tian Li**, 41, who was reportedly arrested at her workplace, Hailin Hotel in Weihai City, on 22 May 2002, by policemen from the 610 Office for practising Falun Gong. She was allegedly beaten by the Head of the 610 Office in Weihai City - whose name is known to the Special Rapporteurs - and four other officers who arrived with him. Then she was reportedly taken to Weihai police station, where she was reportedly again severely beaten by the policemen. She was reportedly then transferred to Weihai Height Detention Center. It is reported that when she said, "Falun Dafa is good", she was handcuffed and forced to sit in an iron-chair torture device. She was then reportedly dragged into the courtyard and exposed to the sun until her body was numb. Finally, she is said to have collapsed to the ground, and lost consciousness. Tian was reportedly sent to the City Hospital of Weihai while still in a state of unconsciousness. The doctor in the hospital sent her home because she was paralysed.

162. The Special Rapporteurs also addressed in the same communication the case of **Chen Yinghua** (f), a resident of Zhejiang Province, who was reportedly arrested on 8 August 2003 by Jiaxing City police for distributing materials about Falun Gong. On 13 September 2003, she was reportedly taken to a local detention centre, where she went on a hunger strike to protest her detention. The guards reportedly ordered criminal inmates to hold her down and force-feed her by inserting a tube through her nasal passage and into her stomach. They are said to have handcuffed her, shackled her feet, and tied her tightly to a bed. She was reportedly not allowed to go to the restroom. After several days of torture, she was reportedly unable to walk. On 26 September 2003, she was reportedly sent to the Zhejiang Province Prison Hospital for further force-feeding. She was allegedly kept tied to a bed using a special straightjacket and belt, with a tube through her nasal passage and esophagus. If she attempted to pull out the tube, the inmates who were watching her reportedly pulled the straightjacket belts tighter. After one force-feeding by an inmate, her entire body is said to have convulsed with pain and she vomited blood. The authorities reportedly ignored this incident and continued to force-feed her. After she began throwing up dark red blood, the authorities are said to have realized that her stomach lining had hemorrhaged. Her blood pressure was extremely low and she was in critical condition. The authorities reportedly switched to forcibly injecting her. It is reported that when she was finally untied from the bed, she was too weak to walk, her face was very pale, and her hands and feet were ice cold. Her arms were swollen and black and blue with bruises. The blood vessels in her legs collapsed, and blood could not circulate properly. It is reported that she was tortured again, with needles inserted into her bruises. According to information received on 13 October 2003, the authorities permitted Chen to be bailed out because her brother in Canada exposed her torture to the public. It is said that, at the time the communication was sent, Chen was awaiting her trial.

163. On 17 November 2003, the Special Rapporteur, together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women, sent an urgent appeal concerning **Li Qian**, a 22-year-old woman resident of Shanghai City, who was reportedly taken away from her home in Shanghai on 1 November 2003 by members of the National Security Bureau from Suzhou City and Shanghai City. Since then, her whereabouts have reportedly not been disclosed. It is alleged that her home was ransacked and that Falun Gong materials, as well as her laptop computer, were confiscated. She was believed to have been arrested in connection with her alleged Falun Gong practice. Her mother, **Yang Xu**, had reportedly served a sentence to the Chuanxi Longquanyi Women's Labour Camp, Sichuan Province, where according to the allegations received, Falun Gong practitioners are frequently beaten, force-fed and subjected to other forms of torture or ill-treatment.

164. On 3 December 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent a joint urgent appeal concerning the alleged criminal prosecution and imprisonment of **Zheng Enchong**, a lawyer who has reportedly been active in representing persons suffering from alleged abuses of their economic and social rights. According to the available information Zheng Enchong was convicted by the Shanghai Second Intermediate People's Court on 28 October 2003 and sentenced to three years' imprisonment, on charges of "illegally providing State secrets to

entities outside of China". This resulted from his dissemination of information relating to the situation of families displaced from their homes in a development project, and the surrounding by police of striking workers on 9 May 2003. It is reported that Zheng Enchong was accused of sending information to a human rights organization outside of China.

165. On the same date, the Special Rapporteur sent an urgent appeal concerning reports that Internet essayist **Du Daobin**, for whom an urgent appeal was sent on behalf of the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 7 November 2003, was charged with "subversion" and remained in jail. It is reported that, if found guilty, Du Daobin faces a heavy prison sentence. According to information received, Du Daobin, who published his commentaries about a variety of social and political issues on overseas web sites, was arrested on 28 October 2003 in Yingcheng, Hubei Province.

166. On 8 December 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders sent a joint urgent appeal regarding **Huang Qi**, publisher of the Internet site Tianwan, for whom communications were sent on behalf of the Special Rapporteur on 26 July 2002 and 24 October 2003, and the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders on 31 July 2003. Huang Qi, was reportedly serving a five-year sentence for "subversion" and "attempting to overthrow the State". He was allegedly put in solitary confinement in a dark, 2-square-metre unfurnished cell in which he had to sleep on the floor, after representatives from the organization Reporters Without Borders tried to visit him in the top security Nanchong prison on 26 October 2003. He was reportedly moved several days later into a "closely monitored" unfurnished cell, shared with other prisoners.

167. On 9 December 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent an urgent appeal concerning the situation of **Lu Guiling**, who was reportedly arrested in January 2002 and sentenced to 19 years of forced labour in Weihai City after she reportedly broadcast a video explaining Falun Gong on public television. She was allegedly ill-treated during her detention and went on a hunger strike to protest. She was reportedly released because her health was extremely bad, but two months later re-arrested by the local police. She was sent on 22 September 2003 to the Shandong Province women's jail in Jinan City, where she again went on hunger strike. She was reportedly force-fed and injected with drugs, and as a result allegedly developed amyotrophy. She lost a lot of weight and could not move by herself. It was reported that the authorities were refusing to release her for medical treatment.

168. On 22 December 2003, the Special Rapporteur sent, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention an urgent appeal regarding **Zhang Shengqi**, a 23 year-old cyber-journalist, who was allegedly arrested on 26 November 2003, after he published articles by Liu Fenggang, who is said to be a historian of a banned Christian church also in jail. It is reported that Zhang was accused of exposing State secrets. According to information received, Zhang was arrested at his fiancé's home in the northern town of Jilin. Police reportedly searched the house thoroughly and seized about 20 items, including Zhang's mobile telephone and articles

written by Liu Fenggang. He was allegedly then transferred to Hangzhou prison, in eastern China. His fiancé, **Ye Jifei**, was reportedly questioned by police on 28 and 29 November, but was not imprisoned.

Communications received

169. On 10 March 2003, the Government responded to four of the cases addressed in the communication sent on 26 July 2002 (see E/CN.4/2003/67/Add.1, paras. 112 to 119), and indicated that:

(a) **Lee Sang-min**, aged 49, citizen of the Republic of Korea, working as a reporter with the Korean news agency in Beijing, was present at the scene when the police on duty were responding to the storming of the Consulate of the Republic of Korea in China by nationals of the Democratic People's Republic of Korea on 13 June 2002, but the police on duty had no direct contact with him. The circumstances alleged in the communication are not consistent with the facts;

(b) **Jiang Xueli**, known outside the country by the name Chiang Xue Qui, aged 26, originally from Taishan county in Guangzhou province, took up residence in Canada in 1997 and is a Canadian citizen. In June 2002, Chiang entered China on a tourist visa and conducted activities inconsistent with his status which were in breach of the relevant Chinese laws and regulations. On 3 June, the Chinese public security authorities, acting in accordance with the law, placed Jiang under investigation and, after he had given a written statement of repentance, he was ordered to leave the country within a specified period;

(c) **Sun Guilan** (f), aged 47, resident of Baoji city in Shaanxi province, was taken into criminal detention on 1 October 2001 by the public security authorities for causing a disturbance of the peace. On 8 October, Sun developed a range of symptoms, including a low fever, a cough and the expectoration of phlegm. She was promptly admitted to hospital for treatment, where she was diagnosed as suffering from bronchopneumonia and was intravenously administered aminobenzyl penicillin and other treatment. At about 4.30 p.m. on the same day, Sun suddenly became delirious and lapsed into a deep coma and, when all efforts by the hospital to save her life proved unavailing, she died. On 9 October, the Baoji city public security authorities, together with the Baoji city procurator's office, conducted a post-mortem examination of Sun Guilan's body and reached the finding that her death had been due to lobular pneumonia;

(d) **Huang Qi**, aged 37, a resident of Neijiang city in Sichuan, set up the Tianwang advisory services centre for tracing missing people in 1998, in Chengdu city, in Sichuan. In June 1999, he established the Tianwang web site for tracing missing persons. In July 2000, acting in accordance with the law and with authorization from the procurator's office, the Chengdu public security bureau took Huang into custody on suspicion of the offence of subverting the political authority of the State. In August of that year, the Chengdu city intermediate-level people's procurator's office, acting in accordance with the law, instituted legal

proceedings against Huang. In May 2002, the intermediate-level people's court of Chengdu city heard Huang's case at first instance and the case was still at the trial stage at the time the response was sent.

170. On 19 March 2003, the Government responded to the communication sent on 25 February 2002 (see E/CN.4/2003/67/Add.1, para. 108). It indicated that **Xu Zerong**, also known as Gao Weiguo, born 14 January 1954, originally from Rong county in Sichuan province, resident in Hong Kong, a former director of Hong Kong Asia Scientific Publishers, a visiting professor at Guangzhou Institute of Social Sciences and an associate research fellow at the South-East Asia Research Institute at Zhongshan University in Guangzhou, was taken into custody on 29 July 2000 on suspicion of unlawfully providing classified materials to foreign interests and conducting an illegal business. Following an investigation, it was ascertained that, in early 1992, Xu had gained access to internally classified materials on the pretext of researching articles which he was writing (the documentary materials concerned were subsequently identified as top secret, which had not yet been de-classified). After having been clearly informed that the materials were not to be disseminated or copied, he proceeded to photocopy, photographically reproduce and microfilm them. He then smuggled the microfilm rolls to Hong Kong, from where he sent them to a strategic research organization in Korea and received payment of US\$ 2,500 for his services. These actions constituted the offence of providing classified information to foreign entities.

171. In the spring of 1993, Xu founded the Hong Kong Social Sciences Service Centre. Between December 1993 and March 2000, in the city of Shenzhen, he unlawfully published 25 different books and magazines, with a total of 60,900 copies, using such imprints as the Hong Kong Social Sciences Service Centre, Hong Kong Social Sciences Publishers and others, which brought him a total return of some 330,000 yuan renminbi. This constituted the offence of running an unlawful business with aggravating circumstances.

172. On 20 December 2001, after hearing the case at first instance, the Shenzhen city intermediate-level people's court in Guangzhou province sentenced Xu to 10 years' imprisonment for the offence of unlawfully providing classified materials to foreign entities and stripped him of his political rights for three years. For the offence of conducting an unlawful business, it sentenced him to five years' fixed-term imprisonment and fined him an amount of 50,000 yuan. Xu refused to accept this sentence and lodged an appeal with the Guangzhou provincial people's high court. After considering the case, the Guangzhou High court found that the determination reached by the court in first instance had been based on clear facts and ample evidence but that the conviction had not been accurate. In December 2002, it handed down its final judgement, in which it sentenced Xu to 10 years' imprisonment and stripped him of his political rights for three years for the offence of unlawfully providing State secrets to foreign entities. For the offence of conducting an illegal business, it sentenced him to five years' fixed-term imprisonment and fined him 50,000 yuan.

173. On 29 April 2003, the Government responded to the communication dated 18 December 2003 concerning the proposal by the Government of the Hong Kong Special

Administrative Region (HKSAR) to enact a **draft Bill on National Security**. In its response, the Government stressed that the consultation document is not “draft legislation”, but that it sets out the principles and proposals of the provisions to solicit public views on how best to implement article 23 of the Basic Law of Hong Kong. These proposals are represent a modernization of existing offences, in line with the Basic Law. The terms in the consultation document, which are alleged to be “wide and vague”, are terms drawn from the existing statutory provisions and are commonly used in developed common-law jurisdictions. These terms should be read in this context and not in isolation. The Government of HKSAR has taken into account public views in ensuring that the National Security (Legislative Provisions) Bill is drafted in clear and precise language.

174. As with all criminal offences, it would be for the prosecution to prove beyond reasonable doubt the occurrences of any offence under article 23, and ultimately it is for the courts of the HKSAR to adjudge the case. As an additional safeguard, anyone accused of offences under article 23 will either be tried by a jury or given a right to opt for jury trial.

175. On the investigation powers under article 23 offences, the proposals seek to apply the existing powers of emergency entry, search and seizure on other offences to the serious offences under article 23. Such powers could only be exercised under strictly defined conditions, where (a) a serious offence has been committed; (b) unless immediate action is taken, evidence of substantial value to the investigation would be lost; and (c) the investigation of the offence would be seriously prejudiced as a result. In all other cases, a judicial warrant must be applied for. There are also special provisions to safeguard press freedom, mandating judicial warrants in all searches involving journalistic materials. The proposals are by no measure a “significant expansion” of investigative powers as alleged in the Special Rapporteur’s communication.

176. It is also proposed that only police officers at a senior level (Chief Superintendent) can exercise these powers, within the bounds of article 29 of the Basic Law, which prohibits arbitrary searches of premises. All police enforcement powers are subject to an independent avenue of complaint and also to judicial reviews in the courts of HKSAR, in addition to the checks and balances by the public through a number of means such as the Legislative Council and the media in Hong Kong.

177. The rights to freedom of opinion and expression are fully protected constitutionally under articles 27 and 39 of the Basic Law and by the strict and narrow definitions of the proposed offences. The draft legislation has explicitly stipulated that the interpretation, application and enforcement of the relevant provisions to implement article 23 of the Basic Law must be in compliance with article 39 of the Basic Law, which enshrines, inter alia, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong. There are also specific safeguards for legitimate dissent in the context of the proposed sedition offence.

178. The Government attached to its response the “Position paper on the legislative proposals to implement article 23 of the Basic Law”, which sets out the position of the Government of HKSAR.

179. On 11 August and 12 November 2003, the Government responded to the communication dated 22 July 2003 concerning **Jae Hyun Seok**, born in 1970, a Korean citizen, lecturer at Taegu Future College and photographer for the *New York Times*, who was captured by Chinese police at Yantai in Shandong on 17 January 2003 while arranging for people to be smuggled away by sea. On 22 May the Yantai Intermediate People's Court sentenced him to two years' imprisonment for human smuggling and a 5,000 yuan fine, to be followed by deportation. On 23 September 2003, Jae's wife, with the approval of the Shandong Province Higher People's Court, went to the Yantai open district jail and visited her husband.

180. By letter dated 17 October 2003, the Government informed that **Zhao Changqing** founded an illegal organization, conspired to overthrow the power of the State, and sought repeatedly to topple the lawful Government. With the approval of the people's court, the public security authorities arrested him in accordance with the law on 25 December 2002. On 7 July 2003, the local court sentenced Zhao under article 105 of the Penal Code to five years' imprisonment and stripped him of his political rights for three years. The Chinese law-enforcement authorities handled this case throughout strictly in accordance with the law. Under article 66 of the Code of Criminal Procedure, which regulates the approval of arrest, the public security authorities transmitted material and evidence in the case to the people's office of the procurator for authorization before proceeding to Zhao's arrest. In effecting the arrest, they acted in accordance with article 71 and 72 of the Code, showing the suspect the arrest warrant and notifying his family within 24 hours, notifying the people's office of the procurator of the circumstances of the arrest and operating under its supervision. Zhao's investigation in custody after arrest did not exceed the 12 months laid down in article 124 of the Code. In a humanitarian spirit and in keeping with the relevant laws and regulations, the public security authorities during this time made appropriate living arrangements for him and took meticulous care of his tuberculosis. In the early period of custody, the Xian Municipal Public Security Bureau requested the municipal tuberculosis clinic to give Zhao a check-up and bought medications for him. Later, it took him to the municipal public security services hospital for restorative treatment. On 18 April 2003, the municipal tuberculosis clinic again gave Zhao a full examination, confirmed that he had recovered and furnished X-ray plates and a certificate of diagnosis. The claims in the communication that the Government of China violated legal procedure in arresting Zhao and that his health has deteriorated are not consistent with the facts.

181. On 12 November 2003, the Government responded to the communication dated 23 July 2003, and indicated that, in the period up to June 2003, the Henan provincial and Zhumadian municipal health authorities decided to conduct a survey of **HIV-positive and AIDS-infected people** with a view to improving their situation and providing timely relief. On 9 June the Shangcai county Party committee and county government appointed a working group from the health and hygiene departments, in accordance with arrangements made by the provincial and municipal health authorities, to conduct a survey of key villages where the AIDS situation is serious. On 11 June, while the working group was

surveying Menglou village in Wulong township, a villager persuaded another woman from the village, who was HIV-positive, to stand in for his wife when blood samples were taken – in a fraudulent attempt to obtain some of the special benefits the State offers to HIV-positive and AIDS infected people. He was found out by the group members. As they claimed to be married, but could produce neither their residence booklet nor their marriage certificate as valid proof, they were taken to the local police station for checking where it was ascertained that they were not married. The police at the station gave them a warning and allowed them to go home.

182. At 5 p.m. on the afternoon of 11 June, a crowd of some 70 Menglou inhabitants who were not aware of the situation went to the township government to protest the fact that these two persons had been taken off to the local police station. They came upon six people, among them the deputy village chief and the chief of the police station, and beat them up for no reason, injuring three township cadres. They also overturned a township government vehicle and the station police car, looted the cadres' handsets, smashed the doors and windows of the local finance office and the police station, damaged some of the office fittings and did not leave until 11 p.m.

183. At 8 a.m. on 12 June, some villagers led a group of over 100 villagers to the township government to make trouble; they damaged public property and smashed vehicles, making all manner of unreasonable demands. At 11 a.m., more than 100 villagers went to the county Party committee and county government to cause trouble.

184. The facts show that the events of 11 June were a serious case of a crowd attacking government facilities, looting and damaging public and private property. The Shangcai county public security authorities made diligent inquiries and assembled ample proof incriminating a total of 21 individuals, among them several HIV-positive persons, in looting and mass attacks on State facilities. On 21 June, the public security authorities proceeded to the arrest on criminal charges of the 21 suspects; they captured 16, leaving five still on the run. Four suspects were already in custody with the approval of the Shangcai county people's office of the procurator, 12 were on bail awaiting trial (some HIV-positive persons among them), and the five were being pursued.

185. The events of 11 June in Shangcai county were a criminal incident of a crowd attacking government facilities, looting and damaging public and private property, and had nothing to do with freedom of expression. The survey of HIV-positive and AIDS-infected persons mounted by the Chinese health authorities is intended to provide timely notice of their condition, offer treatment and economic relief and indeed to afford better protection of their physical and mental health. There are only a few HIV-positive persons among the detainees, and they were already on bail awaiting trial.

186. On 12 November 2003, the Government also responded to the communication dated 27 August 2003 relating to **Kim Seung-jin** and **Geum Myeong-soek**, both ethnic Korean, who were detained on 8 August 2003 by the Shanghai Public Security Bureau on account of Geum's having organized the storming of a Japanese school in Shanghai. Under investigation, they admitted to their unlawful conduct. As their actions severely disrupted the normal routine and security of the school concerned, the Shanghai Public Security

Bureau took administrative steps against them in accordance with the relevant Chinese laws and regulations, and had them deported on 28 August.

187. The two cases mentioned above relate to the organized storming of a Japanese school and organized smuggling by sea. All the coercive measures taken against the perpetrators by the Chinese public security organs and all the punishments ordered by the courts were based on these actions, and have nothing to do with freedom of speech and expression. The law enforcement authorities handled these cases strictly in accordance with legal procedure throughout. The Penal Code and the Foreigners (Entry and Exit Procedure) Act both state that foreigners must, while in China, respect Chinese law, and must not imperil Chinese State security, damage social and public rights and interests or disrupt social and public order.

188. In a letter dated 13 November 2003, the Government gave further information on the other cases addressed in the communication of 1 July 2003, relating to **Dai Xuezhong**, **He Depui** and **Jiang Lijun**:

(a) Dai Xuezhong, aged 45, from Shanghai, was detained on 27 November 2002 on criminal charges by the Shanghai municipal public security authorities for involvement in activities jeopardizing the security of the State. On 2 January 2003, the Shanghai Municipal Re-education through Labour Management Committee assigned him, in accordance with the Re-education through Labour (Trial Implementation) Act, to three years' re-education;

(b) He Depu, born on 28 October 1956, from Beijing, was detained on criminal charges by the public security authorities in January 2003 on suspicion of incitement to overthrow State power. The case went on trial in the Beijing Municipal Intermediate People's court on 14 October and the proceedings are still in course.

189. By letter dated 26 November 2003, the Government responded to the communication dated 26 September concerning **Li Zhi**, born in December 1970, from Bazhong City, Sichuan Province, who in 2001 joined a foreign-based hostile organization using the Internet to display and disseminate documents and statements urging the overthrow of Chinese State power. He recruited secret members of the organization within China and was active in efforts to overthrow Chinese State power. It was suspected that he was violating the Chinese Penal Code and State Security Act. The State public security authorities in Sichuan Province arrested him on criminal charges, in accordance with the law, on 11 August 2003. Under investigation, Li made a full confession and on 1 September the Dazhou Municipal Procuratorate in Sichuan gave its approval for him to be taken into custody. The case was being tried at the time the response was sent.

190. By letter dated 16 December 2003, the Government replied to the communication dated 4 July 2003 concerning **Yao Fuxin**, a 53-year-old former worker at the steel-rolling mill in Liaoyang city, Liaoning province, and **Xiao Yunliang**, a 57-year-old former worker at the Ferro-Alloy factory in Liaoyang city, Liaoning province. Yao and Xiao took part in organizing and plotting the establishment of an organization dedicated to

subverting the political authority of the State; they also contacted hostile organizations and elements in other countries with a view to seeking assistance. Although they were reprimanded by the public security authorities on numerous occasions, they continued to spread rumours to confuse people and incite the masses to attack the Liaoyang municipal and State authorities, seriously disrupting the regular work of the State authorities. On 27 December 2002, the People's Procuratorate of Liaoyang city, Liaoning province, acting in accordance with the law, instituted proceedings against Yao and Xiao on charges of subverting the political authority of the State.

191. On 15 January 2003 the Liaoyang people's intermediate court heard the case in an open hearing. During the proceedings the prosecution produced documentary and material evidence and a large number of witnesses who testified; the defendants and their counsel were then cross-examined. Yao and Xiao exercised their right to a defence, in accordance with the law, and engaged two lawyers to represent them in court. On 9 May the court rendered its judgement in an open courtroom and, pursuant to articles 105 and 106 of the Criminal Law of the People's Republic of China, found Yao and Xiao guilty of attempting to subvert the political authority of the State; Yao was sentenced to seven years' imprisonment and deprived of his political rights for three years, while Xiao was sentenced to four years' imprisonment and deprived of his political rights for two years.

192. Yao and Xiao contested the verdict and lodged an appeal with the Liaoning People's Higher Provincial Court. Pursuant to article 187 of the Criminal Procedure Law of the People's Republic of China (which stipulates that "a People's Court of second instance shall form a collegial panel and open a court session to hear a case of appeal. However, if after consulting the case file, interrogating the defendant and heeding the opinions of the other parties, defenders and agents *ad litem*, the collegial panel thinks the criminal facts are clear, it may open no court session") and article 253, paragraph 2, of the interpretation of the Supreme People's Court concerning certain issues relating to the implementation of the Criminal Procedure Law (which stipulates that, with regard to appeals, a collegial panel should be formed and an open session held to hear the case; if, after consulting the case file, interrogating the defendant and heeding the opinions of the other parties, defenders and agents *ad litem*, the findings of the collegial panel with regard to the criminal facts do not differ from those of the court of first instance and there is sufficient evidence, it may choose not to hold a hearing) decided not to hear the case. After consulting the case file, interrogating the defendants and heeding the opinions of the other parties, the panel established by that Court found that the facts of the case did not differ from those considered by the court of first instance and upheld the original verdict.

193. On 22 December 2003, the Government responded to the communication dated 8 December 2003 with respect to the case of **Huang Qi**, born in April 1963, who was detained on 5 June 2000 in accordance with the law and subsequently arrested on suspicion of inciting subversion of the political authority of the State. On 13 February 2001, the Chengdu intermediate people's court, acting in accordance with the law, heard Huang's case in camera. During the trial it became impossible to proceed owing to Huang's state of health, and the trial was postponed. After the defendant's health was restored, hearing of the case by the Chengdu intermediate people's court was resumed. On 9 May 2003 the Chengdu intermediate people's court, acting in accordance with the law,

issued its verdict, sentencing Huang to five years' imprisonment and one year's deprivation of political rights for inciting subversion of the political authority of the State. Huang contested this verdict and filed an appeal. On 7 August 2003 the Sichuan higher people's court issued a second decision upholding the original sentence. Huang is currently serving his sentence in the Chuanzhong prison in Sichuan province.

194. Huang was arrested solely because he was suspected of publishing articles at his centre in which he used rumour and defamation to incite subversion of the political authority of the State, in violation of the law. During the time Huang was in prison, his family members came on numerous occasions to bring him money and gifts, but they never requested permission to see him. No family member was denied an opportunity to visit. At the time of his trial, the two lawyers assigned to Huang saw him in prison on a total of four occasions: on 3 January 2000, 11 September 2000, 9 February 2001 and 19 May 2003. During the trial, Huang and his counsel took part in the proceedings and fully exercised his right to a defence. The allegation that Huang's attorneys saw him only once after his arrest in June 2000 is hearsay.

195. Because this case touched on State secrets, the hearings were held in camera, in accordance with the law. In both trials, however, the verdict was read out in an open courtroom, in accordance with the law and, during the three days leading up to the verdict, the court issued public announcements abroad indicating the time and place of the judgement hearing. Therefore, the allegation that neither Huang's judgement nor his sentencing were open does not tally with the facts.

Observations

196. The Special Rapporteur would like to thank the Chinese authorities for their responses, and awaits responses to his urgent appeals dated 24 July, 9, 21, 24, 28, 29 and 30 October, 14 and 17 November 2003, his two urgent appeals dated 3 December, and 9 and 22 December, as well as to his letter of allegation dated 24 October 2003.

197. The Special Rapporteur would like to reiterate his request to undertake an official visit in the country as expressed in his letter dated 7 October 2002.

Colombia

Comunicaciones enviadas

198. El 11 de agosto de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con la desaparición de **Nhora Cecilia Velásquez Cortés**, miembro de la Asociación Nacional de Mujeres Campesinas e Indígenas de Colombia (ANMUCIC), y presidenta de la misma organización en la región de Rionegro, departamento de Cundinamarca. De acuerdo con la información recibida, Nhora Cecilia Velásquez Cortés partió el 21 de julio de 2003, hacia las 14.00, de la propiedad Los Naranjos en la zona rural de Sasaima (Cundinamarca).

Tenía una cita a las 15.00 del mismo día con su hija y otra persona. Nhora Cecilia Velásquez Cortés nunca llegó a la reunión y al momento de enviar el presente llamamiento, se desconocía su paradero. Se informó que en 2002, Nhora Cecilia Velásquez Cortés y su familia comenzaron a recibir amenazas de los grupos armados de la región, quienes pertenecerían a un grupo paramilitar. De acuerdo con la información recibida, en todas las regiones donde ANMUCIC ha extendido su labor, se habría convertido en objeto de acoso frecuente y directo por parte de los grupos paramilitares y ocasionalmente sus líderes habrían debido negociar con tales grupos para poder llevar a cabo sus proyectos. Al parecer, el 25 de junio de 2002 uno de los grupos paramilitares habría amenazado con asesinar a Nhora Cecilia Velásquez Cortés y a su familia si no desistía de su labor.

199. El 20 de agosto de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Mauricio Alvarez, Víctor Jaimes, Juvencio Seija y Elkin Menco**, directivos de la Unión Sindical Obrera (USO) de los trabajadores del petróleo en Barrancabermeja, departamento de Santander, quienes habrían recibido amenazas de muerte por parte de un grupo armado identificado como Muerte a Dirigentes de la Unión Sindical Obrera (MDU). De acuerdo con los informes recibidos, el 15 de agosto de 2003 en la madrugada, trabajadores miembros de USO encontraron en las instalaciones de la mencionada organización sindical una tarjeta de condolencia en donde se amenazaría de muerte a los directivos arriba nombrados. Estas amenazas se hallarían enmarcadas en un contexto de hostigamiento y amenazas contra la vida de los dirigentes sindicales de la subdirectiva de USO con sede en Cartagena y de la Directiva Nacional presente tanto en Barrancabermeja como en Bogotá y más generalmente contra la actividad sindical desarrollada por USO.

200. El 6 de noviembre de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con la seguridad de **Yaneth Montoya Martínez**, periodista del periódico regional *Vanguardia Liberal* en la ciudad de Barrancabermeja, departamento de Santander, quien habría recibido amenazas de muerte por parte de grupos paramilitares presuntamente respaldados por el ejército. De acuerdo con las informaciones recibidas, el 22 de octubre de 2003, la Defensoría del Pueblo de la región del Magdalena medio habría recibido una llamada telefónica de un hombre no identificado quien habría informado que el nombre de Yaneth Montoya Martínez estaría en una lista negra publicada por las Autodefensas Unidas de Colombia (AUC). Según los informes, las AUC habrían acusado a la periodista de ser informante de la guerrilla. El 24 de octubre, Yaneth Montoya Martínez habría recibido una llamada telefónica en la cual un individuo no identificado habría expresado: “dígame a esa sapa que se cuide, que no dé papaya porque como sea la iban a matar”. Asimismo se informó que recientemente, el periódico *Vanguardia Liberal* habría recibido una queja según la cual, un artículo publicado por Yolanda Montoya sobre la vida en una zona de la ciudad presentaría una imagen negativa de Barrancabermeja.

201. El 12 de noviembre de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos

humanos, envió un llamamiento urgente en relación con la situación de **Domingo Tovar Arrieta**, director del departamento de derechos humanos de la Central Unitaria de Trabajadores (CUT), quien habría recibido una amenaza de muerte. Según los informes recibidos, el 30 de octubre de 2003, Domingo Tovar Arrieta habría recibido en su teléfono móvil una llamada anónima cuyo autor le amenazó con atentar contra su vida. Según las fuentes, paramilitares supuestamente respaldados por el Ejército habrían amenazado a varios sindicatos y organizaciones no gubernamentales que habrían llamado a la población a la abstención. En el mismo comunicado se expresó temor que esta presunta amenaza de muerte esté relacionada con la campaña llevada a cabo por Domingo Tovar Arrieta y su sindicato a favor de la abstención en el referéndum nacional que tuvo lugar el 25 de octubre de 2003 en Colombia y cuyas proposiciones habrían incluido entre otras cosas, la congelación de los sueldos de los funcionarios, la reforma de las pensiones y la financiación de los sistemas educativos y de salud.

202. El 13 de noviembre de 2003, el Relator Especial envió un llamamiento urgente en relación con **un proyecto de estatuto antiterrorista** presentado por el Gobierno y debatido por la Cámara de Representantes el 6 de noviembre de 2003. De acuerdo con las informaciones recibidas, el texto confería a las fuerzas del orden el poder de efectuar allanamientos y escuchas telefónicas e interceptar la correspondencia privada, sin mandato judicial durante 72 horas, en casos de personas sospechosas de estar relacionadas con el terrorismo. Se temía que si estas disposiciones tuvieran que aplicarse a los periodistas, podrían amenazar el secreto de las fuentes y cuestionar la neutralidad de la prensa. Además, se temía que la falta de control judicial podría generar otro tipo de abusos.

203. El 3 de diciembre de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con la seguridad de **Adriana Cuellar**, periodista y jefe de la oficina de comunicaciones del colectivo de abogados José Alvear Restrepo. De acuerdo con las informaciones recibidas, el 24 de noviembre de 2003, Adriana Cuellar habría recibido en el contestador de su casa insultos y amenazas de muerte contra ella y miembros de su familia. Asimismo, el 25 de noviembre, desconocidos habrían entrado a su residencia y habrían robado documentos relacionados con su trabajo. Se temía que estas amenazas de muerte estuvieran relacionadas con sus actividades a favor de los derechos humanos. Se informó que los miembros del colectivo de abogados José Alvear Restrepo serían víctimas de constantes amenazas y hostigamiento. En este sentido, la Corte Interamericana de Derechos Humanos les habría otorgado medidas cautelares, exigiendo que el Estado colombiano brindara una protección especial a favor de los funcionarios de dicha organización.

204. El 23 de diciembre de 2003, el Relator Especial envió un llamamiento urgente en relación con el asesinato del periodista colombiano **William Soto Cheng**, el 18 de diciembre de 2003 cuando llegaba a su trabajo en el canal local de televisión Telemar, en el puerto de Buenaventura, Valle de Cauca. Según los informes, dos hombres en una motocicleta se le acercaron y le propinaron un disparo en la cabeza, ocasionándole la muerte. El periodista, con más de 15 años de experiencia, emitía un espacio de opinión en la televisión y transmitía los programas “Litoral Pacífico” y “Deportes en Acción” en la

emisora local. La fuente agregó que durante la pasada jornada electoral del 25 de octubre de 2003, William Soto Cheng habría denunciado a miembros de Policía y de la Armada como cómplices de una serie de irregularidades en el conteo de los votos. Sus comentarios le habrían valido varias demandas penales, por lo que se retractó y pidió disculpas. Según los informes, William Soto Cheng, de 46 años, venía recibiendo amenazas telefónicas desde finales de octubre de 2003 por lo que tenía pensado salir de Buenaventura.

Comunicaciones recibidas

205. Por carta de fecha 7 de enero de 2003, el Gobierno de Colombia contestó a la comunicación del Relator Especial de fecha 26 de julio de 2002 (E/CN.4/2003/67/Add.1, párr. 140), en relación con **Claudia Gurisatti, Juan Carlos Gómez Díaz, Álvaro Alonso Escobar, Víctor Omar Acosta y Orlando Sierra Hernández**. Respecto a las amenazas contra Claudia Gurisatti, el Gobierno informó que le fue asignado desde septiembre de 2002 un esquema protectorio de manera temporal. En lo que se refiere a los homicidios de Juan Carlos Gómez y Álvaro Alonso Escobar, el Gobierno informó que las investigaciones se encontraban en etapa previa, en prácticas de pruebas, con el fin de individualizar a los autores o partícipes del ilícito. Respecto al homicidio de Víctor Omar Acosta, el Gobierno informó que la investigación se encontraba en la etapa de instrucción. Finalmente, en lo que se refiere al homicidio de Orlando Sierra Hernández, se determinó la responsabilidad material de los hechos de un individuo, quien fue condenado a la pena de prisión de 19 años y 6 meses y se encontraba detenido en la Penitenciaría Nacional La Picota. Igualmente se encuentran vinculadas dos personas más, una de ellas tiene vigente orden de captura y otra se encuentra recluida en la Cárcel Nacional de Itagüí.

206. Por carta de fecha 4 de febrero de 2003, el Gobierno de Colombia contestó a la comunicación del Relator Especial de fecha 18 de julio de 2002 (ibíd., párr. 139), en relación con el caso de **Ángela Muñoz Trujillo**, editora en el periódico *El Vocero* en Barrancabermeja, así como el de sus colegas. El Gobierno informó que el Programa de Protección a Periodistas y Comunicadores Sociales de la Dirección General para los Derechos Humanos recomendó la realización de rondas policiales a la residencia de la periodista Muñoz Trujillo y a las instalaciones del periódico. Respecto a las amenazas en contra de periodistas de diferentes periódicos de la ciudad de Barrancabermeja, especialmente contra Ángela Muñoz Trujillo del periódico *El Vocero* y **Janeth Ojeda Baytter** del periódico *La Noticia*, el Gobierno de Colombia indicó que la investigación preliminar se encontraba en etapa de pruebas.

207. Por carta de fecha 4 de febrero de 2003, el Gobierno de Colombia contestó a las comunicaciones del Relator Especial de fechas 29 de octubre de 2002 (ibíd., párr. 141) y 28 de noviembre de 2002 (ibíd., párr. 142). El Gobierno informó que se habían adoptado medidas de seguridad pertinentes para salvaguardar la vida e integridad de **Cristóbal Guamana** y otros miembros de varios sindicatos afiliados a CUT. El Gobierno aseguró proporcionar al Relator Especial el resultado de las investigaciones y demás informaciones sobre este caso.

208. Por carta de fecha 13 de febrero de 2003, el Gobierno de Colombia contestó a la comunicación del Relator Especial de fecha 28 de noviembre de 2002 (ibíd., párr. 142). El

Gobierno informó que **Juan Aguas Romero** contaba con un esquema individual de seguridad y que el Gobierno recomendó a **Ever Tique Girón, Edurado Camacho Rugeles** y **Pedro Edgar Galeano Olaya** algunas medidas de autoprotección. Según el Gobierno, **Gerardo Gonzáles** se encontraría fuera del país de manera temporal. Respecto a **Carlos Dimaté, Antonio Guerrero, Demetrio Guerrero, Marcos Moreno, Diógenes Correa, Efraín Holguín, Fernando Trujillo, José Eduardo Villa Garzón**, se habrían adoptado medidas de autoprotección pertinentes. **Oscar Alirio Sánchez** contaría con un esquema individual de seguridad y se habría solicitado la realización de un Estudio de Nivel de Riesgo para **Nicolás Acevedo Cuartas**.

209. Por carta de fecha 25 de febrero de 2003, el Gobierno de Colombia contestó a la comunicación del Relator Especial de fecha 24 de junio de 2002 (ibíd., párr. 137), acerca del atentado contra la vida de **Luis Enrique Imbachi**, Presidente del Sindicato de Trabajadores de las Empresas Municipales de Cali (SINTRAEMCALI). El Gobierno informó que los miembros de SINTRAEMCALI contaban con medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos desde el 21 de junio de 2000. Además, se impartieron instrucciones a los miembros del sindicato con protección, con el fin de que eviten incidentes que pongan en riesgo su integridad. Finalmente, Luis Enrique Imbachi contaba con un esquema protectorio de seguridad.

210. Por carta de fecha 18 de septiembre de 2003, el Gobierno de Colombia contestó a la comunicación del Relator Especial de fecha 11 de agosto de 2003 en relación con la desaparición de **Nhora Cecilia Velásquez Cortés**. El Gobierno informó que se realizó la búsqueda y localización de Nhora Cecilia Velásquez Cortés el 25 de julio de 2003, pero que durante el desplazamiento fue interceptada por tres sujetos que vestían prendas y portaban armas de uso privativo de las Fuerzas Militares, y quienes le propinaron un golpe en la cabeza. El Gobierno colombiano aseguró informar al Relator Especial acerca del resultado de las investigaciones.

Observaciones

211. El Relator Especial da las gracias al Gobierno de Colombia por sus respuestas, si bien espera otras respuestas a sus comunicaciones de fechas 20 de agosto, 6, 12 y 13 de noviembre y 3 y 23 de diciembre de 2003.

Visita

212. El Relator Especial desea dar las gracias al Gobierno de Colombia por haberle invitado a visitar el país del 22 al 29 de febrero de 2004.

Comoros

Communications envoyées

213. Le 24 septembre 2003, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent concernant le journaliste **Morad Aït-Habbouche**, qui serait détenu depuis le 22 septembre

2003 à Moroni et aurait été inculpé de «tentative de coup d'État». Selon les informations communiquées, M. Aït-Habbouche, journaliste français en reportage pour la chaîne de télévision Canal Plus, aurait été interpellé à son hôtel de Moroni le 22 septembre et conduit dans les locaux de la gendarmerie. Quelques heures plus tard, **Said Larifou**, avocat et chef d'un parti politique d'opposition (le Rassemblement pour une initiative de développement avec une jeunesse avertie, Ridja), aurait été arrêté à son tour alors qu'il s'était présenté à la gendarmerie pour demander des nouvelles du reporter. Le 23 septembre, le procureur de la République Idi Bazia aurait indiqué que MM. Aït-Habbouche, Larifou et d'autres personnes non identifiées auraient été inculpés de «tentative de coup d'État».

Observations

214. Le Rapporteur spécial regrette de n'avoir pas, à ce jour, reçu de réponses à ses communications.

Côte d'Ivoire

Communications envoyées

215. Le 3 octobre 2003, le Rapporteur spécial a envoyé au gouvernement une communication dans laquelle il indiquait que, selon les informations qu'il avait reçues, le 9 septembre 2002, des policiers en uniforme auraient fait irruption dans les locaux du groupe de presse **Mayama** à Abidjan, qui édite notamment les quotidiens *Le Patriote* et *Tassouman* qui seraient proches du parti d'opposition Rassemblement des républicains (RDR) dirigé par Alassane Dramane Ouattara. Il a été rapporté que les locaux auraient été mis à sac, des bombes lacrymogènes auraient été lancées et quatre personnes auraient été légèrement blessées. Les policiers auraient critiqué la publication par *Tassouman* d'un article sur le braquage de la voiture du Ministre de l'intérieur, dans lequel cet acte aurait été qualifié d'humiliation pour la police et il aurait été fait référence à l'impuissance du régime face à l'insécurité urbaine. Par ailleurs, il est rapporté que, le 16 octobre, une cinquantaine de personnes en civil, non identifiées, dont certaines armées, aurait forcé le portail du bâtiment du groupe Mayama et aurait saccagé l'ensemble du matériel de la rédaction, et notamment le poste de contrôle de l'imprimerie du groupe. Il était en outre rapporté que la direction du groupe de presse susmentionné, qui aurait demandé à la mi-octobre au Ministère de la communication de prendre des mesures pour assurer la protection des journalistes et des rédactions, se serait vue signifier une fin de non-recevoir.

216. Dans la même communication, le Rapporteur spécial s'est référé à des informations selon lesquelles les locaux de Radio Nostalgie auraient été saccagés le 17 octobre 2002 par une vingtaine d'hommes en treillis et armés. Selon les informations communiquées, les assaillants auraient agressé le gardien à l'entrée et auraient tiré sur les caméras de surveillance. Après avoir pénétré dans les locaux, il est rapporté qu'ils auraient saccagé l'ensemble du matériel et tiré au moins un coup de feu, entraînant des dégâts importants. Selon les informations communiquées, il semblerait que le président-directeur général de Radio Nostalgie est également l'un des actionnaires du groupe de presse Mayama.

217. Le 23 octobre 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une lettre d'allégation concernant **Jean Hélène**, journaliste auprès de la station de radio Radio France Internationale (RFI) et correspondant de RFI en Côte d'Ivoire depuis plusieurs mois, qui aurait été abattu le 21 octobre 2003. Il semblerait que M. Hélène se trouvait près de la Direction générale de la police nationale (DGPN), afin d'interviewer des opposants politiques qui venaient d'être libérés après quelques jours de détention, lorsqu'un policier en faction devant la DGPN se serait approché de lui et lui aurait tiré une balle dans la tête. Il semblerait que ce dernier ait été arrêté et soit maintenu en détention.

Observations

218. Le Rapporteur spécial regrette qu'à ce jour aucune réponse à ses communications ne lui soit parvenue.

Visite

219. À l'invitation du gouvernement, le Rapporteur spécial a visité la Côte d'Ivoire du 29 janvier au 5 février 2004. Le rapport de mission du Rapporteur spécial est publié sous la cote E/CN.4/2004/62/Add.3.

Cuba

Comunicaciones enviadas

220. El 14 de enero de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con la detención de **Oscar Elías Biscet, Guido Sigler Amaya, Ariel Sigler Amaya, Enrique Pérez Hernández, Juan Felipe de la Torre Resqueijo, José Antonio Pérez Morel, Yoenis Junco Sardiñas, Yosvany Junco Sardiñas, Justo Julio Sierra Silva, Julián Rodríguez Trujillo, Virgilio Marante Guelmis, Orlando Zapata Tamayo, Luis Góngora Pérez, Armando Rodiles Rebilla, Raúl Arencibia Fajardo, Pablo Hernández Mayarí y Juan Antonio Agüero Pérez**. De acuerdo con las informaciones recibidas, estas personas fueron detenidas y golpeadas el 8 de diciembre de 2002 en la barriada de Lawtown en La Habana, cuando participaban en un encuentro pacífico en el que el Sr. Biscet impartía clases sobre derechos humanos. Según las informaciones recibidas, el Sr. Biscet estaría detenido en la Prisión Combinado del Este, en una celda donde se encontraría conviviendo con 30 delincuentes comunes. El ministerio público le habría acusado de desorden y mal comportamiento. Virgilio Marante se encontraría en la Prisión 1580, Orlando Zapata Tamayo en la Prisión Guanajay y Raúl Arencibia Fajardo en la de Valle Grande. Armando Rodiles Rebilla, Pablo Hernández Mayarí, Juan Antonio Agüero Pérez, Juan Felipe de la Torre Resqueijo, Yoenis Junco Sardiñas y Yosvany Junco Sardiñas ya habrían sido liberados.

221. El 3 de marzo de 2003, el Relator Especial, juntamente con el Relator Especial sobre la cuestión de la tortura, el Presidente-Relator del Grupo de Trabajo sobre la

Detención Arbitraria y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de **Leonardo Miguel Bruzón Ávila**, presidente de la organización Movimiento Pro Derechos Humanos 24 de Febrero, quien habría sido detenido el 23 de febrero de 2002, supuestamente para impedir su participación en las actividades de conmemoración de los hechos ocurridos el 24 de febrero de 1996, fecha en que dos aviones en los que viajaban un grupo de cubanos en el exilio fueron abatidos por la fuerza aérea cubana. Desde entonces, Leonardo Bruzón habría permanecido detenido sin que se le hubiera imputado ningún cargo ni se hubiera fijado fecha para su juicio. El 28 de octubre de 2002, el Relator Especial sobre la cuestión de la tortura transmitió un llamamiento en relación a su situación. Leonardo Bruzón habría empezado una huelga de hambre el 7 de diciembre de 2002. Se le habría negado el tratamiento médico especializado que requería su estado de salud. Se encontraría recluido en una celda de castigo de la prisión de Combinado del Este que mediría tres por tres metros y que estaría constantemente inundada a causa de una fuga de agua. Se le habrían suspendido sus derechos a salir al aire libre y a recibir visitas de sus familiares.

222. El 19 de mayo de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente en relación con la situación de 78 personas, defensores de derechos humanos, sindicalistas, periodistas y activistas políticos que habrían sido arrestados y condenados por su oposición a las políticas del Gobierno de Cuba. Estas 78 personas serían conocidas por las actividades que realizan en favor de la promoción y la protección de los derechos humanos en Cuba, en particular en lo que se refiere a la libertad de expresión y opinión. Según las informaciones recibidas, el Gobierno de Cuba les habría acusado de colaborar con una potencia extranjera para socavar la integridad del Estado. Según las informaciones recibidas, las 78 personas habrían sido arrestadas a partir del 18 de marzo de 2003 y habrían sido procesadas en juicios expeditos y cerrados que tuvieron lugar entre los días 3 y 7 de abril. Bajo el marco de la Ley de Protección de la Independencia Nacional y Economía de Cuba y la Ley de Reafirmación de la Dignidad y Soberanía Cubanas, 75 de las personas detenidas habrían recibido sentencias que varían de 6 a 28 años de encarcelamiento, mientras que otras 3 se encontrarían bajo arresto domiciliario.

223. El 21 de julio de 2003, el Relator Especial, juntamente con el Relator Especial sobre la cuestión de la tortura y el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación con **Oscar Manuel Espinosa Chepe**, quien habría sido detenido el 19 de marzo de 2003 y condenado a 20 años de prisión por delitos de “actos contra la independencia o la integridad territorial del Estado e infracciones penales de la Ley 88 de 1999”. Debido a su frágil estado de salud, el 15 de mayo de 2003, Oscar Manuel Espinosa Chepe habría sido ingresado en el Hospital Provincial de Guantánamo y el 31 de mayo en el Hospital Ambrosio Grillo. Se alegó que a pesar de ello, su salud habría continuado deteriorándose y que en los centros hospitalarios no habría recibido la atención médica necesaria. Desde su detención, los contactos de Oscar Manuel Espinosa Chepe con su familia, incluso las comunicaciones telefónicas, habrían sido limitados. Le habrían informado que en cuando recibiera el alta médica sería

trasladado a la Prisión Boniatito de Santiago de Cuba. El Relator Especial expresó temores por la integridad física de Oscar Manuel Espinosa Chepe si no recibía urgentemente el tratamiento médico adecuado. El Relator Especial también llamó la atención del Gobierno de Cuba respecto a las situaciones de **Nelson Alberto Aguiar Ramírez**, presidente del Partido Ortodoxo Cubano (POC), condenado a 13 años de privación de libertad, y de **Marta Beatriz Roque**, fundadora y directora del Instituto Cubano de Economistas Independientes, quien estaría cumpliendo una condena de 20 años. Se expresaron temores por la integridad física de estas dos personas si no recibían urgentemente el tratamiento médico adecuado.

224. El 1.º de septiembre de 2003, el Relator Especial, juntamente con el Relator Especial sobre la cuestión de la tortura, envió un llamamiento urgente en relación con **Mario Enrique Mayo**, periodista de la Agencia de Prensa Independiente Félix Varela, **Adolfo Fernández Sainz**, periodista de la Agencia de Prensa Independiente Patria y corresponsal de Agencia Prima (Rusia), e **Iván Hernández Carrillo**, militante del Partido por la Democracia Pedro Luis Boitel y corresponsal de la Agencia de Prensa Independiente Patria (Matanzas), todos ellos internos del Centro Penitenciario de Holguín. Llevarían en huelga de hambre desde el 15 de agosto de 2003, como protesta por la falta de medicamentos y de alimentación adecuada que estarían padeciendo los presos con enfermedades crónicas en el centro penitenciario antes citado. Se informó que Mario Enrique Mayo y Adolfo Fernández habrían sido trasladados a la unidad de cuidados médicos de la cárcel. Su estado de salud se habría deteriorado seriamente. Se expresaron temores de que estas tres personas pudieran ser víctimas de tortura o tratos crueles o degradant.

225. El 1.º de octubre de 2003, el Relator Especial envió una comunicación en relación con los hechos siguientes.

(a) El 8 de octubre de 2002, en el aeropuerto internacional de la Habana, habría sido retenida la periodista francesa **Catherine David** del semanario francés *Le Nouvel Observateur*. La periodista habría viajado a Cuba con el fin de investigar la situación de los derechos humanos y de la disidencia. De acuerdo con las informaciones recibidas, en el momento en que se disponían a pasar la aduana para salir del país, Catherine David junto con un amigo, habrían sido retenidos y conducidos a una sala donde habrían sido objeto de un minucioso registro de su equipaje; se habrían copiado en disquetes todos los ficheros informáticos del ordenador de la periodista y se habrían incautado sus casetes de audio, que contendrían entrevistas con disidentes. Igualmente se les habrían decomisado todas las películas fotográficas así como varios libros e informes sobre la situación de los derechos humanos en la isla. Igualmente se informó que los agentes de la aduana habrían copiado toda la agenda de direcciones de la periodista Catherine David. Las peticiones de la periodista Catherine David al servicio de aduanas para que su material le sea restituido no habrían surtido efecto alguno.

(b) Por otro lado se informó que a finales de 2001 el Consulado cubano en la Ciudad de Guatemala (Guatemala) se habría negado a conceder un visado a un periodista del diario guatemalteco *Siglo XXI* quien tendría la intención de cubrir el

proceso contra tres compatriotas acusados de terrorismo, los cuales podrían llegar a ser condenados a la pena de muerte.

(c) El 30 de julio de 2002, el periodista **Ángel Pablo Polanco**, director de la Agencia Independiente Servicio Noticuba habría sido arrestado en su domicilio de La Habana. De acuerdo con las informaciones recibidas, agentes de seguridad del Estado habrían llegado a su casa en la mañana del 30 de julio y llevado a cabo un minucioso registro durante varias horas. Los policías se habrían incautado de su equipo técnico, varios documentos y dinero. Posteriormente habrían detenido al periodista sin precisar el motivo y sin que se hubiera presentado orden de arresto. Ángel Pablo Polanco se habría negado a seguirles, circunstancia ante la cual habría sido conducido a la fuerza por los agentes de seguridad del Estado. Igualmente se informó que no existiría acusación alguna en contra de Ángel Pablo Polanco. De acuerdo con las informaciones recibidas, el periodista habría sido liberado el 3 de agosto de 2002 pero se encontraría obligado a reportarse dos veces por mes ante la estación de policía local mientras se adelanta la investigación por desacato a la autoridad e insulto a los símbolos de la nación. Finalmente se presume que esta detención, al igual que la de otros dos opositores, guardaría relación con la convocatoria a una jornada de protesta por parte de organizaciones opositoras al Gobierno de Fidel Castro.

(d) El 4 de marzo de 2002, el periodista **Lexter Téllez Castro**, director de la Agencia de Prensa Libre Avileña (APLA), y **Carlos Brizuela Yera** del Colegio de Periodistas Independientes de Camaguey, habrían sido detenidos y golpeados por policías cuando se dirigían a visitar a **Jesús Álvarez Castillo**, corresponsal de la agencia Cuba Press en la ciudad de Ciego de Ávila, quien a su vez habría sido hospitalizado a consecuencia de las agresiones de policías mientras cubría las protestas en dicha ciudad. De acuerdo con las informaciones recibidas, Lexter Téllez Castro habría sido conducido a la cárcel de Canatela en la ciudad de Ciego de Ávila mientras que Carlos Brizuela Yera habría sido encarcelado en un centro de detención de la provincia de Holguín (Este). Igualmente se informó que ambos habrían sido procesados por los delitos de resistencia, desacato y desorden público. Finalmente se presume que esta detención, al igual que la de otros opositores, guardaría relación con la convocatoria de una jornada de protesta por parte de organizaciones opositoras al Gobierno de Fidel Castro.

226. El 6 de noviembre de 2003, el Relator Especial envió un llamamiento urgente en relación con la detención de la periodista **Claudia Márquez Linares**, vicepresidenta de la revista *De Cuba*. De acuerdo con las informaciones recibidas, el 29 de octubre de 2003, Claudia Márquez habría sido retenida durante dos horas y amenazada por agentes de seguridad del Estado quienes le habrían advertido que si seguía publicando la revista podría correr la misma suerte que su esposo Osvaldo Alfonso, quien habría sido condenado a 18 años de cárcel. Se expresaron temores de que este hecho podría estar relacionado con la publicación del tercer número de la revista bimestral *De Cuba*, en el cual se habrían incluido reportajes dedicados a los opositores encarcelados desde marzo 2003, entre los que se encontrarían Ricardo Gonzáles Alfonso, director de la revista, Raúl Rivero, asesor, y Omar Rodríguez Saludes, responsable de fotografía.

227. El 28 de noviembre de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Oscar Espinosa Chepe**. Los Relatores Especiales recibieron nuevas alegaciones sobre el estado de salud de Oscar Espinosa Chepe, según las cuales sufriría un trastorno hepático crónico, una inflamación crónica y agravada del estómago y el duodeno, problemas hepáticos agudos así como hipertensión. De acuerdo con las informaciones recibidas, permanecería recluido en una celda de aislamiento de la Prisión Militar Carlos J. Finlay con las luces permanentemente encendidas. No se le permitiría hacer uso del teléfono ni recibir o enviar correspondencia. Sus familiares habrían sido notificados de que podrán visitarlo “dependiendo de cómo se comporten”. Se alegó que dicha condición se podría referir a las declaraciones realizadas por la esposa de Oscar Espinosa Chepe a medios de comunicación internacionales. La familia se habría quejado de la supuesta falta de información sobre el estado de salud del preso y sobre el tratamiento recibido. Se habría continuado a expresar preocupación por la presunta ausencia de atención médica adecuada.

Comunicaciones recibidas

228. Por carta de fecha 11 de marzo de 2003, el Gobierno de Cuba contestó a la comunicación del Relator Especial de fecha 3 de marzo de 2003 sobre el caso de **Leonardo Miguel Bruzón Ávila**. El Gobierno informó de que Leonardo Miguel Bruzón Ávila fue detenido por la comisión de actos constitutivos de delitos, en virtud de la legislación penal vigente. Gozaría de todos los beneficios del debido proceso y no habría sufrido malos tratos o experimentado negación de atención médica.

229. Por carta de fecha 23 de mayo de 2003, el Gobierno de Cuba contestó a la comunicación del Relator Especial de fecha 25 de abril de 2002 (E/CN.4/2003/67/Add.1, párr. 158). El Gobierno informó de que ninguno de los nombres mencionados correspondía con el de personas acreditadas en Cuba como periodistas o reporteros de órganos de prensa o agencias de noticias nacionales o extranjeras. El Gobierno informó que el 4 de marzo de 2002 se produjeron actos graves contra el orden público, de resistencia y de desacato al cumplimiento de las funciones de la autoridad pública, que determinaron la detención de varios ciudadanos, entre ellos **Juan Carlos González Leyva**. Según el Gobierno de Cuba, Juan Carlos González Leyva se mantendría en las instalaciones del órgano de instrucción judicial de la provincia de Holguín.

230. Por carta de fecha 26 de mayo de 2003, el Gobierno de Cuba contestó al llamamiento urgente del Relator Especial de fecha 19 de mayo de 2003. El Gobierno informó que las 78 personas mencionadas en la denuncia participaron en actos de subversión del orden constitucional cubano y que ninguna de ellas podría ser calificada como defensora de derechos humanos. Por lo tanto, estas 78 personas fueron sancionadas por actos subversivos, realizados contra los derechos humanos del pueblo cubano. Según el Gobierno de Cuba, todas las personas mencionadas fueron sancionadas por tribunales competentes, tras haberse cumplido todas las garantías del debido proceso.

231. Por carta de fecha 2 de septiembre de 2003, el Gobierno de Cuba contestó a la comunicación del Relator Especial de fecha 14 de enero de 2003. El Gobierno informó que los ciudadanos mencionados por el Relator Especial atentaron abiertamente contra el orden público y que **Oscar Elías Biscet** fue el principal instigador y responsable y por lo tanto fue sancionado con 20 años de privación de libertad. Según el Gobierno, los ciudadanos mencionados fueron detenidos por violar la legislación penal vigente en el país. Durante la detención, se pudo constatar que los agentes policiales no propinaron golpes u ocasionaron daño físico a ninguna de las personas referidas en la denuncia.

232. Por carta de fecha 6 de octubre de 2003, el Gobierno de Cuba contestó al llamamiento urgente del Relator Especial de fecha 21 de julio de 2003. El Gobierno confirmó que **Oscar Manuel Espinosa Chepe** fue sancionado con 20 años de privación de libertad por acciones que se tipificaron como delitos directamente dirigidos a lesionar la soberanía y el orden constitucional de la nación cubana. El Gobierno informó que durante la estancia de Oscar Manuel Espinosa Chepe en el hospital, se habían autorizado las visitas de sus familiares y que en ningún momento había sido objeto de maltratos o abusos por parte de las autoridades médicas y penitenciarias. Respecto al caso de **Marta Beatriz Roque Cabello**, el Gobierno informó que había recibido atención médica desde el mismo momento en que fue detenida, juzgada y enviada a prisión.

233. Por carta de fecha 18 de noviembre de 2003, el Gobierno de Cuba contestó a la comunicación del Relator Especial de fecha 1.º de octubre de 2003 proporcionando las informaciones siguientes. Los funcionarios de la Aduana General decidieron decomisar, bajo el estricto respeto de las regulaciones vigentes de la Aduana General de la República, los materiales que **Catherine David** había obtenido ilegalmente con su actuar fraudulento, ajeno a los fines de turista. Respecto a la situación de **Lexter Téllez Castro, Carlos Brizuela Yera** y **Jesús Álvarez Castillo**, el Gobierno de Cuba recordó que las alegaciones sobre los sucesos del 4 de marzo de 2002 ya fueron respondidas el 3 de junio de 2002.

234. Por carta de fecha 12 de diciembre de 2003, el Gobierno de Cuba contestó a la comunicación del Relator Especial de fecha 21 de junio de 2003. El Gobierno informó que **Nelson Alberto Aguiar Ramírez** no presidió ninguna organización política ni podría ser calificado como un defensor de los derechos humanos. Según el Gobierno, dicho ciudadano se encontraba en prisión en cumplimiento de una sentencia firme por haber incurrido en la comisión de graves hechos constitutivos de delitos. Las condiciones de reclusión estarían en correspondencia con las normas establecidas en el sistema penal cubano.

235. Por carta de fecha 12 de diciembre de 2003, el Gobierno de Cuba contestó al llamamiento urgente del Relator Especial de fecha 1.º de septiembre de 2003 e informó que **Mario Enrique Mayo, Adolfo Hernández Sainz** e **Iván Hernández Carrillo** no podían ser calificados de defensores de derechos humanos. Se encontraban en prisión, en cumplimiento de sentencias firmes dictadas por tribunales competentes. Según el Gobierno de Cuba, estas tres personas recibieron asistencia médica acorde a su necesidad y no dejaron de alimentarse.

Observaciones

236. El Relator Especial da las gracias al Gobierno de Cuba por sus respuestas. En fecha de 31 de diciembre de 2003, el Relator Especial todavía no había recibido respuesta a sus comunicaciones de 6 y 28 de noviembre de 2003.

Visita

237. El Relator Especial desea reiterar sus deseos de realizar una visita al país, como expresó en su carta en diciembre de 2003.

Democratic Republic of the Congo

Communications envoyées

238. Le 16 janvier 2003, le Rapporteur spécial a envoyé, conjointement avec la Représentante spéciale du Secrétaire-Général sur les défenseurs des droits de l'homme et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, un appel urgent au gouvernement concernant **Floribert Chebeya Bahizire**, Président de l'ONG de défense des droits de l'homme la Voix des Sans Voix, qui serait contraint de vivre dans la clandestinité après avoir fait des déclarations sur la chaîne de télévision privée RAGA, la télévision TV5 et la radio télévision belge de la communauté française (RTBF), les 19 et 27 décembre 2002, demandant que la lumière soit faite sur l'exécution du commandant Anselme Masasu Nindaga et sur l'assassinat du Président Laurent-Désiré Kabila. Selon les informations reçues, Floribert Chebeya Bahizire aurait reçu deux convocations, les 23 et 26 décembre 2002, lui demandant de se présenter au cabinet du procureur général auprès de la Cour d'ordre militaire (COM). Il aurait également été rapporté que le 6 janvier 2003, en raison des fortes menaces d'arrestation pesant sur lui, la Voix des Sans Voix aurait fermé ses bureaux.

239. Le même jour, le Rapporteur spécial et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo ont envoyé un autre appel urgent concernant **Kadima Mukombe**, journaliste et animateur de Radio Kilimandjaro, qui aurait été incarcéré à la prison centrale de Tshikapa depuis le 2 janvier 2003. Selon les informations transmises, M. Mukombe aurait été arrêté trois jours plus tôt par des hommes des Forces armées congolaises et détenu dans les locaux de la Détection militaire des activités antipatrie (DEMIAP), à Tshikapa, sous l'accusation «d'outrage à l'armée». Il semblerait que cette accusation soit basée sur son émission du 30 décembre 2002, dans laquelle M. Mukombe avait critiqué des responsables militaires locaux, les accusant de devenir négociants de diamants, au détriment de l'encadrement de leurs troupes qui en profitent pour spolier les biens de la population. Il a été rapporté de plus que M. Mukombe aurait reçu 50 coups de fouet au moment de son interpellation. Kadima Mukombe aurait déjà été interpellé le 23 décembre 2002 par des membres de l'Agence nationale de renseignement (ANR) pour avoir dénoncé, dans l'une de ses émissions, la pauvreté dans laquelle vivent les populations de Tshikapa, alors que des milliers de carats de diamants sont exploités quotidiennement dans cette ville, et il aurait été libéré le jour même et

contraint de signer un engagement lui demandant de ne plus «monter la population contre l'autorité établie».

240. Le 9 avril 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a envoyé un appel urgent sur la situation de **Jean-Pierre Muteba**, membre de la Nouvelle dynamique syndicale, qui aurait été arrêté le 18 mars 2003, suite à une déclaration qu'il aurait faite à la presse lors d'un séminaire organisé par le Centre national d'appui au développement et à la participation populaire (CENADEP), dans lequel, selon les renseignements reçus, il dénonçait les pillages des ressources naturelles dans la province du Katanga. Il aurait été transféré à Kinshasa, où il serait à la 5^e direction de l'ANR, sans qu'aucune charge n'ait apparemment été retenue contre lui. Il n'aurait semble-t-il pas bénéficié du droit à voir un avocat et ses proches n'auraient pas pu le rencontrer.

241. Le 17 avril 2003, le Rapporteur spécial et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo ont envoyé une communication concernant **M. Bamporiki Chamira, son épouse et son fils Bamporiki Kizito Neci**, qui auraient été arrêtés le 14 février par des agents de l'ANR à leur domicile situé à Kinshasa/Ngaliema. Ils auraient été conduits au cachot de l'ANR Roi Baudouin. L'épouse et le fils de Bamporiki Chamira auraient été libérés le jour même. L'audition de Bamporiki Chamira aurait porté sur sa présumée participation à l'évasion de son gendre Doris Mbenge et sur ses activités comme journaliste, dans le cadre desquelles il lui serait reproché la publication d'articles en collaboration avec des ONG de défense des droits de l'homme, dont l'un aurait coûté la carrière d'une personnalité de l'ANR.

242. Le 4 juillet 2003, le Rapporteur spécial et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo ont envoyé un appel urgent au gouvernement concernant **Pierre-Sosthène Kambidi**, correspondant de l'organisation Journaliste en Danger et reporter pour la radiotélévision Kilimandjaro, et **Patrick Tshibwabwa**, un cameraman de la même chaîne. Selon les informations reçues, Pierre-Sosthène Kambidi aurait été agressé au stade de Kanzala à Tshikapa (province du Kasai Occidental) le 29 juin 2003, par des éléments des Forces armées congolaises, apparemment suivant un ordre d'un sous-lieutenant dont le nom est connu des Rapporteurs spéciaux, qui aurait reproché à Pierre-Sosthène Kambidi d'être un partisan d'Étienne Tshisekedi, leader du parti d'opposition Union pour la démocratie et le progrès social (UDPS). Pierre-Sosthène Kambidi aurait été blessé lors de cette agression et aurait été hospitalisé au centre médical Passy à Tshikapa. Patrick Tshibwabwa, présent lors de cette agression, aurait été détenu pendant trois heures avant d'être libéré. Toujours selon l'information reçue, de l'argent et le téléphone portable de Pierre-Sosthène Kambidi auraient été confisqués ainsi que la caméra de Patrick Tshibwabwa.

243. Le 23 juillet 2003, le Rapporteur spécial et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo ont envoyé un appel urgent au gouvernement sur le cas de **Roger-Salomon Lulemba bin Kiabululu**, correspondant à Tshikapa de l'hebdomadaire *L'Éveil*, qui aurait été interpellé le 12 juillet 2003 par des

éléments de la Police nationale congolaise (PNC), puis conduit à l'état-major de la PNC à Tshikapa-centre où il aurait passé la nuit, et transféré le 13 juillet au cachot de Kanzala après avoir été auditionné sur procès-verbal. Apparemment, les policiers lui auraient reproché d'être venu à l'Hôtel de ville au-delà des heures normales de service alors que «les journalistes passent leur temps à critiquer la police».

244. Dans la même communication, les Rapporteurs spéciaux se sont référés au cas de **Gustave Mpinganayi**, responsable de la station locale de Radio Kilimandjaro, qui aurait été interpellé pendant quatre heures par les Services spéciaux de la PNC le 12 juillet à Kamonia, cité diamantifère située à 80 km de la ville de Tshikapa, parce qu'il avait ce jour-là, dans une édition d'information, fait état d'un conflit opposant deux exploitants de diamant, dont l'un s'était plaint aux Services spéciaux.

245. Les Rapporteurs spéciaux ont également soulevé dans la même communication le cas de **Donatien Nyembo Kimuni**, correspondant à Lubumbashi du journal *La Tribune*, qui aurait été condamné par défaut le 11 juillet 2003 à cinq ans de prison avec arrestation immédiate pour diffamation par le tribunal de paix de Likasi, ville située à 120 km de Lubumbashi. *La Tribune* avait publié dans son édition du 5 juin un article de M. Nyembo Kimuni dans lequel le journaliste, se basant sur un rapport de l'entreprise publique Gécamines (Générale des carrières et des mines) et les témoignages de certains travailleurs, aurait dénoncé «le pillage systématique des produits miniers de la Gécamines» et «les mauvaises conditions de travail» des employés d'une certaine entreprise, dont certains seraient morts par intoxication. L'entreprise incriminée avait envoyé un droit de réponse que le journal dit avoir publié conformément à la loi sur la presse en République démocratique du Congo.

246. Le 13 août 2003, le Rapporteur spécial a envoyé une communication au gouvernement concernant **Étienne Bwande Bwana Pua**, responsable des programmes de la station locale de la chaîne publique Radiotélévision nationale congolaise (RTNC) à Kisangani, chef-lieu de la Province Orientale, qui aurait été suspendu de ses fonctions le 6 août 2003 pour une durée indéterminée par le directeur provincial de la RTNC. Selon les faits rapportés, ce dernier reprocherait à M. Bwana Pua d'avoir omis de la nouvelle grille des programmes les émissions «Vers un Congo nouveau» et «RCD et nous», des émissions de propagande de l'ex-mouvement rebelle Rassemblement congolais pour la démocratie (RCD-Goma). Il semblerait que le directeur provincial ait pris cette décision à la suite de la demande d'explication adressée par le gouverneur pro-RCD-Goma de la Province Orientale. Le 5 août, le directeur provincial de la RTNC aurait été convoqué par le vice-gouverneur pro-RCD-Goma de la Province Orientale, qui lui aurait signifié, semble-t-il sous menace de révocation, de reprendre immédiatement toutes les émissions spécialisées consacrées à l'ex-mouvement rebelle. De plus, des rapports indiqueraient que le directeur provincial de la RTNC aurait été menacé depuis le 2 août par des membres de l'ex-mouvement rebelle RCD-Goma pour avoir supprimé ces émissions sans l'aval du gouverneur de la province.

247. Le 17 octobre 2003, le Rapporteur spécial et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo ont envoyé un appel urgent au gouvernement concernant **Bamporiki Chamira**, journaliste au quotidien

La Tempête des Tropiques, paraissant à Kinshasa, qui aurait été arrêté le 14 février 2003 à son domicile à Kinshasa/Ngaliema par des agents de l'ANR, et qui serait toujours détenu au Centre pénitentiaire et de rééducation de Kinshasa, ex-Prison centrale de Makala (les Rapporteurs spéciaux se réfèrent à l'appel urgent envoyé à ce sujet le 17 avril 2003). Selon les informations reçues, le journaliste serait accusé de «participation directe ou indirecte à un complot visant à éliminer le président Joseph Kabila» et de «participation directe ou indirecte à l'évasion du commandant Doris Mbenge du cachot de l'ANR/Lemera». Il semblerait que, selon la Cour de sûreté de l'État (CSE), lors de la perquisition menée par l'ANR au domicile de M. Bamporiki, le 14 février 2003, des «documents accablants», non autrement identifiés, auraient été découverts. Il a été rapporté qu'après 40 jours de détention dans les cachots de l'ANR/Intérieur à Kinshasa/Gombe, M. Bamporiki et ses coaccusés, **Nyamwoga Munyerenkana Florence, Ngabo Bamporiki Raymond, Sankina Bigabwa Rony et Munganga Mutambwe Roger**, auraient été déférés le 25 mars 2003 devant la CSE à Kinshasa/Lingwala. Le procès de M. Bamporiki se serait ouvert le 17 juin 2003 devant la CSE. Au cours de l'instruction, la défense du journaliste aurait demandé au ministère public de donner les faits qui démontrent à suffisance que le journaliste participait à un complot, et il est rapporté que le ministère public aurait répondu que le journaliste était en communication téléphonique, le jour de l'évasion du commandant Doris Mbenge à 1 heure du matin, avec sa fille qui se trouve être l'épouse du commandant Doris Mbenge, communication au cours de laquelle le journaliste aurait demandé à sa fille «comment évoluait l'opération». Il semblerait que l'affaire aurait été prise en délibéré à l'issue de l'audience du 24 juin 2003, et qu'à ce jour la CSE n'aurait toujours pas rendu son jugement, alors que l'article 80 du Code de procédure pénale stipulerait qu'en matière pénale le verdict doit intervenir dans la huitaine.

248. Le 20 octobre 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, ont envoyé une lettre d'allégation portant sur des renseignements selon lesquels **Timothée Mbuya**, directeur de publication à l'Association africaine de défense des droits de l'homme (ASADHO)/Katanga, **Jean Claude Bakatunyingela**, chargé de l'environnement à l'ASADHO/Katanga, **René Ntumba, Jean Baptiste Kasongo, Justin Kashala, Agnès Manyonga et Martin Tshibas**, membres du Groupe d'action non violente évangélique (GANVE), et **Mick Kapembe**, de l'Association des enseignants du Congo (AECO), auraient été arrêtés le 8 septembre 2003 à Lubumbashi par la PNC alors qu'ils participaient à une manifestation. Au cours de leur arrestation, ils auraient été battus, en particulier avec des bâtons, par les forces de l'ordre. Ils auraient ensuite été détenus au poste de police de Lubumbashi. Ces personnes auraient été libérées le lendemain de leur arrestation. Selon les informations reçues, la manifestation était organisée par un collectif d'ONG composé du GANVE, en association avec l'ASADHO, l'AECO et le syndicat des travailleurs de Gécamines, en vue de déposer un memorandum en défense du droit à l'enseignement et contre les frais d'intervention ponctuel (FIP) au siège du gouvernement provincial. Les FIP, frais supplémentaires aux frais d'inscription annuels, payés par les parents d'élèves, auraient été instaurés depuis une dizaine d'années afin d'assurer un revenu aux enseignants et ainsi garantir la pérennité de l'enseignement scolaire au cours du conflit. Le memorandum des ONG demandait l'abrogation de ces frais, arguant de la

réunification du pays et d'une supposée subvention de l'Organisation des Nations Unies pour l'éducation, la science et la culture au Ministère de l'éducation nationale.

249. À la même date, le Rapporteur spécial et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo ont envoyé une lettre d'allégation concernant les cas décrits ci-dessous.

250. Les Rapporteurs spéciaux ont reçu des informations laissant croire qu'un certain nombre de journalistes auraient été emprisonnés pour des délits de diffamation. À cet égard, le Rapporteur spécial souligne le principe de proportionnalité de la peine, et en particulier que des sanctions pénales, notamment l'emprisonnement, pour diffamation ne semblent pas proportionnelles à un exercice effectif du droit à la liberté d'opinion et d'expression:

(a) Par exemple, **Guy Kasongo Kilembwe**, rédacteur en chef du journal satirique *Pot-Pourri*, paraissant à Kinshasa, aurait été transféré le 31 août 2003 au Centre pénitentiaire et de rééducation de Kinshasa (ex-Prison centrale de Makala), après avoir passé deux jours au cachot du parquet de grande instance de Kinshasa/Gombe où il aurait été gardé à vue depuis le 29 août. Selon les informations reçues, M. Kasongo aurait été interpellé le 29 août par des éléments de la police nationale et conduit au bureau de l'Inspection provinciale, bataillon mobile, où il aurait été interrogé pendant près d'une heure avant d'être transféré au parquet de grande instance de Kinshasa/Gombe. Il semblerait que cette arrestation serait liée à un article paru dans l'édition n° 140 du 22 août du journal *Pot-Pourri*. Les informations reçues ne permettraient pas d'établir si des charges ont été retenues contre M. Kilembwe, et le cas échéant pour quelle offense;

(b) **Delly Bonsange** et **Raymond Kabala**, respectivement éditeur et directeur de publication du journal *L'Alerte Plus*, auraient été condamnés respectivement à 6 mois et 12 mois de prison et à 200 000 et 300 000 dollars à titre de dommages et intérêts par le tribunal de paix de Kinshasa/N'djili le 6 septembre 2002 à la suite de la publication d'informations sur la santé du Ministre de la sécurité et de l'ordre public. Selon les informations communiquées, ils auraient été condamnés pour «imputations dommageables, délit de presse et faux en écriture»;

(c) **Eugène Ngimbi Mabedo**, éditeur de l'hebdomadaire paraissant à Kinshasa *L'intermédiaire*, aurait été interpellé le 7 août 2002 par des membres de la police nationale qui accompagnaient le magistrat militaire Lemba. Il aurait été acheminé au parquet près la COM, qui serait un tribunal d'exception qui juge en premier et dernier ressort, où il aurait passé une première nuit de détention. Il semblerait que M. Mabedo aurait été poursuivi pour diffamation à l'endroit de la COM et du procureur général près la COM. Selon les informations communiquées, M. Mabedo aurait été entendu quatre fois au sujet d'un article qui aurait été publié dans le numéro 42 du mois d'août 2002 de *L'Intermédiaire*, intitulé «Le colonel Alamba prié de libérer, sans délais, N'Sii Luanda et M^e Willy Wenga détenus illégalement pour le compte de la cour militaire au CPRK (Centre pénitentiaire et de rééducation de Kinshasa, ex-Prison centrale de Makala)»;

(d) **Achille Ekele N’Golyma** et **Damien Baita**, respectivement directeur de publication et directeur de la rédaction du journal *Pot-pourri*, auraient été arrêtés sans mandat le 31 juillet 2002 par des hommes en civil que des témoins auraient reconnus comme étant des inspecteurs judiciaires. Selon les informations communiquées, les deux journalistes se trouvaient dans un café lorsque quatre hommes leur auraient demandé de les suivre. Ils auraient été menottés et conduits au cachot du parquet près le tribunal de grande instance de Kinshasa/Gombe. M. Baita aurait été libéré après vérification de son identité, car il aurait été confondu avec un autre journaliste, **Gogin Kifwakiou**, du journal *Vision*, qui serait recherché à la suite d’une plainte du Président des Forces novatrices pour l’union et la solidarité (FONUS), qui accuserait MM. N’Golyma et Kifwakiou d’imputations dommageables pour l’avoir accusé de corruption et concussion dans deux articles parus dans les éditions du 23 juillet de leurs journaux respectifs. Il est également rapporté que M. N’Golyma aurait été entendu par le substitut du procureur qui, semble-t-il, souhaitait obtenir les sources de l’information publiée par *Pot-Pourri*, et que M. Kifwakiou serait rentré en clandestinité depuis l’arrestation de M. N’Golyma.

251. Les Rapporteurs spéciaux ont également soulevé les cas suivants dans la même communication :

(a) Selon les informations qui leur sont parvenues, le 26 septembre 2003, des éléments de la Police nationale congolaise auraient procédé à une rafle générale de journaux et autres périodiques parus à Kinshasa. De plus, il semblerait qu’une dizaine de vendeurs de journaux à la criée auraient été interpellés et conduits à différents postes de police de la ville, dont le camp militaire Lufungula à Kinshasa/Lingwala. Il semblerait également que la police aurait dispersé avec violence des groupes de lecteurs de journaux dans la rue (appelés communément les «parlementaires debout», généralement sympathisants de l’Union pour la démocratie et le progrès social, UDPS, parti d’opposition d’Étienne Tshisekedi). Aucune raison n’aurait été donnée pour ces actions, mais il semblerait qu’elles soient liées à l’annonce du retour de M. Tshisekedi en République démocratique du Congo, après deux années passées en Afrique du Sud. Ce retour aurait alimenté la plupart des éditions des journaux du 26 septembre;

(b) le 27 août 2003, des policiers auraient attaqué **Désiré-Israel Kazadi**, un reporter pour le quotidien *Le Phare*, alors qu’il couvrait la tentative de supporters de l’UDPS de récupérer auprès de la morgue le corps de José Mukenge, un membre de l’UDPS décédé quelques jours plus tôt à la suite d’affrontements avec la police (voir ci-dessous), afin de l’enterrer. Il semblerait que la foule aurait commencé à s’agiter alors que la morgue aurait refusé de donner le corps de M. Mukenge, et que la police aurait dispersé la foule avec violence. M. Kazadi aurait alors trouvé refuge dans un abri. Lorsque des policiers l’auraient abordé, et bien qu’il se soit identifié comme journaliste, il aurait été battu et blessé aux épaules et au dos;

(c) **José Mukenge**, Vice-Président de la section Masina de l'UDPS, serait décédé le 18 août 2003 à l'hôpital provincial de référence de Kinshasa après deux jours de coma. Selon les informations reçues, des agents de la police d'intervention rapide (PIR) se seraient rendus le 15 août 2003 à la paroisse Saint-Joseph de Matonge à Kinshasa/Kalamu, à bord de sept jeeps, alors que des militants de l'UDPS s'étaient réunis pour commémorer le onzième anniversaire de l'élection de M. Étienne Tshisekedi wa Mulumba à la présidence nationale de l'UDPS. Il est rapporté que la célébration aurait pris une tournure violente et que les affrontements qui se seraient ensuivis entre les membres de l'UDPS et la police auraient conduit au décès de M. Mukenge, à la suite d'un traumatisme crânien occasionné par des coups reçus sur la tête.

(d) **Émile Omba**, qui serait l'auteur d'une lettre datée du 13 novembre 2002 dénonçant le chargement illicite de minerai de cuivre riche en uranium par les entreprises du groupe Malta Forrest, aurait été arrêté le 23 novembre 2002. Selon les informations communiquées, M. Omba aurait été arrêté à Kipushi, puis transféré le 27 novembre au cachot du parquet civil près le tribunal de grande instance de Lubumbashi où il aurait été formellement accusé de «propagation de faux bruits»;

(e) **Canal Kin TV**, une chaîne de télévision privée, aurait vu ses émissions interrompues et des scellés posés aux portes de ses studios d'enregistrement par les services spéciaux de la police nationale le 20 novembre 2002, peu après que la chaîne eut diffusé des images concernant le quatrième anniversaire de la création du Mouvement de libération du Congo (MLC) à Gbadolite et l'intervention du chef rebelle Jean-Pierre Bemba, dans laquelle il faisait référence au rapport du groupe d'experts des Nations Unies sur le pillage des richesses de la République démocratique du Congo. Il est rapporté que, le 21 novembre 2002 vers 18 h 30, Canal Kin TV aurait repris ses émissions en présence de membres de la police;

(f) **John Kikendu** et **Monolphe Boso**, respectivement cameraman et reporter de AITV/RFO, auraient été interpellés le 16 août 2002 par un agent du protocole dont le nom est connu des Rapporteurs spéciaux, qui aurait estimé que les deux journalistes devaient avoir une accréditation pour faire leur travail. Selon les informations communiquées, ils réalisaient un reportage sur la situation des personnes vivant avec un handicap physique derrière l'immeuble ex-Sozacom à Kinshasa et avaient en leur possession, lors de leur interpellation, un ordre de mission spécifiant la nature du travail à réaliser. MM. Kikendu et Boso auraient été libérés le même jour dans la soirée par le commandant de la police nationale congolaise du commissariat de Kinshasa/Gombe qui aurait estimé, après avoir visionné les images tournées par les journalistes, qu'il n'y avait rien de compromettant et qu'ils avaient leurs documents en règle.

Communications reçues

252. Le 11 octobre 2003, le gouvernement a répondu à la communication des Rapporteurs spéciaux en date du 23 juillet, indiquant d'une part que MM. Lulemba bin

Kiabululu et Mpinganayi sont en liberté et exercent leur profession librement, et d'autre part que M. Nyembo Kimuni est en détention conformément à un jugement rendu par un tribunal en conformité avec la loi du pays qui érige la diffamation en infraction pénale.

253. Le 13 octobre 2003, le gouvernement a répondu à la communication des Rapporteurs spéciaux datée du 4 juillet, indiquant que les faits à l'origine de la communication des Rapporteurs spéciaux ont eu lieu à la suite d'une altercation entre les forces de l'ordre et MM. Kambidi et Tshibwabwa, à la suite d'une provocation de la part de ces derniers. Le gouvernement souligne que MM. Kambidi et Tshibwabwa n'ont pas été arrêtés et jouissent de leur liberté et exercent normalement leur profession.

254. Le 24 novembre 2003, le gouvernement a envoyé une réponse à la communication du Rapporteur spécial en date du 13 août 2003, indiquant que M. Bwande Bwana Pua a repris son service à la station de la Radiotélévision nationale congolaise à Kinsangani.

255. Le 2 décembre 2003, une lettre du gouvernement a répondu à la communication des Rapporteurs spéciaux datée du 17 octobre 2003, précisant que le dossier de M. Bamporiki et consorts avait été pris en délibéré par la Cour de sûreté de l'État le 26 juin 2003, qui avait rendu un arrêt avant dire droit ordonnant la réouverture des débats en vue de clarifications. Dans le cadre de l'instruction du dossier, la dernière audience, fixée au 13 octobre 2003, n'a pas pu avoir lieu en raison d'une grève des magistrats.

256. Par lettre du 7 novembre 2003, la Mission permanente de la République démocratique du Congo a accusé réception des communications datées du 20 octobre 2003, indiquant qu'une réponse leur serait donnée à une date ultérieure.

Observations

257. Le Rapporteur spécial remercie le gouvernement pour ses réponses, et espère que ses communications datées du 16 janvier, des 9 et 17 avril et du 20 octobre recevront bientôt une réponse

Djibouti

Communications envoyées

258. Le 14 juillet et le 3 octobre 2003, le Rapporteur spécial a envoyé des communications au gouvernement concernant le cas de **Daher Ahmed Farah**, directeur de publication du journal *Le Renouveau* et président du Mouvement pour le renouveau démocratique et le développement (MRD), qui aurait été condamné par la cour d'appel de Djibouti, le 9 juillet 2003, à trois mois de prison pour «diffamation». Selon l'information reçue, la cour d'appel de Djibouti a condamné M. Farah à trois mois de prison ferme, trois mois de prison avec sursis, 13 millions de francs djiboutiens (environ 73 600 dollars) de dommages et intérêts et 200 000 francs djiboutiens (environ 1 130 dollars) d'amende. *Le Renouveau* aurait également été interdit de parution pendant trois mois. Il est rapporté qu'à l'issue de l'audience M. Farah aurait été immédiatement conduit à la prison de Gabode. Cette décision aurait été prise à la suite d'un article paru dans l'édition n° 475 du 17 avril

2003 du *Renouveau*. Il semblerait que le tribunal de première instance de Djibouti avait prononcé la relaxe de M. Farah, dans le cadre de cette affaire, le 23 juin 2003. Les informations reçues par le Rapporteur spécial indiquent également que M. Farah aurait été emprisonné à plusieurs reprises au cours de ces dernières années, dans la plupart des cas pour délit de presse. Dans sa communication, le Rapporteur spécial a souligné le principe de proportionnalité de la peine, notant en particulier que des sanctions pénales pour diffamation ne semblent pas proportionnelles à un exercice effectif du droit à la liberté d'opinion et d'expression.

Communications reçues

259. Par lettre en date du 15 septembre 2003, le Gouvernement de Djibouti a répondu aux courriers du Rapporteur spécial, indiquant que M. Farah a été poursuivi à plusieurs reprises pour diffamation et détaillant les procédures judiciaires appliquées dans chacun de ces cas. Dans l'affaire mentionnée dans la communication du Rapporteur spécial, M. Farah a été condamné le 9 juillet 2003 par la chambre correctionnelle de la cour d'appel à six mois d'emprisonnement dont trois mois fermes. Le gouvernement souligne qu'au moment de l'envoi de sa communication, M. Farah était libre et qu'au cours de chaque procédure mentionnée les autorités ont respecté l'indépendance de la magistrature.

Observations

260. Le Rapporteur spécial souhaite remercier le Gouvernement djiboutien pour sa réponse à ses communications.

Dominican Republic

Comunicación enviada

261. El 19 de noviembre de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la cuestión de la tortura y la Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos, envió una comunicación en relación con actos de violencia supuestamente ocurridos el 11 de noviembre de 2003, en desarrollo de la jornada nacional de protesta pacífica contra la política económica del Gobierno convocada por la Coordinadora de Unidad y Lucha, la cual agrupa organizaciones populares sindicales y estudiantiles. Se habrían reportado enfrentamientos entre manifestantes y las fuerzas del orden en la ciudad de Santo Domingo. En otras ciudades como Bonao, Higüey, Santiago, Navarrete, Licey al Medio, Salcedo, Barahona, San Pedro de Macorís y Puerto Plata, el ejército y la policía habrían reprimido a los manifestantes con disparos de fusiles automáticos y escopetas. De acuerdo con la información recibida, como resultado de los mencionados enfrentamientos 7 personas habrían muerto, 60 habrían resultado heridas y otras 600 habrían sido detenidas. Entre los fallecidos se encontrarían, **Alberto Arquino Marte, David Pérez Vásquez, Ramón Romero Pérez, Daniel Martínez** así como un miembro de la policía nacional. El Relator Especial también expresó preocupación entorno al presunto arresto de 135 activistas miembros de la Coordinadora de Unidad y Lucha.

Observaciones

262. En fecha de 31 de diciembre de 2003, el Relator Especial todavía no había recibido respuesta a su comunicación de 19 de noviembre de 2003.

Ecuador

Comunicaciones enviadas

263. El 24 de septiembre de 2003, el Relator Especial envió un llamamiento urgente en relación con la condena a seis meses de cárcel, por injurias calumniosas, de **Rodrigo Fierro**, columnista del diario *El Comercio*, publicado en Quito. La denuncia contra el periodista habría sido presentada por el antiguo presidente de la República y diputado del Partido Social Cristiano, León Febres-Cordero. En un artículo publicado el 19 de mayo de 2003, el periodista habría acusado al político de ser el “protagonista del contubernio entre la gestión política y la conducción económica del Estado al servicio de la oligarquía plutocrática que ha gobernado”. Rodrigo Fierro habría anunciado que apelará ante la Corte Superior de Justicia.

264. El 6 de octubre de 2003, el Relator Especial envió un llamamiento urgente en relación con la situación de peligro en que se encontrarían los periodistas y académicos **Kintto Lucas, Pablo Dávalos, Marlon Carrión, Marlene Toro y Mauricio Ortiz**, quienes a mediados del mes de septiembre de 2003, habrían sido objeto de un acto de intimidación mediante una comunicación a manera de condolencia enviada para su publicación al diario *El Comercio*. De acuerdo con las informaciones recibidas, el parte mortuario suscrito por un nombre utilizado en una amenaza anterior habría sido atribuido a la autodenominada "Legión Blanca", un presunto escuadrón de la muerte. Asimismo se informó que el acto de intimidación estaría dirigido contra los mencionados periodistas y académicos como reacción a la publicación de informaciones y análisis contrarios a las políticas gubernamentales realizadas a través de medios, alternativos o independientes, tales como *Tintaji*, corresponsal de Inter Press Service (IPS), *ALAI*, *Pachacámac* y *Opción*.

Comunicación recibida

265. Por carta de fecha 7 de octubre de 2003, el Gobierno de Ecuador contestó al llamamiento urgente de fecha 24 de septiembre de 2003 e informó que llevará a conocimiento del Relator Especial, la respuesta oficial del Estado ecuatoriano, luego de que las autoridades nacionales hayan analizado y tomado una decisión sobre este el caso mencionado.

Observaciones

266. El Relator Especial da las gracias al Gobierno de Ecuador por su respuesta, si bien espera otra respuesta a su comunicación de fecha 7 de octubre de 2003.

Egypt

Communications sent

267. On 18 February 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning a number of peaceful demonstrators against the war in Iraq - **Tamer Hendawi Abd El Hafeez, Mohamed Khalil Ghatas, Mohamed Dakhli, Abdel Gawaad Ahmed Mostafa, Rami Safwat, Mahmed Hassan Hassan Ahmed, Magdy El Kordi, Mohamed Hosni Mahmoud**, a Palestinian, **Samir El Fouli** and **Sabri El Samak**. Several of them were reportedly arrested by the State Security Investigations Office on 18 January 2003 in the El Sayeda Zenab district in Cairo. Following their arrest, they were allegedly referred to the State Security Prosecution, which decided to detain them pending investigation on charges of disrupting the public order and peace. It is believed that they remain under pre-trial detention in Tora prison.

268. In the same communication, the Special Rapporteur indicated that during the early morning of 9 February 2003, officials from the State Security Investigations Office are said to have arrested **Ibrahim El Sahary**, a journalist at Akhbar El Alam "World News" and an anti-war activist. According to the information received, he was held in the office of State Security Investigations in Gaber Ibn Hayan in Giza, Cairo, before being transferred to Mazraat Tora prison. His arrest was reportedly related to the demonstration that was held at the Book Fair.

269. On 24 February 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Kamal Khalil**, Director of the Centre for Socialist Studies in Cairo and campaigner against the war in Iraq, who has reportedly not been seen since he left his home in Giza in the morning of 19 February 2003. Although relevant authorities have allegedly refused formal acknowledgement of the fact, it is believed that he was held without charge incommunicado in detention by State Security Intelligence (SSI) forces. He has reportedly been denied contact with his family and lawyer, not even to give him the medication he needs.

270. The Special Rapporteur sent an urgent appeal on 19 March 2003 jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Haitham Sa'ad Ibrahim**, an engineering student at Mansoura University in northern Egypt, who was allegedly detained in the early hours of 13 March 2003 at his home by officers of the SSI. He is believed to be held incommunicado without charge at the office of the State Security Intelligence forces in Mansoura. The alleged detention of Haitham Sa'ad Ibrahim is said to be related to his involvement in political activities of Islamist students in Mansoura, including a recent demonstration against the war in Iraq.

271. On 28 March 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent a joint urgent appeal concerning **Mohamed Farid Hassanein**, Member of Parliament, who was reportedly assaulted on 22 March 2003 in front of the

lawyers' syndicate. He was reportedly arrested on 23 March at the hospital where he was receiving treatment for a brain concussion, eye injuries, cut wounds in the head, face and nose, as well as multiple injuries to both arms and legs. It is reported that despite his parliamentary immunity, which has not been lifted, security investigators interrogated him at the hospital at 2 a.m. on 23 March for two hours, despite his serious condition.

272. On 9 April 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women and the Special Rapporteur on the independence of judges and lawyers, concerning the reported arrest and detention of hundreds of anti-war demonstrators who attended anti-war rallies held across Cairo between 20 and 25 of March 2003. They have reportedly been accused of various offences, including participating in illegal gatherings and threatening public security. It is reported that the total number and location of the detainees, many of whom are allegedly being held incommunicado, are unknown. Among those reported to be detained are activist Ms. **Manal Ahma Mustafa Khalid** and lawyer Mr. **Ziad Abdel Hamid al-Uleimi**, who were allegedly beaten severely upon arrest and again in the al-Khalifa police station and denied medical attention. Reports indicate that Ms. Khalid and Ms. **Nivin Ahmad Samir**, and a **16-year old person**, were beaten at the al-Khalifa Police Station by two male police officers and threatened with rape. In addition, it is reported that two lawyers, Mr. **Gamal Abd al-Aziz** and Mr. **Yassir Farrag**, were detained when the police occupied the premises of the Egyptian Bar Council. The Rapporteurs also received information concerning four members of Parliament, **Mohammed Farid Hassanein**, **Hammdeen Sabahi**, **Abdel Azim al-Maghrabi** and **Haidar Baghdadi**, who have allegedly been beaten and detained. The Rapporteurs also raised the cases of a number of students, including **Marwa Faruq**, **Samir Fuli**, **Mahmud 'Izzat**, **Shaymaa Samir** and **Nourhan Thabet**, who were reportedly detained and tortured with electric shocks at the Giza State Security Intelligence Branch at Gaber Ibn Hayyan. Ms. Thabet was pregnant and was reportedly bound and beaten by police. Her whereabouts were unknown at the time the communication was sent.

273. The Rapporteurs were informed that while of the hundreds of people who were reportedly initially detained, most have been released, at least 68 people were reportedly issued with detention orders between 4 and 15 days. Further information indicates that at least seven civilian detainees were reportedly transferred to the State Security Prosecution Office, where due process is limited during the trial procedure and the right to appeal denied to the defendants, as under these exceptional procedures the conviction can only be overturned by an order of the President of the Republic in his capacity as Military Governor under Egypt's emergency laws.

274. On 22 April 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Mahmud Hassan Hassan**, who was reportedly detained during an anti-war demonstration in front of the Egyptian Journalists' Union in the centre of Cairo on 12 April 2003. Another person, **Ramiz Gihad**, was detained at a nearby café on the same day. Both were believed to be held incommunicado at the SSI headquarters at Lazoghly Square, and were reportedly severely beaten. Ramiz Gihad was reportedly also subjected to electric shocks.

275. In the same communication, the Rapporteurs also raised the case of **Ibrahim al-Sahari**, a journalist and anti-war activist, who was detained on 13 April 2003 at his home in Cairo by security officers without a warrant of arrest. He was reportedly taken to the SSI headquarters at Lazoghly Square, where he has allegedly been beaten. In February, Ibrahim al-Sahari was previously detained at the SSI headquarters in Cairo, during which time he was reportedly ill-treated.

276. The Rapporteurs further raised the case of anti-war activist **Wa'el Tawfiq**, who was reportedly detained in Cairo on 13 April 2003, and was also reportedly held at the SSI headquarters, where he was allegedly beaten. He was reportedly previously detained in January 2002 during the Cairo International Book Fair, when he was reportedly taken to the SSI headquarters and allegedly tortured.

277. On 24 April 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Marwan Hamdi**, an anti-war activist, who was reportedly detained on 15 April 2003 in Cairo. His exact whereabouts were reportedly unknown and fears were expressed that he may be held incommunicado at premises of the SSI.

278. On 21 July 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent a letter of allegation relating to more recent information received with respect to the people reportedly arrested on 12 April 2003, in particular, **Mahmud Hassan Hassan, Ramiz Gihad, Ibrahim al-Sahari** and **Wa'el Tawfiq**. According to information recently received, two students, **Amr Abd al-Atif** and **Walid Fuad**, were arrested in similar circumstances on 12 April and released on 15 April 2003. It is alleged that all these people had been held at the SSI where they are believed to have been beaten during interrogation sessions. It is said that some of them have been subsequently transferred to Bourg El-Arab Prison in Alexandria, where they are believed to be incommunicado under the Emergency Law. The Cairo-based Nadeem Center for the Treatment and Rehabilitation of Victims of Violence is said to have observed testicular congestion, contusions and bruises in the back muscles and the muscles on the front of the left thigh of one of the students released. Ramiz Gihad is believed to have received electric shocks and been beaten as well as to have been deprived of water. It is alleged that other detainees saw burn marks and bruises on his hands, elbows, feet and toes. Another anti-war pacifist and member of the Popular Committee in Support of the Palestinian Intifada, **Ashraf Ibrahim**, has reportedly been missing since 19 April 2003. It is alleged that several days earlier, SSI officers had raided his home in his absence and confiscated his computer, video camera and other documents. It is thought that he may be detained in Mazra Tora prison. He had already allegedly been detained without charge and beaten in February 2003. The Special Rapporteurs were informed that the above-named people were not charged with any offence and that no administrative detention orders were issued. Their lawyers and family were reportedly not granted access to them and it is believed that at the time the communication was sent, they continued to be detained at the SSI headquarters.

279. On 12 August 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders sent a joint urgent appeal concerning **Ashraf Ibrahim**, an active member of the anti-war movement in Egypt, Secretary of the Egyptian Association on Health and Environmental Development and member of the non-violent NGO Popular Committee for Solidarity with the Palestinian Uprising, who was reportedly being held in incommunicado detention without charge or trial in Mahkum Tora Prison, near Cairo. Ashraf Ibrahim was reportedly detained on 19 April 2003 when he presented himself to the SSI. It is alleged that on 17 April 2003, the State Security Prosecution searched his home and confiscated certain personal belongings, including his computer, electronic equipment and many of his books and papers. The State Security Prosecution is said to have brought several accusations against him, including possessing and disseminating material threatening to public security and opinion, and providing international human rights organizations with material harmful to Egypt's reputation. During interrogation sessions, he was reportedly questioned in connection with his participation in the demonstrations on 20 and 21 March 2003 against the war in Iraq and with downloading material from the Internet, including from web sites of international human rights organizations and of the Arabic satellite news channel Al-Jazeera.

280. Furthermore, it is believed that since his arrest, he was appearing before the State Security Prosecution at regular fifteen-day intervals. On each occasion, his detention was reportedly renewed. His next appearance before the State Security Prosecution was reportedly scheduled for 13 August 2003. He was reportedly offered the chance of release in exchange of naming twenty other activists. It is also reported that Ashraf Ibrahim has been on hunger strike since 30 July to protest against his continued detention without charge or trial. As a result, his health is said to have been deteriorating seriously and it is believed that he has been denied adequate medical treatment. According to the information received, on 7 August, a prison doctor reportedly told Ashraf Ibrahim that he should be transferred to hospital.

281. On 2 October 2003, the Special Rapporteur, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders sent another joint urgent appeal concerning **Ashraf Ibrahim**. According to recent information received, Ashraf Ibrahim's case was referred to a Higher Emergency State Security Court on 10 August 2003 on charges of belonging to an organization seeking to overthrow the Government and of disseminating false information abroad (articles 80(d) and 86 respectively of the Penal Code). His trial, along with that of other co-defendants, was scheduled to begin on 16 December 2003. The Rapporteurs were particularly concerned that the Higher Emergency State Security Court, a tribunal established under emergency law, allows no appeal to a higher judicial body and as a result, a verdict can only be overturned or modified by the President of the Republic.

282. On 3 October 2003, the Special Rapporteur sent a letter of allegation concerning the following cases brought to his attention:

283. On 29 July 2002, **Dr. Saad El-Din Ibrahim**, professor of political sociology at the American University in Cairo and director of the Ibn Khaldoun Center for development studies, for whom the Special Rapporteur sent an urgent appeal on 10 July 2000, was reportedly sentenced to seven years imprisonment with hard labour, in appeal, by the Supreme State Security Court in Cairo. According to the information received, the verdict was delivered without the normal period of deliberation. It is also reported that on the day prior to the verdict, the request by Dr. Ibrahim and other defendants to address the Court orally was denied but written statements were permitted, although it was alleged that they could not have been read by the judges prior to the sentencing. According to the information received, the request made by the defence to reopen the Ibn Khaldoun Center so that access could be gained to important documents was allegedly ignored by the Court. It is also reported that four other defendants also received prison terms: **Magda al-Bey**, 3 years; **Mohammed Hassanain**, 3 years; **Nadia Abdel Nour**, 2 years; and **Marwa Zaki**, 2 years (in absentia).

284. On 20 September 2001, **Farid Zahran**, director of the Al Mahrousa Centre and coordinator of the National Council for Solidarity with the Palestinian People, was reportedly arrested while he was walking in a street in Naser City. He was reportedly then taken to his home, which was searched, allegedly without a reason being given to him. According to information received, Mr. Zahran was then detained in the State Security Investigation Unit, referred to the Supreme State Prosecution on 21 September 2001, and charged with disturbing public security, organizing peaceful assemblies in public streets and contacting others to arrange for these assemblies. He was then allegedly detained for 15 days pending the investigation of his case. It is reported that Mr. Zahran was arrested under the emergency legislation, which is supposed to be used only against armed groups and drug dealers, but is alleged to be used frequently against political activists and human rights defenders.

Communications received

285. On 11 March 2003, the Government replied to the Special Rapporteur's communication dated 18 February 2003, indicating that all the persons detained during the anti-war demonstration were released after interrogation.

286. In a 13 March 2003 letter, the Government replied to the Special Rapporteur's communication of 24 February 2003, reporting that security agents had arrested **Kamal Khalil** for having committed acts breaching security and order. Mr. Khalil was released after interrogation.

287. On 14 March 2003, the Government replied to the Special Rapporteur's letter of allegation dated 26 July 2002, and indicated, in relation to the case of **Ahmed Haredi Muhamed**, member of the General Union of Journalists and editor-in-chief of the online newspaper *Al-Methaq Al-Arabi*, that the chairman of the Governing Board of the Al-Ahram Foundation filed two lawsuits against Ahmed Haredi Muhamed. One suit was for libel, for which the journalist was sentenced in first instance on 28 April 2002 to six months in prison and ordered to pay 1,000 Egyptian pounds bail, which the defendant appealed. On 1 February 2003, the Court of Appeal handed down a ruling in his favour,

which upheld his appeal challenging the constitutionality of articles 302, 303 and 306 of the Penal Code on the grounds that they did not treat public servants and ordinary persons involved in libel cases on an equal footing. The prison sentence was not enforced because of the appeal. The second suit was filed against the journalist because he had published a report written by another journalist, making reportedly defamatory allegations. Ahmed Haredi Muhamed was sentenced to one year in prison and ordered to pay 2,000 Egyptian pounds bail and a fine of 7,500 pounds. He lodged an appeal against the verdict which was heard on 26 April 2003. He did not pay the deposit or the fine, because the Public Prosecutor filed a petition asking for a reduction in the amount of the deposit and the cancellation of the fine. At the time the response was sent, a decision has yet to be taken. The verdict was not enforced because of the appeal.

288. In the same communication, the Government replied to the allegation concerning **Shohdy Naguib Surur**, son of the late poet Naguib Surur, indicating that Shohdy Surur published poems on the Internet written by his father, which contained material of an immoral and irreligious nature that directly disparaged a number of national and historic symbols and held the Egyptian people and the Islamic nation up to ridicule. An individual person whose name is mentioned in the response filed a complaint against Mr. Surur's actions, and upon receiving the case file, the Department of Public Prosecutions decided to have Mr. Surur arrested and ordered to report to the Department. When Mr. Surur was presented before the Department of Public Prosecution, the Department decided it would release him on 1,000 pounds bail. On 30 June 2002, Mr. Surur was sentenced to one year in prison. On 14 October 2002, the Cairo Court of Appeal rejected his appeal against the sentence, on the grounds that the appellant had failed to attend the appeal hearings because he was abroad.

289. The Government also provided in its letter of 14 March 2003 information with respect to the cases of journalists **Hany Emara** and **Rida al-Shafi`I** from the Abu Dhabi satellite television channel, and of **Gilhan Rushdie** and **Ayman Atef**, from the German channel ZDF. The Government indicated that there was no evidence to support the allegation that security and legal measures were instituted against them, and the police do not have any records pertaining to the allegation. The Government underlined that the four journalists were allowed to cover all the events surrounding the elections even though they had not obtained permits from the press centre of the Public Information Authority, and they were not forced to comply with the instructions regulating the work of foreign news agency reporters. They had previously received permission from the press centre of the Public Information Authority to write numerous reports and undertake journalistic assignments in accordance with the rules established in this regard.

290. On 9 April 2003, the Government, responding to the Special Rapporteur's communication of 19 March 2003, indicated that **Haitham Sa'ad Ibrahim** was not arrested in the context of anti-war demonstrations. The Government further indicated that it was not established that Mr. Ibrahim was detained by the State Security Intelligence in Mansoura.

291. On 22 April 2003, the Government replied to the Special Rapporteur's letters of 28 March and 9 April 2003. In this communication, the Government indicated that

allegations that thousands of citizens were prevented from demonstrating against the war in Iraq were false. The only persons arrested were those who disturbed public security and public order during the demonstrations by, for example, destroying public and private property. Those persons were questioned by the Department of Public Prosecutions, which released them once its investigations had been completed. The Government further indicated that there was no evidence to support the allegations that any of the persons arrested were subjected to torture during the investigations, and that no one was currently being held in detention because of the demonstrations against the war in Iraq.

292. On 30 September 2003, the Government sent a reply to the Special Rapporteur's communications dated 12 August and 2 October 2003 and indicated that **Ashraf Ibrahim Marzuq** was arrested and questioned by the Department of Public Prosecutions in the presence of both his lawyers. He was not subjected to any form of ill-treatment, but rather was well treated and placed under full medical supervision during his hunger strike. During the investigations, neither he nor his lawyers claimed that he had been tortured or ill-treated. On 9 August 2003, the Higher State Security Prosecutions Department decided to refer the case to the competent court in order to set a date for trial, after charging Mr. Marzuq with founding an illegal organization in contravention of the terms of the Constitution and of disseminating abroad false propaganda likely to harm the prestige of the State. Mr. Marzuq ended his hunger strike on 9 August, after being convinced to renounce it.

293. In a communication dated 10 October 2003, the Government replied to the Special Rapporteur's letter of 3 October 2003 with respect to the case of **Dr. Sa`ad El-Din Ibrahim**. The Government mentioned that he was charged with "receiving funds from foreign organizations without authorization from the competent authority", "criminal conspiracy to commit bribery" and "misappropriation of funds". According to the Government, none of the charges brought against Dr. Ibrahim were political in nature or had any bearing on his right to freedom of opinion and expression, and had nothing to do with Dr. Ibrahim's academic or other activities. The formal charges were made in September 2000, the trial began in January 2001, and the verdict was delivered in May 2001. The defence had full and free access to all the case documents and all the witnesses it requested were summoned to give evidence. The court had almost a whole year to examine the case file from the date in August 2000 on which it was transmitted to the court. The Government mentioned that Dr. Ibrahim expressed his satisfaction with the way the proceedings had been conducted, as well as his gratitude for the court's forbearance and its granting of all the petitions submitted by the defence.

294. Dr. Ibrahim was sentenced to seven years in prison and six other accused persons received sentences of between one and three years in prison, while 21 others were given suspended sentences and were released immediately after the trial ended. When the court opinion was published, Dr. Ibrahim filed an appeal against the verdict, and in February 2002, the Court of Cassation upheld his appeal and ordered a new trial. Dr. Ibrahim was released pending a new trial, and retried before the Court of Cassation, which delivered its verdict on the Ibn Khaldun Centre case. It found Dr. Ibrahim not guilty of the charges against him and also exonerated the Centre's financial director. With this verdict, the Ibn Khaldun Centre case is now considered closed.

295. By letter dated 12 November 2003, the Government provided additional answers to the Special Rapporteur's communication of 3 October 2003 in relation to **Farid Zahran** (full name: Mohammed Farid Sa`d Abd al-Qawi Zahran, proprietor of "Al-Mahrousa"), indicating that this person was arrested pursuant to a warrant issued by the Department of Public Prosecutions on 20 September 2003, on the basis of inquiries showing him to be implicated in the organization of demonstrations outside Al-Azhar Mosque and in possession of publications likely to undermine public security, to disseminate false propaganda, to incite the public and to stir up hatred of the Government, as well as publications aimed at inciting the public and workers against the system of Government. The publications were seized at two of his premises and at his home. The Department of Public Prosecutions launched an investigation. When questioned in the presence of his lawyers, the accused denied the charges against him. He was charged by the Department of Public Prosecutions with disseminating seditious propaganda likely to undermine public order and to harm the public interest, and with the possession of leaflets and publications containing the type of material described above. The Department of Public Prosecutions ordered him to be remanded in custody for 15 days pending investigations. At the hearing to extend the period of remand in custody, he claimed to be suffering from a heart condition and submitted medical reports as evidence. The Department of Public Prosecutions therefore decided to release him and the case remains under investigation.

Observations

296. The Special Rapporteur thanks the Government of Egypt for its replies and awaits information on the cases addressed in the Special Rapporteur's communications of 22 and 24 April 2003.

El Salvador

Comunicación recibida

297. Por carta de fecha 3 de febrero de 2003, el Gobierno salvadoreño contestó al llamamiento urgente del Relator Especial de fecha 27 de diciembre de 2002 (E/CN.4/2003/67/Add.1, párr. 196) en relación con la seguridad de **Beatrice Alamanni de Carrillo**, Procuradora para la defensa de los derechos humanos, y personal de su oficina. El Gobierno afirmó que en las ocasiones en que la Procuradora había solicitado el reforzamiento de su seguridad, se le habría proveído.

Observaciones

298. El Relator Especial da las gracias al Gobierno salvadoreño por su respuesta.

Eritrea

Communications sent

299. On 21 July 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation to the Government about 400 students who were reportedly arrested by the police on 11 August 2001 while they were demonstrating outside the High Court, where a habeas corpus application on behalf of **Semere Kesete** was under consideration. The latter had reportedly made a speech on 31 July 2001 at the graduation ceremony of the University of Asmara, criticizing the Government, in which he allegedly criticized a compulsory student vacation work programme under the national service regulations and complained of Government interference with the university. He is believed to have been arrested shortly afterwards. Those arrested on 11 August were reportedly detained for about 30 hours in Asmara stadium in the open air and under the rain. The security forces allegedly turned water hoses on parents who gathered to protest against their detention and against being denied access to them. According to the information received, the students were subsequently transferred at gunpoint to Wia army camp near Massawa, where many were reportedly severely beaten for continuing to protest against their detention. It is reported that the students were made to work at the makeshift camp, alongside more than 3,000 other students who were performing the vacation work programme.

300. It is also alleged that as a punishment, these 400 students did not get any food for the first three days, only water and sugar, and then only milk in the following week. Throughout their stay at Wia camp and later at the nearby Galaalo camp, they reportedly had to work in harsh conditions and extreme heat, building roads and moving heavy stones. Two of the students allegedly died from heat stroke. The Special Rapporteurs were informed that no investigation was reportedly carried out on these two people's deaths. Most of the students are said to have been held for about three months, with no family visits allowed. According to the information received, the last five to be released in November 2001 were students' union officials and leaders of the protest.

301. At that time, Semere Kesete reportedly continued to be detained incommunicado in an undisclosed prison, reportedly without charge or trial. It is reported that he was held in a maximum security unit of the 6th Police Station in Asmara. For the first two weeks of his imprisonment his hands were allegedly chained behind his back. He is believed to have been held for most of the time in a small dark cell in solitary confinement. After a few months, he was allegedly allowed to sit outside in the open air for short periods. He is believed to have eventually fled abroad in August 2002 after his release.

302. On the same date, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning journalist **Aklilu Solomon**, Asmara-based stringer for the Voice of America (VOA) news service, who was reportedly arrested at his home on 8 July, and taken to an undisclosed location. Ten days earlier, authorities had reportedly stripped Mr. Solomon of his press accreditation, presumably for reporting on families of soldiers who had died during Eritrea's 1998-2000 war with Ethiopia.

According to the information received, Solomon's report that the families were anguished over the soldiers' deaths contradicted Government media coverage, which claimed that the families had celebrated when the Government publicly announced their relatives' deaths. Authorities apparently claim that Solomon's reporting was biased and designed to "please the enemy." Further reports indicated that Mr. Solomon was taken to a military camp to complete his mandatory national military service, although it is alleged that he had already completed a part of his service and was exempt from the rest for medical reasons.

303. On 23 September 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal regarding the case of twelve members of the **Eritrean Bethel Church**, reportedly arrested on 7 September 2003 at a prayer meeting in a house in Asmara and reportedly held at the 5th police Station. These arrests are reported to have been made in the context of an alleged targeting of members of minority Christian churches. It is reported that between February and May 2003, an uncertain number of members of more than twelve evangelical churches were arrested without charge or trial. In addition, it is reported that they were subjected to torture and other forms of ill-treatment allegedly in order to force them to sign statements abandoning their faith. They were also allegedly told that their prayer meetings and church gatherings were illegal.

304. Further information brought to the attention of the Rapporteurs indicated that about **250 members of minority churches**, including 57 male and female students, were reportedly held in metal shipping containers at Sawa military camp in western Eritrea. They were allegedly arrested for possessing bibles whilst attending a compulsory summer school, where national service conscripts are also reportedly trained.

305. On 24 September 2003, the Special Rapporteur, jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning the situation of Ms. **Aster Feshazion**, former Head of Social Affairs in the Ministry of Social Welfare; **Hamed Himed**, former Head of the Middle East and North Africa Department at the Ministry of Foreign Affairs; **Germano Nati**, former Head of Social Affairs in the Southern Red Sea Zone; **Mahmud Sherifo**, former Vice-President and former Minister for Foreign Affairs; **Petros Solomon**, former Minister of Defence; **Hailie Woldensae**, former Foreign Minister and former Minister of Finance and Development, who is suffering from diabetes; **Ogbe Abraha Ingda**, former Minister of Trade and Industry, who is suffering from asthma; **Beraki Ghebreslasse**, former Minister of Information; **Berhane Ghebregzabher**, former Commander of the Ground Forces in the Eritrean Defence Forces; **Stefanos Syuom**, former Director-General of Inland Revenue and **Salih Idris Kekya**, former Minister of Transport and Communication. According to the information received, these 11 former senior officials continue to be in prison, in spite of Opinion N° 3/2002 of the Working Group on Arbitrary Detention, adopted on 17 June 2002, which considered their detention as being arbitrary and in contravention of articles 9 and 10 of the Universal Declaration on Human Rights, and in spite of an urgent appeal sent by the Special Rapporteur dated 20 September 2001, and a joint urgent appeal from the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention dated 29 October 2001. These persons were reportedly

arrested on 18 September 2001 in Asmara by members of the Eritrean Defence Forces after having written, in May 2001, an open letter criticizing the concentration of powers in the hands of the President of the Republic and calling for reforms and meetings of the National Assembly.

306. Reports indicated that none of these persons had yet been brought to a court or even formally charged with an offence, although the Eritrean Constitution and the Penal Code require that detainees should be charged or released within 48 hours of their arrest. These persons are reportedly being held in incommunicado detention, without access to neither their lawyers or their relatives, and their whereabouts remain unknown.

307. In addition, reports indicate that in early May 2002, Ms. **Roma Gebremichael**, Hailie Woldensae's wife, was arrested and held in incommunicado detention without charge or trial. In June 2002, she reportedly became seriously ill in detention and had to be transferred to a hospital.

308. On the same date, another urgent appeal was sent by the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Said Abdulkadir**, chief editor and founder of the newspaper *Admas* and employee of the Arabic-language newspaper *Haddas Eritrea* published by the Ministry of Information; **Yosuf Mohamed Ali**, chief editor of the newspaper *Tsigenay*; **Amanuel Asrat**, chief editor of the newspaper *Zemen* (Time) and Eritrean People's Liberation Front (EPLF) member since the 1970s; **Temesgen Gebreyesus**, sports reporter for the newspaper *Keste Debena* (Rainbow); **Mattewos Habteab**, editor of the newspaper *Meqaleh* (Echo); **Dawit Habtemichael**, assistant chief editor and co-founder of the newspaper *Meqaleh*; **Medhanie Haile**, assistant chief editor and co-founder of the newspaper *Keste Debena*; **Dawit Isaac**, editor and co-owner of the newspaper *Setit*; **Seyoum Tsehaye**, freelance photographer; and **Fessaye Yohannes** ("Joshua"), reporter and co-founder of the newspaper *Setit* and a EPLF veteran since 1977. Their cases were already brought to the attention of the Government by an urgent appeal sent by the Special Rapporteur on 14 December 2001 and by a joint urgent appeal sent by the Special Rapporteur and the Special Rapporteur on the question of torture on 9 April 2002 (E/CN.4/2003/68/Add.1, para.503; and E/CN.4/2003/67/Add.1, para. 203), to which no response was received.

309. These persons were reportedly arrested by the police between 18 and 21 September 2001, in the wake of the closure of all privately owned newspapers by the Government. It is reported that these journalists were initially held incommunicado at the 1st Police station in Asmara and were not taken to court within the 48-hour limit prescribed by law, nor charged with any offence. On 31 May 2002, they reportedly started a hunger strike demanding a fair trial. On 3 April, nine of them were reportedly moved to undisclosed places of detention and Dawit Isaac, who reportedly had undergone medical surgery, was taken under guard to a hospital in Asmara.

310. In the same communication, the Rapporteurs also mentioned the cases of **Hamid Mohamed Said** and **Saida Ahmed** of the public television channel Eri-TV, and **Saleh Al Jesaeri**, from the public radio station Voice of the Broad Masses, who were arrested

without explanations in January and February 2002. They were believed to be detained at an undisclosed location.

311. On 1 December 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent a joint urgent appeal with respect to **students members of the minority Christian churches**, who were reportedly held incommunicado in harsh conditions in metal shipping containers at Sawa military camp in western Eritrea (reference was made to the joint urgent appeal sent on 23 September 2003 by the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention in this respect, to which no response was received). According to new information, while 51 students were released since then, six male and female students continued to be held incommunicado, and kept in underground cells. It is reported that they were not taken to any court or charged with any offence. The students are alleged to have been forced to abandon their faith.

312. In addition, the Special Rapporteurs referred to the case of a man known as **Iyob**, a pastor of the Kale Hiwot (Word of Life) church, an evangelical Christian church based in Mendefera, as well as **seven other members of his congregation**, who were reportedly arrested by the police on 23 November 2003 in Mendefera. These persons are said to have been held incommunicado at a police station in Mendeferra since their arrest, where they were allegedly subjected to torture or other forms of ill-treatment in an attempt to force them to abandon their faith. The reason for their arrest has reportedly not been disclosed and they have allegedly not been charged with any offence.

313. In an urgent appeal dated 18 December 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention referred to information they received regarding **Ms. Aster Yohannes**, aged 45, who was reportedly detained by security personnel at the international airport in Asmara on 11 December 2003, when she returned after a three-year period studying in the USA. She was reportedly held in incommunicado detention at an unknown location, and was reportedly not permitted to see her family. Ms. Yohannes is reported to be a former member of the EPLF, and is married to Mr. Petros Solomon, a former Minister of Foreign Affairs, who himself is reportedly detained incommunicado and in secret since September 2001 (see para. 305 above). According to reports, it is believed that she may be detained because of her husband's peaceful expression of his political beliefs.

Observations

314. The Special Rapporteur regrets that at the time the report was finalized, no responses had been received to his communications.

315. Furthermore, the Special Rapporteur would like to reiterate his request to undertake an official visit in the country as expressed in his letter dated 8 December 2003.

Ethiopia

Communications sent

316. By letter dated 11 July 2003, sent jointly with the Special Rapporteur on the question of torture, the Special Rapporteur advised the Government that he had received information concerning a number of **clergymen and demonstrators**, who were reportedly arrested and beaten up by the police during a demonstration held on 26 December 2002 at Addis Ababa's Lideta Mariam Orthodox church. Those arrested were believed to have been taken to a police training camp located 30 km from the city, where they were allegedly held for five days without being brought before a court. They were reportedly forced to dive fully clothed into a barrel of cold water. It is also reported that deacons from the church had their heads shaved and were forced to sleep on gravel, run barefoot on stone grounds and walk along a road on their knees.

317. On 7 October 2003, the Special Rapporteur sent a letter of allegation regarding the following two cases:

(a) Following an urgent appeal sent on 27 June 2002, the Special Rapporteur has been informed that **Million Tumato**, a medical doctor, **Mengistu Gonsam**, the director of Sidama development corporation), the businessmen **Game Gatiso**, **Beshu Tulu** and **Mesfin Kitessa**, **Girma Chuluke**, chair of Sidama zone assembly, **Tongola Torba**, chair of Aroressa district Assembly, **Tekele Dulo** and several others were reportedly arrested following a peaceful demonstration which took place on 24 May 2002, during which people from Awassa and surrounding villages marched to protest against the Government proposal to change the status of Awassa. It is reported that police used live ammunition without warning against the allegedly unarmed demonstrators, and 25 people were reportedly killed. According to the information received, those arrested are from the Sidama ethnic group. At the time the Special Rapporteur received the information, these people were reportedly being held incommunicado without charge.

(b) On 20 August 2003, three journalists from the weekly newspaper *Al-Nejashi*, publisher **Arif Abdul Kadir**, managing editor **Awol Kadir** and editor-in-chief **Yusuf Getachew**, were each handed a one-month prison sentence and fines from 600 to 1,000 Ethiopian birr (US\$ 70 to US\$ 117) following a Sharia Court decision. According to information received, the three journalists were arrested on 18 August 2003 and brought before a Sharia Court the following day on defamation charges, based on an article that appeared in the 6 June edition of the newspaper. It is reported that the three journalists were not given the possibility to defend themselves during their two-day trial, and that according to Press Proclamation 34/85, they should have been tried by the Federal High Court and not a Sharia Court. In this respect, it is the view of the Special Rapporteur that criminal sanctions for libel and defamation, in particular imprisonment, are not deemed proportional with an effective exercise of the right to freedom of opinion and expression.

(c) On 28 November 2003, the Special Rapporteur expressed his concern over reports of the closure of the **Ethiopian Free Press Association (EFJA)**, which was reportedly suspended by the Ministry of Justice on 10 November 2003 on the grounds that it had not renewed its annual licence for the past three years. However, it is alleged that this decision intervenes at the same time as the EFJA was expressing strong criticisms against a restrictive new press law, which is due to come into effect at the end of the year. It is reported that this new law will establish a Press Council which will be controlled by the Government, and that the authorities would be given control over who is authorized to be a journalist in the country and over access of foreign publications in the country.

Communications received

318. By letter dated 26 November 2003 the Government responded to the Special Rapporteur's communication dated 11 July 2003, and informed that the violent incident originated from the dispute on issues of administration of church properties between the administrators of Lideta Mariam Church and the Central Administration of the Ethiopian Orthodox Church, the supreme administrator of the Ethiopian Orthodox Synod. Rejecting an unfavourable court decision, the Lideta Mariam Church administrators instigated the followers of the church to attack the police force on duty in executing the Court's decision. Consequently, some police members on duty were injured and property was damaged. To pacify the chaotic situation the police force arrested the perpetrators, most of whom were released the same day and some on the following day on bail. At the time, the constitutional rights of all the detainees have been fully observed. A criminal charge against ten individuals actively involved in the series of criminal acts is proceeding, and no one is presently under detention in connection with the disturbances. The allegations of torture and arbitrary detention at the police training camp are untrue and without foundation.

319. On 8 December 2003, the Government, in relation to the Special Rapporteur's communication of 28 November 2003, transmitted a copy of the statement issued by the Ministry of Justice concerning the suspension of the **EFJA**. In this statement, the Ministry indicates that over the past three years, the EFJA's licence as an indigenous association was not renewed because the EFJA failed to present its annual performance and audit reports. The EFJA was notified several times to address this situation, in particular by letter dated 25 September 2003, to which the EFJA did not respond. By letter dated 12 October 2003, the Ministry requested the reports by 1 November 2003, and without a response from the association, appropriate measures were taken under the law.

Observations

320. The Special Rapporteur thanks the Government of Ethiopia for its replies and awaits information on the cases addressed in his communication of 7 October 2003.

321. The Special Rapporteur takes this opportunity to reiterate his request to undertake an official visit in the country as expressed in his letter dated 7 October 2002.

Gabon

Communications envoyées

322. Le 22 juillet 2003, le Rapporteur spécial a envoyé, conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire, un appel urgent concernant M. **Hugues Bessacques**, Président du comité de coordination nationale d'un mouvement d'opposition, le BDP-Gabon Nouveau, qui aurait été arrêté le 11 juillet 2003. Selon les informations reçues, M. Bessacques serait le cinquième militant du BDP-Gabon Nouveau arrêté. Les quatre autres militants, MM. **Brice Obanda**, **Gervais Amogo**, **Abdul Allogo Mintsa** et **Pascal Nkoulou**, auraient été arrêtés dans la nuit du 4 juillet, et n'auraient pas eu l'opportunité de contacter un avocat.

323. Le 14 août 2003, le Rapporteur spécial a envoyé un nouvel appel urgent concernant **Hughes Bessacques**, **Brice Obanda**, **Gervais Amogo**, **Abdul Allogo Mintsa** et **Pascal Nkoulou**, qui auraient été accusés d'insultes au chef de l'État et d'atteinte à l'ordre public après qu'ils auraient affiché des posters demandant le départ du Président Bongo, mais n'auraient pas été inculpés formellement. Les informations reçues semblent indiquer que certaines des personnes concernées auraient été brutalisées pendant leur arrestation, et auraient été initialement détenues à la Direction générale de la recherche à Libreville pour interrogation. Ils auraient été amenés devant un juge le 11 juillet, qui aurait ordonné leur transfert à la prison Gros-Bouquet pour une durée indéterminée. Il semblerait qu'ils n'aient pas eu accès à une représentation légale au cours de l'audience, et les membres de leurs familles n'auraient pas été autorisés à y assister. Leur avocat n'aurait eu accès à leur dossier que le 8 ou le 9 août. De plus, il semblerait que leurs familles rencontreraient des difficultés à les visiter en prison, et que Hughes Bessacques, qui aurait eu deux attaques de paludisme depuis le début de sa détention, n'aurait pas eu accès à un docteur. Les cinq détenus auraient entamé une grève de la faim depuis le début du mois d'août, et leur état de santé se détériorerait.

324. Le 7 octobre 2003, le Rapporteur spécial a envoyé une lettre d'allégation concernant les cas décrits ci-dessous:

(a) Le 23 septembre 2003, le bimensuel *La Sagaie* aurait été averti de sa suspension par courrier par le Conseil national de la communication (CNC). Le journal aurait été suspendu pour une durée indéterminée, et aurait été accusé «d'appel au tribalisme» et de «menace à la sûreté de l'État»;

(b) le 17 septembre 2003, la troisième édition du journal bimensuel *Sub-Version*, imprimé au Cameroun, aurait été saisie par la police de l'air et des frontières, alors que l'édition était livrée à l'aéroport de Libreville. Quatre membres de la rédaction du journal, qui étaient venus réceptionner le journal à l'aéroport, auraient été interpellés et interrogés avant d'être libérés quelques heures plus tard. Le journal aurait été accusé d'inciter la population à «l'insurrection» et de vouloir «déstabiliser les institutions de l'État»;

(c) le 12 mai 2003, le CNC aurait décidé de suspendre la publication du journal privé *Misamu*. Dans un communiqué daté du 12 mai 2003, le CNC aurait ordonné que le bimensuel *Misamu* cesse ses publications, officiellement en raison d'un conflit juridique sur la propriété du journal. Il semblerait que cette décision soit intervenue à la suite de révélations, par le média, sur la mort mystérieuse de l'aide de camp de la fille aînée et directrice de cabinet du Président Omar Bongo;

(d) le 15 mai 2003, le CNC aurait suspendu pour trois mois l'hebdomadaire *Le Temps*, semble-t-il en raison d'un article du 14 mai, intitulé «Plus de cinquante milliards de francs CFA [plus de 76 millions d'euros] gaspillés en deux nuits», dans lequel le financement destiné à l'organisation des «fêtes tournantes» de l'indépendance en août était remis en question. Selon le CNC, cet article aurait été de «nature à porter atteinte au crédit de la nation»;

(e) le 6 septembre 2002, les hebdomadaires *Misamu* et *Gabaon* auraient été suspendus pour trois mois sur ordre du CNC, qui leur aurait reproché la publication d'informations «de nature à porter atteinte au crédit de l'État et à la dignité des responsables des institutions de la République». Selon les informations transmises au Rapporteur spécial, l'hebdomadaire *Misamu* aurait été suspendu pour avoir fait état d'une «disparition de 3 milliards de francs CFA [environ 4,5 millions d'euros] des caisses du Trésor public», et pour avoir annoncé la possibilité d'un «non-paiement des salaires des fonctionnaires au mois de septembre 2002». De son côté, le journal *Gabaon* aurait été sanctionné après avoir critiqué «violemment» le Président du Sénat dans son édition du 9 août 2002.

Observations

325. Le Rapporteur spécial regrette qu'au moment de la rédaction du présent rapport aucune réponse du gouvernement à ses allégations ne lui soit parvenue.

Gambia

Communications sent

326. On 29 July 2003, the Special Rapporteur and the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders sent a joint letter of allegation with respect to information received indicating that at least **14 people**, including **minors** and **Omar Barrow**, a journalist and Gambia Red Cross volunteer wearing a Red Cross insignia, were killed, and dozens of others injured by security forces during demonstrations organized by the Gambian Students Union on 10 and 11 April 2000 in Banjul, Brikama and other towns. It is reported that security forces made an excessive and indiscriminate use of force to break up the demonstrations allegedly held in protest of the death allegedly after torture of **Ebrima Barry**, a student, by members of the Brikama Fire Service, and the rape of a **13-year-old schoolgirl** by a police officer. According to the information received, the demonstrations in Banjul on 10 April 2000 became violent when security forces attempted to disperse the

crowd by using tear gas, batons and rubber bullets. The security forces are reported to have fired into the crowd, reportedly using live ammunitions. Many students arrested during and after the demonstrations are believed to have been subjected to ill-treatment while in custody, in particular by officers of the National Intelligence Agency. It seems that although reports made by a Commission of Inquiry set up by the Government after the incidents and by the Coroner allegedly confirmed that security forces officers were responsible for the casualties, Government officials stated on 6 January 2001 that in the spirit of reconciliation, none would be prosecuted. On the other hand, it is reported that officers suspected of the death of Ebrima Barry have been arrested.

327. On 7 October 2003, the Special Rapporteur sent a letter of allegation to the Government, concerning the following cases:

(a) On 19 September 2003, **Abdoulie Sey**, editor-in-chief of the biweekly newspaper *The Independent*, was apparently arrested by three men in front of the newspaper's office in Banjul. Mr. Sey's whereabouts were reportedly unknown until 22 September, and reports indicated that officers from the National Intelligence Agency (NIA) and the Criminal Investigative Department (CID) denied arresting Mr. Sey, although reports seem to indicate that Mr. Sey was held incommunicado for three days at the Headquarters of the NIA. Mr. Sey was allegedly interrogated about an article published in *The Independent* on the day of his arrest, written by a Gambian journalist based outside the country and critical to the President. It is reported that Mr. Sey was not charged of any offence. It is further reported that the NIA would have indicated that it would monitor Mr. Sey's actions after his release.

(b) On 9 August 2003, the police reportedly assaulted **Buya Jammeh**, a reporter for the English-language biweekly *The Independent* near the newspaper's offices in Banjul. It was reported that two police officers stationed near the offices of the newspaper stopped Mr. Jammeh on his way to a radio station where he works part-time, and asked to search his bag, refusing to give a reason for the search. Mr. Jammeh reportedly resisted their order and the police officers allegedly confiscated his notebook and several compact discs, and then beat him until his face was swollen. It is alleged that this attack might be linked to *The Independent* recent reporting critical to the Government, and to an article written by Mr. Jammeh and published on 1 August about a government official convicted of theft in June.

(c) For more than two years, the Government has reportedly stopped the radio station Citizen FM from broadcasting, reportedly without a court decision supporting this decision, which was apparently taken by the President's Office. It seems that the interdiction made to Citizen FM to broadcast might be related to the fact that, on 5 February 1998, armed security personnel reportedly raided and shut down the radio and arrested its owner, **Bopubacar Gaye**, and its news editor, **Ebrima Sillah**, who were allegedly detained for several days at the NIA in Banjul. This might have followed a report in a news edition concerning a NIA officer and his implication in a counterfeit scandal. A magistrate court reportedly ruled on

28 August 1998 that the station and its equipment should be forfeited to the State, a decision quashed by the High Court in Banjul on 17 April 2000, which ordered that the equipment should be returned within seven days to the radio station. On 29 October 2001, Boubacar Gaye was reportedly again arrested by the NIA, allegedly in relation to the announcement by Citizen FM that the results of the 18 October presidential elections would be broadcasted as the results came in (E/CN.4/2002/75/Add.2, para. 54).

Observations

328. The Special Rapporteur regrets that at the time the report was finalized, no responses had been received to his communications.

Georgia

Communications sent

329. On 2 October 2003, the Special Rapporteur sent a communication concerning allegations that, on 27 September 2002, about 30 police officers broke into the offices of the **Odishi television station**, beat journalists and technicians and destroyed video and computer equipment. It was alleged that they later went to the home of journalist **Ms. Ema Gogokhia**, a regional correspondent for the independent station Rustavi 2, whose programmes were aired by Odishi, who was not at home at the time. They reportedly beat **her mother and ten-year old son**, and threatened to kill Ms. Gogokhia and her family. This attack reportedly occurred after Ms. Gogokhia helped produce two programmes denouncing police violence and a corrupt local police chief. In particular, it was reported that earlier on the day of the attack, the station had aired a Rustavi 2 report about violence by special police units in Zugdidi; the report was said to have detailed an assault by police officers on demonstrators who were protesting the transfer of four people suspected of killing a policeman to the capital. It was reported that the attackers included the Deputy Provincial Police Chief, the Deputy Police Chief of the Zugdidi district and the Regional Police Chief.

330. On 18 November 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Giorgi Mshvenieradze**, representative of the "Georgian Young Lawyers Association", Kutaisi branch, who was reportedly sentenced to three months of preliminary detention on 5 November 2003 by the Kobuleti Regional Court in the Autonomous Republic of Adjara. According to information received, Mr. Mshvenieradze, who was an observer for the parliamentary elections, conducted parallel counting of the votes on 2 November 2003 in Kobuleti (election region 81) in the village of Dagvi (election district 23), during which he reportedly noted serious violations of the election process in the polling station. It was reported that when he asked the members of the election commission to take note of these violations, he was beaten and arrested by officers of the local prosecutor's office. He was then allegedly first accused of violation and of obstructing the election process (article 162 of the Criminal Code) and hampering the activities of the election or referendum commission (article 163). On 4 November

2003, these charges were reportedly changed and he was accused of acts of hooliganism committed using guns or any objects serving as a weapon (article 239.3 of the Criminal Code), resistance against law enforcement officers or any other Government representative (article 353 of the Criminal Code) and violation of article 162. It was reported that his three-month preliminary detention sentence implies that he will be judged again at the end of his prison-term.

Communication received

331. In a letter dated 8 January 2004, the Government responded to the communication of 2 October 2003 and stated that the events of 27 September 2002 were related to the murder of Jemal Narmania, head of the property protection police of the Ministry of Internal Affairs in Zugidi. Following the announcement, on 26 September 2002, by the TV corporations Odishi and Rustavi 2 that the murderers had been arrested, a discussion between journalists of Odishi TV and family members of Jemal Narmania degenerated into a fight. The police forces, headed by Revaz Chikobava, arrived at the premises of the television station and, instead of protecting the journalists, physically and verbally abused the president of the television, Grigol Kobalia. A criminal investigation was initiated against Revaz Chikobava and others, but closed on 28 March 2003 for lack of evidence. On appeal against the latter decision, the Supreme Court returned the case of Revaz Chikobava for further investigation. Nevertheless, the prolongation of this investigation, still pending at the time of the reply, was complicated by the impossibility to interrogate Grigol Kobalia. There have not been any criminal proceedings related to the threats made to the family of Ema Gogokhia because the latter did not complain about it.

Observations

332. The Special Rapporteur thanks the Government of Georgia for its reply, but awaits a response to his communication of 18 November 2003.

Greece

Communications sent

333. On 4 June 2003, the Special Rapporteur sent an urgent appeal concerning the situation of **Gazmend Kapllani**, a journalist of Albanian origin who had been residing in Greece for the past twelve years. According to information received, Gazmend Kapllani had reportedly been living in Greece as a legal immigrant for 12 years working as a journalist for Greek media, including the *Ta Nea* newspaper and public radio as well as pursuing his PhD at the Panteion University. On 26 February 2002, he allegedly applied to renew his residence permit which had been so far renewed on a yearly basis. He allegedly received no answer until 27 February 2003 when the immigration office reportedly informed him that his request had been refused. This refusal allegedly came after the Ministry of Public Order claimed that Kapllani was considered to be a danger to the public order and security of the country. On 11 March 2003, following pressure from Greek media and public officials, Kapllani was allegedly invited by the Secretary General of the

Ministry of Public Order and told that his case would soon be resolved. Kapllani was allegedly arrested four days later by two policemen without warrant and detained at the Kolonos District prison for aliens in Athens. He was reportedly released upon the intervention of the *Ta Nea* and the Panteion University. The police allegedly explained his arrest by his conviction in absentia in 1992 for the non-payment of a traffic fine. Following this incident, the Minister of Public Order allegedly declared that he would personally examine the case. According to information received, the situation of Gazmend Kapllani could be related to his work as a journalist, in particular his articles on minorities and coexistence in Greece, Europe and the Balkans.

Observations

334. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

Guatemala

Comunicaciones enviadas

335. El 12 de marzo de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Isabel Enríquez y Marielos Monzón**. Según informes, el 23 de febrero de 2003, Isabel Enríquez, periodista de la agencia de noticias Centro de Reportes Informativos sobre Guatemala (CERIGUA), habría sido agredida y golpeada por dos hombres en la Ciudad de Guatemala. Desde su fundación en 1983, CERIGUA ha informado sobre la situación de los derechos humanos en Guatemala y habría sido constantemente objeto de intimidaciones. El 25 de febrero de 2003, Marielos Monzón, periodista para *Prensa Libre*, habría recibido amenazas de muerte a las pocas horas de publicar una columna que rendía homenaje a quienes luchan contra la impunidad. Sucesivamente, en fecha 2 de marzo de 2003, varias personas habrían entrado en el domicilio de la Sra. Monzón, robando piezas de la radio de los dos automóviles de la familia. Marielos Monzón habría recibido varias llamadas telefónicas anónimas y habría sido víctima de una serie de amenazas e intimidaciones, supuestamente relacionadas con su actividad periodística. Según informes, las autoridades todavía no habrían tomado medidas cautelares para proteger a la periodista y a sus dos hijos.

336. El 15 de abril de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Ileana Alamilla**, directora de la agencia de prensa CERIGUA, quien habría sido objeto de un robo el 9 de abril de 2003. Se teme que el hecho denunciado constituya una forma de intimidación contra Ileana Alamilla y CERIGUA por el trabajo que realizan en favor de la defensa, promoción y difusión de asuntos relacionados con los derechos humanos. El 9 de abril, desconocidos habrían robado el vehículo de Ileana Alamilla, que se encontraba estacionado fuera de las oficinas de CERIGUA en la capital. El Relator Especial también llamó la atención del Gobierno al llamamiento urgente enviado por la Representante Especial de Secretario General sobre la situación de los defensores de los derechos humanos, el 14 de abril de 2003, y que

concierno el presunto asalto sufrido por **Waldemar Barrera**, representante de la Procuraduría de los Derechos Humanos (PDH) en Izabal así como el presunto allanamiento y robo de las oficinas de la PDH.

337. El 16 de junio de 2003, el Relator Especial envió un llamamiento urgente relativo a la seguridad de los periodistas **Ricardo Castro** y **Pablo Rax Chub**. Ricardo Castro, miembro del Instituto de Previsión Social del Periodista (IPSP), habría recibido numerosas amenazas de muerte, tanto escritas como telefónicas. Según las informaciones recibidas, Pablo Rax Chub, director del informativo “La Noticia” de Radio Cobán también habría recibido amenazas. Habría denunciado el uso indebido de fondos municipales por parte de autoridades y habría informado sobre el supuesto descubrimiento de diez pistas de aterrizaje secretas que serían utilizadas para el transporte ilegal de drogas. Pablo Rax Chub habría llevado a cabo investigaciones sobre la proliferación del narcotráfico en el departamento de Alta Verapaz y sobre presuntos indicios de corrupción por parte de autoridades gubernamentales. Se alegó que como consecuencia de sus investigaciones, habría recibido numerosas llamadas telefónicas anónimas para que dejara de investigar. Se recibieron informes que indicaban que el 6 de junio de 2003, el primo de Pablo Rax Chub, Raúl Rax Coc, de 18 años de edad, habría fallecido después de haber sido apuñalado por desconocidos. No podía descartarse que su muerte estuviera relacionada con las amenazas recibidas por Pablo Rax Chub.

338. El 25 de junio de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con **José Rubén Zamora**, presidente del diario *El Periódico*, y su familia. Según la información recibida, el 24 de junio de 2003, un grupo de 12 hombres armados habría ingresado en la residencia de José Rubén Zamora. Se habrían identificado como agentes del ministerio público y de la Policía Nacional y durante dos horas habrían intimidado con sus armas a José Rubén Zamora y a su esposa y habrían agredido físicamente a sus tres hijos. Según las informaciones recibidas, el diario *El Periódico* se habría caracterizado por impulsar un periodismo investigativo y la publicación de amplios reportajes sobre la presunta corrupción de funcionarios del Gobierno y de diputados del partido gobernante, Frente Republicano Guatemalteco. Este diario también habría dado amplios espacios periodísticos al tema del crimen organizado, las presuntas actividades ilegales de los servicios de inteligencia, la presunta existencia de cuerpos clandestinos de seguridad y el supuesto patrón sistemático de violencia política contra operadores de justicia, defensores de derechos humanos, periodistas y científicos sociales. El diario habría investigado la presunta conexión de funcionarios de Gobierno y asesores presidenciales en dicha tipología criminal. Se alegó que José Rubén Zamora habría sido presionado por la Fiscalía contra la Corrupción para que presentara testimonio sobre las fuentes de información que utiliza *El Periódico* para fundamentar sus reportajes sobre corrupción, crimen organizado y poderes ocultos.

339. El 10 de julio de 2003, el Relator Especial envió un llamamiento urgente en relación con **Luis Alberto Pérez Barillas**, periodista, su hermana **María del Rosario Pérez Barillas** y **los hijos** de ésta, quienes habrían recibido amenazas e intimidaciones relacionadas con el trabajo de Luis Alberto Pérez Barillas como periodista. El 4 de julio de 2003, unos desconocidos habrían lanzado una bomba artesanal por encima del portón del

garaje de la residencia del periodista, en Rabinal, Baja Verapaz. El día siguiente, su hermana habría recibido una amenaza anónima en su casa en Rabinal con amenazas de muerte contra sus hijos. No sería la primera vez que el periodista recibía este tipo de intimidaciones. Los días 23 y 24 de junio de 2003, ya habría recibido dos llamadas de teléfono anónimas en las que el interlocutor le habría amenazado de muerte si no se callaba. Tras estas amenazas y el artefacto lanzado contra su residencia, Luis Alberto Pérez Barillas habría abandonado el hogar por temor por su seguridad. Recibiría protección policial, pero se alegó que ésta no sería suficiente para garantizar su seguridad. Por otra parte, se alegó que no se habría tomado ninguna medida para garantizar la seguridad de María del Rosario Pérez Barillas y sus hijos.

340. El 13 de agosto de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente conjunto en relación con la situación de **Norma Maldonado**, quien trabaja bajo el auspicio del grupo Mesa Global de Guatemala, el cual incluye a Mamá Maquin, un grupo rural de los derechos de la mujer. De acuerdo con las informaciones recibidas, el 24 de julio de 2003, tres hombres armados habrían irrumpido violentamente dentro de la casa de Norma Maldonado en la Ciudad de Guatemala. Los intrusos habrían violentado a los presentes y habrían abierto los archivos de varias computadoras, registrado documentos, discos y carpetas, en busca de informaciones específicas. Una hora más tarde, los asaltantes habrían huido, posiblemente alertados por las repetidas llamadas telefónicas y la llegada de un visitante. Los asaltantes se habrían apropiado de dos computadoras personales en las cuales se encontraba información sobre las actividades del grupo, así como de una cámara en la que se encontraría un rollo con las fotos del reciente encuentro de abogados y activistas del medio ambiente de México y Guatemala opuestos al llamado Plan Puebla Panamá (PPP), efectuado en junio de 2003 en Ixán, Guatemala. El Relator Especial expresó preocupaciones en torno a que esta incursión violenta fuera parte de una extensa cadena de intimidaciones y abusos dirigidos contra los líderes de grupos de medio ambiente y que estos ataques fueran una manera de silenciar las oposiciones al Área de Libre Comercio de las Américas y al PPP.

341. El 19 de agosto de 2003, el Relator Especial envió una comunicación en relación con **Héctor Ramírez**, periodista del noticiero *Notisiete*, **Edgar Valle**, del noticiero *Notisiete*, **Juan Carlos Torres**, de *El Periódico*, **Donald González**, de *Emisoras Unidas*, y **Héctor Estrada**, de *Guatevisión*, quienes habrían estado cubriendo una manifestación de simpatizantes del partido oficial los días 24 y 25 de julio de 2003, y quienes habrían sido agredidos y habrían recibido amenazas e intimidaciones de parte de los manifestantes, sin que los miembros de la Policía Nacional Civil presentes en el lugar de los hechos, intervinieran para garantizar su seguridad. El 24 de julio de 2003, simpatizantes del partido oficial Frente Republicano Guatemalteco (FRG), miembros de este partido y algunos funcionarios de Gobierno se habrían aglomerado en distintos puntos de la ciudad para expresar su rechazo por la decisión de los tribunales de suspender la inscripción como candidato del general retirado Efraín Ríos Montt. Cuando los periodistas arriba mencionados se disponían a cubrir las actividades de estos grupos en las oficinas del Centro Empresarial y la Corte Suprema de Justicia, los manifestantes, que habrían estado armados con palos, machetes y armas de fuego y que además se cubrían las caras, los

habrían agredido, causando la muerte de Héctor Ramírez. Los demás periodistas habrían recibido numerosos golpes y amenazas de muerte, a algunos también se les habría lanzado gasolina con la intención de prenderles fuego, sus equipos de trabajo les habrían sido arrebatados y en muchos casos destruidos *in situ*. Frente a estos hechos, ni los agentes de la Policía Nacional Civil ni ninguna otra autoridad del Estado habría actuado para proteger o intentar proteger o salvaguardar la integridad física de los comunicadores sociales, ni de la población en general, pese a una numerosa presencia de agentes de la Policía Nacional Civil, incluyendo el Grupo Elite Grupo de Acción Rápida (GAR).

342. El 1º de octubre de 2003, el Relator Especial envió una comunicación en relación con las siguientes informaciones.

- (a) El gremio periodístico guatemalteco habría enfrentado una serie de hostigamientos contra reporteros en diferentes regiones del país. En la población de Zacapa, el periodista **Juan Carlos Aquino**, conductor del radionoticiero “Punto Informativo” que se transmite diariamente a través de Radio Novedad, habría sido víctima de amenazas telefónicas, las cuales habrían continuado hasta el punto de tener que solicitar a la Policía Nacional Civil un acompañamiento pues le habrían advertido que tenían controlado su horario.
- (b) En la población de Izabal, el periodista **Edwin Perdomo**, del radionoticiero “Punto Informativo” que se transmite diariamente por Radio Porteña habría sido víctima de amenazas, en las cuales una voz masculina le habría advertido que de continuar informando correría la misma suerte que el periodista Mynor Alegría, quien habría sido asesinado en 2001.
- (c) En las poblaciones de San Marcos y Suchitepequez la Policía Nacional habría asediado a varios periodistas pidiéndoles datos personales, direcciones de sus residencias y el cargo que desempeñaban.
- (d) Asimismo, en el departamento de Retalhuleu, periodistas habrían sido intimidados en días previos a la visita del general Efraín Ríos Montt. En Chimaltenango, los periodistas habrían denunciado ante el Fiscal especial de delitos contra periodistas que fueron víctimas de hostigamientos, los cuales se encubrirían como hechos delictivos.
- (e) Finalmente se informó que en la capital, el periodista **Haroldo Sánchez**, director del Noticiero Televisivo Guatevisión habría sido amenazado de muerte por vía telefónica y por correo electrónico. Igualmente, reporteros y camarógrafos de dicho medio habrían sido objeto de ataques verbales. Según las informaciones recibidas, estos hechos estarían relacionados con los incidentes violentos provocados por los miembros del partido en el Gobierno en la capital.

Comunicaciones recibidas

343. Por carta de fecha 25 de marzo de 2003, el Gobierno de Guatemala contestó al llamamiento urgente del Relator Especial de fecha 17 de abril de 2002 (E/CN.4/2003/67/Add.1, párr. 245) en relación con la situación del periodista **David Herrera Quevado**. El Gobierno informó que David Herrera Quevado residía en la Ciudad de México, donde habría estado localizado por medio de Interpol.

344. Por carta de fecha 10 de julio de 2003, el Gobierno de Guatemala contestó al llamamiento urgente del Relator Especial de fecha 25 de junio de 2003 en relación con **José Rubén Zamora** e indicó que él había decidido enviar fuera del país a los miembros de su familia a principios de julio de 2003. El Estado de Guatemala informó de que estaba realizando las investigaciones pertinentes del caso para dar con las personas responsables del hecho y de que a solicitud de la Corte Interamericana de Derechos Humanos brindaba medidas cautelares al periodista José Rubén Zamora, quien permanecía en el país.

345. Por carta de fecha 13 de agosto de 2003, el Gobierno de Guatemala contestó al llamamiento urgente del Relator Especial de fecha 10 de julio de 2003 en relación con **Luis Alberto Pérez Barillas**, periodista, y su hermana, **María del Rosario Pérez Barillas**. El Gobierno informó que el caso era objeto de investigación por parte de las autoridades del sector justicia, y que las personas afectadas gozaban de medidas cautelares de seguridad de personas prestadas por las fuerzas de seguridad del Estado.

346. Por carta de fecha 22 de septiembre de 2003, el Gobierno de Guatemala contestó al llamamiento urgente del Relator Especial de fecha 16 de junio de 2003 relativo a la seguridad de los periodistas **Ricardo Castro** y **Pablo Rax Chub**. El Gobierno informó que se inició una investigación sobre los hechos denunciados y aseguró proporcionar al Relator Especial el resultado de las investigaciones y demás informaciones sobre este caso.

Observaciones

347. El Relator Especial da las gracias al Gobierno de Guatemala por sus respuestas, si bien espera otras respuestas a sus comunicaciones de fechas 12 de marzo, 15 de abril, 13 y 19 de agosto y 1.º de octubre de 2003.

Guinea-Bissau

Communications envoyées

348. Le 12 février 2003, le Rapporteur spécial, le Rapporteur spécial sur la question de la torture, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent se référant à des informations selon lesquelles **Joao Vas Mane**, Vice-Président de la Ligue guinéenne des droits de l'homme (LGDH), aurait été arrêté le 29 janvier 2003 par des membres des services de sécurité et se trouverait depuis lors détenu au secret à la Segunda Esquadra, où il aurait subi des interrogatoires, en particulier le 30 janvier 2003 entre une heure et quatre heures du matin. Il n'aurait pas eu accès à son avocat, n'aurait pas pu entrer en contact avec sa famille ni n'aurait été présenté devant un juge. L'arrestation de Joao Vas Mane serait liée à sa participation, le 28 janvier 2002, à une émission de la radio Bombolom, «Palabre de paix», pendant laquelle il aurait critiqué le Président Kumba Yala d'avoir mobilisé des fonds pour le voyage des pèlerins à La Mecque tandis que des fonctionnaires de l'État n'auraient pas été payés depuis quatre à sept mois.

349. Le 18 février 2003, le Rapporteur spécial a envoyé un appel urgent concernant la station de radio privée **Bombolom**, qui aurait été fermée par décret le 12 février 2003, après avoir transmis des propos critiques envers le gouvernement. Le Secrétaire d'État à la communication aurait affirmé que Radio Bombolom était devenue un instrument politique au service de l'opposition et par conséquent une menace contre la paix. Le Ministre de l'intérieur aurait pour sa part indiqué que cette station de radio était une menace contre l'indépendance du pays et qu'elle avait diffusé de fausses nouvelles. Selon l'information reçue, de l'inquiétude a été exprimée aussi à propos de la chaîne de télévision RTP-Africa qui serait susceptible de subir le même sort que Radio Bombolom.

350. Le 7 août 2003, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un deuxième appel urgent concernant **Joao Vas Mane**, qui aurait fait l'objet de menaces de la part d'un officier supérieur de la police. Le 9 juillet 2003, lors d'un programme radio hebdomadaire de la chaîne privée Bombolom, consacré à la sensibilisation des auditeurs aux droits de l'homme, Joao Vas Mane aurait parlé d'un homme de 18 ans qui aurait été tué par un agent de police, et d'une femme, qui aurait été victime d'une arrestation arbitraire et de violences sexuelles de la part de policiers. En réaction aux propos de Joao Vaz Mane, et lors d'une conférence de presse en date du 14 juillet, le commissaire général de la police aurait critiqué les activités de la LGDH et aurait proféré des menaces à l'encontre de Joao Vaz Mane.

Observations

351. Le Rapporteur spécial regrette qu'au moment de la rédaction du présent rapport aucune réponse du gouvernement à ses allégations ne lui soit parvenue.

Haiti

Communications envoyées

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

353. Le 18 février 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé un appel urgent relatif à la situation de **Jean-Numa Goudu**, journaliste de Radio Métropole et rédacteur de Haïti Press Network. Selon l'information reçue, pendant la nuit du 14 février 2003 des inconnus auraient essayé de mettre le feu au domicile de M. Goudu en incendiant le véhicule stationné dans le garage. Le feu aurait été circonscrit grâce à l'intervention de voisins, M. Goudu étant absent au moment où les faits se seraient produits. Le journaliste aurait affirmé que, la nuit du 14 février, il ne se trouvait pas à la maison, craignant pour sa vie suite aux menaces qu'il aurait reçues depuis quelque temps et en particulier pendant la journée du 14 février.

354. Le 24 février 2003, le Rapporteur spécial a envoyé un appel urgent concernant la situation de **Montigene Sincere**. Selon l'information reçue, le 18 février 2003, un groupe de personnes appartenant probablement au parti au gouvernement, aurait mis le feu et saccagé la maison de Montigene Sincere, journaliste pour la station de radio Petit-Goave et membre du parti d'opposition nationale Movement for Development. M. Sincere aurait pu échapper à l'incendie, pendant que son fils, David Sincere, correspondant pour la station de radio Piman Bouk de Miami, aurait été arrêté par la police et libéré quelques heures plus tard. Le Rapporteur spécial a aussi été informé que Radio Haïti Inter aurait cessé ses émissions à la suite de menaces constantes que ses journalistes auraient reçues. L'annonce aurait été faite par la directrice de la radio, Mme **Michèle Montas**, à propos de laquelle un appel urgent a été transmis le 8 janvier 2003.

355. Le 8 mai 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé un appel urgent relatif à la situation de **Liliane Pierre-Paul**, journaliste, directrice de la programmation et présentatrice d'une émission d'information sur Radio Kiskeya. D'après les informations à disposition, le 30 avril 2003, Liliane Pierre-Paul aurait reçu à la rédaction de Radio Kiskeya un courrier contenant une cartouche de calibre 12 mm et une lettre exigeant, sous peine de mort, que la journaliste lise chaque jour à l'antenne, jusqu'au 6 mai, une déclaration en faveur de la restitution par la France à Haïti de 21,7 milliards de dollars. La lettre menacerait également de s'en prendre aux ressortissants français. Cette somme aurait été demandée à la France par le Président Aristide au titre de «réparation» des 90 millions de francs-or versés par Haïti au XIX^e siècle pour obtenir de la France la reconnaissance de l'indépendance du pays. Liliane Pierre-Paul aurait déjà été victime de menaces. En janvier 2001, Paul Raymond et René Civil, deux responsables d'organisations populaires (OP) proches de Jean-Bertrand Aristide, auraient appelé à la tuer, l'accusant de faire partie d'une liste attribuée à l'opposition sur laquelle figuraient, selon eux, des noms de personnalités souhaitant former un gouvernement parallèle. Radio Kiskeya aurait également reçu des menaces à plusieurs reprises. En septembre 2002, la station aurait été contrainte de suspendre ses émissions après avoir reçu des informations sur une tentative d'incendie de ses locaux.

356. Le 13 août 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une lettre d'allégation relative aux cas suivants. Plusieurs manifestants, dont **Josué Méridien**, responsable de l'UNHO, un syndicat d'enseignants, auraient été frappés à coups de bâton lors de la répression d'une

manifestation tenue le 20 mars 2003 à Port-au-Prince. D'après les renseignements reçus, la manifestation, composée majoritairement d'enseignants, de syndicalistes et d'étudiants, visait à protester contre le régime de Jean-Bertrand Aristide. Au cours de cette manifestation, plusieurs unités de la Compagnie d'intervention et de maintien de l'ordre (CIMO) seraient intervenues et auraient fait un usage excessif de gaz lacrymogènes, coups de bâton et de crosse, coups de poing et de pied. Plusieurs personnes auraient également été arrêtées. **Gotson Jocelyn**, journaliste pour Haiti Press Network, **Kosi Roosevelt** et **Romney Cajuste**, journalistes pour Radio Métropole, et **Jean-Baptiste François**, journaliste pour Vision 2000, auraient subi un traitement similaire. **Lucknell Adinot**, un journaliste de Radio Galaxie, aurait été frappé par un agent de police alors qu'il couvrait une manifestation le 30 août 2002 à Miragoâne.

357. Le 23 octobre 2003, le Rapporteur spécial a attiré l'attention du gouvernement sur les cas suivants. Selon les informations reçues, le 20 octobre 2003, la police aurait brutalement dispersé une manifestation organisée par l'Union des citoyens des Gonaïves (UCGO), pour réclamer le départ du Président Jean-Bertrand Aristide. La police aurait également arrêté un certain nombre de manifestants. De plus, selon les informations reçues, dans le quartier Cité-Soleil à Port-au-Prince le 12 juillet 2003, les représentants d'un groupe d'opposition, accompagnés de membres de la presse, d'une délégation de la mission spéciale des États américains et de plusieurs diplomates accrédités dans le pays, se seraient dirigés en convoi vers ladite Cité-Soleil pour une rencontre avec une personnalité religieuse. Ils auraient aussitôt fait l'objet d'actes d'intimidation et de violences, par des groupes organisés vraisemblablement proches du pouvoir, qui voulaient manifester leur soutien au gouvernement. L'attaque aurait fait une quarantaine de blessés parmi les membres du convoi. Enfin, le Rapporteur spécial a reçu des informations selon lesquelles quelques milliers d'étudiants, de professeurs et de syndicalistes auraient manifesté dans les rues de Port-au-Prince le 20 mars 2003, criant des slogans hostiles au Président Aristide. Il semblerait que les forces de police et de milices armées auraient réprimé cette manifestation, utilisant des gaz lacrymogènes, des bâtons, des crosses d'armes. **M. Mérillien**, un professeur, aurait été battu par deux agents de la CIMO, de même que **Jocelyn Gotson**, journaliste au HPN, **Kosi Roosevelt** et **Cajuste Romney**, journalistes à Radio Métropole, **Jean-Baptiste François**, journaliste à Vision 2000.

358. Le 19 décembre 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a attiré l'attention du gouvernement sur des violations des droits de l'homme qui seraient survenues en Haïti. Selon les informations reçues, environ **25 personnes**, en majorité des étudiants et des professeurs, auraient été blessées à Haïti le 5 décembre 2003, jour où les étudiants avaient décidé de manifester dans les rues en opposition à la politique du gouvernement. Selon les informations reçues, les étudiants auraient été attaqués par des partisans du parti Lavalas au pouvoir alors qu'ils se trouvaient dans l'enceinte de l'université. Les contre-manifestants se seraient servis d'armes à feu, de pierres et de bâtons au cours de leur attaque et ce, en présence de la police qui n'aurait rien tenté pour les évacuer. 21 blessés, dont 5 par balles, auraient été admis à l'hôpital du Canapé-Vert. Parmi les blessés figurerait le recteur de l'Université d'État d'Haïti **Pierre-Marie Paquiot**, ainsi que le vice-recteur **Wilson Laleau**. Lors de ces incidents, des journalistes auraient été blessés, notamment **Rodson Jocelyn**, journaliste pour l'agence en ligne Haïti Press Network, et

Jean Venel Casséus, journaliste à Radio Kiskeya. Suite à ces événements, le jeudi 11 décembre 2003, différentes unités de la police nationale d'Haïti auraient lancé une vaste opération dans le quartier populaire Raboteau (Gonaïves), bastion de la protestation contre le Président Jean-Bertrand Aristide. Un affrontement aurait eu lieu entre la police et les membres de la population civile qui réclamaient le départ du Président Aristide. Selon les informations reçues, plusieurs personnes auraient été tuées par balles et un nombre important de blessés aurait été enregistré à l'hôpital La Providence. Un élève nommé **Charles Daniel** aurait succombé à ses blessures. Depuis le lancement du mouvement de mobilisation visant à renverser le Président Aristide, le 22 septembre 2003 aux Gonaïves, de nombreuses victimes auraient été enregistrées dans la population civile.

Communications reçues

359. Le 10 janvier 2003, le Gouvernement haïtien a répondu à la communication du 8 janvier 2003 informant que la Direction centrale de la police judiciaire a ouvert une enquête en vue d'appréhender les criminels pour les traduire en justice. Le gouvernement a précisé qu'il avait pris de nombreuses mesures pour protéger et garantir la sécurité de Mme Michèle Montas.

360. Le 23 mai 2003, le Gouvernement haïtien a répondu à la communication du 8 mai 2003 informant qu'une équipe avait été chargée de renforcer la sécurité de la journaliste Liliane Pierre-Paul et indiquant qu'une enquête judiciaire avait été ouverte.

Observations

361. Le Rapporteur spécial remercie le Gouvernement haïtien pour ses réponses, mais il attend de recevoir des informations concernant les communications du 18 février, du 24 février, du 13 août, du 23 octobre et du 19 décembre 2003.

Honduras

Comunicaciones enviadas

362. El 20 de agosto de 2003, el Relator Especial envió un llamamiento urgente en relación con la periodista **Rossana Guevara**, directora del noticiero TN5, del Canal 5, de la Corporación Televicentro. Según la información recibida, la periodista habría sido querellada el 7 de agosto de 2003 bajo el delito de difamación y calumnia por difundir, el 20 de mayo de 2003, una nota informativa acerca de la corrupción y la quiebra de bancos en Honduras. La demanda la habría sido interpuesta por un diputado del Parlamento Centroamericano (PARLACEN), ex banquero y propietario de medios de comunicación, actualmente prófugo de la justicia por presumirse responsable en la millonaria quiebra del Banco Corporativo (Bancorp). El 20 de mayo, Rossana Guevara habría difundido una nota del Consejo Nacional Anticorrupción que habría abordado el tema de la quiebra de bancos y en la cual se mencionarían la fuga del diputado y el caso del Bancorp, entre otros. El diputado habría dicho sentirse "ofendido" por dicha mención y habría instruido a sus abogados para querellarla por difamación y calumnia, un delito que no es fiable y tiene penas por el orden de seis y nueve años. Rossana Guevara habría sido citada para el 13 de

agosto al Tribunal de Sentencia para una audiencia conciliatoria pero su abogado sostendría que ella no cometió falta en ningún momento, ya que el caso del diputado era de público conocimiento.

363. El 21 de agosto de 2003, el Relator Especial envió un llamamiento urgente en relación con el periodista **Renato Álvarez**, responsable del programa de debates "Frente a Frente" de la Corporación Telecentro. Según la información recibida, tras fracasar dos audiencias de conciliación, sostenidas el 14 de agosto de 2003, el periodista enfrentará dos juicios bajo la acusación de difamación y calumnia, por divulgar un informe que habría revelado presuntos vínculos del narcotráfico en Honduras. Uno de los demandantes sería un abogado considerado como una pieza clave para los narcotraficantes en Honduras. El otro sería un antiguo diputado. En las audiencias de conciliación, cada una por separado, ambas partes habrían pedido que el periodista revelara la fuente, a lo que éste no habría accedido. Mientras que el antiguo diputado desde el inicio de la audiencia habría dicho que no quería conciliar, sino una sentencia condenatoria en contra del periodista por considerar que se habría "denigrado su imagen y dignidad". Renato Álvarez en ambos casos habría sostenido que él no elaboró el informe, que no revelaría la fuente y que el documento se encontraría desde hace un año en poder de la Fiscalía, el Ministerio de Seguridad y la Embajada de los Estados Unidos en Tegucigalpa, agregando que ninguno de los operadores de justicia habría querido investigar las denuncias ahí planteadas. El periodista habría reiterado que la decisión de revelar el documento obedece "al principio que rige a todo periodista de garantizar el derecho a la información y la libertad de expresión, con el fin de que la ciudadanía conozca de los casos que se le ocultan y que son de interés público". El caso del periodista Álvarez se suma al de **Rossana Guevara**, cuya situación fue tratada por un llamamiento urgente de fecha 20 de agosto de 2003.

364. El 2 de octubre de 2003, el Relator Especial envió una comunicación en relación con la siguiente información. El día 24 de octubre de 2002, en la ciudad de Tegucigalpa, habría tenido lugar una protesta protagonizada por el Bloque Popular, el Colegio de Profesores de Educación media de Honduras (COPEMH) y el Sindicato Nacional de Acueductos y Alcantarillados (SANAA), la cual habría sido reprimida con fuerza excesiva por agentes policiales. De acuerdo con las informaciones recibidas, los manifestantes habrían destruido parte de la cerca de barrotes construida en el Congreso, lo cual habría provocado la reacción de los policías, quienes habrían lanzado gases. Los manifestantes habrían contraatacado con palos y piedras. Algunos periodistas que llevaban identificación habrían resultado heridos, entre ellos: el camarógrafo del Canal 11 **Edwin Murillo**, **Mario Fajardo**, fotógrafo de La tribuna y el camarógrafo de TN5 **Carlos Lagos**. Se informó asimismo que los periodistas **Estalin Arias**, de El Herlado, **Sergio Flores**, de Canal 63, **Miguel Osorio**, de TN5, **Aldo Enrique Romero**, de TVC, **Jorge Méndez Corpio**, de Canal 36, **Onan Figueroa** y **Jessenia Bonilla**, de Canal 11 y **Carlos Paz**, de Radio Reloj, **Jorge Valle**, **Jimmy Alvarado** y **Jaime Amador** habrían sido igualmente atacados.

Comunicaciones recibidas

365. Por carta de fecha 21 de octubre de 2003, el Gobierno contestó al llamamiento urgente del Relator Especial de fecha 20 de agosto de 2003 respecto al caso de la

periodista **Rossana Guevara** y aseguró que informaría al Relator Especial acerca de la sentencia de la Corte Suprema.

366. Por carta de fecha 22 de octubre de 2003, el Gobierno de Honduras contestó al llamamiento urgente del Relator Especial de fecha 21 de agosto de 2003 en relación con el periodista **Renato Álvarez** e informó que el nuevo sistema de enjuiciamiento penal preveía un procedimiento especial para el conocimiento y sanción de los delitos de naturaleza privada, entre ellos los que atentan contra el honor de las personas. En este caso, el juicio aún no había concluido. El Gobierno aseguró informar oportunamente al Relator Especial acerca de la sentencia.

Observaciones

367. El Relator Especial da las gracias al Gobierno de Honduras por sus respuestas, si bien espera otra respuesta a su comunicación de fecha 2 de octubre de 2003.

India

Communications sent

368. On 27 March 2003, the Special Rapporteur sent an urgent appeal concerning reports that on 4 March 2003, a bomb exploded in front of the offices of the Nepalese-language newspaper *Sunchari Samachar*, in Siliguri (north-eastern State's Darjeeling district). It was reported that the blast may have been linked with *Sunchari Samachar's* coverage of the situation in the Darjeeling Gorkha Autonomous Hill Council region. It is reported that up till now no clues have been found as to who was responsible for this attack and fears for the safety of *Sunchari Samachar's* journalists were expressed.

369. On 24 October 2003, the Special Rapporteur sent a letter of allegation concerning **Parmanand Goyal**, a journalist for the "Punjab Kesari" and Kaithal Unit President of the Haryana Union of Journalists, who was reportedly murdered at 7 a.m. on 18 September 2003. It was reported that Mr. Goyal was called outside his home by three unidentified persons and shot dead in front of his family. Reports indicate that Mr. Goyal was arrested in connection with two corruption cases earlier during the year and released on bail just before his death, although it seems that the cases against him were fabricated. According to information received, the three unidentified visitors threatened him not to report anymore on the police and on a Haryana Chief Minister, after which an argument took place between the three men and Mr. Goyal, and the latter was shot. It is also reported that the police refused to register a First Information Report on the case.

Communications received

370. By letter dated 8 January 2003, the Government responded to the communication dated 2 July 2002 relating to reports that on 26 June 2002, the offices of the web site "**Tehelka.com**" and the home of one of its journalists were searched (see E/CN.4/2003/67/Add.1, para. 264). In this respect, the Government indicated that the poaching case was initially registered on 24 May 2002 by the Uttar Pradesh Police, after the Bihari Police had recovered leopard and other animal skins, two country-made arms, a

camera and details of some telephone numbers. They found evidence that the news-portal “Tehelka.com” was associated with the crime. Considering the fact that the case had interstate ramifications and a Delhi-based journalist was involved, the case was transferred to CBI, which registered the case. Upon investigation, facts were established that the poaching was done at the behest of **Kumar Badal**, and on this basis searches were conducted, which resulted in the recovery of documents for the purpose of the investigation. Mr. Badal presented himself at the CBI office on 3 July 2002 and was arrested in the evening after several hours of interrogation, which established his complicity in the case. His lawyers were present during the interrogation. After completion of the investigation, a complaint against the three accused persons (two poachers and Kumar Badal) was filed in the Court of Special Magistrate in Ghaziabad (Uttar Pradesh) on 22 July 2002. The three men were in judicial custody at the time the response was sent, and the case was at the stage of pre-charge evidence. In view of these elements, the Government concludes that any allegation of harassment of journalists/staff of “Tehelka.com” is false.

371. On the same date, the Government responded to a communication dated 15 July 2002 (see E/CN.4/2003/67/Add.1, para. 265) regarding **Partha Chettri, Maheshwar Dahal** and **Aditi Shah**, journalists, and **Moti Prasad**, a student, all Nepalese nationals, who were, at the time the communication was sent, reportedly in detention and facing imminent deportation to Nepal where it was feared that they would be at risk of torture and other forms of ill-treatment. The Government indicated in response that information was received from intelligence agencies that activists and members of the Communist Party of Nepal (CPN) (Maoist) would hold a secret meeting on 11 July 2002 at 4:30 p.m. at Triveni Kala Sangam in New Delhi. A check was done at the end of the meeting and 13 persons attending the meeting were detained and asked to provide their names and addresses, but they refused and resisted. They were brought for verifications to the Special Cell office at the Lodhi Colony Police Station. Nine of the 13 were found to be of Indian nationality and were released at 7 p.m.; the other four, Partha Chettri, Maheshwar Dahal, Aditi Shah and Moti Prasad, were identified as Nepalese citizens and members of the Akhil Bhartiya Nepali Ekta Samaj (Pro-CPN (Maoist)). Details were obtained on these persons from the embassy of Nepal, indicating in particular that they were wanted in Nepal for their alleged connection with terrorists. Accordingly, a request was made to the Foreigners Regional Registration Office (FRRO) in New Delhi to serve Leave India Notice, as the activities of the four were found to be detrimental to the interests of the country. The Notice was served on 11 July 2002. A team of officers were sent along with the four persons to the border, and they were handed to the Nepalese authorities at the Rupaidah check post near the State of Uttar Pradesh on 12 July 2002. A writ petition was submitted on behalf of Partha Chettri, Maheshwar Dahal, Aditi Shah and Moti Prasad to the Honourable High Court of New Delhi, which was dismissed with an observation that there had been no violation of fundamental rights of the four persons.

372. By letter dated 16 December 2003, the Government responded to the communication of 27 March 2003 regarding the bombing of the Nepalese-language newspaper *Sunchari Samachar*, and indicated that inquiries conducted revealed that on 4 March 2003, the house-inmates and some of the employees who were present in the office-cum-residence of the two-storeyed building known as Sunchari Samachar house of the

Nepali newspaper felt an explosion in the building compound. In his statement, Dr. Kumar Pradham, editor of *Sunchari Samachar*, ruled out any enmity behind the explosion, adding that his newspaper's circulation was blocked in certain areas by the Gorkha National Liberation Front (GNLF) supporters in 1988. It was found that the day before the explosion, the paper published an editorial about political clashes between GNLF and GNLF (C), at which the Secretary of the Press and Publicity section of GNLF protested. A rectification article was published the following day. The Government also indicated that while the investigation had not yet been concluded, all measures were being taken to ensure the safety and security of the journalists and to prevent the recurrence of similar incidents.

Observations

373. The Special Rapporteur thanks the Government of India for its replies, and he awaits a further response to his communication of 24 October 2003.

Indonesia

Communications sent

374. On 2 April 2003, the Special Rapporteur sent, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, an urgent appeal concerning **Mukhlis Ishak**, aged 27, and **Zulfikar**, members of the non-governmental organization Link for Community Development (LCD), which assists internally displaced people, who were reportedly detained on the morning of 25 March 2003 by plain-clothes men. They were reportedly arrested while accompanying villagers who were demonstrating outside the office of the District Head (Bupati) of Bireuen District, to protest against plans to establish a Police Mobile Brigade (Brimob) post in their village. They were believed to be detained by the Indonesian Military, Tentara Nasional Indonesia, and held in the SGI military post in Bireuen District, Nanggroe Aceh Darussalam Province.

375. On 10 April 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent a joint urgent appeal concerning the case of **Susyanti Kamil** (f), a 22-year-old student, **An'am Jaya** (f), aged 24, **Sahabuddin**, a 23-year-old student, **Ansar Suherman**, a 21-year-old student, **Hariansyah**, a 22-year-old volunteer, and **Muhammad Akman**, a 24-year-old student, who were reportedly arrested on 25 January 2003 in Sulawesi Tenggara Province. The six activists from a coalition of non-governmental organizations known as the Governing Front of the Poor (*Front Pemerintah Rakyat Miskin, FPRM*) were reportedly charged under articles of the Indonesian Criminal Code which punish "insulting the President and Vice-President" (article 134) and "hate-sowing" (articles 154 and 155) with up to six and seven years' imprisonment respectively. It is alleged that two days before their arrest they had participated in a peaceful demonstration organized by the Governing Front of the Poor in Kendari Town, Kendari Subdistrict. According to the information received, they were initially detained at Kendari Police Station (Polres Kendari), where they were believed to have been beaten and kicked, and to have had objects thrown at them. Complaints from lawyers about their ill-treatment reportedly resulted in one police officer being transferred. The six detainees were

reportedly moved on 19 March 2003 to Kendari Prison (Rumah Tahanan Kendari) where they were also said to have been beaten. They allegedly suffered bruises on their foreheads, arms and legs.

376. Access of the above-named persons to their lawyers was also said to have been restricted. It is alleged that they were questioned without their legal representatives being present because police claimed that they were unable to contact them, and because questioning was carried out at night. Although it was believed that they had access to medical attention, serious concern was expressed that they might be subjected to further torture or other forms of ill-treatment while in detention.

377. On 16 June 2003, the Special Rapporteur sent an urgent appeal concerning the **situation of freedom of the press in Aceh Province**. According to information received, since the declaration of martial law in Aceh, on 19 May 2003, there were several developments that limit the freedom of journalists to report independently and without harm on the situation in the Province. It was alleged that the head of the military authority in Aceh, Maj. Gen. Endang Suwarya, reportedly called on journalists not to report any statements made by members of the Free Aceh Movement (GAM). Maj. Gen. Suwarya has been quoted in the *Jakarta Post* as allegedly stating: "I demand that all news reports support the nationalist spirit. The interests of the unitary state must come first." It was also reported that all journalists reporting from Aceh were required to get an accreditation from the Indonesian military, and that the applications of about 10 foreign-based journalists to report from the Province were reportedly turned down on the grounds that there was no need for foreign observers in Aceh.

378. It was also alleged that during the past two weeks, security forces in Aceh had detained, interrogated, and threatened local journalists and foreign correspondents who reported on abuses committed by soldiers and police in the course of the military operations, and allegedly intimidated their sources. It was reported that in most cases, journalists who had allegedly suffered threats, detention or interrogation did not want to reveal their identities for fear of further reprisals against them and their sources. It was also reported that those journalists who investigated allegations that the military executed 10 unarmed villagers in Peusangan Subdistrict, in Bireun, had reportedly come under intense pressure by military authorities in Aceh.

379. In addition, reports indicated that *Serambi*, a local newspaper and "Metro TV", a private broadcaster, reportedly received warnings for carrying reports considered favourable to GAM. It was alleged that the national daily newspaper, *Koran Tempo*, was also threatened with legal action by the military for a report on the alleged extrajudicial killing of civilians in Bireun. Several journalists were also reported to have been ambushed by unknown snipers. Journalist **Rizal Wahyu** and cameraman **Yusrizal** from the Indonesian broadcaster "TV 7", were allegedly ambushed on 21 and 24 May by snipers in Teupin Raya Subdistrict while they were travelling from Banda Aceh to Lhokseumawe. On May 24, a second car travelling close behind the "TV 7" vehicle, carrying reporter **Delphi Sinambela**, who works for the Indonesian channel "Trans TV" was allegedly also ambushed. Both vehicles are reported to have been clearly marked "PRESS."

380. On 25 May, along the same stretch of road in Teupin Raya, unidentified gunmen allegedly fired on two cars carrying six journalists, including **Kemal Jufri**, a photographer for *Time* magazine, **Andrew Marshall**, a *Time* reporter, and **Orlando de Guzman**, South-East Asia correspondent for Public Radio International's "The World" programme. The journalists' vehicles were both reportedly clearly marked "PRESS." Journalists are said to have reported that sustained gunfire from at least two rifles followed the cars for at least a minute. On the same day, in a separate incident at the same location, snipers were reported to have fired at a car carrying journalists from the Indonesian broadcaster "Metro TV". Bullets were reported to have shattered the rear window of the vehicle and also hit the driver side door. Also on May 25, it was alleged that a "TV 7" crew stopped in Teupin Raya Subdistrict to take photographs of burned-out buses and trucks lying along the road when unidentified men wearing camouflage uniforms allegedly sped towards them on motorcycles and began firing at them with rifles.

381. It was also reported that **Muhammad Jamal**, an employee of the production department of the state television "TVRI" was allegedly taken by unidentified men from "TVRI" office in Banda Aceh. His whereabouts were allegedly unknown at the time the communication was sent.

382. Fears were also expressed about the safety of an American freelance reporter and photographer, **William Nessen**, who was reportedly missing since 10 June 2003. According to the information received, William Nessen was reporting on the situation in Aceh for the several years. It was alleged that Nessen called his wife on a satellite phone on 10 June and allegedly told her he was covering fighting from behind the rebel lines and that the army had just opened fire, forcing them to flee. She reportedly heard shots, after which the line was said to have been cut off. It was further alleged that he was unable to send stories in recent weeks because the army had allegedly blocked communication lines. According to the information received, William Nessen was properly accredited by the Government of Indonesia. It was alleged, however, that the Information Minister reportedly denied this by saying that "as a tourist, he has no business being there."

383. On 9 July 2003, the Special Rapporteur sent, jointly with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the independence of judges and lawyers, an urgent appeal concerning **Gustaf Ayomi**, **John Hilipok**, **Welmus Asso** and **Elias Asso**, who were reportedly arrested on 7 July 2003 at around 3 a.m. during a pro-independence ceremony in the town of Wamena, Jayawijaya District, Papua Province. They had been participating in the demonstration outside the local Parliament building at which the Morning Star flag, a symbol of support for Papuan independence, was raised. A police patrol reportedly arrived and tried to break up the ceremony. According to the police, they opened fire after the demonstrators attacked them. It was alleged that during this intervention, **Iyut Heselo** was killed. **Welmus Asso** and **Elias Asso** were reportedly shot at and then taken to the local hospital. According to the information received, **Gustaf Ayomi** and **John Hilipok** were taken to the Wamena Police Resort (Polres). It was reported that they had no access to lawyers and that their families were too frightened to visit them. In view of the

incommunicado nature of their detention, fears were expressed that they may be at risk of torture or ill-treatment.

384. On 24 July 2003, the Special Rapporteur sent an urgent appeal regarding the situation of **William Nessen**, a journalist accredited with the “San Francisco Chronicle” who was writing a book on, and gathering footage for, a documentary about the separatist Free Aceh Movement, for whom an urgent appeal was sent on 16 June 2003. It was reported that Mr. Nessen was charged with technical immigration violations, although he was reportedly holding a valid journalist visa. It was also reported that he was put on trial on 23 July 2003 and was facing up to five years in prison if convicted. It was believed that Mr. Nessen, who stayed with anti-Government rebels in the Aceh Province, was arrested on 24 June and detained since then at the police headquarters in Banda Aceh.

385. On 9 October 2003, the Special Rapporteur sent an urgent appeal concerning the reported filing of criminal charges against **Supratman**, the executive editor of the daily newspaper *Rakyat Merdeka*. According to information received, Supratman was indicted for running four headlines in January 2003 that were allegedly offensive to the President. He was allegedly charged under articles 134 and 137 of the Criminal Code, which make an “intentional insult” of the President or Vice-President punishable by up to six years in jail, and punish “anyone who disseminates, displays, or posts writings or photographs which are offensive to the President or Vice-President” with up to one year and four months in jail. It was reported that, at the time the communication was sent, his case was being heard in the South Jakarta District Court.

386. On the same date, the Special Rapporteur sent another urgent appeal concerning the reported cases against the magazine *Tempo*. According to information received, one case involved a defamation charge against the magazine, after the complaint of a businessman concerning a 12 March 2003 report in the magazine in which he was called a “thug”. Another case reportedly concerned a 3 March 2003 report, in which the magazine published allegations that the same businessman was set to profit from a blaze at a textile market. In this respect, reports were received that two criminal and six civil charges, including charges for criminal defamation, which carry a sentence of up to four years in prison, were filed against the magazine and **Bambang Harymurti**, chief editor, **Iskandar Ali**, editor, and **Ahmad Taufik**, journalist. On that basis, it was reported that on 29 September 2003, a court ordered the sequestration of the home of **Goenawan Mohamad**, co-founder and senior editor of *Tempo*, as collateral, and of the offices of “Koran Tempo”, in order to make provision for the damage claim amounting to Rp200 million (approximately €20 million), which would threaten the survival of the newspaper. On that occasion, the Special Rapporteur underlined the principle of proportionality of the sentence and indicated that criminal sanctions, in particular imprisonment, for libel and defamation were not deemed proportional with an effective exercise of the right to freedom of opinion and expression.

387. On 10 October, the Special Rapporteur and the Special Representative of the Secretary-General on the situation of human rights defenders sent a joint letter of allegation relating to information received concerning **Susyanti Kamil**, **An'am Jaya**, **Sahabuddin**, **Ansar Suherman**, **Hariansyah**, and **Muhammad Akman**, activists with

the Governing Front of the Poor, a coalition of Indonesian political organizations, for whom an urgent appeal was sent on 10 April 2003 jointly by the Special Rapporteur and the Special Rapporteur on the question of torture.

388. According to more recent information, on 25 January 2003, the police allegedly arrived at the house where Susyanti Kamil, An'am Jaya, Sahabuddin, Ansar Suherman, Hariansyah and Muhammad Akman were sleeping at 2 a.m. with three arrest warrants. It was alleged that despite only having three arrest warrants the police arrested all six people, who were in the house at that time. Susyanti Kamil, An'am Jaya, Sahabuddin, Ansar Suherman, Hariansyah and Muhammad Akman were reportedly taken to Kendari Police resort (Polres) where they were allegedly beaten by police officers, had objects thrown at them and were interrogated, often at night. The six were reportedly allowed only very restricted access to lawyers. The lawyers were reportedly not present during night-time interrogations and were allegedly initially denied access to the documents necessary to prepare a defence, such as official investigation reports.

389. It was also alleged that on one occasion, on 14 February 2003, Sahabuddin was beaten repeatedly at two-hourly intervals for a period of around 11 hours. Although one police officer was reportedly transferred to another police station as a result, it was alleged that no further disciplinary steps were taken. On 20 March 2003, Susyanti Kamil, An'am Jaya, Sahabuddin, Ansar Suherman, Hariansyah and Muhammad Akman were allegedly moved to Kendari Prison after formal charges were filed against them. It was reported that access to families and lawyers has since improved, although reports indicated that they continued to be beaten.

390. Their trial reportedly began on 8 April 2003, and on 4 June 2003 all six were reportedly sentenced to four months and fifteen days' imprisonment for "insulting the President". They were reportedly released five days after sentencing for having already served the time in pre-trial detention. Concern was expressed that these defenders were sentenced solely because of a peaceful demonstration in favour of the rights of the poor.

391. In the same communication, the Special Rapporteur and the Special Representative referred to information regarding the detention and torture of **Amrisaldin**, a 24-year-old volunteer with the humanitarian organization Save Emergency for Aceh (SEFA). It was reported that on 5 September 2000, Amrisaldin was detained by members of Brimob during a "stop and search" operation in Meukek Subdistrict, South Aceh. It was alleged that during his detention in the Meukek Police Sector (Polsek), Amrisaldin was interrogated and tortured for several hours from 21.45 on 5 September 2000 until 04.00 on 6 September 2000. According to the information received, Amrisaldin's forehead was cut with a knife, his pubic, chest and armpit hair was burnt with matches; he was reportedly punched in the mouth, kicked in the ear and stomach, and threatened with death. It was alleged that Amrisaldin was also accused of being a GAM activist. Before being released, he allegedly had to sign a letter in which he promised not to make public the treatment he had suffered. He was also reportedly ordered to stay in Tapaktuan Subdistrict in South Aceh for five days and to report to the South Aceh District Police Resort (Polres). Concern was expressed that the alleged detention and torture of Amrisaldin may have been a response to a report he was preparing about alleged human

rights violations by the security forces against internally displaced persons (IDPs) in South Aceh and because he was carrying medical supplies for distribution among IDPs in the district.

392. On 27 October 2003, the Special Rapporteur sent a letter of allegation concerning the following cases:

(a) **Cut Nurasyikin**, Chairperson of the Srikandi Aceh non-governmental organization for women's empowerment, was reportedly sentenced by the Banda Aceh District Court on 21 October 2003 to 11 years in prison. It was reported that Ms. Nurasyikin was arrested shortly after the martial law was imposed in Aceh on 19 May 2003, and that charges were brought against her under articles 55 and 64 of the Criminal Code (KUHP) for sowing enmity and hatred against the legitimate Government, in relation to her role in organizing a rally on 9 November 1999, during which she reportedly took position in favour of Aceh's independence, and in relation to her participation in the peace negotiations with the GAM in December 2000;

(b) **Muhammad Nazar**, head of the Aceh Referendum Information Centre (*Sentral Informasi Referendum Aceh, SIRA*), which promotes a referendum on independence for the Aceh Darussalam Province (NAD), was reportedly sentenced to five years' imprisonment on 1 July 2003. According to information received, Mr. Nazar was arrested on 12 February 2003 and charged with violating article 154 of Criminal Code and with failing to obtain the required permission to hold a public event under article 10 of Law 9/1998. It was reported that during Mr. Nazar's trial, the accusation focused on his involvement in peaceful pro-independence events organized by SIRA in January and February 2003, at a time when the Cessation of Hostilities Agreement (COHA) between the Government of Indonesia and GAM was in force, and under which freedom of expression was reportedly explicitly guaranteed. It is reported that this is the second time Muhammad Nazar is imprisoned, after he was arrested in November 2000 for organizing a rally in the provincial capital of Banda Aceh, and sentenced on 28 March 2001 to 10 months' imprisonment for violating article 154 of KUHP;

(c) On 17 June 2003, the body of **Mohamad Jamal**, a cameraman with the public television channel "TVRI" – for whom the Special Rapporteur sent an urgent appeal on 16 June 2003, was reportedly found in a river, in Banda Aceh, during a military offensive against separatist groups. According to information received, Mr. Jamal, who was reportedly abducted by unidentified gunmen on 20 May, was found with his eyes and mouth covered with duct tape, his hands bound with a nylon cord, and a noose lashed to a boulder was allegedly tied around his neck. Mr. Jamal was reportedly in Aceh to report on the conflict with the separatist movement;

(d) On 9 January 2003, thousands of villagers from east and north Aceh reportedly began to go to the town of Lhokseumawe to join a peace demonstration, apparently coordinated by the organization SURA, the Voice of

Acehnese, to show their support for the cessation of hostilities between GAM and the Government of Indonesia with the signing of a peace agreement between the Government of Indonesia and GAM on 9 December 2002. According to information received, it seems that the Indonesian Armed Forces' (TNI) Unit 144 attacked the peaceful demonstrators, and that, during the attack, a number of civilians were shot and seriously injured. In other areas, the police reportedly arrested 10 villagers from Ujong Reuba in Geudong Subdistrict and Seunebok Rayeuk in Tanah Luas Subdistrict in north Aceh - **Muhammad Ridwan, Murizal, Syarifuddin, Budiman, Saiful, Usman, M. Yakob, Muslem, Rusli and Murizal** - in order to prevent them from attending the demonstration. It seems that most of the civil society groups traveling to Lhokseumawe did not arrive there because they were blocked by the Indonesian security forces, and a number of villagers were shot in an attempt to disperse the people who wanted to go to Lhokseumawe. It was reported that the following people were shot during the demonstration:

- **M. Ali Usman**, 22, a villager from Kampong Kumbang in Samudra Subdistrict in North Aceh, was shot in the legs;
- **Abdul Jafar**, 20, a villager from Kampong Meunasah Teungoh in Syamtalira Bayu Subdistrict in North Aceh, was shot in the thigh;
- **Fikram Ismail**, 21, a villager from Kampong Meunasah Teungoh, was shot in the legs;
- **Irhami Ismail**, 19, a villager from Kampong Meunasah, was shot in the back.
- **Amir Ismail**, 35, a villager from Nibong in Syamtalira Aron Subdistrict in North Aceh;
- **Murdiamal M**, 17, a villager from Kampong Baro in Samudera Subdistrict in North Aceh;
- **Sofyan Abdullah**, 35, a villager from Meunasah Glong Bayu in Syamtalira Bayu Subdistrict, North Aceh;
- **Badliansah**, 42, a villager from Meunasah Bale in Syamtalira Bayu Subdistrict in North Aceh;
- **Hendra Rusli**, 24, a villager from Tanjong Awe in Samudra Subdistrict in North Aceh;

(e) On 11 November 2002, **Syaefullah**, a photographer with the daily *Lampung Post* was reportedly attacked by officers of the Lampung Police Mass Disperse Unit in the city of Bandar Lampung. According to information received, Mr. Syaefullah was covering an assault by the Disperse Police Unit on a truck driver, who collided with an armoured car belonging to the Lampung Police Directorate, when more than 10 officers of the Unit reportedly dragged him in the nearby offices of the Indonesian Railway Company, where they allegedly interrogated him, and punched and kicked him. It is reported that although Mr. Syaefullah identified himself as a journalist, he reportedly continued to be beaten with bats. The officers reportedly took his camera and the film;

(f) On 31 July 2001, police in East Java Province reportedly arrested eight members of the Bondowoso Council of Protectors of People's Sovereignty (*Dewan Penyelamatan Kedaulatan Rakyat Bondowoso, DPKR*), a coalition of

opposition political organizations, while they were distributing leaflets to publicize a planned political meeting. The leaflets reportedly called for bringing forward general elections as well as opposing fuel price increases. Those reportedly arrested included **Drs. Muswiyanto** and **Drs. M. Rozak**, two local representatives of the National Development Party (*Partai Kebangunan Bangsa, PKB*), **Rudi Asikoh** and **Febri Erfinanto**, both members of the People's Democratic Party (*Partai Rakyat Demokratik, PRD*), **Ir. Joni Fatahillah**, **Hamka Cahyaning**, **Ahmad Noval Kawakid** and **Abdul Hadi**. It seems that **Eusebius Purwadi**, Chairman of the East Java branch of PRD, was detained at his house 10 days later in connection with the same case. It was reported that all but Eusebius Purwadi were tried on charges of publicly disseminating “a writing where feelings of hostility, hatred or contempt against the Government of Indonesia are expressed” (article 155 of KUHP) and “inciting in public to commit a punishable act” (article 160 of KUHP). They were reportedly found guilty on 5 November 2001 of violating article 155 of KUHP and sentenced to three months and 16 days' imprisonment. It was reported that Eusebius Purwadi, who was accused of being the author of the leaflet, was released in January 2002, after spending more than five months in pre-trial detention. He was reportedly acquitted of all charges in January 2003;

(g) On 13 and 14 June 2001, around 70 people were detained in Bandung, West Java Province, during demonstrations against a ministerial decree cutting severance pay to some workers, and against fuel price increases. It seems that most detainees were quickly released, but 12 members of political and labour organizations, including three members of the People's Democratic Party (*Partai Rakyat Demokratik, PRD*), two members of the National Democratic Student's League (*Liga Mahasiswa Nasional untuk Demokrasi, LMND*) and six members of the Young Christian Workers Movement (YCW), were reportedly charged with “openly committing violence against persons or property” (article 170 of KUHP), punishable by up to five years' and six months' imprisonment, and – for three of them, with the additional charge of “inciting in public to commit a punishable act” (article 160 of KUHP). It was reported that the trial opened on 12 August 2001, and that nine of the activists were released on 25 September 2001 after spending more than three months in pre-trial detention, and were reportedly acquitted in February 2002. Two others, **Fransiscus Xavarius Farnebun**, a PRD member, and **Normalinda**, a LMND member, were reportedly found guilty on 7 February 2002, and sentenced to three months' imprisonment each. It seems that the charges against the twelfth person were dropped;

(h) **Nanang Sugih Suroso** and **Sofandi Sohar**, both students in Medan, capital of North Sumatra Province, were reportedly found guilty of violating article 156 of KUHP which punishes giving public “expression to feelings of hostility, hatred or contempt against one or more groups of the population of Indonesia”, and sentenced to one year's imprisonment each in September 2002. It seems that the two were charged after they participated in a peaceful demonstration in March 2001 against Golkar, one of Indonesia's main political parties.

393. On 18 December 2003, the Special Rapporteur and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent a joint urgent appeal regarding **Mr. Maarif**, editor-in-chief of the biweekly *Beudoh*. According to the information received, on 5 December 2003, in Banda Aceh, he was interrogated for 10 hours by military intelligence officers, who molested him and threatened to kill him if he did not change the newspaper's editorial line. It was alleged that Mr. Maarif's interrogation was linked to the publication in *Beudoh*, in late November, of an article entitled, "The Acehnese people do not need elections", which criticized the Government's decision to maintain martial law in Aceh and questioned the legitimacy of elections scheduled for 2004. It was also alleged that the army officers requested him to publish an apology and sign a letter recognizing that he had published false information.

Communications received

394. On 14 July 2003, the Government responded to the communication dated 16 June 2003, which referred to **alleged limitations on the exercise of the right to freedom of opinion and expression in the Aceh Province**. The Government indicated that the Province was under martial law since 19 May 2003, owing to the fact that the separatists were increasingly perpetrating terrorist acts in areas outside the Province. The people of Aceh and the security forces deployed are facing violent and determined armed rebels. Under such circumstances, incidents of intimidation and casualties, as described in the communication, are hard to avoid, although the Government is trying to protect all civilians, including journalists. In addition to the law enforcement measures being undertaken, the Government has drawn up guidelines relating to foreign nationals, including members of NGOs and journalists operating in the area. Presidential Decree No. 43/2003 of 16 June 2003 temporarily banned the visit to the Province by foreigners for tourism purposes, unless their activities can be shown to be in accordance with the Integrated Operation launched in the context of the martial law, in which case they must be in possession of an accreditation (*surat jalan*) from the Ministry for Foreign Affairs. The Government underlined that under Law No. 23/1959 on emergencies, the military has the authority to impose a complete news blackout under martial law.

395. The Government added that it is striving to uphold freedom of the press by encouraging both local and foreign journalists to cover the Integrated Operation and to produce balanced reports. The military does not expel journalists from the Province but requires them to obtain from the martial law authority special 30-day permits for their own security, under Decree No. 43/2003. Figures from the Directorate of Media Relations at the Ministry for Foreign Affairs reveal that, on 23 June 2003, a total 35 foreign journalists had obtained permission to cover the military operations in Aceh.

396. The Government also indicated that GAM was responsible for limiting freedom of the press and movement of journalists. On 3 July 2003, a GAM spokesperson admitted that the Movement was behind the abduction of **Erza Siregar** and **Ferry Santoro** from the television station "RCTI" and their three guides. Five journalists from "Indonesian TV", "Tempo" and the "Pikiran Rakyat" were saved by the military while they were reporting on events in Tanjung village in the Pidie district, which had been overrun by GAM.

397. The Government referred to the case of **Muhammad Jamal**, who was found dead a month after he was abducted, and indicated that a full-scale investigation into the exact cause of his death had been ordered.

398. As far as **William Nessen** is concerned, the Government indicated that, although he had an accreditation to cover the news in Indonesia, he had no permit to work in Aceh, where he was since before the declaration of the martial law. He was in regular contact with his wife and military officials, who offered him safe passage and set 14 June 2003 as a deadline for him to leave the GAM unit he had been travelling with. He presented himself to the military on 24 June, and he was transferred to the police office in Banda Aceh. He was questioned on the nature of his activities in the Province, and it appeared that he had failed to inform the Ministry for Foreign Affairs of his presence in Aceh. He was charged with violating articles 50 and 51 of Law No. 9/1002 on immigration and at the time the response was sent, his case was soon going to be presented to the Prosecutor's office.

399. On 5 August 2003, the Government responded to the communication dated 24 July 2003 concerning **William Nessen**, in which it referred to its previous response dated 14 July 2003. The Government complemented its response, indicating that Mr. Nessen's dossier was sent to the Banda Aceh District Court on 16 July 2003, and that his trial was opened a week later, during which Mr. Nessen was represented by an attorney. He was charged with violating articles 50 and 51 of Law No. 9/1002 on immigration, an offence that carries a maximum prison sentence of five years and a fine of Rp 5 million (US\$ 609). The Chief Prosecutor requested that Mr. Nessen be sentenced to imprisonment for two months under article 51 mentioned above. On 2 August 2003, Mr. Nessen was sentenced to one month and 10 days in prison for immigration offences. The time he had spent in prison (one month and nine days) was deducted from the sentence and Mr. Nessen was released on 3 August 2003. Mr. Nessen left Banda Aceh the same day, although no court order was issued for his deportation, and he flew back to his country.

400. By letter dated 7 August 2003, the Government responded to the communication dated 9 July 2003, in which it indicated that on the morning of 7 July, Jayawijaya police were informed that a number of people had gathered inside the compound of the regency's legislative council and were apparently attempting to hoist separatist flags. Two police units were dispatched to the area where they interrupted a ceremony involving several men armed with traditional weapons who were raising three New Melanesian flags to mark what they called the "New Melanesian" anniversary. A number of other individuals were posted as lookouts and were gathered 500 metres away from the flagpoles. Police efforts to disperse the demonstrators failed and the latter gathered around the flagpoles. Several police officers approached the group in order to persuade them to lower their flags peacefully, and after negotiating with the men identified as **Wilhelmus Asso, Gustaf Ayomi, Hery Asso, Jean Hesegen** and **Yut Heselo** for one hour, the latter became increasingly aggressive and eventually attacked the policemen, using arrows and machetes and forcing the police to fire three warning shots.

401. Yut Heselo was fatally wounded, while Hery and Wilhelmus Asso were injured and were evacuated to the hospital. The police recovered a number of traditional weapons

and separatist documentation from the scene. The police did not arrest **Elias Asso** and **John Hilipok**. Based on police records, Hery and Wilhelmus Asso, Gustaf Ayomi, Jean Hesege and **Mayus Togostli**, all from Wamena were taken into custody, where they were questioned about their involvement in the incident and were later charged with violating articles 106 and 110 (offences against the State) and 212 (attacking the security forces) of the Penal code and Law 12/1951 (possession of firearms and sharp weapons). They were not held incommunicado and were accompanied by a lawyer throughout the investigation process. The Coordinating Minister for Political and Security Affairs ordered an investigation, and it seems that the flags were raised following an order issued by a leader of the Free Papua Movement (OPM), apparently in an attempt to foster dissent and incite people to violence. During their detention, none of the men suffered any form of torture, and they were visited by officials of the Papuan branch of the International Committee of the Red Cross.

Observations

402. The Special Rapporteur thanks the Government for its replies and awaits further responses to his communications dated 2 and 10 April, 9, 10 and 27 October and 18 December 2003.

403. The Special Rapporteur would like to reiterate his request to undertake an official visit to the country, as expressed in his letter dated 30 October 2002.

Iran (Islamic Republic of)

Communications sent

404. On 2 April 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent a joint urgent appeal concerning **Amir Abbas Fakhavar**, also known as Syavash, medical student, writer and journalist, who was reportedly ordered to appear before the Revolutionary Court in north Tehran on 18 March 2003 to hear an appeal against his eight - year sentence for writing a book which was reportedly critical of the State. When Amir Abbas Fakhavar appeared in court, he was reportedly denied representation by the two lawyers who had represented him on previous occasions. After an argument with the judge, he was reportedly beaten in the courtroom in front of the judge, court officials and his parents, before being transferred to Qasr Prison. He was said to be in need of medical treatment for severe injuries sustained after being beaten in court and an existing foot injury. Fears were expressed that Amir Abbas Fakhavar may have been targeted after jointly writing an open letter to the authorities together with another imprisoned student **Ahmad Batebi**. The letter, written on 4 February 2003, was reportedly critical of the Government of the Islamic Republic of Iran.

405. On 10 April 2003, the Special Rapporteur sent, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, an urgent appeal concerning **Manuchihr Khulusi**, of Baha'i faith, who was reportedly imprisoned in Mashhad on 27 March 2003. According to the information received, Branch 13 of the Revolutionary Court of Mashhad had abrogated on 7 December 2002 the suspension of Mr. Khulusi's

previous incarceration and sentenced him to four years' imprisonment, holding that his membership in the Baha'i community and his continued Baha'i activities were against the internal security of the country.

406. Mr. Khulusi was reportedly first arrested on 9 June 1999 while he was visiting Birjand for a meeting with other members of the Baha'i community in that town (see reports of the former Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran to the General Assembly at its fifty-fourth session (A/54/365) and to the Commission on Human Rights at its fifty-sixth session (E/CN.4/2000/35)). About six days later he was reportedly moved to a prison in Mashhad, where he was allegedly held in solitary confinement and beaten during interrogation. The charges brought against Mr. Khulusi appeared to be related to his being of Baha'i faith. His trial took place in Branch 3 of the Islamic Revolutionary Court in Mashhad on 7 and 8 September 1999, and a death sentence was announced on 3 February 2000. According to the reports received, Mr. Khulusi was not permitted to meet with his lawyer, and his attempts to submit an appeal against the verdict within the 20-day period were allegedly denied. His wife reportedly succeeded in submitting a statement to Branch 1 of the Revolutionary Court, a copy of which was sent to Branch 3 of the Supreme Court. Mr. Khulusi was reportedly released from prison in the spring of 2000, but it was not clear what gave rise to his release or what the status of the verdict against him was.

407. On 14 July 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal in relation to the case of **Reza Ameri Nassab and Arash Hashemi**, leaders of the student organization *Daftar-e Tahkim-e Vahdat* (Organization for the Consolidation of Unity (OCU)), who were reportedly arrested on 9 July 2003 after holding an open press conference at Tehran University, in which they called for freedom of expression, political reforms and the release of fellow students. They were reportedly arrested on the authority of the State Prosecutor. Fears were expressed that they may be at risk of torture or ill-treatment.

408. On 15 July 2003, the Special Rapporteur sent a letter of allegation jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding the death, on 11 July 2003, of journalist **Zahra Kazemi**, who had apparently suffered a stroke while in custody a few days earlier. The 54-year-old journalist, who had both Canadian and Iranian nationality, was reportedly arrested, on 23 June, while taking photos on the northern outskirts of Tehran on her way to Turkmenistan on a journalistic assignment. According to information received, Ms. Kazemi's relatives affirmed that she was allegedly beaten into a coma by her interrogators, and they unsuccessfully urged the Government to grant their request for a foreign doctor to examine her. Moreover, reports indicate that her arrest was described as arbitrary and underlined the lack of suitable medical attention. On the other hand, Iranian officials allegedly said that Ms. Kazemi began to feel ill while under interrogation on 26 June, and was immediately taken to Baghiatollah Azam Hospital where she suffered a stroke.

409. The Special Rapporteurs indicated that they understood that President Khatami has ordered an investigation to determine the reasons for Ms. Kazemi's sudden death and

possible responsibilities. In this connection, they requested to receive information on the outcome of the above-mentioned investigation and of any other inquiry made by the Iranian authorities on this case. In this respect, reference is made to the Special Rapporteur's report on his visit to the Islamic Republic of Iran (see E/CN.4/2004/62/Add.2, paras.71-80).

410. On 16 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the question of torture regarding **Mohsen Sazegara**, a 48-year-old journalist, who was allegedly detained along with his son, **Vahid Sazegara**, on 15 June 2003 in Tehran (reference was made to a joint urgent appeal sent by the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on their situation on 20 June 2003). According to recent information received, Vahid Sazegara was released from Evin Prison on 9 July 2003. However, it was reported that his father was still in incommunicado detention at the same prison. Visits from his relatives, his lawyer or his doctor have allegedly been denied since his arrest. He was thought to have gone on a 10-day hunger strike following his arrest and to be in a poor condition. He was alleged to have had two heart operations in the last few years and to be in need of regular medication. In view of the incommunicado nature of his detention, fears were expressed that he may be at risk of torture or other forms of ill-treatment. Concern was also expressed for his health if he did not receive prompt and adequate medical assistance.

411. On 22 July 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning a **number of Iranian journalists** who were said to have been arrested. They reportedly included **Taghi Rahmani, Reza Alijani, Hoda Saber** and **Amir Teirani**, who were presumably being held by Revolutionary Guards. Their families and lawyers had no word of them since 14 June 2003. **Ali Akrami**, of the banned reformist daily *Nedat Eslahat*, was not seen since he was detained on 16 June.

412. It was further reported that between 10 and 12 July, **Hossein Bastani, Vahid Ostad-Pour** and **Said Razavi Faghi**, editors with the reformist daily *Yass-e No*, and **Chahram Mohamadi-Nia**, director of the weekly *Vaght* (The Moment) were summoned before Tehran State Prosecutor, Said Mortazavi, and subsequently imprisoned. Said Razavi Faghi, who is also Political Secretary of the Organization for the Consolidation of Unity, was reportedly arrested on 10 July 2003 by security officials while he was in front of the offices of the non-governmental Association of Iranian Journalists. Since then, his whereabouts remain unknown. Mr. Mohamadi-Nia, who was reportedly accused of publishing "an impure picture and article", was reportedly incarcerated as he was unable to post bail of 100 million rials (approx. US\$12,400).

413. It was also reported that **Mehdi Habibi**, member of the Central Committee of the Islamic Student Association of Amir Kabir University in Tehran, was detained on 11 July 2003 and that his whereabouts had not been disclosed at the time the communication was sent.

414. In the same communication, reference was made to information according to which **Iraj Jamshidi**, editor-in-chief of the economic daily *Asia*, was arrested on 6 July 2003 with his wife **Saghi Baghernia**, the newspaper's managing editor. Mrs. Baghernia was reportedly released on bail the following day while her husband, who was reportedly held initially at Evin Prison in Tehran, was allegedly transferred to an undisclosed location on 9 July. The two journalists were supposedly arrested on charges of "publicity against the regime" after the newspaper carried a picture of People's Mujahideen leader Maryam Rajavi on 5 July. The newspaper was reportedly suspended on the order of Tehran State Prosecutor, and Mr. Jamshidi's home and office were allegedly searched. In recent years, Mr. Jamshidi had reportedly been summoned for questioning several times by the police and the intelligence services.

415. On 4 September 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent another joint urgent appeal concerning **Mohsen Sazegara**, a journalist (reference was made to urgent appeals sent on 20 June 2003 on behalf of the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and on 16 July by the Special Rapporteur and the Special Rapporteur on the question of torture). According to information received, Mr. Sazegara was due to be released from Evin Prison on 25 August 2003, where he was reportedly detained without charge since 15 June 2003 for an article he wrote and posted on his web site calling for a "profound change of the Constitution", as his family posted bail totalling more than US\$ 717'000 on 21 August at Branch 26 of Tehran's Revolutionary Court. It is alleged that on 1 September, the judiciary indicated that Mr. Sazegara was not released because of the existence of a file of allegations against him dating from 2002. Furthermore, it was alleged that since his arrest he was denied regular access to his lawyer and family. According to the information received, he was weak and barely able to walk, and needed regular medication on account of his severe heart condition. In view of the alleged incommunicado nature of his detention, fears were expressed that he may be at risk of torture or other forms of ill-treatment. Concern was also expressed that he may not be receiving the regular medication needed to treat his heart condition.

416. On 17 September 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent a joint letter of allegation concerning **Reza Ameri Nassab** and **Arash Hashemi**, leaders of the student organization *Daftar-e Tahkim-e Vahdat*, who were reportedly arrested on 9 July 2003 after holding an open press conference at Tehran University, in which they called for freedom of expression, political reforms and the release of fellow students (reference was made to a joint urgent appeal sent by the Special Rapporteurs and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 14 July 2003). According to new information received, on 29 July 2003, Reza Ameri Nassab's parents requested a meeting with the Chief Prosecutor in order to seek the release of their son. It was reported that during the course of the meeting, they were told that the crimes he committed could merit a death sentence. At that time, his place of detention was still unknown. Concerning Arash Hashemi, it was believed that he was released 48 hours after his arrest. The Special Rapporteurs requested to receive information on their whereabouts and on the charges that have been brought against them.

417. On 23 September 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal in relation to reports that **Behzad Zarinpour**, assistant editor-in-chief of the newspaper *Asia* and former editor of *Abrar Eqtesadi*, was arrested on 7 September 2003, after a search of his home by armed men in civilian clothes. It was alleged that Mr. Zarinpour's whereabouts were not known at the time the communication was sent and it was not known either whether charges were brought against him. In view of his alleged detention at an unknown location, fears were expressed that he may be at risk of torture or other forms of ill-treatment.

418. On 29 September 2003, the Special Rapporteur and the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers sent a joint urgent appeal concerning **Mehdi Said Asgari**, **Maziyar Aslani** and **Ali Khaleqi**. According to information received, the first two were reportedly arrested on 9 August 2003 at their homes in Tehran by members of the Revolutionary Guards. Ali Khaleqi was reportedly arrested by members of the Revolutionary Guards on a street in Tehran on 1 September 2003. It was believed that their arrest was connected with their membership of the banned opposition group, *Hezb-e Mellat-e Iran* (Iran Nation Party). It was also believed that Mehdi Said Asari and Maziyar Aslani may be detained at Tehran's Evin Prison, but their whereabouts were not confirmed. It was further reported that they were denied access to their family and to legal representation. Ali Khaleqi's place of detention was reportedly not known. Furthermore, it was alleged that all three men were tortured while in custody. In view of their alleged detention at an unconfirmed or unknown place, fears were expressed that they may be at risk of further torture or other forms of ill-treatment.

419. On 24 November 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, sent a joint urgent appeal with respect to information that on 15 November 2003, **seven women**, about whom no further details were provided, were each sentenced to 50 lashes by a general Court in Shiraz, south central Iran, for allegedly showing disrespect (*hormat shekani*) for the holy month of Ramadan. The women were allegedly accused of driving around the streets of Shiraz, listening to loud music, dancing in the vehicle, which was reportedly interpreted as ridiculing the people fasting during the month of Ramadan, which was under way. Their behaviour was said to have aggravated citizens, who reportedly made calls to a special police line in order to apprehend them. It was reported that following their arrest, they allegedly confessed and were sentenced to 50 lashes each. It was not known when the sentence was scheduled to be carried out or whether an appeal was lodged.

420. On 5 December 2003, the Special Rapporteur, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders sent a joint allegation letter in relation to the situation of Mr. **Nasser Zarafchan**, a lawyer of the Bar of Tehran. According to the information received, on 18 March 2002, Mr. Zarafchan had reportedly been sentenced to three years in jail by the Military Tribunal of Tehran for "being in possession of weapons and alcohol" and to two years' imprisonment for his statements to the press regarding the

lawsuit of the alleged murderers of intellectuals in 1998, which ended in January 2002. This decision was reportedly confirmed in appeal by the Military Court of Tehran on 15 July 2002, and on 25 November 2003, Mr. Nasser Zarafchan's appeal to the Supreme Court was reportedly dismissed, thereby upholding his five years' imprisonment sentence. It was alleged that the case against him was fabricated by the police and that his sentence aimed at sanctioning his activity as a lawyer for the families of the intellectuals murdered by intelligence services agents in 1998. Reports indicate that Mr. Zarafshan was being detained at Evin Prison, and that he was not allowed to meet his defence counsel during the process. Concerns were expressed that Nasser Zarafchan may have been targeted in retaliation for his work as a human rights defender.

421. On 8 December 2003, the Special Rapporteur and the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders sent a joint urgent appeal concerning **Shirin Ebadi**, Chairwoman of a children's rights organization and of the Centre of Human Rights Defenders, and the 2003 Nobel Peace Prize winner. According to reports, on 3 December 2003, Shirin Ebadi received death threats from militiamen allegedly linked to Hezbollah, as she was entering the room of the University of Tehran Azzahra where she had been invited to make a speech on women's rights and the right of custody for mothers. The men reportedly blocked the entrance door, shouting slogans such as "death to Shirin Ebadi", and, according to the information received, she had to hide in the cellar of the university. Fears were expressed that her life and physical integrity may be at risk

Communications received

422. During the visit of the Special Rapporteur to Iran from 3 to 11 November 2003, the authorities provided him with the following responses to a number of communications, from the list of communications sent since 2000 to which no reply had yet been received (see E/CN.4/2001/64, paras.164, 165, 166 and 168; E/CN.4/2002/75/Add.2, paras.159 and 161; and E/CN.4/2003/67/Add.1, paras. 276 to 280 and 283, as well as communications sent on 2 and 10 April, on 14, 15, 16 and 22 July, and on 4, 17, 23 and 29 September 2003):

(a) With respect to the communication of 29 September 2003 concerning **Mehdi Said Asgari, Maziyar Aslani** and **Ali Khaleqi**, the Government indicated that Said Asgari was arrested on 9 August 2003 and charged with being a member of an illegal party and acting against the national security; he was accused on 12 October, and, unable to post bail, Mehdi (Mehrdad) Aslani was arrested on 10 August on the same charges, and accused on the same date as Mr. Asgari; he was also unable to post bail. As far as Mr. Khaleqi is concerned, he was arrested on 1 September 2003 on the same charges, and also accused on 12 October. The three were awaiting trial at the time of the response;

(b) With respect to the communication of 23 September 2003 concerning **Behzad Zarinpour**, the Government indicated that he was arrested on 7 September 2003 and on 7 November 2003 was charged with "economic

offences”, “illegal relations” and “drug addiction”. . Although he was unable to post bail, he was released on 8 November 2003 pending trial;

(c) With respect to the communication of 22 July 2003, the Government responded to the following cases:

- **Taghi Rahmani, Reza Alijani, Hoda Saber and Amir Teirani**, were arrested on 14 June 2003 and charged with “threats to the security of the State” and “disturbing the public order”. They were accused on 7 November and were awaiting trial. Amir Teirani was released on bail pending trial;

- **Ali Akrami** was arrested and charged with “threats to the security of the State” and pardoned on 5 August 2003;

- **Hossein Bastani and Vahid Ostad-Pour** were arrested on 12 July 2003 and charged with “threats to the security of the State” and released on bail on 20 July pending completion of the investigation. **Said Razavi Faghi** was arrested on 20 July and charged with “threats to the security of the State” and “disruption of the public order”; he was released on bail at the end of September pending investigation of the case. **Mehdi Habibi** was arrested on 12 July and accused on 12 October, and released on bail pending trial. With regard to **Chahram Mohamadi-Nia**, the Government indicated that there was no trace of his arrest;

- **Iraj Jamshidi** was arrested on 6 July 2003 and charged with “harassment”, “acts against morals”, “propaganda against the regime” and “threats to national security”. He is still in detention pending trial. His wife **Saghi Baghernia** was arrested on the same day and charged with “propagation of lies” and “propaganda against the regime in favour of terrorist groups”; she was released on bail on 7 July and the investigation of the case ongoing;

- With respect to the communications of 16 July and 4 September 2003 concerning **Mohsen Sazegara**, the Government indicated that he was arrested on 10 June 2003 and charged with “disturbing the public order”, “propagation of false news” and “confusing the minds of people”. He was accused and released on bail in October pending trial;

- With respect to the communications of 14 July and 17 September 2003 concerning **Reza Ameri Nassab** and **Arash Hashemi (Ahmadi)**, the Government indicated that they were arrested on 10 and 9 July 2003, respectively and charged with “disturbing public order” and “threats to national security”. Mr. Ahmadi and Nassab were released on bail on 20 July and at the end of August, respectively;

- With respect to the communication of 15 May 2002, the Government responded that **Mohsen Mirdamadi** was convicted on 8 May 2002 for

“insulting the State”, “publishing lies”, “insulting Islamic institutions” and “confusing the minds of people” and sentenced to six months in prison. He was banned from practising journalism for four years, ordered to pay a 2-million riyal (US\$ 1,149) fine, and banned *Norooz* from publishing for four months. Mr. Mirdamadi has appealed the court decision and remains free while awaiting the appeal;

- With respect to the communication of 31 January 2002 concerning **Mohammed-Ali Dadkhah**, he was sentenced to five months’ imprisonment and barred from exercising his profession for 10 years for “propagation of lies” and “confusing the minds of people”, on the basis of a complaint from a private person. The prison sentence was confirmed on appeal, but the sentence to be barred from exercising his profession was annulled. Mr. Dadkhah was released in May 2003;

- With respect to the communication of 5 September 2000, the Government indicated that **Baghi Emadeddin** was sentenced to three years’ imprisonment for “insults to the sanctity and tenets of Islam” and “propagation of lies” on the basis of a complaint from a private person. He was released two and a half years later;

- Finally, with respect to the communication of 26 April 2000, the Government provided some responses to the allegations made concerning **Latif Safari**. The Government indicated that he was sentenced to two years, one month and one day in prison for “insults to the sanctity and tenets of Islam”, “insults to representatives of the Majlis (Parliament)”, “insults to the Commander-in-Chief of the armed forces”, “incitement to civil unrest and to strike” and “threats to public order”; he was released at the end of August 2001.

Observations

423. The Special Rapporteur thanks the Government for its replies, and awaits answers to his communications dated 29 November and 5 and 8 December 2003. The Special Rapporteur would also be grateful for receiving responses to the communications sent since 2000, and transmitted to the Government during his visit in November, to which no response has been received as of today (communications dated 16 November and 26 April 2000; 24 January and 18 September 2001; 23 April, 7 and 10 May and 16 October 2002; and 2 and 10 April 2003)

Visit

424. At the invitation of the Government, the Special Rapporteur visited the Islamic Republic of Iran from 3 to 11 November 2003. The report of the Special Rapporteur on his mission (E/CN.4/2004/62/Add.2) will be presented to the Commission on Human Rights at its sixtieth session.

Israel

Communications sent

425. On 30 January 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders regarding the situation of '**Abla Sa'adat**, a 47-year-old human rights defender. She was reportedly arrested at the border crossing into Jordan on 21 January 2003, while she was on her way to Brazil for the World Social Forum as a delegate representing the Palestinian human rights organization Addameer. She was then allegedly taken to the Beit El Military Detention Centre (near Ramallah, West Bank), where she was placed in an isolation cell without being questioned. All her personal belongings were allegedly taken away from her. The Special Rapporteur and the Special Representative of the Secretary-General on the situation of human rights defenders were concerned that her arrest may be related to her activities as a human rights defender and her trip to Brazil.

426. In the same urgent appeal, attention was drawn to the case of **Iman Abu Farah**, aged 24, and **Fatma Zayed**, aged 23, both fourth - year students at the Religious Studies College of al-Quds University in Abu Dis, Jerusalem. They were reportedly arrested at their apartment in Um al-Sharayit (a suburb of Ramallah), on 20 January 2003, and also taken to Beit El Military Detention Centre. On the evening of 22 January 2003, 'Abla Sa'adat, Iman Abu Farah and Fatma Zayed were reportedly all served with four-month administrative detention orders, a procedure under which detainees are allegedly held without charge or trial.

427. On 14 October 2003, the Special Rapporteur sent a communication regarding the following cases:

(a) On 2 May 2003, British journalist **James Miller**, who was making a documentary on the impact of the Israeli-Palestinian conflict on children for the television channel Home Box Office (HBO), was reported to have been fatally hit by a bullet in the neck, allegedly fired by a Israeli soldier. Mr. Miller was reportedly in a home in the area of Salah al-Din Gate in Rafah to film agricultural land levelling and house demolition by Israeli military bulldozers. It seemed that when the journalist and the crew accompanying him wanted to leave the house, they decided to go and see the soldiers to identify themselves. Although they were reportedly all wearing helmets and jackets identifying them as journalists, they were allegedly fired at as they were leaving the house. It was further reported that the soldiers did not come straight away to help when the other journalists called for help saying that one of them was seriously wounded;

(b) On 19 April 2003, **Nazeh Adel Dawazah**, a Palestinian cameraman for the Associated Press Television News (APTN) and Palestine TV was shot in the head, reportedly by an Israeli soldier, as he was filming clashes between Palestinians and the Israel Defence Forces (IDF) during an incursion by the Israeli army into

the centre of Nablus. It was reported that he was clearly identifiable as a journalist when he was hit;

(c) On 30 January 2003, the Israeli army launched a vast military operation in Hebron aimed, according to an army spokesperson, at "terrorist organizations and their infrastructures, as well as the arrest of wanted Palestinians", during which the troops in Hebron reportedly evacuated and closed two local television stations, Nawras TV and Al-Majd TV, as well as the local radio station Al-Marah;

(d) On 21 January 2003, two Palestinian photographers, **Nasser Ishtayeh** of the Associated Press and **Jaafar Ishtayeh** of Agence France Presse, were reportedly assaulted by Israeli border police. It was reported that they were preparing to photograph an Israeli army jeep manned by border police, when the jeep reportedly drove towards them and three of the four soldiers in the jeep got out and beat them. It seemed that the photographers wanted to take a picture of two youths sitting on the hood of the moving jeep, who, the photographers believed, were being used as human shields against the throwing of rocks. It was reported that after the beating, the driver of the jeep inspected the cameras in order to make sure that no picture was taken, and that he allegedly threatened to kill the two photographers if pictures of the incident were published in the press;

(e) On 19 December 2002, photographer **Jaafar Ishtayeh** of the Agence France-Presse was reportedly beaten by frontier guards near Nablus. The frontier guards allegedly knew that he was a journalist, when he arrived at the crossing point between Nablus and the town of Salim. They also reportedly threatened to seize his camera, but changed their minds when they saw that he had not taken any picture, and allegedly threatened to kill him if he returned;

(f) On 22 September 2002, **Esam Al Tellawe**, a journalist with the Voice of Palestine radio station, was reportedly shot dead while he was covering a peaceful public protest at the isolation by Israel of President Yasser Arafat in Ramallah, in which several thousands took part. According to information received, Mr. Tellawe was wearing a press jacket clearly identifying him as a journalist;

(g) According to information received, the private radio station Tariq al-Mahabbeh in Nablus has reportedly been subjected to harassment by the Israeli authorities. It was reported that during the night of 3 September 2002, the army stormed into the radio station's rebroadcast link station after allegedly breaking the doors. Soldiers allegedly seized all the equipment, including a receiver, a transmitter and a modulator, without giving any explanation. It was also reported that the radio station's premises were shelled with missiles and heavy artillery in April 2002 and raided in the spring of 1999. When the staff of the radio station were summoned reportedly to recover the confiscated equipment, they were allegedly charged with operating an illegal radio station.

428. On 10 November 2003, the Special Rapporteur sent an urgent appeal regarding the announcement by the director of the Government Press Office (GPO) on **new regulations**

for foreign and Israeli journalists to be introduced on 1 January 2004. On the basis of reports in the media, the new security rules allegedly included the requirement that journalists seeking accreditation would be subject to a review by the Shin Bet security service and required to produce an affidavit made before a lawyer to the effect that the information provided in their application is true. It was further reported that a fee would be charged for issuing a press pass. GPO allegedly stated that the changes were precipitated by the need for increased security measures in Israel. However, it was also alleged that the new eligibility rules were intended drastically to reduce the number of people with press cards. Fears were expressed that the review to be carried out by Shin Bet would enable the authorities to reject applications without having to provide any explanation other than broad-based and unproven security concerns. Furthermore, the requirement to produce an affidavit would allegedly be an added layer of bureaucracy meant to slow down the application process. Moreover, if Shin Bet were to review the background of the journalist in any case, the affidavit would allegedly be unnecessary. Finally, fears were also expressed that payment of a fee could make the cost of employing journalists in Israel prohibitive and that it could increase the likelihood of their being arrested or deported for having press passes that are no longer valid.

Communication received

429. In a letter dated 11 November 2003, the Government responded to the urgent appeal of 10 November 2003 and explained that, on the same day, it decided to freeze new directives issued by the GPO regarding applications for press cards.

Observations

430. The Special Rapporteur thanks the Government of Israel for its reply, but awaits a response to his communications of 30 January and 14 October 2003.

Italy

Communications envoyées

431. Le 14 octobre 2003, le Rapporteur special a envoyé une communication relative aux cas suivants :

(a) La direction de la chaîne de télévision publique RAI aurait interdit la diffusion par la chaîne RAI 3 d'un numéro spécial de l'émission satirique «**Blob**», consacré au Président du Conseil, Silvio Berlusconi, qui aurait dû être diffusé le 8 octobre 2002. Cette émission aurait été la dernière d'une série de quatre émissions consacrées au Président du Conseil. Le Directeur général de la RAI n'aurait pas visionné cette émission avant d'en interdire la diffusion;

(b) le 19 août 2002, la brigade antiterroriste (DIGOS) de Rome aurait perquisitionné les domiciles de **Fiorenza Sarzanini**, journaliste au quotidien national *Corriere della Sera*, et **Mario Menghetti**, journaliste au quotidien national *Il Messaggero*, suite à la publication d'articles le 5 août 2002 sur les

violences qui ont eu lieu lors de la réunion du G-8 à Gênes pendant l'été 2001. Cette perquisition aurait eu lieu sur un ordre du parquet de Gênes, alors que les deux journalistes auraient été soupçonnés d'avoir publié des extraits d'un rapport confidentiel des carabinieri, portant notamment sur la mort de Carlo Giuliani, un jeune manifestant tué par un carabinière lors des manifestations liées au sommet du G-8;

(c) **Stefano Surace**, ancien directeur du journal anticonformiste *ABC*, aurait été emprisonné sur la base de condamnations pour diffamation et publications obscènes prononcées en 1963 et 1967. Il semblerait que M. Surace, qui résidait en France depuis 40 ans, aurait été arrêté alors qu'il rendait visite à un ami en Italie. À cet égard, le Rapporteur spécial a souligné que des sanctions pénales, en particulier l'emprisonnement, pour diffamation ne semblent pas proportionnelles à un exercice effectif du droit à la liberté d'opinion et d'expression ;

Communications reçues

432. Par lettre du 17 novembre 2003, le Gouvernement italien a répondu à la communication du 14 octobre 2003 et fait les observations suivantes :

(a) En ce qui concerne l'émission satirique «Blob», le Gouvernement italien se réfère tout d'abord aux explications relatives à l'autonomie de gestion et d'administration de la RAI développées par le gouvernement en avril 2002 en réponse à une communication du 6 juillet 2002 concernant les journalistes Enzo Biagi et Michele Santoro. Dans le cas particulier, le Directeur général de la RAI avait examiné les deux premiers épisodes de la série en question et considéré que le programme risquait de violer les principes de pluralisme, d'intégrité, d'objectivité et d'impartialité qui sont le fondement d'un service public de radio diffusion;

(b) en ce qui concerne les perquisitions effectuées aux domiciles des journalistes Fiorenza Sarzanini et Mario Menghetti, le gouvernement a rappelé le principe de la stricte indépendance du pouvoir judiciaire en Italie et expliqué que les perquisitions avaient été effectuées avec toutes les garanties et les droits reconnus par la loi sur ordre du procureur de Gênes pour des charges relatives à l'article 326 du Code pénal.

Jordan

Communications sent

433. On 14 January 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent a joint urgent appeal concerning the reported arrest of **Hisham Bustani**, a human rights activist and a member of the outlawed Union of Professional Associations, who denounced the conditions of detention at the Jweidah Prison, near Amman, in an article published in the latest issue of the magazine *Al-Adab* published in Lebanon. According to information received, Mr. Bustani was arrested

on 24 December 2002 and was reportedly held at Jweidah Prison. It is reported that his article, entitled "Mechanism of oppression: the Jweidah prison case", was based on his five-day imprisonment at Jweidah a few months before. It was further reported that the November-December edition of the magazine has been banned in Jordan.

434. On 22 January 2003, the Special Rapporteur sent an urgent appeal concerning the reported suspension by the Government on 17 January 2003 of the weekly "Al-Hilal" and arrest of three of the newspaper's journalists for an article deemed to insult Islam. According to information received, on 16 January, the country's military prosecutor ordered the newspaper's suspension and the arrest of editor **Nasser Qamash**, senior assistant editor **Roman Haddad** and **Muhamad Mbaidhin**, the author of the article considered disrespectful to the Prophet Mohammed's family. It was reported that the three journalists were charged with "harming the Government and the dignity of the people" and "destabilizing society by printing alleged perversity and false news", and were to remain in detention for two weeks as part of the inquiry into the controversy. It was further reported that all copies of the newspaper were seized.

435. On 26 March 2003, the Special Rapporteur and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Fawaz Zurayqat**, aged 45, businessman and station manager of Arab Television (ATV), a new English-language satellite channel with offices in London and Baghdad. According to information received, on 3 March 2003 security officers arrested Fawaz Zurayqat at his office in Amman and seized computers, documents and compact discs. He was reportedly taken to the General Intelligence Department in Amman, where he was reportedly still being held without charge at the time the communication was sent. It is reported that he was denied access to a lawyer, but his brother was allowed to visit him twice. Fawaz Zurayqat is a leading member of the National Mobilization Committee for the Defence of Iraq, a NGO which campaigns against the sanctions and war on Iraq. Concerns were expressed that his detention may be linked to his pro-Iraqi activities.

436. On 30 October 2003, the Special Rapporteur sent a letter of allegation with respect to the cases summarized below:

(a) The General Prosecutor of the State Security Court reportedly decided to ban the 23 September 2003 issue of the **weekly newspaper Al-Wiha**. It was reported that the editor of the newspaper received a phone call from the Prosecutor General, demanding that certain articles be removed before the paper could appear on newsstands, and, when he refused, the issue was reportedly banned. It seems that the issue was banned prior to being printed and distributed. It is believed that the article deemed offensive was about torture carried out in Jordan in 1993;

(b) On 11 November 2002, the police and intelligence agents reportedly arrested **Yasser Abu Hilala**, a columnist for the newspaper *Al-Rai* and a former correspondent for the television channel Al-Jazeera, and his cousin **Samir Abu Hilala**, journalist with the daily *Al-Arab al-Youm*. According to information received, the police raided Yasser Abu Hilala's house in Amman, reportedly confiscating a laptop computer and some of his files, and arrested him. This

reportedly came just after the journalist sent information to Al-Jazeera about the clashes taking place between Government forces and Islamist militants in the southern town of Maan. It seems that Samit Abu Hilala was at the same time detained in the offices of *Al-Arab al-Youm*, after he spoke on the telephone about an Al-Jazeera news segment on the events in Maan. The two journalists were reportedly released after 24 hours, after a State security court prosecutor dismissed his investigation into accusations that the two were disseminating “false information”;

(c) On 14 August 2002, **Mamoun Al-Roussan**, editor-in-chief of the weekly Al-Jazeera and **Sakher Abu Anzeh**, publisher of the newspaper, were reportedly arrested on the order of the President of the State Security Court for publishing an article implying “shady ties between the Foreign Minister of Qatar and Israel” and a cartoon lampooning the Qatari Head of State and the Foreign Minister. It was reported that Mr. Abu Anzeh was released the next day on bail, as the State Security Court reportedly decided that he was not directly responsible for the articles, under article 122 of the Penal Code;

(d) On 7 August 2002, the Government reportedly decided to withdraw the accreditation of Al-Jazeera television channel to operate in Jordan, in accordance with the Press and Publications Law No. 8 of 1998 and Regulation No. 2 of 1999 governing the work of correspondents from the foreign media, after the Information Ministry accused the channel of having undermined Jordan and its policies.

Observations

437. The Special Rapporteur regrets that no response to his communications was received by 31 December 2003.

Kazakhstan

Communications sent

438. On 30 October 2003, the Special Rapporteur sent a letter of allegation referring to the following cases:

(a) On 15 April 2003, the authorities reportedly blocked access to several news web sites and web sites run by the opposition, by preventing Kazakhtelecom customers from accessing those sites. It seems that the web sites concerned are the following: the news web site **Navigator** (www.navigator.kz); political news sites **www.eurasia.org.ru** and **www.kub.kz**; the web sites of opposition leaders Mukhtar Ablyazov (www.ablyazov.info), Galymzhan Zhakiyanov (www.zhakiyanov.info) and Akezhan Kazhegeldyn (www.kazhegeldin.addr.com), as well as opposition media sites such as *Vesti Pavlodara* (www.vestipavl.com), *Assandi Times* and www.respublika.kz;

(b) On 16 August 2002, **Artur Platonov**, a television reporter, was reportedly physically attacked and suffered injuries requiring hospitalization. It was reported that his assailants were identified as three former police officers. It seems that at the time the communication was sent, no investigation into the attack had yet been undertaken. It was reported that at the time of the attack, Mr. Platonov was reporting on allegations of government corruption and on the death of Ms. Baiseitova's daughter (see below);

(c) On 24 July 2002, the Almaty Inter-District Economic Court reportedly ordered the liquidation of the firm PR-Consulting, which publishes the newspaper *Delovye Obozreniye Respublika*, reportedly because PR-Consulting continued to publish the newspaper despite a 10 April 2002 ruling that suspended it for allegedly violating administrative regulations, namely the failure to display of the registration date and certificate on the weekly's pages. In parallel, it was reported that on 4 July, the Almaty District Court sentenced **Irina Petrushova**, the editor of the newspaper, to an 18-month suspended prison sentence for working in Kazakhstan illegally while she did not have Kazakh citizenship;

(d) Just after **Lira Baiseitova**, an independent journalist who wrote for *SolDat* newspaper, published an article in the paper in May 2002 regarding Swiss bank accounts allegedly held by the family of President Nazarbaev, **her 25-year-old daughter** reportedly disappeared. It was reported that the police later informed Ms. Baiseitova that her daughter had been arrested for alleged possession of heroin and died in police custody. It seems that there were conflicting reports about the cause of Ms. Baiseitova's daughter's death;

439. On 5 December 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent a joint urgent appeal regarding the alleged sentencing of **Sergey Duvanov**, a journalist and editor of the Bulletin "Human Rights in Kazakhstan and in the World" (reference was made to urgent appeals sent by the Special Rapporteur on 18 July 2002 and by the Special Rapporteur and the Special Representative on 11 November 2002 and to the Government's response thereto – see document E/CN.4/2003/67/Add.1, paras. 316, 317 and 319). According to new information received, on 28 January 2003, Sergey Duvanov was allegedly sentenced by the Karasai District Court to 3 ½ years of detention in a general regime colony for rape under article 120 of the Criminal Code. Reports by international observers allege that there was insufficient evidence of his guilt to convict him and serious violations of criminal procedure during the hearing. On 11 March 2003, the Criminal Collegium of the Almaty Oblast Court reportedly upheld the verdict;

440. On 11 June 2003, Sergey Duvanov's lawyers reportedly received a letter from the Almaty Oblast Court Chief Justice, which allegedly stated that there were no reasons for an investigation of the legality of the case. On 29 November 2003, the lawyers reportedly received a similar letter from the Supreme Court. It was therefore alleged that all legal remedies had been exhausted. Concerns were expressed that Sergey Duvanov may be detained after an unfair trial due to his journalistic work on behalf of human rights. Owing

to the reported lack of sufficient evidence against Sergey Duvanov, it was feared that his trial was politically motivated.

Communications received

441. On 1 December 2003, the Government responded to the communication dated 30 October 2003 as follows:

(a) With respect to the allegation that on 15 April 2003 the authorities of the Republic of Kazakhstan blocked **access to several news and opposition web sites**, the Government indicated that Kazakhtelecom, which is an open corporation, is an Internet service provider and is not interested in preventing Internet access to any types of media. Kazakhtelecom did not block access to any of the web sites listed in the communication, nor to any other web sites. According to information provided by the Deputy Minister for Information, the Internet news site Navigator is a Ministry of Information-registered media entity (registration No. 943-G, 25 November 1999). The web site is owned by the independent agency Navigator Communications. Since the site was launched, the Ministry has not initiated any legal claims against its owner or its editor-in-chief. Access to the web site (www.navi.kz) was available on 28 November 2003. On 28 November 2003, access to the web site www.respublika.kz, on which the *Assandi Times* newspaper publishes information, was also available. According to the Commissioner for Human Rights (Ombudsman), there are no serious grounds for closing down these web sites. The Government of Kazakhstan has not blocked the aforementioned web sites by preventing them from being accessed through Kazakhtelecom;

(b) On the allegation that Artur Platonov was physically attacked and that there was no information about any kind of investigation into the attack, the Ministry of Internal Affairs responded that the incident was unrelated to Mr. Platonov's professional activity. On 16 August 2002, A. Platonov, a journalist for the commercial television company KTK, reported to the Medeu District Internal Affairs Department in Almaty that he had been assaulted for no reason by unknown assailants outside the building at 128 ulitsa Furmanova at approximately 10.20 p.m. On 17 August 2002, at Mr. Platonov's instigation, a criminal case was opened under article 257, paragraph 2, of the Criminal Code (disorderly conduct) and an investigation team was appointed. It has been established that the fight, during which Mr. Platonov was injured, arose between Mr. Platonov and three retired Internal Affairs officers, whose names are given in the response. In Mr. Platonov's words, he had just driven into the courtyard of the building where he lived when he was attacked for no reason by three drunken men, against whom he used a gas cylinder. The version of the three retired Internal Affairs officers was that Mr. Platonov nearly caused an accident and responded to remarks from them by shouting obscenities and spraying them with gas from the cylinder in his car. They drove after him and suggested he get out of his car to discuss matters. In response, Mr. Platonov sprayed more gas at them. Mr. Platonov's father (a former employee of the Ministry of Internal Affairs) approached them, assessed the

situation and told them all to disperse. The three categorically denied assaulting Mr. Platonov. Forensic medical examination No. 1944 of 23 August 2002 concluded that Mr. Platonov had been subjected to moderate bodily harm;

(c) On 30 September 2002, criminal proceedings were initiated under article 104, paragraph 1, of the Criminal Code (deliberate infliction of moderate bodily harm). On the same day, the three retired officers were charged pursuant to article 104, paragraph 1, of the Criminal Code; as a preventive measure they were bound over to remain in the area and behave themselves;

(d) On 4 October 2002, a criminal case under article 280 of the Code of Criminal Procedure was referred to the Almaty town procurator, who on 10 October passed it on to the Medeu District Court in Almaty for consideration on the merits. On 26 November 2002, the Medeu District Court in Almaty found the three men guilty of assaulting Mr. Platonov, sentencing each to one year's deprivation of liberty under article 63 of the Criminal Code (suspended for the same period);

(e) On the allegation that on 24 July 2002 the Almaty Inter-District Court ordered the liquidation of PR Consulting, the company which publishes the *Delovoe Obozrenie Respubliki (Business Review of the Republic)*, the Government indicated that in October 1998, at the Almaty Department of Justice, Ms. I. A. Petrushova, a citizen of the Russian Federation, and **But, Konovalov** and **Zarazin**, citizens of the Republic of Kazakhstan, registered a limited partnership which they had founded under the name of PR Consulting. The main activity of the company was publishing the newspaper *Delovoe Obozrenie Respubliki*. Ms. Petrushova was elected managing director. The partnership conducted its business without obtaining the mandatory special authorization to employ foreign labour. On 4 July 2002, the Medeu District Court in Almaty found Ms. Petrushova guilty of an offence under article 190, paragraph 2 (b), of the Criminal Code (unlawful business activity) and sentenced her to 18 months' deprivation of liberty and confiscation of property. On the basis of article 1 of the Amnesty Act of 19 February 2002, Ms. Petrushova was granted amnesty by the court and released from her sentence;

(e) On the allegation that, after Lira Baiseitova published an article in *SolDat* in May 2002 her 25-year-old daughter disappeared, the Government responded that Leila Serikova Baiseitova was arrested by police officers of the Medeu District Internal Affairs Department in Almaty on 16 June 2002 at 12.50 p.m. for the illegal acquisition and possession of a large quantity of narcotic substances. The arrest took place outside 25 ulitsa Pushkina in Almaty, during a police search. On the same day, a criminal case was opened against her, under article 259, paragraph 2, of the Criminal Code (illicit acquisition, trafficking or possession for purposes other than trade of large quantities of narcotic drugs). Ms. Baiseitova was put in a cell in the Medeu District Internal Affairs Department, where she attempted to commit suicide by hanging herself, using her jeans. She was taken by ambulance to the emergency hospital in Almaty, diagnosed with "oedema and swelling of the

brain induced by mechanical asphyxiation". She did not regain consciousness and died in hospital on 21 June 2002. To clarify the circumstances of her death, the Medeu District Internal Affairs Department in Almaty instituted criminal proceedings, under article 102, paragraph 2, of the Criminal Code (driving to suicide) on 1 July 2002. A forensic medical investigation concluded that the cause of death was interrupted mechanical asphyxiation by hanging complicated by post-asphyxiation pulmonary oedema. The investigations department of the Almaty City Internal Affairs Department interrupted the criminal proceedings several times for want of a *corpus delicti*, pursuant to article 37, paragraph 1.1, of the Code of Criminal Procedure. These rulings were overridden by the City Procurator because the preliminary inquiry had not been completed. After further investigation, the proceedings were halted once again on 22 November 2002. The Procurator-General overruled this decision on 5 December 2002 and the investigation resumed. As the case had evoked a broad public response, and in order to conduct a full and objective investigation, an investigating team was set up under the Special Procurators Department at the Office of the Procurator-General. A further forensic medical examination was carried out, which confirmed the results of the first; the directors and staff of the Internal Affairs Department were questioned and the rules and regulations governing the operation of temporary detention facilities and guarded areas of Internal Affairs bodies were studied and added to the case material. A psychological and psychiatric assessment established that Ms. Baiseitova had shown signs of an opiate (heroin) addiction. Experts believe that immediately before her death Ms. Baiseitova was suffering from withdrawal symptoms which predisposed her to suicide. Two medical doctors, representatives of the Chief Coroner of the Canadian province of Ontario, were present during the investigation (this was arranged on the initiative of international non-governmental organizations and with the agreement of the Kazakh State authorities, in order to ensure an objective investigation into the death of Leila Baiseitova). From 6 to 14 December 2002, the two medical doctors were given the opportunity to acquaint themselves with the case materials and hold meetings and interviews with the staff of the Almaty City Internal Affairs Department, the Medeu District Internal Affairs Department, doctors, experts and the Akim (Mayor) of Almaty. According to their conclusions, Ms. Baiseitova was a regular heroin user and used the drug both through inhalation and intravenously; she had not been subjected to violence at the police station; it was possible that she had hanged herself using her jeans; her death was caused by hanging. On the basis of these findings the doctors reached a conclusion which entirely matched that of the initial investigation, and revealed that there had been no unlawful behaviour on the part of the prosecution services. An exhaustive investigation was completed, in order for the circumstances of Ms. Baiseitova's death to be studied objectively. In the light of the above, the criminal proceedings pertaining to Ms. Baiseitova's death were halted by the Procurator-General on 31 January 2003 for want of a *corpus delicti*. Ms. Baiseitova's mother, L. M. Baiseitova, was informed of this decision.

442. By letter dated 22 December 2003, the Government responded to the communication of 5 December 2003 and indicated that on the morning of 28 October

2002, a woman whose name is mentioned in the response lodged a complaint at the Karasai district internal affairs office concerning a man known to her by the name of "Sergei" who had raped her 14-year old daughter, whose name is also mentioned in the response. On the basis of this complaint, criminal proceedings were initiated the same day in relation to an offence under article 120, paragraph 2(e), of the Criminal Code of Kazakhstan. On 29 October 2002, **S.V. Duvanov** was arrested in accordance with article 132 of the Code of Criminal Procedure and subsequently held as a suspect under article 142 of the Code of Criminal Procedure.

443. On 6 November 2002, Mr. Duvanov was charged with the rape of the girl under article 120, paragraph 2(e), of the Criminal Code. The court proceedings in this criminal case were held in the town of Kaskelen in Almaty oblast from 24 December 2002 to 28 January 2003. The case was heard by the Karasai district court in Almaty oblast in closed session. Mr. Duvanov was defended by the three lawyers whose names are given in the response, as well as two unofficial defenders whose names are also given in the response. Staff from foreign embassies and representatives of international organizations were allowed to attend the judicial hearing as observers. In particular, the following attended as observers at the start of the court proceedings: the acting head of the OSCE centre in Almaty; the second secretary at the United States Embassy in Uzbekistan; an observer from the University of London; the Ambassador of the Kingdom of the Netherlands to Uzbekistan; the deputy head of mission in the Embassy of the Kingdom of the Netherlands (who was granted the right to attend on behalf of the European Union); and the head of the department of political issues in the OSCE centre in Almaty.

444. On 28 January 2003, the Karasai district court in Almaty oblast sentenced Mr. Duvanov to three years and six months' deprivation of liberty under article 120, paragraph 1, of the Criminal Code, the sentence to be served in an ordinary-regime correctional colony. While finding Sergei Duvanov guilty of rape, the court recategorized the charge under article 120, paragraph 1, of the Criminal Code, on the grounds that Mr. Duvanov was not aware that the victim was under age. The judgement against Mr. Duvanov did not become enforceable. The following were lodged against the judgement: a protest by the State prosecutor over the unjustified recategorization of the charge; appeals by the victim and her representative over the incorrect categorization of Mr. Duvanov's actions and the mildness of the punishment; and appeals by the Mr. Duvanov and his lawyers over the unsubstantiated conviction. On 11 March 2003, the hearing of the appeals by the parties in relation to the judgement against S. Duvanov began in Almaty oblast court.

445. As required by the law governing criminal procedure, the proceedings were held in closed session, since they involved an offence against personal honour and dignity. However, at the request of a number of international organizations, their representatives were allowed to attend the proceedings. During the court session, Mr. Duvanov's guilt was fully confirmed, inter alia by testimony from the victim and witnesses, and the findings of expert examinations, including a DNA test. After reviewing the documents in the case, the appeal division of Almaty oblast court partially granted the victim's appeal and the prosecutor's protest by recategorizing Mr. Duvanov's actions under article 120, paragraph 2, of the Criminal Code. The sentence was not modified. Thus, Mr. Duvanov was found guilty of raping an under-age girl and the court's ruling became enforceable.

446. Before the appeal court session began, the representatives of international organizations asked to be allowed to attend. The court refused because the victim's mother opposed their presence. In her opinion, the presence of outsiders in the court of first instance had resulted in details of the offence, relating to the personal life of the under-age victim, being broadcast in the media, including the foreign media, which seriously violated her rights.

447. In August 2003 S. Duvanov's lawyers lodged an appeal with the Supreme Court under the supervisory procedure. After hearing the appeal, the Court found no grounds for reviewing the case.

448. In March 2003, at the request of the Acting Chairman of OSCE in Kazakhstan, two legal specialists from the Netherlands arrived to familiarize themselves with the case. During their stay in Kazakhstan, the visitors met the persons involved in the proceedings. Following their visit to Kazakhstan, the Netherlands experts prepared a report, on which the Ministry of Internal Affairs and the office of the Procurator-General of Kazakhstan made comments. The Government attached to its response the "Observations by the Republic of Kazakhstan on the 8 April 2003 report of OSCE experts setting out the findings of their review of the criminal prosecution of S. Duvanov for the offence referred to in article 120, paragraph 2 of the Criminal Code".

Observations

449. The Special Rapporteur thanks the Government of Kazakhstan for its responses.

Kuwait

Communications sent

450. On 20 June 2003, the Special Rapporteur sent an urgent appeal concerning **Mohammed Jassem**, journalist, against whom criminal charges were filed by the authorities. It was alleged that Mohammed Jassem, editor of the *al-Watan* newspaper and of the Arabic-language editions of *Newsweek*, was charged in mid-June 2003 under a law that allegedly makes it a crime to challenge the authority of the Emir, or to "utter abusive statements" against him and his Government. If convicted, Mohammed Jassem could be sentenced to up to five years in prison. It was reported that the charges followed a private gathering during which Mr. Jassem reportedly said that several members of the ruling family were interfering with legislative elections to be held on 5 July. It was alleged that the case against him might also be linked to his two-year campaign against a proposal to give the Government more power to shut down newspapers. It is reported that Mohammed Jassem was free on bail at the time the communication was sent.

451. On 3 November 2003, the Special Rapporteur sent a letter of allegation with respect to information according to which the Government had decided to close down the local office of the Al-Jazeera television station. It was reported that the Ministry of Information ordered the office to close on 3 November, reportedly the day after the station

broadcast a report that a quarter of Kuwait's territory (in the north-west) had been sealed off to allow United States-Kuwaiti military manoeuvres to take place. It was reported that the Government said the report harmed the country's interests.

452. On 18 December 2003, the Special Rapporteur sent, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, an urgent appeal concerning **Yasser al-Habib**, a 30-year-old writer, journalist and researcher, who was reportedly detained at al-Niyabah al-Ammah criminal investigation building. It was reported that Mr. al-Habib collapsed during one of his interrogation sessions due to ill-health, and there were serious concerns for his health. Mr. al-Habib, who has worked for several Arabic-language newspapers, including the monthly *al-Menbar (The Pulpit)*, was reportedly abducted by unknown individuals on a Kuwait City street on the afternoon of 30 November and taken away in an unmarked vehicle. His family was reportedly not informed that he had been detained by security forces until the following day, and details of the charges against him were reportedly not disclosed. It was thought that he may be held in connection with an audio cassette recording of a lecture he gave on Islamic historical issues. According to reports, he was hospitalized but not allowed visitors.

Observations

453. The Special Rapporteur regrets that no response had been received from the Government by 31 December 2003.

Kyrgyzstan

Communications sent

454. On 30 January 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent a joint urgent appeal concerning the **reported harassment of NGO activists**, which appears to be linked to the release of an appeal signed by 22 NGOs on 15 January 2003 calling for the referendum on the Constitution that was due to take place on 2 February to be rescheduled. According to the information received, as a result of the attention that was given in the media to this issue and following interviews given by NGO leaders to the television and newspapers, all persons who signed this and other appeals protesting against the referendum were being harassed and intimidated. It was further reported that several of them were summoned by the State authorities and secret service representatives in order to sign letters in which they had to deny their position on the referendum. It was reported in particular that on 27 January, an officer of the criminal investigation department of the Pervomai police unit, whose name is known to the Special Rapporteur and the Special Representative, visited the neighbours of **Aziza Abdrasulova**, a Coalition member in Bishkek, and questioned them about her family's lifestyle and social activities. In the absence of her parents, **Mrs. Abdrasulova's 12-year-old daughter** was interrogated about where she and her younger brother go to school.

455. On 15 April 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal in which they referred to allegations according to which **13 members of the banned Hizb-ut-Tahrir party**, including **Anvarjon Iminjonov** and **Ulukbek Kochkorov**, were arrested in early April for distributing leaflets opposing the war in Iraq. It was reported that the leaflets, which were in Kyrgyz, Russian, Uzbek and Arabic, called on all Muslims to oppose the war in Iraq. Ten of those arrested were reportedly charged with inciting ethnic and religious enmity, under article 229 of the Criminal Code. It was believed that the detainees denied having made any such statements in leaflets. According to information received, the families of those arrested were not told where their relatives were being detained. Ulukbek Kochkorov, a resident of Sharq in Karasuu district, was reportedly arrested on 3 April 2003, and at the time the communication was sent, his family had not yet been informed of his whereabouts. On that day, 15 people, mostly women, went to the police department to demand see him and to give him food. After the police told them that he had been taken to Osh city centre for temporary detention, the women reportedly began protesting, at which time the police forced them to leave the premises. In view of the incommunicado nature of these persons' detention at an unknown location, fears were expressed that they may be at risk of torture and other forms of ill-treatment while in custody.

456. On 5 June 2003, the Special Rapporteur sent, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, an urgent appeal concerning **Hasanbaev Salijan**, aged 45, who was reportedly arrested on 23 May 2003 by members of the Osh oblast Department of the Interior at Kara-Suuy market. It was alleged that he was arrested for possession of documents relating Hizb-ut-Tahrir. According to the information received, the authorities claimed that the seized documents contained anti-constitutional appeals. A criminal case was reportedly initiated and an investigation was believed to have been conducted at the time the communication was sent. It was thought that the Ministry of the Interior was keeping his whereabouts secret and had attempted to conceal his name since his arrest. He was reported to have been denied access to legal counsel and his relatives were allegedly not informed of his condition. In view of previous reports indicating that a number of members of Hizb-ut-Tahrir have been subjected to torture or other forms of ill-treatment while in detention and in view of the alleged incommunicado detention of Hasanbaev Salijan at an unknown location, concern were expressed for his physical and mental integrity.

457. On 30 October 2003, the Special Rapporteur sent a letter of allegation relating to the following cases:

- (a) On 15 September 2003, the body of **Ernest Nazalov**, a 27-year old journalist, was reportedly found in a river in Osh oblast. It was reported that Mr. Nazalov's right hand was broken and bore stab wounds. At the time of his death, Mr. Nazalov was working as a correspondent for the newspaper *Kyrgyz Ruhu* and was reportedly investigating alleged corruption among top local officials. It was alleged that he may have uncovered incriminating evidence

against them. Reports indicated that two people beat Mr. Nazalov two weeks prior to his death and stole documents related to his investigative work;

(b) On 23 May 2003, the authorities reportedly confiscated the day's edition of the opposition newspaper *Moya Stolitsa*. It was reported that this decision was connected to an article on alleged high-level corruption. According to information received, the newspaper's 15,000 copies were seized early on 23 May. Authorities reportedly claimed they were acting in accordance with a court order issued in relation to the newspaper's alleged failure to pay the equivalent of US\$ 100 as a result of a lawsuit two years ago;

(c) On 29 October 2002, a **march** from the village of Baitik to the capital, Bishkek, that had been organized to celebrate the birthday of **Felix Kulov**, a parliamentary candidate reportedly detained since the elections in March 2000, was reportedly blocked and broken up by the police. According to information received, 30 members of the Police's Special Forces (OMON), reportedly armed with truncheons, were deployed, turning the marchers back after two kilometres. Reports indicated that the Head of the Alamedin Police Department and his deputy were present and gave the order to break up the march. One of the police officers supposedly provoked the crowd by making inflammatory remarks about Felix Kulov, leading to a confrontation between the police and the demonstrators, during which six people were reportedly arrested and fined. Reports stated that the arrests were carried out upon the orders of the Head of the Chui Provincial Department of the Interior, and that excessive force was used against the demonstrators. It was reported that the six people who were arrested and later tried at the Almedin District Court are: **Akunov Tursunbek**, Chairman of the Human Rights Movement of Kyrgyzstan; **Ibraimov Tynchbek**, a relative of Felix Kulov; **Sharshenaiev Kanat**, mullah and member of Baytik village religious committee; **Abdrasulova Aziza**, the deputy chairman of the Prisoners' Guild; **Chonmurunov Arstanbek**, Baitik village citizen and supporter of Felix Kulov; and **Kadyrov Toktosun**, Baitik village citizen and member of the "Ar-Namys" political party. The following day, five of the six detainees were reportedly convicted under articles 321 and 392 of the Administrative Code by Judge Svetlana Rustambekova: Akunov Tursunbek, Ibraimov Tynchbek and Sharshenaiev Kanat were reportedly fined 1,000 soms each; Abdrasulova Aziza and Chonmurunov Arstanbek were reportedly cautioned. It was reported that Kadyrov Toktosun's case was postponed until 31 October 2002;

(d) On 4 September 2002, a **march** was organized by several hundred people from Jalal-Abad to the capital, Bishkek, to ask for the identification and sanctioning of the persons responsible for the killings of 6 people and the injuring of 40 in the village of Asky on 17 March 2002, during a demonstration to protest against the arrest and detention of parliamentarian Mr. Beknazarov. According to the information received, more than 100 people were beaten by the police, most of whom were severely injured. Five coordinators of the march were reportedly arrested: **Meder Usenov**, **Kanat Baijumaev**, **Mambetaly Kubatov**, **Daniar Asanov** and **Semetei Karabekov**. A criminal case was reportedly filed against

Semetai Karabekov and Meder Usenov under article 341, part 1, for use of violence towards representatives of the authorities;

(e) On 15 August 2002, the head of the village of Tuip in Issyk-Kul oblast, **Omurbek Bolturukov**, was reportedly arrested after he criticized the Government's alleged illegal distribution of land in the region.

Communication received

458. On 16 April 2003, the Government sent a response to the communication dated 30 January 2003, in which it indicated that recently a new version of the Constitution had come into force in Kyrgyzstan that had been drafted with active input from all political forces in the country and civil society and approved in a nationwide referendum on 2 February 2003. As to the allegation that the law enforcement services had put pressure on the leaders of certain NGOs, specifically, **Aziza Abdrasulova**, because of their refusal to accept the timing of the aforementioned referendum, a check carried out by the Office of the Procurator-General and the National Security Service revealed that the allegation had no basis in fact. Nor is there any record of applications or complaints in connection with this matter being lodged with the judicial bodies of the Kyrgyz Republic. A militia officer did indeed visit Ms. Abdrasulova's house, among others, to seek information about a theft committed in the vicinity.

Observations

459. The Special Rapporteur thanks the Government for its response and awaits further responses to his communications dated 15 April, 5 June and 30 October 2003.

Lao People's Democratic Republic

Communications sent

460. On 12 June 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent a joint urgent appeal concerning **Thierry Falise**, a Belgian journalist, **Vincent Reynaud**, a French photographer, pastor **Maw Karl Mua**, a national of the United States of America from the Hmong ethnic group, and **four Lao nationals** whose names are unknown. According to information received, on 4 June 2003, the above-mentioned persons were arrested by local security services in Phoukout district, Xieng Khouang province, northeast of the capital, Vientiane. At the time the communication was sent, their whereabouts were unknown. It was reported that at least one person was killed when they were apprehended by the Lao authorities. Vincent Reynaud and Thierry Falise were reportedly researching a story about a group of rebel fighters from the Hmong ethnic group and their families when they were arrested. They were reportedly accompanied by Maw Karl Mua and four local guides. It was believed that the seven detainees were interrogated by security services in order to find out the exact location of the rebel group of Hmong fighters. In view of the incommunicado nature of their detention at an unknown location, it was feared that the detainees might be tortured or ill-treated during interrogation.

461. Le 4 août 2003, le Rapporteur spécial a envoyé un appel urgent concernant **Thao Moua** et **Tha Char Yang**, guides de profession, ainsi que de **Pa Phue Khang**, chauffeur, qui auraient été condamnés, le 30 juin 2003, à des peines de prison allant de 12 à 20 ans pour avoir accompagné et aidé deux journalistes étrangers, Thierry Falise et Vincent Reynaud, qui effectuaient un reportage sur la minorité Hmong dans le pays. Tha Char Yang aurait été condamné par contumace. Le 9 juillet, après trente-cinq jours de détention, Thierry Falise et Vincent Reynaud, ainsi que leur interprète américain, le révérend Naw Karl Mua, avaient été libérés par les autorités et immédiatement expulsés du pays tandis que leurs guides et leur chauffeur seraient restés en prison. Il semblerait que Thao Moua et Pa Phue Khang, qui seraient détenus à Vientiane, auraient été maltraités par des policiers. D'autres personnes auraient été arrêtées dans le cadre de cette affaire, mais leurs noms n'étaient pas connus au moment de l'envoi de la communication.

462. Le 31 octobre 2003, le Rapporteur spécial a envoyé une lettre d'allégation concernant les cas suivants :

a) un certain nombre de personnes, arrêtées semble-t-il alors qu'elles manifestaient, seraient toujours maintenues en détention. Selon les informations reçues, cinq membres du «Mouvement du 26 octobre 1999 des étudiants laotiens pour la démocratie », **Thongpaseuth Keuakoun, Khamphouvieng Sisaath, Seng-Aloun Phengphanh, Bouavanh Chanhmanivong** et **Keochay**, qui auraient été arrêtés en octobre 1999 alors qu'ils tentaient d'appeler publiquement pour le respect des droits de l'homme dans le pays, la libération des prisonniers politiques, un système politique multipartite et l'organisation d'élections parlementaires, seraient toujours détenus ;

b) un certain nombre de personnes arrêtées lors de manifestations auraient disparu. Ce serait notamment le cas de **quinze personnes** qui auraient été arrêtées lors d'une manifestation dans la province du Champassak en novembre 2000. Ce serait également le cas de **20 fonctionnaires, professeurs et étudiants** qui auraient participé à une manifestation demandant plus de justice et un meilleur respect des droits de l'homme, à Paksé dans la province de Champassak en octobre 2001. Ces derniers auraient été arrêtés et détenus dans un centre de détention de la police spéciale, avant d'être transférés semble-t-il dans un autre lieu de détention tenu secret.

Communications received

463. On 16 June 2003, the Government responded to the communication of 12 June, and indicated that on 4 June 2003, Xiengkhouang provincial police arrested three foreign nationals who had cooperated with bandits on 3 June in the killing of a security guard in Khai village, district of Phoukout, while he was on a routine mission. On 3 June, the three men had participated in a secret meeting of a group of bandits in a valley located about 100 meters from national route No. 7 near Khai village. Security guards found this group, which opened fire at them, causing the death of one security guard. The group fled the scene, but some of them were later arrested, including **Vincent Reynaud, Thierry Falise**

and **Mua Naw Karl**. At the time the response was sent, the three were detained for investigation by the Xiengkhouang provincial authority.

464. By letter dated 15 August 2003, the Government responded to the communication of 4 August and indicated that **Tho Moua, Thoua Cha Yang** and **Pa Phue Khang** had been arrested, tried and sentenced by the Xiengkhouang Provincial People's Court on 30 June 2003. Tho Moua was found guilty of obstructing an official in the performance of his duty, under article 147 of the Penal Code, and sentenced to 12 years imprisonment and a eight million kip fine. Pa Phue Khang was found guilty of complicity in the obstruction of an official in the performance of his duty, illegal possession of weapons and destruction of proof, under articles 70, 147 and 156 of the Penal Code, and sentenced to 15 years imprisonment and a 10 million kip fine. Thoua Cha Yang was found guilty of complicity in the obstruction of an official in the performance of his duty, illegal possession of ordnance and narcotic drugs, and escaping from prison under articles 70, 135, 147 and 158 of the Penal Code, and sentenced to 20 years imprisonment and a 17 million kip fine. By letter dated 19 December 2003, the Government forwarded to the Special Rapporteur the copy of the judgement.

465. On 26 November 2003, the Government responded to the communication of 31 October, forwarding a copy of its communication addressed to the Chairperson of the Working Group on Enforced or Involuntary Disappearances on 30 June 2003. With respect to the alleged arrest of university students in connection with a demonstration on 26 October 1999, the Government indicated that there were no university students or student leaders arrested. The Government further indicated that **Thongpaseut Keuakune** and five other persons including **Khamphouvieng Sisa-at** were arrested on 27 October 1999 for having collected political, economic, national defence, and other intelligence for a foreign person who bribed them to do so. They were each sentenced for treason to 10 years imprisonment. **Keochay, Bouavanh Chanhmanivong** and **Seng-Alon Phengphanh** were not among those arrested.

Observations

466. Le Rapporteur special remercie le Gouvernement pour ses réponses.

Lebanon

Communication envoyée

467. Le 30 octobre 2003, le Rapporteur special a envoyé une lettre d'allégation concernant les cas suivants:

- (a) Le 3 janvier 2003, la connexion satellite de la station de télévision **New Television** (NTV) aurait été déconnectée, vraisemblablement sur ordre du procureur général. Il semblerait que cette décision serait intervenue car la station avait l'intention de diffuser un programme critique à l'égard de l'Arabie saoudite, ce qui, selon les autorités, aurait pu gêner les relations entre les deux pays ;

(b) le 31 octobre 2002, les autorités auraient décidé d'interdire **une manifestation** pour protester contre la répression des libertés civiles et de la liberté de la presse, organisée par les étudiants de la faculté des sciences de l'Université du Liban dans la région d'Al-Fanar, et un sit-in sur le campus de l'Université Saint-Joseph à Beyrouth. Bien que la manifestation ait semble-t-il été pacifique, un important dispositif policier aurait encerclé le campus et la police aurait utilisé la force afin de disperser les manifestants. **Trois étudiants** auraient dû être hospitalisés, et 11 auraient été arrêtés et relâchés après plusieurs heures de détention;

(c) des **manifestations** réclamant l'indépendance et la souveraineté du pays, organisées le 16 octobre 2002 dans plusieurs universités, auraient été violemment dispersées par la police. Il semblerait que plusieurs dizaines d'étudiants et de militants auraient été blessés après avoir été battus à coups de crosse au début de la manifestation qui s'est tenue sur le campus de la faculté de médecine de l'Université Saint-Joseph. Il semblerait que les journalistes n'auraient pas été autorisés à pénétrer sur le campus et que quelques-uns auraient été malmenés alors qu'ils s'en approchaient. Selon les informations reçues, des manifestants auraient été hospitalisés, y compris **Cynthia Zaraziri**, qui aurait souffert de nombreux traumatismes, notamment vertébraux, après qu'elle aurait été battue par la police, **Rami Saliba**, **Richard Younan** et **William Chemaly**. Six autres manifestants au moins auraient été arrêtés: **Édouard Chamoun**, **Rabih Khalifeh**, **Charbel Khalil**, **Élie Chamoun**, **Paul Bassil** et **Youssef Sadek**;

(d) le 27 mai 2002, des agents des renseignements à Zalka auraient arrêté **Edmond Khazen**, un étudiant de la faculté des sciences de l'Université du Liban, pour avoir distribué des tracts critiquant la présence syrienne au Liban. Il aurait été détenu au secret pendant deux semaines, sans que semble-t-il des charges aient été retenues contre lui.

Communication reçue

468. Le 31 mars 2003, le Gouvernement libanais a envoyé une réponse à la communication du 26 décembre 2002 (E/CN.4/2003/67/Add.1, par. 339) concernant l'arrestation alléguée de **Hassan Ahmad Al-Nahas**. Dans sa communication, le gouvernement indique que M. Hassan Ahmad Al-Nahas n'a pas été arrêté par les forces de sécurité intérieure du Sud-Liban.

Observations

469. Le Rapporteur spécial remercie le gouvernement pour sa réponse à sa communication du 26 décembre 2002, mais regrette qu'aucune réponse à ses communications de 2003 n'ait été reçue au 31 décembre.

Liberia

Communication sent

470. On 29 April 2003, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on human rights defenders, sent an urgent appeal concerning **Sheikh K.M. Sackor**, the Executive Director of Humanist Watch, a non-governmental human rights organization, who was reportedly arrested on 25 July 2002 in Monrovia (reference was made to an urgent appeal sent on 30 September 2002 by the Special Rapporteur, the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on human rights defenders, see E/CN.4/2003/67/Add.1, paragraph 352). According to new information received, on 23 October 2002, the Minister of National Defence announced that a military tribunal had convened and had concluded that Mr. Sackor was a prisoner of war. It is reported that the consideration of his case by a military court was held in camera and in the absence of the accused, and that no evidence had been produced against him or tested before a competent, independent and impartial court. Fears were expressed that the categorization of Sheikh K.M. Sackor as a prisoner of war had no legal foundation and that he was being kept in detention because of his alleged criticism of the Government and his activities in defence of human rights. It was further alleged that despite the Government's announcement on 28 October 2002 that he would be released under certain conditions, Sheikh K.M. Sackor was reportedly still held in incommunicado detention in an unknown place.

471. Another human rights activist **Hassan Bility**, was allegedly arrested on 24 June 2002 (reference was made to the same urgent appeal of 30 September 2002 and to two other urgent appeals sent by the Special Rapporteur and the Special Rapporteur on the question of torture on 27 June 2002 and 12 July 2002, see E/CN.4/2003/67/Add.1, paragraphs 349 and 350). He was reportedly released and handed over to United States of America embassy officials on 7 December 2002, and flown out of the country. He is believed to have reported appalling conditions of detention and to have been subjected to torture while in custody.

472. In view of the reported incommunicado detention in an unknown location of Sheikh K.M. Sackor and allegations of torture against another fellow human rights activist, fears were expressed that he may be subjected to torture or other forms of ill-treatment.

Observations

473. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

474. The Special Rapporteur would like to reiterate his request to undertake an official visit in the country as expressed in his letter dated 8 December 2003.

Libyan Arab Jamahiriya

Communication sent

475. On 27 October 2003, the Special Rapporteur sent an urgent appeal regarding the case of **86 people**, believed to be detained at the Abu Salim prison in Tripoli, whose appeal hearing before Tripoli's People's Court opened recently. According to information received, these 86 people have been in detention since June 1998, after they were reportedly arrested by security forces as they were suspected of supporting or sympathizing with the unauthorized "Libyan Islamic Group" (al-Jama'a al-Islamiya al-Libiya). They were reportedly charged under articles 2 and 3 of Law 71 of 1972, banning any form of group activity based on a political ideology opposed to the principles of al-Fatih Revolution of 1 September 1969, and article 206 of the Penal Code, which stipulates that "execution" is the punishment for those who call for the "the establishment of any grouping, organization or association proscribed by law". It is reported that a group of 152 people was arrested in 1998, and that during the trial on 16 February 2002, two people were sentenced to death - **Abdullah Ahmed Izzedin** and **Salem Abu Hanak**, both academics; 73 were sentenced to life imprisonment; 11 were sentenced to 10 years in prison; and 66 were acquitted. It seems that the appeal of the case was adjourned since its opening in the summer of 2002. Reports have indicated that the original trial was not fair, and that the accused were denied their right to legal counsel and to a public hearing. It is further reported that they were held in incommunicado detention for more than two years and their whereabouts were unknown, and that for the past two years, family visits have been severely restricted.

Observations

476. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

Malawi

Communication sent

477. On 7 October 2003, the Special Rapporteur sent a letter of allegation to the Government of Malawi concerning the following case: On 16 September 2003, the police in Blantyre arrested **Frank Namagale**, a reporter with the *Daily Times*, on charges of "publishing false information likely to cause fear and alarm to the public". According to information received, Mr. Namangale's arrest followed an article published on 12 September in which he alleged that police had arrested the President's son, his nephew and three others in connection with an armed robbery. Mr. Namangale was reportedly released on bail the same day. The Special Rapporteur also sent letters of allegation concerning the following cases:

- (a) On 7 July 2003, **Daniel Nyirenda**, a photojournalist from the newspaper *The Nation*, was reportedly attacked by members of the youth wing of the ruling United Democratic Front (UDF) at the opening of the UDF Convention in

Blantyre. Mr. Nyirenda's attackers also reportedly stole his two cameras and cell phone. It is alleged that young members of UDF often harass and attack independent journalists and members of opposition political parties and that the police have not made any arrest to date in this regard;

(b) On 2 June 2003, the Director-General of the Malawi Communications Regulatory Authority (MACRA), stated during a two-day international workshop on the promotion of community radio stations in Blantyre, that community radios should stop airing news bulletin. It is alleged that community radios are the only media through which opposition members or ordinary citizens can express themselves, as the Malawi Broadcasting Corporation (MBC) and the Television Malawi (TVM) allegedly cover mainly political leaders from the ruling UDF;

(c) On 19 January 2003, **Maganizo Mazeze**, an announcer from the Malawi Institute of Journalism's radio station (MIJ 90.3 FM), was reportedly detained by the police in Blantyre on the alleged charge of "broadcasting material likely to cause public alarm and unrest". According to information received, Mr. Mazeze interviewed on 18 January a man from southern Malawi who claimed to have been a victim of "bloodsuckers". This interview reportedly came a few days after the President allegedly ordered the police to arrest anyone who spoke of vampires in the country, after the Blantyre city Governor was beaten up and his car vandalized following allegations that he was harboring bloodsuckers.

Observations

478. The Special Rapporteur regrets that no reply had been sent by the Government.

Malaysia

Communications sent

479. On 15 January 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent a joint urgent appeal concerning **Irene Fernandez**, the director of the women's NGO Tenaganita, who, at the time the communication was sent was facing a trial which has been going on since 1996, when she was charged under Section 8A(2) of the Printing Presses and Publications Act (1984) (PPPA) for "maliciously publishing false news". In accordance with the law, a conviction under this provision can lead to up to three years' imprisonment and/or a fine of up to RM 20,000.

480. It was believed that the charges against Ms. Fernandez were brought following Tenaganita's release of a report – "Abuses, Torture and Dehumanized Treatment of Migrant Workers at Detention Camps". According to information received, this report was compiled from over 300 interviews of migrant workers, mainly from Bangladesh, Indonesia and the Philippines, after their release from detention camps in Malaysia in 1994-5. It reportedly gave details of alleged patterns of human rights violations within the

camps, including beatings, sexual abuse, malnutrition, dehydration, and denial of access to medical treatment.

481. On 22 January 2003, the Special Rapporteur sent an urgent appeal concerning the reported raid of the offices of “**Malaysiakini**”, an online daily newspaper in operation since 1999. According to the information received, on 20 January 2003, about 10 policemen from the Kuala Lumpur Dang Wangi District Police Station and the Computer Crime Department of the Bukit Aman National Police Headquarters raided the office of “**Malaysiakini**”. This raid apparently followed a police report lodged by the youth wing of the United Malay National Organisation (UMNO, ruling party) on 17 January 2003 with respect to a letter published by “**Malaysiakini**” on 9 January, which is claimed by the UMNO youth to violate the Sedition Act, for questioning the Malays’ special rights and instilling hatred towards the Government. It is reported that although the police officers were offered to have access to the server which contained the alleged seditious letter, they took away 15 central processing units and four servers from “**Malaysiakini**”’s office, which allowed the police to have full access to all confidential information of “**Malaysiakini**”. The police also reportedly took away the organisational chart of “**Malaysiakini**” and **Steven Gan**, its editor-in-chief, was ordered to appear at the Dang Wangi District police station at 11.00 a.m. on 21 January 2003 to record a witness statement, where he was reportedly interrogated for three hours.

482. It was reported that the Sedition Act (1948) provides power to the police to seize materials to preserve evidence and contains a very broad definition of seditious acts including acts that bring hatred or contempt or excite disaffection against any ruler, the Government or the administration of Justice. It also prevents the questioning of the special position of Malays and citizenship rights of the non-Malays. A violation of the act is punishable by up to three years in prison.

483. On 16 July 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal regarding information on a group of approximately 40 Myanmar nationals, who was reportedly arrested on 19 June 2003 in the vicinity of the Myanmar Embassy in Kuala Lumpur, where they were protesting the continued detention of pro-democracy leader Aung San Suu Kyi in Myanmar. Amongst them was said to be **Soe Muhem**, a columnist and key member of the Democratic Federation of Burma (DFB). The demonstrators were reportedly stopped by police about 20 meters from the embassy. The police ordered the protestors to disperse, but those who resisted and held up their signs were arrested.

484. The following persons were reportedly arrested: **Moe Hein, Zeya Win, Htay Lwin, Saw Naing Kyaw, Mu Mu Kyaw Lyin** and **Khin Thandar Soe**, all of whom with refugees status, **A War** and **Thaung Shwe**, both of whom reportedly have working visas, **Khin Maung San, Swe Taet Htun Wo, Zaw Min Latt, Soe Thu Lwin, Kyaw Kyaw, Ko Latt** and **Ko Ko Naing**, all of whom are waiting for their applications to be processed by the United Nations High Commissioner for Refugees (UNHCR).

485. All were reportedly taken to the Cheras Police Station for questioning. After their arrest, the police allegedly obtained an extension of remand orders on two occasions, totaling 8 days of detention. This was reportedly done in secrecy, as the lawyers were not informed or present at the courts, despite placing themselves on record as the detainees' solicitors.

486. Three of those arrested were charged in court. Two of them, including A War, were reportedly charged under Section 6(1) of the Immigration Act (IA), and Thaung Shwe was charged under Section 15 (1) c IA for overstaying his visa. It is reported that he originally entered Malaysia legally with a valid passport. The penalties under Section 6 (1) of the IA have been increased since August 2002, and if convicted, the detainees could face up to 5 years in prison, a fine of up to RM10, and up to 6 strokes of the whip. Under Section 15(1) c Thaung Shwe faces the same possible sentence without the whipping. In addition, the authorities have reportedly indicated that they may be deported shortly to Myanmar. Fears were expressed that, as members of the National League for Democracy, a Myanmar opposition group, they might face a serious risk of being subjected to torture and other forms of ill treatment upon return.

487. On 14 October 2003, the Special Rapporteur, the Special Rapporteur on the human rights of migrants and the Special Representative of the Secretary-General on human rights defenders sent another joint urgent appeal concerning Ms **Irene Fernandez**, director of Tenaganita, a women's non-governmental organization based in Kuala Lumpur, which deals with health, domestic violence, migrant workers' rights and family law issues (reference was made to an urgent appeal sent on 15 January 2003 on behalf of the Special Rapporteur and the Special Representative). According to new information received, Irene Fernandez's trial, started on 10 June 1996, was still running, and in March 2003, after the conclusion of presentation of Ms Fernandez's case by her defense council, the magistrate had set 17 March 2004 as the date for judgment. On 9 October 2003, Irene Fernandez' lawyers reportedly received a letter from the magistrate, requesting them to send all written submissions by 11 October 2003 because the date of the trial had been brought forward to 14 October 2003 at 2.30 pm at the Magistrates Court 5B in Kuala Lumpur and a deadline for the defense submissions was fixed for 10 October 2003. According to information received, the senior counsel for the trial was not in the country until 20 October, thus making it impossible to send in the written submissions or to be present in court when the judgment is made. The sudden change of date has placed Irene Fernandez in a difficult situation as her lawyers will not be able to be present in court. The Special Rapporteurs and Special Representative were concerned that these most recent incidents in the trial proceedings against Irene Fernandez may lead to additional violations of her rights.

488. On 30 October 2003, the Special Rapporteur sent a letter of allegation concerning the following cases:

- (a) On 18 August 2003, **Cynthia Gabriel**, Executive Director of the human rights organization Suara Rakyat Malaysia (SUARAM), was reportedly denied entry into Sarawak by Immigration officers at Miri Airport. It is reported that Ms. Gabriel was to attend a workshop on "Globalisation and its Impacts on

Indigenous Peoples in Malaysia” in Miri, Sarawak, and that immigration officers at the airport told Ms. Gabriel that she was denied entry as her name was blacklisted. The officers reportedly kept her passport and booked a ticket back for her on 19 August to Kuala Lumpur;

(b) In August 2003, an episode of the popular **television series 3R** (Respect, Relax and Respond) –which contained a 7-minute documentary about being gay– was reportedly banned by the Censorship Board, on the grounds that it allegedly promoted homosexuality, went against Islamic principles, the Constitution, and the tenets of the Rukunegara - the Government's policy of inculcating good morals and Malaysian cultural values. It is reported that the episode was from the series' sixth season, *Identiti di Sebalik Cermin* (Identity behind the Mirror), and that it was re-cut from the original segment *Bukan Gadis Biasa* (Not a Normal Girl), which was reportedly previously not allowed to be broadcasted;

(c) On 14 July 2003, police forces reportedly dispersed a **peaceful demonstration**, allegedly using excessive force and beating demonstrators, and reportedly arrested **Syahrir Mahmood**. According to information received, a group of around 300 demonstrators gathered at the Kuala Lumpur National Mosque and planned to march to the Magistrate Court in support of a group of students, known as the ISA7, who were facing trial for their participation in a June 2001 demonstration against the 1960 Internal Security Act (ISA). It is reported that a large police force, led by Chief Inspector of the District Police Hadi Ho Abdullah, intervened and used force against the participants just as the march was beginning, reportedly on the grounds that the march was illegal. It is reported that Syahrir Mahmood, a spokesperson for the Students Abolish ISA Movement (Gabungan Mahasiswa Mansuhkan ISA, or GMMI), who reportedly attempted to negotiate with the police to allow the group time to disperse, was allegedly grabbed by seven uniformed police officers, who reportedly sprayed his eyes with tear gas, causing him to nearly lose consciousness, and struck him several times on the head and back. It is further alleged that the police continued to strike Mr. Mahmood after he was handcuffed. It is reported that Mr. Mahmood was arrested and brought to the Jalan Stadium Road Police Station (also known as Tun H.S. Lee Police Station), and released on police bail in the evening.

489. On 6 November 2003, the Special Rapporteur, the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on violence against women, sent another joint urgent appeal concerning **Irene Fernandez**, a human rights defender and a prominent advocates for the rights of migrant workers and women (reference was made to the two previous urgent appeals sent by the Special Rapporteur and the Special Representative on human rights defenders on 15 January 2003, and by the Special Rapporteur, the Special Representative on Human Rights Defenders and the Special Rapporteur on the human rights of migrants on 14 October 2003). Reports indicate that on 16 October 2003, the Kuala Lumpur magistrate's court reportedly convicted Irene Fernandez of “maliciously publishing false news”, and sentenced her to one year in jail. The sentence was reportedly stayed pending appeal. On 4 November, the Magistrate court reportedly rejected Irene Fernandez's application for the issuance of a passport, which she

made as she was to participate in conferences abroad during the month. Despite reportedly conceding that she was not likely to flee, the prosecutor requested that the application be denied on the grounds that she would likely “tarnish the image of the country” if allowed to speak about Malaysia's human rights situation at international conferences. Irene Fernandez was invited to attend two conferences on human rights issue in the United States and Canada, including a conference on human rights defenders co-sponsored by the Carter Center and the United Nations Office of the High Commissioner for Human Rights, which was held in Atlanta on 11 and 12 November 2003. Irene Fernandez is said to have appealed the decision.

490. On 4 December 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent a joint letter of allegation in relation to reports on the criminal prosecution of 7 students, **Ahmad Kamal bin Abdul Hamid, Nik Noor Hafizi bin Nik Ibrahim, Dzulkifli bin Idris, Khairul Amar bin Mahmud, Wan Mohamad Sanusi bin Wan Mohd Noor, Rafzan bin Ramli and Hermaan Saruddin**, who were reportedly arrested during a peaceful demonstration on 8 June 2001 in front of the National Mosque in Kuala Lumpur in protest against the Internal Security Act and the limitations that they consider the Act imposes upon respect for human rights. The students were reportedly charged on 19 July 2001 with illegal assembly and subsequently suspended from their university education, in application of the Universities and University Colleges Act (UUCA). According to available information the student's trial was continuing in July 2003. Concern was expressed that the students may have been arrested and charged for exercising their right to defend human rights.

Communications received

491. On 27 November 2003, the Government responded to the communication of 22 January 2003 regarding the alleged raid in the offices of the online newspaper “**Malaysiakini**”. The Government indicated that on 9 January 2003, the paper published a letter, on which the UMNO Youth lodged a police report invoking that the letter violated the Sedition Act (1948). On this basis, the authorities initiated an investigation into the case, which involved the recording of statements of witnesses and the seizing of documents necessary for the verification of the allegation, which were contained in the hard drive of the computers in the offices of “Malaysiakini”. According to the police, staff from “Malaysiakini” refused to cooperate, and therefore the police exercised their investigation powers under the Police Act 344 (1967) and the Criminal Procedure Code 593, and were obliged to seize the 15 central processing units and four servers. All the central processing units and servers, except for two, were returned to “Malaysiakini”. **Steven Gan** was requested to present himself at the police station for the purpose of statement-taking. He was not detained.

492. By letter dated 5 December 2003, the Government sent a response to the communication of 16 July 2003 concerning the arrest of a **group of Myanmar nationals**. The Government indicated that police records show that **Mu Mu Kyaw Lyin, A War, Thaung Shwe and Taet Htun Wo** were arrested in front of the Myanmar Embassy on 19 June 2003 (these are the four names among those arrested on that day which match the names listed in the Rapporteurs' communication). Under section 27(2) of the Police Act

(1967), any person intending to convene an assembly or meeting or form a procession in any public place is required to obtain a license from the police district where the assembly will be held. In the case of the 19 June demonstration, the license was not obtained. As a result, the 50 demonstrators were requested twice by the police to disperse, after which those who refused were arrested, including Mu Mu Kyaw Lyin, A War, Thaug Shwe and Taet Htun Wo.

493. Mu Mu Kyaw Lyin was released and has since migrated to Canada; Taet Htun Wo was released when it was discovered that he had valid travel documents; A War was found to have entered Malaysia without documents and was charged under Section 6(1) of the 1959 Immigration Act; and Thaug Shwe was found to have overstayed his visa in contravention of Section 15(1)(c) of the same Act. Both were detained in the Sungai Buloh Prison pending mention of their case on 17 November 2003.

494. On 17 December 2003, the Government responded to the communications of 15 January and 14 October concerning **Irene Fernandez**. It indicated that as Director of Tenaganita, Ms. Fernandez released on 25 August 1995 a Memorandum entitled "Abuse, torture and dehumanized treatment of migrant workers at detention camps". She was arrested on 18 March 1996 on the charge of publishing false news concerning the condition of migrant workers at the Sementyih detention camp, under Section 8A(2) of the Printing Presses and Publications Act of 1984. The case was heard at the Magistrate Court in Kuala Lumpur. According to the Notes of Evidence dated 13 June 2003, the Court directed the defense lawyers of Ms. Fernandez to file their written statements before 30 June 2003. On 7 October 2003, the Magistrate who was dealing with the case decided to resign and requested that the date of the judgement be brought forward to 14 October. The request was granted on 8 October 2003 and the following day, the magistrate wrote to the parties to inform them of the new date of the hearing and urge them to submit their written statements by 11 October.

495. Ms. Fernandez was allowed to make a statement from the dock with her lawyers, which she concluded on 15 October. The judgement of the case was rendered on 16 October. In handing the decision, the magistrate found that the prosecution had been able to prove beyond reasonable doubt the falseness of the information contained in the Memorandum, and the malicious intent behind Ms. Fernandez's actions in making it public. The prosecution managed to prove 16 pieces of information contained in the Memorandum to be false. The Court itself conducted a visit to the Sementyih detention camp and found that the information contained in the Memorandum was false.

496. Article 10 of the Constitution guarantees the right to freedom of opinion and expression, which does not mean that the right may be abused nor exercised without due regard to the implications it may bring. MS. Fernandez was tried on an open court in a fair and impartial manner with avenues for appeal still available to her.

497. On 29 December 2003, the Government provided some elements of response to the communication of 30 October, in particular:

- The police indicated that no person with the name of **Syahrir Mahmood** was arrested on the date mentioned in the communication.

- The **3R Show** is a show for teenagers produced by Syarikat Red Communications and aired by TV3. The episode referred to in the communication dealt with homosexuality, and was rejected by the Film Censorship Board on 16 July and 1 August 2003, as the subject was deemed inappropriate with the morals and values of the Malaysian audience and in particular the age group which this show is targeting primarily.

Observations

498. The Special Rapporteur thanks the Government for its replies, and awaits further response to his letter of allegation of 30 October and to his communications of 6 November and 4 December 2003.

Maldives

Communications sent

499. On 22 January 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent a joint urgent appeal concerning the reported sentences handed down to the internet writers **Mohamed Zaki, Ibrahim Moosa Luthfee, Ahmed Ibrahim Didi** and **Fathimath Nisreen** (reference was made to an urgent appeal sent by the Special Rapporteurs and the Chairperson-Rapporteur on the Working Group on Arbitrary Detention on 12 February 2002 and the Government's response thereto; please refer to document E/CN.4/2003/Add.1, paragraphs 368 and 369). According to information received, businessmen Ahmed Ibrahim Didi, Ibrahim Moosa Luthfee, Mohamed Zaki and Fathimath Nisreen (personal secretary of Mr. Luthfee), were arrested between 30 January and 1 February 2002 for their alleged involvement with "Sandhaanu", an internet bulletin, and taken to Malé Police Headquarters, where they were reportedly held in solitary confinement for two weeks. They were reportedly then transferred to a detention centre on the island of Dhonidhoo, where they were reportedly held until May 2002. It is reported that on 29 May 2002 the four were charged with "defamation" under Section 163 of the Penal Code and "committing acts hostile to the Government" under Section 29. A second hearing is reported to have taken place on 26 June, and throughout the proceedings they were reportedly denied access to a lawyer. After the hearing, they were reportedly detained on the island of Mafushi where they were reportedly kept in solitary confinement in small cells.

500. On 7 July 2002, the three men were reportedly sentenced to life imprisonment, and Ms. Nisreen, aged 21, received a 10-year prison sentence. They were reportedly denied the right to appeal their sentence. It was reported that they are detained in Mafushi prison, and that although they were no longer held in solitary confinement, the conditions of their detention were harsh: they are reported to be kept in handcuffs at all times, visits from relatives are allowed once a month and access to healthcare is severely limited. The health of Ahmed Ibrahim Didi, who has a heart problem, is therefore at risk, in particular as it is not known whether he has received medical attention.

501. On 27 June 2003, the Special Rapporteur and the Special Rapporteur on the question of torture sent another joint urgent appeal concerning **Mohamed Zaki** and **Ahmed Ibrahim Didi** (reference was made to previous communications on that case, as mentioned above). According to new information received, the two men were reportedly taken from the prison island of Maafushi to the police headquarters in Male' for interrogation on 20 June 2003 and then transferred to Dhoonidhoo detention centre, on a small island north of Male'. They were believed to have been kept incommunicado since their removal from Maafushi.

Observations

502. The Special Rapporteur regrets that no response to his communications was received.

Mali

Communications envoyées

503. Le 17 novembre 2003, le Rapporteur spécial a adressé une lettre au Gouvernement du Mali concernant **Mamoutou Traoré**, **Gatta Bah** et **Amadou Cherif Haidara**, membres du personnel de la station de radio privée « SIDO FM ». Selon les informations reçues, ces trois personnes auraient été arrêtées les 28 et 31 Octobre 2003 et inculpées de diffamation et d'injures à la suite d'une interview de paysans qui dénonçaient les pratiques de certains huissiers. Il semblerait que ces trois journalistes étaient toujours incarcérés au moment de l'envoi de cette communication.

Observations

504. Le Rapporteur spécial regrette de n'avoir, à ce jour, reçu aucune réponse de la part du gouvernement.

Mauritania

Communications envoyées

505. Le 9 mai 2003, le Rapporteur spécial, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la question de la torture ont envoyé un appel urgent au Gouvernement mauritanien concernant 11 membres du parti baathiste NOUHOUD qui auraient été arrêtés entre le 30 avril et le 3 mai 2003: **Mohamed Abdallah Ould Eya**, professeur à la faculté des lettres et secrétaire général du parti, arrêté le 30 avril 2003 à 18 h 30 au siège de son parti; **Mohamed El Kory Ould El Arby**, membre de la direction du parti responsable de la culture, arrêté le 30 avril 2003 à 20 heures à son domicile; M^e **Khatry Ould Taleb Jiddou**, avocat et ancien ministre, arrêté le 30 avril 2003 à 17 h 45 à son domicile; **Horma Ould Mohamed Mahmoud**, membre de la direction du parti, arrêté le 30 avril 2003; **Mohamed Radhy Ould Naha**, étudiant et secrétaire général adjoint du parti, arrêté au siège du parti le 1^{er} mai 2003 à

11 heures; **Ahmed Ould Oubeid**, professeur, arrêté le 1^{er} mai 2003 à 11 heures au siège du parti; **Ahmedou Ould Brahim**, agent commercial, arrêté le 1^{er} mai 2003 à 11 heures au siège du parti; **Mohamed Ould Radhy**, économiste et membre de la direction du parti, arrêté le 1^{er} mai 2003 à 13 heures à son domicile; **Cheikhna Ould Hijbou**, professeur, arrêté le 1^{er} mai 2003 à 18 heures au domicile de l'avocat M^e Khatry Ould Taleb Jiddou; **Sidi Ahmed Ould El Kory**, membre de la direction du parti, arrêté le 3 mai 2002; et **Ahmed Ould Bah**, arrêté à Nouadhibou. Toutes ces personnes auraient été arrêtées sans mandat et sans signification du motif de l'arrestation. Elles seraient détenues au secret. Une perquisition sans mandat du siège du parti NOUHOUD aurait été menée le 30 avril 2003 à 23 heures par la police, qui aurait emporté les registres et les listes des membres du parti. Le 3 mai à 11 heures, la police aurait procédé à la fermeture du siège du parti en présence de son secrétaire général. Au vu de leur détention au secret, des craintes ont été exprimées quant au fait que ces personnes risqueraient d'être soumises à des tortures et autres mauvais traitements durant leur détention.

506. Dans la même communication, les Rapporteurs spéciaux se sont référés aux cas de **Mohamed Jemil Ould Mansour**, maire d'un grand département de Nouakchott et membre du comité d'un des principaux partis d'opposition, le Rassemblement des forces démocratiques (RFD), qui aurait été arrêté le 4 mai à 18 heures, et de **Cheikh Mohamed El Hacem Ould Dedew**, professeur, qui aurait été arrêté à Nouadhibou le 5 mai à 10 heures et transféré le même jour à Nouakchott.

507. Les 5 et 6 mai, huit imams auraient également été arrêtés, soit à leur mosquée, soit à leur domicile: **Mohamed Lemine Ould El Moustapha**, professeur et imam de Tensouelem à Nouakchott; **Mohamed Lemine Ould Ismail**, directeur des études au lycée de Tévragh Zeina (département de Nouakchott) et imam de Toujounine (département de Nouakchott); **Mohamed Ould Doua**, imam à Arafat (département de Nouakchott); **Sidina Ould Radhy**, imam à Arafat; **Khaled Ould Isselmou**, imam à Teyarette (département de Nouakchott); **Hamoud Ould Dhou Nourayne**, imam à Arafat; **Abdarrahmane Ould Sabar**, imam au Ksar (département de Nouakchott); **Sidi Amar Ould Cheikhna**, imam au Ksar. Ces arrestations sembleraient faire écho à une réunion tenue fin avril entre le Ministre de l'orientation islamique et plusieurs centaines d'imams, au cours de laquelle le Ministre aurait exigé de ceux-ci qu'ils se plient à ses instructions, en proférant des menaces. Cette déclaration aurait été fustigée par ces mêmes imams lors du prêche du vendredi 2 mai. Le Ministre aurait été limogé dans les jours qui ont suivi ces événements.

508. Dans un appel urgent daté du 18 juillet 2003, le Rapporteur spécial, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats ont attiré l'attention du gouvernement sur la suspension présumée pour trois ans du bâtonnier **Mahfoudh Ould Bettah**. Le 27 juin 2002, M^e Bettah, bâtonnier depuis plus de 12 ans, aurait été réélu par les membres de l'ordre national des avocats de Mauritanie à la majorité absolue. Ce scrutin aurait été invalidé, en violation du Code de procédure pénale mauritanien, et un second tour aurait été organisé par les autorités. Des pressions auraient été exercées sur les avocats, et les partisans de M^e Bettah auraient préféré ne pas prendre part au vote, contestant les irrégularités de la procédure. Le 16 décembre 2002, un bâtonnier proche du pouvoir aurait été officiellement reconnu par le parquet général. Le

24 avril 2003, le Conseil de l'ordre aurait cité à comparaître M^e Bettah, au motif qu'il se considérerait bâtonnier en violation des résultats des élections du second tour de juin 2002. Cependant, l'audience du conseil de discipline prévue pour le 12 mai 2003 pour la radiation de M^e Bettah ne se serait pas tenue et, depuis, il n'aurait reçu aucune nouvelle citation. Sa suspension serait intervenue sans convocation ni comparution, le 7 juillet 2003. Des craintes ont été exprimées que cette suspension, qui intervient peu de temps avant l'ouverture d'une série de procès à l'encontre d'opposants politiques, ne constitue une tentative de restreindre l'indépendance du barreau.

509. Le 7 octobre 2003, le Rapporteur spécial a envoyé une lettre d'allégation concernant les cas décrits ci-dessous:

- (a) Le Ministère de l'intérieur, des postes et des télécommunications aurait fait saisir l'édition n^o 80 du journal en langue arabe *Essahifa*, semble-t-il en vertu de l'article 11 de la loi 91-023 sur la presse de 1991, qui permettrait d'interdire la circulation, la distribution ou la vente de journaux qui portent atteinte aux principes de l'islam, à la crédibilité de l'État, ou au bien public, ou qui compromettent l'ordre public et la sécurité. Il semblerait que cette édition du journal *Essahifa* contenait un article sur un membre de l'opposition mauritanienne en exil, un autre sur des soldats suspectés d'être les auteurs du coup d'État contre le gouvernement et un troisième concernant un activiste islamique arrêté en mai et libéré à la fin du mois d'août ;
- (b) l'édition du 23 janvier 2003 du quotidien *Nouakchott Info* aurait été interdite de distribution en vertu de l'article 11 de la loi sur la presse de 1991, semble-t-il à cause d'un article sur le gouverneur de la Banque centrale de Mauritanie ;
- (c) l'édition du 13 janvier 2003 de l'hebdomadaire *Sahafa* aurait été interdite d'impression sur la base de l'article 11 de la loi sur la presse de 1991, vraisemblablement en relation avec un dossier sur l'opposition à l'étranger et en particulier sur l'organisation clandestine Conscience et résistance basée en France. Le 19 septembre 2002, **Mohammed Mahmoud Ould Bacar**, directeur du journal, aurait été arrêté à l'aéroport de Nouakchott et aurait été interrogé sur ses relations alléguées avec l'organisation susmentionnée. Il aurait été libéré deux jours plus tard ;
- (d) l'édition du 19 août 2002 (n^o 219) de l'hebdomadaire *El Qalam* aurait été interdite d'impression par le Ministère de l'intérieur, des postes et des télécommunication sans qu'aucune explication officielle n'ait été fournie, sur la base de l'article 11 de la loi sur la presse de 1991. Il semblerait que cette interdiction de paraître serait liée à un article qui critiquait la politisation de l'islam, et à un article faisant état d'un récent voyage du Président Maaouiya Ould Sid Ahmed Taya en France qui aurait été ponctuée par des manifestations de mouvements d'opposition mauritaniens et d'organisations de défense des droits de l'homme.

510. Le Rapporteur spécial a envoyé un appel urgent le 23 octobre 2003 concernant l'hebdomadaire *El Qalam*, qui aurait été suspendu le 19 octobre 2003 par le Ministère de l'intérieur, des postes et des télécommunications, en vertu de l'article 11 de la loi sur la presse de 1991. Il semblerait que cette décision aurait été prise alors que l'édition n° 414 de l'hebdomadaire contenait un article titré «La grande muette au centre des débats», ainsi qu'un article d'un ancien journaliste d'*El Qalam*, aujourd'hui réfugié en France, qui analysait la situation politique à la veille des élections présidentielles et prônait l'urgence d'une réelle alternance démocratique. Il semblerait également que les hebdomadaires suivants auraient été suspendus et leurs éditions de la semaine du 12 au 18 octobre saisies, sur ordre du Ministère de l'intérieur, des postes et des télécommunications: *Le Journal du jeudi*, *Le Sahara* et *Essahifa*. Des craintes ont été exprimées quant au fait que l'ordre de suspendre ces journaux soit intervenu au moment du lancement officiel de la campagne électorale pour les élections présidentielles prévues le 7 novembre.

511. Dans une communication adressée au Gouvernement mauritanien en date du 19 novembre 2003, le Rapporteur spécial, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la question de la torture ont attiré l'attention des autorités sur les cas de **Mohamed Khouna Ould Haidalla** et son fils **Sidi Mohamed Ould Haidalla**, **Habba Ould Mohamed Vall**, **Mohamed Yehdhi Ould Breideleil**, **Ismaël Oud Amar** et **huit autres personnes** qui auraient été arrêtés vers le 7 novembre 2003, date des élections présidentielles. Mohamed Khouna Ould Haidalla, candidat à la présidence, ainsi que cinq autres personnes impliquées dans la préparation de sa campagne électorale auraient été arrêtés par des membres des forces de sécurité le 6 novembre 2003. Mohamed Khouna Ould Haidalla et Ismaël Oud Amar, directeur de sa campagne, auraient été mis en liberté quelques heures après afin que les élections puissent avoir lieu. Ils auraient à nouveau été arrêtés le 9 novembre 2003. Au moment de l'envoi de cette communication, ils étaient apparemment détenus à la prison de Beyla, à Nouakchott. Un groupe de jeunes supporters auraient également été arrêtés avec eux et se trouveraient détenus au secret au poste de police Ksar II, à Nouakchott, au moment de l'envoi de cette communication. Sidi Mohamed Ould Haidalla aurait été arrêté le 5 novembre 2003 et se trouverait détenu au secret au poste de police central de Nouakchott. Il aurait été sévèrement battu lors d'un interrogatoire.

512. Habba Ould Mohamed Vall, Mohamed Yehdi Ould Breideleil et Ismaël Oud Amar seraient diabétiques. Il est allégué qu'un autre détenu de la prison de Beyla, Mohamed Khouna Ould Haidalla, souffrait de problèmes gastriques et d'une fatigue excessive lors de son arrestation. Malgré les requêtes faites par leurs familles, aucune des personnes nommées ci-dessus n'aurait eu accès à des soins médicaux. Les autorités auraient informé les médias qu'elles auraient été arrêtées pour atteinte à la sûreté de l'État. Cependant, d'après les renseignements reçus, aucune charge officielle n'aurait été portée contre ces personnes, qui seraient détenues au secret sans accès ni à leurs avocats ni à leurs familles. D'après le Code de procédure pénale mauritanien, les personnes détenues pour atteinte à la sûreté de l'État pourraient être détenues au secret jusqu'à 30 jours. En raison de la supposée détention au secret des personnes citées ci-dessus et du supposé passage à tabac de Sidi Mohamed Ould Haidalla, des craintes ont été exprimées selon lesquelles elles seraient au risque de torture ou autres mauvais traitements. Des craintes ont également été exprimées

quant à l'intégrité physique de ces personnes si elles ne reçoivent pas des soins médicaux adéquats.

513. Le 4 décembre 2003, le Rapporteur spécial a envoyé une autre communication au Gouvernement mauritanien au sujet de la situation de **Mohamed Khouna Ould Haidalla** et ses deux fils, **Sidi Mohamed Ould Haidalla** et **Sid'Ahmed Ould Haidalla**, ainsi que **Habba Ould Mohamed Vall**, **Mohamed Yehdhi Ould Breideleil**, **Ismaël Ould Amar**, **Cheikh El Moctar Ould Horma Babana**, **Mohamed Said Ould Zergane** et au moins huit autres personnes. Selon des informations reçues récemment, ces personnes auraient été condamnées le 25 novembre pour crimes contre la sécurité de l'État, passibles d'une peine de travaux forcés à perpétuité. Il semblerait que leurs avocats n'auraient eu accès aux dossiers d'instruction que le 27 novembre, et que ces personnes auraient été maintenues au secret pendant plus de deux semaines après leur arrestation. Selon les informations communiquées, au moment de l'envoi de cette communication, toutes ces personnes seraient détenues à la prison de Beyla à Nouakchott, sauf Sid'Ahmed Ould Haidalla, qui serait détenu à la prison d'Aleg, où il serait constamment attaché. Les charges retenues contre lui ne seraient pas claires. Il semblerait de plus que ces personnes n'auraient pas eu accès à des soins médicaux, malgré des demandes répétées.

514. Le 5 décembre 2003, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé une communication au gouvernement concernant **Boubacar Ould Messaoud**, Président de SOS-Esclaves, une organisation qui travaille contre l'esclavage et la torture, **Brahim Ould Ebetty**, membre de SOS-Esclaves, **Cheikh Saad Bouh Kamara**, Président de l'Association mauritanienne des droits de l'homme (AMDH), une organisation des droits humains affiliée à la Fédération internationale des droits de l'homme, **Fatimata M'Baye**, Vice-Présidente de l'AMDH, et **Abdel Nasser Ould Ethmane**, Secrétaire aux relations extérieures de SOS-Esclaves. Selon les informations reçues, le 17 janvier 1998, Boubacar Ould Messaoud, Brahim Ould Ebetty et Cheikh Saad Bouh Kamara auraient été arrêtés à leurs domiciles à Nouakchott et mis en examen sur la base d'une loi de 1973, en relation avec leurs activités au sein d'organisations non reconnues en Mauritanie, en dépit de leur affiliation à la Commission africaine des droits de l'homme et des peuples. Le même jour, Abdel Nasser Ould Ethmane aurait été mis en examen par contumace sur la base de la même loi. Boubacar Ould Messaoud, Brahim Ould Ebetty et Cheikh Saad Bouh Kamara auraient été détenus pendant quatre jours sans contact avec l'extérieur. Le 5 février 1998, Fatimata M'Baye, leur avocate, aurait été arrêtée pendant une manifestation en faveur de leur libération. Le 12 février 1998, Boubacar Ould Messaoud, Brahim Ould Ebetty et Cheikh Saad Bouh Kamara, Fatimata M'Baye et Abdel Nasser Ould Ethmane auraient été condamnés à 13 mois de prison, Abdel Nasser Ould Ethmane par contumace. Des craintes ont été exprimées que ces personnes auraient été visées à cause de leur travail en faveur des droits de l'homme. En particulier, des craintes ont été exprimées que leurs arrestations soient liées à un sujet d'actualité de la télévision du 15 janvier 1998 sur l'esclavage en Mauritanie, dans lequel Boubacar Ould Messaoud aurait été interviewé.

Observations

515. Le Rapporteur spécial regrette de n'avoir reçu, à ce jour, aucune réponse aux communications transmises au Gouvernement mauritanien.

Mexico

Comunicaciones enviadas

516. El 20 de enero de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con el periodista **Ángel Mario Ksheratto Flores**, autor de una columna que se publica en el periódico *Cuarto Poder*, en la localidad de San Cristóbal de las Casas, Estado de Chiapas. Según los informes, este periodista habría recibido amenazas de muerte y se enfrentaría a cargos judiciales que podrían haberse formulado por motivos políticos. De acuerdo con las informaciones recibidas, los días 26 y 28 de agosto de 2002, *Cuarto Poder* habría publicado los resultados de una investigación realizada por Ángel Mario Ksheratto sobre presuntas irregularidades en el Comité de Construcción de Escuelas. El 9 de enero de 2003, Ángel Mario Ksheratto habría sido detenido por agentes de la Procuraduría General de Justicia del Estado (PGJE) a consecuencia de una denuncia por difamación presentada por un alto cargo del Comité de Construcción de Escuelas de Chiapas en relación con los artículos publicados en agosto. Aunque un tribunal federal habría ordenado temporalmente que las autoridades estatales no lo detengan, Ángel Mario Ksheratto habría seguido bajo investigación en espera de procesamiento. Se expresó preocupación de que estos cargos podrían tener una motivación política.

517. El 30 de julio de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con el periodista **José Leobardo Reveles Morado** que trabaja para el diario *El Financiero*. Según la información recibida, José Leobardo Reveles Morado habría denunciado ante la Procuraduría General de la República que había sido víctima de hostigamiento verbal, acoso físico, amenazas y de seguimientos relacionados con la publicación de reportajes que habría realizado en abril de 2003, donde reseñaba posibles actos de corrupción en la Secretaría de Seguridad Pública Federal y la Policía Federal Preventiva.

518. El 16 de septiembre de 2003, el Relator Especial envió un llamamiento urgente en relación con el periodista **Francisco Barradas**, director de la *Revista B*. Según la información recibida, Francisco Barradas enfrentaría un proceso penal por el presunto delito de calumnia en perjuicio de un síndico del ayuntamiento de Zacatecas, primo hermano de una diputada federal. El caso se remontaría al 27 de julio de 2002, cuando Francisco Barradas era director del periódico local *Imagen*, en el que se habría publicado una nota que aludía a la presencia del síndico en una azotea para presumiblemente robar agua. El presunto delito de calumnia sería que en la información se habría calificado de ladrón al síndico. Francisco Barradas habría sido detenido la noche del 26 de agosto de 2003 y liberado bajo fianza cinco horas después. El Relator Especial también expresó preocupación por la naturaleza penal del delito de calumnia.

519. El 18 de septiembre de 2003, el Relator Especial envió un llamamiento urgente en relación con los hechos ocurridos el 8 de septiembre de 2003, en la ciudad de Oaxaca. De acuerdo con las informaciones recibidas, personas desconocidas habrían llegado frente al domicilio de **Tomás Martínez Juárez**, reportero del *Diario Noticias* y de los noticiarios de la radiodifusora *La Ley 710 am*. Dichos individuos habrían procedido a romper uno de los cristales y a incendiar el interior del vehículo de propiedad del periodista. El Relator Especial expresó preocupación de que este hecho pudiese guardar relación con las informaciones publicadas el día 8 de septiembre de 2003 en el *Diario Noticias*, respecto a la presunta complicidad de policías ministeriales con bandas dedicadas al robo de vehículos.

520. El 2 de octubre de 2003, el Relator Especial envió una comunicación respecto a **José Miranda Virgen**, periodista y vicepresidente del diario *El Sur de Veracruz*. El 11 de octubre de 2002, José Miranda Virgen habría resultado gravemente herido en una explosión que habría destruido parte de su apartamento. El periodista habría muerto el 16 de octubre como consecuencia de las lesiones. De acuerdo con las informaciones recibidas, la explosión habría sido un accidente provocado por una fuga de gas. Esta explicación habría sido cuestionada por la prensa local, la cual habría subrayado que los daños más importantes se produjeron en el salón y no en la cocina donde supuestamente se habría producido la fuga de gas. Finalmente, se informó que José Miranda Virgen habría publicado recientemente una serie de artículos sobre presuntos vínculos entre narcotraficantes y policías del Estado.

Comunicaciones recibidas

521. Por carta de fecha 10 de marzo de 2003, el Gobierno contestó al llamamiento urgente del Relator Especial de fecha 20 de enero de 2003 respecto a la situación de **Ángel Mario Ksheratto Flores** e informó que la PGJE había iniciado una averiguación por los delitos de difamación y calumnia, la cual se encontraba en proceso de integración.

522. Por carta de fecha 28 de octubre de 2003, el Gobierno de México contestó al llamamiento urgente del Relator Especial de fecha 18 de septiembre de 2003 en relación con **Tomás Martínez Juárez** e indicó que la autoridad municipal continuaba realizando las investigaciones pertinentes para identificar a los probables responsables y decretar el ejercicio de la acción penal.

523. Por carta de fecha 17 de noviembre de 2003, el Gobierno contestó a la carta de alegación del Relator Especial de fecha 2 de octubre de 2003 en relación con **José Miranda Virgen**. El Gobierno informó que se había elaborado un dictamen pericial en materia de incendios y explosiones en donde se concluyó que el hecho no fue intencional. El Gobierno informó además que ninguna persona había acudido al ministerio público para formular una denuncia en los términos de ley.

Observaciones

524. El Relator Especial da las gracias al Gobierno de México por sus respuestas, si bien espera otras respuestas a sus comunicaciones de fechas 30 de julio y 16 de septiembre de 2003.

Mongolia

Communication sent

525. On 21 November 2003, the Special Rapporteur sent a letter of allegation concerning the cases summarized below:

- On 10 December 2002, approximately **150 farmers** from Jargalant village in Tuv province, belonging to the “Movement for the Just Privatization of Land”, were marching towards Ulaanbaatar to present to the Parliament their objections against the Law on the Privatization of Land, when they were reportedly stopped at the eastern border point of the city (“22 Tovchoo”) by approximately 60 police officers and prevented from entering the capital city.
- On 13 November 2002, an important number of police and army officers reportedly gathered on the orders of the Governor of the Sukhbaatar District to forcefully remove the tractors from the Sukhbaatar Square in Ulaanbaatar, which were placed there on 12 November by members of the “Movement for the Just Privatization of Land” protesting against a number of provisions of the Law on the Privatization of Land. According to information received, the police and army officers used excessive force against the demonstrators, and reportedly detained more than fifty demonstrators, who were reportedly sent to the “Centre of Identification” in Denjiin Myanga, in the north of the capital city. It is reported that most of the people arrested were members of the Democratic Party, who were supporting the demonstrators. It is also reported that journalists covering the demonstration were arrested and searched, and that cell phones, camera, tape recorder, floppy disks and other professional items were confiscated from them.
- On 31 July 2002, Ms. **Hand-dolgor**, editor of the newspaper “Ug” (Word), was reportedly sentenced to a one-year prison term for libel under article 117.2 of the Criminal Code by the Sukhbaatar district court of Ulaanbaatar. According to information received, Ms. Hand-dolgor was accused of libel after she published an article on the alleged spread of AIDS in the territory of Altanbulag sum of Selenge province, and referred to a woman who was allegedly infected with the virus. Ms. Hand-dolgor reportedly published an apology after the woman cited in her article complained, indicating that she was not AIDS-infected. However, the woman in question was beaten to death by her companion, who wanted a proof that she was not infected by the virus. The Special Rapporteur underlined that criminal sanctions, in particular imprisonment, for libel and defamation are not deemed proportional with an effective exercise of the right to freedom of opinion and expression.

- In January 2002, **Uuganbayar Tsendsuren, Lhagva Choijilsuren, Jargalsaihan Haltar** and **Tushin Munhbaatar**, journalists, were reportedly arrested and detained for 12 hours, in relation to their reporting on a car accident which allegedly involved a parliamentarian, after the latter sued them for defamation. It is reported that after the parliamentarian filed a suit for defamation, officers of the Police department for combating most serious crimes came in the offices of the newspapers “Urt chiht” and “Buuha Medee” and arrested the four journalists. It is reported that in March 2002, the Prosecutor decided to drop the case against the journalists, but the journalists were reportedly still being called repeatedly to present themselves to the police.

Observations

526. The Special Rapporteur notes that no response was received from the Government by 31 December 2003.

Morocco

Communications envoyées

527. Dans une communication datée du 12 mars 2003, le Rapporteur spécial a attiré l'attention du gouvernement sur la situation de 14 jeunes gens, âgés de 22 à 35 ans, qui auraient été condamnés le 6 mars 2003 par le tribunal de Casablanca à des peines d'un mois à un an de prison ferme, pour «dégradation des mœurs, incitation à la débauche et actes attentatoires à la religion musulmane». Ces condamnations seraient fondées sur le fait que ces jeunes seraient des musiciens ou des amateurs de musique “heavy metal” et qu'ils détiendraient des objets divers représentant Satan ou la mort. Selon l'information reçue, le 11 mars, la cour d'appel aurait accordé la liberté à 11 des 14 jeunes, tandis qu'un Égyptien et deux Marocains, tous trois condamnés en première instance à un an de prison, se trouveraient encore en prison.

528. Le 7 août 2003, le Rapporteur spécial a envoyé une communication au Gouvernement marocain concernant le cas de **Mohammed el Hourd**, directeur de l'hebdomadaire *Asharq*, son rédacteur en chef, **Abdelmajid Ben Tahar**, et **Mustapha Kechnini**, directeur de l'hebdomadaire *Al Hayat al Maghribia*, qui auraient été arrêtés et placés en garde à vue sur ordre du procureur général du Roi. Mustapha Kechnini et Abdelmajid Ben Tahar auraient été mis en liberté provisoire le 10 juillet. Mustapha Kechnini aurait été poursuivi pour avoir publié, dans l'édition n° 118 d'*Al Hayat al Maghribia* du 5 mai 2003, un texte de Zakkaria Boughrara, militant islamiste et membre d'une organisation accusée d'être responsable des attaques terroristes du 16 mai 2003 à Casablanca, sur l'histoire du mouvement islamiste au Maroc et sur les liens supposés entre les services secrets marocains et américains. Ce même texte avait été publié par *Asharq* le 5 juin. Le 4 août 2003, Mohammed el Hourd aurait été condamné à trois ans de prison, et Abdelmajid Ben Tahar et Mustapha Kechnini à un an de prison par le tribunal de première instance de Rabat pour «incitation à la violence». Par le même arrêt, leurs publications, *Asharq* et *Al Hayat al Maghribia*, auraient été suspendues pour une période de trois mois. Après le procès, Mohammed el Hourd serait resté en prison, tandis que Mustapha

Kechnini et Abdelmajid Ben Tahar auraient été libérés; tous trois auraient fait appel de cette décision.

529. Le 7 octobre 2003, le Rapporteur spécial a envoyé une lettre d'allégation concernant les cas suivants:

(a) **Ali Lmrabet**, éditeur des hebdomadaires *Demain* et *Douman*, aurait été condamné à trois de prison et à une amende de 20 000 dirhams (2 300 dollars) le 21 mai 2003, et ses deux magazines auraient été fermés. Le journaliste aurait été jugé coupable d'insulte sur la personne du Roi et d'offenses contre la monarchie et l'intégrité territoriale. Il semblerait que cette condamnation soit liée à des articles parus dans les hebdomadaires précités, concernant la pension annuelle octroyée par le Parlement marocain à la famille royale. Il a été rapporté que le procès de M. Lmrabet aurait commencé le 13 mai 2003, une semaine après que celui-ci eut entamé une grève de la faim en protestation contre le harcèlement policier à son égard et à l'égard de ceux qui étaient prêts à publier *Demain* et *Douman*. Il semblerait que M. Lmrabet aurait été empêché, le 17 avril 2003, de quitter le Maroc. Il aurait déjà été emprisonné pendant quatre mois après avoir été reconnu coupable le 21 novembre 2001 de distribution de fausses informations portant atteinte ou à même de porter atteinte à l'ordre public ;

(b) le 11 juillet 2003, **Mustapha Alaoui**, directeur du journal *Al Ousboue*, aurait été condamné à un an de prison avec sursis. Il aurait été arrêté le 5 juin 2003 à la suite de la publication par son magazine d'une lettre d'une organisation inconnue qui revendiquait la responsabilité de trois des cinq attentats terroristes de Casablanca. M. Alaoui aurait été libéré le 12 juillet 2003.

530. Le 4 décembre 2003, le Rapporteur spécial a envoyé une deuxième correspondance au Gouvernement marocain concernant **Ali Lmrabet**. Selon de nouvelles informations, M. Lmrabet, qui aurait été condamné par la cour d'appel de Rabat le 17 juin 2003 à une peine de trois ans de prison, aurait entamé le 30 novembre une grève de la faim pour protester contre la détérioration de ses conditions de détention. Il semblerait que le journaliste serait victime, à la prison de Salé près de Rabat, d'agressions physiques et verbales, et qu'il lui serait interdit de lire et d'écrire. Il semblerait également que l'état de santé du journaliste serait extrêmement fragile, notamment à la suite d'une première grève de la faim, que M. Lmrabet avait faite entre le 6 mai et le 23 juin 2003 pour protester contre les raisons de son procès; M. Lmrabet souffrirait notamment d'un ulcère gastrique. De plus, des rapports indiqueraient que, le 2 décembre, sa famille n'aurait pas été autorisée à lui rendre visite.

Communications reçues

531. Dans une correspondance du 21 mars 2003, le gouvernement a fait suite à sa communication du 25 mars 2002 et communiqué des éléments de réponse à une communication envoyée le 29 novembre 2001 au sujet de manifestations ayant eu lieu le 17 novembre 2001 dans la ville de Smara. Le gouvernement mentionne notamment que cette manifestation a donné lieu à des crimes de droit commun. Le procureur général près

la cour d'appel de la ville de Laayoune a poursuivi 16 personnes pour des crimes prémédités: incendie de maison et de véhicules, destruction de bâtiments, de documents des autorités et de marchandises appartenant à la commune. Les 16 inculpés ont également fait l'objet de poursuites judiciaires pour usage de la force, désobéissance aux ordres d'agents de l'ordre public et usage d'arme contre des agents de l'ordre public lors de l'exercice de leurs fonctions. La chambre criminelle de la cour d'appel de Laayoune a, le 25 avril 2002, inculpé 13 des 16 détenus et acquitté les trois autres. Huit des 13 inculpés, dont les noms sont indiqués dans la communication, ont été condamnés à deux ans d'emprisonnement et cinq inculpés, dont les noms sont indiqués dans la communication, ont été condamnés à six mois d'emprisonnement et à 500 dirhams d'amende. Une dernière personne, qui était en fuite jusqu'au 27 novembre 2002, a été arrêtée et poursuivie pour incendie volontaire, interruption de la circulation, usage de la violence contre des agents de l'ordre public et condamnée à 18 mois de prison et 500 dirhams d'amende. Toutes ces personnes ont saisi la cour de cassation.

532. Le 20 juin 2003, le gouvernement a fait savoir, en réponse à la communication du 12 mars relative aux condamnations des jeunes musiciens ou amateurs de musique "heavy metal", que ces personnes ont été poursuivies pour délits de consommation de drogue, atteinte à la pudeur, détention et exposition d'objets contraires aux bonnes mœurs, homosexualité et accueil de personnes s'adonnant à la débauche. Les inculpés ont été condamnés par le tribunal de Casablanca à des peines d'emprisonnement allant d'un à 12 mois. La cour d'appel de cette même ville a acquitté 11 de ces personnes et les peines des trois autres ont été réduites à 45 jours.

533. In response to the communications dated 7 August 2003 relating to the cases of **Mustapha Kechini, Mohammed el Hourd** and **Abdelmajid Ben Tahar**, the Government indicated that *Al-Hayat al-Maghribiyya*, a bimonthly newspaper produced in the city of Wajdah, published an article by Zakkaria Boughrara in its 118th issue of 5 May 2003, the title of which was: "Following a series of abductions by Jihad, Islamic movements are playing cat and mouse with the Moroccan intelligence services." The article contained propaganda advocating Salafist Jihad ideas and vilifying both official institutions and the judiciary. In the 120th issue published on 10 June 2003, Mustapha Kechini, editor-in-chief of *Al-Hayat al-Maghribiyya*, published an interview with Mohamed al-Fizazi (a Salafist Jihad apologist), taken from *Al-Sharq Al-Awsat* newspaper, in which Mr. al-Fizazi praised the terrorist attacks that had occurred in Casablanca. On 5 June 2003, *Al-Sharq*, a weekly newspaper produced in the city of Wajdah, which is run by **Mohammed el Hourd** and the editor-in-chief of which is **Abdelmajid Ben Tahar**, published an article praising the same terrorist acts and expressing ideas detrimental to the maintenance of public security and public order.

534. The Criminal Investigation Department launched an inquiry during which it questioned Mohammed el-Hourd, Abdelmajid Ben Tahar and Mustapha Kechini. As a result, on 15 July 2003, the examining magistrate decided to prosecute Mohamed el-Hourd for using publications offered for sale to praise acts designated as terrorist crimes and for publishing false information and untruths likely to undermine public order and cause public unrest, as well as to prosecute Mustapha Kechini and Abdelmajid Bin Tahar for using publications offered for sale for the purposes of direct incitement to committing a

felony or a misdemeanour and offences against the internal integrity of the State, as well as for publishing false information and untruths likely to undermine public order and cause public unrest. On 4 August 2003, the criminal chamber of the Rabat Court of Appeal found Mohamed el-Hourd guilty of the charges brought against him, sentenced him to three years in prison and fined him 10,000 Moroccan dirhams (DH). It ordered that publication of *Al-Sharq* newspaper be suspended for a period of three months. Mustapha Kechnini and Abdelmajid Bin Tahar were also found guilty of the charges brought against them and were each sentenced to one year in prison and to payment of a fine of DH 500,000. The publication of *Al-Hayat al-Maghribiyya* newspaper was suspended for a period of three months. The sentences were appealed by the convicted persons to the Court of Cassation. It should be pointed out that these persons were afforded all legal guarantees. Their cases were discussed at several hearings, at which they were represented by their defence lawyers.

535. On 27 November 2003, the Government responded to the communication of 7 October concerning **Mustapha Alaoui al-Madghari**, the Director of the *Al-Ussbu` al-Siyasi* weekly, and indicated that, on 6 June 2003, the aforementioned weekly published an article containing a communiqué from the so-called “Al-Sa`iqa” organization, in which the organization claimed responsibility for the events that occurred in Casablanca on 16 May 2003. Since this conduct constitutes a flagrant violation of the criminal laws, Mr. Mustapha Alaoui al-Madghari was prosecuted for concealing a document likely to help an investigation into a crime or a misdemeanour, to disclose evidence relating thereto or to punish the perpetrators thereof, and for publishing a false item of news or untrue information likely to breach public order or to cause fear among the public. Mr. Alaoui was referred to the examining magistrate of the Rabat Court of Appeal, which referred him to the Rabat Court of First Instance, where he was sentenced to one year in prison and a fine of DH 500. An order was also issued suspending the operation of *Al-Ussbu` al-Siyasi* magazine for a period of three months. The judgement was appealed and was still being examined by the Court of Appeal at the time the response was sent.

536. On 4 December 2003, the Government provided a response to the same communication, with respect to the case of **Ali Lmrabet**, the editor of the *Demain* weekly, which is published in French, and of *Douman*, a weekly that is published in Arabic. An article entitled “The royal palace in Sukhairat may be sold” was published in issue No. 35 of *Demain* dated 20-26 October 2001 (a quote of the article was included in the response). Following the publication of this article, the Department of Public Prosecutions prosecuted Mr. Lmrabet before the Rabat Court of First Instance for publishing a false item of news in a newspaper, an offence which is designated as a misdemeanour under article 42 of decree No.1/58378 of 15 November 1958, as amended by royal decree No. 1/73/85 of 10 April 1973, concerning the Press Act in Morocco, which stipulates that “Anyone who uses any medium to publish, broadcast or transmit a false item of news or fabricated, falsified or fake documents attributed to a third party shall be punished by a term of between one and five years in prison and/or a fine of between 1,000 and 100,000 dirhams, if such act breaches or is likely to breach public order.” On 21 November 2001, a court judgement was handed down against Mr. Ali Lmrabet, sentencing him to four months in prison and payment of a fine of 30,000 dirhams. The Department of Public Prosecutions appealed the

judgement and misdemeanour appeal file No. 2/2002/872 was deposited with the Rabat Court of Appeal, which postponed the hearing until 11 December 2002 and again until 29 October 2003, pending the appointment of a legal representative for the accused person. The hearing was again postponed until 7 January 2004, for the same purpose and in order to introduce the original translation of the article from French into Arabic.

537. In rendering its judgement, the court relied on the admissions made by the suspect both to the investigating officers and before the court itself that he was directly responsible for the publication, in the 19-23 February 2003 issue of the *Douman* weekly, of an article entitled "The wedding of Sheikh Idris and his friends", the contents of which and of the accompanying photograph were a clear example of lese-majesty. Mr. Lmrabet also bears responsibility for the publication, in the 8-13 January 2003 issue of the same weekly, of an article entitled "The Royal Court budget before Parliament", to which a caricature had been attached and the contents of which were an affront to the powerful ties that bind all Moroccans to the throne.

538. A detailed account of the argumentation behind the Court's decision was given in the response, namely the offence of lese-majesty and denigration of the monarchy.

539. The Government attached to its response a copy of chapter IV of the Moroccan Press Act.

Observations

540. Le Rapporteur spécial remercie le gouvernement pour ses réponses détaillées, et indique qu'une réponse à sa communication du 4 décembre n'avait pas encore été reçue au 31 décembre 2003.

Myanmar

Communications sent

541. On 30 April 2003, the Special Rapporteur sent an urgent appeal concerning **Dr. Salai Tun Than**, aged 75, who is the retired rector of Yezin University, who was reportedly serving a seven year prison sentence in Insein Prison Hospital, Yangon, for staging a protest in front of the Yangon City Hall building on 29 November 2001 and for distributing a petition calling for the Government to hold a multiparty general election within one year and to unconditionally transfer state power to the winning party. According to information received, on 27 April 2003, Dr Salai Tun Than started a seven-day hunger strike. He was reportedly already in a state of frail health, but allegedly decided to go on a hunger strike to draw attention to the inhumane conditions of his confinement, and to protest his inability to practice his religion while in prison. In particular, it was reported that the prison's conditions allegedly include the following: political prisoners are reportedly hooded when they are taken out, even for going to the toilet; medical care and

medical facilities in the prison hospital allegedly do not meet even minimum basic standards for health, safety and hygiene; political prisoners at the prison hospital are reportedly strictly forbidden to speak with the ordinary prisoners; prison guards and Military Intelligence personnel reportedly monitor and record all statements made by Dr Salai Tun Than and his family members during the allegedly brief periods when they are allowed to visit; Dr Salai Tun Than was reportedly routinely interrogated after his meetings with ICRC or UN representatives, in violation of rules governing such visits. It was also reported that many political prisoners have allegedly not been released even though they had served their prison terms. Some have reportedly been released, only to be promptly re-arrested. Dr Salai Tun Than was allegedly denied possession of the Bible that his family gave him, although he has reportedly been seeking permission for this for more than a year. His requests to receive Christian Holy Communion (with the help of priest) inside the prison were reportedly refused by prison authorities.

542. On 2 June 2003, the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in Myanmar sent a joint urgent appeal concerning **Aung San Suu Kyi**, leader of the National League for Democracy (NLD), who was reportedly arrested on 30 May 2003 in the north of the country and taken to a military guesthouse in Yangon. No arrest warrant was reportedly shown during her arrest. It was further reported that her arrest took place after serious clashes in the town of Ye U, about 560 kilometres from Yangon, in which four people are said to have been killed and 50 injured. It is alleged that a number of NDL's key members were also arrested and that the party's offices have allegedly been shut down. The authorities have reportedly ordered the indefinite closure of universities and colleges. Ms. Aung San Suu Kyi was under house arrest from 20 July 1989 until 1995. On 22 September 2000, she was again placed under house arrest. In its Decision 8/1992 and in its Opinion N° 2/2002, the Working Group on Arbitrary Detention ruled that her house arrest constituted deprivation of liberty equivalent to detention, which, in addition, was of an arbitrary character.

543. On 25 July 2003, the Special Rapporteur, the Special Rapporteur on torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in Myanmar sent jointly an urgent appeal concerning the alleged arrest of four journalists of the newspaper "First Eleven", a sports weekly. It was reported that the Military Intelligence raided the offices of "First Eleven" on 17 July 2003 and handcuffed and detained journalists **Than Htut Aung, U Zaw Myint** and **Soe Pa Pa Hlaing** as well as the chief editor **U Zaw Thet Htew**, who was allegedly beaten during his arrest. It is further reported that the four were taken away by the Military Intelligence in an undisclosed location. Later the same day, soldiers reportedly arrested **the wife of U Zaw Thet Htew**, who works for the privately-owned magazine "Living Colour" and released her after a few hours. Than Htut Aung and U Zaw Myint were apparently released on 19 July, while Soe Pa Pa Hlaing and U Zaw Thet Htew were allegedly still being held in an undisclosed location at the time the communication was sent. Although no formal charges seemed to have been brought against the two journalists, it was reported that their arrest was prompted by an article in the magazine about a fine imposed by the organisers of the Asian Champion Club tournament on a Myanmar football team for failing to participate. Finally, reports mention that on 18 July, the military police

summoned all of the magazine's journalists and asked them to continue publishing the magazine while respecting censorship rules. In view of the reported incommunicado detention at an undisclosed location of Soe Pa Pa Hlaing and U Zaw Thet Htew, and allegations according to which the latter was beaten during his arrest, fears were expressed that they may be subjected to further torture or other forms of ill-treatment.

544. On 1 October 2003, the Special Rapporteur and the Special Rapporteur on torture sent a joint letter of allegation concerning the case of **U Sai Pa**, 61-year-old, who said to have been the Deputy Chairman of the National League for Democracy (NLD) of the Shan State, and who was reported to have died on 9 October 2002. He was reportedly arrested along with **Sai Nan Di**, another alleged NLD leader, on 13 or 14 September 2002 in Kengtung, eastern Shan State. It is reported that they were conducting NLD organized activities at the time. It is alleged that they were brought to court on 27 September, and that U Sai Pa was in good health at that time. Their next court appearance was due to take place on 10 October. U Sai Pa reportedly died after being taken to hospital on the evening of 8 October, when he was already unconscious and near death. He allegedly became weak after being deprived of sleep during interrogation sessions, and reports indicated that he did not receive proper medical treatment after becoming ill.

545. On 31 October 2003, the Special Rapporteur sent a letter of allegation concerning the cases summarized below:

(a) On 10 October 2002, the Press Scrutiny Board, under the Ministry of Information, reportedly decided to close down two magazines for one month. It was reported that one of the magazines, "**Han Thit**" (New Style) was closed down for quoting in its October 2002 edition a poem by Maung Chaw New, who died the previous month, in which he quoted another writer, Ko Lay - whose work has been outlawed in Myanmar since he took part in a meeting of the opposition NLD party in 1997. The other magazine, "**Beauty Magazine**", was reportedly closed down for printing an advert for a Thai company, although the State Peace and Development Council (SPDC) had banned in May 2002 the media from referring to Thailand and from publishing Thai advertisements (E/CN.4/2003/67/Add.1, para. 392);

(b) On 17 August 2002 during the night, **Thaw Thaw Myo Han**, a fourth-year Yangon Technology University (YTU) student, **Nyunt Win**, a third-year YTU student, **Htoo Kyaw Win**, a third-year architecture student at YTU, **Kyaw Swa**, a fourth-year YTU student, and **Kyaw Zin Oo**, also a fourth-year YTU student, were reportedly arrested by Military Intelligence personnel at their homes. It was believed their arrest was linked to their involvement in a protest;

(c) On the evening of 18 August 2002, **Thet Naung Soe**, a final-year law student, who allegedly staged a peaceful solitary protest in front of Yangon City Hall about economic and social conditions in Myanmar, holding a banner of red cloth with a flying peacock on it - which is reportedly the symbol of student resistance in Myanmar, was reportedly arrested by the local police. **Thoung Htite**, a fourth-year student at Yangon Technology University, was also reportedly arrested at the same time, although it seems not clear whether he joined the protest

or was an onlooker. Reports indicate that Thet Naung Soe, whose trial opened on 23 October 2002, was sentenced on 6 November by a Special Court at Insein Prison compound, to 14 years imprisonment: 7 years under the Emergency Prohibition Act 5(A) and 7 years under the Emergency Prohibition Act 5(J);

(d) **Khin Maung Win**, a second-year law student, was reportedly arrested on the same day, as he was reportedly distributing leaflets critical to the Government in the university campus. It seems that the case of Khin Maung Win was still before the court at the time of the receipt of the information;

(e) On 1 June 2002, announcements were reportedly posted in all SPDC offices that anyone caught with anti-government magazines, books, tapes, CDs or videos in their possession would be arrested and sentenced between 5 to 10 years imprisonment, and that anyone caught renting, selling or reproducing such material would be arrested and sentenced between 10 to 20 years imprisonment. Furthermore, the announcement reportedly stated that anyone caught publishing, producing, selling or renting any pamphlet, magazine, book, tape, CD or video without the approval of the relevant Government ministry or the regional administrative authorities would be regarded as an anti-government individual and punished accordingly;

(f) On 7 August 2001, regional military intelligence reportedly arrested **Ashin Pandita**, a monk, after he allegedly made a speech critical to the economic and social situation in the country during a ceremony at the Mahamyatmunni Payagyi Pagoda in Mandalay. It is reported that the military intelligence personnel detained him at police station No.10, and that he might have been charged with inciting unrest;

(g) During the week of 9 July 2001, the Ministry for Foreign Affairs reportedly decided to ban two foreign journalists from entering Myanmar: **Evan Williams**, an Australian journalist, was allegedly blacklisted after he published a report about the SPDC crackdown on the NLD in 1998 and produced a television report highlighting the involvement of some officials in drug smuggling on 26 June 2001; and **Tony Emerson**, who reportedly wrote an article criticizing the SPDC's education policy published in "Newsweek" on 9 July 2001. It is reported that another journalist, **George Scott**, who reportedly "wrote fabrications" in the "Weekend Australian Newspaper", was also banned from entering the country on 3 August 2001;

(h) Access to the Internet and to electronic mail was reportedly made extremely difficult and strictly monitored by the Government. It is reported that all posts, telecommunications and e-mail services are provided through the state agency Myanmar Post and Telecommunications (MPT), and that according to regulations released by the Government in 2000, all computers, fax machines and modems must be registered by the Government, and individuals who fail to do so face a prison sentence between 7 and 15 years. MPT is reportedly the sole Internet provider in the country and it seems that in delivering licenses to those wishing to connect to the Internet, priority is given to Government officials and agencies,

foreign embassies and businesses, and “favoured” local businesses, and that the cost for the hook-up, the modem and the connection is prohibitive for private individuals. Furthermore, it is reported that the content of e-mails is monitored for any “anti-nationalistic” sentiment, and that any mention or discussion of politics is reportedly banned.

546. On 4 December 2003, the Special Rapporteur, the Special Rapporteur on extra-judicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights in Myanmar sent a joint urgent appeal concerning reports that death sentences were passed by a court martial on 28 November 2003 on **Zaw Thet Htway**, editor of the sports magazine “First Eleven” and a member of the Democratic Party for a New Society (DPNS), **Aye Myint, Zaw Zaw, Zar Naing Htun, Ne Win, Shwe Mann, Than Htun, Myo Htway** and **Nai Min Kyi**. According to information received, these nine people were convicted and sentenced to death by a Yangon court martial under article 122/1 of the law on high treason for supposedly trying to murder the leaders of the SPDC. All nine were reportedly arrested on 17 July 2003 by members of the Military Intelligence (MI). It is reported that a member of the military Government, Col. San Pwint, announced on 26 July that the security services had thwarted a planned series of bombings. The nine were reportedly also accused of contacts with political organisations in exile. However, reports indicate that their arrest might have been prompted by a report in “First Eleven” raising questions about the use of an international donation of four million dollars to promote football in Myanmar and another report about a fine imposed by the organisers of an Asian football tournament (the Asian Champion Club) on a Myanmar team that failed to take part.

Communication received

547. On 20 October 2003, the Government sent its response to the communication dated 25 July concerning the alleged detention of **Soe Pa Pa Hlaing** and **U Zaw Thet Htwe**. Soe Pa Pa Hlaing, who is the wife of U Zaw Thet Htwe, was sent home after necessary interrogation. The newspapers “First Eleven” and “Living Colours” continue to be published regularly. U Zaw Thet Htwe, who was sentenced to six years’ imprisonment in 1990 for his illegal contacts with underground insurgent groups, was found to be accomplice with the members of subversive groups, which planned to explode bombs on 19 July 2003, Martyrs’ Day. The groups also conspired to disrupt peace and stability in the country, assassinate members of the SPDC and instigate the public to rise up in protest and cause unrest in the country. The group, totalling 12 members, were apprehended by MI Units on 16 July 2003. U Zaw Thet Htwe was arrested on 17 July 2003.

Observations

548. The Special Rapporteur thanks the Government for its response, and awaits further responses to his communications of 30 April, 2 June, 1 and 31 October and 4 December 2003.

Nepal

Communications sent

549. On 24 April 2003, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture concerning **Bipin Bhandari** and **Dil Bahadur Rai**, two students who were allegedly arrested on 17 June 2002 in Kathmandu and whose respective cases were included in an urgent appeal sent on 21 June 2002 (E/CN.4/2003/67/Add.1 para 411). According to new information received, it is said that Bipin Bhandari and Dil Bahadur Rai are currently held in incommunicado detention at the premises of the Para Battalion of the Nepal Army in Maharajgunj, Kathmandu, where they are believed to be in poor health. The whereabouts and health of another student, **Ramhari Rupakheti**, are reportedly unknown and serious fears have been expressed for his safety. A fourth student, **Narvin Rai**, who was allegedly arrested on 26 April 2002 in Kalimati, is also reportedly detained incommunicado at the premises of the Para Battalion of the Nepal Army in Maharajgunj. Two other men who were allegedly arrested along with Narvin Rai, **Purma Poudel** and **Ishwar Lama**, remain unknown. According to the information received, the students were alleged by the authorities to belong to the All Nepal National Independent Students' Union (Revolutionary), which was allegedly declared a "restricted" organization in November 2001, on the grounds that it was believed to have links with the armed opposition Communist Party of Nepal (CPN) (Maoist). In view of the reported incommunicado nature of their detention, fears have been expressed that they may be subjected to torture or other forms of ill-treatment.

550. On 14 August 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Nirmal Kumar Budhathoki**, a journalist with the daily *Janadisha*. According to information received, Ms. Budhathoki and her husband **Muma Ram Khanal**, from the monthly newspaper *Dishabodh*, were arrested by security forces in Sankhumul, Kathmandu, in May 2002. Reports indicate that Mr. Khanal was released, while Ms. Budhathoki remains in detention at the Bhairav Nath Barrack in Maharajgunj, where she was allegedly tortured and, as a result, faces serious mental health issues.

551. On 16 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture regarding **Shanta Shrestha**, a 68-year-old feminist leader and activist, **Sobhit Yadav**, a member of the Madheshi Liberation Front, an organisation representing some sections of the Terai community in southern Nepal and which is allegedly linked to the Communist Party of Nepal (CPN) (Maoist), **Balaram Sharma** (also known as Poorna Birma) a writer and poet, as well as **Ram Hari Chaulagain**, a journalist. Their whereabouts are reportedly unknown since their arrest in late August 2003. It is reported that Shanta Shrestha and Sobhit Yadav may have been arrested on suspicion of belonging to the CPN (Maoist).

552. In view of the alleged detention of the above-named persons at undisclosed locations, fears have been expressed that they may be subjected to torture or other forms of ill-treatment.

553. On 17 September 2003, the Special Rapporteur sent a communication concerning the alleged arrest of “**Ms. X**”, a 21-year-old student from Kavre district studying in Kathmandu and member of an organization affiliated to the Communist Party of Nepal (CPN) (Maoist). Ms. X was reportedly arrested from her room in Kathmandu on 3 September 2002 by army personnel and taken to the Balaju army barracks where she is alleged to have been held incommunicado for 25 days in a small dirty damp room, with insufficient food and no toilet facilities. It is reported that during interrogation, she was subjected to beating on the soles of the feet with a rubber pipe almost every day, her head was banged against the wall, her chest poked and pressure applied to her neck so that she felt she was being suffocated. It is also reported that she was hung upside down by a rope on three occasions for about half an hour each time. She is also believed to have been subjected to verbal abuse of a sexual nature and humiliation. She was allegedly not given any medical treatment. She is reported to have been eventually released on bail on 4 April 2003.

554. On 23 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Shubhashankar Kandel**, managing editor of *Janadharana* ("People's Opinion"), a weekly newspaper, who was allegedly arrested on 9 September 2003 by security forces personnel. It is believed that Mr. Kandel is detained at the Chhauni army barracks in Kathmandu. It is also believed that security forces arrested him as they suspect him of being a member or supporter of the Communist Party of Nepal (CPN) (Maoist). It is reported that Mr. Kandel's whereabouts are not known. In view of his alleged detention at an unknown place, fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

555. On 26 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people regarding **Navin Pun**, a journalist also known as **Bivas**, who was reportedly arrested by security forces personnel on 21 September 2003 in Kirtipur, Kathmandu. His whereabouts have allegedly not been disclosed yet. It is reported that Navin Pun is a member of the *Nepal Indigenous Journalists' Association* (NIJA) and that he recently published an essay collection which covers an incident that allegedly took place in Dang during the state of emergency in 2002. In view of his alleged detention at an unknown place, fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

556. On 29 September 2003, the Special Rapporteur sent a communication concerning the following individual cases:

- a) **Champa Bishwa Karma** (f), a 20-year-old Maoist activist from Mahadevpuri-2, Banke district, was reportedly arrested on 30 January 2002 by police in uniform. It is alleged that she has been beaten with a lead pipe on her back and subjected to other forms of ill-treatment for five minutes by a constable on the orders of a sub-inspector. It is believed that she was subjected to this treatment with a view to make her resign

from the *District Committee of the All Nepal Revolutionary Women's Association* (Maoist) and to give information about other members;

- b) **Rewati Sapkota**, a journalist with the *Rajdhani Daily*, was reportedly arrested at his home in Kathmandu on 24 May 2002 by a police inspector. He was allegedly interrogated during five days and four nights about other journalists and human rights activists. It is reported that while in detention, his hands and feet were tied and that he was blindfolded. He was allegedly severely beaten and left in the sun for prolonged periods. He was reportedly held in a small and dirty cell with 12 other detainees who are also believed to have been subjected to ill-treatment. Rewati Sapkota was reportedly eventually released;
- c) **Hari Lamsal**, a 24-year-old student of Tribhuvan University, Kirtipur, Kathmandu, was reportedly arrested on 15 June 2002 by army personnel on suspicion of being a supporter of the Communist Party of Nepal (Maoist) and taken to an unknown army barracks where he was allegedly held for about four days. According to the information received, during that time, he was subjected to beatings with a bamboo stick and electric shocks. It is also alleged that he was buried in the ground, put in a cave and hung on a tree. He is believed to have been subjected to further torture and ill-treatment, and in particular, to beatings to the soles of his feet. A habeas corpus petition was allegedly filed on his behalf on 7 January 2003 and he was allegedly released on 21 February 2003. As far as the Special Rapporteur has been informed, no investigation has taken place into this case;
- d) **Deepak Pandey**, a journalist with the *Space Time Daily*, was reportedly seriously beaten by two allegedly inebriated police officers in civilian clothes on 8 October 2002 in the centre of Kathmandu. He is believed to have been punched and kicked. According to the information received, he appealed for help to other police officers but the latter arrested him and placed him in a vehicle, in which he was allegedly beaten again until he was taken to a hospital. He was reportedly released upon the intervention of a senior officer;
- e) **Ramesh Sharma**, a 36-year-old man from Parsa district and member of a youth organization affiliated to the Communist Party of Nepal – United Marxist Leninist (CPN-UML), was reportedly arrested on 11 May 2003 after he allegedly took part in a political demonstration in Ratnapark, Kathmandu, along with the mainstream political parties which was part of a campaign called *Agitation against regression* aimed at the reinstatement of parliament and the restoration of democracy. It is alleged that the police lathi-charged the demonstration and a number of people were injured, including Ramesh Sharma, who is believed to have been repeatedly beaten by the police. According to the information received, he was taken to Tribhuvan University Teaching Hospital for treatment, but lost one eye as a result of the beating;
- f) **Prithwi Kumar Prajapati**, a 50-year-old resident of Ward No 14, Bhakatapur, Kathmandu, and member of the All Nepal Revolutionary Peasants' Association which is connected with the Nepal Workers and Peasants' Party, was reportedly injured by the police on 14 May 2003 when he allegedly took part in a political demonstration in

Kathmandu, along with the mainstream political parties, which was part of a campaign called *Agitation against regression* aimed at the reinstatement of parliament and the restoration of democracy. It is alleged that the police lobbed tear gas in order to disperse the rally, and attacked the crowd. Prithwi Kumar Prajapati was allegedly beaten by police before being taken to Bir Hospital, where it is said that he did not receive adequate medical treatment.

557. On 1 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Dhana Shahi**, aged 25, and **Shanu Shahi** (f), aged 20, both shopkeepers, who were reportedly arrested at their home on 26 September 2003 by a group of about 15 army personnel. It is believed that they may have been driven to the Suryabinayak army barracks in Bhaktapur, but their whereabouts have reportedly not been confirmed by the authorities. It is alleged that the National Human Rights Commission, which has been informed by their relatives, has initiated an inquiry. The reasons for their arrest are not known but it is thought that they may be detained on suspicion of having links with the Communist Party of Nepal (CPN) (Maoist). In view of their alleged detention at an undisclosed location, fears have been expressed that they may be at risk of torture or other forms of ill-treatment.

558. On 1 October 2003, the Special Rapporteur also sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Lokendra Dhvaj Khand** and **Ek Nath Chaulagain**, who were reportedly arrested on 27 August 2003 by members of the Royal Nepalese Army, and whose whereabouts have allegedly not been disclosed yet. According to information received, Lokendra Dhvaj Khand, was acting president of the Nepal Bidhyarthi Sangh (Nepal Student Union) at Nepal Law Campus Unit, Kathmandu. The reasons for his arrest are not known. Ek Nath Chaulagain, a 42-year-old businessman, was allegedly arrested from his home at Koteshwor, Kathmandu, on 11 September 2003 by security forces. The reasons for his arrest are not known but it is thought that it may be due to the fact that the authorities suspect him of having links with the Communist Party of Nepal (CPN) (Maoist). The alleged detention of Mr. Chaulagain has allegedly been reported to the National Human Rights Commission (NHRC), which is said to be conducting inquiries on these cases. In view of the reported detention at undisclosed locations of the above-mentioned persons, fears have been expressed that they may be at risk of torture or other forms of ill-treatment.

559. On 6 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on Human Rights Defenders regarding **Ram Bahadur Limbu**, a 47-year-old member of the central committee of the Kirat Yakthung Chumlung (KYC), a non-governmental organization concerned with the preservation and promotion of the Limbu ethnic group. Ram Bahadur Limbu was reportedly arrested by security personnel on 26 September 2003 in Indrapur Village Development Committee (VDC), Morand district. He is alleged to be currently held in incommunicado detention. According to the information received, the Ministry of Defence has issued a press statement confirming his arrest and claiming that he was the

regional chairman of the Limbuwan Liberation Front, which is said to be affiliated to the Communist Party of Nepal (CPN) (Maoist). The reported accusation has allegedly been denied by his relatives. In view of his alleged incommunicado detention at an undisclosed location, fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

560. On 15 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture regarding **Prem Sagar Karmacharya**, a 40-year-old central committee member of the Lyamha Pucha, a youth organization, and committee secretary of the Blood Donors' Club. He was reportedly arrested on 10 October 2003 in Bagbazar, Kathmandu by security forces personnel. Since then, his whereabouts have allegedly not been disclosed. The reason for his arrest has allegedly not been disclosed neither. He is said to be a former member of the Communist Party of Nepal-United Marxist Leninist (CPN-UML). In view of his alleged detention at an unknown place, fears have been expressed that he may be at risk of being subjected to torture or other form of ill-treatment.

561. On 20 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Ram Chandra Maharjan**, a 50-year-old farmer, who was reportedly arrested by about 20 army personnel on 14 October 2003 at his home in Bhol Dhokha, Ward 8, Lalitpur, Lalitpur district. Ram Chandra Maharjan was allegedly kept in detention. His whereabouts and the reason for his alleged arrest have reportedly not been disclosed yet. It is believed that he may have been taken into custody on suspicion of being involved with the Communist Party of Nepal (CPN) (Maoist). In view of the alleged detention of Ram Chandra Maharjan at an undisclosed place, fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

562. On 20 October 2003, the Special Rapporteur also sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Ram Hari Kadel**, a 26-year-old resident of Naya Bazaar, Ward 16, Kathmandu, and **Ram Prasad Tripathi**, a 16-year-old student who works at the glass shop owned by Ram Hari Kadel. Ram Hari Kadel was reportedly arrested on 12 September 2003 and Ram Prasad Tripathi was arrested on 13 September 2003. Both have reportedly not been seen since. The reasons for the alleged arrest of Ram Hari Kadel and Ram Prasad Tripathi have reportedly not been disclosed but it is believed that they may be suspected of involvement with the Communist Party of Nepal (CPN) (Maoist). In view of their alleged detention at an unknown place, fears have been expressed that they may be subjected to torture or other forms of ill-treatment.

563. On 22 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Udaya Raj Gautam**, a 38-year-old teacher and member of the central committee of the Nepal Teachers Organization (NTO), which is close to the political left in Nepal, particularly the communist parties. He was reportedly arrested by four members of the security forces on 29 September 2003 in Kathmandu. His whereabouts have not been disclosed yet. It is thought that he may have been arrested in suspicion of involvement with the Communist Party of Nepal (Maoist). In view of his

alleged detention at an undisclosed place, fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

564. On 24 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Amrit Kadel**, a 22-year-old student at Saraswati Campus, Kathmandu, who was reportedly arrested by army personnel in Chabahil, Kathmandu, on 11 October 2003. His family allegedly found out that he had been arrested through reports in local newspapers. It is believed that he may be currently detained at an army barracks in Kathmandu, where fears have been expressed that he may have been subjected to torture. Amrit Kadel is believed to have been arrested on suspicion of being involved with the All Nepalese National Free Students Union (Revolutionary) (ANNFSU), which is affiliated with the Communist Party of Nepal. Amrit Kadel is reportedly the younger brother of Ram Hari Kadel, whose whereabouts are unknown since his reported arrest on 12 September 2003.

565. On 27 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture regarding **Subindra Buda Magar**, aged 22, and **Bandhu Dev Pandey**, aged 41, both residents of Balaju, near Kathmandu, whose whereabouts are reportedly unknown since their alleged arrest by plain-clothed security personnel on 11 and 16 October 2003 respectively. Subindra Buda Magar is the publisher of the monthly magazine *Nischhall Masic Patrika*. The reasons of his arrest are reportedly not known. It is alleged that inquiries to the Ministry of Home Affairs, the National Human Rights Commission (NHRC), and the International Committee of the Red Cross (ICRC) to try and establish his whereabouts have so far failed. Bandhu Dev Pandey runs a printing business in Naradevi, Kathmansi. Inquiries at army and police facilities by his relatives to try and establish his whereabouts have reportedly so far failed. According to the information received, Bandhu Dev Pandey was previously arrested under the Terrorist and Disruptive Activities Act (TADA) on 26 January 2002. He was reportedly released on 30 October 2002 on the orders of the Supreme Court. While in detention, he was allegedly severely beaten.

566. On 3 November 2003, the Special Rapporteur sent a communication concerning alleged cases of violation of the right to freedom of opinion and expression. The Special Rapporteur received information that since the breaking of the cease-fire between the Government and the Communist-Party of Nepal (CPN-Maoist), journalists have reportedly been targeted both by government forces and by the CPN-Maoists, and attacks against, harassment of, and sometimes executions of journalist have been on the increase.

(a) **Purna Biram**, a poet and journalist with the monthlies *Mulyankan*, *Dishabodh* and the now-closed Maoist weekly *Janadesh*, was reportedly arrested in Kathmandu on 29 August 2003 by security forces as he was reading poems at a demonstration;

(b) **Madhav Pokhrel**, who writes for the weekly *Hank*, was reportedly arrested on 2 October 2003 in his Kathmandu bookshop, allegedly on suspicion of having links with the leftist Najamorcha Nepal Party;

- (c) **Sunbindra Budhamagar**, publisher of the monthly *Nishal*, was reportedly arrested on 11 October 2003, allegedly after the magazine printed an article entitled “Two reigns, two armies”, which reportedly displeased the authorities;
- (d) **Raju Chhetri**, managing editor of the weekly *Rastriya Swaviman*, was reportedly arrested on 18 October 2003. It is believed that his arrest is linked to Mr. Chhetri being considered a Maoist Sympathiser;
- (e) **Binod Sajana Chaudari**, a journalist for the *Nepalgunj Express* and formerly affiliated with the pro-maoist *Janadesh Weekly*, was reportedly murdered by security forces in Kailali in western Nepal;
- (f) It is reported that on 8 September 2003, security forces physically assaulted **Rajendra Chitrakar**, photojournalist for the state-owned daily *Gorkhapatra*, while he was taking pictures in Baluwatar, Kathmandu. The reason for the assault is not known;
- (g) In a separate incident that same day, journalist **Prajash Silwal** and photojournalist **Rojan Rai**, of the daily *Himalayan Times*, were reportedly assaulted by security forces in Kathmandu;
- (h) Reports were received by the Special Rapporteur on the alleged arrest on 4 September 2003 of **hundreds of political party leaders, party members and students** who were reportedly on their way to a protest rally in Kathmandu. According to the reports, political party activists and students were being held at a number of different locations, including the Police Training Centre in Maharajgunj and the Mahendra Police Club in Kathmandu, which are reported as unofficial places of detention;
- (i) **Tikaram Rai**, editor of the daily *Aparanaha*, was allegedly arrested on 12 November 2002 for defamation. The Special Rapporteur is of the view that criminal sanctions, in particular imprisonment, for libel and defamation are not deemed proportional with an effective exercise of the right to freedom of opinion and expression;
- (j) **Kishor Shrestham**, editor of the Nepali-language weekly newspaper *Jana Aastha*, was allegedly detained by police. It is believed that his arrest might be linked to his newspaper’s reporting on the case of Krishna Sen;
- (k) It is reported that **Ramesh Gautam**, a student in social sciences at the Mahendra Ratna Campus in Kathmandu, was arrested by army personnel on 3 August 2002. It is believed that he may have been arrested because he is suspected to be a member or sympathizer of the Communist Party of Nepal (CPN) (Maoist);
- (l) The Special Rapporteur received information that **Sharadha Shresta**, a Central Committee member of the Women’s Association (Revolutionary), was reportedly arrested on 25 July 2002 and held in incommunicado detention. She reportedly might have been tortured during her detention. She was reportedly taken away along with **Sudhip Sapkota**. It is reported that Ms. Shresta current detention might be related to her political affiliations to the Women’s Association (Revolutionary), which is affiliated to the Communist Party of Nepal (Maoist).

567. On 13 November 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Bhagirath Kharel, Maha Prasad Angai and Naresh**

Maharjan, whose whereabouts are reportedly unknown since they were allegedly arrested by members of the security forces between 6 and 9 November 2003. Bhagirath Kharel, a retired school teacher, was reportedly arrested by ten security forces personnel on 6 November 2003. Bhagirath Kharel is thought to be a former member of the Nepal Teachers Organization (NTO), which is close to the political left in Nepal, particularly the communist parties. His former membership of this organization may be connected with his arrest. Maha Prasad Angai, a teacher at Padma Chakra English Secondary School, Phutung, Kathmandu, was reportedly arrested by members of the security forces on 7 November 2003. According to the information received, Maha Prasad Angai had stood for election on behalf of the All Nepal National Independent Student Union (ANNISU) (Revolutionary), which is affiliated with the Communist Party of Nepal (CPN) (Maoist). He is also alleged to be a member of the Nepal Teachers Organization (NTO). His reported involvement with these two organizations may be connected with his arrest. Naresh Maharjan, a student, was reportedly arrested by five members of the security forces on 9 November 2003. His previous arrest in April 2002 is thought to have been due to his alleged membership of the All Nepal National Independent Student Union (ANNISU). In view of the alleged detention at an unknown location of the above-named individuals, fears have been expressed that they may be at risk of torture or other forms of ill-treatment.

568. On 14 November 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Arjun Maharjan**, a 33-year-old resident of Kirtipur, Kathmandu district, who runs a glass business in Kalimati, Kathmandu. He was reportedly arrested by three members of the security forces on 29 October 2003. It is reported that his whereabouts have not been disclosed yet. Arjun Maharjan is reported to be a central committee member of the Nawa Rastriya Mukti Morcha (Newar National Liberation Front), a Newari ethnic organization affiliated with the Communist Party of Nepal (CPN) (Maoist). It is believed that his reported arrest may be connected with his alleged involvement with this organization. In view of his alleged detention at an undisclosed location, fears have been expressed that Arjun Maharjan may be subjected to torture or other forms of ill-treatment.

569. On 17 November 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Sanjiv Kumar Karna** (also known as **Dipu**), aged 24, **Pramod Narayan Mandal**, aged 18, **Sailendra Yadav**, aged 22, and **Jitendra Jha**, aged 19, all students, as well as **Durgesh Kumar Labh**, aged 23. They were reportedly arrested by armed security forces personnel on 8 October 2003. Their whereabouts have reportedly not been disclosed yet. These individuals are alleged to have been arrested on suspicion of being involved in Maoist activities. Sanjiv Kumar Karna is reportedly a former member of the All Nepal Free Students Union (ANFSU) (Revolutionary), which is allegedly viewed by the authorities as having links with the Communist Party of Nepal (CPN) (Maoist). The Special Rapporteur also received information according to which **Gyan Bahadur**, aged 43, and **Rajesh Maharjan**, aged 40, both carpenters, were arrested on 9 November 2003 by security personnel. Their whereabouts are reportedly unknown since then. The reasons for their alleged detention have reportedly not been disclosed either. Although Gyan

Bahadur is said not to belong to any political party, it is reported that the cause of his arrest might be because the authorities suspect him of supporting or having links with the CPN (Maoist).

570. On 21 November 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture regarding **Navraj Thapa, Resham Bahadur Pun** and **Deependra Pant**, whose whereabouts are reportedly unknown since their alleged arrest by members of security forces. Navraj Thapa, aged 29, was reportedly arrested on 12 November 2003. The reason for his arrest is unknown, but it is believed that he may have been denounced as having links with the Communist Party of Nepal (CPN) (Maoist). Resham Bahadur Pun, aged 26, was reportedly arrested on 12 November 2003. The reasons for his arrest are reportedly unknown. It is however believed that it may be due to the fact that the authorities reportedly suspected him of being a member of the All Nepal National Independent Students Union (ANISU) (Revolutionary). Deependra Pant, aged 25, was reportedly arrested by security forces on 13 October 2003. It may be due to the fact that the authorities reportedly suspected him of being a member of the ANISU.

571. On 21 November 2003, the Special Rapporteur also sent an urgent appeal jointly with the Special Rapporteur on torture regarding **Dhana Bahadur Magar**, a journalist, member of the Federation of Nepalese Journalists (FNJ). It is reported that Mr. Bahadur Magar has been missing since 18 November 2003. Up to now, his whereabouts are not known. It is believed that he might have been arrested by security forces on suspicions that he has close ties with the Communist Party of Nepal (CPN) (Maoist).

572. On 26 November 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture regarding **Silva Prasad Gautam, Ram Chandra Bhandari, Kedar Gautam**, and **Ram Prasad Gautam**, whose whereabouts are reportedly unknown since they had allegedly been arrested in Kathmandu between 1 September and 21 November 2003. Shiva Prasad Gautam, a 38-year-old man, is said to be a committee member for the Communist Party of Nepal – Unified Marxist Leninist (CPN-UML). Ram Chandra Bhandari, a 49-year-old former headmaster, is reported to be the general secretary of *Om Vaidic Sanatan Karmakanda Mahasangh Nepal*, a non-political Hindu organization. Kedar Gautam, aged 31, and his brother Ram Prasad Gautam, aged 40, were reportedly arrested on 17 November 2003 by 10 members of the security forces. Their arrest is believed to be in connection with their sister's alleged membership of the Communist Party of Nepal (CPN) (Maoist).

573. On 2 December 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture regarding the following individual cases. **Bhumi Chamling**, a lawyer, was reportedly arrested on 11 October 2003 by members of the security forces. He is alleged to be a central committee member of the Janamukti Party Nepal, a small left-wing political party. The reasons for his arrest as well as his current whereabouts are reportedly not known. **Keshav Singh Thakuri** was reportedly arrested on 4 November 2003 by members of the security forces. He is reported to be a worker for the Communist Party of Nepal (CPN) (Maoist) and to have been previously arrested and detained for six months during the State of Emergency that ran from November 2001 to August 2002. It is alleged that his current detention may be linked to his work for the

CPN. **Gyanendra Prasad Bidari**, a 45-year-old farmer, was reportedly arrested at his home by members of the security forces on 20 October 2003. He is said to be a member of the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML). **Manoj Kumar Shah**, a 25-year-old farmer, was reportedly arrested in Belathan, Bihar, India, on 7 November 2003 by members of the Indian police, when he was allegedly traveling in India with his wife to visit relatives. Manoj Kumar Shah is reported to be a former member of the CPN who surrendered himself to the Nepalese authorities in 2001. It is believed that the Indian police arrested him due to his alleged previous work with the CPN. **Kamal KC**, a 39-year-old farmer, was reportedly arrested at his home by army personnel on 13 November 2003. The reasons for his arrest as well as his current whereabouts are reportedly not known. **Shyam Raj Acharya**, a 50-year-old farmer, was reportedly arrested by about 100 army personnel at his home on 18 November 2003. The reasons for his arrest as well as his current whereabouts are reportedly not known.

574. On 8 December 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Tej Narayan Sapkota**, who was reportedly arrested by four security forces personnel on 24 November 2003 in Bagbazar, Kathmandu. According to information received, Tej Narayan Sapkota, a teacher in the Gyan Kunja School, Rabibhawan, Kathmandu, is involved in the work of the Sarbottam Printing Press in Bagbazar, and is a member of the *Nepal Patrakar Mahasangh* (Nepal Journalist Federation). Although there have been no charges against Tej Narayan Sapkota, it is believed that he was arrested under suspicion of being involved with the Communist Party of Nepal (CPN) (Maoist). It is reported that he was arrested in 2002 and released after 11 days. Efforts to locate Tej Narayan Sapkota by visiting the local police station and contacting the National Human Rights Commission (NHRC) have reportedly so far failed.

575. On 9 December 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Kumar Prasad Pant**, a 23 years old finance cooperative worker who lives in Kalikasthan. He was reportedly arrested on 19 November 2003 by members of the security forces. Kumar Prasad Pant was previously a district committee member of the All Nepal Free Student Union (ANFSU) (Revolutionary) which is reportedly viewed by the authorities of having links with the Communist Party of Nepal (CPN) (Maoist). Reported efforts to locate him have allegedly so far failed and fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

576. On 11 December 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding Mr. **Indra Bahadur Arya**, a 35 year-old shopkeeper, who lives in Mahadevbesi Thakre Village Development Committee, Ward no.3, Dhading district. He is reportedly a VDC member representing the Communist Party of Nepal (Unified Marxist-Leninist) (CPN-UML). He was reportedly arrested at his home on 11 November by members of the security forces. According to reports, they searched Mr. Arya's home and took his motorbike. The reason for his arrest is not known. Efforts to locate him by his family, including visiting local army barracks, the District Administration Office, and informing the National Human Rights Commission, Defence Ministry and Home Ministry, have so far failed. In view of his alleged detention at an

undisclosed location, concern has been expressed that Mr. Arya may be at risk of torture or other forms of ill-treatment.

577. On 18 December 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and Special Representative of the Secretary-General on human rights defenders regarding Mr. **Ram Krishna Adhikari**, a reporter from the weekly *Saghu*, who has reportedly been missing since 10 December 2003. He was last seen attending a human rights event organised by the Human Rights Organization of Nepal (HURON), at the Hotel Orchid in Kathmandu. According to reports, the journalist may have been detained by security forces and held at a secret location. Fears have been expressed that this person may be at risk of torture or other forms of ill-treatment.

Communications received

578. On 6 June 2003, the Government replied to the Special Rapporteur's communication dated 26 July 2002 (E/CN.4/2003/67/Add.1 paras 414 and 415) concerning more than **100 journalists** that have reportedly been arrested and detained since the declaration of the state of emergency. The Nepalese Government indicated that 39 of these people were released.

579. On 12 November 2003, the Government replied to the Special Rapporteur's communication dated 16 September 2003 regarding the arrest of Mr. **Sita Ram Baral** of local weekly newspaper *Jana Ashta*, and Mr. **Ram Hari Chaulagain** of weekly newspaper *Shanghu*. The Nepalese Government informed that Mr. Sita Ram Baral was released on 13 September 2003 and Mr. Ram Hari Chaulagain on 24 October 2003.

580. On 10 December 2003, the Government replied to the Special Rapporteur's communications dated 16 September, 29 September and 1 October 2003, indicating that **Shanta Shrestha** was released on 19 September 2003, **Balaram Sharma** on 13 November 2003 and **Ram Hari Chaulagain** on 24 October 2003. The Nepalese Government also indicated that **Mhana Shahi**, **Shanu Shahi** and **Lokendra Dhvaj Khan** were not under police detention and that **Champa Bishwakarma** was released on 6 July 2003, **Rewati Sapkota** on 8 June 2003 and **Hari Lamsa** on 23 February 2003.

Observations

581. The Special Rapporteur thanks the Government of Nepal for its replies, but awaits responses to his communications dated 24 April, 14 August, 17, 26 September, 1, 6, 15, 20, 22, 24 and 27 October, 3, 13, 14, 21 and 26 November, 11 and 18 December 2003.

Niger

Communications envoyées

582. Le 18 février 2003, le Rapporteur spécial a adressé une lettre au Gouvernement nigérien concernant la fermeture de la radio privée **Nomade FM**. Selon les informations reçues, les autorités auraient ordonné la fermeture de cette station, qui émet dans la région

d'Agadez, le 11 février 2003, l'accusant «d'incitation à la rébellion». Il semblerait que la police départementale d'Agadez serait venue demander la suspension de Nomade FM sur la base d'un télégramme signé par le Ministre de l'intérieur. Selon les informations reçues, cette décision aurait fait suite à la diffusion d'une émission intitulée «L'invité de l'Air», diffusée en langue locale le 5 février 2003, dans laquelle Ismaghil Iltinine, journaliste et directeur des programmes de Nomade FM, aurait organisé un débat sur le thème «Paix, sécurité et développement dans la région du Nord». Deux anciens rebelles invités à participer au débat auraient exprimé leur mécontentement face à l'incapacité perçue du gouvernement à faire appliquer les accords de paix, qui préconisaient notamment la réinsertion des ex-rebelles.

583. Dans une communication datée du 30 septembre 2003, le Rapporteur spécial a attiré l'attention du gouvernement sur des allégations selon lesquelles 15 stations de radio privées, dont **Horizon FM**, **Sahara FM**, **Saraounia FM** et **Radio Madiana**, se seraient vu retirer leurs autorisations d'exploitation par le Conseil supérieur de la communication (CSC) le 25 septembre, au motif que ces autorisations étaient «nulles et de nul effet pour défaut de conformité à la réglementation en vigueur». Il semblerait que les membres du CSC estimerait qu'un certain nombre de décisions prises, unilatéralement selon le CSC, par sa présidente, y compris les autorisations d'émettre accordées à ces radios, ne seraient pas conformes avec la réglementation en vigueur, et les auraient annulées rétroactivement. Le CSC aurait demandé à ces radios de suspendre immédiatement leurs transmissions et de contacter le CSC afin d'assurer leur conformité avec les règles en vigueur.

584. À la même date, le Rapporteur spécial a envoyé une autre communication concernant l'arrestation alléguée du directeur de publication de l'hebdomadaire *L'Enquêteur*, **Ibrahim Souley**, ainsi que son fondateur **Soumana Maïga**. Selon les informations soumises, MM. Souley et Maïga auraient été interpellés par la police judiciaire le 13 septembre 2003. M. Maïga aurait été libéré quelques heures plus tard, alors que M. Souley serait semble-t-il resté 48 heures dans les locaux de la police judiciaire, avant d'être transféré à la prison de Niamey le 16 septembre. Il semblerait que cette arrestation soit liée à la publication d'un article dans le numéro 169 de *L'Enquêteur*, qui accusait le régime, par l'attribution de marchés publics, d'avoir contribué à l'enrichissement rapide d'un homme d'affaire connu. Selon les informations reçues, le procès de M. Souley aurait été fixé au 7 octobre 2003.

585. Dans une lettre d'allégation datée du 7 octobre 2003, le Rapporteur spécial a communiqué des informations sur les cas résumés ci-dessous:

- (a) **Adoulaye Tiémogo**, directeur du journal *Le Canard déchaîné*, au nom duquel deux appels urgents avaient été envoyés par le Rapporteur spécial les 27 mai et 24 juin 2002, auxquels le Gouvernement nigérien avait répondu par courrier daté du 9 août 2002 (voir E/CN.4/2003/67/Add.1, par. 423, 424 et 426). Selon de nouvelles informations, il semblerait que M. Tiémogo, qui avait été condamné à huit mois de prison pour diffamation, serait toujours détenu à la prison civile de Niamey, et ce, depuis le 18 juin 2002. À cet égard, le Rapporteur spécial souhaiterait souligner qu'à son avis des sanctions pénales, en particulier

l'emprisonnement, pour diffamation ne semblent pas proportionnelles à un exercice effectif du droit à la liberté d'opinion et d'expression ;

(b) le 23 août 2002, **Moussa Kaka**, correspondant local de Radio France Internationale et de l'ONG Reporters sans frontières, aurait été interpellé et interrogé pendant près de 10 heures par le haut commandement de la gendarmerie nationale sur ses sources d'information concernant les reportages qu'il avait effectués sur une mutinerie qui avait eu lieu à Diffa au début du mois. Selon les informations communiquées, suite à cette mutinerie, le Président aurait déclaré l'état de mise en garde et pris des dispositions restreignant la liberté de la presse. Un décret aurait notamment interdit la propagation d'informations ou d'allégations de nature à mettre en cause les opérations de défense nationale;

(c) le 27 août 2002, **Boulama Ligari**, journaliste de la station privée Radio Anfani, aurait été interpellé par la gendarmerie de Diffa sans qu'aucune explication officielle lui ait été fournie. Selon les informations reçues, le journaliste aurait été arrêté en raison des reportages qu'il avait réalisés sur la mutinerie de soldats mentionnée ci-dessus.

586. Le 14 octobre 2003, le Rapporteur spécial a envoyé un appel urgent au regard d'informations selon lesquelles le Président aurait prévenu les **stations de radio indépendantes du pays** de ne pas diffuser de programmes «à même de perturber la paix sociale et l'ordre public». Selon les informations communiquées, le Président aurait, dans un message radiodiffusé le 2 octobre 2003 à l'intention des ministres régionaux, des maires et des chefs d'institutions publiques régionales, donné l'instruction de prévenir immédiatement tous les directeurs de média dans leur juridiction contre tout acte passible de mettre en danger la paix et l'ordre public. Le Président aurait ajouté que tout «comportement inacceptable» serait jugé sévèrement en vertu de la loi. Il semblerait que des copies de l'allocution du Président auraient été distribuées aux médias opérant en dehors de la capitale Niamey.

587. Le 8 décembre 2003, le Rapporteur spécial a envoyé, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, une communication concernant **Mamane Abou**, directeur de publication de l'hebdomadaire *Le Républicain*, qui aurait été arrêté le 5 novembre 2003 et incarcéré à la prison de Say pour «complicité de vol et recel de documents confidentiels» et «diffamation». Selon les informations reçues, cette arrestation aurait suivi la publication, dans l'édition du 17 au 23 juillet 2003 du journal, d'un article dénonçant des dépenses réalisées hors règles budgétaires pour un montant de plusieurs milliards de francs CFA, apparemment en violation des lois en vigueur. Il semblerait que M. Abou devait être entendu sur cette affaire par le juge d'instruction de Niamey le 7 novembre, mais qu'à son retour d'un voyage en France le 5 novembre, un mandat d'arrêt aurait été délivré contre lui, et il aurait été placé en détention préventive, au motif qu'il chercherait à échapper à la justice nigérienne du fait de son voyage à l'étranger. Mamane Abou aurait été inculqué le 6 novembre 2003, et, le 7 novembre 2003, il aurait été condamné à six mois d'emprisonnement ferme, 300 000 francs CFA d'amende et 10 millions de francs CFA de dommages et intérêts pour diffamation à l'encontre du Premier Ministre et de l'ancien

Ministre des finances, et pour complicité de vol et recel de documents confidentiels. Mamane Abou aurait été incarcéré à la prison de Niamey, puis transféré à la prison de Say, à 55 km de Niamey. Il aurait fait appel de sa condamnation et l'audience serait prévue le 9 décembre 2003.

Observation

588. Le Rapporteur spécial regrette de n'avoir reçu, à ce jour, aucune réponse du Gouvernement nigérien.

Nigeria

Communications sent

589. On 30 January 2003, the Special Rapporteur, jointly with the Special Rapporteur on torture sent an urgent appeal concerning **Festus Keyamo**, a lawyer and the leader of Movement for the Actualization of the Future Republic of the Niger Delta, who was apparently arrested by the Police on 28 December 2002 and held at various locations. It is believed that he was reportedly then transferred to the Nigerian Federal Police Headquarters in the capital Abuja. According to information received, Festus Keyamo is said to be held in incommunicado detention without charge and denied adequate food, clothes and medical assistance. It is also believed that in protest against his detention and the conditions in which he was being held, he started a hunger strike, which raised concerns for his health. It is alleged that his detention might be linked to his public call for a wider autonomy for the Niger delta region in southern Nigeria, following the President's public explanation in late December 2002 of why he refused to sign a bill that would have given Nigeria's coastal states a percentage of revenue from offshore oil, which would particularly have benefited the States of the Niger delta oil-producing region. In view of the incommunicado nature of his detention, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

590. On 29 July 2003, the Special Rapporteur sent an urgent appeal concerning **Ben Adaji**, the Taraba state correspondent for "News" magazine. It is reported that on 22 July 2003, Mr. Adaji was arrested by the police on the orders of the Taraba State Police Commissioner, after the publication in the magazine, on 21 July 2003, of an article entitled "Abacha in Police Uniform", questioning the conduct of the Taraba state police commissioner. It is alleged that Mr. Adaji was brought before the court immediately without the benefit of legal representation and was subsequently remanded to custody, and that he was still in detention at the time the communication was sent. It is further reported that Mr. Abaji's arrest and detention occurred one day after police stormed the "News" head office in Lagos on 21 July, demanding to see the editor regarding the upcoming 28 July edition of the magazine. The lead story in the magazine featured alleged "shady deals" involving the Police Inspector General. The police team, led by the Lagos State Police Public Relations Officer, allegedly failed to locate the magazine's editor and left instructions for him to report to the office of the Lagos State Police Commissioner.

591. On 4 August 2003, the Special Rapporteur sent an urgent appeal concerning the recent release of a "fatwa" in the northern State of Kaduna, allegedly issued by a Committee of the Jama'atul Nasril Islam (JNI), against **Ms. Nduka Obiagbena**, a publisher for the newspaper "This Day" and **Ms. Isioma Daniel**, a former reporter for the same publication. The "fatwa" is reported to have been included by the Secretary-General of the JNI in the JNI's yearly report published on 21 July 2003. Reportedly, the "fatwa" on Nduka Obiagbena and Isioma Daniel stands as a continuation of an initial "fatwa" on Ms. Daniel subsequent to an article she published in "ThisDay" in November 2002. According to the information received, although the newspaper had issued a comprehensive apology due to the article's allegedly blasphemous nature, its Kaduna office was burned down by a group of protesters in late November 2002 and the newspaper was seemingly banned through a State Assembly decision in the neighbouring Kano State.

592. On 5 September 2003, the Special Rapporteur and the Vice Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning the reported arrest, on 22 August 2003, of **Lawson Heyford**, the Port Harcourt bureau chief of "The Source" magazine. According to information received, Mr. Heyford was detained without charge at the Force Criminal Investigation Department (FCID) in Lagos. It is believed that his arrest was linked to articles the journalist wrote on an intra-tribal conflict in Ataba village, in the Andoni Local Government Area of Rivers State, southern Nigeria, which has reportedly claimed several lives and left many houses destroyed. It is also reported that Mr. Heyford, a native of Ataba who has seemingly lost his family home during the conflict, wrote extensively on the conflict and mentioned the names of people he believed were masterminding the destruction in Ataba. It is further reported that the command's police commissioner confirmed Mr. Heyford's arrest and claimed the journalist has a criminal case to answer in connection with the Andoni problem, although he could apparently not say what role the journalist had played in the conflict.

593. On 24 September 2003, the Special Rapporteur and the Special Rapporteur on torture sent a joint letter of allegation concerning **over 3000 Isekiri, Ijaw and Urhobo women**, including women carrying babies and elderly women, who protested at the gates of the operational headquarters of both Shell Petroleum Development Company (SPDC) and Chevron Nigeria Ltd. in Warri, Delta State, on 8 August 2002. The protesters reportedly claimed better living conditions, proper compensations for the communities living on lands that host oil exploitation and a sustainable means of living for their families. It is reported that a combined group of mobile policemen and soldiers started to beat them, in particular with the back of their guns, as well as whip and kick them without any provocation, without any warning and without giving any time for the women, who were sitting on the ground, to disperse. The security forces reportedly launched the attack throwing tear gas and shooting in the air. In particular, it is reported that **Titi Omafor**, a 70-year-old woman who went to protest at SPDC's gate in Warri, was repeatedly kicked in the legs by a soldier, as a result of which she was allegedly not able to move her lower limbs. She was reportedly left on the ground by policemen and soldiers and two other women carried her to a clinic. **Elisabeth Ebido**, a 45-year-old woman and an Isekiri community leader who took part in protests at Chevron Nigeria Ltd gate in Warri, was

reportedly beaten repeatedly with the back of a gun by four members of the combined police-army force deployed there, as a result of which she allegedly presented deep wounds in the arms and legs. **Eda Ederougun**, an 89-year-old woman who went to protest at SPDC's gate in Warri, was reportedly beaten with a "kokobo" (a whip made of twisted animal skin), as a result of which she is believed to have fallen down and subsequently had problems to move. **Alice Ukoko**, a 42-year-old woman who participated as a leader in the protest at the gates of SPDC was reportedly knocked to the ground and whipped by two armed men. As a result, she allegedly sustained deep scars in her neck and back.

594. In a letter dated 8 October 2003, the Special Rapporteur referred to the following cases:

(a) The House of Assembly in Akwa Ibom state reportedly decided to expel journalist **Haruna Acheneje**, Akwa Ibom's correspondent for the national daily newspaper "The Punch" from the state. According to information received, on 11 August, "The Punch" ran an article by Mr. Acheneje entitled "Lawmakers protest non-payment of allowances", apparently based on a series of interviews conducted by Mr. Acheneje with House of Assembly members. It seems that the next day, Mr. Acheneje received a letter signed by the Speaker of the House, asking him to appear before the House on 14 August. Mr. Acheneje reportedly replied to the letter in writing, requesting that the House contact his head office in Nigeria's capital, Lagos. The same day, the House of Assembly passed a resolution to expel Mr. Acheneje from the state. It seems that the newspaper's Lagos office received a letter on 15 August stating that the journalist had seven days to leave Akwa Ibom. On 21 August, three armed men allegedly arrived at "The Punch"'s office in Uyo (the capital of Akwa Ibom), demanding to speak to Mr. Acheneje. Since this incident, the police have reportedly provided Mr. Acheneje with an armed guard who accompanies him during the day and patrols his house at night, for fear that he might be the target of further attempts at intimidation and reprisal;

(b) A Nigerian Television Authority (NTA) reporter **Mohammed Labbo** and cameraman **Abdullahi Abdullahi** were reportedly attacked by the police on 14 August 2003 as they were covering clashes between police and military officers. Mr. Abdullahi was allegedly hit on the head with rifle butts and his camera was damaged. The Police Affairs Ministry has reportedly opened an inquiry into the incident, but no results have been announced to date.

595. On 4 December 2003, the Special Rapporteur and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal regarding reports that on 26 November 2003, **Kayode Fasua** and **Tunde Ajayi**, editors of the "Contact" and "Class" newspapers, respectively, were arrested by personnel from the police's Ekiti state command, and that on the same day, **Michael Dada** and **Bola Fatile**, reportedly Justice Ministry employees, were also arrested. According to information received, the four individuals were intercepted at a roadblock, and the police found several copies of the "Ekiti Razor" newspaper in their vehicle, which was said to contain material intended to "disparage the reputation" of the state governor. It is also reported that the Assistant Police Commissioner, who is in charge of the Criminal Investigations Department (CID), alleged that the publication contained "inciting information that

could jeopardize peace and order in the state", and that the four individuals were conveying copies of the publication to Ekiti state for circulation. The four men were reportedly brought before the court immediately.

596. The Rapporteurs also received reports that on 24 November, CID police personnel in Lagos arrested and detained three "Insider Weekly" senior editors, **Osa Director, Chuks Onwudinjo** and **Janet Mba-Afolabi**, reportedly because of a story carried in that day's edition of the magazine, which alleged that top officials of the Government were involved in the illegal bunkering of crude oil. The three were reportedly held at the Panti police station in Yaba, Lagos, and brought before the court two days later. They were reportedly released on bail, reportedly following representations by the magazine's lawyers and pressure from civil society associations, but reports indicate that they were scheduled to reappear in court on 12 January 2004.

597. On 5 December 2003, the Special Rapporteur and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal in connection to information concerning the reported arrest of six political and human rights activists at Yaba, Lagos, at around midday on 3 December 2003. According to information received, **Bamidele Aturu**, Convenor, from the United Action for Democracy, **Adebowale Balogun**, President of the Yoruba Revolutionary Movement and Chairperson of the Yoruba Democratic Front, **Kamilu Mustapha**, from the Youth Democratic Front, **Daga Tola** and **Joseph Anua**, from the Democratic Socialist Movement and **Joel Emerole**, from the Democratic Alternative, were reportedly arrested during the disruption of a rally organized by the United Action For Democracy, calling for the resignation of the Government and protesting against the alleged failure of the Government to address the economic situation in the country. It is reported that hundreds of armed Mobile Policemen, reportedly led by the Deputy Superintendent of Police (DSP), used tear gas at the protestors and beat some of them, including the six individuals mentioned above, with fists and gun butts. The six were reportedly then taken to the State Criminal Investigation Department at Panti, Sabo Yaba, Lagos, where they were reportedly still detained at the time the communication was sent, although it is not clear whether charges were brought against them. In addition, it is reported that several journalists reporting on the rally were assaulted and had their equipment confiscated, including **Patrick Okafor** of MINAJ TV and two journalists from Galaxy TV.

Communication received

598. On 10 January 2003, the Government responded to the communication dated 18 October 2002 on the alleged harassment of Misses **Isioma Ojugbana** and **Ijeoma Nwachukwu**, members of the Civil Liberties Organization of Nigeria (CLO), by the State Security Service (SSS). In its communication, the Government said that the concerned persons had written a book entitled "Hope Betrayed" published by the Centre for Law Enforcement Education (CLEE). The book was considered seditious, inciteful and generally inimical to public order and national security, hence the seizure of the copies that were sent to Nigeria. SSS personnel visited the CLO offices and asked Isioma Ojugbana and Ijeoma Nwachukwu to make statements about their roles in the publication of this book. No attempt was made to arrest them, neither has any warrant been issued for their arrest. The Government emphasized that this action was in conformity with the 1999

Constitution of Nigeria and that the mere fact of collecting statements in the context of a criminal investigation cannot amount to harassment.

Observations

599. The Special Rapporteur thanks the Government of Nigeria for its reply concerning Misses Isioma Ojugbana and Ijeoma Nwachukwu, but awaits further information regarding all the communications mentioned above.

Pakistan

Communications sent

600. On 13 May 2003, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Muhammad Akram, Abdul Jabbar, Muhammad Sajad** and **Hanif Masih**. It was reported that these four persons were arrested on 2 May 2003 by members of the law enforcement agencies. They were charged after several days in detention. Five other persons had reportedly been arrested on the night of 1 May 2003 in Okara Chak N° 9-4/L. Their names were: **Shamaoon Masih, Siddique, Shinghara, Binyamin** and **Emmanuel**. They were released on 6 May 2003 without charges. No reasons were reportedly given for their detention. It is further reported that during the night from 4 to 5 May 2003, tenants arranged a peaceful sit-in protest in the GT Road for the release of these nine people. The demonstration was violently dispersed by members of the security forces, rangers and police, who injured five women and a man. According to information received, cases against more than 80 tenants were registered under various laws including the 1997 Anti-Terrorism Act.

601. On 11 July 2003, the Special Rapporteur sent an urgent appeal regarding **Munawar Mohsin**, sub-editor of the Peshawar-based *Frontier Post*. According to the information received, on 8 July 2003, Mr. Mohsin was been convicted of blasphemy and sentenced to life imprisonment and to a fine of 50,000 rupees, (approx. US\$ 860) by the Additional District and Sessions Judge Sardar Irshad. It is reported that Mr. Mohsin was held responsible for the newspaper's publication of a blasphemous letter on 29 January 2001, which resulted in violent demonstrations in Peshawar and that he has been detained since the day of its publication. The letter, reportedly written by a person named Ben Dzec, appeared in the newspaper's letters to the editor section. In the text, derogatory remarks were reportedly made against the Prophet Mohammed. On the following day, a violent mob is said to have set the newspaper's printing press on fire and damaged other buildings, including a cinema. The publication of the newspaper was suspended for several months after these events. Apparently, Mr. Mohsin had a drug problem and had escaped from the Peshawar Mental Hospital a few days before publication of the letter. According to the information received, the commission of judicial inquiry set up by the North West Frontier Province Government observed in its report that Mr. Mohsin's mental condition was not sound. The commission added that a mentally ill person should not have been given responsibility for the letters to the editor section. It is reported that the court examined 11 prosecution witnesses. According to the information received, the

court relied mainly on Mr. Mohsin's confession statement and did not accept the view that the defendant was mentally ill. The court reportedly observed that during the trial the accused was not found to be abnormal and that there was no evidence of his mental illness. An appeal to a higher court is expected. The court reportedly acquitted the two other defendants, Mr. **Aftab Ahmad**, the newspaper's former news editor, and Mr. **Wajeehul Hassan**, a computer operator, as the prosecution could not prove its case against them. The court reportedly declared the newspaper's editor, Mr. **Mahmood Shah Afridi**, a proclaimed offender and issued a perpetual arrest warrant.

602. On 14 July 2003, the Special Rapporteur sent an urgent appeal regarding **Khalid Mehmood Shah** editor-in-chief of the monthly magazine *Shahrag-e-Pakistan*. According to the information received, on 30 June 2003, a large police contingent raided the offices of the monthly in Lahore, the capital of Punjab province. Mr. Khalid Mehmood Shah was detained in the publication's office for nearly two days. Reportedly, about 70 policemen surrounded the magazine's offices on the morning of 30 June, ostensibly to search for Mr. Shah's brother. Apparently, police officers conducting the raid admitted that the magazine's critical stance was the real reason for the raid. It is reported that Mr. Shah was harassed and humiliated during the 36-hour raid, and that the police left the offices at 11:00 p.m. on 1 July 2003, taking with them computer disks and zip drives containing editorial material for the magazine. It is alleged that Mr. Shah was targeted and kept hostage because of his anti-government stand.

603. On 25 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health regarding **Rehmat Shah Afridi**, editor of Pakistan's English language newspaper *The Frontier Post* and the Urdu daily *Maidan*, who has been held until recently in a cell on death row for 24 hours a day at Kot Lakhpat Prison, Lahore. He is allegedly being denied access to proper medical treatment for a heart condition which has recently worsened. He is also said to have lost a lot of weight and to have not been allowed a mattress despite having back problems. According to the information received, Rehmat Shah Afridi still remains in prison. Relatives were allegedly told by officials from the Home Ministry that the prison doctor was not reliable and that another doctor would conduct a complementary examination. According to the information received, he has not been visited by the second doctor yet. It is alleged that Rehmat Shah Afridi was sentenced to death in June 2001 on drug trafficking charges following the publication in the *Maidan* of reports of corruption of government ministers, alleged links between the Anti-Narcotics Force (ANF) and military intelligence, and the ANF and drug smugglers. The prosecution allegedly did not produce compelling evidence to prove the charges against Rehmat Shah Afridi. An appeal against the death sentence reportedly remained outstanding, as well as a long term request for him to be transferred to a prison near his home in the North West Frontier Province. Fears have been expressed for his mental and physical integrity if he does not receive prompt and adequate medical assistance.

604. On 17 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human

rights defenders regarding the alleged arrest of **Rasheed Azum**, who is reported to be the Secretary General of the Youth Development Organization, a community development organization, a journalist with *Intikhab*, *Asap* and *Roshnai*, focusing on development and civic rights issues, and president of the Jhalawan Union of Journalists. According to the information received, on 15 August 2003, Rasheed Azum was arrested in Khuzdar by local police. The information indicates that the reason suggested by the police for Rasheed Azum's arrest was that he had distributed, in Khuzdar, a poster depicting images of alleged human rights violations by army soldiers. The poster was reportedly described as 'seditious' and reference was made by the police to sections 153 and 505 of the Pakistan Penal Code. According to the information received Rasheed Azum was reportedly taken before a local magistrate on three occasions, on 16, 22 and 28 August 2003. The magistrate allegedly failed to ask Rasheed Azum whether the police had used torture against him, a question which is reportedly required of the magistrate by Pakistani law. On 28 August 2003, when the investigative remand period had expired, the local magistrate reportedly remanded Rasheed Azum to judicial custody awaiting trial in Khuzdar Central Prison. In addition, according to the information, on 17, 18 and 19 August 2003, Rasheed Azum was allegedly taken to Khuzdar police station by unknown persons, was blindfolded once there and then taken to an unknown destination where he was allegedly tortured for several hours before returned to the police station, and then back to the Central Prison. Concern has been expressed that Rasheed Azum's reported arrest, detention and torture are a response to his human rights activities.

605. On 31 October 2003, the Special Rapporteur sent a communication concerning the following cases:

- (a) On 26 August 2003, the police reportedly arrested six journalists – **Nadeem Panhwar, Hakim Chandio, Sharif Abro, Irfan Burfat, Shahid Khushk** and **Haji Khan Sial** – under the Terrorism Act, during a visit of the President, General Pervez Musharraf, to Hyderabad. It is reported that the journalists were charged with disturbing the peace and committing violent acts. According to information received, the journalists were covering a demonstration staged by the women's branch of the Sindh Chandia Welfare Association to coincide with the arrival of the President at Mehran University in Jamshoro, where he addressed a meeting of vice-chancellors;
- (b) The Special Rapporteur was informed that on 23 July 2003, the Ministry for Information and Broadcasting decided to block the distribution in the country of the 28 July issue magazine *Newsweek*, which according to officials, contained material "against Islam and the Holy Quran", which could create anxiety among the people and hurt their sentiment. The Ministry reportedly ordered customs to seize all copies of the magazine;
- (c) It is reported that on 2 November 2002, the Government issued instructions warning news media not to use or quote from reports published by the *South East Asia Tribune*, an on-line newspaper based in the USA and run by an exiled journalist, **Shaheen Sehbai**. In contravening the instruction, news media and

journalists reportedly exposed themselves to prosecution under the law on defamation;

(d) The Special Rapporteur received information about the murder of **Shahid Soomro**, a journalist with the Sindhi language newspaper *Kawish*, during the night of 20 to 21 October 2002. It is reported that Mr. Soomro's assailants might be relatives of prominent politicians in the region, and that his murder would be related to his critical reporting on alleged abuses during the last electoral campaign. It is reported that although all five assailants have allegedly been identified by eyewitnesses, only one was arrested by the police and interrogated;

(e) The Special Rapporteur was informed that on 15 October 2002, the police assaulted a peaceful demonstration in Muzaffarabad, the capital city of the Pakistani-administered part of Kashmir. According to information received, members of the Jammu Kashmir National Students Federation (JKNSF) were protesting against the building of the Mangla Dam extension and asking the release of 13 people reportedly arrested during a 30 September 2002 demonstration, when they were reportedly assaulted by the police who allegedly used tear-gas and batons. Some protesters were reportedly injured and at least 15 of them were arrested and taken to the city's police station, where they were reportedly denied visits and medical treatment. It is reported that **Shujaat Ali Kazmin**, president of the JKNSF, was among those arrested;

(f) It is reported that on 30 September 2002, the police assaulted peaceful demonstrators in Mirpur, in the Pakistani controlled area of Kashmir. The police allegedly used tear-gas and batons. It is reported that a number of people were injured and had to be taken to the hospital, and that 13 people were arrested, including **Raja Ali Zaman**, Secretary-General of the Jammu Kashmir National Awami Party (JLKNAP). It is further reported that the city of Mirpur was put under curfew following the incident;

(g) The Special Rapporteur was informed that on 31 August 2002, the Government adopted three ordinances in the press, which reportedly increase the penalties for defamation, impose a system of prior authorization for media and create a press council under the Government's control. The Special Rapporteur noted that penalties for defamation were increased to a minimum of a US\$800 fine to prison sentences, and that the new law bans, inter alia, any vilification of "friendly nations" and infringement of "decency". In this respect, the Special Rapporteur underlined that in his view, criminal sanctions, in particular imprisonment, for libel and defamation are not deemed proportional with an effective exercise of the right to freedom of opinion and expression.

606. On 4 December 2003, the Special Rapporteur sent an urgent appeal regarding the case of **Mawlana Sayyed Sajid Ali Naqavi**, who was reportedly arrested in Islamabad on 15 November 2003 by the police. It is reported that he was not yet brought before a court, and that he has been detained at the Adialia prison in Rawiltindi since his arrest without

charges. It is alleged that his arrest might be linked to his position as leader of the Shiite religious group in Pakistan and as a follower of the *Ahlul-Bayt*.

607. On 17 December 2003, the Special Rapporteur sent an urgent appeal regarding **Amir Mir**, senior assistant editor of the monthly magazine *Herald*, who was reportedly threatened at a 20 November 2003 reception for Pakistani newspaper editors. It is reported that the *Herald* was criticized for being for working against the national interest. Reports also indicate that unidentified people set fire to Amir Mir's car outside his house, and that he latter received a message purporting to be from the intelligence services claiming responsibility for the attack.

608. On 24 December 2003, the Special Rapporteur sent an urgent appeal concerning the whereabouts of **Khawar Mehdi Rizvi**, a Pakistani journalist who was working with two French journalists, Marc Epstein and Jean-Paul Guilloteau of the French news weekly *L'Express*. According to information received, Mr. Rizvi has been held incommunicado since 16 December, in an unknown location in Karachi, by the Federal Intelligence Agency. Reportedly, the Pakistani authorities would accuse Mr. Rizvi of collaborating with the French journalists in the preparation of a false report designed to discredit Pakistan's international image. Mr. Epstein and Mr. Guilloteau, with the help of Mr. Rizvi, crossed the Quetta region in order to enter Afghanistan and report on the activities of Taliban groups there. As a result of crossing that region without the necessary special permission, they were accused of violating the Foreigners Act of 1946 and arrested. On 18 December, a Karachi judge denied bail to the French journalists who are presently detained in the Karachi central prison where their lawyer and French diplomats can visit them regularly.

Communications received

609. On 14 February 2003, the Government replied to the Special Rapporteur's communication dated 26 July 2002 (E/CN.4/2003/67/Add.1, paras 438 and 439) concerning **Muzaffar Ejaz**, the managing editor of the daily *Jasarat*. The Government of Pakistan has categorically denied the abduction of Mr. Muzaffar Ejaz and the alleged motive of the harassment.

610. On 25 October 2003, the Government replied to the Special Rapporteur's communication dated 11 July 2003 concerning Mr. **Munawar Mohsin** and informed that on 21 January 2001, after publishing a blasphemous article regarding the Prophet Ali in the Daily *The Frontier Post*, a law and order situation arose as a result of which rallies were held against it. The local Police registered a case against the owner of the newspaper and six other employees who were arrested later on. The court acquitted all the accused except Munawar Mohsin. On 8 July 2003 the Session Judge Peshawar awarded a punishment of 25 years rigorous imprisonment with a fine of 50,000 rupees to Munawar Mohsin Ali.

611. On 25 October 2003, the Government also replied to the Special Rapporteur's communication dated 25 September 2003 regarding the case of Mr. **Rehmat Shah Afridi**, editor of Pakistan's English language newspaper *The Frontier Post* and the Urdu daily

Maidan. The Government informed that the Ministry of Narcotics Control has confirmed that Mr. Rehmat Shah Afridi was awarded death penalty by Special Judge CNS, Lahore. His appeal is lying pending in the Lahore High Court against the impugned order of Special Judge.

Observations

612. The Special Rapporteur thanks the Government of Pakistan for its replies, but awaits responses to his communications dated 13 May, 14 July, 17 and 31 October, 4, 17 and 24 December 2003.

Panama

Comunicaciones enviadas

613. El 14 de agosto de 2003, el Relator Especial envió un llamamiento urgente en relación con **Marcel Chéry** y **Gustavo Aparicio**, del diario *El Panamá América*, ambos condenados el 7 de agosto de 2003 a 12 meses de cárcel, conmutables por una multa de 600 dólares de los EE.UU., por “injurias” al antiguo ministro de gobierno y justicia. Según las informaciones recibidas, los dos periodistas habrían publicado un reportaje sobre la utilización del Fondo de Inversión Social en la construcción de una carretera a Iturralde, la cual habría llevado casi exclusivamente a la propiedad privada del antiguo ministro. Los periodistas no habrían imputado al antiguo ministro ningún delito, sólo se habrían limitado a constatar que la carretera conducía a su propiedad. Por su parte, el antiguo ministro habría afirmado que se habría tratado de un atentado a su honor y a su dignidad. En el proceso, los periodistas habrían cuestionado la independencia del juez dado que el antiguo ministro era su superior jerárquico.

Comunicaciones recibidas

614. Por carta de fecha 10 de diciembre de 2003, el Gobierno de Panamá contestó al llamamiento urgente del Relator Especial de fecha 14 de agosto de 2003 en relación con **Marcel Chéry** y **Gustavo Aparicio** e informó que los dos periodistas no estaban reclusos y que ejercían sus profesiones de periodistas de manera regular dentro del territorio nacional. Las conductas penalizadas con la reclusión habrían sido conmutables por días de multa.

Observaciones

615. El Relator Especial da las gracias al Gobierno de Panamá por su respuesta.

Paraguay

Comunicaciones enviadas

616. El 2 de octubre de 2003, el Relator Especial envió una comunicación en relación con una manifestación promovida por el Frente Patriótico Nacional, el 17 de septiembre de

2002, la cual habría sido reprimida por policías que habrían desalojado violentamente la plaza del Congreso utilizando balas de goma, gases lacrimógenos, carros lanza-agua y bastonazos. Como resultado de tales hechos varias personas habrían resultado heridas y otras habrían sido detenidas.

Observaciones

617. Hasta la fecha no ha habido respuesta del Gobierno.

Peru

Comunicaciones enviadas

618. El 30 de enero de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con las presuntas amenazas y el ataque del que habría sido víctima la abogada **Gloria Cano**, representante legal de la Asociación Pro Derechos Humanos (APRODEH) y de los familiares de las víctimas del grupo Colina. Según la información recibida, el 27 de enero de 2003, un grupo de seguidores del antiguo presidente Alberto Fujimori habría agredido a la abogada Gloria Cano y proferido insultos y amenazas contra la labor que la organización realiza en defensa de los derechos humanos. Entonces habrían anunciado que este era sólo el comienzo de toda una serie de actos de hostilidad que emprenderían contra la APRODEH y quienes laboran en la institución. Según la información recibida, la APRODEH inició una campaña contra la impunidad y la corrupción cuyo objeto era la extradición de Alberto Fujimori y la sanción de sus cómplices en presuntas violaciones de los derechos humanos. Gloria Cano habría presentado una denuncia por agresión ante las autoridades policiales. Asimismo, **Miguel Jugo**, Director ejecutivo de la institución, habría solicitado a las autoridades las correspondientes garantías.

619. El 3 de junio de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con la integridad física y seguridad de la población durante el estado de emergencia decretado por el Gobierno. Según las informaciones recibidas, el 29 de mayo de 2003, **Hedí Quilca Cruz**, de 22 años, habría muerto cuando soldados habrían disparado contra un grupo de estudiantes que manifestaban en la Universidad del Altiplano de Puno. Se alega que varios otros estudiantes fueron heridos durante dicho incidente, algunos de ellos por impacto de bala. Según las informaciones recibidas, el 28 de mayo, 18 manifestantes habrían sido heridos durante la represión de una manifestación en Barranca, al norte de Lima. Se alega que policías y soldados dispararon contra varios de los manifestantes, hiriéndolos gravemente. Se han recibido informaciones que indican que el ejército también habría reprimido con fuerza otras protestas organizadas en Huancayo, Trujillo, Chiclayo y Arequipa, sin conocerse el número de personas heridas en dichos incidentes. Según las informaciones recibidas, a pesar del estado de emergencia decretado, numerosos grupos organizados habrían decidido seguir convocando huelgas y protestas públicas.

620. El 2 de octubre de 2003, el Relator Especial envió una comunicación relativa a los hechos siguientes. En la ciudad de Sicuani, departamento de Cuzco, la noche del 15 de mayo de 2003 habrían sido sustraídos del Cerro Leche los equipos de transmisión de la emisora Radio Constelación. Se informó igualmente que el 26 de mayo de 2003 **Andrés Bejar Torreblanca** y **Franklin Bejar Miranda**, propietarios de la emisora, habrían recibido una amenaza de muerte por escrito. Según las informaciones recibidas, el 3 de julio de 2003, el reportero del área de prensa de Radio Sicuani **Luis Mamani** habría recibido amenazas telefónicas y habría sido objeto de agresiones verbales y físicas por parte del alcalde de la municipalidad de Canchas. El Relator Especial expresó preocupación de que estas amenazas podrían tener alguna relación con la transmisión de opiniones de los periodistas en contra de la gestión municipal.

Comunicación recibida

621. Por carta de fecha 16 de diciembre de 2003, el Gobierno del Perú contestó al llamamiento urgente del Relator Especial de fecha 3 de junio de 2003 en relación con los incidentes que causaron la muerte de **Hedí Quilca Cruz**, así como lesiones a otros miembros del centro universitario, ocurridos en mayo de 2003. El Gobierno informó que una denuncia se formuló contra los presuntos autores de la comisión del delito contra la vida, el cuerpo y la salud en la modalidad de homicidio calificado asesinato, en agravio de Hedí Quilca Cruz y de 29 estudiantes. El Gobierno del Perú aseguró que informaría oportunamente al Relator Especial acerca de los avances de la investigación.

Observaciones

622. El Relator Especial da las gracias al Gobierno del Perú por sus respuestas, si bien espera otras respuestas a sus comunicaciones de fechas 30 de enero y 2 de octubre de 2003.

Philippines

Communication sent

623. On 8 August 2003, the Special Rapporteur sent an urgent appeal concerning the arrest, on 4 August 2003, of **Ninez Cacho-Olivares**, editor-in-chief of the opposition newspaper *The Daily Tribune*. It is reported that Ninez Cacho-Olivares was arrested in Parañaque City after nineteen warrants for her arrest were issued in response to complaints accusing her of criminal defamation filed by President Arroyo's lawyer, Arthur "Pancho" Villaraza. In May 2003, *The Daily Tribune* had published articles on corruption allegations implicating the President's lawyer and some of her associates. *The Daily Tribune* reported that Arthur "Pancho" Villaraza allegedly demanded twenty million dollars for assisting a foreign company to obtain a contract for the construction of a new terminal at the Manila international airport.

Observations

624. The Special Rapporteur regrets that no reply had been received from the Government of Philippines at the time the report was finalized.

Qatar

Communications received

625. On 24 February 2004, the Government replied to the Special Rapporteur's urgent appeal dated 22 November 2002 (E/CN.4/2003/67/Add.1, para 455) concerning **Firas Nassuh Al-Majali**. The Government informed that Mr. Al-Majali was arrested and charged with working for the intelligence services of a foreign Government, which constitutes an offence under article 66 of the Penal Code of the State of Qatar. The Government informed that Mr. Al-Majali was represented by lawyers of his own choosing. During his trial before the Higher Criminal Court, he confessed the crime. On 22 October 2002, the Court delivered a verdict of guilt in accordance with the provisions of the laws in force. The Government indicated that the penalty for this crime is death and Mr. Al-Majali had exercised his right to appeal the verdict. During his trial, Mr. Al-Majali was not subjected to any ill-treatment. The Government indicated that the trial and all judicial procedures undertaken in connection therewith were conducted in conformity with the laws of the State of Qatar and with international rules of criminal justice. The Government indicated that this case was not politically motivated.

Observations

626. The Special Rapporteur thanks the Government of Qatar for its reply.

Republic of Korea

Communications sent

627. On 3 October 2003, the Special Rapporteur sent a communication regarding **Lee Soo-ho**, the Secretary-General of the Korean Confederation of Trade Unions (KCTU), **Kim Young-je**, the KCTU Director for Reunification Affairs and **Jang Kwang-su**, the Secretary-General of Korean Federation of Construction Daily Workers Unions. These three persons were reportedly injured by the police on 7 December 1999 when riot police allegedly stormed a sit-in organized in the context of a campaign for the abolition of the National Security Law. Lee Soo-ho was reportedly dragged out of the sit-in room and allegedly twisted the left knee in the handling. Kim Young-je was also reportedly dragged out in the sit-in room. He was thrown into a riot police bus and beaten. Jang Kwank-su was reportedly severely punched and beaten with sticks, as a result of which he is reported to have sustained several fractures on his feet. Over **300 members of the Daewoo Motors Workers Union** of the Pupyong Plant and their lawyer, **Park Hoon**, are reported to have been severely beaten by riot police on 10 April 2001. It is reported that the unionists were prevented from entering their office, which had been closed down by the Daewoo's management, and peacefully protested against the police obstruction. According to the

information received, the unionists responded to the alleged beatings by taking their shirts off and lying down on the street. However, the police reportedly kept slashing and beating them with batons. It is reported that 43 unionists were taken to the hospital. Park Hoon is also reported to have been severely beaten and is believed to have been hospitalized due to fractures to his pelvic bone and the numerous other blows. It is alleged that on 7 March 2001, the Daewoo Motors Workers Union filed a court injunction regarding the obstruction of its activities and the entry to its original office. The Incheon District Court reportedly ruled, on 6 April 2001, in its favour and ordered that the unionists be allowed to their office and conduct their legitimate activities. The incident is reportedly linked to the dismissal, on 16 February 2001, of around 1750 workers of the Daewoo Motors, many of whom were reportedly union activists or militants in the Pupyong Plant.

Communications received

628. On 14 January 2003, the Government replied to the Special Rapporteur's urgent appeal dated 20 November 2002 (E/CN.4/2003/67/Add.1, para 458) concerning the reported arrest on 11 September 2002 of **241 striking hospital workers** and the imprisonment of **seven union leaders** on 15 November 2002. The Government informed that it has endeavoured to minimize the number of arrests by investigating without detention those protesters who did not mastermind violent acts, and by releasing them without charge.

629. On 17 December 2003, the Government replied to the Special Rapporteur's communication dated 3 October 2003 concerning **Lee Soo-ho, Kim Young-je, Jang Kwang-su** and **Park Hoon**. The Government informed that Lee Soo-ho, Kim Young-je and Jang Kwang-su had not filled complaints regarding the allegations and that therefore neither inquiries nor judicial procedures have begun in connection with their cases. The Government added that it endeavoured to minimize the number of arrests by investigating without detention those protesters who did not mastermind or commit violent acts, and by releasing them without charge. Regarding the case of Park Hoon, the Government informed that the incident was investigated by the Incheon District Public Prosecutor's Office. Further inquiries are expected.

Observations

630. The Special Rapporteur thanks the Government of the Republic of Korea for its replies.

Russian Federation

Communications sent

631. On 16 July 2003, the Special Rapporteur sent an urgent appeal regarding a Chechen journalist **Ali Astamirov**, reporter for the French news agency Agence France-Presse (AFP), who was allegedly kidnapped in the Russian republic of Ingushetia. On 4 July 2003, Astamirov was reportedly accosted by three armed men, two of whom were wearing masks, in the town of Nazran. The unknown individuals threatened him with a

gun and bundled him into a white car without a license plate. Astamirov had worked for AFP for more than a year, covering Ingushetia and Chechnya. He had received several anonymous threatening phone calls in recent months. It was also reported that, on 6 July, the Prosecutor's Office in Nazran announced it had launched an investigation.

632. On 24 July 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Representative of the Secretary-General on human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding the alleged arrest of **Bakhrom Mardonovich Khamroeve**, a Russian human rights defender of Uzbek origin. On 24 June 2003, Mr. Khamroeve reportedly spoke at a press conference in Moscow entitled "Operation Against Islamic Extremists in Moscow: the Official Version and Actual Events". The Press conference was reportedly organised by the Memorial Human Rights Center to draw attention to concerns regarding the human rights of 55 individuals from Central Asia allegedly detained in Moscow on the night of 6 and 7 June 2003, on suspicion of participation in a terrorist organization, Hizb ut Tahrir. In June 2003, Khamroeve's wife was allegedly asked by the organized crime branch of the Moscow Region (PUAOC) to inform them regularly about her husband's contacts and activities, and threatened with "serious consequences" if she refused. On 27 June 2003, Bakhrom Mardonovich Khamroeve's brother Farmon was allegedly detained in Russia by PUAOC and questioned about Bakhrom Mardonovich Khamroeve's political and religious views. On 20 July 2003, Khamroeve was reportedly arrested in Moscow on suspicion of possessing illegal narcotics with the intent to sell. Concerns had been expressed that this recent arrest may be connected with Khamroeve's human rights work, in particular with regard to the political and religious rights of persons of Uzbek origin living in Russia. In the past, Khamroeve had reportedly collaborated with the Memorial Center on a number of human rights cases. He had also reportedly acted as spokesman of the opposition magazine *Kharakat*.

633. On 22 August 2003, the Special Rapporteur sent an urgent appeal concerning the case of **German Galkin**, a journalist and publisher of *Rabochaya Gazeta* and deputy chief editor of Vecherny Chelyabinsk as well as the local head of the Liberal Russia opposition party, who was reportedly convicted on criminal defamation charges in the southern city of Chelyabinsk in Russia's Ural mountains. On 15 August 2003, following a closed-door trial, the court allegedly sentenced Mr. Galkin to one year in a labor camp for libeling and insulting two deputy governors of the Chelyabinsk region, Andrei Kosilov and Konstantin Bochkaryov. It was reported that Mr. Kosilov and Bochkaryov filed the criminal defamation charges in June 2002 because of articles published in the February, April, and June editions of the bi-monthly *Rabochaya Gazeta*, describing alleged misspending by the Chelyabinsk regional administration, including the purchase of expensive cars and the creation of a pro-government television channel ahead of gubernatorial elections in 2005. The articles also mentioned a string of assassinations of local politicians and businessmen in the early 1990s. It was further reported that Mr. Kosilov and Bochkaryov claimed that Mr. Galkin had authored the three articles, even though Mr. Galkin was not listed in any of the bylines and denied having written them. It was alleged that there were numerous procedural violations throughout the investigation and the closed trial, and the defence was reportedly preparing an appeal to the regional court.

634. On 17 September 2003, the Special Rapporteur sent a communication jointly with the Special Rapporteur on torture regarding the case of **Zamid Ayubov**, a 40-year-old Chechen journalist for the local administration's thrice-weekly *Vozrozhdeniye Chechni*. Mr. Ayubov was reportedly beaten and kicked by personnel of the second Operational-Investigative Bureau of the Leninski District in Grozny on 16 February 2003, when he was approaching the Interior Ministry and identified himself as a journalist researching for information on units of the Interior Ministry conducting night patrols in the city. He was alleged to have been kept in custody without charges and released the following day.

635. On 18 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Representative of the Secretary-General on human rights defenders concerning the situation of the non governmental organizations working on minority rights issues in the Krasnodar territory, in particular the **School of Peace**, which was allegedly facing threats of being closed down.

636. On 22 July 2003, the Krasnodar Ministry of Justice reportedly requested that School of Peace, a foundation that works on the human rights of children, on human rights education and on the promotion of tolerance, be liquidated on the basis that it no longer employed three founding members, as required by law. School of Peace had allegedly been told by the Justice Ministry in 1999 that it could continue working despite the fact that two of the founders had reportedly left the organization in 1999 and 2000. The court hearings, originally scheduled for 11 August 2003, had reportedly been postponed to 22 August, postponed again to 15 September and reportedly again to an unknown date in October. It had been alleged that the decision from the regional Ministry of Justice to close down the organisation may have been related to its activity in favour of the rights of minorities especially Meskhetians Turks in the region. In March 2003, School of peace reportedly published a report on ethnic discrimination of children of Meskhetian origin.

637. In the same urgent appeal, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders also transmitted information according to which, in the course of 2002, other organizations working on issue related to Meskhatian Turks, in particular **Vatan**, had allegedly been closed or had faced threats to be liquidated. According to the information received, on 24 July 2002, the Vatan International Society of Meskhetian Turks, based in Abinsk, was closed down at the request of the regional Ministry of Justice on the basis of failure to comply with its charter. The closing down of the organization reportedly happened after the head of the organization, Sarvar Tedorov, allegedly sent a letter to the President of the Russian Federation in June 2002, requesting urgent measures be taken to stop discrimination against Meskhetian Turks in Krasnodar Krai and reaffirm their status as Russian citizens.

638. On 25 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Representative of the Secretary-General on human rights defenders concerning the situation of **Soldiers' Mothers of Saint Petersburg**, a non-governmental human rights organization that had worked in Saint Petersburg for 12 years, defending the constitutional rights of soldiers in the Russian Federation. In mid January 2003, 24 soldiers reportedly deserted the army and contacted Soldiers' Mothers, claiming they had been tortured. On 20 January 2003, the Military Prosecutor of the Leningrad military district, allegedly

addressed a letter to the Ministry of Justice of Saint Petersburg requesting an investigation of the activities of Soldiers' Mothers of Saint Petersburg, to find out if its activities corresponded to those set out in the officially registered Status. The letter allegedly accused the organization of calumnies, of "propaganda for desertion", of monitoring the condition and procedure of the conscriptions and, of distributing the results of their investigation. During the investigation, the Ministry of Justice's chief of department on associations allegedly insisted on looking through the private files of the soldiers defended by the organization. On 23 June 2003, the organization reportedly received the conclusion of the investigation, which allegedly stated that their status was incompatible with their activities, reportedly informed them of the changes to be made and included recommendations concerning the registration of their new status. On 26 July 2003, a new version of the status, reportedly drafted following the recommendations, was allegedly presented for registration to the Ministry of Justice. On 7 August 2003, the registration was reportedly refused.

639. The urgent appeal also referred to information according to which, on 11 September 2003, three unknown men allegedly attacked the weekly picket line of Soldiers' Mothers held on the main street of Saint Petersburg to protest against the war in Chechnya. A fourth person reportedly watched aside what was happening and spoke by a mobile phone. Concerns had been expressed that the reported proceedings, denial of registration, and incident of attack may represent an attempt to prevent the organization from carrying out its human rights activities, in particular documenting and publishing information on soldiers' complaints of alleged human rights violations connected with the military.

640. On 13 October 2003, the Special Rapporteur sent a communication related to the following cases:

- (a) The authorities have reportedly sought to impose restrictive measures on media outlets in the coverage of certain information, in particular terrorism-related or election-related news. For example, it was reported that changes to the Bill titled "On Amendments and Addendums Brought into Certain Legislative Acts" passed by Parliament in June 2003 and signed into law by President Putin in July 2003, grant broad authority to the Media Ministry, the Central Election Commission (CEC) and regional electoral commissions to close media outlets engaging in "biased" political commentary during elections. It was reported that the Constitutional Court was seized on the constitutionality of these amendments, considered excessive. In another example, it was reported that on 23 October 2002, the Duma voted to broaden the legal restrictions on news coverage of statements issued by terrorists and about anti-terrorist operations in what was referred to as the "Law on battling propaganda of terrorism in mass media". According to information received, this bill sought to ban media from printing or broadcasting an array of topics, including information that justifies extremist activities, resistance to counter-terrorist operations, hinders counter-terrorist operations and reveals anti-terrorist tactics;

(b) On 7 January 2003, German writer and freelance investigative journalist **Günter Wallraff**, who had traveled to Russia to prepare an article about human rights in Chechnya, and two German companions, **Norbert Blüm**, a former Christian Democrat labour minister, and **Rupert Neudeck**, head of the relief organisation Cap Anamur, were allegedly turned back upon their arrival at Moscow airport. Mr. Wallraff reportedly had to meet in Moscow with the leader of the Kremlin-appointed Chechen administration, Akhmad Kadyrov, before going to Ingushetia to investigate the situation of Chechen refugees. According to information received, upon his arrival in Moscow, Mr. Wallraff was reportedly taken to meet with a Foreign Ministry official at the airport, who cancelled his tourist visa. He was then reportedly sent back to Germany on the same plane. It was alleged that the Foreign Ministry said it had concluded from an interview with Mr. Wallraff published by *Stern* magazine on 2 January 2003 that he planned to find evidence of human rights violations in Chechnya and then launch "a new campaign against Russia in the German news media";

(c) **Hans-Wilhelm Steinfeld**, the Moscow correspondent for the Norwegian broadcast network NRK, was reportedly stopped by the police at an airport in Ingushetia on 20 November 2002, and four of his tapes were seized. It was reported that the tapes were returned later, and that an hour of footage were allegedly erased from two of the tapes;

(d) On 16 August 2002, soldiers allegedly confiscated the accreditation and equipment belonging to journalists of the public television stations **ORT** and **TV Tsenter**. The incident reportedly occurred while the crews were interviewing Chechens fleeing their village, and the reason given was that they were not accompanied by a Russian army representative. It was reported in this respect that since 1 October 1999, journalists were banned from traveling freely in Chechnya, and that since June 2001, accredited journalists had not been allowed to travel within Chechnya without an Interior Ministry escort. Furthermore, in October 2002, a ministerial decision allegedly reduced the capacity for war coverage in Chechnya by specifying territories, organizations and institutions, including "zones where anti-terrorist operations are under way", to which foreigners were denied access without special permission, although it seemed that the directive neither specified how such a permission to enter Chechen territory could be obtained nor how long it would be valid;

(e) On 18 July 2003, journalist **Alikhan Gulyev**, a freelancer for the Tsenter television station and *Kommersant* newspaper, was allegedly killed by two bullets in the back as he was entering his apartment in northern Moscow. He had reportedly covered the Chechnya conflict since arriving in Moscow in 2002, and was previously based in Ingushetia, where he worked for the GTRK public television station and *Severny Kavkaz* newspaper. In the run-up to the 16 April 2002 election in Ingushetia, Mr. Gulyev allegedly filed a complaint for violation of the electoral law against Interior Minister Khamsat Gutseryev, a candidate backed by former Ingushetian President Ruslan Aushev, and soon afterwards, unidentified gunmen fired at his car. The Supreme Court reportedly upheld Mr.

Gulyev's complaint on 5 April 2002 and disqualified Mr. Gutseryev from the election, saying he should have resigned as minister before running. Furthermore, in a December 2001 article in *Severny Kavkaz*, Mr. Gulyev also accused Mr. Gutseryev of using public funds for his campaign. The journalist, who had received threats, decided to move to Moscow following the elections;

(f) On 19 May 2003, **Aleksandr Stetsun**, journalist with the Ural Television Agency (TAU) was reportedly violently attacked in Ekaterinburg. According to information received, the attack occurred after the journalist made television reports critical to local politicians;

(g) On 18 March 2003, **Olga Kobzeva**, journalist with GTRK Don-TR Television, a local branch of the All-Russian State Television and Radio Broadcasting Company, was reportedly attacked in Rostov-on-Don. It seemed that the attack might have been related to her investigative work on local affairs. After Ms. Kobzeva's latest television report about illegal privatization of buildings in the city, she received threats;

(h) There had reportedly been a wave of attacks against journalists in the southern city of Penza, and it is not clear whether adequate investigations had been made into those cases in order to end a de facto climate of impunity for attacks against journalists:

- On 25 September 2002, **Alexander Kizlov**, of the daily *Penzaskaya Pravda*, was reportedly beaten and seriously injured by two men with iron bars in Penza, after he published articles in several newspapers criticizing Penza's mayor;

- **Igor Salikov**, director of security at Propaganda publishing house, was reportedly killed on 20 September 2002 in Arbekov, near Penza, soon after a newspaper printed by his employer published a series of articles alleging that local authorities were involved in corruption;

- On the evening of 11 August 2002, **Anton Sharonov**, the editor of the opposition newspaper **Lyubimiy Gorod**, **Denis Abramov**, journalists, **Natalia Sisova** and **Nadezhda Gorshkova**, editorial assistants, were reportedly beaten by two unidentified men in their offices. It was reported that *Lyubimiy Gorod* was often critical to Penza governor and the regional government;

- On 12 August 2002, several individuals reportedly abducted the deputy director of the Propaganda publishing house, **Yuri Frolov**, who was allegedly still missing;

- On 14 August 2002, **Viktor Shamayev**, crime reporter for the *Penzaskaya Pravda* and editor of the newspaper *Dlya Sluzhbenovo polzovaniya*, was reportedly abducted in Arbekov. He was allegedly taken to a basement in an unknown building, tied to a stool, beaten, told to give up journalism and leave town and then released.

(i) There has reportedly been little progress into the inquiries on cases of death of journalists in Russia. The following cases, which were the object of a communication from the Special Rapporteur on 26 July 2002 (See Doc.

E/CN.4/2003/67/Add.1, para. 471), to which the Government responded by letter dated 30 September 2002, had reportedly not yet been elucidated:

- **Natalya Skryl**, a reporter for *Nashe Vremia*, was reportedly attacked near her home in Rostov-on-the-Don on 8 March 2002 and later died in hospital;
- **Sergei Kalinovsky**, editor-in-chief of the daily newspaper *Moskovsky Komsomolets-Smolensk* and a reporter for the local SCS television station, was reportedly found dead beside a lake outside the city of Smolensk on 2 April 2002. He allegedly reported on local politics and crime;
- **Valery Ivanov**, editor of the newspaper *Tolyatinskoye Obozreniye* in the city of Togliatti, was reportedly shot dead outside his home on 29 April 2002;

(j) On 19 September 2003, investigators from the Moscow Prosecutor General's Office reportedly searched the office of the Moscow-based independent news Web site **Grani.ru**. It was reported that the investigators said they wanted an original copy of an anonymous e-mail that Grani had received on 18 August containing a video recording of two prosecutors working for the administration in Chechnya who were abducted by unidentified individuals on 27 December 2002. Grani reportedly posted the video on its Web site the day it was received. The investigators allegedly conducted a surprise two-hour search of Grani.ru's office on behalf of the Prosecutor General's Office in Chechnya, which was investigating the abduction, and that, although the staff of the Web site immediately gave the original file of the e-mail for the investigators to copy, they continued to search through the computers for two hours. It was further reported that the search warrant only authorized the investigators to search the office to obtain a copy of the 18 August e-mail message with the video clip. It also seemed that on 23 September 2003, prosecutors questioned Grani General Director Yulia Berezovskaya and military correspondent Vladimir Ermolin about the e-mail;

(k) The Special Rapporteur also received information concerning **VTsIOM**, the Russian Center for Public Opinion and Market Research, which has reportedly been the most reliable source of opinion polls in Russia for 15 years, in particular in conducting opinion polls on the war in Chechnya, on the presidential and municipal elections as well as on most aspects of Russian social and political life. According to information received, VTsIOM discovered in August 2003 that a new Board of Directors was being formed by the Property Ministry, without the Head of the Center or staff having been informed and without any invitation for them to participate in the procedure. VTsIOM was reportedly informed that once appointed, the Board would choose an executive director that would draw on the strategies of VTsIOM. It seemed that the director and the researchers at VTsIOM had quit their jobs to set up their own independent agency, named Analytical Service VTsIOM. It was further reported that the new board of directors includes at least seven officials from various ministries (Ministry of Labour, Ministry of State Property, the administration of the President of the Russian Federation, etc.).

Communications received

641. By letter of 22 September 2003, the Government replied to the urgent appeal of 16 July 2003 and confirmed the kidnapping of Ali Astamirov. It also stated that the Office of the Procurator instituted criminal proceedings pursuant to article 126, paragraph 2 (a) and (b) of the Criminal Code related to the offence of kidnapping. The authorities in the Northern Caucasus Region were, at the time of the reply, conducting an investigation to establish the facts of the kidnapping and Mr. Astamirov's whereabouts.

642. By letter of 2 October 2003, the Government replied to the urgent appeal of 24 July 2003 and stated that, on 20 July 2003, police forces carried out search operations and found Mr. B.M. Khamroev in possession of 3.49 g of heroin. The same day, the investigative section of the Lianozovo district internal affairs office initiated a criminal case pursuant to article 228.4 of the Criminal Code (narcotic related offences). Mr. Khamroev was charged on 22 July 2003 and a Court ordered that he remains in detention as a preventive measure. At the time of the reply, he was detained in Moscow penal detention facility No. 77/2. However, the inquiry revealed that Farmon Khamroev was not detained.

643. By letter of 6 October 2003, the Government replied to the urgent appeal of 22 August 2003 and stated that German Galkin was sentenced in strict conformity with Russian legislation. Mr. Galkin was however not sentenced to one year "in a labor camp" but to one year of punitive deduction of earnings. Moreover, the trial was open and journalists were not prevented from covering it.

644. By letter of 5 December 2003, the Government replied to the communication of 17 September 2003 and stated that law enforcement agencies in the Chechen Republic had no information about the detention and beating of Mr. Alyubov and that the Procurator's office in Leninsky district decided on 3 November 2003 not to initiate criminal proceedings in this regard.

645. By letter of 26 November 2003, the Government replied to the urgent appeal of 25 September 2003 and stated that the officers responsible for the beatings of the 24 soldiers were tried by the Saint Petersburg garrison military court and, on 26 June 2003, found guilty of abusing their authority and sentenced to various punishments. Moreover, between 21 March 2003 and 4 June 2003, the Ministry of Justice carried out routine control of the organization Soldiers' Mothers of Saint Petersburg but did not request for individual files of the "deserters". The control revealed that the organization was in breach with a number of legal provisions and a warning was issued to the chairpersons of the organization. A new application for registration made by the organization on 24 June 2003 was rejected on 13 July 2003 for failure to comply with some legal requirements. Nevertheless, the organization did not appeal the latter decision despite having been informed of such a possibility. Furthermore, according to a statement made by one Mrs. Polyakova on 26 September and a press article published in *Smena* on 18 September 2003, a group of unidentified men beat up a picketer from the Soldiers' Mothers organization on 11 September 2003. After consideration of the case, the Procurator's Office however decided on 6 October 2003 not to open a criminal file.

Observations

646. The Special Rapporteur thanks the Government of the Russian Federation for its replies, but awaits a response to his communications of 18 September and 13 October 2003.

Rwanda

Communications envoyées

647. Le 4 mars 2003, le Rapporteur spécial a envoyé une lettre au Gouvernement rwandais concernant M. **Ismaël Mbonigaba**, directeur de publication du journal *Umuseso*. Selon les informations reçues, M. Mbonigaba aurait été placé en liberté provisoire le 27 février 2003 après qu'il aurait été incarcéré pendant plus d'un mois à la prison centrale de Kigali. Il aurait été accusé d'«incitation au divisionnisme et à la discrimination» à la suite d'un article publié le 13 janvier 2003. Cependant, les autorités n'auraient pas encore remis son passeport à M. Mbonigaba, l'empêchant de se déplacer librement hors de Kigali et d'exercer sa profession.

648. Le 5 juin 2003, le Rapporteur spécial, le Rapporteur spécial sur la question de la torture et le Président-Rapporteur du Groupe de travail sur la détention arbitraire ont envoyé un appel urgent concernant M. **Augustin Butorano**, aussi connu sous le nom de Nkuba, Vice-Président d'Itara, un parti politique constitué de jeunes gens. Il aurait été arrêté par la police le 26 mai 2003, en compagnie d'autres membres de son parti. Tous seraient accusés d'«atteinte au bon déroulement des élections» lors du référendum sur la nouvelle Constitution, mais n'auraient semble-t-il pas été formellement inculpés. Au moment de l'envoi de la communication, ils étaient apparemment détenus au poste de police de Muhima à Kigali, et certains d'entre eux allaient semble-t-il être transférés à la prison centrale de Kigali. Selon les renseignements reçus, Augustin Butorano aurait été interrogé, semble-t-il afin de l'obliger à livrer les noms des autres membres de son parti. Des organisations de défense des droits l'homme auraient été empêchées de le voir en détention.

649. Le 9 septembre 2003, le Rapporteur spécial, le Rapporteur spécial sur la question de la torture et le Président-Rapporteur du Groupe de travail sur la détention arbitraire ont envoyé conjointement une lettre concernant **Léonard Kavutse**, ancien membre du Parlement sous l'étiquette du Mouvement démocratique républicain interdit en avril 2003, **Grégoire Mbayingana**, **Agnès Nyirantezirizaza**, **Gatete**, **Modeste Sindikubwabo**, **Bahizire**, **Jean Ahishakiye** et **Grégoire Mutessa**, qui auraient été arrêtés en raison de leur soutien à Faustin Twagiramungu, candidat de l'opposition lors de l'élection présidentielle du 25 août 2003. Selon les informations reçues, Léonard Kavutse aurait été détenu au poste de police de Gikondo à Kigali du 19 au 28 août 2003, date à laquelle il aurait été transféré à la prison centrale de Kigali. Le 28 août, il aurait été forcé de «confesser» sur les chaînes de télévision qu'il aurait envoyé une lettre à Faustin Twagiramungu, accusant le Front patriotique rwandais au pouvoir d'être une organisation criminelle, utilisant un langage incitant la population à la violence. Il semblerait que cette

confession télévisuelle ait eu pour objectif de discréditer M. Twagiramungu, qui aurait lui-même été accusé par les autorités d'encourager les divisions raciales au sein de la population.

650. Jean Ahishakiye serait détenu à la Prison Centrale de Kigali depuis le 13 août pour avoir soutenu Mr. Twagiramungu. Un autre homme du nom de Gatete, âgé de 30 ans et travaillant pour Cimerwa à la cimenterie de Bugarama, était semble-t-il détenu au secret sans avoir été inculpé depuis le 22 août 2003, également pour avoir soutenu M. Twagiramungu.

651. D'autres personnes qui auraient été arrêtées et/ou détenues pour leur soutien à M. Twagiramungu auraient été libérées depuis: Grégoire Mbayimana aurait été détenu au secret au poste de police de Muhima à Kigali depuis son arrestation le 22 août 2003. Agnès Nyirantezirizaza aurait été détenue dans un centre de vote dans la circonscription d'Impala, dans la région de Cyangugu, aux alentours du 25 août, alors qu'elle refusait d'obéir à des officiers électoraux qui lui ordonnaient de voter pour le Président Kagame. Un homme du nom de Bahizire aurait été détenu au centre de détention de la circonscription de Kamembe à Cyangugu après des élections alors qu'il disait avoir voté pour M. Twagiramungu. Modeste Sindikubwabo aurait été détenu après son arrestation le 29 août dans la circonscription d'Impala et Grégoire Mutessa depuis le 23 août, sous le prétexte d'avoir fait campagne pour Faustin Twagiramungu.

652. Le 8 octobre 2003, le Rapporteur spécial a envoyé une lettre d'allégation concernant des informations selon lesquelles la préparation et la tenue des **élections présidentielles** du 25 août 2003 auraient été entachées d'irrégularités, de pressions et d'intimidations diverses. Il semblerait en effet que le Front patriotique rwandais (FPR), parti au pouvoir, aurait utilisé des méthodes de pressions, y compris la détention de supporters de l'opposition, la conscription forcée dans les rangs du FPR et les menaces, pour décourager le soutien aux partis d'opposition.

653. Il semblerait que la campagne du FPR et de son candidat, Paul Kagame, aurait porté principalement sur la dénonciation des tendances des autres candidats à la «division ethnique». L'un des principaux opposants à M. Kagame, M. Faustin Twagiramungu aurait fait face à de nombreux obstacles au cours de sa campagne électorale. Par exemple, il a été rapporté que son chauffeur et son assistant personnel auraient été victimes de menaces de mort de la part de membres de la sécurité de l'État; son parti politique, le Mouvement démocratique républicain, aurait été banni en début d'année; la police aurait saisi ses dépliants sous le prétexte qu'ils incitaient à la division ethnique; les autorités l'auraient empêché de réserver des salles pour ses réunions de campagne.

654. Il semblerait également que les autorités auraient harcelé les personnes qui soutenaient officiellement la campagne de M. Twagiramungu, et que des personnes soupçonnées de soutenir l'opposition auraient été détenues et relâchées à la condition de renoncer à leur affiliation politique et de soutenir le FPR.

655. D'autres candidats à l'élection présidentielle auraient également été harcelés au cours de cette campagne, notamment **Jean-Nepomuscene Nayinzira** et **Alivera**

Mukabaramba, qui auraient également eu des difficultés à mener leur campagne. Seul le FPR aurait pu bénéficier de plages d'émission gratuite à la télévision nationale.

656. Le 21 novembre 2003, le Rapporteur spécial a envoyé un appel urgent concernant **Robert Sebutilira**, directeur de publication de l'hebdomadaire indépendant *Umuseso*, qui aurait été arrêté le 19 novembre 2003, près de la frontière ougandaise, où il s'était rendu pour récupérer les 4 000 exemplaires de la dernière édition de l'hebdomadaire, imprimé en Ouganda pour des raisons économiques. Il aurait immédiatement été transféré au Département d'investigations criminelles (CID) de Kigali. Il semblerait que, le lendemain, **Kalisa McDowell**, l'adjoint de M. Sebutilira, ainsi que trois autres collaborateurs du journal, se seraient rendus au CID pour s'enquérir de la situation de leur directeur, et qu'ils auraient été aussitôt interpellés. Il semblerait que ces arrestations soient liées à la publication dans *Umuseso* d'un article faisant état d'un «projet de démobilisation» du général-major Kayumba Nyamwasa, ancien chef d'état-major de l'armée et actuel directeur du Service national de sécurité.

Communication reçue

657. Dans une correspondance envoyée le 20 juin 2003, en réponse à la communication du 5 juin, le gouvernement a confirmé l'arrestation et la détention d'**Augustin Butorano**. Selon les informations fournies par le gouvernement, M. Butorano aurait enfreint la loi électorale. Le gouvernement a donné l'assurance que ses droits seront respectés conformément à la Constitution en vigueur au Rwanda.

Observations

658. Le Rapporteur spécial remercie le Gouvernement rwandais pour sa réponse concernant le cas de M. Augustin Butorano, mais regrette que ses communications du 9 septembre, du 8 octobre et du 21 novembre 2003 n'aient toujours pas reçu de réponse.

Saudi Arabia

Communications sent

659. On 27 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Um Sa'ud**, a 60-year-old woman, and at least **82 other detainees** who were reportedly arrested during a protest in the al-U'laya district of Riyadh on 14 October 2003. It is reported that the protesters were calling for political reform and the release of prisoners allegedly detained on political grounds. According to the information received, Um Sa'ud was carrying a picture of her son, **Sa'ud al-Mutayri**, who allegedly died in al-Ha'ir prison during a fire on 15 September 2003. Um Sa'ud reportedly called for her son's body to be returned to his family. She was allegedly beaten by security forces at the time of her arrest. On the same day, 271 people were allegedly arrested, 188 of whom were later released. It is reported that Um Sa'ud is currently held in al-Malaz prison, Riyadh, where fears have been expressed that she may be at risk of torture or other forms of ill-treatment. According to the information received,

while her daughters have been allowed to visit her, most of the 82 other detainees are being held in incommunicado detention. They are reportedly being interrogated and are expected to be referred for trial. Fears have been expressed that they may be held solely for their allegedly non-violent expression of their beliefs.

660. On 31 October 2003, the Special Rapporteur sent a communication concerning the following alleged cases of violation of the right to freedom of expression and opinion:

(a) The Special Rapporteur was informed that the Information Ministry reportedly issued directives in late August 2003 barring **Wajeha al-Huwaider** (f) from publishing her work in the newspapers *Al-Watan* and *Arab News*. It is reported that this decision came in response to a column that Ms. al-Huwaider published in late May, in which she expressed the disillusionment of some Saudi citizens with their country and the people's tendency to look to the United States for solutions to their problems;

(b) The Special Rapporteur received information that on 29 July 2003, **Hussein Shobokshi** was reportedly banned from writing his weekly column in the daily *Okaz*. It is reported that Hussein Shobokshi was informed by his editor that the Ministry of Information reportedly told the newspaper that he could no longer write for *Okaz*. It is believed that the reason for this decision was a column published on 1 July 2003, in which the journalist described his vision of Saudi Arabia, mentioning subjects such as the rights of women and of citizens to vote in elections;

(c) The Special Rapporteur was also informed that on 27 May 2003, the editor-in-chief of the daily *Al-Watan*, **Jamal Khashoggi**, was dismissed. It is reported that his dismissal comes after the newspaper ran several reports and editorials openly criticizing the religious authorities and the *Mutawa* (religious police). It is reported that, although newspapers in Saudi Arabia are privately financed, the appointments of editors require government approval. It is further reported that the Minister of the Interior met with editors of several Saudi newspapers during the week of 26 May to remind them of the guidelines to be followed and urge them not to publish reports likely to be damaging and misleading.

661. On 14 November 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Ahmad bin Sa'd bin Abdel Aziz Al-Amhuj**, aged 37, and **Jam'an Al-Ghamdi**, aged 37, who are reportedly held in incommunicado detention at Al-Mabahith al-'Amma (General Investigations) prison in the capital, Riyadh. Ahmad bin Sa'd bin Abdul Aziz Al-Amhuj and Jam'an Al-Ghamdi were reportedly arrested on 14 October 2003 during a demonstration in the al-U'laya district of Riyadh by members of Al-Mahbahithal-'Amma on charges of demonstrating and carrying video cameras. They have reportedly been denied access to lawyers and family. Ahmad bin Sa'd bin Abdul Aziz al-Amhuj is said to suffer from diabetes. In view of the reported incommunicado detention of Ahmad bin Sa'd bin Abdul Aziz Al-Amhuj and Jam'an Al-Ghamdi, fears have been expressed that they may be at risk of torture or other forms of ill-

treatment. Concern has been expressed for the health of Ahmad bin Sa'd bin Abdel Aziz Al-Amhuj if he does not receive adequate medical attention.

662. On 9 December 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding people detained in relation to their participation to the march of 14 October 2003 in the al-U'laya district of Riyadh. It is reported that approximately **80 people**, including three women, among the 271 arrested on that day, remain in detention, most of them at the Al-Malaz prison, allegedly without charge and access to a lawyer. Some are said to be still in solitary confinement at Olisha Mabahith headquarters, including **Dr. Saleh Al-Ghamdi**, and **Mubarek Al-Dosari**. It is also reported that some of the detainees have been dismissed from their employment in public administration as a reprisal against their participation in the march, such as **Ahmed Al-Amhoohj** and **Jamman Ali Jamman Al-Ghamdi**, who were fired from their jobs by the Ministry of the Interior. Finally, it is reported that approximately **40 prisoners** in the Al-Malaz prison went on hunger strike on 5 December 2003 to protest their imprisonment and the Government's refusal to give them access to lawyers. According to reports, 36 people are still detained in connection with these events.

Communications received

663. On 29 October 2003, the Government replied to the Special Rapporteur's communication dated 26 July 2002 (E/CN.4/2003/67/Add.1, para. 487) concerning **Bob Arnot**, journalist for the cable television news channel MSNBC of the United States of America. The Government pointed out that Mr. Arnot was granted an entry visa to the Kingdom on the basis of a specific programme, which he did not follow. In addition, the Government indicated that Bob Arnot provoked the security officials at the airport. All his videotapes were returned to him through the Kingdom's embassy in Washington, for which Arnot expressed gratitude and appreciation.

664. On 17 November 2003, the Government replied to the Special Rapporteur's urgent appeal dated 27 October 2003 regarding **Um Sa'ud** and informed that the competent authorities were investigating her allegation. With regard to the gathering that took place in Riyadh on 14 October 2003, the Government emphasized that the gathering was not authorized by the competent authorities and that some of the persons who were arrested for participating therein have been released while others have been referred to the courts to be judged.

Observations

665. The Special Rapporteur thanks the Government of Saudi Arabia for its replies, but awaits responses to his communications dated 31 October, 14 November and 9 December 2003.

Senegal

Communications envoyées

666. Le 8 octobre 2003, le Rapporteur spécial a envoyé une lettre d'allégation concernant le cas de **Libasse Ndiaye**, cameraman d'African Television News (ATN) et correspondant au Sénégal de l'Agence internationale d'images de télévision (AITV) et de TV5, qui aurait été agressé, le 14 décembre 2002, par des membres des forces de l'ordre à l'issue de la manifestation du Collectif des familles des victimes du naufrage du navire Joola. Il est rapporté que M. Ndiaye a dû être transporté à l'hôpital où un traumatisme facial aurait été diagnostiqué.

667. Le 20 octobre 2003, le Rapporteur spécial a envoyé un appel urgent concernant **Sophie Malibeaux**, envoyée spéciale permanent de Radio France Internationale (RFI) à Dakar, qui aurait été interpellée le 7 octobre 2003 à Ziguinchor (sud du Sénégal), où elle se trouvait pour couvrir les assises du Mouvement des forces démocratiques de Casamance (MFDC), un mouvement sécessionniste. Selon les informations reçues, elle aurait été conduite *manu militari* à Dakar par vol spécial, et retenue plusieurs heures dans les locaux du Ministère de l'intérieur. Elle se serait ensuite vu notifier un arrêté d'expulsion du territoire national pour «nécessité d'ordre public», sans semble-t-il avoir été entendue par les autorités. Elle aurait ensuite été emmenée sous escorte policière chez elle pour prendre quelques affaires, puis à l'aéroport, afin de prendre un vol vers Paris. Les informations reçues indiquent qu'alors qu'elle était sur le point d'embarquer, il y aurait eu un contre-ordre suspendant l'arrêté d'expulsion. Selon un communiqué du Ministère de l'intérieur diffusé le 7 octobre, il semblerait qu'il est «reproché à l'intéressée d'avoir tenté de saboter le processus de paix entrepris par le Gouvernement sénégalais, à travers un traitement tendancieux de la question casamançaise à l'occasion des assises du MFDC tenues à Ziguinchor».

Communication reçue

668. Dans deux correspondances datées des 30 octobre et 11 novembre 2003 adressées au Haut-Commissaire aux droits de l'homme, le gouvernement a fourni des éléments de réponse concernant la communication du 20 octobre 2003 relative au cas de **Sophie Malibeaux**, indiquant notamment que les autorités sénégalaises accusent Mme Malibeaux de porter atteinte au processus de paix initié par le MFDC en prêtant son micro à un usurpateur qui lançait un appel au boycott d'une conférence de paix. Le gouvernement indique que la décision d'expulser Mme Malibeaux du territoire sénégalais est un acte de souveraineté justifié par l'extrême sensibilité de la situation en Casamance.

Observations

669. Le Rapporteur spécial remercie le Gouvernement sénégalais pour sa réponse et souhaite recevoir une réponse à sa communication datée du 8 octobre 2003.

Serbia and Montenegro

Communication sent

670. On 27 March 2003, the Special Rapporteur sent an urgent appeal concerning the case of **Vukasin Obradovic** and **Goran Antic**. On 3 March 2003, Vukasin Obradovic, owner and editor-in-chief of the weekly newspaper *Novine Vranjske* and Goran Antic, reporter of the same newspaper, reportedly received anonymous letters threatening to kill them, their families and the newspaper's staff. According to the information received, these threats could be related to a series of articles published during the month of January 2003 by *Novine Vranjske* and dealing with the case of five boys from Vranje, who allegedly accused Bishop Pahomije of sexual abuses.

Observations

671. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

Sierra Leone

Communications sent

672. On 8 October 2003, the Special Rapporteur sent a letter of allegation concerning the cases summarized below:

- (a) On 31 August 2002, the newspaper *African Champion* was reportedly ordered to close down indefinitely, and its managing editor, **Mohamed D. Koroma**, banned from any editorial function in any newspaper in the country by the Sierra Leone's High Court. According to the information received, in March the Independent Media Commission (IMC), had already ordered the newspaper to close down for two months for allegedly having published an article entitled, "Kabbah plunges into dubious deal again", in which a close relative of the President was accused of corruption;
- (b) **Paul Kamara**, editor of the daily newspaper *For Di People*, was reportedly sentenced to nine months' imprisonment and a US\$ 2,100 fine for defaming a local judge. According to the information received, on 5 April 2002, an Appeal Court Judge filed a complaint against Paul Kamara after the publication of several articles in which the former was accused of being a thief, a criminal and a constitutional fraudster in his management of the country's football association. On 12 November 2002, Kamara was reportedly arrested and taken to Freetown's Pa Demba Road Prison and was later found guilty of 18 counts of criminal libel under the Public Order Act. *For Di People* was reportedly ordered to close down for six months. In this respect, the Special Rapporteur underlined that criminal sanctions, in particular imprisonment, for libel and defamation are not deemed proportional with an effective exercise of the right to freedom of opinion and expression.

673. On 10 October 2003, the Special Rapporteur sent another letter to the Government concerning **Paul Kamara**, who was reportedly arrested on 3 October, held for six hours in the offices of the Criminal Investigations Department (CID), and questioned about an article published in that day's issue of *For Di People* critical of President Kabbah. It is reported that the police ordered Kamara to return on 4 October, when he allegedly spent several more hours at CID headquarters. The police reportedly summoned him again on 7 October and questioned him for four more hours about the newspaper's operations, including where it was printed, and whether he was using his publication to incite violence among the population. On 9 October, the police reportedly told Kamara to return to CID headquarters with columnist **Jia Kangbai**, who had also commented on Kabbah's fitness to be president. It seems that they refused to comply with the order, arguing that press issues should be handled by the Independent Media Commission and not the police. Fears were expressed that Kamara, who has reportedly already served a nine-month prison sentence for defamation in 2002 (reference was made to the Special Rapporteur's communication of 8 October 2003), could be charged under the criminal law.

674. In an urgent appeal dated 17 October 2003, the Special Rapporteur drew the attention of the Government to information concerning **Paul Kamara**, editor and publisher of *For Di People* daily newspaper, **Lovette Charles**, the 60-year-old owner of the printing press where the newspaper is printed, and **Brima Sesay** and **Joseph Charlesthree**, employees of the printing press, who were reportedly charged on 11 October 2003 with two counts of "seditious libel" against President Kabbah. According to recent information, the four people mentioned above were reportedly detained at the Padema Road maximum security prison in Freetown, allegedly following their failure to meet the bail conditions imposed by the court. It is reported that Kamara and the printing press employees were first picked up on 10 October and held at the Criminal Investigations Department (CID) headquarters, and were presented before a court the following day. They were reportedly charged as a result of an article in the newspaper's 3 October edition entitled, "Kabbah a true convict" (reference was made to the urgent appeal sent by the Special Rapporteur on 10 October 2003). It seems that the court set bail at Le 50 million (approximately US\$ 21,400) each. It is further reported that they were scheduled to reappear in court on 18 October 2003.

Observations

675. The Special Rapporteur regrets that no replies had been received from the Government at the time this report was finalized.

Slovakia

Communications sent

676. On 11 April 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Representative of the Secretary-General on human rights defenders concerning the complaint allegedly filed by the Slovak Republic's Office of Human Rights, Minorities and European Integration with the Prosecutor General against **the authors of a joint report by**

the Center for Reproductive Rights and the Center for Civil and Human Rights in the Slovak Republic entitled "Body and soul". The publication allegedly resulting from a fact-finding mission documented cases of forced sterilization of Roma women as well as discriminatory practices against this specific group. The report was launched in Bratislava on 28 January 2003. Following publication, the authors were allegedly under threat to be charged, either under section 199 of the criminal code for "creating panic in society and damaging the good name of Slovakia" should the report's findings be found to be false, or with failure to promptly inform the law-enforcement authorities of the crime, should the findings of the report be found to be true. Additionally, during the investigation allegedly undertaken in the report, the authors were allegedly subjected to pressure to identify the Roma women interviewed during the fact-finding mission; they were accused of obstructing justice when they refused. In particular, on 12 March, the Ministry of Health allegedly issued a statement to this effect.

Communications received

677. By letter of 26 November 2003, the Government replied to the communication of 11 April 2003 and stated that, after the publication of the report in question, it started a thorough investigation that brought it to the conclusion that no forced sterilizations have been confirmed. Concerning the authors of the report, the Government explained, referring to the right to freedom of expression, that the Prosecutor General of the Slovak Republic forbid the team of investigators to take any measures against them, although it could not be excluded that some hospitals mentioned in the report may file a claim against the authors. Moreover, no pressure of any kind has been exerted on the authors.

Observations

678. The Special Rapporteur thanks the Government of Slovakia for its reply and willingness to cooperate with his mandate.

Sri Lanka

Communications sent

679. On 23 May 2003, the Special Rapporteur sent an urgent appeal regarding **Ponnaiah Manikavasagam**, a correspondent for the Tamil-language daily *Veerakesari* and for the Tamil service of the BBC World Service. According to the information received, Ponnaiah Manikavasagam allegedly received a telephone threat on the evening of 7 May, a few minutes after the BBC broadcast his interview with Anton Balasingham. Further information received indicates that Ponnaiah Manikavasagam has now left Vavuniya and gone into hiding. Fears have been expressed for his safety.

680. On 7 August 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding the case of **Lasantha Wickrematunga**, editor of the weekly *Sunday Leader*. Reports indicate that, on 27 July 2003, Fisheries Minister Mahinda Wijeskera threatened Lasantha Wickrematunga in front of several witnesses, including Water Management Minister

Lakshman Seneviratne. The minister's death threat followed the newspaper's publication of articles accusing him of corruption. It is reported that the minister Wijesekera would have claimed he had the Prime Minister's support in making the threat. Lasantha Wickrematunga and *The Sunday Leader*, which often investigates corruption, have reportedly been the target of frequent harassment and numerous libel suits since 1995.

681. On 25 September 2003, the Special Rapporteur sent a communication jointly with the Special Rapporteur on the question of torture regarding **Michael Colin David**, a 33-year-old resident of Trincomalee and a member of the Eelam People's Democratic Part (EPDP), who was reportedly arrested on 20 July 2002 in Trincomalee by the Criminal Investigations Department from Colombo. He was reportedly taken to the Police Headquarters in Colombo, where the police allegedly asked him to sign a document in Sinhalese, a language he did not understand. It is alleged that as he refused to sign the document, police officers forced him to lie on a bench, closed his mouth and poured water into his nostrils. The police officers allegedly threatened to inject him with a lethal substance if he did not sign the document. As a result, he reportedly signed it. He was reportedly taken before the Jaffna Magistrate on 2 August 2002, and complained that he had been severely assaulted by the police. The Magistrate reportedly ordered that Michael Colin David should undergo medical examination by the Judicial Medical Officer of the Jaffna Teaching Hospital and that the acting superintendent of Jaffna prisons should provide maximum security to the suspect.

682. On 26 September 2003, the Special Rapporteur sent a communication jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, regarding **Sathasivam Rathykala**, a 22-year-old woman held in detention in Batticaloa since 23 July 2002. She was reportedly arrested on 24 November 2001 by police officers from the Methirigirya police station on the basis of being a member of the Liberation Tigers of Tamil Eelam (LTTE). She was reportedly taken to the office of the Criminal Investigation Department (CID) in Polonaruwa and put alone in a cell, where it is alleged that officers from the Methirigirya police station and the Polonaruwa CID threatened to shoot her with a gun, put chili powder all over her body, suspended her from the ceiling, slapped her ears and cheeks repeatedly, kicked her on the back, beat her with rope, and burned her all over with cigarettes. She was then allegedly raped by 12 police officers while in the custody of CID. On 26 November 2001, she was reportedly transferred to the Kaduruwella police station where she was held for one month. It is believed that she was presented to a magistrate on 29 November 2001 and reportedly remanded to the Anuradapura Prison where she was held for another month before being transferred to Welikada prison for one month. She was reportedly transferred to Batticaloa prison on 23 July 2002 and granted bail on 19 September 2002. It is reported that she has suffered acute mental trauma and that the Batticaloa Judicial Medical Officer (JMO), who reportedly examined her on 30 August 2002 by order of the High Court of Batticaloa, submitted a report to the Eastern High Court on 18 September 2003 in which it is recommended that counselling and rehabilitation should be provided to her. It is reported that the inquiry on her case has been postponed by the Eastern High Court.

683. On 31 October 2003, the Special Rapporteur sent a communication regarding the following alleged cases of violation of the right to freedom of opinion and expression:

(a) The Special Rapporteur was informed that, on 3 December 2002, a number of journalists – **Wijitha Ranaweera**, SLRC and *Dinamina* correspondent; **Roshan Garusingha**, correspondent for *Lakbima*; and **Jagath Kalansooriya**, ITN correspondent – were reportedly assaulted by thugs during the Wallavaya Titarama Palatha Corporative election. Wijitha Ranaweera and Jagath Kalansooriya had reportedly to be taken to the hospital after the incident. According to information received, the Wallavaya Predesheeya Shaba chairman, who is a member of the governing United National Front (UNF), knowing the cooperative election results would not be favourable to UNF, had allegedly incited his thugs to disrupt the election process. The latter reportedly assaulted the journalists who were covering the elections. It is reported that the police officials who were present at the scene did not take any steps to stop the attackers;

(b) The Special Rapporteur was informed that, on 8 October 2002, **Uvindu Kurukulasooriya**, a journalist with *Ravaya* newspaper, was assaulted by the police. According to information received, Uvindu Kurukulasooriya was on his way home when he reportedly noticed that police officers were assaulting a man and a woman. Kurukulasooriya reportedly got out of his car and noted down the numbers of the police officers involved. The latter asked him why he was doing this and who he was; Kurukulasooriya showed his media accreditation card. The police officers then allegedly assaulted and insulted him. It is reported that Kurukulasooriya went to the police station to lodge a complaint, and it is alleged that he was submitted to verbal abuse within the police premises and was remanded on the charge of assaulting the police officers and disrupting their work. He was reportedly presented to court the next morning and was released on bail;

(c) It is reported that, in July and August 2002, **Nishanta Kumara**, journalist with *Ravaya* newspaper, was threatened and harassed after he reported on the plight of **Nandani Herat**, a woman who was allegedly tortured while she was being held for questioning at the police station in Wariyapola. On 10 July 2002, three men reportedly threatened to kill Nishanta Kumara. He was then reportedly followed every day by two men. The journalist reportedly filed two complaints, on 10 July and 5 September 2002, with the Inspector-General of police in Colombo, the police in Kurunegala and the Sri Lanka Human Rights Commission, but it seems that no investigation was undertaken. Other journalists who were trying to cover the case of Nandani Herat were reportedly harassed. It is reported that a crew of the Swarnawahini television station was barred from the courtroom in Wariyapola. Reports indicate that, when the crew tried to film from their vehicle, they were accosted by 25 plainclothes police officers, who allegedly searched their vehicle. The journalists were reportedly threatened with arrest, and were reportedly followed by a van after they left the court.

684. On 23 December 2003, the Special Rapporteur sent an urgent appeal regarding **Michael Anthony Fernando**, who was recently released from jail after a 10-month period of imprisonment for contempt of court, after an allegedly unfair judicial process, which reportedly followed his petition to the Supreme Court concerning a human rights

application. It is reported that, on 27 November 2003, Mr. Fernando received death threats from an unidentified person, who asked him to withdraw his three complaints for human rights violations. The next day, unidentified persons presented themselves at Fernando's home and allegedly threatened to harm his family if he did not withdraw his complaints. Two of the complaints, one relating to allegations of torture in prison and the other against two prison guards who had allegedly tortured him in prison, will reportedly be heard on 6 February 2004 by the Supreme Court. The third complaint is reportedly pending before the Human Rights Committee of the United Nations, and relates to Fernando's imprisonment for contempt of court and torture in prison.

Communications received

685. By a letter dated 5 June 2003, the Government replied to the Special Rapporteur's communication of 28 September 2001 (E/CN.4/2002/75/Add.2, para. 221), and provided information regarding **A.S.M. Fasmi**, **Iqbal Athas** and **S.M. Gopalaratnam**. Concerning A.S.M. Fasmi, the Government indicated that the Human Rights Division of the Department of Police conducted an investigation that revealed that Fasmi was arrested by the Sri Lanka Army and handed over to the Mannar Police, which recorded a statement and released him subsequently. Fasmi has made a complaint to the Superintendent of Police, stating that there were numerous calls threatening him with death. There was no possibility to investigate the matter further, as there was no way to trace the calls. At the time of inquiry, Fasmi was no longer receiving any threatening calls. He continues to perform his profession as a journalist without any further difficulties. Concerning Iqbal Athas, the Government reported that as a result of confidential inquiries conducted by the Criminal Investigation Department (CID), two persons were taken into custody. Both Athas and his wife were able to identify the persons involved in the incident. The accused were prosecuted and sentenced to seven years and two years, respectively. Both accused have appealed against their conviction and sentence. The appeal is pending. Concerning S.M. Gopalaratnam, the editor of *Thinakathir*, the Government reported that Gopalaratnam, along with his sub-editor **K. Rosthanthan**, was summoned to the Sri Lanka Army camp where they were accused of supporting the Liberation Tigers of Tamil Eelam (LTTE). The investigation revealed that Gopalaratnam and Rosthanthan had made no complaint about the said incident to any police station. The Government reported that there was no allegation that they were either threatened or tortured at the army camp.

686. By a letter dated 5 June 2003, the Government replied to the Special Rapporteur's communication of 1 October 2001 (E/CN.4/2002/75/Add.2, para 222), and provided information regarding **Rohana Kumara**. The Government reported that the investigations into the murder of Mr. Kumara were still pending.

687. By a letter dated 5 June 2003, the Government replied to the Special Rapporteur's communication of 10 October 2001 (E/CN.4/2002/75/Add.2, para 223), and provided information regarding **Namal Perera** and **Sinha Ratnatunga**. Concerning Namal Perera, the Government reported that investigations revealed that no complaint was made to the police by Namal Perera or anyone else regarding this incident. The said censorship laws had been in force only temporarily and have ceased to be in force. Regarding Sinha Ratnatunga, the Government reported that Ratnatunga had stated that he was prepared to

make a statement which would be tendered to Court maintaining that he was not the writer of the impugned publication and that the words in question were not meant to be defamatory. He further stated that there was no malicious intent whatsoever by him to defame the President and he expressed regret for the said error. The Supreme Court ordered on 19 August 2002 that the conviction against Ratnatunga be set aside and it discharged him.

688. By a letter dated 28 October 2003, the Government replied to the Special Rapporteur's communication of 10 October 2001 ((E/CN.4/2002/75/Add.2, para. 223), regarding **Elmo Fernando** and reported that he requested the Sri Lanka Police to abandon their investigations into the said complaint. The Government reported that, as a result of the said letter, no further investigations will be conducted.

689. By a letter dated 8 December 2003, the Government replied to the Special Rapporteur's communication of 28 September 2001 (E/CN.4/2002/75/Add.2, para. 221), and provided information regarding **Saman Wagarachchi, Sujeewa Gamage, P. Seevagan, Roy Denish** and **D. Sivaram**. The Government reported, in a letter dated 21 October 2003, that Saman Wagarachchi, on behalf of the others and on his own behalf, stated that they were compelled to leave Sri Lanka because of the threat to their lives at that time, but that the situation changed and it is not necessary to continue with the investigations.

690. On 8 December 2003, the Government replied to the Special Rapporteur's urgent appeal dated 23 May 2003 concerning **Ponnaiah Manikavasagam**, reporting that it provided security to Manikavasagam. In a letter dated 30 July 2003, Manikavasagam reportedly stated that there was no open threat to his personal or family security.

Observations

691. The Special Rapporteur thanks the Government of Sri Lanka for its replies, but awaits responses to his communications dated 7 August, 25 and 26 September, 31 October and 23 December 2003.

Sudan

Communications sent

692. On 21 January 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal concerning **Abdallah Fadl Alla Abdalla**, an engineer and member of Al Ukhwan Aljamhoryeen (republican brotherhood), who was reportedly arrested on the evening of 18 January 2003 by a group of armed security officers after they raided his house in Wad Albakhiet in Omdurman. It is reported that he had first been arrested by the police on the evening of 16 January 2003 and released in the afternoon of 18 January. The security forces then re-arrested him three hours later, took him to an unknown location and refused to disclose his whereabouts to either his family or his lawyer. The reason given for the arrest was that he was organizing a book exhibition at his

house in commemoration of the anniversary of the death of Uztaz Mahmoud Mohamed Taha, a Sudanese scholar who was executed in 1985 for the crime of apostasy. Abdallah Fadl Alla Abdalla was reportedly a student of Uztaz Mahmoud Mohamed Taha. The police reportedly confiscated all the books, photos and posters at the exhibition, and reportedly charged Abdallah Fadl Alla Abdalla with the offence of insulting the religious creed of Islam under article 125 of the 1991 Penal Code. In view of the incommunicado nature of his detention in an unknown location, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

693. On 23 January 2003, the Special Rapporteur, the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the situation of human rights in the Sudan sent jointly a communication regarding **Donato Dimo Wol**, the President of the Southern Sudanese Student Union of Bahr Algazal University and a student at the university's Faculty of Education, who was reportedly arrested at 10 p.m. on 15 January 2003 by members of the security forces. He is said to have been taken from his house in Alhaj Yousif, in Khartoum North, to an unknown location. The security forces are reported to have accused Donato Dimo Wol of being one of the organizers of student demonstrations that took place in October 2002. Reference was made in this respect to a joint urgent appeal sent on 29 October 2002 by the Special Rapporteur, the Special Rapporteur on the question of torture, the Special Rapporteur on the situation of human rights in the Sudan as well as the Chairperson-Rapporteur of the Working Group on Arbitrary Detention (E/CN.4/2003/67/Add.1, para. 537). In view of the incommunicado nature of his detention in an unknown location, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

694. On 19 March 2003, the Special Rapporteur sent, jointly with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan, an urgent appeal concerning **Edward Terso Lado**, journalist for the English-language newspaper the *Khartoum Monitor*, who was reportedly arrested at the newspaper's Khartoum office by members of the security forces on 11 March 2003. Members of the security forces reportedly took Edward Terso Lado to the National Security Agency offices immediately after his arrest. However, it is believed that he was then transferred to the secret political wing of Kober prison in Khartoum, where he was reportedly held incommunicado. He was reportedly not charged with any offence. On 16 March, it is reported that Edward Terso Lado's family tried to visit him at the National Security Agency offices and bring him clean clothes, but they were allegedly not permitted to see him. A lawyer provided by the *Khartoum Monitor* was also denied access to Edward Terso Lado. It is believed that his arrest followed the publication of an article he wrote on an incident in the early history of Islam for the 9 March issue of the *Khartoum Monitor*. National security officers reportedly confiscated all copies of the issue before they left the newspaper's office.

695. On 7 April 2003, the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary

or arbitrary executions, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in the Sudan sent jointly a communication concerning scores of students reportedly detained after a wave of violent clashes between security forces and student demonstrators at a number of universities in the country. In particular, it seems that **Hassan Ali, Mohamed Siddig, Omar al-Amin** and **Mohamed al Mustafa Hashim**, an economics student, and seven others, all students from Bakht El Ruda University in the town of Ed-Dueim south of Khartoum, who were reportedly detained on 17 March 2003, following a student demonstration against the university's refusal to allow student union elections. It is reported that the police tried to disperse the protesters with tear gas and then shot at them using Kalashnikov rifles and revolvers, injuring a number of students. According to information received, police then raided the female students' accommodation and arrested some students, who were later released. Some students were allegedly beaten by police during the raid. One student was said to have suffered severe internal injuries and others were badly bruised.

696. In the same communication, the Special Rapporteurs referred to the case of student **Ammar Najm al-Din** and graduate **Taher Basher**, who were reportedly arrested on 30 March, allegedly in connection with student protests against the conflict in Iraq, which took place on 22 March in El-Nilein University in Khartoum. Police, reportedly including special anti-terrorist units, allegedly fired tear gas at the demonstrators and beat them with truncheons. The students reportedly responded by throwing stones at the police, who then fired live ammunition at them. It is reported that two students, **Sherif Hassibullah** and **Haytham al-Tayeb**, were killed during the demonstration.

697. On 23 March, students at Sudan University, also in Khartoum, reportedly held a meeting in protest of the police killings and use of excessive force against fellow students during the previous day's demonstration. According to information received, this meeting was also forcibly broken up by police using tear gas. **Al-Amin Shams al-Din**, an engineering student suffering from asthma, reportedly died during the incident. It is reported that police claim he fell from a building, while other reports indicate that he was shot when other students lifted him up to avoid the tear gas that would have impaired his breathing. Another student, **Sami Yousef Ismail**, from Kasala University in eastern Sudan, was reportedly arrested at his home on 1 April.

698. On 9 May 2003, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, sent a communication to the Government of Sudan concerning **Ahmed Da'wah Al Bayt Ahmed**, a 35-year-old member of the Student Independent Congress and a graduate of the University of Omdurman Al Ahlia. According to the information received, at around 7.30 p.m. on 20 March 2003, Ahmed Da'wah Al Bayt Ahmed was arrested near the Hejazi college, next to the University of Sudan. It is reported that he was with a friend when a group of armed men claiming to be from the secret police investigation unit arrested him. He was reportedly taken away in a car with blacked-out windows and a licence plate number 903 K'K'. A second car, a part convertible "boxi", reportedly followed the first car. He was taken to an undisclosed location. He was reportedly seen at Kober prison. In view of the prolonged incommunicado detention of Ahmed Da'wah Al

Bayt Ahmed, fears were expressed that he might be at risk of torture or other forms of ill-treatment.

699. On the same date, the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation on human rights in the Sudan sent jointly a letter to the Government regarding the following students: **Hana Mohamed Ali** (f), **Mawahib Ali** (f), **Huda Da'wood** (f), **Intisar Abdel Rahman Fadl** (f), **Mohamed Al Hassan Rahma** (m), **Hassan Harri** (m), **Mohammed Ahmed Khalid** (m), **Da'wood Abdel Rhaman** (m), **Abdel Azim Daw El Beit** (m), **Ashraf Alhilo** (m), **Haythem Samba** (m), **El Tayeb** (m), **Tagelsir** (m), **Al Noor** (m), **Um Al Hassan Sharoofa** (f), **Asha Sharoofa** (f), all students at Zalingei University, who were reportedly arrested on 1 May 2003 at Zalingei University after a protest over issues such as payment of grants and food and transport allowances. The riot police reportedly intervened, allegedly using tear gas and sticks against the students. It is reported that one university building was burnt down during the protest. University authorities reportedly closed down the university on 3 May, reportedly at the demand of the security services. Two female students, **Um Al Hassan Sharoofa** and **Asha Sharoofa**, reportedly arrested and detained incommunicado with the others, have reportedly been transferred to the hospital in Zalingei, allegedly for treatment of injuries sustained when they were severely beaten by security personnel in detention. The other 14 students were reportedly detained incommunicado in an office of the security services in the town of Zalingei, Western Darfur province.

700. On 13 May 2003, the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture sent jointly a letter to the Government of Sudan concerning **Yousif Al Bashier Mousa**, a 35-year-old disabled reporter for the *Al Sahafa* daily newspaper, who was arrested on 3 May 2003 at Nyala stadium by three security officers (whose names are known to the Special Rapporteurs and the Chairman-Rapporteur). It is reported that he was taken to the National Security Offices north of the Nyala industrial park where he was detained in a 2-metre by 1-metre cell. It is believed that there was little ventilation in the cell and that he was forced to sleep on the concrete floor. According to the information received, he was provided with only two meals during a four-day period. Every night, beginning at 10 p.m., he was reportedly interrogated about his activities and the information that he sent to *Al Sahafa*. He was reportedly held at gunpoint, threatened with rape and damage to his remaining leg, and repeatedly beaten and punched in the face and abdomen. It is also alleged that sticks were used to beat him on the shoulders and the soles of his feet. Following his detention in the National Security Offices, Yousif Al Bashier Mousa was reportedly moved to the Nala general prison, where he was reportedly allowed to receive medical treatment on 6 May 2003. Dr. Abd Al Rahman Ahmed Hassan confirmed his allegation in his medical report. His lawyer requested that he be charged or released immediately, but the Governor of the province allegedly prolonged his detention for a further month under the provisions of the emergency law. It is said that he was suspected of "spreading incorrect information against the State".

701. On 24 June 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent jointly an urgent appeal concerning Mrs. **Abbas El Tigani**, aged 26, and **Gamar Eldin Mohammed Eisa**, aged 35, both students at El Nilein University, in Khartoum. Abbas El Tigani, who is also a member of the Steering Committee of the Darfur Students Union, is reported to have been arrested on 29 May 2003 by plain-clothes security officers. According to the information received, the union had been prevented from carrying out its work for the last two years by the Government, which claimed that it was controlled by the opposition Popular National Congress Party. The union had recently begun to work again and was preparing to elect its officials. It is believed that the Government was concerned that the elections could produce officials who do not support the ruling party. Gamar Eldin Mohammed Eisa was reportedly arrested on 10 June 2003 by plainclothes security officers from the coordination office for West Darfur State, in Khartoum. The reasons for his arrest are allegedly unknown. Both students were said to be held in incommunicado detention at an unknown location at the time the communication was sent. In view of these allegations, fears were expressed that they may be subjected to torture or other forms of ill-treatment.

702. On 8 July 2003, the Special Rapporteur, the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers sent jointly a joint appeal concerning **Gazi Suliman**, a lawyer and Chairperson of the Sudan Human Rights Group, who was reportedly arrested on 2 July 2003 by officers of the National Security Agency (NSA) and subsequently taken to the NSA Political Section near Al-Faroq cemetery, where he was believed to have been questioned about the Khartoum Declaration (*E'laan El Khartoum*). According to the information received, this document, which was signed by 18 leading political parties, 14 civil society groups and 78 prominent individuals, gives support to the Intergovernmental Authority on Development (IGAD) Peace Process, the Machakos Protocol and the Cairo Declaration, which calls for the respect of the variety of Sudanese citizens irrespective of race, religion or political affiliation. It is also reported that Gazi Suliman was interrogated on the topic of the press conference scheduled to take place at his office to announce officially the signing of the Khartoum Declaration. We have been informed that on the same day, NSA officers surrounded his office in an attempt to prevent the press conference from being held and detained all individuals present, who were believed to have been transferred to NSA headquarters, where they were allegedly detained for some hours before being released.

703. Further reports indicate that after two hours of interrogation, Gazi Suliman was reportedly allowed to return to his home in order to collect some personal belongings and inform his relatives that he was being taken to Kober Prison. Since then, his whereabouts were allegedly unknown. His family is reported to have visited Kober Prison and NSA headquarters and to have been told in both places that he was not being held there. In view of the alleged incommunicado detention at an unknown location of Gazi Suliman, fears were expressed that he may be subjected to torture or other forms of ill-treatment.

704. The Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent jointly a letter on 18 July 2003 regarding **El Fadil Adam Mohammed Ahmed Noorein**, a 30-year-old

member of the Fur ethnic group and a former member of the National Congress (NC) party, who was said to be held incommunicado and without charge at the headquarters of the security forces in the town of Nyala, South Darfur province. El Fadil Adam Mohammed Ahmed Noorein was reportedly arrested at his office in Nyala on 10 July 2003 by two plainclothes security forces officers. On 12 July, security forces reportedly searched his office and confiscated radios and other equipment. It is reported that the security forces suspect him of helping the armed opposition group, the Sudan Liberation Army (SLA) by providing them with communication tools. El Fadil Adam Mohammed Ahmed Noorein is a manager of Kayia Company, which used to provide radio communication services in the Darfur region. In view of the incommunicado nature of his detention, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

705. On 5 August 2003, the Special Rapporteur sent an urgent appeal regarding **Hamdi Sebit**, a 26-year-old student, **Michael Kustober**, a 27-year-old education student, and **Mohammed Ibrahim**, a 29-year-old sociology student, who were reportedly arrested by security forces on 31 July 2003 at Juma University, Khartoum, and were believed to be held in incommunicado detention at an unknown location at the time the communication was sent. They were allegedly suspected of being affiliated with opposition parties and of being involved in violent clashes between students and the riot police in Juma University on the same day of their arrest. According to the information received, on 31 July 2003, a large number of police officers armed with sticks interrupted a march of students who were allegedly protesting against the refusal of the Vice-Chancellor of Juma University to postpone student elections until the registration of all students had been completed. At least 20 students were said to have been injured in these clashes, during which they were allegedly severely beaten by police officers with sticks and hard metallic objects, before being transferred to Khartoum hospital. Approximately 60 students were reportedly arrested, a majority of whom were then been released on bail and charged with “disturbing public order”. In view of the alleged incommunicado detention of the above-named students at an unknown location, fears were expressed that they may be subjected to torture or other forms of ill-treatment.

706. On the same date, the Special Rapporteur sent another urgent appeal regarding **Yousif Al Bashier Mousa**, a disabled journalist working for the daily newspaper *As Sahafa*, who was allegedly arrested on 28 July 2003 in Nyala, province of Darfur, where he is based. In a report published in *As Sahafa* the same day, Mousa wrote that more than 10 students heading to a military training camp had supposedly been killed in a bus crash on the road from Al-Fashir to Nyala. After having denied the contents of Mousa’s report, on 29 July 2003 the authorities apparently confiscated all printed copies of the newspaper. Reference was made to a previous urgent appeal sent by the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, on 13 May 2003 concerning Yousif Al Bashier Mousa’s reported arrest and torture in early May 2003.

707. On 8 September 2003, the Special Rapporteur sent an urgent appeal concerning the reported suspension of the newspaper *Alwan* since 2 September 2003, pending the completion of a criminal investigation against the newspaper. According to information

received, the Office of the Prosecutor on Crime against the State in Khartoum decided to suspend *Alwan* after the newspaper was accused of spreading deceptive and defamatory information about Government senior officials and the peace process. It is reported that the newspaper was facing two charges under articles 66 on "publication of false news" and 69 on "disturbance of public peace" of the Criminal Act of 1993, as well as one charge under article 25 of the Press and Publication Act. These charges were allegedly brought by the National Security Agency.

708. In a letter dated 23 September 2003, the Special Rapporteur drew the attention of the Government of Sudan to the case of the *Khartoum Monitor*, which was reportedly suspended on 12 July 2003, and had reportedly not yet been able to resume publishing. According to information received, the decision to suspend the newspaper, after it published an interview with a former cabinet minister critical to the Government - which was deemed illegal by the Government - was struck down on appeal on 8 September 2003 by the National Press Council, which reportedly allowed the paper to resume publishing. However, it is alleged that the Government's Prosecutor in charge of subversion issues blocked the paper's publication as from 13 September under article 130, paragraphs 1 and 3, of the Code of Criminal Procedures, until the investigation of the case was completed.

709. On 24 September 2003, the Special Rapporteur and the Special Rapporteur on torture sent jointly a letter of allegation to the to the Government concerning the following cases:

(a) A number of people suspected of leading student movements, of membership of opposition groups or of participation in demonstrations were reportedly detained and subjected to several forms of torture or ill-treatment. The Special Rapporteurs referred to several communication sent in connection with such reports, especially the urgent appeals dated 29 October 2002 and 25 November 2002 (see E/CN.4/2003/67/Add.1, paras. 537 and 539), as well as those of 23 January, 8 April, 2 and 9 May, 24 June and 5 August 2003;

(b) **Ahmed Isameldin**, aged 25, **Annuel Abeigel**, aged 26, **Mao Rominio**, aged 28, and **Yaser Mohamed El Hassan Osman**, aged 44, assistant registrar of Khartoum University Medical School, whose cases were already included in an urgent appeal sent on 29 October 2002 (see E/CN.4/2003/67/Add.1, para. 537)), were reportedly released, along with an unknown number of other students. It is reported that some were tortured while in detention. Yaser Mohamed El Hassan Osman reportedly remained in intensive care at Khartoum Hospital following his release, allegedly because of the ill-treatment during his detention. He was reportedly arrested again on 22 March 2003 and released without charge on 27 March 2003. Another unidentified student from Khartoum University was reportedly beaten with hoses and forced to squat and jump like a rabbit. Furthermore, it is reported that Ahmed Isameldin and other students from Bahr al-Ghazual University, Khartoum, were reportedly also beaten with hoses whilst in detention;

(c) **Muhassab Anwar Muhassab**, a fourth-year student from Atbara and a supporter of the Popular Congress, and **24 other students**, were reportedly arrested on 13 November 2002 at the Khartoum University hostel by members of the National Security Agency (NSA) and taken to NSA headquarters in Khartoum. It is alleged that a security officer used his shirt to blindfold Muhassab Anwar Muhassab before ordering him to stand with his hands up. Police officers allegedly lashed all the students with whips and hoses. According to the information received nine students were then released. The remaining 16 were allegedly taken one by one and tied in contorted and painful positions to two sticks on the floor, where they were reportedly left for about one hour on the floor and one hour standing. It is further reported that they were transferred to the political section of Kober Prison around midnight. Muhassab Anwar Muhassab is reported to have been released on 14 January without charges;

(d) **Omar Farouk**, aged 22, a first-year medical student at Khartoum University and supporter of the Democratic Front Movement, was reportedly arrested on 4 December 2002 at his house by eight people in civilian clothes carrying machine guns. According to the information received, his hands were handcuffed behind his back and he was thrown onto the floor of the car. One man reportedly put his foot on Omar Farouk's neck and the other kicked him. It is also reported that he was taken to a security building near the Farouk cemetery, where, still handcuffed and with his feet tied together, he was allegedly beaten with a hose and a wooden stick and kicked, and then forced to sit facing the wall for three hours. It is reported that early the next morning he was transferred to an individual cell; later, other students were reportedly brought to this cell and all of them were then transferred to the political section of Kober Prison. According to reports received, Omar Farouk's family was not allowed to visit him. After two weeks, the security forces reportedly took Omar Farouk and the other students back to the security centre to be interrogated about the organizers of a demonstration at the university. Security forces reportedly threw cold water over Omar, held him in a cold room with a fan and mocked and abused him. He was reportedly released on 9 January 2003 without charge after signing a guarantee that he would not engage in any political activity. It is said that a medical report following an examination of Omar after his release, describes traces of injuries found to be consistent with the above allegations;

(e) **Yusuf al-Beshir Musa**, aged 35, correspondent of *al-Sahafa* in Nyala, South Darfur, was reportedly arrested by the security forces on 3 May 2003 without charge under article 26 of the 1999 Emergency Act. His detention was apparently connected with an article he wrote about the destruction of air force planes and helicopters in El Fashir airport by the Sudan Liberation Army (SLA). It is alleged that he was held incommunicado for three days at the National Security centre in Nyala and reportedly beaten with sticks on his arms, legs and body. It is also reported that on the fourth day of his detention he was allowed to see a lawyer and was examined by a doctor, whose report allegedly describes marks of beatings on his buttocks and chest. He was reportedly released on 24 May 2003. It is

believed that his lawyers have lodged a complaint at the Attorney-General's Office in Khartoum;

(f) **Mohamed Sidiq Al-Zaybir**, a 23-year-old third-year student in the Art Faculty at Khartoum University, was allegedly hit on the head and taken to a Toyota truck by a group of between nine and 11 people when he was leaving the student residence halls at 8 a.m. on 16 June 2003. He was allegedly thrown onto the floor of the truck and tied up. After approximately 20 minutes, Mohamed Sidiq Al-Zaybir was allegedly blindfolded and placed in the front seat of the truck. It is reported that the truck stopped at the offices of the National Security Agency (NSA) near Al-Farouqh Cemetery. Then Mohamed Sidiq Al-Zaybir was reportedly led away from the truck and people allegedly began hitting and kicking him. Al-Zaybir was then reportedly dragged to a room on the fourth floor containing a chair and a bare wire that was connected to an electricity supply. It is also alleged that five or six individuals began to beat him as they allegedly questioned him about the Democratic Front for Sudanese Students (DFSS) and particular individuals. An officer arrived and is said to have stopped the beating. He then reportedly questioned Al-Zaybir about DFSS and certain people. Mohamed Sidiq Al-Zaybir was allegedly beaten with a water hose when he claimed no knowledge of the group or the people. According to the information received, the beatings lasted from approximately 8.20 a.m. to 2 p.m. and from 3 to 6.30 p.m. His interrogators are also said to have threatened to kill him. Furthermore, it is reported that every time he lost consciousness from the beatings, he was allegedly forced awake by electric shocks and blows to the soles of his feet. At approximately 7 p.m., the officer mentioned above reportedly returned, accompanied by five other people. Al-Zaybir was allegedly put into a car and 30 minutes later was reportedly thrown out onto Al Jamhoria Street. According to information received, on the day of his release, Mohamed Sidiq Al-Zaybir reportedly had a medical examination which allegedly describes Al-Zaybir's injuries as including the following: severe bruising around both eyes; bruising and swelling on the right side of the forehead; a cut on the right ear; major swelling behind the left ear; a deep, 3 cm long cut on the back; a 4 cm. long cut on the left shoulder; 3 cm circular burns on the left hand; 3 cm circular burns on the soles of the right and left feet; bruising on the inside of the elbow and surface burns on the right forearm;

(g) **Shazly 'Abd Alfattah Ibrahim**, a 21-year-old third-year law student at Al-Nilein University, reportedly affiliated with the Democratic Front, was reportedly arrested at midnight on 28 May 2003 by a police patrol allegedly consisting of six officers. After they had reportedly found documents belonging to the Democratic Front, they took him to a house between May and East Kalakala streets. It is reported that he was interrogated there until 31 May. Shazly 'Abd Alfattah Ibrahim was allegedly beaten with electric cables and strangled with a wire during his detention. It is also reported that on 31 May, Shazly 'Abd Alfattah Ibrahim was transferred to an NSA building on University Street and then reportedly moved again to the building near Farouqh Cemetery, where the officers allegedly beat him with sticks and hit his head against the wall until he passed out. Then he

was reportedly moved to a building in the Amaraat area, where he reportedly remained until 2 June, date of his release. It is also believed that Shazly 'Abd Alfattah Ibrahim was told not to visit a doctor or contact any human rights organizations or he would be arrested again. Ibrahim reportedly visited a doctor, who allegedly confirmed his injuries.

710. On 25 September 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal concerning **Mohamed Saeif Al Dawla Ahmed Hassan**, a student, who was reportedly arrested on 17 September 2003 by the National Security Agency (NSA) at the entrance of the Faculty of Education, Wadi Al Nile University, in Atbara. It is alleged that he was subsequently taken to the NSA offices. It is believed that he may have been detained after protests by students over a new academic system issued on 23 July 2003 by the Wadi Al Nile University administration. In view of reports according to which other detained students have been subjected to torture and other forms of ill-treatment, fears were expressed that he may also be at risk of torture or other forms of ill-treatment.

711. On 3 October 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal regarding **Osman Ahmed Fagharay**, a 54-year-old retired Police Chief from Al a'Mra'ar, one of the clans belonging to the Beja tribe in eastern Sudan, and a former administrator of the Red Sea province during the late 1980s. It is reported that he was arrested on 28 September 2003 by the National Security Agency (NSA) and taken to his house in Shambat Alaradi, Khartoum North. He reportedly changed clothes and informed his family that he was under arrest. At 8 p.m. he was allegedly permitted to call his family and informed them that he was well and being questioned at the NSA offices and would likely be released on the same day or early the next day. However, it is reported that he had not been released at the time the communication was sent. It is further reported that he was denied access to his family and lawyer. Osman Ahmed Fagharay is said to suffer from diabetes and it is thought that he did not have his medication with him. Reports indicate that his son had taken him his medicine, but it was unclear whether the security forces allowed it to be delivered to him. He was believed to have been arrested following his participation in a symposium at Alnilain University, which was organized by the Beja Students' Association, where he allegedly criticized the health, economic and food security policies in the Red Sea province and demanded action by the Government. In view of his alleged incommunicado detention, fears were expressed that he may be at risk of torture or other forms of ill-treatment. Concern over his physical integrity was also expressed if he does not receive prompt and adequate medication.

712. On 3 October 2003, the Special Rapporteur sent an urgent appeal in connection, with information on the reported suspension of the **newspaper Al-Azminah** by the State Prosecutor in charge of subversion cases. According to information received, the State Prosecutor suspended *Al-Azminah* indefinitely on 30 September 2003, after a complaint by the army after the newspaper allegedly published an inaccurate report saying pro-government militias had been disbanded after a 25 September peace agreement with rebels

of the southern-based People's Liberation Army. It is reported that the State Prosecutor in charge of subversion cases took this decision in violation of a Presidential Decree which gives the authority to oversee press matters to the National Press Council.

713. On 8 October 2003, the Special Rapporteur sent a letter of allegation addressing the cases summarized below:

(a) **Faisal al Bagir Mohammed**, a journalist, correspondent in Sudan for the non-governmental organization Reporters Without Borders (RSF) and member of the Sudan Organization Against Torture (SOAT), was reportedly arrested on 8 June 2003 at the Khartoum airport, while he was coming back from Athens where he attended an international conference on the future of the news media in Iraq. It is reported that Mr. al Bagir was detained for two hours by airport security officials, who allegedly searched his bags and confiscated his passport and several newspapers. Mr. al Bagir was reportedly told to report later in the morning to the political affairs department of the National Security Office (NSA), where he was allegedly questioned about his journalistic activities, his political views, his trip to Athens and his links with SOAT, RSF and the Khartoum Centre for Human Rights. It is further reported that Mr. al Bagir was already arrested at his house in Khartoum on 7 October 2002, detained for five hours and questioned about a conference he attended in Dakar on freedom of expression. According to the information received, in June 2001, security forces confiscated various items connected with his work as a journalist, including a computer, a printer, a motorcycle and several documents, none of which has reportedly been returned to him at the time this communication was sent;

(b) On 9 May 2003, a Khartoum criminal court reportedly ordered the closure for two months of the newspaper *Khartoum Monitor*, allegedly for failure to pay criminal fines imposed on the newspaper, which penalized the publication of an article that the court found "inciting hatred" by allegedly misquoting the Qu'ran;

(c) On 15 January 2003, **Hashim Altayeb Yousif**, who was allegedly arrested after the clashes between student demonstrators and police that took place between 22 and 24 October 2002, was reportedly released after he signed a pledge not to become involved any more with any anti-government demonstrations or political activities. According to the information received, he was taken from Kober prison on 14 January and moved to security forces offices in Khartoum where he was allegedly kept in a small cell, called "the heater" due to its high temperature;

(d) On 19 December 2002, State security police officers reportedly seized all copies of the 19 December issue of three privately owned newspapers namely *Al-Horriya*, *As-Sahafi al-Dawli* and *As-Sahafa*, because they had allegedly published an announcement by the Animal Resources Ministry denying rumours that a cattle illness had infected humans through meat and milk consumption. According to our information, the Government had previously banned articles about the alleged contamination.

714. On 13 November 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal regarding **Suleiman Mohammed Idris, Daw al-Bait Omer Idris** and **Adam Dood Khamis**, all belonging to the Fur ethnic group, who were reportedly arrested on 21 September 2003 by men in army uniform in the town of Kabkabiya, in Darfur. Although it was thought that, at the time the communication was sent, they might have been held by army intelligence, no information about their whereabouts was reportedly disclosed. They were allegedly arrested under suspicion of belonging to the Sudan Liberation Army (SLA). In view of their reported incommunicado detention at an unknown place, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

715. On 19 November 2003, the Special Rapporteur sent an urgent appeal concerning the daily newspaper *Al-Ayam*, which was reportedly suspended indefinitely on 16 November 2003. According to information received, the State Prosecutor in charge of subversion crimes ordered this suspension under article 130, paragraphs 1 and 3, of the 1991 Code of Criminal Procedure, accusing the newspaper of "threatening the security and stability" of the country. It is further reported that on 18 November, the Prosecutor's Office summoned **Mahjoub Mohamed Salih**, editor-in-chief of *Al-Ayam*, along with journalist **Murtada Al-Ghali**.

716. In the same communication, the Special Rapporteur referred to reports that correspondents **Gasim Tah**, of *Al-Sahafa* newspaper, and **Mouhanad Hussain**, of *Akhbar Alyom*, were arrested by security forces at Niala on 15 November 2003 and released on the same day, while they were reportedly preparing a report on an Arabic militia's torching of two villages in South Darfur province.

717. On 3 December 2003, the Special Rapporteur sent an urgent appeal concerning the reported suspension on 24 November 2003 for an indefinite period of the English-language newspaper *Khartoum Monitor*. According to information received, the State Security Crimes Prosecutor charged the newspaper under article 130, paragraphs (1) and (2) of the 1991 Code of Criminal Procedure, after the publication of articles about slavery, and questioning the independence of the country's judiciary and national peace accords that were being negotiated. The prosecutor is said to have indicated that the newspaper "does not serve the interests of Sudan, its people or national stability".

718. On this occasion, the Special Rapporteur noted that there had been many instances of suspension of newspapers under this legal provision in the recent past, despite the public declaration in August 2003 by President Omar al-Beshir that press censorship was being lifted and that everyone would be free to say what they like in newspapers and on State-run television. These cases include the reported suspension of the daily *Alwan* on 2 September; the reported suspension of the *Khartoum Monitor* on 13 September; the reported suspension of the newspaper *Al-Azminah* on 30 September; and the reported suspension of the daily *Al-Ayyam* on 16 November (see the Special Rapporteur's communications dated 8 and 23 September, 3 October and 19 November 2003).

719. On 23 December 2003, the Special Rapporteur, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent a joint urgent appeal in connection with information regarding **Islam Salih Adam Belo**, the director of the Sudan office of the Arabic-language television channel Al-Jazeera, who was reportedly arrested in Khartoum, on 18 December 2003, and allegedly held in incommunicado detention. The arrest of Mr. Belo was believed to be linked to the search of the Khartoum office of Al-Jazeera by officers of the National Security Forces on 17 December 2003, during which equipment was reportedly confiscated, and Adam Belo and cameraman **Hamid Tirabwere** were briefly detained before being released. Reports indicate that the following day the office was closed down and Belo was re-arrested. A few days earlier, the National Security Forces had reportedly paid a visit to the office and warned them that the Government did not like some of the programmes broadcast on Sudan. The National Security Forces are reportedly allowed to detain people incommunicado without charge or trial for up to nine months under the National Security Forces Act.

Communications received

720. On 14 October 2003, the Government of Sudan responded to a communication sent on 8 March 2001 (E/CN.4/2002/75/Add.2, para. 85), and indicated that **Dr. Hassan Abdalla Alturabi**, leader of the Opposition Party, had been released on 13 October 2003. In this connection, the Government decided by presidential decree to lift the ban of all restrictions on the party's political activities.

721. On 21 October 2003, the Government responded to the communication of 23 September 2003, informing the Special Rapporteur that the measures of suspension against the *Khartoum Monitor* was lifted on 16 October. It also added that both Arabic newspapers *Alwaan* and *Alazimina* were able to continue their activities.

722. On 22 October 2003, the Government responded to the communication sent on 13 October 2003 concerning **Gazi Suleiman**, who was arrested on 2 July 2003 by the National Security Agency, indicating that he was released on 14 July. The Government also attached excerpts from the press conference that Gazi Suleiman gave the day after his release, in which he stated that he had been well treated during his detention.

723. On 24 November 2003, the Government responded to the communication of 19 November, indicating that the suspension of the newspaper *Al-Ayam* was cancelled by the Chief Public Prosecutor because it was unauthorized.

Observation

724. The Special Rapporteur thanks the Government of Sudan for its replies. However, he awaits further replies to his communications of 21 and 23 January, 7 April, his two communications of 9 May, his communications of 13 May, 24 June, 18 July, 5 August, 8 September, 25 September, his two communications of 3 October, his communications of 13 November and 3 and 23 December 2003, as well as his letters of allegation dated 24 September and 8 October 2003.

725. The Special Rapporteur would like to reiterate his request to undertake an official visit in the country, as expressed in his letter dated 8 December 2003.

Swaziland

Communications sent

726. On 19 August 2003, the Special Rapporteur and the Special Rapporteur on extra-judicial, summary or arbitrary executions sent a letter of allegation concerning the break-up by security forces of the **national strike** launched on 13 August 2003 by labour federations to protest the governance record of King Mswati III. According to information received, approximately 5,000 demonstrators gathered in the capital, Mbabane and 1,000 in the town of Manzini, and some demonstrators carried out acts of vandalism in the capital. Reports indicate that the riot police responded with teargas, and prevented the demonstrators from reassembling by beating them with truncheons. It is alleged that **one unionist** died as a result of the beatings by the police. In addition, it is alleged that the police fired live rounds to prevent agricultural workers from meeting in the Tambankhulu stadium, and that one of the demonstrators was admitted to Good Shepherd Hospital in Siteki with a gunshot wound. Finally, reports indicate that the police blocked a march to the Smart Partnership International Dialogue Summit's Village in Ezulwini, while protesters were trying to distribute flyers to the Summit's participants on what they describe qualify as the current Government's failings.

727. On 9 October 2003, the Special Rapporteur sent a letter of allegation on cases summarized below:

(a) On 29 July 2003, the Government reportedly proposed the introduction of a law that would impose a sentence of up to five years' imprisonment on **journalists** found guilty of violating the Secrecy Act. This proposed act would in effect prevent journalists from publishing anything deemed secret by the Government. It is reported that civil servants found guilty of disclosing such information would face the same punishment; the proposed act would also oblige journalists to reveal their sources of information.

(b) On 3 October 2002, the Royal Swaziland Police, acting on a court order, reportedly confiscated a video cassette containing a sermon that was broadcast on 6 September 2002 throughout the Southern African Development Community (SADC), on **Channel S**, a privately-owned television station. According to the information received, during this sermon, **Justice Dlamini** of the Swaziland Association of Christian Ministries, referring to the "Incwala" – a series of ceremonies in which the Swazis petition the ancestral spirits to endow the King of Swaziland with wisdom and the nation with good rains and fortune, suggested that some of the cultural practices in the country were ungodly. It is reported that the Government of Swaziland termed this sermon as threatening the foundations of the Kingdom.

Observations

728. The Special Rapporteur regrets that no replies were received from the Government of Swaziland at the time this report was finalized.

729. The Special Rapporteur would like to reiterate his request to undertake an official visit to the country as expressed in his letter dated 8 December 2003.

Syrian Arab Republic

Communications sent

730. On 9 January 2003, the Special Rapporteur sent an urgent appeal regarding **Ibrahim Hamdi**, the Director of *Al Hayat* newspaper in Damascus. According to the information received, Ibrahim Hamdi, aged 33, was arrested on 23 December 2002. Allegedly, Mr. Hamdi was detained on a charge of publishing false news, after publishing an article stating that the Syrian Arab Republic was ready to receive Iraqi refugees in case of war. Mr. Hamdi could be sentenced to between one and three years' imprisonment according to Syrian law.

731. On 30 June 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Mohammed Mustafa, Khaled Ahmed 'Ali, Sherif Ramadhan, 'Amr Mourad, Salar Saleh, Hosam Muhammed Amin and Hussayn Ramadhan**, all Syrian Kurds, who were reportedly arrested on 25 June 2003 by members of the police and security forces, during an alleged peaceful demonstration outside the Damascus headquarters of the United Nations Children's Fund (UNICEF). It is reported that the demonstrators were calling for civil and political rights for the Syrian Kurdish population, including the right of Syrian Kurdish children to be taught in the Kurdish language. The demonstration was reportedly dispersed violently by the security forces. It is believed that the above-named persons are currently being held in incommunicado detention and without charge at Mezze police station in Damascus. In view of their alleged incommunicado detention, fears have been expressed that they may be subjected to torture and other forms of ill-treatment.

732. On 24 July 2003, the Special Rapporteur sent an urgent appeal regarding **Abdel Rahman Shaghouri**, a 31-year-old resident of the village of Birajam, on whose behalf an urgent appeal had already been sent by the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers on 26 June 2003. According to information received, Mr. Shaghouri, who was reportedly arrested by secret service agents without warrant on 23 February 2003, was recently moved to Sednaya Prison near Damascus. The reason for his arrest might be related to Mr. Shaghouri having accessed Internet sites relating to the political situation in the Syrian Arab Republic. It is believed that Mr. Shaghouri may be tried by a military or state security court, although no formal charges seem to have been brought against him since his arrest in February 2003.

733. On 23 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture regarding **Mohammed Mustafa, Khaled Ahmed 'Ali, Sherif Ramadhan, 'Amr Mourad, Salar Saleh, Hosam Muhammed Amin and Hussayn Ramadhan**. It is reported that these persons have been moved to the political wing of Adra Prison, near Damascus, where they are allegedly being held in solitary confinement. Prior to their transfer, the men were allegedly subjected to torture and other forms of ill-treatment for 23 days at the security branch of Mezze police station in Damascus. Their health is believed to be deteriorating. In addition, it is alleged that in August or September 2003, the above-named men were said to have appeared blindfolded and without legal representation in front of the Supreme State Security Court (SSSC). According to the information received, **Mas'oud Hamid**, who is reportedly a second-year media student at Damascus University, was arrested by political security officers on 24 July 2003, while he was taking an examination. He is said to have participated in the 25 June 2003 peaceful demonstration to mark World Children's Day, outside UNICEF headquarters in Damascus, where the seven men were arrested. In the light of allegations of torture and their alleged solitary confinement, serious fears have been expressed that the above-named persons may be at risk of further torture and other forms of ill-treatment. Fears have also been expressed regarding their health if they do not receive appropriate and prompt medical treatment.

734. On 31 October 2003, the Special Rapporteur sent a communication regarding the following alleged cases of violation of the right to freedom of opinion and expression:

(a) The Special Rapporteur was informed that on 31 July 2003, a decree withdrawing the publication licence of the satirical weekly *Addomari* was issued. It is reported that the reason invoked was an alleged breach of the law governing news publications. The decree was reportedly adopted because *Addomari* had violated laws and regulations in force by failing to appear for more than three months. However, it is reported that *Addomari* had not been published since April 2003 because of censorship from the authorities. Knowing that *Addomari* would be banned if an issue were not published by the beginning of August 2003, the publisher prepared an issue for 28 July 2003 with the lead headline, "The issue of faith in reform". The distribution of this issue was reportedly banned, on the grounds that it contained reports about news media that are subject to censorship. It was further reported that several of the newspaper's journalists were summoned for questioning by various security agencies.

(b) According to the information received, the family of **Nizar Nayyounf**, a member of the banned Independent Committee for the Defence of Democratic Freedoms and Human Rights, and editor-in-chief of its monthly newsletter *Sawt-al-Democratiyya*, has reportedly been harassed in order to force family members to condemn Mr. Nayyounf's critical statements about the Government. It is reported that two of Mr. Nayyounf's brothers, **Amjad** and **Mamdouh**, both teachers, were dismissed from their positions after they reportedly refused to condemn Mr. Nayyounf's statements. Another brother, **Hayyan**, a student at Tishreen University in Lattakia, was reportedly threatened by university officials, who allegedly told him that he would not be allowed to graduate unless he publicly

stated that his brother's statements were lies. It is reported that Nizar Nayyounf was arrested on 10 January 1992 and sentenced to ten years' imprisonment for disseminating false information and belonging to an unauthorized organization, after he allegedly reported on human rights violations during the 1991 elections. He was reportedly released nine years later in order to receive medical treatment abroad. On 3 September 2001, while abroad, Mr. Nayyounf was reportedly sentenced in absentia with "trying to change the constitution by illegal means and issuing false reports from a foreign country". It is further reported that the three brothers were given an ultimatum by the authorities to either condemn Nizar Nayyounf's statements by 22 November 2001 or face retaliatory exile from their home cities or from the country. It is reported that land belonging to their parents was confiscated by the authorities.

735. On 7 November 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture, regarding **'Abdel Rahman Shaghouri**, a 31-year-old detainee at Sednaya Prison. The Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers and the Chairperson-Rapporteur on the Working Group on Arbitrary Detention sent a joint urgent appeal in connection with this case on 26 June 2003. The Special Rapporteur sent a second urgent appeal on 24 July 2003. According to new information received, Mr. Shaghouri was subjected to torture while in custody before being transferred to Sednaya Prison, Damascus. It is also alleged that although it was announced that his lawyer would have been given access to him in the next few days, he has been kept in incommunicado detention since his arrest. He was allegedly expected to be tried before SSSC in December 2003. Fears have been expressed that he may be at risk of further torture or other forms of ill-treatment in Sednaya Prison in view of his alleged incommunicado detention.

736. On 12 December 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture regarding Mr. **Arwad Muhammad 'Izzat Al-Buchi**, a 45-year-old engineer with dual Canadian and Syrian nationality. He was reportedly held incommunicado in Sednaya prison and at risk of torture or ill-treatment. According to reports, Arwad Muhammad 'Izzat Al-Buchi has been in detention in the Syrian Arab Republic since 20 July 2002, following his return after 23 years in exile in Canada and Saudi Arabia. For part of his detention period, he was held at the Palestine Branch of Military Intelligence in the capital, Damascus, where he was reportedly subjected to torture, and was kept in solitary confinement for prolonged periods. On 1 April 2003, he was transferred to Sednaya prison. Arwad Muhammad 'Izzat Al-Buchi has reportedly not been charged with any offence but it is thought that his suspected association with alleged members of the unauthorized opposition group, the Muslim Brotherhood Organization, may be the cause for his arrest and detention.

Communications received

737. By a letter dated 22 May 2003, the Government replied to the Special Rapporteur's urgent appeal of 19 December 2002 (E/CN.4/2003/67/Add.1, para 548), regarding **Hassan Salih** and **Marwan Uthman**, indicating that both are members of a proscribed political party. The Government reported that the two men incited acts of

violence and unrest in Damascus and distributed literature criticizing national policy in breach of the provisions of Act No. 2, the Associations Act No. 47 of 1953 and Act No. 93 of 1998. The Government indicated that Hassan Salih and Marwan Uthman were being tried before the courts.

738. By a letter dated 12 August 2003, the Government replied to the Special Rapporteur's urgent appeal of 30 June 2003 regarding **Mohammed Mustafa, Khaled Ahmed 'Ali, Sherif Ramadhan, 'Amr Mourad, Salar Saleh, Hosam Muhammed Amin and Hussayn Ramadhan**. The Government responded that these persons were brought to justice for offences they had committed and that they were treated well and not subjected to any form of ill-treatment.

739. By a letter dated 15 September 2003, the Government replied to the Special Rapporteur's urgent appeal dated 24 July 2003 regarding Mr. **Abdel Rahman Shaghouri**. The Government indicated that the competent authorities arrested Mr. Shaghur on 23 March 2003 for disseminating articles via the Internet to persons outside the Syrian Arab Republic. The Government further indicated that in view of the contents of these articles, Mr. Shagur was breaching State security and was therefore arraigned by SSSC.

740. By a letter dated 14 November 2003, the Government replied to the Special Rapporteur's urgent appeal dated 23 September 2003 concerning **Mohammed Mustafa, Khaled Ahmed 'Ali, Sherif Ramadhan, 'Amr Mourad, Salar Saleh, Hosam Muhammed Amin, Hussayn Ramadhan and Mas'oud Hamid**. The Government reported that the aforementioned persons are to be tried for committing acts that are offences under law. They are being held at Adara prison pending their trial and are treated in accordance with the standards applied in prisons and detention centres throughout the world.

Observations

741. The Special Rapporteur thanks the Government of the Syrian Arab Republic for its replies, but awaits responses to his communications dated 9 January, 31 October, 7 November and 12 December 2003.

Thailand

Communications sent

742. On 7 March 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Representative of the Secretary-General on human rights defenders regarding the death threats against **Pradit Chareonthaitawee**, a National Human Rights Commissioner. According to the information received, Pradit Chareonthaitawee has received many death threats via anonymous telephone calls to his home. He is currently afraid for both his own safety and that of his family. The Special Rapporteur also received information indicating that efforts may be underway to impeach Pradit Chareonthaitawee. The alleged death threats and references to impeachment of Pradit Chareonthaitawee occurred following statements he reportedly made to the United Nations about alleged

human rights abuses in Thailand, in the context of efforts by the authorities to end the trade in illegal drugs, and press reports quoting criticisms that he allegedly made of the Government of Thailand.

743. On 14 July 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding 11 democracy activists from Myanmar currently in Thailand – UNHCR recognized refugees **Moe Hein, Zeya Win, Htay Lwin, Saw Naing Kyaw** and **Khin Thandar Soe**, and UNHCR recognized asylum seekers, **Khin Maung San, Zaw Min Latt, Soe Thu Lwin, Kyaw Kyaw, Ko Latt** and **Ko Ko Naing** – who have reportedly been arrested and charged with illegal entry into Thailand. The activists, who are said to include columnist and key member of the Democratic Federation of Burma (DFB), **Soe Muhem**, were allegedly arrested by the police in Bangkok on 26 June 2003, for distributing leaflets demanding the release of Aung San Suu Kyi, during a meeting to plan a protest in front of the embassy of Myanmar on 30 June 2003. The Thai authorities have reportedly indicated that the activists may be deported to Myanmar. Fears have been expressed that they might face a serious risk of being subjected to torture. According to the information received, these arrests reportedly follow warnings from the State Peace and Development Council, the ruling party in Myanmar, to the Thai authorities that student activists from Myanmar might be planning to raid the embassy of Myanmar in Bangkok, kidnap Myanmar diplomats and the Minister of the Interior, or bomb the Bangkok International Airport in their campaign to free Aung San Suu Kyi. Such allegations have reportedly been refuted by Myanmar student activists, who believe them to be an attempt to force a major crackdown on pro-democracy groups which have previously been given refuge in Thailand. Concerns have been expressed that this may mark the beginning of a wider crackdown on Myanmar activists in Thailand.

744. On 14 October 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Representative of the Secretary-General on human rights defenders, regarding the alleged fact that the Government of Thailand publicly stated that any public protests in the context of the Asia-Pacific Economic Cooperation (APEC) summit in Bangkok on 20 and 21 October 2003 would lead to repercussions against the organizations involved. According to the information received, the Government has indicated that protesting organizations would in the future be prevented from receiving government funds from poverty eradication programmes. The Government has reportedly threatened to blacklist any NGO taking part in public protests and the police force has reportedly already prepared a list of NGOs in order to monitor their activities during the summit. According to information received, the Government has ordered that visas be denied to foreign activists who might be expected to organize protests during the APEC summit. The Special Rapporteur expressed concern that the maintaining of lists of defenders, monitoring by the police and the denial of visas as a means of preventing people from expressing concern on human rights issues, all represent violations or restrictions of the right to freedom of expression and the rights defined in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The information received indicated that the Government has cited security precautions as justification for these restrictions. The Special Rapporteur noted that peaceful protests cannot be portrayed

as a security threat and he urged the Government to make every effort to retract statements against potential protesters and to urgently ensure, in time for the APEC summit, protection of the rights to freedom of expression and related rights in the Declaration on human rights defenders.

745. On 31 October 2003, the Special Rapporteur sent a communication regarding **Chaisiri Samuddhavanij**. According to the information received, on 8 August 2002, Chaisiri Samuddhavanij, a columnist at the *Manager Daily* newspaper, was reportedly sentenced to three months in jail after losing a defamation case filed by former Minister of Foreign Affairs, Surin Pitsuwan. The defamation suit came after Mr. Chaisiri published an article in January 2002, in which he alleged that the former minister was involved in attacks by Myanmar dissident groups on the Myanmar embassy in October 1999 and on a provincial hospital in January 2000. The Special Rapporteur is of the view that criminal sanctions, in particular imprisonment, for libel and defamation are not deemed proportional with an effective exercise of the right to freedom of opinion and expression.

Communications received

746. By a letter dated 14 May 2003, the Government of Thailand replied to the Special Rapporteur's urgent appeal dated 7 March 2003, concerning the death threats against **Pradit Chareonthaitawee**, a National Human Rights Commissioner. The Government reported that the National Police ordered an investigation with the aim of verifying the validity and reliability of the alleged threat to his life. The Government added that Pradit Chareonthaitawee had not lodged any complaint with the Thai police regarding any threat to his life. As for the possibility of his impeachment, the Government reported that the power of impeachment rests solely with the House of Representatives and the Senate and that the Government of Thailand cannot interfere with the work of the National Commission on Human Rights.

747. By a letter dated 29 August 2003, the Government replied to the Special Rapporteur's urgent appeal of 14 July 2003, regarding allegations of **11 democracy activists from Myanmar** arrested in Thailand on 26 June 2003. The Government reported that their arrest was carried out strictly under provisions of the Immigration Act 1979 and did not relate to their political affiliation or activity. The Government indicated that the above-mentioned Myanmar nationals were subsequently transferred to the detention centre of the Immigration Bureau in Bangkok and that they were awaiting determination of the case by the authorities concerned. Finally, the Government indicated that checks with the Regional Office of UNHCR in Bangkok showed that four of the above Myanmar nationals have been granted the status of persons of concern (POC) while the rest are undergoing the process of status determination. However, as the Government of Thailand is not a party to the 1951 Convention relating to the Status of Refugees, it has no obligation to recognize the status of POC and retains the right to treat POC in accordance with the provisions of the Thai immigration law.

748. By a letter dated 3 December 2003, the Government replied to the Special Rapporteur's urgent appeal of 14 October 2003 concerning steps taken by the competent Thai authorities in dealing with **public protests in the context of the APEC summit in**

Bangkok on 20 and 21 October 2003. The Government reported that the Thai authorities did not bar anyone from organizing demonstrations during the APEC Summit. However, as a security precautionary measure, the Thai authorities had provided designated locations where protestors might hold public demonstrations. On 19 October 2003 around 1,000 demonstrators took part in a rally. The Government of Thailand did not in any way obstruct, or intervene in, the rally, but instead urged the demonstrators to express their opinions in a peaceful manner in the interest of keeping public order. The police were on hand to provide security throughout the rally, during which respect for the rule of law was strictly observed. With regard to blacklisting and the denial of visas to foreign activists, the Government of Thailand further indicated that it reserves the right to grant or deny entry into its territory like other sovereign States which have full prerogative in the determination of their territorial integrity. In so doing, the competent authorities have taken due account of the existing immigration laws and the necessity to maintain public order and national sovereignty.

749. By a letter dated 22 December 2003, the Government replied to the Special Rapporteur's communication of 31 October 2003 concerning the prosecution of **Chaisiri Samuddhavanij**. The Government reported that with regard to the Special Rapporteur's opinion that imprisonment for defamation is not deemed proportional to the offence and may constitute a violation of human rights concerning the freedom of opinion and expression, the Ministry of Justice is of the view that human rights and freedom in expressing opinions through speaking, writing, publishing and other means of communication are fundamental rights, which must be protected. However, the Government of Thailand indicated that such rights and freedom may be limited by the rule of law for reasons relating to national security. In the case of Chaisiri Samuddhavanij, the court has passed judgement that he is guilty of defamation and will be punished with three months' imprisonment. Finally, the Government reported that if the accused disagrees with the judgement of the Court, he still has the right to appeal.

Observations

750. The Special Rapporteur thanks the Government of Thailand for its replies and willingness to cooperate with his mandate.

The former Yugoslav Republic of Macedonia

Communications sent

751. On 19 December 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on human rights defenders, regarding the case of **Zoran Bozinovski**, a journalist known for his efforts to write on corruption and human rights abuses, who allegedly received on 4 and 5 December 2003, threats against his life and the lives of his two young daughters. According to information received, the threats were in response to reports made by him on corruption among officials in the Government and the judiciary, and were reported to have originated from a Macedonian businessman allegedly linked to criminal gangs. Zoran Bozinovski reportedly filed a confidential

complaint with the police on 4 December, including audio recordings of explicit death threats against himself and his daughters. Following his initial report to the police, the same person allegedly threatened him again on 5 December for having reported the earlier threats to the police. On 18 December 2003, the police allegedly informed Zoran Bozinovski that the person who had threatened him had been cautioned but no criminal charges had been pressed against him. Reports also indicated that Zoran Bozinovski had been attacked on 24 September 2002 by three men armed with iron bars, who broke into the offices of the Tumba radio station in Kumanovo, after which he was taken to the hospital with severe head and hand injuries. At the time of the attack, he was reportedly investigating corruption involving the head of the Macedonian customs service. The assailant sentenced for the 2002 attack was allegedly never imprisoned.

Observations

752. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

Togo

Communications envoyées

753. Le 7 mars 2003, le Rapporteur spécial et le Rapporteur spécial sur la question de la torture ont envoyé un appel urgent concernant **Mazama Katassa**, membre de l'Union des forces du changement (UFC), un parti de l'opposition, qui aurait été arrêté à Sotouboua, dans le centre du Togo, le 26 février 2003. Le 1^{er} mars 2003, il aurait été transféré dans les locaux de la gendarmerie de Kara, dans le nord du pays, où il était semble-t-il détenu au secret au moment de l'envoi de cette communication. D'autres membres de l'UFC auraient été arrêtés et soumis à des mauvais traitements par des membres de l'armée, en particulier **Marc Palanga**, responsable du mouvement supposément arrêté le 9 février 2003 à Kara. Peu après sa mise en liberté le 17 février 2003, Marc Palanga se serait rendu à Sokode, dans le centre du Togo, où il aurait reçu les traitements médicaux nécessaires pour soigner les lésions qui lui auraient été causées lors de sa détention. Marc Palanga aurait été à nouveau arrêté le 22 février 2003. Des craintes ont été exprimées quant à l'intégrité physique de Mazama Katassa et Marc Palanga en raison de la supposée détention au secret du premier et l'état de santé du second, notamment en vertu des renseignements selon lesquels il aurait récemment été soumis à de mauvais traitements.

754. Le 25 juin 2003, le Rapporteur spécial, le Rapporteur spécial sur la question de la torture, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé conjointement un appel urgent concernant **Colombo Kpakpabia**, journaliste à l'hebdomadaire *Nouvel Écho*, **Dimas Dzikodo**, éditeur en chef du journal *L'Événement*, et **Philippe Evegno**, directeur de publication du même journal. Selon les informations reçues, Colombo Kpakpabia aurait été arrêté le 14 ou le 15 juin 2003 et serait depuis détenu à la Direction générale de la police à Lomé. Cependant, la police n'aurait fourni aucune explication sur les raisons de cette supposée détention, qui

par ailleurs n'aurait été ni confirmée ni niée. Dimas Dzikodo aurait été arrêté dans un cyber-café par les forces de sécurité le 14 juin 2003, alors qu'il scannait des photographies de personnes qui auraient été blessées par les forces de sécurité lors des élections présidentielles du 1^{er} juin 2003. Philippe Evegno, le directeur de publication, aurait également été arrêté le 15 juin 2003. Les deux hommes auraient été accusés de diffuser de fausses informations et de provoquer le désordre public. Ils auraient été tenus au secret pendant quatre jours. Le 19 juin, les deux journalistes auraient participé à une conférence de presse organisée par les autorités, qui les auraient accusés de vouloir envoyer les photographies à l'étranger afin de ternir l'image du pays. Un commissaire aurait en outre déclaré que ces photographies représentaient des personnes blessées lors d'accidents de la circulation. Pendant la conférence de presse, Dimas Dzikodo aurait présenté des signes de faiblesse et se serait plaint de mauvais traitements reçus pendant sa détention au secret.

755. Le 9 octobre 2003, le Rapporteur spécial a envoyé une lettre d'allégation concernant les cas décrits ci-dessous:

- (a) Le 18 novembre 2002, la police se serait rendue à l'imprimerie de l'hebdomadaire Motion d'information et aurait saisi les 2 000 exemplaires du numéro 202 avant sa mise en vente, sur ordre du Ministère de l'intérieur. Selon les informations communiquées, il semblerait qu'aucun arrêté de saisie n'ait été remis à la rédaction. En outre, il est rapporté que les numéros 199, 200 et 201 avaient été confisqués dans les mêmes conditions. Ces saisies pourraient, selon certaines informations, être liées à la publication, le 21 octobre, d'un article intitulé «En attendant le vote des bêtes sauvages» dans lequel le déroulement des dernières élections législatives était critiqué;
- (b) le 5 novembre 2002, Siliadin Kodjo, directeur de la rédaction de l'hebdomadaire La Tribune du peuple aurait été interpellé par six gendarmes en civil pour avoir, semble-t-il, publié un article le mois précédent dans lequel il dénonçait la répression par les forces de l'ordre d'une manifestation organisée par un parti de l'opposition. Selon les informations communiquées, depuis la parution de cet article, plusieurs journalistes de cet hebdomadaire auraient reçu des coups de téléphone anonymes menaçants;
- (c) le 6 août 2002, les forces de l'ordre auraient arrêté Claude Améganvi, président du Parti des travailleurs et coordonnateur de «Quelle solution pour le Togo?», un mouvement récemment créé afin d'exposer, entre autres, les cas d'impunité. M. Améganvi aurait été inculpé pour «diffusion de fausses nouvelles et troubles à l'ordre public». Selon les informations communiquées, il aurait été arrêté alors qu'il sortait d'un entretien avec le Ministre de l'intérieur, de la sécurité et de la décentralisation, au cours duquel il aurait demandé la libération de deux enseignants, Djoura Tiguéna et Takana Badjessa, qui auraient été arrêtés après avoir distribué des tracts pour le mouvement «Quelle solution pour le Togo?».

Communication reçue

756. Dans une correspondance datée du 9 septembre 2003, le Gouvernement togolais a répondu à la communication du 25 juin, et confirmé l'interpellation de **Dzilan Komlan Dodji, Avegnon Philippe** et **Kpakpabia Koffi** le 14 juin 2003 sous les accusations de tentative de trouble à l'ordre public et diffusion de fausses nouvelles. Déférés au parquet par la Direction générale de la police nationale suivant procès-verbal d'enquête préliminaire du 15 juin 2003, ils ont été écroués le 24 juin 2003. Ils ont été transférés devant les autorités judiciaires qui ont déclaré non coupables Avegnon Philippe et Kpakpabia Koffi, et condamné Dzilan K. Dodji à une amende de 500 000 francs CFA le 22 juillet 2003. Un appel de cette décision a été interjeté.

Observations

757. Le Rapporteur spécial remercie le Gouvernement togolais pour sa réponse, mais regrette de n'avoir reçu, à ce jour, aucune réponse concernant les autres cas.

Tunisia

Communications envoyées

758. Le 22 juillet 2003, le Rapporteur spécial, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats ont envoyé conjointement un appel urgent concernant les nouvelles atteintes présumées portées à la liberté de réunion en Tunisie, ainsi que sur l'agression dont aurait fait l'objet M^e **Radhia Nasraoui**, avocate et présidente de l'Association de lutte contre la torture en Tunisie (ALTT). Selon les informations reçues, un groupe de supposés policiers en civil se serait déployé dimanche 13 juillet 2003, afin d'empêcher la tenue d'une réception organisée par la Ligue tunisienne des écrivains libres, pour leur deuxième anniversaire. Les policiers auraient fait barrage dans une rue à 20 mètres environ du domicile de M. Jalloul Azzouna, écrivain et président de la Ligue, où devait avoir lieu la réception, obligeant ainsi tous les invités à faire demi-tour. Arrivés peu après, M^e Nasraoui et M. Azzouna auraient réussi à passer le barrage. Mais alors que M^e Nasraoui serait descendue de sa voiture, les hommes en civil l'auraient poussée contre un mur puis violemment frappée. M. Azzouna, qui aurait tenté de la défendre, aurait été malmené dans la bousculade qui s'en serait suivie. M^e Nasraoui, qui souffrirait de contusions aux bras, aurait décidé de porter plainte. Des craintes ont été exprimées que cette attaque ne soit une réponse à la création, par M^e Nasraoui, de l'Association de lutte contre la torture en Tunisie, dont l'enregistrement aurait été refusé le 26 juin dernier.

759. Le 23 juillet 2003, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé conjointement un appel urgent concernant M^e **Mohamed Nouri**, président de l'Association internationale de soutien aux prisonniers politiques (AISPP). Selon les informations reçues, le 18 juillet 2003, à son retour de l'étranger, la maison de M^e Mohamed Nouri, se trouvant dans la région de Soliman (à 50 km de Tunis), aurait été encerclée par un vaste dispositif de police. M^e Mohamed Nouri y aurait été enfermé durant

tout l'après-midi, sans que personne ne puisse le joindre, pas même sa famille proche. Son téléphone portable aurait été bloqué pendant plusieurs heures. Des craintes ont été exprimées quant au fait que ces événements soient liés à la visite de M^e Nouri en Suisse, du 9 au 16 juillet 2003, dans le cadre de la campagne actuelle menée par l' AISPP, pour une amnistie générale des prisonniers politiques durant laquelle il aurait établi des contacts avec des organisations internationales de défense des droits de l'homme.

760. Le 10 octobre 2003, le Rapporteur spécial a envoyé, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, un appel urgent concernant **Néziha Rejiba**, journaliste connue sous le nom de plume **Om Zied** et membre du Conseil national pour les libertés en Tunisie (CNLT), une organisation qui travaille à la défense des droits humains, l'égalité entre les sexes, et la promotion des valeurs démocratiques, qui aurait été convoquée le 25 septembre 2003 par le Bureau des infractions de change de la Direction des enquêtes douanières, supposément pour avoir donné 170 euros à un jeune Tunisien alors qu'elle rentrait d'un séjour à l'étranger. Il semblerait que cette accusation pourrait être abusive, dans la mesure où, selon la loi tunisienne en matière de contrôle des changes, Mme Rejiba avait une semaine à son retour de voyage pour changer ses devises. Selon les informations reçues, Néziha Rejiba aurait également été agressée à plusieurs reprises depuis 2000 par des membres des forces de l'ordre, notamment à la sortie de réunions du CNLT, en particulier le 1^{er} mars 2001, lors d'une réception organisée par le CNLT qui aurait été violemment empêchée par un déploiement de forces de polices. Son courrier serait contrôlé et parfois confisqué, et sa ligne téléphonique serait sur écoute permanente et souvent coupée. Le journal en ligne auquel elle participe (*Kalima*) aurait été interdit en Tunisie – bien qu'il soit accessible depuis l'étranger. Des craintes ont été exprimées que cette convocation ne soit liée avec le travail de Néziha Rejiba pour les droits humains, en particulier ses reportages sur des questions touchant à l'éducation et la corruption supposée du gouvernement.

761. Le 13 octobre 2003, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé conjointement une lettre d'allégation concernant les cas décrits ci-dessous:

(a) Le journaliste **Abdallah Zouari**, qui travaillerait pour les droits des prisonniers et des détenus islamistes. Selon les informations reçues, M. Zouari aurait été condamné le 18 juillet 2003 à quatre mois de prison ferme pour «diffamation» par le tribunal cantonal de Zarzis. M. Zouari aurait passé 11 années en prison pour «appartenance à une organisation illégale» et, à sa libération en juin 2002, le Ministère de l'intérieur lui aurait notifié une mesure administrative d'éloignement à Zarzis, dans le sud du pays, pendant cinq années, alors que sa famille résiderait à Tunis. Il semblerait qu'en septembre 2002 M. Zouari aurait été condamné à huit mois de prison pour avoir violé cette mesure d'éloignement, et il aurait été libéré deux mois plus tard pour «raisons humanitaires». Par la suite, le 18 juillet 2003, M. Zouari aurait été condamné à quatre mois de prison à la suite d'une plainte pour diffamation d'une gérante d'un cyber-café, qui lui aurait refusé l'autorisation de naviguer sur Internet. M. Zouari aurait fait appel, suspendant l'application de sa peine. Il semblerait de plus que M. Zouari aurait été arrêté le

17 août 2003 à Ben Guerdane, près de Zarzis, et accusé «d'infraction à une mesure de contrôle administratif à laquelle il était soumis», et condamné le 29 août à neuf mois de prison ferme. Toutefois, il semblerait que son arrestation soit liée au fait que M. Zouari ait accompagné une mission d'enquête de l'organisation de défense des droits de l'homme Human Rights Watch dans le sud de la Tunisie;

(b) le 6 février 2003, les forces de l'ordre auraient dispersé un **rassemblement d'environ 50 personnes** organisé par le Comité national pour le soutien de **Zouhair Yahyaoui** et la Ligue tunisienne des droits de l'homme devant la prison de Borj El Amri où M. Yahyaoui, fondateur et animateur du site Internet TUNEZINE, serait détenu. Il est également rapporté que **Sihem Ben Sédrine** et **Abderraouf Ayadi**, respectivement porte-parole et secrétaire général du Conseil national pour les libertés en Tunisie (CNLT), une organisation qui travaille à la défense des droits humains, **Omar Mestiri**, membre du bureau politique du Forum démocratique pour le travail et les libertés, et **Marc Thorner**, de la radio allemande WDR, auraient été emmenés au poste de police de Bojr El Amri où ils auraient été soumis à des fouilles. L'appareil d'enregistrement de M. Thorner aurait été confisqué et d'autres participants auraient fait l'objet de filature à leur retour sur la route Borj El Amri-Tunis.

762. Le 22 octobre 2003, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé conjointement une correspondance au Gouvernement tunisien concernant le supposé licenciement et passage à tabac de **Mokhtar Yahiaoui**, juge et Président du Centre de Tunis pour l'indépendance de la justice (CIJ) ainsi que membre fondateur de l'Association internationale de soutien aux prisonniers politiques (AISPP), au sujet duquel un appel urgent avait été envoyé le 8 avril 2002 par la Représentante spéciale et le Rapporteur spécial sur l'indépendance des juges et des avocats. Selon les informations reçues, le 29 décembre 2001, Mokhtar Yahiaoui aurait été licencié de son poste de juge après avoir demandé le respect de l'indépendance des juges dans une lettre ouverte au Président. Le 10 décembre 2002, lors de la Journée internationale des droits de l'homme, l'AISPP aurait publié un appel, signé par Mokhtar Yahiaoui, demandant le respect des droits des prisonniers politiques et la fin de leur détention au secret. Le lendemain, Mokhtar Yahiaoui aurait été attaqué et battu alors qu'il se rendait à une réunion avec des avocats des droits humains dans le centre de Tunis. Des craintes ont été exprimées que Mokhtar Yahiaoui n'ait été attaqué à cause de son travail en faveur des droits humains.

763. Le 3 décembre 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé un appel urgent sur la situation de **Bouraoui Makhoulf, Habib Ellouz, Khaled Baccouche, Ridha Saïdi, Mokdad El Arbaoui, Ali Hrbi, Mohamed Néjib Ellouati, Chokri Bahria, Abdel Hamid Jelassi, Lofti Senoussi** et **Abdallah Idrissa**, qui seraient emprisonnés en raison de leur militantisme islamiste. Ces personnes, auparavant détenues à Mahdia, El Houareb, Messadine ou Tunis, auraient été transférées fin octobre 2003 à la prison de Bordj El Amri, où elles se trouveraient depuis lors isolées dans des cellules individuelles de 2 mètres de long et 1,5 mètre de large. Ces cellules seraient dépourvues d'eau courante et ne seraient équipées que d'une seule paille. Ces cellules n'auraient pas accès à la lumière naturelle et ne seraient que

faiblement éclairées par une lampe se trouvant dans le couloir qui diffuserait un peu de lumière à travers un trou dans la porte. Les détenus ne seraient autorisés à sortir de ces cellules que durant une promenade quotidienne en solitaire de cinq minutes. Le seul contact permis aux détenus serait avec le gardien de la cellule. Par ailleurs, les détenus seraient privés de journaux, livres et télévision et il leur serait interdit d'avoir du papier ou de quoi écrire. Il est allégué que certaines des personnes détenues dans ces conditions auraient contracté des pathologies graves et des infections malignes. Les personnes nommées ci-dessus auraient initié une grève de la faim il y a plus de 30 jours comme forme de protestation contre leur emprisonnement et les conditions de détention décrites ci-dessus. D'après les renseignements reçus, malgré leur état de faiblesse et les maladies de certains d'entre eux, les détenus n'auraient jusqu'à ce jour pas reçu de soins médicaux adéquats.

Communications reçues

764. Le 10 janvier 2003, le Gouvernement tunisien a envoyé une réponse concernant la communication du 4 février 2002 relative au cas de **Hamma Hammami, Samir Taamallah** et **Abdeljabbar Maddouri**, condamnés par défaut le 14 juillet 1999 par la chambre correctionnelle du tribunal de première instance de Tunis à neuf ans et trois mois d'emprisonnement avec exécution immédiate pour participation et complicité dans une entreprise ayant pour but de porter atteinte aux personnes et aux biens par l'intimidation et la terreur, association de malfaiteurs, mise à disposition de lieux de réunion, incitation à la rébellion, tenue de réunions illégales, publication de fausses nouvelles dans l'intention de troubler l'ordre public et incitation de la population à enfreindre la loi, en vertu des articles 32, 52 *bis*, 131, 132 et 121 du Code pénal, 44, 49, 50, 52 et 62 du Code de la presse et 2, 5 et 23 de la loi du 24 janvier 1969.

765. Le 14 janvier 2002, les intéressés ont fait opposition au jugement et l'affaire a été inscrite au rôle de l'audience du 2 février 2002. Le ministère public a ordonné leur arrestation en vertu du jugement rendu par défaut en date 14 juillet 2002. Après comparution des prévenus, le tribunal a décidé la recevabilité de l'opposition au jugement sur la forme; quant au fond, les prévenus ont refusé de répondre aux chefs d'inculpation, et la cour a décidé le maintien des peines initialement prononcées, et a ajouté une peine de deux ans d'emprisonnement à l'encontre d'Abdeljabbar Maddouri pour avoir proféré pendant l'audience des propos blasphématoires portant atteinte aux bonnes mœurs.

766. Le 5 février 2002, les trois condamnés et le ministère public ont fait appel. Le 9 mars, la cour d'appel de Tunis a reporté l'affaire et refusé la libération provisoire des prévenus. Le 30 mars, la cour d'appel a prononcé un arrêt ramenant la peine de M. Hammami à trois ans et deux mois d'emprisonnement, et celles de MM. Taamallah et Maddouri à un an et neuf mois d'emprisonnement. La peine supplémentaire de M. Maddouri a été maintenue en appel. Le 8 avril, les trois prévenus se sont pourvus en cassation et, le 2 septembre, la cour de cassation a confirmé le jugement de la cour d'appel.

767. Quant à **Ammar Amroussia**, il a été arrêté à Tunis le 2 février 2002, incarcéré le même jour en exécution d'un arrêt rendu par la cour d'appel de Gabès du 10 novembre 1997 le condamnant à deux ans et trois mois de prison pour appartenance à une association

illégal, distribution de tracts de nature à troubler l'ordre public et collecte illégale de fonds.

768. Le 4 septembre 2002, Hama Hammami et Samir Taamallah ont bénéficié d'une libération conditionnelle pour raisons humanitaires, appliquée à Abdeljabbar Maddouri et Ammar Amroussia le 5 novembre 2002 pour les mêmes raisons.

769. Le 10 janvier 2003, le gouvernement a répondu à la communication du 25 juin 2002 (E/CN.4/2003/67/Add.1, par. 574) concernant **Moncef Chaker**, indiquant que ce dernier a été convoqué le 31 mai 2002 par la police suite à des informations selon lesquelles des attentats terroristes seraient projetés en Tunisie dont il serait l'initiateur. L'enquête n'ayant pas confirmé ces soupçons, il a été remis en liberté. Il est à noter que le ministère public n'a pas été saisi de demande d'examen médical de la part de M. Chaker ni de ses proches, comme il en aurait eu le droit selon la loi en vigueur.

Observation

770. Le Rapporteur Spécial remercie le Gouvernement pour ses réponses, et espère recevoir des réponses à ses communications envoyées au cours de l'année 2003.

Turkey

Communications sent

771. On 9 October 2003, the Special Rapporteur sent an urgent appeal, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding the case of **Yiannis Kanelakis**, a Greek journalist of the independent Greek television station Mega, and his colleague **Anestis Moutafis**, engineer, who were detained on 7 October 2003 in Caykara, near Trabzon, northern Turkey, by members of the Turkish army. It was reported that Yiannis Kanelakis was reporting on the Greek Pontiac people, who live in the Pontos area of Turkey. He was accompanied by the president of the Greek Pontiacs Federation, Stefanos Taximanidis, and his assistant, Stathis Taxidis. They were apparently first arrested by members of the police force on 5 October 2003, after a local resident complained that they were "making Pontiac propaganda". The four individuals were allegedly then apprehended by the army on 7 October and placed in detention. It was reported that Stefanos Taximanidis and Stathis Taxidis were later released, but that the journalists remained in detention. No charges had reportedly been brought against them. Their tape recordings and papers were confiscated, reportedly in order to check the contents.

772. On 14 October 2003, the Special Rapporteur sent a communication regarding the confiscation of a book entitled *Kurds, the children of the Jinn and in the footsteps of their country* by **Margaret Kahn**. According to information received, the Istanbul State Security Court's decision stated "because it was determined that the preface and foreword of the book included propaganda against the indivisible integrity of the Turkish Republic, its country and people", it decided to confiscate the book in accordance with article 28 of the Constitution and article 1/2 of Law No.86. It was reported that the preface of the book

was written by the publishing house, Avesta, and that it included information to readers who are not knowledgeable about the situation. Furthermore, the foreword was written by the author and reportedly included general information about the Kurdish people.

773. On 29 October 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Representative of the Secretary-General on human rights defenders, concerning the situation of the **Human Rights Foundation of Turkey (HRFT)**, which is allegedly facing trial. HRFT is an organization that provides assistance to victims of torture and keeps a record of human rights violations. On 28 July 2003, the General Directorate of Foundations reportedly filed a case with the Duty Court of First Instance against HRFT and its board members, reportedly on the basis of an annual inspection of the organization it carried out in 2001. HRFT was allegedly charged with attempting to collect contributions via the Internet, and presenting reports to, and cooperation with, international organizations without permission, in contravention of the Law on Collecting Contributions (No. 2860 of 1983) and the Regulations on Foundations under the Turkish Penal Code. The charges reportedly relate, inter alia, to the translation into English of the “Special report on the prison problem in Turkey”, the dissemination of the same report at the international level, a meeting with the Special Rapporteur on extrajudicial, summary or arbitrary executions, as well as the provision of information on operations in Turkish prisons to the EU Rapporteur for Turkey, and on the human rights situation in Turkey to the Council of Europe Commissioner for Human Rights. The first hearing of the case was reportedly held at the Civil Court of First Instance No. 15 on 12 November 2003. Concern has been expressed that this trial may be aimed at preventing HRFT from carrying out activities in favour of human rights.

774. On 30 October 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Representative of the Secretary-General on human rights defenders, regarding the case of **Alp Ayan**, psychiatrist and staff member of HRFT Izmir Treatment and Rehabilitation Centre, which provides assistance to torture victims, and **Mehmet Barindik**, Aegean region representative of the Limiter-Is Union, a trade union for shipyard workers. Alp Ayan was the subject of an urgent appeal by the Special Representative on 22 October 2002. On 16 May 2001, a case was reportedly opened against Alp Ayan and Mehmet Barindik in the Izmir Heavy Penal Court No. 4 in connection with their press statement during an “Izmir Platform against F-Type Prisons” demonstration on 13 January 2001. On 10 June 2002, Alp Ayan and Mehmet Barindik were allegedly sentenced to one year of imprisonment, on charges of violating article 159 of the Turkish Penal Code. The Supreme Court of Appeals reportedly decided to abrogate the Izmir court decision in view of the recent amendment to article 159 on 2 August 2002. On 19 June 2003, the rehearing was reportedly held at the Izmir Heavy Penal Court. During the hearing, the public prosecutor reportedly demanded the release of the defendants on the grounds that the press release was not beyond criticism. However, the court allegedly decided to renew its decision and sentenced both men to one year of imprisonment. The case had reportedly been appealed at the Supreme Court.

775. On 10 November 2003, the Special Rapporteur sent a communication, jointly with the Special Representative of the Secretary-General on human rights defenders, regarding the case of **Veli Lök**, a surgeon and the Izmir Representative of HRFT. On 11 February

2000, Veli Lök was reportedly tried at Izmir Penal Court of First Instance No. 2 under article 30(2) of the Press Law on charges of “disclosing opinions about court decisions and inspiring and advising the Court”. These charges were reportedly connected with comments published on 31 October 1999 in the daily newspaper *Cumhuriyet* about the remand and prosecution of Alp Ayan and Günseli Kaya, also members of HRFT, a case which was the subject of an urgent appeal by the Special Representative on 22 October 2003. On 13 June 2000, Veli Lök was allegedly sentenced to one month’s imprisonment, which was later reportedly commuted to a fine, and then suspended under a general amnesty.

776. The same urgent appeal also mentioned the alleged trial of **Eren Keskin**, lawyer and President of the Istanbul branch of the Turkish Human Rights Association (IHD) and of **Erdal Tas**, editor-in-chief of the daily newspaper *Yeni Gündem*. On 18 December 2001, the Bayoglu Prosecutor allegedly filed a case against Eren Keskin, under article 159 of the Turkish Penal Code for “insulting the armed forces of the State”. This was allegedly connected to statements made by Eren Keskin in the *Yeni Gündem*, in support of a group of alleged victims of police torture. On 15 June 2001, a case was also allegedly filed under article 159 of the Turkish Penal Code against Erdal Tas, for having published Erin Keskin’s statements. Concern has been expressed that Eren Keskin may have been targeted owing to her work on human rights, in particular, her advocacy on behalf of the alleged victims of torture.

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

778. On 19 December 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Representative of the Secretary-General on human rights defenders, concerning the situation of **Sezgin Tanrikulu**, Chairman of Diyarbakir’s Bar Association, **Sabahattin Korkmaz**, **Burhan Deyar** and **Habibe Deyar**, all lawyers of the Diyarbakir’s Bar Association. On 5 December 2003, the Diyarbakir Heavy Penal Court held its second hearing in the case lodged against the four above-mentioned lawyers by the Governorate. Sezgin Tanrikulu, Sabahattin Korkmaz, Burhan Deyar and Habibe Deyar were reportedly indicted on 3 June 2003, under article 240 of the Turkish Penal Code and article 59/1-2 of

the Law on Legal Profession, for "misconducting duty" and "abusing their legal responsibility" in connection with compensation cases of 96 villagers from Çaglayan village of Kulp district (Diyarbakir), Ziyaret and Uluocak villages of Lice district, which were reportedly evacuated and burned in 1993 and 1994. The Court had reportedly adjourned the hearing to 24 December 2004 at 10:00 a.m. Concerns had been expressed that the court case was launched against the lawyers to intimidate and prevent them from denouncing the forced evictions and house demolitions resulting in forced displacement, reportedly carried out between 1989 and 1999 as a form of punishment against the Kurdish population living in the southern and south-eastern regions of Turkey.

Communications received

779. On 3 February 2003, the Government replied to an urgent appeal of 28 October 2002 (see E/CN.4/2003/67/Add.1, para. 591), and stated that in accordance with article 160 of the Turkish Penal Code, a lawsuit was filed against Mehmet Emin Sert on 26 April 2002. Another lawsuit was filed on the basis of article 159 of the Turkish Penal Code (insulting State institutions) against Emin Karaca and Dogan Özgüden on 23 May 2002. Their cases were still pending at the time of the letter. The Government drew attention to the fact that article 159 of the Turkish Penal Code had been amended in August 2002, as a consequence of which "oral or visual expressions of thought made only for criticism without the intention to insult or deride State bodies or institutions" no longer entail a penalty.

780. On 21 February 2003, the Government replied to a joint urgent appeal of 13 November 2002 (see E/CN.4/2003/67/Add.1, para. 592), and stated that on 3 November 2002, Ridvan Olcasöz, Fahri Kini (Kino), Semsettin Solhan and Ramazan Akman, were present as election observers in a primary school utilized as a voting centre and insisted on asking to remain in the voting room and stand in front of the ballot boxes while people were voting. The chairman and members of the Electoral Committee responsible for organizing and monitoring the election in that district refused this request. As they persisted in their request, the chairman of the Electoral Committee officially asked them to leave the voting room. A few persons were injured as a result of their violent resistance. Following the incident, Ridvan Olcasöz, Fahri Kim (Kino) and Semsettin Solhan were sent to public hospital. Medical reports indicated that there was no danger to their lives. As a result of the complaint by Ridvan Olcasöz, Fahri Kmi (Kino), Semsettin Solhan and Ramazan Akman, an investigation was initiated by the Public Prosecutor. The inquiry was under way at the time of the reply.

781. In its response, the Government highlighted the description of the Democratic People's Party (DEHAP) as "pro-Kurdish" in the Special Rapporteur's letter, calling it unfortunate. The Government stated that it gave an incorrect impression that political parties in Turkey are divided along ethnic lines. Stating that constitutional citizenship is a fundamental principle in Turkey, the Government further indicated that the term "Turkish" includes all Turkish citizens regardless of their ethnic background. DEHAP is a political party, the programme and activities of which should be in line with democratic principles just like all other political parties in Turkey.

782. In the same reply, concerning the other persons mentioned in the urgent appeal, the Government mentioned that Selahattin Örnek and Savas Yildaz had initiated a lawsuit with the Office of the Kiziltepe Public Prosecutor on the grounds that a group of people opposed their vote. The lawsuit was still pending at the time of the reply. Finally, regarding the case of Alaatin Ari, the latter stated to the competent authorities that neither he nor anyone from his village was subjected to any kind of intimidation before, during or after the elections. He also mentioned that he did not receive any kind of threat. It was established that no application of such a nature was made to the judicial or administrative authorities.

783. On 16 April 2003, the Government replied to an urgent appeal of 11 April 2002 (see E/CN.4/2003/67/Add.1, para. 583) and, in a follow-up to a letter dated 26 June 2002, stated that Burak Bekdil had been sentenced to one year and eight months' imprisonment on the grounds of insulting the judiciary. The relevant court also decided to suspend the execution of this sentence. An appeal was filed, upon which the High Court overruled the decision of the Court of First Instance. The case was thus sent back to the Court of First Instance and was still pending at the time of the response. On 4 June 2003, the Government sent updated information on the same case, mentioning that as a result of the above-mentioned review of the case, the Court of First Instance sentenced Burak Bekdil to two years' imprisonment in accordance with article 159 of the Turkish Penal Code. The Court however decided to lower the sentence to one year and eight months, in accordance with article 59 of the Penal Code and, taking into consideration his background, the Court postponed the sentence in accordance with article 6 of the Law No. 647.

784. On 2 July 2003, the Government sent additional information regarding a communication of 26 July 2002 (see E/CN.4/2003/67/Add.1, para. 590), on the case of Abdullah Keskin, namely that he was sentenced to a fine of 830,446,000 Turkish liras. On appeal, the High Court approved the decision of the Istanbul State Security Court.

785. By facsimile dated 24 October 2003, the Government replied to the urgent appeal of 9 October 2003 and stated that Mr. Anestis Mutatis and Mr. Ioannis Canellakis interviewed local residents in the area of Caykara, Trabzon, asking these residents whether they were of Greek origin and whether they wanted to go to Greece. As these activities caused unrest and suspicion among some of the local residents, the Public Prosecutor ordered that they be taken into custody. After a brief investigation, the journalists were promptly released and two compact disks in their possession were transmitted to a technical unit in order to verify whether or not they contained unlawful material. The journalists were informed that their compact disks would be returned later. In the meantime, the Greek authorities have thanked their Turkish counterparts for their cooperation in this case.

786. By letter of 18 November 2003, the Government replied to the communication of 14 October 2003. It stated that a lawsuit was filed against Abdullah Keskin, editor-in-chief of *Vesta*, on the grounds that the publication contained propaganda against the integrity of Turkey. Nevertheless, after having examined the entire book, the State Security Court

considered that its contents were not in breach of the law and decided to acquit Mr. Keskin. The case was pending before the Court of Cassation at the time of the reply.

787. By letter of 19 December 2003, the Government replied to the urgent appeal of 30 October 2003 and, referring to letters of 29 November 2002 and 26 May 2003 to the Special Representative, confirmed that Alp Ayan and Mehmet Barindik had been sentenced on 10 June 2002 to one year of imprisonment for “insulting the Ministry of Justice”. The Court of Cassation overruled the latter decision on 27 February 2003. Upon retrial of the case, Mehmet Barindik was again sentenced to one year of imprisonment while the sentence of Alp Ayan was increased to one year and one day of imprisonment according to article 81/1-3 of the Turkish Penal Code. The appeal against the latter sentence was pending at the time of the reply.

788. On 24 December 2003, the Government replied to a joint urgent appeal of 28 June 2001 (see E/CN.4/2002/75/Add.2, para. 266) and, following up to a note verbale of 29 August 2001, stating that, on 7 September 2001, the Turkish General Staff Military Court decided to acquit the following accused: Sadik Tasdogan, Mehmet Sanar Yurdatapan, Cengiz Bektas, Yilmaz Ensaroglu, Siyami Erdem, Vahdettin Karabay, Ibrahim Ömer Madra, Etiyen Mahcupyan, Ayse Lale Mansur, Mehmet Atilla Maras, Hüseyin Ali Nesin, Zuhail Bilginer, Hüsnü Öndül, Yavuz Önen, Erdal Öz and Salim Uslu. The lawsuit filed against the accused for "making propaganda for the armed terrorist organization through publication" in violation of Turkish legislation was concluded, on 29 September 2003, with their acquittal.

789. By letter of 30 December 2003, the Government replied to the urgent appeal of 30 October 2003 and stated that on 28 July 2003, a lawsuit was indeed filed against 10 administrators of HRFT on the grounds of Law No. 2860 related to the collection of aid and for having “engaged in cooperation activities with foreign institutions without obtaining the consent of the Council of Ministers”. The case was pending at the time of the reply and the next hearing was due to have taken place on 20 January 2004.

Observations

790. The Special Rapporteur thanks the Government of Turkey for its replies and awaits a response to his communication of 19 December 2003.

Turkmenistan

Communications sent

791. On 31 October 2003, the Special Rapporteur sent a communication regarding **Sazak Begmedov**, father of Tajigul Begmedova (f), chair and founder of the Turkmenistan Helsinki Foundation, a non-governmental human rights organization, who reportedly lives in Bulgaria. According to information received, on 31 August 2003, Sazak Begmedov was allegedly abducted by four officers of the Ministry of Internal Affairs in Ashgabad. He was reportedly beaten and forcefully escorted to an aeroplane, which flew to Dashagous, near the border with Uzbekistan. Upon requesting the reason for this forced

internal displacement, he was allegedly told by one officer that it was related to “some Turkmen Helsinki Committee”. It is further reported that the local police in Dashagous refused to take his complaints about being beaten into account. On 3 September 2003 Sazak Begmedov was reportedly hospitalized in Dashagous with a heart attack, allegedly owing to ill-treatment by the officers. Concern has been expressed that Sazak Begmedov may have been targeted in reprisal for his daughter’s activities with the newly established Turkmenistan Helsinki Foundation, in particular organizing open letters, public radio statements and pickets, and writing Internet articles in order to highlight human rights concerns in Turkmenistan.

792. On 28 November 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders, regarding **Saparmurat Ovezberdiev**, a correspondent for *Radio Free Europe/Radio Liberty's* Turkmen-language service in Ashgabat. According to information received, on 14 November 2003, two men believed to be secret service agents forcibly took Mr. Ovezberdiev to an Ashgabat cemetery, where he was allegedly brutally beaten, threatened and dumped on the side of a road. Mr. Ovezberdiev reportedly sustained head injuries in the incident. In addition, reports indicate that on 11 September 2003, Mr. Ovezberdiev was arrested by National Security Ministry officers and detained for three days. He was allegedly drugged, manhandled and threatened with a 20-year prison sentence. These actions might be related to one of Mr. Ovezberdiev's radio programmes, "Open microphone", in which listeners are given an opportunity to speak out when their rights are violated and to get in touch with legal experts and human rights organizations abroad. It is reported that National Security Ministry officials have called for the cancellation of the programme on several occasions.

Observations

793. The Special Rapporteur regrets that no reply had been received from the Government of Turkmenistan at the time the report was finalized.

Uganda

Communications sent

794. On 22 January 2003, the Special Rapporteur sent a letter to the Government of Uganda concerning **Vincent Matovu**, managing editor of the local Luganda-language weekly *Mazima*, who has reportedly been accused of sedition, in connection with the publication of two articles concerning the war between rebel groups and government forces in the north of the country. It is reported that after appearing before a court in Kampala, where he denied the charges brought against him, Mr. Matovu was remanded in custody on 6 January and was being held in Luzira prison, near Kampala, at the time the communication was sent. The measures taken against him reportedly prevented the publication of *Mazima* in the last week of December 2002.

795. It is also reported that three journalists from *The Monitor* appeared before the courts in October 2002, charged with having published "false information endangering national security", after the publication of an article concerning the conflict between rebel and government forces in the north of the country. The police occupied the newspaper's premises and prevented its publication for a week.

796. On 13 October 2003, the Special Rapporteur and the Special Rapporteur on the independence of judges and lawyers, jointly sent a letter of allegation regarding the Law Council of Uganda's public announcement in August 2003 stating that it will enforce Regulation 22 of the Advocates (Professional Conduct) Regulations of 1977, which reportedly states that all lawyers are to refrain from participating in radio talk shows, making public comments, writing articles or issuing press statements on legal or constitutional matters. The Special Rapporteurs were informed that the only way to be exempt from this Regulation would be to obtain express authorization from the Council, a body that is under the authority of the Ministry of Justice.

Observation

797. The Special Rapporteur regrets that no reply from the Government of Uganda has been received to date.

Ukraine

Communication received

798. On 4 June 2003, the Government resubmitted its reply of 25 October 2002 to the urgent appeal of 12 July 2002 (see E/CN.4/2003/67/Add.1, para. 614). It stated that, on 9 and 10 July 2002 the Office of the Procurator-General of Ukraine received two statements from Mr. Viktor Vorotnikov, chief editor of the newspaper *Grani*, dated 21 June 2002 and 5 July 2002, reporting what he believed to be criminal activities on the part of certain officers of the Council for National Security and Defence of Ukraine (CNSDU), and requesting guarantees of his safety. Among other things, Mr. Vorotnikov stated that, following the publication on the *Grani* web site of an article entitled "Apocalypse liberty" by the journalist Mr. S. Romanovsky, his personal safety was in real and significant danger from CNSDU officer V.D. Sitar, whom he believed was unquestionably acting under the direct instructions of CNSDU Secretary E.K. Marchuk. In July and August 2002, officers from the investigative unit of the Central Military Procurators' Department of the Office of the Procurator-General investigated the allegations made in Mr. Vorotnikov's statements. In the meantime, it had been established that the allegations published in the aforementioned article were fictitious and untrue. Accordingly, it was only right and proper that Mr. Sitar should suggest that a retraction of this information be published. Moreover, Mr. Vorotnikov's assertions that the Ukrainian law enforcement bodies failed to react to his appeals for assistance and protection were also untrue. Investigations established that CNSDU officers Marchuk, Sukhovy and Alekseenko took no action whatsoever against Mr. Vorotnikov. Mr. Sitar had a number of telephone conversations and one meeting with Mr. Vorotnikov. In this capacity Mr. Sitar acted as a private individual, not as a representative of CNSDU, and did not abuse his official position,

overstep his powers or use threats against Mr. Vorotnikov. Consequently, on 23 August 2002, Colonel V.A. Zhuravel, chief investigative officer of the Central Military Procurators' Department of the Office of the Procurator-General, decided not to proceed with a criminal case in the light of the investigation of Mr. Vorotnikov's statements regarding CNSDU officers Marchuk, Sitar, Alekseenko and Sukhovy, on the basis of article 6, paragraph 2, of the Ukrainian Code of Criminal Procedure (lack of evidence of an offence in the actions of any of the individuals involved). All the persons concerned, including Mr. Vorotnikov, were advised of this decision, their right to appeal and the procedure for doing so.

Observations

799. The Special Rapporteur thanks the Government of Ukraine for its reply.

United Kingdom of Great Britain and Northern Ireland

Communication sent

800. On 17 October 2003, the Special Rapporteur sent a communication regarding the following cases:

(a) According to the information received, two journalists, **Liam Clarke**, Northern Ireland editor of *The Sunday Times*, and his wife **Kathryn Johnston**, were arrested on 1 May 2003, following the publication on 30 April 2003 in the newspapers *The Times*, *The Sun* and *The Irish News* of extracts from their book "From guns to government". These extracts reportedly included transcripts of four telephone conversations in 1999 and 2001 between Martin McGuinness, leader of the Sinn Féin and, at the time of the recordings, Minister for Education in Northern Ireland and a member of Parliament, and Jonathan Powell, chief of staff to Prime Minister Tony Blair; Mo Mowlam, at that time Secretary of state for Northern Ireland; Gerry Adams, president of the Sinn Féin; and a woman named Kathleen. It was reported that the recordings were made by the Police Service of Northern Ireland (PSNI) at the request of the secret intelligence service MI5, and allegedly authorized at the highest political level. On 30 April 2003, armed police officers reportedly arrived at the home of Liam Clarke and Kathryn Johnston, searched the place and confiscated four computers and a large number of documents, many of which were reportedly not connected to the case, but to other enquiries made by the two journalists. It was further reported that PSNI raided the Belfast office of the *Sunday Times* and confiscated 18 bags of documents, computer diskettes and computer equipment. Liam Clarke and Kathryn Johnston were allegedly arrested under the Official Secrets Act at 2 a.m. on 1 May 2003, and taken to the police interrogation centre in Atrim, where they were interviewed several times. They were reportedly released after 24 hours in custody, and the confiscated items were returned to them on 6 May, although PSNI reportedly kept some of the documents. The police also reportedly photocopied some of the documents but did not specify which ones, and indicated that they had copied the contents of the hard drives of the computers.

(b) **Jim McDowell**, editor of the newspaper *Sunday World*, reportedly received death threats from so-called loyalist paramilitary groups, and the Ulster Defence Association (UDA), which have also ordered a boycott of the *Sunday World*. According to information received, during the last week of March 2003 Mr. McDowell was visited twice by the police, who informed him that he and his family were in danger. This followed the *Sunday World*'s exposure of the activities of UDA's so-called brigadier in east Belfast, who sits on the "Loyalist Commission" –an umbrella body comprised of the main loyalist groups, unionist politicians and officials and Protestant churches, saying that he has allegedly amassed a personal fortune through drug peddling. It was further reported that the Loyalist Commission, which includes the Protestant Ministers and Protestant clergymen as well as loyalist paramilitary groups, endorsed a UDA boycott of the newspaper, claiming that it was printing lies and demonizing the loyalist community. The boycott was apparently enforced by paramilitary groups, which had reportedly warned Protestant shopkeepers not to stock the newspaper and forced shops to put up posters calling on Protestants to boycott the *Sunday World*, "or else they would be dealt with". The Special Rapporteur noted in this respect that a journalist from the *Sunday World*, Martin O'Hagan was murdered by the Loyalist Volunteer Force on 28 September 2001 after he received death threats, and that no progress had yet been made in the investigation into his assassination. It was reported that the number of death threats against journalists by loyalist groups had increased since the murder of Mr. O'Hagan. It was also reported that at the beginning of 2003, shots were fired at the home of another *Sunday World* journalist, who was then forced to relocate.

Communication received

801. On 19 December 2003, the Government of the United Kingdom of Great Britain and Northern Ireland replied to the communication of 17 October 2003 and provided the following observations:

(a) In the case of Mr. Clarke and Ms. Johnston, a person has been charged under the Official Secrets Act. It would therefore be inappropriate to comment on matters relating to the case, it being an operational matter for the Police Service of Northern Ireland. The Government of the United Kingdom can, however, assure that safeguards are in place, throughout the United Kingdom, in relation to intercepted communications. Part 1 of the Regulation of Investigatory Powers Act 2000 governs the authorization and conduct of warranted interception by public bodies. The Act provides for an independent Interception of Communications Commissioner to oversee the warranted interception regime. The Commissioner must hold, or have held, high judicial office. In addition, the Act also established the independent Investigatory Powers Tribunal, made up of senior members of the judiciary and legal profession. Anyone may complain to the Tribunal if he or she is aggrieved by conduct for, or in connection with, the interception of communications. The statutory Code of Practice on interception of

communications sets out, among other things, how intercepting agencies should deal with confidential journalistic material.

(b) In the case of Mr. McDowell, the Police Service of Northern Ireland is the body responsible for the investigation of allegations of intimidation and threats to life or property in Northern Ireland. They can confirm that there have been a number of threats and intimidation by loyalist paramilitaries directed towards the *Sunday World* newspaper. However, there is a lack of evidence on the source of the threats and the acts of intimidation. The Government provided, in an annex, specific instances in this respect. The Police Service of Northern Ireland can also confirm that Jim McDowell was the subject of a threat emanating from republican paramilitaries in July 2003 and a threat from Loyalist paramilitaries in August 2003. It is believed that both threats resulted from separate articles appearing in the newspaper. However, the police cannot confirm that they visited Mr. McDowell during the last week of March 2003, nor can the existence of a threat be substantiated. There is no evidence to suggest that following these articles the Loyalist Commission endorsed a UDA boycott of the newspaper.

(c) In the case of Mr. O'Hagan, the Police Service of Northern Ireland also confirmed that he received a number of death threats following his appointment as a reporter for the *Sunday World*. Approximately two weeks before Mr. O'Hagan's murder, veiled threats were made to him by a named individual. These threats were investigated and a suspect arrested but there was insufficient evidence to prosecute that person. The investigation into the murder of Mr. O'Hagan was actively pursued and eight suspects were arrested. To date, however, there is no evidence to connect them to the crime and support a prosecution. The investigation remains open but no active lines of enquiry remain. It was alleged that at the beginning of 2003, shots were fired at the home of another *Sunday World* journalist. The police cannot confirm this.

Observations

802. The Special Rapporteur thanks the Government of the United Kingdom of Great Britain and Northern Ireland for its reply and willingness to cooperate with the mandate.

United Republic of Tanzania

Communication sent

803. On 5 December 2003, the Special Rapporteur sent an urgent appeal concerning the reported suspension on 24 November 2003 of the publication of the newspaper *Dira*, published by the Zanzibar International Media Company (ZIMCO), allegedly for violating professional ethics. According to information received, the Minister of State responsible for information in the Chief Minister's Office said that in accordance with the suspension order, the company was not supposed to publish, circulate or republish any previous issues in any part of the United Republic of Tanzania until further notice. It is reported that the paper was suspended under subsection (1) of section 30 of the Zanzibar Registration of

Newsagents, Newspapers and Books Act number 5 of 1998, after the Government reportedly reached the decision to ban the newspaper because it had allegedly been fomenting sentiments of hatred between the Government and its people, by distorting the history of the Zanzibar revolution and the Union, and creating “classes of islanders and mainlanders”.

Observations

804. The Special Rapporteur regrets that no reply was received from the Government at the time this report was finalized.

United States of America

Communications sent

805. On 17 September 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture, regarding the case of **anti-war protestors** who were subjected to an alleged use of excessive force by Oakland police at the Port of Oakland on 7 April 2003. It was reported that police fired non-lethal weapons including beanbags, wooden dowels and “sting ball grenades” at the demonstrators when they refused to obey police orders to disperse. At least 12 protestors and 9 longshoremen standing nearby, who were not involved in the demonstration, were alleged to have been injured. Those injured were reportedly hit in the back, arms, neck and face. While according to police reports, police opened fire after demonstrators began throwing rocks, concrete and steel bolts at them, the Special Rapporteurs had also received information according to which the police opened fire first, only 30 seconds after ordering demonstrators to disperse, and that they fired projectiles directly at demonstrators at close range, including the wooden dowels, which should reportedly only be fired into the ground.

806. On 14 October 2003, the Special Rapporteur sent an urgent appeal concerning reports that on 7 October 2003, the military authorities made reporters visiting the United States of America naval base at Guantanamo Bay, Cuba, which houses a detention camp where suspected Al-Quaida members and their Taliban allies are being held, sign a statement in which they undertook not to ask questions about investigations that are under way at the base or risk removal from the base. According to information received, on 7 October, three journalists from Associated Press, *The New York Times* and Fox Television were reportedly forced to sign the statement before boarding a flight from Jackson Military Airbase, Florida, to Guantanamo. It was reported that the statement read: "Asking questions or perspectives about ongoing and/or future operations or investigations can result in restricted access [to] Gitmo [Guantanamo], removal from the installation, and/or revocation of DoD [Department of Defence] press credentials".

807. On 22 October 2003, the Special Rapporteur sent a communication regarding the following cases:

a) The Special Rapporteur received reports of surveillance of journalists visiting the Guantanamo military base, where suspected Al-Quaida members and Taliban are detained by the United States military forces. For example, on 20 June 2003, military authorities reportedly separated a BBC crew from a group of journalists visiting the Camp Delta detention centre in Guantanamo Bay, seized its sound equipment and erased recordings in which prisoners could be heard shouting questions to the journalists. It was further reported that journalist Vivian White, who had reportedly responded to questions from detainees asking if the visitors were journalists, was then confined to a building at some distance from the camp. It is also reported that the room occupied by an Italian television crew in the naval base was searched on 11 September 2002, when it was suspected that the crew had filmed in an unauthorized area. Reports also indicated that journalists who visited the base in 2002 were escorted at all times and that their contact with base personnel, including civilians, was monitored. This reportedly followed the publication of the photographs of 20 detainees being treated in a degrading manner upon their arrival at the Guantanamo Bay base in January 2002. The Pentagon then allegedly cited "security reasons" for banning the news media from covering the construction of Camp Delta on Guantanamo Bay, as well as the transfer of detainees from Camp X-ray to Camp Delta, both in Guantanamo Bay, a few months later.

b) The Special Rapporteur also received information according to which six French journalists were detained upon their arrival at Los Angeles airport and forcibly repatriated. According to information received, the journalists arrived in Los Angeles in two groups one day apart; the first group reportedly consisted of **Alexandre Alfonsi** of *Télé 7 Jours*, **Stéphanie Pic** of *Télé Poche* and **Michel Perrot** of *TV Hebdo*, who arrived at 2 p.m. on 10 May 2003. Ms. Pic and Mr. Perrot passed through immigration without any problem, but Mr. Alfonsi was reportedly denied access to United States territory on the grounds that he lacked the required visa. It is reported that Ms. Pic and Mr. Perrot tried to find out from airport officials what had happened to their colleague, and then all three journalists were reportedly detained and held for a total of 26 hours, which included a night in the cells of an immigration detention centre. They were reportedly subjected to interrogation sessions and six body searches, handcuffed while being moved from one place to another, and fingerprinted. They were reportedly put on a flight for France at around 4 p.m. the next day and only allowed to recover their passports when the aeroplane made a stopoff in Amsterdam. The other group reportedly consisted of **Thierry Falcoz**, editor-in-chief of *Game One* cable television, and two cameramen, **Laurent Patureau** and **Alex Gorsky**. They reportedly arrived at Los Angeles international airport at around 3 p.m. on 11 May 2003. Messrs Falcoz and Gorsky passed through immigration without a problem but Mr. Patureau was reportedly stopped by an official who said he needed a press visa. It is reported that when Mr. Patureau's two colleagues protested, all three of them were detained. They were reportedly held for nine hours in an airport waiting room, and were then taken to a United States immigration detention centre where they were reportedly held overnight in a cell. They were reportedly subjected to repeated body searches and interrogation, handcuffed when taken from one place to another, and fingerprinted. Finally, they were reportedly put on a flight back to France at around 6 p.m. the next day.

c) The Special Rapporteur was also informed that reporters of the pan-Arab television station Al-Jazeera, **Ammar al-Sankari** and **Ramzi Shiber**, were banned from the New York Stock Exchange (NYSE) and had their accreditation cancelled on 25 March 2003. According to NYSE spokesman Ray Pellechia, it had been decided to restrict media accreditations “for security reasons”. However, reports indicated that Al-Jazeera, which had been accredited to NYSE for the past five years, was the only one of the 26 media houses covering the NYSE to be excluded. It was feared that this decision might have been taken as a reprisal for the television station’s coverage of the war in Iraq, and in particular the airing of pictures of United States soldiers captured by the Iraqi army.

808. On 29 October, the Special Rapporteur sent a communication to the attention of the Coalition Provisional Authority related to alleged cases of violation of the right to freedom of opinion and expression that occurred in Iraq:

(a) On 24 September 2003, United States soldiers from the 2nd Battalion, 70th Armored Regiment, 1st Armoured Division, reportedly arrested Associated Press photographer **Karim Kadim** and his driver **Mohammed Abbas**. According to information received, the two men were arrested in Abu Ghraib, just outside Baghdad, handcuffed and forced to stand three hours in the sun. They were reportedly denied water and the use of a telephone, although they identified themselves as journalists, and the soldiers reportedly kept their guns trained on them the whole time. It seemed that when the two approached the troops, they identified themselves, and they were asked not to take pictures and to leave. While they were complying with the orders, they were reportedly asked to turn around and approach the soldiers, then detained for three hours.

(b) Reports also indicated that United States troops detained Al-Jazeera correspondent **Atwar Bahgat** and her cameraman **Yasser Bahgat** (no relation) during the night of 11 September 2003, in the Ghazaliya section of Baghdad. It is reported that the two were filming near the Ghazaliya Bridge, which had been sealed by United States troops after an explosion allegedly took place earlier in the day. An American soldier reportedly approached them and ordered them to back away from the bridge; they complied with the order, but continued filming, and then soldiers reportedly grabbed Yasser Bahgat, put both journalists into a high mobility multi-purpose wheeled vehicle (or Humvee) and took them to a detention centre at Baghdad airport, where they were reportedly interrogated about the explosion at the bridge during the day. They were reportedly released the following afternoon.

(c) On 17 August 2003, United States forces shot at Reuters cameraman **Mazen Dana** from an armoured vehicle and killed him, outside the Abu Ghraib prison near Baghdad, after they allegedly mistook his camera for a rocket-propelled grenade launcher. It was reported that Mr. Dana had secured permission from United States forces to film in that area, as he wanted to report on a mortar attack the previous day which killed six Iraqis. It was further reported that an internal inquiry concluded that the soldiers had acted within the rules of engagement,

although the report allegedly failed to clarify what the rules of engagement for fighting terrorists hiding among the civilian population are.

(d) On 18 August 2003, United States army troops reportedly opened fire on the car of Associated Press reporters **Tarek al-Issawi** and **Karim Kadhim**, and a driver **Qassim al-Saidi** in the town of Khaldiya. It was reported that no one was injured but the car, which carried on the windshield a three-foot-wide white laminated sign indicating "PRESS" in black letters, was badly damaged.

(e) On 27 July 2003, **Kazutaka Sato**, of Japan's Nippon Television Network, was allegedly beaten by United States soldiers in Baghdad and detained for an hour until other foreign journalists came to find him. He was reportedly thrown on the ground and kicked after filming a United States army attack in the city's Al-Mansur district, in which five civilians were killed in a raid on a house where former president Saddam Hussein was believed to be hiding.

(f) On 26 July 2003, four Turkish journalists - **Yalçın Dogan**, **Özdemir Ince**, **Faruk Balikiçi** and **Ferit Aslan** - were reportedly detained for an hour and a half by United States troops. Their equipment was returned but the photographs of soldiers that they had taken with a digital camera were reportedly erased.

(g) Also on 26 July 2003, Al-Jazeera's correspondent in Mosul, **Nawaf Al-Shahwani**, was reportedly arrested with his driver and held by United States troops until the night of 27 to 28 July. Their film was allegedly confiscated.

(h) On 22 July 2003, the Iraqi police briefly detained, reportedly at the request of the United States army, a four-man Al-Jazeera team, while they were filming protests against the United States-British presence.

(i) On 1 July 2003, two journalists from the Iranian public television station IRIB, **Said Aboutaleb** and **Soheil Karimi**, who were reportedly working on a documentary around Al-Kut and Diwaniah, were reportedly arrested by United States troops and taken to United States army headquarters in the southern town of Diwaniah. It was reported that on 7 July, United States soldiers went to their hotel in Kerbala and seized their belongings. It seemed that they were transferred on 15 July to the Baghdad airport detention centre. Apparently, the two journalists were detained for "security violations".

(j) On 8 April 2003, United States military strikes allegedly targeted known media locations in Baghdad, during which three journalists were reportedly killed and several were wounded. According to information received, the Baghdad offices of Al-Jazeera television channel were damaged by United States air strikes, in which journalist **Taraq Ayyoub** was killed and cameraman **Zouhair al-Iraqi** wounded. It was also reported that moments later, the offices of Abu Dhabi television channel were targeted. Reports indicated that both television channels had provided the exact coordinates of their Baghdad offices to the Pentagon, headquarters of the United States Department of Defence.

(k) Also on 8 April 2003, a United States armoured vehicle reportedly fired on the Palestine Hotel, which was known as the main base for more than 100 non-embedded foreign journalists in Iraq, reportedly killing two journalists – **Taras Protsyuk**, cameraman for Reuters, and **José Couso**, from the Spanish television channel Telecinco, and wounding three others, including reporter **Samia Nakhoul** and photographer **Faleh Kheiber**. Although it was indicated in a United States military inquiry into the attack that the armoured vehicle fired in response to rockets allegedly fired from the hotel, reports seemed to indicate that there was no firing in the area until the armoured vehicle targeted the hotel. It also seems that no warning was given before these attacks.

Observations

809. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

Uzbekistan

Communications sent

810. On 27 February 2003, the Special Rapporteur sent an urgent appeal regarding a number of Uzbek journalists. According to information received, on 17 February 2003, **Ergash Bobojonov**, independent journalist and member of the Birlik Popular Movement, was reportedly arrested at his home and allegedly beaten during his arrest. According to information received, Mr. Bobojanov is currently detained at the Fergana Pre-trial detention centre and charged with criminal defamation. Reportedly, the accusation is based on two articles that he wrote for the newspaper *Res Publica* in 1999, allegedly critical toward the Government of Uzbekistan. Concern has been expressed about Mr. Bobojanov's health. On 18 February 2003, **Gayrat Mekhliboev** (24), independent journalist, was reportedly condemned to 7 years in prison and charged with taking part in anti-constitutional activities, involvement in a religious extremist organization, and inciting religious hatred. Reportedly, the accusations were based on an article that the journalist published in *Khurriat* in April 2001 and which allegedly contained ideas from the Hizb ut-Tahrir. According to information received, Mr. Mekhliboev admitted his connection to the Islamic group while allegedly being tortured. On 19 February 2003, **Tokhtamurad Toshev**, chief editor of *Adolat* newspaper, was allegedly arrested without any official accusation. On 22 February 2003, **Oleg Sarapulov**, independent journalist and former deputy executive director of the Union of Independent Journalists of Uzbekistan, was reportedly arrested and allegedly beaten while in detention. Allegedly, the police accused him of distributing articles critical of the Government and having them published on the Internet by an independent journalist, who Mr. Sarapulov had assisted in the past.

811. On 5 June 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on human rights defenders, regarding **Ruslan Sharipov**, an Uzbek human rights activist and independent journalist,

who was allegedly arrested together with two of his colleagues, **Oleg Sarapulov** and **Azamat Mamankulov**. According to the information received, on 26 May 2003, Ruslan Sharipov was allegedly arrested and charged under article 120 of the criminal code with having committed homosexual acts. He is reportedly being detained at Mirzo-Ulugbek District Police Department of Tashkent city. The police are reportedly further inquiring into allegations that he had sex with two male minors for money. His colleagues, Azamat Mamankulov and Oleg Sarapulov were allegedly also arrested but reportedly have still not been charged. According to the information received, Ruslan Sharipov was reportedly only granted access to a lawyer on 28 May 2003, two days after his arrest. While in detention he was allegedly hit by police officers several times and threatened with rape with a bottle. The police allegedly displayed copies of his articles on a table in front of him and shouted at him for long periods. These recent attacks reportedly follow previous harassment of the above-mentioned persons in 2002. Concern has been expressed that Ruslan Sharipov and his colleagues may be targeted owing to their human rights activities, in particular articles on police corruption and human rights abuses. Fears have been expressed that the above-mentioned persons may be at risk of torture and other forms of ill-treatment while in detention.

812. On 4 July 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers, regarding **Hairulla Ernazarov**, a citizen of Samarkand Oblast, Narpai region and former journalist for *Halk Suzi* and *Sport* newspapers, who was reportedly arrested on 28 April 2003 by officers of the National Security Service (SNS) in Tashkent without being given any reason at that time. Three days later, his wife was allegedly informed by a SNS officer that he had been wanted for three years for distributing audiocassettes of an Islamic preacher, Abduvalli-kori. Hairulla Ernazarov was reportedly taken to the Isolation-Investigation Centre of Samarkand SNS. His wife is believed to have managed to locate him and attempted to visit him on 10 and 11 May 2003. She was allegedly not permitted to do so or to deliver food and clothing for her husband. At that time, Samarkand deputy procurator allegedly informed her that there was no criminal case against him in the prosecutor's office. It is alleged that a court proceeding against him began on 17 June 2003. His lawyers were allegedly not permitted to participate in the judicial proceedings. It is believed that he was charged with being connected with wahabism and being a member of the Hizb-Ut-Tahrir Party. Since his arrest he has reportedly not been permitted to receive visits from his relatives or his lawyers. Fears have been expressed that he may be subjected to torture or other forms of ill-treatment in view of his alleged incommunicado detention.

813. On 23 July 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Representative of the Secretary-General on human rights defenders regarding the alleged threats made against **Dilobar Khudoiberganova**, member of the NGO Mothers against the Death Penalty and Torture and **Akhmadjon Madmarov**. According to the information received, in the weeks following the annual meeting of the European Bank for Reconstruction and Development (EBRD) in Uzbekistan on 4-5 May 2003, Dilobar Khudoiberganova allegedly received several anonymous calls questioning her participation in those meetings. On June 10, a SNS officer allegedly telephoned Dilobar

Khudoiberganova's father, threatening to arrest her brother if Ms. Khudoiberganova continued her human rights activism. During the EBRD meeting Akhmadjon Madmarov reportedly spoke openly about the imprisonment and torture of his three sons and nephews. On 9 May 2003, one of Akhmadjon Madmarov's sons, **Abdullo**, was allegedly placed in solitary confinement for five months. On 1 June 2003, Mr. Madmarov reportedly attended, as an observer, a protest by female relatives of religious prisoners. On 5 June, he was allegedly summoned to meet with a Margilan city prosecutor. Mr. Madmarov was also among those interviewed by the Special Rapporteur on the question of torture during his visit to Uzbekistan. According to the information received, the threats may be a form of retaliation for Dilobar Khudoiberganova's and Akhmadjon Madmarov's participation in human rights related fora, in particular, their participation in the annual meeting of the EBRD.

814. On 13 August 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders, regarding **Ruslan Sharipov**, a human rights activist and journalist. According to information received, Mr. Sharipov's closed-door trial began on 23 July 2003 in Tashkent, and on 8 August 2003, Mr. Sharipov allegedly waived his right to counsel, reportedly declared his intention to plead guilty on all charges, and asked that his mother, who is the only outside observer to the proceedings, be dismissed from the courtroom. It is further reported that he allegedly offered to publicly beg for the forgiveness of President Karimov, the Minister of the Interior, and local police, and retracted all Internet news articles critical of the Government that he had written from 2001 to 2003. Fears have been expressed that Mr. Sharipov's change in attitude and declarations might have been the result of the treatment to which he has allegedly been subjected while in detention as recent reports indicate that he may have changed his line of defence out of fear for his safety, and that of his mother and lawyers. Serious fears have been expressed concerning the life and health of the above-named person if he does not receive appropriate and prompt medical treatment.

815. On 21 August 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture regarding the case of **Khairullo Khudoerovich Ernazarov**, who was reportedly sentenced to seven years in a strict regime prison by the Samarkand Province Court on 23 July 2003. According to information received, Mr. Ernazarov was suspected of wahhabist activity in 1996-1997, and detained on 28 April 2003 by a local police officer and an employee of SNS in Tashkent, and was transferred to SNS custody in Samarkand where he was allegedly detained until the beginning of his trial. It is alleged that in finding Mr. Ernazarov guilty, the judge had relied on written testimonies given during the interrogation, carried out by SNS, of eight people convicted on similar charges in March 2001. It is also alleged that all the witnesses, currently serving prison sentences, had retracted testimonies they had made during Mr. Ernazarov's trial. According to the reports received, **Musurmon Melikholov** had testified that he had been given electric shocks during the interrogation and that he had been forced to write and sign whatever the interrogator had said, the latter promising his release if he wrote the testimony; **Ibrokhim Ishmanov** had testified that he had been beaten during interrogation and that SNS officers had dictated what he should write and had forced him

to sign; **Sirozhiddin Rakhimov** and **Ulugbek Saidov** had testified that they had been forced to give written testimony against Mr. Ernazarov even though they did not know him; and, **Tuichi Kholikulov**, **Abduvakhob Khakimov**, **Mukhiddin Mamatov** and **Olim Norbaev** had testified that they had been forced to give written testimony against Mr. Ernazarov. In the appeal to the Samarkand Province Court, Mr. Ernazarov's lawyer had requested that the testimonies of the eight witnesses be disregarded since they were extracted under torture. On 12 August 2003, a decision by three judges of the Samarkand Province Court reportedly upheld the initial verdict, but Mr. Ernazarov's lawyer will reportedly appeal this decision.

816. On 1 September 2003, the Special Rapporteur sent an urgent appeal jointly with the on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health regarding **Bakhodir Saidov**, who was reportedly arrested on 17 June 2002 in Tashkent on the basis of being a member of Hizb ut-Tahrir Party, an Islamic group banned in Uzbekistan. It is reported that Bakhodir Saidov was convicted on articles 159 (sedition), 244-1 (spreading extremist materials) and 244-2 (participation in a religious, extremist organization) on 18 December 2002 in the Akmal Ikramov District Court in Tashkent and sentenced to nine years in prison. Afterwards he was reportedly transferred to prison number 64/49 in the city of Karshi. According to the information received, Bakhodir Saidov is regularly beaten by prison guards on the basis, allegedly made up by prison guards, that he has breached internal prison rules. It is particularly alleged that prison guards beat him for standing next to another prisoner who was also convicted on article 159. It is also reported that he had been placed in a tiny punishment cell where there is only room to stand, not to sit or lie down. Bakhodir Saidov had allegedly lost a great deal of weight. Serious fears have been expressed concerning the deteriorated health of Bakhodir Saidov if he does not receive appropriate and prompt medical treatment.

817. On 16 September 2003, the Special Rapporteur sent an urgent appeal concerning the reported blocking of the web site of a local freedom of expression group **Ozod Ovoz *Ozodovoz.org***, launched in April 2003 as an outlet for those who want to protest online about the lack of freedom of expression in the country. According to information received, *Ozodovoz.org* has been inaccessible from both private homes and cybercafés in Uzbekistan since 2 September 2003. It is reported that messages critical of the President of Uzbekistan were posted on the site shortly before it was blocked. It is believed that the group's Azerbaijan-based web site has been blocked in Uzbekistan by the state-run Internet service provider, UzPAK, which has a near-monopoly on Internet access. Those trying to connect to the web site get a message saying access is not authorized.

818. On 29 September 2003, the Special Rapporteur sent a communication jointly with the Special Rapporteur on the question of torture regarding **40 women** who demonstrated on 7 March 2003 on a public square in Tashkent against the torture of their husbands and sons in detention. It is reported that the police blocked all exits to the square and severely hit several women, who were allegedly forced to climb into a police vehicle. At least two of them were allegedly kept in detention. It is further reported that after these events, a group of women that was not present during the demonstration and that is believed to have links with the police, arrived at the square and made false accusations against

Youssouf Rasoulov, Khousniddin Koutbitdinov and Mirasror Akhronov, three journalists who had reportedly witnessed the breaking up of the demonstration. They were allegedly accused by the women of having beaten the demonstrators. According to the information received, the three journalists were thrown to the ground and hit by men who had accompanied the women. Their equipment, including cassette recorders, telephones, and bags, was allegedly seized. The Special Rapporteurs have been informed that the police, who reportedly stood closely, did not intervene, despite the journalists' calls for help.

819. On 1 October 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders regarding **Ruslan Sharipov**, a human rights activist and journalist. According to new information recently received, Ruslan Sharipov was found guilty on 13 August 2003 under articles 120 (homosexuality), 127 (inciting minors to anti-social behaviour) and 128 (sexual relations with a minor) of the Uzbek criminal code, despite the fact that forensic medical tests conducted after his arrest allegedly found no evidence that he had had sexual relations with minors. He was reportedly sentenced to five years and a half in prison. It is reported that in a statement written from prison on 5 September 2003 and addressed to the United Nations Secretary-General, Ruslan Sharipov claimed he had been subjected to torture and threats while in detention. At an appeal hearing which took place on 25 September 2003, and during which his sentence was reduced to four years on appeal after charges under article 127 were dropped, Ruslan Sharipov's face was reportedly injured and his eyeglasses were broken.

820. On 22 October 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders, regarding **Fatima Mukadirova**, mother of **Muzafar Avazov**, a religious prisoner who reportedly died from torture, including being submerged in boiling water in August 2002 in Jaslyk prison. According to the new information received, after the death of her son, Fatima Mukadirova was subjected to pressure by the authorities to dissuade her from complaining to international organizations about her son's case. Nevertheless, she met with the Special Rapporteur on the question of torture during his visit to Uzbekistan. On 4 September 2003, officers from the Tashkent City police station reportedly conducted a search of her house without a warrant. The police allegedly claimed to have found religious leaflets and a religious book, detained Fatima Mukadirova and held her for two days at the Tashkent City Police station. She was reportedly charged with article 159 of the Criminal Code on anti-constitutional activities. Fatima Mukadirova claims that the above-mentioned religious material did not belong to her. On 19 October 2003, officers from the Tashkent City police station reportedly again searched her house while she was not at home. The police allegedly claimed to have found more religious leaflets and subsequently arrested her at the Chorsu Bazaar, where she was working. She is reportedly currently held in custody in the Tashkent City police station. Fears have been expressed that Fatima Mukadirova may have been targeted for having raised the case of her son's death in custody to international bodies, in particular for meeting with the Special Rapporteur on the question of torture.

821. On 23 December 2003, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders regarding allegations that a conference on the death penalty organized in Tashkent, by NGO **Mothers against the Death Penalty and Torture**, has been prevented from taking place. According to information received, on 12 December 2003, the authorities indicated that the conference could not be held since it was organized by an unregistered organization. Mothers against the Death Penalty and Torture has reportedly been denied registration by the authorities. Representatives of the organization have allegedly been the subject of harassment in the past. They have allegedly received death threats after their participation in the annual meeting of the EBRD in May 2003. Members of the organization were reportedly told repeatedly by Secret Service officers that their organization was blacklisted and that the Secret Service was awaiting orders to close the organization. Concern has been expressed that Mothers against the Death Penalty and Torture has been targeted due to its work on behalf of human rights in the context of the death penalty and torture.

Communications received

822. By a letter dated 10 March 2003, the Government of Uzbekistan replied to the Special Rapporteur's urgent appeal of 27 February 2003 concerning a number of Uzbek journalists. The Government reported that **Ergash Bobojanov** was released from custody on 26 February 2003 owing to amnesty. **Tokhtamurad Toshev**, formerly under investigation, was released on 6 March 2003. The Government also indicated that **Oleg Sarapulov**, who was detained on 22 February 2003 in the course of a police identification inquiry, was released on 6 March 2003. Finally, the Government reported that **Gayrat Mekhliboev** was sentenced to seven years' imprisonment for cooperating with the Hizb ut-Tahrir extremist organization.

823. By a letter dated 18 July 2003, the Government replied to the Special Rapporteur's urgent appeal of 5 June 2003 concerning **Ruslan Sharipov, Alisher Eshmanovich Abilov, Oleg Sarapulov** and **Azamat Mamankulov**, indicating that on 26 May 2003, Ruslan Sharipov was arrested and, after his indictment on 28 May 2003 under articles 120 and 127 (involvement of a minor in antisocial behaviour) and 128 (sexual relations with persons under 16 years of age) of the Criminal Code of Uzbekistan, was remanded in custody on the order of the district prosecutor. On 19 June 2003, Alisher Eshmanovich Abilov was also indicted under articles 127 and 131 with the choice of a preventive measure in the form of recognizance. Criminal proceedings against Oleg Sarapulov and Azamat Muminkilov were terminated, respectively, under article 83 and 84 of the Criminal Code of Uzbekistan. On 23 June 2003, criminal proceedings against Alisher Abilov and Ruslan Sharipov were assigned to the prosecutor Mirzo-Ulugbeg district of Tashkent, who confirmed the bill of indictment and submitted the case for trial. The defendants Ruslan Sharipov and Alisher Abilov were provided with counsel. Ruslan Sharipov's guilt was proven by his own statements and the testimonies of A.E. Abilov, A. Sh. Ortykov, O.R. Tokhitzhanov, M. Abdullaev and R.A. Mirsaidov.

824. By a letter dated 5 August 2003, the Government replied to the Special Rapporteur's urgent appeal of 4 July 2003 regarding Mr. **Hairulla Ernazarov**, indicating

that on 14 May 2003, Mr. Ernazarov was arrested by officers of the Samarkand provincial directorate on SNS and, on conclusion of the investigation, his case was referred to the Samarkand provincial court, which took it up on 18 June 2003. As of 24 July 2003, the case was still in progress. The Government indicated that during the pre-trial investigation, Mr. Ernazarov's interests were defended by a counsel, I. Jabborov, who was also participating in the trial itself. The task of ensuring that due process was followed in the investigation of the case was performed by the prosecutor's office of Samarkand province, whose representative participated in the judicial proceedings. Finally, the Government indicated that Mr. Ernazarov's wife had made no application to visit her husband and that Mr. Ernazarov has lodged no complaint with the relevant authorities regarding the methods applied against him after his arrest or during the criminal investigation.

825. By a letter dated 26 August 2003, the Government replied to the Special Rapporteur's urgent appeal of 21 August 2003 regarding Mr. **Khairullo Ernazarov**. The Government indicated that no traces of violence or the use of torture against the detainee were found. During Mr. Ernazarov's detention at the remand centre of the SNS office of Samarkand Oblast, his wife visited him twice, once before the trial and once after the pronouncement of the sentence.

826. By a letter dated 11 September 2003, the Government replied to the Special Rapporteur's urgent appeal of 23 July 2003 regarding **Dilobar Khudoiberganova** and **Akhmadjon Madmarov**, indicating that the inquiry established that both persons were not subjected to any threat or other unlawful action by staff of the prosecutor's offices, the Ministry of Internal Affairs or the National Security Service of Uzbekistan after holding the annual EBRD meeting in Tashkent on 4-5 May 2003, and have made no complaints in this connection to the relevant bodies. The Government reported that Madmarov's three sons, who were sentenced to various terms of imprisonment, are currently being held in places of detention. The Government indicated that Abdulla Madmarov had on more than one occasion violated the prison regulations while serving his sentence. Two disciplinary penalties were imposed on him in April and May 2003. Both penalties were for violating the prison regulations and not related to his father's participation in the EBRD forum.

827. By another letter dated 11 September 2003, the Government replied to the Special Rapporteur's urgent appeal of 13 August 2003 in regard to the case of Mr. **Ruslan Sharipov**, indicating that he has been held in the remand centre of institution UYA 64/IZ-1 in Tashkent since 8 June 2003, that he is not complaining about his state of health or illegal actions by representatives of the administration and that he enjoys all the rights provided to persons confined in custody. The Government reported that Mr. Sharipov had more than once had conversations with the head of the remand centre, during which he affirmed that he had no complaints against the administration or about any infringement of his civil rights. The Government also indicated that the preliminary investigation and judicial examination of the case against Mr. Sharipov were conducted observing the rules of the criminal procedure law of Uzbekistan, no unauthorized methods were applied towards him, and his "physical and mental conditions" are protected by law. Finally, the Government reported that on 17 August 2003, Mr. Sharipov filed an appeal to have the court's decision in his criminal case reconsidered. The case file is being prepared for consideration in an appellate body.

828. By a letter dated 14 November 2003, the Government replied to the Special Rapporteur's urgent appeal of 29 September 2003 concerning Mr. **Kutbiddinov** and Mr. **Rasulov**, indicating that it had been established that that on 7 March 2003, a group of men and women (35-40 persons in all), carried out violent acts against Mr. Kutbiddinov, the director of the Tashkent bureau of Radio Liberty. The group of persons assaulted Mr. Rasulof, the director of the Uzbek section of the Voice of America radio station. The Government reported that the investigative division of the Sabir Rakhimov District Internal Affairs Administration initiated a criminal case regarding these facts and citizens living in the immediate vicinity of the scene of events were questioned. In view of the fact that it was not found possible to identify the persons involved in the robbery of Mr. Kutbiddinov and Mr. Rasulov, proceedings in the case were suspended on 18 May 2003. Search and investigative operations are currently being pursued to identify the assailants.

829. By a letter dated 28 November 2003, the Government replied to the Special Rapporteur's urgent appeal of 22 October 2003 concerning **Fatima Mukadirova**, indicating that on 4 September and 19 October 2003, the Central Criminal Investigation and Anti-Terrorism Department found leaflets issued by the Hizb ut-Tahrir religious extremist organization at Ms. Mukadirova's house. The Government reported that the two cases were combined in a single proceeding and that the preventive measure chosen with respect to Ms. Mukadirova was changed to detention in custody. The Government indicated that the Prosecutor-General's Office has arranged to oversee the preliminary examination of this case, which is being conducted by the investigative department of the Tashkent City Internal Affairs Authority.

Observations

830. The Special Rapporteur thanks the Government of Uzbekistan for its replies, but awaits responses to his communications dated 1 and 16 September, 1 October and 23 December 2003.

Venezuela

Comunicaciones enviadas

831. El 28 de enero de 2003, el Relator Especial envió un llamamiento urgente relativo a la situación de las televisoras **RCVT** y **Globovisión**. De acuerdo con las informaciones recibidas, el 17 de enero de 2003, el Ministerio de Infraestructura habría abierto procedimientos administrativos de investigación contra estas televisoras. Estos procedimientos podrían generar multas y la suspensión de las concesiones estatales otorgadas a RCVT y Globovisión para que puedan realizar sus transmisiones. Entre dichos procedimientos se encontraría la transmisión de propaganda sobre el paro cívico que supuestamente desacreditó al Gobierno. Según la información recibida, el Ministerio de Infraestructura se habría apoyado en el artículo 53 del Reglamento de Radiocomunicaciones y el artículo 171.6 de la Ley Orgánica de Telecomunicaciones para sustentar los procedimientos administrativos de investigación.

832. El 1.º de octubre de 2003, el Relator Especial envió una comunicación en relación con los hechos siguientes:

(a) El 21 de septiembre de 2002, el equipo de reporteros del Canal de Noticias Globovisión integrado por la reportera **Rosana Rodríguez**, el camarógrafo **Felipe Lugo** y el asistente **William Escalona**, habría sido obligado por presuntos simpatizantes del presidente Hugo Chávez, a entregar el vehículo identificado con el logotipo del canal en el cual se movilizaban. Los asaltantes habrían conducido el vehículo hasta el puente Llaguno, donde habrían destruido los vidrios, causado abolladuras al vehículo y se habrían llevado equipos de grabación. Igualmente se informó que el asistente de cámara habría sido golpeado y amenazado con un arma de fuego para que entregara el vehículo mientras que la periodista Rosana Rodríguez habría sido amenazada con un pedazo de vidrio. Los agresores se habrían apropiado del casete, un radio transmisor y la batería de la cámara.

(b) El 2 de septiembre de 2002, en el Estado de Portuguesa, occidente venezolano, sujetos no identificados habrían disparado contra la residencia de **Carlos Barrios** director de la emisora radial regional Astro 97.7 FM y Secretario General del Partido Social Cristiano COPEI.

(c) El 13 de septiembre de 2002, en la ciudad de Barquisimeto, Estado de Lara, cuatro bombas incendiarias habrían sido lanzadas contra la sede del canal de televisión regional Promar TV. De acuerdo con las informaciones recibidas, el propietario, **Jorge Kossosky**, habría recibido amenazas anónimas. Igualmente, algunos de los reporteros del canal habrían sido golpeados y varios vehículos del canal habrían sido atacados y habrían sufrido daños en las calles.

(d) El 14 de julio de 2002, en el municipio de Bruzual (Chivacoa), Estado de Yaracuy, las fuerzas del orden habrían reprimido con violencia a los campesinos manifestantes ubicados en el fundo San José o Guayabo. Durante el ataque se habría golpeado agresivamente a los manifestantes y se habrían empleado balas de munición viva y perdigones. Varios campesinos habrían resultado heridos entre los cuales se encontrarían **Justina Villanueva, Martha Naranjo, Cipriano Rivas, Salvador Leal, Omar López, Augusto Colmenarez, Ramon Colemnarez, Macario Colmenarez, Bartola Galíndez, y Nicomedes Colmenarez.**

(e) El 17 de noviembre de 2002, en la ciudad de Caracas, una bomba habría sido lanzada en el estacionamiento de la sede de Globovisión.

(f) El 4 de noviembre de 2002, en el centro de Caracas, varios periodistas habrían sido atacados mientras cubrían una marcha de oposición y enfrentamientos callejeros entre las fuerzas de seguridad y simpatizantes radicales del Gobierno. De acuerdo con las informaciones recibidas, el camarógrafo salvadoreño **Mauricio Muñoz Amaya**, quien trabaja para la Associated Press Television News (APTN), habría sido herido en el pecho con una bala calibre 9

mm. Asimismo se informó que el fotógrafo **Héctor Castillo**, del diario *El Mundo*, habría sido agredido en momentos en que fotografiaba a uno de los simpatizantes del Gobierno. En tal sentido se informó que unos 15 hombres lo habrían empujado al suelo y lo habrían pateado varias veces, robándole el lente y el flash. Asimismo, simpatizantes del Gobierno habrían intentado bloquear la marcha erigiendo barricadas y lanzando botellas y piedras mientras que otros disparaban con pistolas. Las fuerzas de seguridad habrían lanzado bombas lacrimógenas y balas de goma para separar a ambos bandos. Al menos 60 personas habrían resultado heridas.

(g) El 19 de noviembre de 2002, en playa Francia de Altamira Caracas, la periodista **Zaida Herrera** y su camarógrafo **Eduardo Escalona**, del Canal público Venezolana de Televisión, habrían sido agredidos por un grupo de militares que se encontraría en dicha plaza para pedir la renuncia del presidente Chávez. De acuerdo con las informaciones recibidas, una decena de militares habrían agredido a Eduardo Escalona confiscando su cámara, para devolverla sin el casete que contendría las imágenes del incidente.

(h) El 19 de octubre de 2002, en la ciudad de Caracas, desconocidos que se movilizaban en un vehículo habrían arrojado un artefacto explosivo contra la sede de **Unión Radio de Caracas**. De acuerdo con las informaciones recibidas, el atentado se habría producido en vísperas del paro nacional del 21 de octubre, que habría sido convocado por la oposición que exige la renuncia del presidente Hugo Chávez.

(i) Por lo menos **14 periodistas** habrían resultado lesionados a manos de efectivos militares y partidarios del oficialismo entre los días 3 y 4 de diciembre de 2002, en desarrollo de las manifestaciones callejeras escenificadas dentro del marco del denominado paro cívico nacional formulado por la oposición al presidente Hugo Chávez. En tal sentido se informó que algunos de los periodistas se habrían encontrado cubriendo una manifestación de opositores al Gobierno que bloqueaban una importante arteria al este de Caracas, en momentos en que efectivos de la Guardia Nacional les habrían agredido con bombas lacrimógenas, disparos de perdigones plásticos, golpes de peinilla e inclusive puntapiés. Entre los lesionados se encontrarían **Jose Avila**, técnico de microondas del canal CMT; **Luis Alfonso Fernández**, de Venevision; **Aymaré Lorenzo**, de Globo Visión y **Rafael Fuenmayor**, de CMT, así como **Fernando Malavé**, fotógrafo del *Diario Siglo 2001*, quien habría sido víctima de una descarga de perdigones plásticos a quemarropa. También se informó sobre otros actos de violencia en la ciudad de Barquisimeto, Estado de Lara, donde manifestantes oficialistas habrían arremetido contra una marcha de la oposición, resultando heridos los periodistas **José Rodríguez**, de *Diario El Impulso*; **Julio Tovar**, de Venevisión; **Gustavo Escalona** y **Clara Reverol**, de Televen; **Miguel Ángel López** y **Yelina Torrealba**, de Telecentro; **Iriana Brett**, de *Diario Hoy*; **Christian Rodríguez** y **José Barreto**, de Promar Televisión y **Martín Urtiaga**, de *El informador*.

- (j) De acuerdo con las informaciones recibidas, el 30 de enero de 2003, fiscales del Ministerio de Infraestructura habrían abierto procedimientos administrativos contra las televisoras **Globovisión** y **Radio Caracas Televisión**. Dichos procedimientos podrían concluir en una sanción de multa o cierre temporal para esas empresas. Asimismo se informó que diputados del oficialismo habrían solicitado al Tribunal Supremo de Justicia el retiro de la concesión para operar algunas plantas televisoras. Por otra parte, se habría propuesto la adscripción de los canales privados al Departamento de Ciencia y Tecnología del Ministerio de Educación.
- (k) El 5 de febrero de 2003, en poblado de Yagua, Estado de Carabobo, un equipo reportero de la televisora Televen encabezado por la periodista **Charmiant Corado** habría sido emboscado por unos 20 individuos armados con piedras y palos. De acuerdo con las informaciones recibidas, los asaltantes habrían despojado a la periodista de su teléfono celular y habrían obligado al camarógrafo a entregar la batería de la cámara y el casete.
- (l) El 4 de febrero de 2003 en la población de Hatillo, Estado de Miranda, en un operativo conjunto de la Comisión Nacional de Telecomunicaciones (CONATEL) y la Dirección de Servicios de Inteligencia (DISIP), habría sido clausurada la **emisora radial Amiga 105.07**. De acuerdo con las informaciones recibidas, la página Web de CONATEL habría insertado una información según la cual el cierre se produjo por irregularidades de orden fiscal, hecho que habría sido negado por los directivos de la planta quienes habrían sostenido nunca haber recibido comunicaciones en las que se plantearan reclamos de tal índole.
- (m) El 22 de enero de 2003, en el Estado de Falcón, noreste venezolano, la CONATEL habría notificado a la emisora **Radio Coro 780.am** la apertura de una investigación administrativa por presuntas violaciones al reglamento sobre la operación de las estaciones de radiodifusión sonora.
- (n) El 30 de enero de 2003, el Ministerio de infraestructura (MINFRA), habría notificado al **Canal Televen** la apertura de un procedimiento administrativo de investigación por la transmisión de algunas propagandas sobre el paro cívico convocado por la Cámara Empresarial Fedecámaras, la Central Obrera CTV, y la opositora Coordinadora Democrática, para pedir la renuncia del presidente Hugo Chávez.
- (o) El 2 de febrero de 2003, en el centro de la ciudad de Caracas, un grupo de manifestantes encapuchados, presuntamente simpatizantes del presidente Hugo Chávez, habrían lanzado piedras, objetos contundentes y artefactos incendiarios contra **simpatizantes de la oposición** que participaban en una jornada denominada "El firmazo". Un vehículo en el que se trasladaba un equipo reportero de la televisora CMT habría sido incendiado en cercanías del Ministerio de Educación y un grupo de periodistas y reporteros gráficos que cubrían una jornada de protesta habrían sido agredidos cuando varios individuos encapuchados habrían impedido el paso a vehículos de los medios de comunicación que se dirigían a la

avenida Panteón para dar cobertura de los disturbios que se habrían escenificado en ese lugar.

(p) El 4 de febrero de 2003, en la población de Anaco, Estado de Anzoátegui, el reportero gráfico **Ángel Véliz** habría sido despojado de su cámara fotográfica, apaleado y cortado en el brazo derecho por una turba de los llamados “Círculos Chapistas”. Igualmente habrían sido agredidos **Víctor Arias** de *Impacto*, **Daniel Olivares** y **Moreira Castellanos** del diario *El Tiempo* de Puerto la Cruz, y **Milínse Castellanos** de la emisora Radio órbita.

(q) El 14 de enero de 2003, en la Plaza Madariaga, urbanización El Paraíso, Caracas, un grupo de opositores al Gobierno del presidente Hugo Chávez se habría concentrado a la espera de otro grupo de manifestantes que marchaba hasta allí. De acuerdo con las informaciones recibidas, un grupo de encapuchados motorizados habrían llegado al lugar lanzando objetos contundentes contra los manifestantes y los representantes de los medios de comunicación. Varios objetos incendiarios habrían sido lanzados contra el vehículo de **Televen**.

(r) El 8 de enero de 2003, en la zona Tía Juana, Municipio Simón Bolívar, Estado de Zulia, el reportero gráfico **Javier Gutiérrez** habría sido interceptado por un efectivo de la Guardia Nacional en momentos en que fotografiaba una manifestación de los empleados de la empresa estatal de Petroleros de Venezuela. El 9 de enero de 2003, el reportero **Rafael Gómez** habría sido agredido por efectivos de la Guardia Nacional quienes lo habrían golpeado y despojado de su cámara fotográfica.

(s) El 12 de enero de 2003, el reportero gráfico **Hector Castillo**, del vespertino *El mundo*, habría resultado herido por impactos de perdigones mientras daba cobertura a una concentración opositora en Caracas.

(t) El 7 de enero de 2003, en la ciudad de Anaco, Estado de Anzoátegui, el equipo reportero del canal Venevisión formado por el periodista **Mauricio Cabal**, el camarógrafo **Rubén Brito** y el asistente **Marcos Martínez**, habría sido agredido por un grupo de presuntos simpatizantes del presidente Chávez, los cuales habrían rodeado el vehículo particular en el que se movilizaban, profiriendo insultos y amenazas. Posteriormente habrían arremetido contra el vehículo, golpeándolo con palos, tubos y piedras.

(u) El 6 de enero de 2003, en inmediaciones de la plaza de Bolívar en la Ciudad de Barquisimeto, el equipo reportero del canal Promar Televisión formado por la periodista **Verioska Velasco**, el camarógrafo **Luis Mata** y el asistente **Alfonso Vásquez**, habría sido agredido mientras cubrían una marcha opositora al Gobierno.

(v) El 15 de julio de 2003 la Corte Suprema de Justicia se habría pronunciado respecto de la constitucionalidad de los artículos 148 y 149 del Código penal, en tal sentido la corte habría sostenido que si bien la censura previa está prohibida

por la Constitución venezolana, existirían excepciones implícitas para los casos de propaganda de guerra y materiales que promuevan la discriminación o la intolerancia religiosa. Asimismo la Corte habría declarado la **constitucionalidad de la llamada Ley de desacato**, por medio de la cual se pretendería proteger a las instituciones y autoridades públicas de insultos o críticas.

(w) El 21 de julio de 2003, en el municipio de Chacao, este de Caracas, una caja sonora habría explotado en los alrededores de la red de emisoras **Unión Radio**. El objeto habría contenido panfletos con mensajes contra periodistas y medios de comunicación.

Comunicaciones recibidas

833. Por cartas de fechas 13 de enero y 8 de abril de 2003, el Gobierno de Venezuela contestó al llamamiento urgente del Relator Especial de fecha 19 de diciembre de 2002 (E/CN.4/2003/67/Add.1, párr. 632) en relación con amenazas y agresiones en contra de periodistas que informaron sobre las manifestaciones que ocurrieron en el país en noviembre y diciembre de 2002. El Gobierno indicó que el ejercicio de la libertad de expresión y el derecho de acceso a la información de la sociedad venezolana en su conjunto nunca habían sido tan respetados como en los últimos años. Respecto a los periodistas **José Antonio Dávila, Rafael Fuenmayor, Luis Alfonso Fernández y Fernando Malavé**, el Gobierno venezolano indicó que medidas de protección habían sido tomadas.

834. Por carta de fecha 15 de agosto de 2003, el Gobierno de Venezuela contestó al llamamiento urgente del Relator Especial de fecha 5 de julio de 2003 en relación con el supuesto secuestro de **Fabio Cortés** e informó que las investigaciones continuaban practicándose.

835. Por carta de fecha 18 de diciembre de 2003, el Gobierno de Venezuela contestó a la comunicación del Relator Especial de fecha 1.º de octubre de 2003 en relación con **Cesar Emilio Machado, Enmary Cova, Alexandra Gualdrón, Minora Loreto Díaz, Jairo Díaz Loreto, Octavio Díaz, Luís Alfonso Fernández, Fernando Malave, José Antonio Dávila y Rafael Fuenmayor**, indicando que Cesar Emilio Machado disponía de protección policial. Respecto al caso de Enmary Cova, el Gobierno indicó que las investigaciones estaban adelantándose. En cuanto a la muerte de **Roberto y David Díaz Loreto**, la audiencia preliminar se realizó el 7 de agosto de 2003 contra seis funcionarios de la policía quienes están involucrados en los hechos denunciados. Finalmente, con respecto a la seguridad de los periodistas Luis Alfonso Fernández, Fernando Malave, José Antonio Dávila y Rafael Fuenmayor, el Gobierno acordó las medidas de protección solicitadas.

Observaciones

836. El Relator Especial da las gracias al Gobierno venezolano por sus respuestas, si bien espera otras respuestas a su comunicación de fecha 28 de enero de 2003.

Viet Nam

Communications sent

837. On 12 May 2003, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Nguyen Dan Que**, a 61 year-old endocrinologist and democracy activist. According to information received Nguyen Dan Que was allegedly arrested on 17 March 2003, four days after he reportedly sent documents to a relative in the United States from an Internet cafe, which allegedly called for human rights and political reform in Viet Nam. The alleged arrest is said to have been made public on 22 March 2003 in a small column of an official newspaper. The statement Nguyen Dan Que allegedly e-mailed to his brother in Virginia is said to have criticized the Government of Viet Nam's claim to guarantee freedom of information, allegedly pointing out that there are no independent media in the country. It is also said to have endorsed proposed United States legislation that would fund ways to overcome alleged broadcast and Internet jamming by the Government of Viet Nam. Authorities have allegedly charged Nguyen Dan Que under article 80 of the Criminal Code, which reportedly imposes punishment ranging from 12 years of imprisonment to the death penalty on persons found guilty of spying or performing intelligence activities for foreign countries.

838. On 25 August 2003, the Special Rapporteur sent an urgent appeal regarding **Pham Hong Son**. According to new information received, Mr. Son, who was reportedly arrested in March 2002 for using the Internet to circulate articles promoting democracy and human rights, was sentenced on 18 June 2002 to 13 years in prison plus three years of administrative detention -or house arrest - on espionage charges after a closed trial. It is reported that an appeal against this sentence will be heard on 26 August 2003 by the Hanoi Supreme Court.

839. On 23 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health regarding **Le Chi Quang**, aged 32, who was reportedly arrested on 21 February 2002 at an Internet café in Ha Noi and accused of offences against the State of Viet Nam after he allegedly circulated via the Internet information condemning the Government's border agreement with China. He was reportedly sentenced to four years' imprisonment followed by a further three years of house arrest on 8 November 2002. It is reported that he is currently held in Ba Sao prison camp, Nam Ha Province. He is reported to suffer from chronic kidney disease and his health condition has allegedly deteriorated since his detention. According to the information received, he does not receive the specialist medical attention that he needs and he is not receiving adequate nutrition. His family reportedly brings him medicine but is said to be allowed only to visit him once a month. It is alleged that an independent doctor who was recently authorized to examine him expressed serious concern about his condition. It is reported that he is having difficulties speaking and is extremely tired, that he has lost a lot of weight during the last few weeks, and is suffering from peptic ulcer disease. Fears have been expressed for his physical and mental integrity if he does not receive prompt and adequate medical assistance.

840. On 29 September 2003, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Nguyen Vu Binh**, a former journalist who was allegedly arrested in Hanoi on 20 July 2002. The Special Rapporteur, the Special Rapporteur on the question of torture, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal in this connection on 24 July 2002. A second urgent appeal was sent by the Special Rapporteur and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 2 October 2002. The Government responded by letter dated 13 November 2002. According to information received recently, Nguyen Vu Binh has been held in detention since his arrest but has not yet been tried. It is also alleged that he is not allowed to receive visits from his family.

841. On 31 October 2003, the Special Rapporteur sent a communication concerning the following alleged cases of violation of the right to freedom of expression:

(a) **Dam Minh**, 75, was reportedly arrested on 30 November 2002 and detained for 11 days in Hai Phong. According to reports, he was interrogated about his relations with alleged dissidents before being released on 10 December. His arrest is allegedly linked with his statements on issues of corruption and human rights, and the fact that he protested, when prevented from attending the October 2002 trial of Le Chi Quang, for whom the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteurs on the question of torture and health, on 23 September 2003.

(b) The Special Rapporteur was informed that **Thich Tri Luc** (secular name Pham Van Tuong), a member of the banned United Buddhist Church of Vietnam (UBCV), who apparently received refugee status in Cambodia and who reportedly disappeared from his guesthouse in Phnom Penh in July 2002, was allegedly forcibly repatriated to Viet Nam. It is reported that, after allegedly being held in incommunicado detention for more than one month by the Vietnamese authorities, Thich Tri Luc was charged with “fleeing abroad in order to oppose the Government of Viet Nam” under article 91 of the Penal Code. It is further reported that he could face life imprisonment if found guilty.

(c) **Pham Que Duong**, military historian, and **his wife** and writer **Ho Thu**, were reportedly arrested by public security officers in Saigon on 28 December 2002. According to the information received, the following day, literature professor **Tran Khue**, was arrested in his Saigon home by the police. The arrest of Tran Khue and Pham Que Duong is allegedly linked with their activities as co-founders of the Citizen’s Association against Corruption and spokesmen for the Democracy group. They were reportedly threatened with a charge of espionage.

(d) **Nguyen Vu Viet**, aged 27, **Nguyen Truc Cuong**, aged 36, and **Nguyen Thi Hoa**, aged 44, were reportedly arrested between 13 and 19 June 2001 close to Ho Chi Minh City. According to the information received, the three siblings are accused of being in contact with reactionary organizations in the United States,

providing information to them about the religious situation in Viet Nam, receiving documents from these organizations to propagate and distort the religious policy of the Party and the Government and to fight against the Government of Viet Nam. It is alleged that their arrest could be linked to the detention of their uncle and priest, **Nguyen Van Ly**. According to reports, Nguyen Van Ly was sentenced, in October 2001, to 15 years' imprisonment plus five years' probation on release for defying an administration order of confinement issued by a State agency, and undermining the unity policy. It is alleged that he was sentenced due to his consistent calls for more religious freedom and his public criticism of Vietnamese authorities for their human rights policies.

(e) **Phuc Tue Dang**, also known as **Thich Quang Do**, Buddhist monk and Secretary-General of the banned Institute for the propagation of the Dharma of UBCV was reportedly arrested in his monastery in Ho Chi Minh City on 31 May 2001. On 1 June 2001, he was reportedly placed under house arrest for 27 months. It is alleged that his detention is connected with his announced intent to escort to Saigon, for medical treatment, Thich Huyen Quang, 86-year-old Patriarch of UBCV who has been detained without trial since 1982.

(f) **Dr. Nguyen Xuan Tu** (pen name: Ha Sy Phu), was reportedly placed under formal house arrest on 9 February 2001 for allegedly "making contact with reactionaries living abroad to sabotage Viet Nam and demand the overthrow of the socialist regime and the leadership of the Communist party". It is reported that the house arrest order was made amid a clampdown on dissidents following ethnic unrest in the central and southern highlands. According to the information received, in November 2001, he was held in total isolation in his Dalat home. Dr. Xuan Tu had reportedly already been under effective arrest between 12 May 2000 and 4 January 2001 for allegedly participating in the drafting of an open letter appealing for democracy. The house arrest was reportedly lifted following the suspension of the investigation as a result of his alleged sincere attitude and appeal for clemency.

Communications received

842. By a letter dated 19 June 2003, the Government replied to the Special Rapporteur's urgent appeal of 12 May 2003 concerning **Nguyen Dan Que**, a 61 year-old democracy activist and endocrinologist, stating that he was caught by the Public Security Forces in Ho Chi Minh city transmitting classified documents to a foreign organization and that such an act constitutes a violation of article 80 of the Criminal Code of Viet Nam. The Government further reported that Nguyen Dan Que was being held in custody as a result and that an investigation into his case was being conducted. Finally, the Government indicated that he was in good health and that all necessary measures to guarantee his right to a fair trial were undertaken by the competent authorities.

843. By a letter dated 21 November 2003, the Government replied to the Special Rapporteur's urgent appeal dated 25 August 2003 on the case of **Pham Hong Son**, stating that the arrest of Pham Hong Son was conducted in full accordance with Viet Nam's legal

proceedings. The Government reported that Pham Hong Soon committed acts in violation of the law and that he was therefore brought to trial and sentenced by the Court of First Instance to 13 years' imprisonment for the crime of espionage (article 80, section 1, Penal Code of Viet Nam). On 26 August 2003, the Ha Noi People's Court of Appeal tried him again and sentenced him to 5 years' imprisonment for the crime of espionage (article 80, section 2, Penal Code).

844. By a letter dated 24 November 2003, the Government replied to the Special Rapporteur's urgent appeal dated 23 September 2003 regarding the case of **Le Chi Quang**, reporting that Mr. Le had conducted acts in violation of article 88 of the Civil Code of Viet Nam, and that all activities concerning his arrest, investigation, prosecution and trial were carried out in full conformity with the laws and regulations of Viet Nam. The Government indicated that Mr. Le's family had been fully informed of his arrest in a timely manner. The trial, which took place on 28 November 2002, was publicly conducted in conformity with all legal proceedings provided by law. The accused was ensured of his right to legal defence. Finally, the Government indicated that Mr. Le is currently serving his sentence and receiving treatment equal to that of other inmates who committed similar offences.

845. By a letter dated 8 December 2003, the Government replied to the Special Rapporteur's urgent appeal dated 29 September 2003 regarding **Nguyen Vu Binh**, reporting that he was arrested for having committed acts in clear violation of the provisions of article 80 of the Criminal Code. As a result, the Government indicated that Nguyen Vu Binh would be brought to trial when investigation procedures have been completed.

846. By a letter dated 25 November 2003, the Government replied to the Special Rapporteur's communication dated 31 October 2003 and reported that **Thich Tri Luc** (whose real name is **Pham Van Tuong**) was arrested at the Viet Nam-Cambodia border, while trying to illegally cross the border in an attempt to contact and coordinate with certain foreign organizations to carry out activities against the State of Viet Nam. His trial was scheduled to take place on 1 August 2003. However, in view of a request made by his wife, the relevant Vietnamese authorities, for humanitarian reasons, decided to postpone his trial until a more appropriate time. The Government reported that **Pham Que Duong** committed acts in violation of article 205 of the Penal Code. He was arrested and will be tried when investigation procedures have been completed. **Tran Khue** also committed acts in violation of the law and was therefore arrested. He will be brought to trial when investigation procedures have been completed. **Nguyen Vu Viet, Nguyen Truc Cuong** and **Nguyen Thi Hoa** were arrested for their acts in violation of article 258 of the Penal Code. As a result, the Court of First Instance sentenced them to five, nine and three years of imprisonment, respectively. Finally, the Government reported that **Nguyen Van Ly** was a recidivist. In 1983, he was convicted by the Provincial People's Court of Binh Tri Thien province to ten years of imprisonment for having violated the law by committing crimes to undermine the people unity bloc and provoking serious public disorder. On 17 May 2001, Nguyen Van Ly was arrested for repeating such acts in violation of the law. After a thorough investigation process, a public trial on his case was held on 19 October 2001 by

the People's Court of Thua Thien – Hue Province. The trial was conducted in full accordance with the law.

Observations

847. The Special Rapporteur thanks the Government of Viet Nam for its replies.

Yemen

Communications sent

848. On 14 August 2003, the Special Rapporteur sent an urgent appeal regarding **Hassan al-Zaidi**, a journalist, whose house has reportedly been surrounded by security forces since the beginning of August 2003, preventing him from leaving his residence. Reports indicate that Mr. Zaidi fears he might be soon arrested, as two of his brothers, one aged 14, were allegedly arrested probably on 8 August, seemingly as a means of coercing Mr. Zaidi. It seems that the security forces claim to have put the journalist under surveillance because he belongs to the al-Zaidi tribe, which according to reports recently entered into a dispute with the Government, prompting a wave of arrests of tribal members since the beginning of August 2003. However, other reports indicate that the surveillance might be linked to Mr. Zaidi's articles in the *Yemen Times*, as he has been arrested several times in the past for his writings, without being prosecuted.

Communications received

849. By a letter dated 17 January 2003, the Government replied to the Special Rapporteur's urgent appeal of 26 November 2002 (E/CN.4/2003/67/Add.1, para. 654) regarding **Aref Mohsen al-Khewani** who was jailed in the central prison in Sana'a on October 2002. The Government reported that Aref Mohsen al-Khewani was arrested in the street while creating a disturbance. After a medical examination, he turned out to be mentally ill and was immediately transferred to the mental hospital located near the central prison. The Government reported that at the end of 2002, doctors allowed Aref Mohsen al-Khewani to leave the hospital and he continued visiting the hospital for regular medical treatment. The Supreme National Committee for human rights, along with the Ministry of Defence, have requested the settlement of his professional situation and the payment of his salary on a regular basis. Aref Mohsen al-Khewani has not been receiving his salary during the recent period because of his absence from work owing to his mental illness.

850. By a letter dated 25 September 2003, the Government replied to the Special Rapporteur's urgent appeal of 14 August 2003 concerning the journalist **Hassan al-Zaidi**. The Government indicated that Hassan al-Zaidi had not undergone any kind of harassment for being a journalist or for the fact that he writes for a Yemeni newspaper. Hassan al-Zaidi's two brothers, **Said Nakir** and **Mubarak Nakir**, are both wanted for charges issued against them concerning their implication in crimes related to the kidnapping of Yemenis and foreigners. The Government further indicated that this led the security forces, according to legal procedures, to search for criminals everywhere including the house of

the journalist, after having received the necessary permission of the relevant judicial authorities.

Observations

851. The Special Rapporteur thanks the Government of Yemen for its replies and willingness to cooperate with his mandate.

Zambia

Communications sent

852. On 17 February 2003, the Special Rapporteur sent a letter to the Government of Zambia concerning **Chali Nondo**, chief reporter of *The Monitor* newspaper, who was reportedly detained at Woodlands police station in Lusaka since 5 February 2003, when he was allegedly arrested and charged with “publishing false news with the intent to cause fear and alarm to the public”. It is alleged that Mr. Nondo was arrested because of an article published in the 4 to 6 February edition of *The Monitor*, which alleged that President Levy Mwanawasa authorized police to hire a witch doctor in order to help them capture a fugitive former finance minister charged with “theft of public funds”. Reportedly, the journalist suggested that police would not have arrested the fugitive minister without the witch doctor’s help. During the police questioning, Mr. Nondo was allegedly requested to disclose the sources of his story, but he reportedly refused. It is reported that if convicted, Mr. Nondo could be sentenced to up to three years in prison.

853. On 9 October 2003, the Special Rapporteur sent a letter of allegation concerning **Arthur Simuchoba, Calvin Kaley and Chali Nondo**, editor, entertainment and sports editor and reporter respectively, for *The Monitor*, who were reportedly arrested at approximately 9:30 a.m. on 21 January 2003 by armed plainclothes police officers, and driven to the Lusaka Central police station for questioning. They were reportedly kept at the police station until 3:30 p.m. when they were released and asked to return on 22 January. According to the information received, these arrests could be connected to the publication, in the 18 October 2002 edition of *The Monitor*, of an article in which a relative of the President was linked to a case of corruption.

Communications received

854. In a letter dated 14 November 2003, the Government responded to the communication of 9 October 2003, indicating that the allegations made in the communication were vague, making it very difficult to provide a meaningful response. An investigation was undertaken and the Occurrence books and the Arrest and Prisoners’ Property books in every police station were checked without success.

Observation

855. The Special Rapporteur thanks the Government of Zambia for its reply and further awaits a reply to his communication of 17 February 2003.

Zimbabwe

Communications sent

856. On 2 June 2003, the Special Rapporteur sent with the Chairperson–Rapporteur of the Working Group on Arbitrary Detention an urgent appeal concerning **Morgan Tsvangirai**, leader of the opposition party Movement for Democratic Change (MDC), **Welshman Ncube**, Secretary-General of MDC, **Pearson Mungofa**, Harare MP, **Richard Beatie**, President of the NGO Zim Rights and **Gibson Sibanda**, MDC Vice-President. According to information received, Morgan Tsvangirai's residence was allegedly raided late at night on 1 June 2003. It was alleged that he was not at home at the time but was reportedly arrested at 8:30 a.m. the next morning and taken to Harare Central police station. Welshman Ncube's home was allegedly raided at 1 a.m. on 2 June 2003 and his family was reportedly subjected to physical abuse. It has been reported that Welshman Ncube was not present at the time of the alleged raid but that he reported to the police later in the morning. It has been said that the charges against both men are unknown and that a planned court hearing has been postponed. It is alleged that both men have been released but that they are allegedly required to return to the police station.

857. Other alleged arrests include Pearson Mungofa and Richard Beatie. Gibson Sibanda allegedly reported to the police the next morning but no arrest was reportedly made. The alleged raids and arrests of opposition leaders are allegedly linked to the start of a week of political demonstrations against the Government. According to the reports received, other opposition leaders, including members of the Parliament, have also been arrested or have gone into hiding.

858. On 15 September 2003, the Special Rapporteurs sent a communication concerning **Shepherd Ngundu**, a teacher from the rural area of Mount Darwin, who was reportedly beaten to death on 5 February 2002 by suspected Zimbabwe African National Union Patriotic Front (ZANU-PF) supporters, allegedly for possessing a copy of the *Daily News*.

859. On 17 September 2003, the Special Rapporteur and the Special Rapporteur on torture sent jointly a letter to the Government of Zimbabwe concerning the following individual cases:

- (a) **Philimon Bulawayo**, a photographer with the independent *Daily News* newspaper, was reportedly approached and beaten by soldiers on 19 February 2003 while preparing to take pictures of people queueing for food at a Harare supermarket. It is alleged that his camera was confiscated and that he was handcuffed and taken to the Harare central police station where he was again beaten by police officers. It is reported that he was released the same day without charge and his camera was returned to him. On 18 March 2003, he was reportedly arrested and assaulted again by police for attempting to cover the mass national "stay-away" organized by MDC on 18 and 19 March 2003. He is said to have been again released without charge.

(b) **Fifteen women participating in an alleged peaceful march to celebrate International Women's Day** were reportedly detained and several others beaten by Bulawayo police on 8 March 2003. It is alleged that among those detained were three MDC MPs and the wife of the MDC Vice-president. The 15 women were reportedly held in police custody for four hours, apparently in connection with holding a march without police clearance, and were released without charge.

860. On 18 September 2003, the Special Rapporteur sent an urgent appeal to the Government of Zimbabwe concerning the reported closure of the *Daily News* newspaper. According to information received, the closure followed an 11 September 2003 Supreme Court ruling declaring that the newspaper was operating illegally under section 66 of the 2002 Access to Information and Protection of Privacy Act, which requires all media companies to register with the Media and Information Commission in order to operate. It is reported that the registration application requires information such as the curriculum vitae and political affiliations of the companies' directors. On this basis, the Associated Newspapers of Zimbabwe (ANZ, the company owning the *Daily News*), allegedly challenged the legislation as unconstitutional and did not register with the Commission, pending a decision thereon. In the Supreme Court ruling of 11 September, Chief Justice Godfrey Chidyausiku reportedly indicated that because ANZ had not registered with the Commission, it was "operating outside the law" and the court would hear the company's constitutional challenge only once ANZ had "submitted itself to the law" by registering. It is reported that ANZ therefore submitted the newspaper's registration forms to the Commission, in order to be able to resume operations and file suit again to challenge the legislation, but that the Chairperson of the Media and Information Commission, Tafataona Mahoso, said in an interview with the State-owned *Sunday Mail* that the *Daily News* would remain closed indefinitely and that "arriving at the door [of the Media and Information Commission] does not mean that they will be registered".

861. It is reported that on 12 September in the evening, approximately 20 police officers, some reportedly armed with rifles, arrived at the *Daily News* offices in Harare and ordered all the staff members out of the office. They reportedly arrested the newspaper's editor **Nqobile Nyathi** and the operations manager **Simon Ngena**, took them to the Harare Central police station and released them later without charges. The police allegedly guarded the newspaper's offices on Saturday 13 September, and allowed staff members inside only to collect personal belongings.

862. In addition, it is reported that on 13 September, **Sam Siphepha Nkomo**, the chief executive officer of the *Daily News* was formally charged with operating an unregistered publishing house; he was reportedly released after his statement was registered, but ordered to appear in court on 15 September. Further reports indicate that on 16 September, police confiscated computers and other equipment from the offices of the *Daily News*, allegedly to use them as exhibits in court, although it was alleged that no court had ordered the seizure of the equipment.

863. On 26 September 2003, the Special Rapporteur sent a letter of allegation, jointly with the Special Representative of the Secretary-General on human rights defenders, concerning **Jenni Williams**, leader of Women of Zimbabwe Arise (WOZA), a grass-roots

organization dedicated to encouraging the empowerment of women towards leadership roles in society, and **47 other members of the same organization**. According to the information received, on 24 July 2003, Jenni Williams and 47 other members of WOZA, having handed a letter of protest against the Public Order and Security Act (POSA) to the Senior Prosecutor for Bulawayo outside Tredgold Building, marched through Bulawayo. Jenni Williams had reportedly organized the protest. It is alleged that riot police arrested Jenni Williams, and that the 47 other women were arrested when they opted to be taken with Jenni Williams. While in detention for two days, the women were reportedly interrogated. During this time, they allegedly had limited access to food. The women were reportedly charged under POSA for participating in an "illegal gathering". In addition, Jenni Williams was allegedly charged with organizing the march under section 17 of POSA on offences against public order.

864. In the same communication, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders referred to additional information in relation to the case of **Philimon Bulawayo**, a photographer for the *Daily News* newspaper, and **Gugulethu Moyo**, a lawyer and Corporate Affairs Director for Associated Newspapers of Zimbabwe. On 19 February 2003, it is alleged that while preparing to take photographs of people queueing for food at a Harare supermarket, Philimon Bulawayo was assaulted by soldiers. He was then reportedly handcuffed and taken to the Harare central police station where he was allegedly again beaten by police officers. He was reportedly released the same day without charge and it is reported that his camera, which had allegedly been confiscated, was returned to him. On 18 March 2003, while covering a "stay-away" coordinated by MDC in Budiriro, Harare, Philimon Bulawayo was allegedly again arrested. Gugulethu Moyo was also allegedly arrested when she tried to secure his release from Glen View police station. Philimon Bulawayo and Gugulethu Moyo were allegedly severely beaten at the station by the wife of an army commander and a male colleague. The police allegedly stood by and watched. On 19 March 2003, Philimon Bulawayo and Gugulethu Moyo were reportedly transferred to Harare police station. According to the information received, they were reportedly not allowed access to medical treatment despite allegedly having been severely beaten, and were reportedly released without charge on 20 March 2003.

865. On 26 September 2003, the Special Rapporteur also sent an urgent appeal, in follow-up to his communication of 18 September with respect to the ruling of the Supreme Court declaring that the *Daily News* newspaper was operating illegally under the "Access to Information and Protection of Privacy Act". On 19 September 2003, the Media and Information Commission (MIC) reportedly refused to grant the registration of the newspaper, submitted on 15 September, on the grounds that the application for registration came later than the deadline for registration. It is feared that this decision might be biased, on the basis of a reported statement in the press of the Chairperson of MIC, Tafataona Mahoso, on 15 September who reportedly indicated that the *Daily News* would remain closed indefinitely as MIC would refuse to grant its registration, even before MIC had had a chance to examine the case. Reports indicate that ANZ (owner of the *Daily News*) filed an application with the Administrative Court challenging the MIC decision not to grant them an operating licence.

866. Furthermore, reports indicated that on 22 September 2003, **Sam Sipepa Nkomo**, ANZ Chief Executive, **Brian Mutsau**, **Rachel Kupara** and **Stuart Mattinson**, directors of ANZ, were summoned to the Central police station in Harare and notified that they were under arrest for publishing a newspaper without a licence; they were reportedly released under the condition that they would report to the police station the following day for questioning, during which they were reportedly asked to provide the police with a list of all employees of the *Daily News*.

867. On 9 October 2003, the Special Rapporteur, the Chairperson– Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary– General on human rights defenders, sent jointly an urgent appeal concerning the alleged arrest and detention of **Lovemore Matombo** and **Wellington Chibebe**, respectively President and Secretary-General of the Zimbabwe Congress of Trade Unions (ZCTU), and **Raymond Majongwe**, Secretary-General of the Progressive Teachers' Union of Zimbabwe (PTUZ), as well as the alleged injury of **Thabitha Khumanko**, a member of the ZCTU women's advisory council, and the alleged arrest of **41 demonstrators** in Harare. According to the information received, on 8 October 2003, Lovemore Matombo and Wellington Chibebe were allegedly arrested along with at least 41 trade unionists during a national protest against high taxation, high cost of living, transport problems and violations of trade union rights. They were allegedly detained in an unknown place. Raymond Majongwe was allegedly detained separately from other demonstrators in Harare, in solitary confinement. Physical force was allegedly used against demonstrators in Central Harare and Bulawayo. Thabitha Khumanko was allegedly injured along with several ZCTU leaders during demonstrations in Bulawayo. In addition, according to the information received, of the 41 detainees in Harare, it is reported that 21 paid fines and were released on 8 October 2003, while the remaining 20 were reportedly released but reportedly refused to pay fines on the grounds that they were conducting legitimate trade union action. These 20 were allegedly requested to report to the police at 10 a.m. on 9 October 2003, under a charge of breach of POSA.

868. Concern has been expressed that these persons have been targeted owing to their trade union human rights work. In particular, Raymond Majongwe has in the past been the subject of urgent appeals related to his work as a trade unionist (reference was made to an urgent appeal sent by the Special Rapporteur, the Special Rapporteur on the question of torture, the Special Rapporteur on the right to education and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 18 October 2002, and an allegation letter sent by the Special Representative of the Secretary-General on human rights defenders on 7 October 2003).

869. On 17 October 2003, the Special Rapporteur, the Special Representative of the Secretary– General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers, jointly sent an urgent appeal concerning an alleged attack against **Beatrice Mtetwa**, a council member of the Law Society of Zimbabwe, who frequently accepts human rights cases, including some involving the freedom of the press. According to the information received, on 1 October 2003, an attempt was allegedly made to break into Beatrice Mtetwa's car. On 12 October 2003, she was allegedly attacked in her car and had a number of personal items stolen. She reportedly called the police about the

robbery. Upon arrival, the police allegedly accused her of driving while being intoxicated with alcohol and reportedly took her to Borrowdale police station. According to the information received, on the way to the police station, Beatrice Mtetwa was allegedly beaten by the officers. During three hours in custody at the police station, she was allegedly tortured, including by strangulation. Despite the alleged accusation of intoxication, the police officers involved reportedly refused Beatrice Mtetwa's request that she be given a blood alcohol content test. She was reportedly refused medical treatment for her injuries. On 16 October 2003, Beatrice Mtetwa reportedly returned to the police station and presented her written statement relating to her charge of assault against the officer in charge. Concern was expressed that Beatrice Mtetwa may have been targeted due to her human rights work.

870. On 21 October 2003, the Special Rapporteur sent a letter of allegation concerning the cases summarized below:

(a) The Special Rapporteur received information according to which, after the registration application from the **Associated Newspapers of Zimbabwe** (ANZ), the publishing house for the *Daily News*, was rejected by the Media and Information Commission (reference was made to two communications sent on 18 and 26 September 2003), **19 Daily News journalists** have reportedly been arrested under the Access to Information and Protection of Privacy Law (AIPPA) and charged with violating article 80(1) (3) of the Law, which requires every practising journalist to be accredited by the Media and Information Commission. The 19 journalists are: **Chris Gande, Oscar Nkala, Saul Gwakuba Ndlovu, Grey Chitika, Philemon Bulawayo, Margaret Chinowaita, Kelvin Jakachira, Sydnex Saize, George Muzimba, Lawrence Chikuvira, Luke Tamborinyoka, Pedzisai Ruhanya, Fanuel Jongwe, Precious Shumba, Chengetai Zvauya, Conelias Mabasa, Conway Tutani, Gladwin Puparutsa, Darlington Makoni and Francis Mdlongwa**. It is reported that the police obtained “warned and cautioned” statements from the above-named journalists, and indicated that they will proceed by way of summons. It is further reported that most journalists did apply for accreditation within the deadline set after the entry into force of the AIPPA, but their accreditation was refused on the grounds that they were working for an unregistered publication.

(b) After the closure of the *Daily News*, the Minister of State Information and Publicity, Jonathan Moyo and the Chairman of the Media and Information Commission Tafataona Mahoso, reportedly threatened to close down the ***Zimbabwe Independent*** and ***The Standard*** newspapers on the grounds that they were critical of the Government, attacking the national leadership, and promoting “western interests” in the country. According to information received, Minister Moyo would have said that the two newspapers would “face the same demise that befell the *Daily News*” and that they “should be shut down because they are trash and injure (the) national interest”.

(c) The Special Rapporteur received information of attacks against journalists by groups of young people reportedly linked to the ruling ZANU-PF. In one case,

it is reported that on 3 October 2003, **Cyril Zenda**, a senior journalist with the *Financial Gazette* newspaper, was attacked by a vigilante group known as Chipangano, which is allegedly associated with ZANU-PF. He was reportedly disembarking from a bus at Harare's main bus terminal when members of the group reportedly pulled him to a secluded area and interrogated him about a message on the T-shirt he was wearing "Free my Voice: Free the Airwaves", by the Media Institute for Southern Africa (MISA) Zimbabwe Chapter. The group was reportedly upset that he was wearing a T-shirt bearing an "anti-government" slogan, and therefore took the T-shirt from him and burnt it; they also reportedly robbed him.

(d) On another occasion, it is reported that **Flata Kavinga**, a reporter for the *Midlands Observer*, was reportedly attacked on 8 August 2003 outside a nightclub in Kwekwe. The attackers reportedly accused the *Midlands Observer* of supporting the opposition MDC, and accused Mr. Kavinga of being against the Government because he was wearing a MISA-Zimbabwe T-shirt with the inscription "Free my Voice: Free the Airwaves". They then reportedly dragged him to an alley behind the nightclub and beat him with wooden planks, after which he sustained head injuries and had to be taken to the hospital. It is reported that Mr. Kavinga had to go into hiding for fear of further reprisals.

(e) On 9 December 2002, during the ZCTU annual review symposium, the police reportedly arrested nine trade unionists, namely **Wellington Chibebe, Tambaoga Nyazika, Timothy Kondo, Settlement Chikwinya, David Shambare, Patience Mandozana, Thomas Nyamanza, Gideon Shoko** and **Hwinya Matambo**. According to information received, these arrests could be linked to a national strike called by a coalition of civic groups and supported by ZCTU on 10 December.

(f) In November 2002 the Ministry of Information reportedly refused to renew the work permit of the Agence France-Presse (AFP) bureau chief in Harare, **Stéphane Barbier**, allegedly without giving any official explanation. It is reported that during the summer, the Ministry had let AFP know that no foreign journalist would be allowed to reside and work in Zimbabwe under the Law on Access to Information and Protection of Privacy, according to which foreign journalists will only be allowed to visit Zimbabwe for limited periods, and after having received the Ministry's approval.

(g) *Daily News* editor **Geoff Nyarota** was reportedly charged on 23 October 2002 with "undermining confidence in the police" by publishing allegations of police torture allegedly given by an opposition activist in court. This accusation would be connected, according to the information received, with the publication in the *Daily News* of a story about a young man who testified that the police tortured him a month before with beatings and electric shocks. According to the information received, if convicted, Mr. Nyarota could face a sentence of ten years' imprisonment.

(h) On 21 October 2002, a three-person crew of the *Daily News* – reporter **Henry Makiwa**, photographer **Aaron Ufumeli** and driver **Trust Maswela** – was reportedly arrested for allegedly inciting students to protest while covering a demonstration by secondary school students in Mabvuku, a suburb of Harare. According to the information received, they were taken to Mabbvuku police station but they were not charged. It is alleged however that the police confiscated a film of the students. It is also alleged that State media journalists, including a Zimbabwe Broadcasting Corporation crew, were not interrupted in their coverage of the demonstration.

871. On 27 October 2003, the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders, jointly sent a letter to the Government of Zimbabwe regarding the reported arrest in Harare on 22 October 2003 of about **400 activists of the National Constitutional Assembly (NCA)**, a network of NGOs, including the Chairman of NCA, **Lovemore Madhuku**. According to information received, NCA organized a peaceful demonstration in Harare, to call for democracy and for a people-driven Constitution to replace the 1978 Constitution which was drafted before Zimbabwe's independence. Participants in the demonstration was reportedly attacked by members of the police force, and it is alleged that the demonstrators were seriously beaten by the police, arrested, and taken to the Harare Central police station, where they reportedly were denied access to their lawyers. It is also reported that during the demonstration, **Blessing Zulu** and **Newton Spicer**, journalist with the *Zimbabwe Independent* and a freelancer respectively, were arrested while they were covering the demonstration. Their lawyers were reportedly denied access to them, and it is alleged that they were also threatened with incarceration.

872. It is reported that the majority of NCA members who had been arrested were allegedly made to pay depository fines on 23 October 2003 under the Miscellaneous Offences Act (MOA) and thereafter reportedly released. NCA leader Lovemore Madhuku reportedly refused to pay the fine, which reportedly resulted in the police laying charges against him of contravening section 24 (6) of the POSA, which criminalizes the organizing of a demonstration without the notifying the police.

873. Concerns have been expressed that the provisions of the MOA have complemented the repressive provisions of the POSA. Fears were also expressed that the police may be developing a habit of using the provisions of the MOA to justify arbitrary arrests while simultaneously making release of human rights defenders conditional on paying fines.

874. On 28 October 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent jointly a letter to the Government of Zimbabwe concerning **Andrew Meldrum**, a United States national officially resident in Zimbabwe, a journalist with United Kingdom-based newspaper *The Guardian*, and an active member of Amnesty International, who has worked closely with Amani Trust, the Human Rights NGO Forum, Zimbabwe Lawyers for Human Rights and the Zimbabwe Association of Doctors for Human Rights. His case was already the subject of an urgent

appeal on 2 May 2002 by the Special Rapporteur and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to the information received, on 15 June 2002, Andrew Meldrum's trial reportedly began under section 80 of the AIPPA on charges of "abusing journalistic privilege by publishing a falsehood". This accusation was allegedly connected with his report regarding an alleged beheading of a woman by ZANU-PF supporters. A Harare court allegedly found him not guilty of "intending to publish falsehoods" and he was reportedly acquitted on 15 July 2002. On 17 July 2002, the High Court in Harare reportedly rejected an application by the Ministry of Home Affairs to deport Andrew Meldrum, reportedly asking the Supreme Court to rule on whether the Ministry's action was constitutional.

875. On 7 May 2003, Zimbabwe immigration officials reportedly raided Andrew Meldrum's house in Harare in his absence. They allegedly refused to talk to Andrew Meldrum's wife or lawyer, or show any legal identification to them. On 13 May 2003, Andrew Meldrum reportedly went to the offices of the Department of Immigration accompanied by his lawyer to find out what they had wanted on 7 May 2003. The authorities reportedly did not give a direct answer, and allegedly ordered Andrew Meldrum to surrender his passport. On 16 May 2003, Andrew Meldrum reportedly returned to the immigration offices where he was allegedly told by one of the officials that he would be in the custody of government officials until he was out of the country. This official allegedly ignored the court orders against the deportation which Andrew Meldrum's lawyer reportedly showed him. Andrew Meldrum allegedly left the offices surrounded by immigration officials and police officers, who reportedly drove him in an unmarked car to the airport and detained him there for more than ten hours. He was then allegedly forcibly placed on an Air Zimbabwe flight to London. On 11 June 2003, his wife reportedly left Zimbabwe under an alleged threat of expulsion for being married to Andrew Meldrum, although her residence permit was reportedly independent of their marriage.

876. On 28 October 2003, the Special Rapporteur and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent jointly a letter to the Government of Zimbabwe concerning the reported arrest of **Washington Sansole**, one of the nine directors of the newspaper *The Daily News*. According to information received, the *Daily News*, which was closed down on 11 September 2003 and denied registration on 19 September (please refer to the Special Rapporteur's communications dated 18 and 26 September 2003), was reportedly granted on 24 October 2003 an operating licence on the order of Harare's Administrative Court, which ruled that the Media and Information Commission, which denied the registration, was "improperly constituted in terms of law and was accordingly unable to lawfully make the decision it made". The Administrative Court also reportedly ruled that the *Daily News* should be granted a licence as soon as possible, and that by 30 November 2003, a licence would be deemed to have been issued. It is reported that following this ruling, on 25 October, an eight-page edition of the *Daily News* headlined "We Are Back" was published, and that a few hours later, the police took control of ANZ offices and arrested **18 journalists and other workers**. Those 18 people were reportedly later released without charge, after they were reportedly made to sign a statement that they work for the *Daily News* and warned not to return to work. On 26 October, it is reported that Mr. Sansole was arrested in Bulawayo for allegedly ignoring the Administrative Court ruling and giving a directive to publish without a licence. It is

alleged that the police has said that Mr. Sansole would be detained until all directors of the newspaper presented themselves to the police. It is further reported that the police would still be occupying the premises of the newspaper.

877. Finally, it is alleged that on 25 October, **Tulepi Nkomo**, the niece of the director of the *Daily News*, Samuel Nkomo, was arrested at her uncle's house, and that there has been no news from her since her arrest. Fears have been expressed that her arrest might be used to coerce her uncle to present himself to the police.

878. On 26 November 2003, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent joint urgent appeal regarding reports that of up to **100 trade union and human rights defenders** were arrested on 18 November 2003 throughout the country (approximately 50 in Harare), allegedly in order to prevent them from staging a protest against alleged human rights abuses and the economic crisis in Zimbabwe. According to information received, **Lovemore Matombo** and **Wellington Chibebe**, respectively President and Secretary-General of ZCTU, with respect to whom an urgent appeal was sent on 9 October 2003 on behalf of the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders, were among those arrested. It is reported that Messrs. Matombo and Chibebe remained in custody for two days, while most of those arrested in other parts of the country were released, and that they were charged under section 7 (b) of the POSA.

879. It is also reported that **Andrew Moyse**, the director of the Media Monitoring Project of Zimbabwe, and seven other leaders of civic organizations, were arrested during the 18 November demonstration organized by ZCTU, and were detained at the Harare central police station, awaiting their trial.

880. Finally, reports indicate that during the demonstration, riot police apprehended **Shadreck Pongo**, a photojournalist with the newspaper *Standard*, while he was covering the demonstration, and severely beat him in a police truck. The police also reportedly destroyed his camera, and dumped the journalist at the city's periphery. He was then taken to the Harare's Avenues hospital.

Communications received

881. On 19 September 2003, the Government of Zimbabwe replied to the communication of 18 September 2003 concerning the case of the ***Daily News* newspaper** and indicated that this matter was sub judice and therefore any further comment would be inappropriate. The press statement from the Media Information Commission was attached to the response for information.

882. By letter dated 13 October 2003, the Government responded to the communication sent on 9 October regarding the arrest of trade unionists. The Government confirmed that approximately 55 trade unionists including the top leaders of **ZCTU** had been arrested on 8 October 2003. It informed the Special Representative that they had appeared in court on 9 October 2003 and were released after paying fines for having

breached the Public Order Security Act by calling for a demonstration without clearance from the relevant authorities.

883. By letters dated 29 October and 1 December 2003, the Government responded to the urgent appeal of 27 October 2003 regarding the arrest of **Lovemore Madhuku** and **other NCA activists** on 22 October 2003. The Government indicated that Mr. Madhuku was currently on bail. Contrary to reports, the Government stated that Mr. Madhuku was allowed access to his lawyers and that his detention was not arbitrary and that due process has been observed in the proceedings against him. Concerning the cases of **Blessing Zulu** and **Newton Star**, the Government considered that the characterization of the Public Order and Security Act of Zimbabwe in the allegation as “repressive”, is unjustified, unwarranted and objectionable. The Government stated that it is not a crime for the police to remind a person who breaks the law risks going to prison. The Government further questioned the habit of the Special Representative and the Special Rapporteur of sending communications on issues that fall under the responsibility of the Government of Zimbabwe and perceives the communications as harassment that prevents the Government from discharging its responsibilities. The Government also reiterated that the laws it applies were duly passed by the Parliament for the simple purpose of maintaining peace, order and security to the benefit of every citizen. The Government also underlined that the Constitution allows peaceful demonstration, but subject to certain limitations, as listed in the Public Order and Security Act. In this case, NCA members had failed to notify the police of the march. The NCA activists arrested were charged with the lesser charge of contravening to the Miscellaneous Offences Act (MOA). Out of the 200 activists arrested, all but one paid the fine imposed, and were released. Mr. Madhuku refused to pay the fine, as he was contesting having committed an offence, and decided to go to court. He was released on bail, and the case was pending at the time the response was sent.

884. On 3 November 2003, the Government of Zimbabwe replied to the communication dated 28 October 2003 concerning **Andrew Meldrum**, and indicated that he was deported from Zimbabwe by the Department of Immigration after conducting himself in a manner inconsistent with his residence permit, in that he wrote false articles clearly designed to create panic among the population and making Zimbabwe ungovernable. His wife willingly joined him in family reunion.

885. In a letter dated 5 November 2003, the Government of Zimbabwe sent a memorandum issued by the Zimbabwe Republic Police concerning the followings persons:

- (a) Pertaining to the arrest of **Philemon Bulawayo** (see communication sent on 17 September 2003) on 18 March 2003, the Government confirmed that the aforementioned is a photographer with the *Daily News* and was arrested after being identified among some perpetrators of violence who were throwing stones at passing motor vehicles. He was charged under the POSA and the case is still to be finalized. The case is being investigated under Harare Law and Order reference DR14/05/03.
- (b) Pertaining to the communication of 17 September and the arrest of **15 women participating in a peaceful march**, the Government indicated that these

women (belonging to WOSA – Women of Zimbabwe Arise) were arrested because they transformed the demonstration of Mother’s day into a political issue. Forty-six women were charged under section 7(b) of the Miscellaneous Offences Act. They paid a fine of \$5,000 each at Bulawayo central police.

(c) Pertaining to communication of 15 September 2003 raising the case of **Sherpherd Ngundu**, who was beaten to death by 10 other people, the Government said that the case is pending at court awaiting trial date and the case is being investigated under Dotito CR16/02/02.

886. In a letter dated 25 november 2003, the Government replied to the Special Rapporteur’s communication of 17 October 2003 concerning **Beatrice Mtetwa**, and indicated that on the night of 12 October 2003, Ms. Mtetwa was driving along Edinburgh Drive in Vainona, Harare and lost control of her vehicle. On arrival of the police at the scene, she told them that she was about to be carjacked and alleged that the would-be carjackers had stolen her keys and cellular telephone. Statements from witnesses suggest that this was false. The police on the scene described her as hostile, abusive and drunk. She was then taken to Harare Central police station for a blood alcohol content or breathalyser test. However, as the machine was not working, Ms. Mtetwa was taken to Borrowdale police station, where she was put under observation for three hours. It seems that while at Harare Central police station, Ms. Mtetwa had an altercation with a police officer and bit him on the cheek. There was another altercation at Borrowdale police station. As a result, three criminal cases were under investigation as the officers concerned had pressed charges against Ms. Mtwetwa. In parallel, an investigation into the way the police handled the case is also under way.

Observations

887. The Special Rapporteur thanks the Government of Zimbabwe for its replies. He further awaits replies to his communications of 26 September, 9 and 21 October and 26 November 2003.

888. The Special Rapporteur would like to reiterate his request to undertake an official visit in this country as expressed in his letter dated 8 December 2003.
