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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 languages 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 2004. It also contains in summary form the replies received from Governments to his communications.
2. Replies to communications received after 31 December 2004 will be included in the Special Rapporteur's report to the sixty-second session of the Commission on Human Rights.
3. 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 As a result, replies from Governments could not be published in their entirety.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

Albania

4. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning the editor-in-chief of the TV station Vizion +, **Mr. Ilir Babaramo**, who was reportedly beaten by the Minister of Public Order, at Rozafa Palace, on 14 October 2003, during an event organized by the press office of the Prime Minister in Tirana. It is believed that this act was related to a comment made by the journalist in August 2003 concerning the public security situation in Albania.

Observations

5. The Special Rapporteur regrets that no response to his communication was received from the Government at the time this report was finalized.

Algeria

6. Le 13 février 2004, le Rapporteur spécial a adressé une communication au Gouvernement concernant des allégations selon lesquelles l'édition du 8 au 14 février 2004 de l'hebdomadaire *Jeune Afrique-L'Intelligent* n'aurait pas été distribuée dans les kiosques. Selon les informations reçues, le numéro 2248 de *Jeune Afrique-L'Intelligent* aurait été retenu par la direction de la presse au Ministère de la communication et de la culture, qui délivre les autorisations de distribution pour la presse étrangère. Il semblerait que ce soit la première fois depuis 1998 que ce journal soit suspendu en Algérie. Bien qu'aucune raison n'aurait semble-t-il été donnée par les autorités, il est supposé que l'article «Pour qui votent les généraux», qui analyse le rôle décisif de l'armée dans l'histoire politique récente de l'Algérie, de même que la couverture de l'édition algérienne du journal affichant un gros plan du général Lamari, serait à l'origine de cette décision, alors que la campagne pour l'élection présidentielle du 8 avril vient de commencer.
7. Le 19 avril 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a adressé une communication au Gouvernement au sujet de la situation de **Mohammed Smain** et **Fethi Azzi**, deux témoins dans une information judiciaire pour torture, actes de barbarie et crimes contre

l'humanité, ouverte en France contre deux membres des milices de Relizane. Selon les informations reçues, Mohammed Smaïn et Fethi Azzi subiraient des pressions de la part des autorités depuis leur retour de France au début avril 2004, où ils étaient allés témoigner devant le juge d'instruction dans le cadre de cette affaire. En particulier, le 5 avril 2004, alors qu'il reprenait son travail à la sous-préfecture, Fethi Azzi se serait vu signifié son renvoi. M. Azzi aurait depuis été réintégré après avoir été dégradé et muté dans un autre service de la sous-préfecture. Il aurait d'autre part reçu des menaces pour avoir témoigné dans l'affaire des deux miliciens. De même, Mohammed Smaïn, représentant de la section de Relizane de la Ligue algérienne de défense des droits de l'homme (LADDH), aurait été arrêté par le groupement de gendarmerie de Relizane le 10 avril 2004, alors qu'il se trouvait en compagnie de journalistes enquêtant sur des disparitions forcées, et détenu pendant 20 heures. Le lendemain matin, le colonel commandant le groupement de gendarmerie lui aurait signifié qu'il serait poursuivi pour outrage à corps constitué, et aurait refusé de lui rendre ses papiers de voiture. M. Smaïn aurait alors demandé une audience avec le procureur général, qui lui aurait été refusée.

8. Par lettre datée du 18 juin 2004, le Gouvernement a répondu à la communication en date du 19 avril 2004 concernant **Mohamed Smaïn** et **Fethi Azzi**. Concernant Mohamed Smaïn, le Gouvernement a indiqué qu'il avait été interpellé le 10 avril 2004 sur les instructions du procureur de Relizane par la gendarmerie nationale alors qu'il se trouvait en voiture avec un journaliste étranger en possession d'une caméra et effectuant un reportage sans autorisation. Les deux personnes auraient été conduites à la brigade avant d'être relâchées. Les documents de son véhicule lui auraient été retirés puis rendus. Concernant Fethi Azzi, le Gouvernement a indiqué qu'il n'aurait jamais été arrêté et qu'il n'aurait pas saisi les services de police en ce qui concerne les menaces alléguées. Le Gouvernement ne peut de ce fait faire de commentaire.

9. Le 24 mai 2004, le Rapporteur spécial, conjointement avec le Vice-Président-Rapporteur du Groupe de travail sur la détention arbitraire, la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant la situation de dizaines de personnes, semble-t-il détenues au moment de l'envoi de la communication dans les casernes de la gendarmerie de Tkout et à la prison d'Arris pour avoir participé à des manifestations de protestation contre l'exécution d'un jeune homme âgé de 19 ans, **Chouaib Argabi**, par un membre du Groupe de légitime défense (GLD), un groupe paramilitaire de Taghit. D'après les informations reçues, Chouaib Argabi aurait été mortellement blessé par balle le 13 mai 2004 dans la localité de Taghit (wilaya de Batna), par un membre de la garde communale qui aurait tiré sans sommation sur le jeune homme, l'ayant pris pour un terroriste. Il nous a été également rapporté que le compagnon de M. Argabi aurait été enlevé et séquestré dans le casernement du GLD. Le lendemain, suite aux protestations pacifiques des citoyens de Taghit et de Tkout (localité voisine), exigeant de faire toute la lumière sur cet événement, le Gouvernement aurait dépêché des renforts de gendarmerie et de l'armée. Les gendarmes et les militaires, semble-t-il fortement armés, seraient intervenus en utilisant une force excessive contre les civils non armés. Plusieurs dizaines de personnes auraient été arrêtées et incarcérées dans les casernes de la gendarmerie de Tkout et à la prison d'Arris. Des craintes ont été exprimées quant au fait que ces prisonniers auraient été torturés et continueraient, au moment de l'envoi de la communication, d'être soumis à des traitements inhumains, cruels ou dégradants. Selon les informations reçues, les membres du Mouvement citoyen de la région des Aurès auraient été particulièrement visés par cette vague de répression, et auraient fait l'objet de harcèlement.

10. Par lettre datée du 16 juillet 2004, le Gouvernement a répondu à la communication du 24 mai 2004 en indiquant que dans la nuit du 13 mai 2004, des agents de la garde communale de Taghit ont tiré, après avoir fait les sommations d'usage, sur deux hommes qui tentaient de récupérer des produits alimentaires volés trois jours auparavant dans un magasin et qu'ils avaient caché dans l'oued. L'un d'eux, **Chouaib Argabi**, a été mortellement blessé. Une instruction judiciaire a été ouverte par le procureur de la République d'Arrijs qui a saisi le juge d'instruction du tribunal. Celui-ci a entendu les mis en cause, les a inculpés du chef d'homicide et ordonné leur détention provisoire. Une autopsie de la victime a été ordonnée. Il n'y a donc pas d'impunité dans cette affaire puisqu'elle est pendante devant la justice et que les auteurs présumés ont été poursuivis et placés sous mandat de dépôt.

11. Le 27 mai 2004, 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 au Gouvernement concernant la situation du directeur du quotidien *Le Matin*, **Mohamed Benchicou**, pour lequel un appel urgent avait été envoyé par le Rapporteur spécial le 4 avril 2002 (E/CN.4/2003/67/Add.1, par. 8). Selon les informations reçues, Mohamed Benchicou devait comparaître le 31 mai 2004 devant le tribunal d'El Harrach, dans le cadre d'une affaire l'opposant au Ministère des finances: le 23 août 2003, revenant d'un voyage, Mohamed Benchicou aurait été interpellé à l'aéroport d'Alger par des policiers qui lui auraient indiqué vouloir fouiller son porte-documents et ses bagages de soute. Les policiers auraient photocopié ses papiers personnels avant de les lui rendre. En dépit du fait que, par lettre du 25 août 2003, le directeur général des douanes algériennes aurait averti le Gouvernement algérien de la nullité de la procédure frappant M. Benchicou et de l'absence d'infraction, le jour suivant, M. Benchicou aurait été entendu pour transfert illégal de capitaux et, le 27 août 2003, le procureur de la République aurait exigé qu'il soit placé sous mandat de dépôt. Le juge d'instruction n'aurait toutefois retenu que le contrôle judiciaire et aurait confisqué le passeport de Mohamed Benchicou, qui serait soumis depuis à une interdiction de quitter le territoire et astreint à se présenter au juge d'instruction toutes les semaines. Il a été rapporté qu'au cours de l'audience du 31 mai 2004, le magistrat devait juger l'affaire et statuer sur la levée du contrôle judiciaire qui frappe Mohamed Benchicou. Dans leur communication, le Rapporteur spécial et la Représentante spéciale ont exprimé des craintes que les procédures à l'encontre de M. Benchicou ne constituent une forme de représailles de la part du Ministère de l'intérieur après la parution dans le journal *Le Matin* en juillet 2003 d'un article dans lequel un citoyen algérien aurait dénoncé les tortures qu'il aurait subies et mettant en cause le Ministre de l'intérieur. Il semblerait que, le 18 août 2003, le journal *Le Matin* aurait été suspendu en même temps que quatre autres quotidiens indépendants. Ces craintes sont d'autant plus vives que le ministre mis en cause aurait publiquement menacé *Le Matin* et son directeur.

12. Par lettre datée du 16 juillet 2004, le Gouvernement a répondu à l'appel urgent envoyé le 27 mai 2004 concernant la situation de **Mohamed Benchicou** qui fait le sujet dans une affaire de transfert illégal de capitaux. Le Gouvernement a informé le Rapporteur spécial que le 14 juin 2004 l'intéressé aurait été condamné à deux ans en prison ainsi qu'à une amende de 23,4 millions de dinars, une somme qui correspond à deux fois la valeur du délit commis. De ce fait, le Gouvernement a affirmé avoir agi selon sa législation, et il a précisé que personne, en dehors du juge, ne pourrait contester la mesure.

13. Le 28 mai 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire générale concernant la situation des défenseurs des droits de l'homme, le Vice-

Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication au sujet de la situation de M. **Hafnaoui El Ghoul**, responsable de la Ligue algérienne de défense des droits de l'homme à Djelfa et correspondant de presse. Selon les informations reçues, le 24 mai 2004, M. El Ghoul aurait été arrêté par des policiers en civil se déplaçant en voiture banalisée. Cette détention serait intervenue dans le cadre de l'instruction de trois plaintes pour diffamation déposées contre lui, notamment par le préfet et par le directeur de la santé publique de Djelfa à la suite d'un entretien qu'il aurait donné au quotidien national *Le Soir* le 17 mai 2004, où il aurait dénoncé la situation des droits de l'homme en général, et celle des journalistes en particulier dans la région de Djelfa. Selon les informations reçues, le 25 mai 2004, M. Ghoul aurait été présenté devant le juge du tribunal de Djelfa et condamné à six mois de prison ferme au sujet d'une quatrième plainte. Ses avocats n'auraient pas eu connaissance de cette audience ni de l'objet de la plainte en question. Le 26 mai, sa famille aurait été empêchée de lui rendre visite. M. El Ghoul aurait entamé une grève de la faim. Des craintes ont été exprimées que l'arrestation de M. El Ghoul ne représente une forme de représailles contre ses activités de défense des droits de l'homme, notamment au regard d'information selon lesquelles, lors d'une convocation au commissariat de Djelfa le 15 mai 2004, M. El Ghoul aurait reçu des menaces de mort explicites, visant également sa famille, s'il continuait à «s'entêter».

14. Par lettre datée du 16 juillet 2004, le Gouvernement a répondu à l'appel urgent envoyé par le Rapporteur spécial le 28 mai 2004, l'informant que le 9 juin 2004 **Hafnaoui El Ghoul** a été condamné à deux mois d'emprisonnement pour les délits de diffamation, outrage et injures. Le Gouvernement a affirmé que, conformément à la loi, l'intéressé aurait reçu la visite de son père et de son frère, mais pas de son oncle. Le Gouvernement a également précisé que l'intéressé prendrait régulièrement ses repas et se trouverait de bonne santé. Par lettre supplémentaire le 27 novembre 2004, le Gouvernement a confirmé que le jour même la décision de la cour de Djelfa aurait ordonné la libération de M. Hafnaoui El Ghoul en application de l'article 128 du Code de procédure pénale.

15. Le 7 juin 2004, le Rapporteur spécial, conjointement avec le Vice-Président-Rapporteur du Groupe de travail sur la détention arbitraire, 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 violence contre les femmes, a envoyé une communication au Gouvernement au sujet de la situation des personnes qui auraient été arrêtées pour avoir manifesté dans la région des Aurès, et pour lesquelles une communication avait été envoyée par les Rapporteurs spéciaux sur le droit à la liberté d'opinion et d'expression, la question de la torture, les exécutions extrajudiciaires, sommaires ou arbitraires ainsi que le Vice-Président du Groupe de travail sur la détention arbitraire le 24 mai 2004. Selon les nouvelles informations reçues, les 24 et 31 mai 2004, 29 des personnes arrêtées dans le cadre de ces manifestations auraient comparu devant le tribunal d'Arris et auraient été condamnées pour attroupement, incitation à attroupement, diffusion de tracts et atteintes aux biens d'autrui aux peines d'emprisonnement suivantes : **Meziani Fouzi** (8 mois), **Beziane Abdelouahab** (6 mois), **Abassi Rachid** (6 mois), **Daoudi Essaid** (6 mois), **Aichi Hessane** (8 mois), **Yeza Abdeslam** (8 mois), **Titaouine Salim** (8 mois), **Lounissi Abdelkrim** (6 mois), **Yakoub Abderrezak** (8 mois), **Zerdoumi Abdelmadjid** (6 mois), **Chatri Khaled** (3 mois), **Saidi Rachid** (6 mois), **Berbachi Ali** (3 mois), **Kerbai Samir** (3 mois), **Kerbai Mohamed Tayeb** (3 mois), **Meziani Karim** (3 mois), **Gharik Ahcene** (3 mois), **Bezala Essaid** (3 mois), **Yeza Salim** (8 mois), **Megharmi**

Djamel (1 an), **Boussetta Abdenacer** (8 mois), **Djouara Djamel** (8 mois), **Yeza Mohamed** (3 mois), **Khellafi Toufik** (3 mois), **Agali Abderrezak** (3 mois), **Titaouine Ali** (6 mois), **Bezala Ali** (6 mois), **Lounissi Tahar** (3 mois), **Zerdoumi Amar** (6 mois). Des informations additionnelles sur les traitements qui auraient été infligés aux personnes arrêtées ont également été communiquées, selon lesquelles les jeunes gens arrêtés soit au cours des manifestations soit à leur domicile auraient été conduits dans des véhicules militaires à l'ancienne prison coloniale, lieu de cantonnement de la gendarmerie de Tkout, où ils auraient été déshabillés et alignés avant d'être torturés: agressions sexuelles, insultes, coups de matraques. Certains auraient eu leurs membres brisés et le visage balaféré à l'issue des coups que leur auraient porté les gendarmes. Des menaces de viols sur les sœurs et mères des détenus auraient également été proférées. En raison de la couverture médiatique des événements, et notamment des témoignages dans la presse relatant les tortures subies, une enquête aurait été conduite le 26 mai par des fonctionnaires du Ministère de la justice dépendant de la cour de Batna. Ceux-ci auraient conclu à l'absence de torture, en dépit du fait que neuf des jeunes gens arrêtés auraient réitéré les déclarations faites à la presse. Des craintes ont été exprimées que ces enquêtes n'aient pas été conduites de manière indépendante et impartiale. Dans une lettre ouverte adressée au Chef de l'État algérien, le procureur adjoint de la cour de Batna (cour dont dépend Tkout), aurait dénoncé les «pressions, intimidations, menaces et trafic d'influence» qu'il aurait subies dans l'exercice de ses fonctions et que subiraient tous les magistrats «intègres», et dans laquelle il mettrait directement en cause un officier supérieur de l'armée. Il a également été rapporté que plusieurs dizaines de membres du mouvement citoyen de Tkout, qui auraient fui pour se réfugier dans les montagnes environnantes, seraient au moment de l'envoi de la communication toujours contraints de vivre dans la clandestinité en raison de la surveillance dont leurs domiciles feraient l'objet. Un important dispositif policier serait toujours en place dans le village de Tkout et les parents et membres des familles de ceux ayant fui feraient quotidiennement l'objet de menaces et d'intimidations. Des craintes ont été exprimées que cette répression, y compris les condamnations des jeunes gens ayant participé aux manifestations, ne vise à réprimer les mouvements citoyens luttant pour le respect de leurs droits, notamment après que le mouvement citoyen de Tkout aurait présenté en mars dernier une plate-forme de revendications socioéconomiques, culturelles et linguistiques aux autorités locales et régionales.

16. Par lettre datée du 16 juillet 2004, le Gouvernement a répondu à l'appel urgent envoyé par le Rapporteur spécial le 7 juin 2004 concernant les **28 personnes** condamnées pour attroupements et atteintes aux biens d'autrui. Le Gouvernement a souligné que le jugement du tribunal le 31 mai 2004 aurait été plus ou moins soutenu par la cour de Batna le 20 juin 2004 qui aurait confirmé la peine prononcée contre 23 et aurait déclaré la relaxe contre les cinq autres. En ce qui concerne les accusations de mauvais traitements pendant la garde à vue, il faut préciser que celles-ci n'auraient été déposées qu'à la deuxième audience, et le Gouvernement a informé que les certificats médicaux au terme de la garde à vue ne feraient aucune mention de mauvais traitements. Néanmoins, le Ministre de la justice aurait ordonné une enquête, qui aurait conclu à la fausseté des allégations.

17. Le 2 juillet 2004, le Rapporteur spécial a envoyé une communication au sujet de rapports selon lesquels les autorités algériennes auraient décidé de geler les activités de la chaîne satellite **Al-Jazira** en Algérie: le 30 juin 2004, le Ministère de la culture et de la communication aurait informé Mohamed Daho, correspondant de la chaîne Al-Jazira à Alger, que ses activités étaient gelées «jusqu'à nouvel ordre», au motif officiel d'une réorganisation en cours du travail des correspondants de la presse étrangère. Les rapports indiqueraient toutefois qu'il s'agirait d'une

mesure de représailles consécutive à la diffusion d'un débat sur l'Algérie dans l'émission «El-Itidjah el-Mouakass» à la mi-juin 2004, durant lequel la parole aurait été donnée à des opposants qui auraient critiqué les généraux algériens et la politique de réconciliation nationale du Président Bouteflika. Un sondage, réalisé par la chaîne, selon lequel 72 % des téléspectateurs estimaient que la situation ne s'était pas améliorée en Algérie, aurait également été rendu public au cours de ce programme.

18. Le 20 juillet 2004, le Gouvernement a répondu à la communication du Rapporteur spécial du 2 juillet 2004, indiquant que cette décision est une approche qui vise à normaliser, sur la base d'un texte réglementaire opposable aussi bien aux autorités publiques qu'aux journalistes accrédités, la procédure et l'exercice de l'activité de correspondant, et non une tentative de limiter le travail des correspondants permanents. Quant au lien entre le gel de l'activité de la chaîne **Al-Jazira** et l'émission à laquelle il a été fait référence, il s'agit là de la recherche d'un vain prétexte, sachant que ladite chaîne, ainsi que beaucoup d'autres, ont souvent consacré des émissions critiques envers l'Algérie sans que cela ne suscite une quelconque réaction des pouvoirs publics algériens, qui considèrent cela comme la vocation naturelle des médias. Le Gouvernement souligne aussi que le gel de l'activité de la chaîne en question a été signifié à son représentant le 6 juin 2004, jour de la remise des cartes d'accréditation pour l'ensemble des correspondants permanents, ce qui, de fait, rend caduc le prétexte d'une quelconque émission qui serait passée plus tard.

19. Le 14 juillet 2004, le Rapporteur spécial a envoyé une communication concernant les renseignements portés à sa connaissance au sujet des cas décrits ci-dessous:

- Le 1^{er} octobre 2003, le directeur de publication du quotidien *Le Soir d'Algérie*, **Fouad Boughanem**, ainsi que deux de ses chroniqueurs, **MM. Bouhamidi** et **Hakim Laâlam**, auraient été interpellés par les services de la police à l'intérieur des locaux du journal et relâchés quelques minutes plus tard, dans le but allégué de les intimider. Le 16 septembre 2003, M. Fouad Boughanem aurait déjà été interpellé devant La Maison de la presse et conduit au commissariat central avant d'être relâché quelques heures plus tard. Le Rapporteur spécial avait envoyé une communication au sujet de cette première interpellation le 29 septembre 2003 (voir E/CN.4/2004/62/Add.1, par. 10);
- Le 6 octobre 2003, un dispositif policier aurait été installé aux abords du domicile de **M. Ahmed Benaoum**, directeur du groupe de presse Erraï El Aâm, ainsi qu'au siège des journaux édités par ce groupe. Le même jour, un policier en civil se serait présenté à son domicile pour lui remettre une convocation le sommant de se présenter dans l'heure qui suit à la brigade économique du commissariat d'Oran. Après avoir donné suite à ladite convocation, M. Ahmed Benaoum aurait immédiatement été emprisonné dans le but allégué de l'intimider. Le Rapporteur spécial avait déjà envoyé une communication au Gouvernement au sujet de M. Ahmed Benaoum le 29 septembre 2003, à laquelle le Gouvernement avait répondu par lettre datée du 19 novembre 2003 (voir E/CN.4/2004/62/Add.1, par. 10 et 20);
- Le 13 octobre 2003, le directeur du quotidien *L'Expression*, **M. Ahmed Fattani**, aurait été interpellé au siège de son journal à Alger et emmené au commissariat central pour y être entendu à propos d'un article intitulé «Les illusions perdues de

Bouteflika», paru sur le site Internet du quotidien le 19 août 2003. M. Ahmed Fattani aurait été retenu au commissariat pendant trois heures avant d'être relâché;

- Le 23 décembre 2003, **M. Ali Dilem**, caricaturiste du quotidien *Liberté*, aurait été condamné pour diffamation à quatre mois de prison avec sursis et une amende de 100 000 dinars par le tribunal d'Alger, dans une affaire l'opposant au Ministère de la défense nationale. **MM. Abrous Outoudert** et **Hacène Ouandjeli**, respectivement ex-directeur de publication et ex-directeur de la rédaction, auraient été condamnés dans la même affaire à verser une amende de 50 000 dinars chacun. Le Rapporteur spécial avait envoyé une communication au Gouvernement au sujet de MM. Ali Dilem et Abrous Outoudert le 29 septembre 2003 (voir E/CN.4/2004/62/Add.1, par. 10);
- Le 28 avril 2004, **M. Khaled Mokhtari**, secrétaire général de l'Union nationale du personnel de la justice (UNPJ), aurait été interpellé et mis sous contrôle judiciaire par un juge d'instruction pour «incitation à attroupement». M Khaled Mokhtari se serait également vu interdire l'exercice syndical. Selon les informations à disposition, le 23 avril 2004, le bureau exécutif de l'UNPJ avait décidé d'organiser une manifestation devant le Ministère de la justice le 5 mai 2004 dans le but d'ouvrir les négociations avec le ministère de tutelle;
- Le 30 mai 2004, **M. G. Lotfi**, correspondant du journal *Liberté*, aurait été condamné à trois mois d'emprisonnement avec sursis et à une amende de 200 000 dinars suite à une plainte déposée par le préfet de Djelfa pour diffamation.

20. Le 9 août 2004, le Rapporteur spécial, conjointement avec le Vice-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, a envoyé une communication concernant **M. Hafnaoui El Ghoul**, responsable de la Ligue algérienne de défense des droits de l'homme à Djelfa et correspondant de presse, détenu à la prison de Djelfa depuis le 24 mai 2004, et au sujet duquel une communication avait été envoyée le 28 mai 2004 par le Rapporteur spécial, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, le Vice-Président-Rapporteur du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires. Selon les nouvelles informations reçues, le 2 août 2004, le tribunal de première instance de Djelfa aurait condamné M. Hafnaoui El Ghoul à deux mois de prison ferme, pour «sortie illégale d'un document de prison». Cette condamnation serait en relation avec la publication dans le quotidien *Essabah El Djadid* d'une lettre que M. Ghoul a envoyé à sa fille le 24 juin, et dans laquelle il s'exprime sur sa situation juridique et sa détention. Des craintes ont été exprimées que cette nouvelle condamnation ne vise à sanctionner la liberté d'expression d'Hafnaoui El Ghoul. Ces craintes sont d'autant plus vives que, depuis plusieurs mois, une quinzaine de plaintes auraient été déposées contre M. Ghoul pour «diffamation et atteinte à un corps constitué», et trois procès contre lui seraient en cours, dont plusieurs audiences auraient été reportées.

21. Le 22 septembre 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la violence contre les femmes et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication au Gouvernement concernant un rassemblement pacifique des familles de disparus de Constantine,

ayant eu lieu le 20 septembre 2004 devant le siège provisoire du Comité ad hoc sur les disparus à Constantine, rassemblement qui aurait été dispersé violemment par les forces de l'ordre, qui auraient également procédé à des arrestations. D'après les informations reçues, **M. Hmamlia**, qui tentait de venir en aide aux personnes malmenées par la police, aurait été arrêté et conduit au poste de police et libéré quelques heures plus tard. **Mme Fari da Oughlissi**, mère de disparu, aurait été frappée. **Mme Louisa Saker**, Secrétaire générale de l'Association des familles de disparus de Constantine, aurait quant à elle été interpellée et emmenée par des éléments de la Brigade mobile de police judiciaire (BMPJ) et détenue à la caserne de la police judiciaire de la zone palma à Constantine. Ni les membres de sa famille ni son avocat n'auraient été autorisés à lui rendre visite jusqu'à sa libération dans la soirée. Durant sa détention, Louisa Saker n'aurait pas été informée des motifs de son arrestation et aurait fait l'objet d'actes d'intimidation et de menaces de la part d'agents des services des renseignements généraux; elle aurait notamment été menacée d'être inculpée pour troubles à l'ordre public avant d'être relâchée dans la soirée, sans qu'aucune charge n'ait été retenue contre elle. Suite à sa libération, un médecin aurait pu constater les traces sur son corps des violences subies lors du dispersement du rassemblement. Il a également été rapporté que Mme Louisa Saker avait déjà fait l'objet d'actes d'intimidations le 5 novembre 2003 de la part de deux inspecteurs des services des renseignements généraux. L'arrestation et la détention de Mme Saker et de M. Hmamlia ainsi que les méthodes utilisées pour disperser une manifestation pacifique sont d'autant plus préoccupantes que la police aurait déjà dans le passé arrêté des membres de familles de disparus et fait usage de violence à leur rencontre lors de rassemblements à Constantine le 8 novembre 2001, à Alger le 5 novembre 2002, et à Oran le 9 juillet 2003. S'agissant de Mme Saker, des craintes ont été exprimées que celle-ci n'ait été visée en particulier, en raison de ses nombreuses prises de position critiques quant à la gestion du dossier des disparus par les autorités algériennes.

Observations

22. Le Rapporteur spécial remercie le Gouvernement pour les réponses apportées à ses communications des 19 avril, 24 mai, 27 mai, 28 mai, 7 juin, 2 juillet et 9 août 2004, mais il note qu'aucune réponse n'a été fournie aux communications des 13 février, 14 juillet et 22 juillet 2004.

23. Le Rapporteur spécial exprime sa gratitude au Gouvernement pour l'invitation à conduire, en sa qualité de rapporteur spécial de la Commission des droits de l'homme sur la promotion et la protection du droit à la liberté d'expression et d'opinion, une mission dans le pays.

Angola

24. Le 5 avril 2004, le Rapporteur spécial a envoyé une communication au Gouvernement concernant **Felisberto de Graça Campos**, directeur et éditeur de l'hebdomadaire *Semanario Angolense*, qui aurait été condamné par le tribunal provincial de Luanda à 45 jours de prison et à une amende de 1 200 dollars des États-Unis pour une série d'articles publiés en 2003 donnant des détails sur la fortune personnelle de certains membres du Gouvernement et autres personnalités du pays. Cette condamnation aurait fait suite aux poursuites entamées contre le journaliste par le Ministre de la défense. M. Campos aurait été inculpé en vertu des articles 43 de la loi sur la presse et 407 du Code pénal. Il semblerait que M. Campos serait passible de peines supplémentaires en raison d'autres poursuites entamées par le coordonnateur et le secrétaire

général du Movimento Popular da Libertação de Angola (MPLA), le Ministre de l'administration et le Président de la Banque africaine d'investissement, sur la base de la même série d'articles.

Observations

25. Le Rapporteur spécial regrette de ne pas avoir encore reçu de réponse à sa communication au moment de la finalisation du présent rapport.

Argentina

26. El 12 de agosto de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación con respecto a la muerte de **Martín Cisneros**, piquetero y dirigente de la organización Federación de Tierra y Vivienda. Según las informaciones recibidas, el 25 de junio, Martín Cisneros habría recibido varios disparos de arma de fuego cuando habría salido de su trabajo en la Unidad de Producción Social del Comedor "Los Pibes" en el barrio de La Boca, Buenos Aires. De acuerdo con las informaciones, Martín Cisneros habría sido asesinado a dos cuadras de distancia de la Comisaría de Policía por un hombre conocido como informante y quien se alega también recibe la protección policial. Se indica que el 28 de junio el supuesto informante junto con un menor de edad habrían sido detenidos por la policía en relación con la muerte. Se teme que la muerte de Martín Cisneros pueda estar relacionada con su trabajo como piquetero, y en particular con sus actividades en defensa de los derechos laborales dado que la muerte de Martín Cisneros habría ocurrida en el mismo día del segundo aniversario de la muerte de Maximiliano Costecki y Darío Santillán, también líderes del Movimiento de los Piqueteros.

27. El 27 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, envió una comunicación con respecto a los casos siguientes:

- Varias personas claramente identificadas como periodistas de televisión habrían sido amenazadas y agredidas mientras informaban sobre las manifestaciones organizadas por empleados del gobierno provincial entre el 27 y el 30 de abril de 2002 en la provincia de San Juan. **Carlos Chirino**, camarógrafo para la televisión de San Juan Canal 8, habría resultado herido en la pierna por una bala de goma y habría sido pisoteado por miembros de la policía provincial. Una bomba de gas lacrimógeno habría caído cerca de la unidad móvil de FM Radio La Voz, identificada claramente como tal. La policía también habría disparado balas de goma contra **Atahualpa Acosta**, director, y **Marcos Urisa**, fotógrafo, del *Diario de Cuyo*. Ambos eran claramente identificables como periodistas. **Alejandra Ruiz**, de TV 2 Canal Proimagen, **Doly García**, de FM Santa Lucía, y **Juan Pereyra**, de LV5 Radio Sarmiento, también habrían resultado heridos por balas de goma;
- **Marco Díaz Muñoz**, corresponsal de América TV en la provincia de Salta, habría sido atacado por miembros del ejército y de la policía provincial el 20 de junio de 2002, cuando filmaba la expulsión y represión de grupos de desempleados que protestaban delante del ayuntamiento de la capital, Salta. Habría sido golpeado en el estómago y la boca con una porra antidisturbios por un soldado. Los militares también le habrían dañado la cámara para impedir que siguiera filmando. Al día

siguiente, el periodista habría presentado una denuncia por “apremios ilegales” en la Fiscalía número 4 de Salta.

- **Carla Minetti**, periodista para Cablevisión TV Rosario, Provincia de Santa Fe, habría sido alcanzada en el cuello por una bala de goma disparada por la policía el 14 de marzo de 2002 mientras informaba sobre el desalojo de unas viviendas ocupadas ilegalmente en Rosario;
- Varios manifestantes y periodistas habrían resultado heridos debido al uso supuestamente excesivo de la fuerza por parte de la policía el 26 de octubre de 2002, durante una protesta de las Asambleas Populares delante de la comisaría 6 de policía de Buenos Aires. La manifestación tenía como motivo la detención de miembros de la organización ecologista Greenpeace y de las Asambleas Populares que se habían manifestado previamente delante del edificio del Congreso de la Nación y que, tras ser detenidos, habían sido llevados a la seccional 6. La policía habría utilizado gas lacrimógeno y balas de goma contra quienes protestaban por estas detenciones. **Alberto Recanatini Méndez** y **Tomás Eliashev**, periodistas de Indymedia Argentina, habrían sido heridos por balas de goma disparadas por agentes de la Infantería de la Policía Federal mientras estaban cubriendo estas manifestaciones. Alberto Recanatini Méndez habría sido alcanzado en la cabeza, el codo y la entrepierna. Tomás Eliashev habría sido alcanzado seis veces en las piernas. Posteriormente habrían presentado una denuncia judicial en relación con este suceso en la Fiscalía número 2 de Buenos Aires. En el juzgado de instrucción número 8 se habría iniciado una investigación judicial calificada como investigación por “lesiones y coacción”. Sin embargo, se alega que no se han realizado progresos en dicha investigación. Durante la misma manifestación **Luis Gras**, periodista del diario La Tapa, también habría sido golpeado por la policía y detenido junto con varios manifestantes. Antes de ponerlos a todos ellos en libertad, ese mismo día, la policía los habría obligado a firmar varios documentos, sin entregarles una copia. Entre los papeles que firmaron habría una acusación de “resistencia a la autoridad y daños a la propiedad privada”;
- **Julián Sequeiro**, **Maximiliano García Solla** y **Michael Carcachi**, camarógrafos del programa Puntodoc/2 de América TV, habrían sido brutalmente golpeados por miembros de la Policía Federal Argentina el 25 de febrero de 2003, mientras informaban sobre el desalojo judicial de 100 familias en el barrio de San Telmo, en Buenos Aires. Se alega que durante el desalojo, la policía utilizó gas lacrimógeno y balas de goma. Julián Sequeiro habría sido golpeado en la cara por unos policías a pesar de que había mostrado su acreditación de prensa y se había identificado claramente como periodista. Julián Sequeiro se habría caído al suelo debido al golpe recibido. Tumbado en el suelo, los policías habrían seguido golpeándolo y dándole patadas. Le habrían roto la nariz y causadas fisuras en dos costillas. Habría sido llevado detenido a la seccional 14 y, más tarde, trasladado al hospital de Argerich, antes de ser puesto en libertad. Maximiliano García Solla habría recibido una patada en los testículos por parte de un policía vestido de civil, quien también le habría dado un puñetazo. Seguidamente habría sido detenido. Antes de ser agredido, Maximiliano García Solla se habría identificado claramente como periodista. Michael Carcachi habría sido golpeado por la policía

mientras informaba sobre la expulsión. Habría estado filmando a un joven manifestante que yacía sangrando en el suelo;

- **Norberto Ortiz**, periodista de la emisora de televisión Crónica TV, Buenos Aires, habría sido herido por una bala de goma disparada por miembros de la Guardia de Infantería de la Policía Federal. Los hechos habrían ocurrido el 26 de febrero de 2003, mientras se encontraba ante los Tribunales Federales informando sobre el juicio de un grupo acusado de incitar a la violencia durante unas manifestaciones celebradas en 1994 y 1995;
- **Christian Frolich**, reportero fotográfico del periódico de Buenos Aires *Crónica*, habría sido golpeado por agentes de la Policía Federal el 6 de marzo de 2003, mientras informaba sobre la detención de vendedores callejeros en el distrito Once de la ciudad de Buenos Aires. Intentaba fotografiar la violencia empleada por la policía;
- **Edgardo Esteban**, periodista de televisión de la cadena estadounidense NBC, habría sido obligado por la policía a interrumpir su filmación el 21 de abril de 2003. De acuerdo con la información recibida, estaba filmando el desalojo de trabajadores de la fábrica textil Confecciones Brukman en la ciudad de Buenos Aires y la detención de manifestantes. Unos agentes de la Policía Federal que estaban disolviendo la manifestación lo habrían obligado a arrodillarse junto con otras personas. Durante el mismo incidente, **Martín Ciccio**, presentador del programa Informe Central del canal de televisión América, habría sido alcanzado por siete disparos de balas de goma. Una de las balas le habría impactado a dos centímetros del ojo izquierdo. Otros trabajadores de los medios de comunicación también habrían sido golpeados durante el incidente. Se alega que para dispersar esta manifestación, las fuerzas de seguridad utilizaron gas lacrimógeno, porras y balas de goma y causaron lesiones a 30 personas. Dos parlamentarios habrían denunciado que la policía había utilizado balas de plomo;
- **Alejandro Goldín**, periodista fotográfico para Indymedia, habría sido golpeado por miembros de la Policía Federal el 9 de junio de 2003 mientras informaba sobre una manifestación celebrada ante la fábrica textil Confecciones Brukman, en la ciudad de Buenos Aires. También habría sido alcanzado por el cañón de un lanzador de bombas de gas lacrimógeno, a pesar de que mostró su acreditación de prensa. Además, varios policías le habrían propinado patadas y puñetazos mientras yacía en el suelo. Le habrían causado lesiones en la pierna y la cabeza;
- **Eduardo Olivares**, periodista para la emisora de Radio Dimensión, Provincia de San Luis, habría sido arrojado al suelo a golpes por unos agentes del Cuerpo de Operaciones de Alto Riesgo (COAR), el escuadrón antidisturbios de la policía provincial, el 4 de marzo de 2004, mientras informaba sobre una manifestación de empleados municipales. Los agentes también le habrían dado patadas. Se alega igualmente que la policía fue abiertamente hostil con los periodistas que informaban sobre el acto y disparó balas de goma contra ellos.

28. El 30 de agosto de 2004, el Relator Especial, conjuntamente con el Relator Especial sobre la tortura y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación en relación con **Juan Eduardo Riquel**, secretario de la

Asociación de Trabajadores del Estado (ATE), de la localidad de Castelli, provincia de Chaco. Habría sido detenido el 4 de julio de 2004 por personal de la comisaría de Castelli. Se alega que ese mismo día un grupo de policías ingresó en el Club Sarmiento de Castelli, donde se celebraba una fiesta popular, y empezó a golpear a miembros de la comunidad toba. Juan Eduardo Riquel habría solicitado a los policías que detuvieran la agresión. Poco después el mismo grupo de policías habría vuelto al Club Sarmiento, y habrían increpado directamente a Juan Eduardo Riquel por haber intercedido en defensa de las personas que habían sido golpeadas. El secretario de la ATE habría sido esposado, golpeado y llevado a la comisaría, donde habría sido objeto de actos de violencia y malos tratos. En las dependencias policiales, el detenido habría manifestado espasmos respiratorios y dificultades para respirar, supuestamente debidos al trato recibido en la comisaría. Habría sido conducido al Sanatorio Norte de la localidad. Tras examinar al detenido y escuchado su relato, los médicos se habrían negado a entregarlo de nuevo a la policía. Cuando se recuperó, Juan Eduardo Riquel regresó a su domicilio. Apoyado por la ATE y la Central de Trabajadores Argentinos (CTA), Juan Eduardo Riquel habría presentado una denuncia a la Fiscalía de Investigaciones. Se alega que seguidamente se habría iniciado un proceso en contra del denunciante por “atentado y resistencia a la autoridad”. Se alega igualmente que Juan Eduardo Riquel habría recibido amenazas por parte de algunos policías por haber denunciado el caso. Según han sido informados los Relatores Especiales y la Representante Especial, en los últimos años y en varias provincias del país, miembros de la ATE habrían sido víctimas de persecución. Los Relatores Especiales y la Representante Especial agradecerían recibir información detallada sobre el seguimiento dado a la denuncia presentada por Juan Eduardo Riquel y sobre las medidas tomadas para asegurar su seguridad e integridad física y psicológica.

29. Por carta con fecha 15 de octubre de 2004 el Gobierno transmitió la siguiente información en relación con la comunicación del 30 de agosto de 2004 sobre el caso del Sr. **Juan Eduardo Riquel**. En fecha 19 de julio de 2004 la Comisión Interministerial de Derechos Humanos de la provincia del Chaco envió una nota al Fiscal de Investigación de turno, pidiendo información sobre el estado de la causa en la que se investigaba el proceder de los funcionarios policiales en hecho que damnificaría a Eduardo Riquel. También la Comisión cursó trámites a la Secretaría de Seguridad y Protección a la Comunidad de la Provincia, sugiriendo la intervención del Órgano de Control Institucional de la Policía (OCI). En fecha 9 de agosto la Comisión recibió nota del procurador General del Superior Tribunal de Justicia de la provincia de Chaco en la cual informaba de que representantes del Ministerio Público habían tomado intervención en el hecho, constituyéndose en la clínica privada donde se encontraba internado el damnificado, tomándole declaración testimonial y disponiendo la custodia del mismo. El Gobierno adjuntó la documentación sobre el caso que da cuenta de que la causa penal iniciada se encontraba en la plena etapa de investigación y se comprometió a mantener informado al Relator Especial sobre los avances que se lleven a cabo en las investigaciones del caso.

30. El 16 de septiembre de 2004, el Relator Especial envió una comunicación en relación con agosto de 2003 cuando **José Vales**, corresponsal del diario *El Universal* de México en Argentina, habría recibido amenazas, presuntamente vinculadas con la publicación de su investigación sobre ex militares argentinos que habrían violado los derechos humanos durante la última dictadura. La investigación de José Vales habría sido publicada en agosto de 2003 en *El Universal* y desde entonces, el periodista habría recibido llamadas anónimas. Los informes indican además que el 18 de noviembre de 2003, la madre de José Vales, que vive en la ciudad de Mar del Plata, habría recibido una llamada de un hombre diciendo: “por su conveniencia,

díganos la dirección donde vive su hijo”. La mujer habría realizado una denuncia policial. El 28 de noviembre de 2003, en la localidad de Las Varillas, provincia de Córdoba, unos desconocidos habrían entrado en el garaje de la periodista **Adriana Rivero** y habrían incendiado su auto. Este ataque estaría relacionado con una investigación de Adriana Rivero sobre la situación de un intendente local. El 27 de noviembre de 2003, la periodista habría difundido en su programa información acerca de presuntas sobrefacturaciones para blanquear gastos en el Concejo deliberante. Al terminar esta emisión se habría presentado el Director de Cultura y habría dicho a Adriana Rivero que “si seguía hablando me iba a hacer cagar, que me iba a acogotar y que ya iba a saber quién era él”. La periodista habría grabado al Director de Cultura mientras la amenazaba. En febrero de 2004, la alcaldía de Córdoba habría ordenado limitar el contacto y bloquear el acceso a la información con los periodistas del diario *La Mañana*. La Legislatura de la Provincia de Córdoba habría emitido una declaración de repudio por la censura y la negación de información pública a estos periodistas. Ambas medidas estarían relacionadas con las críticas públicas de *La Mañana* en torno a la administración de la ciudad. El 1 de abril de 2004, en la localidad de Orán, provincia de Salta, el periodista **Pablo Badano** habría sido detenido por seis agentes de la policía provincial junto con un dirigente de la comunidad indígena guaraní Estación El Tabacal, **Horacio Guzmán**. Ambos habrían permanecido en esta condición durante toda la jornada. Oficiales de la comisaría de Orán habrían informado que la detención de Pablo Badano se habría debido a un procedimiento habitual. El periodista habría viajado a la región para realizar una tarea periodística sobre la situación de la comunidad indígena.

31. El 17 de septiembre de 2004, el Relator Especial, conjuntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación sobre los periodistas **Fabián Rubino**, de Radio Mitre, **Hernán España**, de Diario Popular, y **Juan Arias**, del periódico de Buenos Aires *Crónica*, Argentina. Según la información recibida, el 25 de enero de 2002, estos periodistas habrían sido agredidos por agentes de la policía mientras habrían informado sobre la represión policial durante una manifestación de protesta en la Plaza de Mayo, en la ciudad de Buenos Aires. Se alega que los policías habrían golpeado a los periodistas cuando éstos habrían intentado entrevistar a manifestantes y tomar fotografías de la supuesta represión policial. Se informa que Hernán España habría recibido nueve balas de goma en el brazo y se alega que al caer al suelo un policía le habría dado patadas mientras le habría dicho “¿por qué no sacas fotos ahora?”. Se alega que el secretario de Seguridad Interior habría asegurado que se abriría una investigación para determinar si la policía habría hecho uso excesivo de la fuerza durante la manifestación. Hasta la fecha, no disponemos de información que indique si se ha iniciado una investigación sobre estos supuestos acontecimientos. Se teme que estos actos de violencia en contra de los periodistas puedan estar directamente relacionados con su trabajo de cubrir y difundir las supuestas violaciones de derechos humanos cometidas por los agentes de la policía en contra de los manifestantes.

Observaciones

32. El Relator Especial da las gracias al Gobierno por su respuesta a la comunicación del 30 de agosto de 2004, si bien espera otras respuestas a sus comunicaciones con fechas 12 de agosto de 2004, 27 de agosto de 2004, 16 de septiembre de 2004 y 17 de septiembre de 2004.

Armenia

33. On 26 April 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation regarding the situation of **Mikael Danielyan**, Chairman of the Armenian Helsinki Association, an organization which monitors and reports on human rights in Armenia. According to information received, on 30 March 2004 an article appeared in two national newspapers accusing Mikael Danielyan of anti-State activities. The articles reportedly referred to the fact that he had carried out an interview with an Azerbaijani newspaper expressing critical views of the Government, which interview was published on 26 March. According to information received, on the same day, Mikael Danielyan was attacked by four assailants near his home in Yerevan. The assailants allegedly knocked him to the ground and beat him for approximately 10 minutes after which they fled. He was reportedly taken to hospital in a critical condition but a thorough forensic examination was not conducted. Concern was expressed that Mikael Danielyan may have been targeted for his human rights activities, including the submission and dissemination of information of human rights abuses in Armenia for inclusion in international human rights reports.

34. On 8 August 2004, the Government sent a reply to the Special Rapporteur's communication of 26 April 2004 concerning an alleged assault on **Mikael Danielyan** by four unidentified persons. In its response, the Government informed the Special Rapporteur that the police in Arabkir opened a criminal file on the aforementioned event the following day, 31 March 2004, and proceeded to undertake the necessary investigative steps. Accordingly, the victim was invited to undergo forensic and medical examinations, but he refused, and so arrangements were made to conduct this procedure at the victim's home. The medical examination carried out on the victim showed that he had sustained several minor concussions and abrasions. As part of the investigation, the victim was also asked to supply the clothes he was wearing at the time of the alleged crime; he refused, and later commented that he had washed the clothes. Although all necessary and possible means of investigation had been explored, at the time this reply was sent, they failed to yield any positive results. The investigation was still ongoing at the time this reply was sent.

35. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning:

- The 5 April 2004 incident when at least four journalists who were covering an opposition demonstration in Yerevan were attacked by unidentified men in civilian clothes. The assailants attacked and injured **Anna Israelian**, of the daily *Aravot*, **Onik Grigorian**, a photographer for Hetq Online, Armenia's investigative journalists' web site, and **Tigran Babaian**, a cameraman for the private television station Kentron. The attackers damaged the journalists' equipment;
- On 13 April 2004, **Avetis Babajanian** and **Ayk Gevorgian**, reporters with the opposition daily *Aykakan Zhamanak*, **Levon Grigorian**, a cameraman with the Russian television channel ORT, and **Mher Ghalechian**, a journalist with the opposition weekly *Chorrord Ishkhanutyun*, were beaten while covering an opposition rally in Yerevan. Levon Grigorian was knocked unconscious during the attack and Mher Ghalechian was taken to a police station after photographing security officers outside the ransacked office of the opposition Hanrapetutyun

party. The protest rally began on 12 April 2004, when about 15,000 demonstrators marched towards the presidential residence calling for a referendum on presidential rule. In the early hours of 13 April 2004, violence erupted and police used batons, stun grenades and water jets to disperse the crowd. Moreover, before the rally began, Ayk Gevorgian was arrested and detained for one hour in Ashtarak, where he had gone to photograph police setting up roadblocks. The authorities said barricades were put in place as a security measure.

Observations

36. The Special Rapporteur thanks the Government for its reply to his communication of 26 April 2004, but regrets not having received any reply to his communication of 30 September 2004 at the time this report was finalized.

Azerbaijan

37. On 16 January 2004, the Special Rapporteur sent an urgent appeal concerning reports of the remanding in custody of journalist **Sadig Ismailov** of the opposition daily *Baki Khaber* for three months. According to information received, Mr. Ismailov was accused of taking part in the demonstrations in Baku after the 15 October 2003 presidential elections, although it was reported that he was sent to cover the demonstrations at Azadliq Square on 16 October. Mr. Ismailov was reportedly arrested in Baku on 30 December 2003 under Criminal Code Articles 220.1 (“disturbing the peace”) and 315 (“refusal to comply”). On 31 December, the Nasimi Regional Court reportedly decided to remand the journalist in custody for three months, pending investigations. Mr. Ismailov was reportedly being held at Bailov prison in Baku. If found guilty, he faced from three to seven years in jail.

38. On 26 January 2004, the Special Rapporteur sent an urgent appeal concerning **Rauf Arifoglu**, editor-in-chief of the daily newspaper *Yeni Musavat* and deputy president of the main opposition political party, Musavat, concerning whom the Special Rapporteur also sent an urgent appeal on 3 December 2003 (E/CN.4/2004/62/Add.1). According to information received, on 17 January 2004 the Prosecutor’s office extended by three months the remand in custody of Mr. Arifoglu, who had been detained since 27 October 2003 being accused of organizing the rioting that broke out following the presidential elections of 15 October.

39. On 30 January 2004 the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the **Muslim Religious Community of “Juma” Mosque** which was reportedly threatened with eviction. According to information received, on 16 January 2004, the Juma Mosque Community was allegedly informed by a letter from the Administration of the Historical Architectural Reserve of “Icherisheher” of Baku that, based on information received from the General Prosecutor’s Office, they would be required to hand over the Mosque to the “appropriate authorities” within 15 days. The letter reportedly mentioned the arrest of their Imam, Ilgar Ibragimoglu for his alleged participation in post-election demonstrations as the ground for this decision. Ilgar Ibragimoglu was already subject to an urgent appeal by the Special Rapporteurs on freedom of opinion and expression and torture, the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Representative of the Secretary-General on human rights defenders on 22 December 2003 (E/CN.4/2004/62/Add.1). According to information received, two additional letters were reportedly attached. The first letter, reportedly from the

Prosecutor's office and addressed to the Executive Branch of Baku City administration, contained details of Ilgar Ibragimoglu's supposed guilt. The second letter, reportedly from the Executive Branch of Baku City, stated its intention to re-transform the Juma Mosque premises into a carpet museum as during Soviet times. Concern has been expressed that the alleged future eviction of the Muslim Religious Community concerned might have been a form of reprisal against the work of Ilgar Ibragimoglu in the defense of human rights.

40. By letters dated 1 April, 27 May and 9 August 2004, the Government replied to the communication sent by the Special Rapporteur on 30 January concerning the disputed occupation of a building by members of the "**Juma**" Mosque religious community. On this issue, the Government referred to the courts' recent verdicts. On 1 March 2004, after a fair and proper hearing, the court ruled against the "Juma" Mosque religious community. This decision was upheld by the Court of Appeal and entered into force on 22 April 2004. The Government emphasized that, during the course of the trial, the defendants had failed to present adequate documentation to support their claim that they had been legally granted use of the disputed building. The Government also emphasized that this particular religious community had repeatedly demonstrated its reluctance to register with the State Committee on Religious Organizations and had persistently refused to comply with two paragraphs of the Religion Act—the prerequisite recommendation from the Caucasian Muslim Board and the provision of a legal address. According to regulations, it appeared that only registered bodies were permitted use of the building in question. In connection with the criminal case against Ilgar Ibragimoglu Allakhverdiev in which he had been charged with mass disturbance and resistance or violence towards a police officer, the Government confirmed that the defendant had been handed down a five-year suspended sentence and had been placed on probation for a further five years by the Serious Crimes Court. The decision of the Court of Appeal was pending, at the time this reply was sent.

41. On 27 February 2004, the Special Rapporteur sent an urgent appeal regarding 25 February 2004, when a Baku court reportedly sentenced **Rovshan Kebirli**, editor-in-chief of the daily *Mukhalifat*, and **Yusif Gambar**, a journalist, to two-year suspended prison sentences for "defamation". It is reported that the journalists were so charged in connection with an article by Mr. Gambar claiming that the National Taekwondo Federation helped security forces break up demonstrations that followed the 15 October 2003 presidential election. It is also reported that the court ordered Kebirli and Gambar to hand over 15 per cent of their salaries to the State for the next two years. The two journalists are said to have appealed the sentence.

42. On 3 June 2004, the Government of Azerbaijan sent a response to the Special Rapporteur's communication of 27 February 2004 concerning **Rovshan Musayev** (Kebirli), editor in chief of the daily newspaper *Mukhalifat*, and **Gambar Yusifov**, a journalist. The Government stated that this case was instituted by a private individual, the president of the Azerbaijan Taekwondo Federation, who called for criminal charges to be brought against the two journalists in connection with the publication of the article "A stain on Azerbaijan sport" of 18 October 2003, which he claimed to be defamatory and to undermine honour and dignity. The Nasimin Court found both journalists guilty of libel and defamation. They were sentenced to two years of corrective work and 15 per cent of their monthly earnings are to be paid to the State. Under article 49 of the Criminal Code, corrective work is not considered as a deprivation of liberty. An appeal was pending before the Appeals Court of the Azerbaijan Republic, at the time this reply was sent.

43. On 1 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal concerning reports that the police in the town of Nakhichevan allegedly refused to protect an Adventist pastor, **Khalid Babaev**, who was reportedly threatened with death. It is reported that Mr. Babaev received threatening phone calls the week before this communication was sent, and five men reportedly came to his house on 25 February to threaten him, his wife and son. According to reports, local members of the Muslim community threatened to sacrifice Babaev as a holy duty and to halt Adventist religious activity in Nakhichevan. Pastor Babaev was told that if he held another religious service, his house would be attacked (where the church meets). It was further reported that a local policeman and an officer from the police headquarters refused to listen to him. It was finally reported that the Nakhichevan Adventist Church has faced, in the past, pressures from the authorities, in particular when a previous pastor, Vahid Nagiev, was deported from the region in June 2002.

44. On 3 May 2004, the Government sent a reply to the Special Rapporteur's communication of 1 March 2004 concerning **Khalid Babaev**, an Adventist Pastor. The Government stated that according to information received from the Ministry of Justice, none of the churches in the town of Nakhichevan of the Republic of Azerbaijan had an official registration and at the time this reply was sent, were not functioning. The Government further stated that no information on illegal action against Mr. Babaev was confirmed in the course of investigations and no complaints had been lodged with the law enforcement agencies of Nakhichevan of the Republic of Azerbaijan to this end. At the same time, the Ministry of Internal Affairs of the Nakhichevan of the Republic of Azerbaijan had been instructed to undertake appropriate measures to provide personal safety to Mr. Babaev.

45. On 1 April 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Ilgar Ibragimoglu**, leader coordinator of the Center for the Protection of Conscience and Religious Freedoms (DEVAMM) and Secretary-General of the International Religious Liberty Association (IRLA Azerbaijan), whose case was the subject of a joint urgent appeal dated 22 October 2003 (E/CN.4/2004/62/Add.1) sent on behalf of the Special Rapporteurs on freedom of opinion and expression and torture and the Chairperson-Rapporteur of the Working Group on arbitrary detention, and an urgent appeal dated 22 December 2003 (E/CN.4/2004/62/Add.1) sent on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders. Ilgar Ibragimoglu was reportedly arrested on 3 December 2003 and accused of disturbing the public order and resisting representatives of the authorities, in the aftermath of the presidential elections on 16 October 2003. According to new information received, following the court proceedings which took place from 22 to 31 March 2004, the prosecution reportedly requested a four year and six month prison sentence for Ilgar Ibragimoglu. The final verdict was reportedly to be issued on 2 April 2004. Concern had been expressed that the court proceedings and heavy proposed sentence against Ilgar Ibragimoglu may have represented a form of reprisal against his human rights activities in particular in the field of freedom of religion.

46. On 27 May 2004 the Government sent a reply to the Special Rapporteur's communication of 1 April 2004 concerning the disputed occupation of a building by members of the "**Juma**" Mosque religious community. On this issue, the Government referred to the courts' recent

verdicts. On 1 March 2004, after a fair and proper hearing, the court ruled against this religious community. This decision was upheld by the Court of Appeal and entered into force on 22 April 2004. The Government emphasized that during the course of the trial, the defendants had failed to present adequate documentation to support their claim that they had been legally granted use of the disputed building. The Government also emphasized that this particular religious community had repeatedly demonstrated reluctance to register with the State Committee on Religious Organizations and had persistently refused to comply with two paragraphs of the Religion Act—the prerequisite recommendation from the Caucasian Muslim Board and the provision of a legal address. According to regulations, it appeared that only registered bodies could be permitted use of the building in question. In connection with the criminal case against Ilgar Ibragimoglu Allakhverdiev in which he had been charged with mass disturbance and resistance or violence towards a police officer, the Government confirmed that the defendant had been handed down a five-year suspended sentence and had been placed on probation for a further five years by the Serious Crimes Court. The decision of the Court of Appeal was pending at the time reply was sent.

47. On 6 May 2004, the Special Rapporteur sent an urgent appeal concerning **Rauf Arifoglu**, a deputy chairman of the Musavat (Equality) party and editor-in-chief of the *Yeni Musavat* opposition newspaper, for whom the Special Rapporteur on the right to freedom of opinion and expression sent a letter of allegation on 2 October 2003 (E/CN.4/2004/62/Add.1). The Government responded on 21 November. An urgent appeal was also sent on 3 December 2003 (E/CN.4/2004/62/Add.1) concerning **Arif Hajily** and **Ibrahim Ibrahimli**, deputy chairmen of Musavat; Panah **Huseynov**, chairman of the Khalq (People) party; **Itimar Asadov**, chairman of the Karabakh Invalids Association; **Sardar Jalologlu**, the executive secretary of the Azerbaijan Democratic Party; and **Iqbal Agazade**, the chairman of the Umid (Hope) party, for whom an urgent appeal was also sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on arbitrary detention on 22 October 2003 (E/CN.4/2004/62/Add.1). The Government responded by a communication dated 24 November 2003. According to information received, these people were due to go on trial in Baku for grave crimes around 7 May 2004, for their alleged participation in violent clashes between opposition supporters and law enforcement officers in the wake of the presidential elections in October 2003. It was reported that all seven, who are leading members of political opposition parties, were reportedly accused of having masterminded the post-election violence and charged with organizing mass disturbances (art. 220, part one, of the Azerbaijani Criminal Code) and endangering the life or health of representatives of the authorities by means of force (art. 315, part two)—charges which they had reportedly consistently denied since their pre-trial arrests in October 2003 and which were believed to have been brought against them because of their political affiliations. Furthermore, it was alleged that some of them were tortured after their arrest by members of the Ministry of Internal Affairs (MVD) Organized Crime Unit (OCU), allegedly to force them to confess to having organized or participated in the post-election violence and for having denounced the opposition electoral bloc Bizim Azerbaijan (Our Azerbaijan) and its presidential candidate, the chairman of Musavat and runner-up in the election, who had been placed under house arrest. It was, for example, reported that on 17 October, masked OCU officers detained Iqbal Agazadeh at his home, reportedly after a special session of Parliament had stripped him of his parliamentary immunity earlier that day. On the way to the OCU offices he was allegedly repeatedly punched in the face with a steel-reinforced

glove, and tortured for three days during his detention at the OCU offices, allegedly to force him to denounce Isa Gambar in a television interview on 20 October, after which he was reportedly allowed access to his lawyer. It was also reported that Rauf Arifoglu was held in solitary confinement for 32 days and forced to sleep on the floor of an unheated cell for 18 days. In this respect, concerns had been expressed, on the basis of reports from earlier trials of opposition activists accused of having taken part in the post-election demonstrations, that evidence based on confessions extracted under torture might have been admitted in court.

48. On 25 June 2004, the Government of Azerbaijan sent a response to the Special Rapporteur's communication of 6 May 2004 concerning **Rauf Arifoglu**, deputy chairman of the Musavat (Equality) party and editor-in-chief of the *Yeni Musavat* opposition newspaper; **Arif Hajily** and **Ibrahim Ibrahimli**, deputy chairmen of Musavat; Panah Huseynov, chairman of the Khalq (People) party; **Itimar Asadov**, chairman of the Karabakh Invalids Association; **Sardar Jalologlu**, the executive secretary of the Azerbaijan Democratic Party; and **Igbal Agazade**, the chairman of the Umid (Hope) party. The Government stated that the above-mentioned persons were brought to the Department for Combating Organized Crime of the Ministry of Internal Affairs by officials of that department after having taken part in the mass riots that took place in Baku on 15 and 16 October 2003 following the presidential elections. Criminal proceedings in connection with the riots were brought against them and they were charged under articles 315, paragraph 2, and article 220, paragraph 1, of the Criminal Code of Azerbaijan. They were then transferred to the remand centre No. 1 of the Central Department for the Execution of Court Decisions of the Ministry of Justice. They were not mistreated and did not request medical assistance. Only Mr. Ibrahimov, who complained of headaches and who was found to have low blood pressure, was given the necessary medical treatment. Mr. Agazade and Mr. Ibrahimov both appeared on television stating that they had not been subject to any physical or psychological pressure and they personally rejected the rumours that had been disseminated by certain media.

49. On 9 June 2004, the Special Rapporteur sent an urgent appeal regarding **Irada Huseynova**, an Azerbaijani journalist who lives and works in Moscow. According to reports, in 2001 while she was travelling, an Azerbaijani court launched criminal defamation proceedings against Ms. Huseynova and some of her former colleagues and she was reportedly put on a Government of Azerbaijan wanted list. It is reported that her colleagues were convicted for criminal defamation in September 2001. On 25 November 2002, at a time when she had already moved to live in Russia, Ms. Huseynova was reportedly arrested by the Russian police at the request of Azerbaijani authorities, but was finally released two days after. It is reported that Ms. Huseynova cannot travel to her home country as she would face possible imprisonment on criminal defamation charges. In particular, it is reported that she is unable to travel to Baku to renew her passport, which expires in June, and she will not be able to attend an international meeting of freedom of expression groups in Baku in mid-June.

50. On 2 September 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning:

- **Nuraddin Mamedli, Namik Axadzade, Jeyhun Ismailov, Hasarat Rustamov, Ramin Ruriyev, Fuad Gasanov, Natig Eynullayev, Vasif Abdullayev, Sardar Mamedov, and Saxavat Hajiyev.** On 25 May 2003, these men were among 50 protesters beaten by the police during a protest carried out in Baku by

150 persons, concerning the treatment of opposition members in Parliament. The crowd included human rights defenders, journalists, and members of Parliament. The Minister of the Interior had reportedly stated that the officers, who used excessive force, were going to be dismissed;

- **Sardar Agaev**, the driver of Isa Gambar, the leader of the Musavat Party, and **Mahir Gambarov**, a cousin of Isa Gambar. They were detained together with four bodyguards outside Isa Gambar's apartment building on the evening of 16 October 2003 by about 40 masked men, taken to the Organized Crime Unit (OCU) of the Ministry of Internal Affairs at about 7:30 p.m., and forced to sign blank statements, as well as a statement saying they did not need a lawyer. They were taken to the Narimanov District Court, where they were sentenced to 15 days of administrative detention for insulting a police officer, and were returned to OCU to serve their sentences in basement cells. On their arrival they were stripped naked and separated. Sardar Agaev was taken to a cell, where seven people beat him with fists and rubber truncheons, and kicked him. The beatings lasted for about one hour. They threatened him, saying "We have a bottle and we will rape you now". He was beaten again by four men the following morning, after which he lost consciousness, and water was thrown on him. As a result of the beatings to his kidney, blood was present in his urine. The beatings reportedly stopped following a meeting with a delegate from the International Committee of the Red Cross on 20 October. On 23 October, he was transferred to Khataye temporary detention center, and released on 25 October, after being ordered to appeal his sentence to the Court of Appeals;
- **Mahir Gambarov** who, on 16 October 2004 was taken to a room where there were about eight persons waiting, and he was beaten for about one hour. He was held by the men and forced to beg for mercy to a portrait of the President. The next day he was punched on the chest, slapped in the face, beaten with rubber truncheons on the legs. He was handcuffed when he raised his hands to protect his face. His shoes and socks were removed and he was beaten on the soles of his feet, and threatened with rape. His fingers were also pulled apart. The perpetrators used a homemade tool with rubber pincers to pinch his fingers and would then plunge his hands into ice-cold water until he could not feel them. His feet were held under the legs of a chair and one of the perpetrators repeatedly sat down on it. He was reportedly told by the Chief of the OCU (whose name is known to the Special Rapporteur) that in the backroom, "We have an electric chair there, and once you go there, you will speak, you won't be able to stop speaking";
- **Ibrahim Ibrahimli**, the deputy chair of Musavat, was arrested on 16 October 2003 by members of OCU. He was beaten while handcuffed in a chair at the OCU. His right index finger was crushed in a steel door, when he refused to denounce Musavat and Isa Gambar, and implicate himself in the October 16 events. When his lawyer was able to see him on 18 October, Ibrahim Ibrahimli was unable to speak because he had not been allowed to eat or drink since his arrest, his left hand was swollen and he had to hold it up, the index finger on his right hand was black and swollen. He had bruises on his face. He had difficulty walking, and the soles of his feet were completely black;

- **Farhad Adjirgaev**, a district election commissioner in Zagatala; On the evening of 16 October he was arrested by the police at home. When he arrived at the police station, a deputy police chief punched Farhad Adjirgaev in the mouth, and when he fell down a group of policemen began kicking him. He was charged with attacking a police officer and taking his gun, and sentenced to two months investigative detention. He was released on 29 October following an appeal to the Court of Appeals;
- **Akif Bederli**, the Musavat chairperson in Jalilabad. He was detained together with a group of other Jalilabad opposition figures in Baku at about 5 p.m. on 16 October 2003. The men had gone to Baku to report their election observations to the Musavat headquarters. The men were taken to Yasamal police station. They were then beaten by about 10 police officers in the office of the station chief. Akif Bederli was told to kneel, and one of the policemen kicked him in the face, breaking his nose and making it bleed. Four other men beat him on the back;
- **Vugar Muradli**, a journalist for the opposition newspaper *Hurriyet*, and an election observer for the ADP. He went to Baku on 16 October 2003 to report his election observations to ADP headquarters. When he returned to Zagatala on 17 October, he went directly to the police station because his family had been harassed by police officials looking for him. As soon as he arrived at the station, he was taken to the office of a top police official and a deputy chief of the traffic department, where he was verbally abused, pushed into a wall, punched in the face and kicked. For 30 minutes he was hit on the back of the head with truncheons, on the arms and legs, and on the kidneys. When he fell to the ground, they spit on him. The next day, Vugar Muradli was taken to court, charged with resisting police, and sentenced to seven days administrative detention. He was released after five days;
- **Abdullah Rafizadeh**, the Ali Bairamli chair of Musavat. On 17 October 2003 he was seriously assaulted outside a sports centre in town. On his way to the hospital, Abdullah Rafizadeh, his son and three Musavat members were stopped by the police and arrested. The next day, they were brought to court on charges of insulting the police and sentenced to 15 days detention. The police refused to allow Rafizadeh to see a doctor, and the detainees were forced to sweep the road and pick up garbage. He was released after 10 days, after the police forced him to pay US\$ 500 or face months of investigative detention;
- **Hassan Hassanov**, the Azerbaijan National Independence Party (ANIP) chairman in Guba. On 17 October 2003 he was arrested and taken to the Guba police station. When he arrived, a deputy police chief slapped him in the face and ordered a group of policemen to beat him, stating that he had warned Hassan Hassanov he would arrest him after the election because he brought ANIP opposition candidate Etibar Mamedov to Guba. At about 2 a.m. on October 18, he was taken to the office of the police chief, where he was again beaten, and threatened with rape, being told "We will rape you, and take photos and distribute them to your family and on the street. We will put the photos up the same way you put up posters of Etibar [Mamedov]". The police insisted that he denounce ANIP;

- **Iqbal Agazadeh**, the leader of Umid Party and a member of Parliament, and his brother Ilgar. On 17 October 2003 they were arrested at the family home by masked OCU members who started shooting in the air before arresting them. On the way to OCU, one of the OCU members with a steel-reinforced glove continuously punched Iqbal Agazadeh in the face. When they arrived at OCU, they were made to lie down in the courtyard, where they were handcuffed and beaten with rubber truncheons and kicked. One of Iqbal Agazadeh's legs was hit 50 times without stopping, and he was threatened that his sister would be raped if he did not denounce Musavat. Iqbal Agazadeh was dragged along the ground with his hands handcuffed behind his back to his cell. When his lawyer finally gained access to him on October 20, Iqbal Agazadeh had just been forced to give an interview to ANS television in which he denounced Musavat and Isa Gambar for their role in the 16 October violence. Nearly one month after the beatings, in mid-November, Iqbal Agazadeh was still barely able to walk because of the injuries caused by the beatings to his leg;
- **Natik Jabiev**, the Azerbaijan Democratic Party (ADP) elections-secretary and the ADP Secretary-General Sardar Jalaloglu. At the latter's house on the evening of 18 October 2003, masked and armed OCU members broke in through the windows of the home and began beating them before taking them to the OCU office. After being forced to lay on the wet ground of the OCU's courtyard for 30 minutes, being kicked and beaten the whole time, Natik Jabiev was taken to the office of the Chief of the OCU, where he was questioned and beaten for nearly four hours. Before beginning the interrogation, the Chief beat the handcuffed Natik Jabiev for about 45 minutes with his fists and kicked him. He was hit several times on the ears with his open palms, punched in the kidneys, and kicked in the testicles. The Chief broke a chair by hitting Natik Jabiev with it. Two investigators, including a senior official in the investigative division of the OCU, joined the Chief and the beatings continued for another three hours. After the interrogation, he was taken to the basement cells where a group of masked men dressed in black administered another severe beating. Natik Jabiev was released on October 25. When Sardar Jalaloglu's lawyer saw him on 19 October during a court hearing he noticed only minor injuries on his client. However on 22 October at Bayil prison Sardar had a large bruise on his right hip in addition to more injuries all over his body;
- **Ulvi Hakimov**, the president of the Azerbaijan National Democracy Foundation. He was detained on 18 October 2003 on suspicion of beating a Lider TV journalist. At the police station he was hit on the ear about 20 times by an official who demanded that he confess to his involvement in the beating of the journalist;
- **Etimad Asadov**, the chairperson of the Karabagh Invalids' Association. He was arrested and taken to the OCU on 26 October 2003. Despite having an artificial leg, he was severely beaten at OCU. His lawyer, who visited Etimad Asadov at Bayil prison on 29 October noted bruises on his back, arms, and chest;
- **Rovshan Ahmedov**, a member of ADP. He was called to Police Station 9 in Baku on 9 November 2003, and was beaten there by three police officials with rubber truncheons, fists and with a chair. They forced him to denounce ADP

Secretary-General Sardar Jalaloglu. He was then taken to the prosecutor's office where he was questioned for two days and pressured to denounce Sardar Jalaloglu;

- **27 worshippers at the Juma Mosque**, Old City, Baku. On 30 June 2004, 27 persons were arrested by the police, who forcibly entered the Juma Mosque to implement a court order to evict the congregation of Muslims worshipping independently of the official Muslim Board, and holding an unsanctioned religious meeting. The worshippers were verbally abused and were reportedly fined 50,000 mantas if they did not sign statements that they would no longer attend the mosque. Four worshippers were beaten in detention.

51. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning six popular dailies, *Azadliq*, *Yeni Musavat*, *Baki Xabar*, *Hurriyyet*, *Yeni Zaman*, and the Russian-language *Novoye Vremya* which, since 15 November 2003, have been refused access to the State-owned printing press and, as a consequence, have failed to publish their editions since then. After reaching an agreement to print with a private printing press, the editors were told by the printing company that it was experiencing a paper shortage and would be unable to print their newspapers. The other private printing houses are believed to have been pressured by the authorities and were wary of working with the newspapers. On 7 January 2004, the electricity of the independent private printing press "Chap Evi", which prints the majority of the opposition newspapers, was cut off for three days. Consequently, some of the leading opposition dailies, including *Yeni Musavat*, *Hurriyyet*, *Baki Xabar* and *Yeni Zaman*, could not be printed for three days. It is believed that the power cut was initiated by the Azneftiyag Oil Exploitation Factory.

52. On 2 November 2004, the Special Rapporteur sent an urgent appeal concerning **Mr. Rauf Arifoglu**, editor of the daily *Yeni Musavat* and vice-president of the opposition party Musavat, who was condemned, on 22 October 2004, to a five-year prison sentence by a court in Baku for "disturbing public order" and "refusal to comply". He was accused, together with six other opposition leaders, of organizing rioting that shook the country after contested presidential elections on 15 October 2003. Arifoglu has been held in custody for more than one year. According to information received by the Special Rapporteur, the journalist's state of health deteriorated in prison after being on hunger strike for 10 days.

Follow-up to previously transmitted communications

53. On 27 May 2004 the Government sent a reply to the Special Rapporteur's communication of 22 December 2003 (E/CN.4/2004/62/Add.1). Reference is made to the Government's replies concerning the Special Rapporteur's communications of 30 January 2004 and 1 April 2004, since both communications, and therefore Government replies, deal with the same allegations.

Observations

54. The Special Rapporteur thanks the Government for its replies to his communications of 22 December 2003, 30 January, 27 February, 1 March, 1 April 2 and 6 May 2004, but regrets that he had received no responses to his communications of 16 and 26 January, 9 June, 2 and 30 September and 2 November 2004 at the time this report was finalized.

55. The Special Rapporteur wishes to thank the Government for the invitation to visit the country in his official capacity.

Bahrain

56. On 7 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Abdulrauf Al-Shayeb**, the official spokesperson of the National Committee for Martyrs and Victims of Torture, an organization that works on the rehabilitation of torture victims and on bringing perpetrators to justice. It is reported that, on 30 March 2004, Abdulrauf Al-Shayeb was arrested and held until 3 April, when he was released reportedly on the orders of the Office of the Crown Prince. Abdulrauf Al-Shayeb was allegedly charged with “immoral indecency” in connection with allegations of having extra-marital relations with a domestic worker, who was reportedly forced to accuse him of having had relations with her. It is reported that this person is being kept in detention. However, it is believed that Abdulrauf Al-Shayeb was targeted for his human rights work. It is reported that he was in Geneva from 15 to 28 March 2004 to attend events related to the sixtieth session of the Commission on Human Rights. Concern has been expressed that his arrest might have been timed in order to prevent him from organizing a demonstration on behalf of survivors of torture that he had called to coincide with the inaugural Bahrain Grand Prix on 4 April. Moreover, it is alleged that during his detention, a former high-level military officer (whose name is known to the Special Rapporteurs), who had allegedly been accused by the National Committee for Martyrs and Victims of Torture of being involved in the torture of detainees, threatened to “cut his tongue, which is too long”. Abdulrauf Al-Shayeb was reportedly expected to present himself to the Public Prosecutor on 7 April 2004.

57. By letter dated 16 April 2004, the Government responded to the urgent appeal sent by the Special Rapporteur on 7 April 2004. The Government confirmed that, on 30 March 2004, the police arrested **Abdulrauf Al-Shayeb**, who was charged with trespassing on private property under article 361 of the Criminal Code, based on his visits to a maid in the absence of the house owner. The Government indicated that the Department of Public Prosecution decided to remand Mr. Al-Shayeb in custody for a period of seven days under article 147 of the Code of Criminal Procedure. It further stated that, on 3 April 2004, he was released on bail not by order of the Crown Prince. The maid was released pursuant to article 149 of the Code of Criminal Procedure. The Government stated that Mr. Al-Shayeb had not been subject to inhuman treatment in custody, and that the investigators found no evidence to support the claim that a senior police officer threatened to cut out his tongue. As for the claim that Mr. Al-Shayeb was deliberately arrested to prevent him from organizing a demonstration in support of torture survivors, the Government stated that the case and investigation files show that none of the procedures undertaken prior to his arrest were directed against him personally or against any identifiable person in particular. Mr. Al-Shayeb was not arrested in order to prevent him from taking part in any meeting or peaceful demonstration.

58. On 7 May 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning reports that on 30 April 2004, 17 people were arrested for collecting signatures for a petition calling for constitutional reforms. According to information received, the police stormed the signature collection stands in different areas and reportedly arrested three people in Sanad—**Ibrahim Mahdi, HM**, a 17 year old and his brother **Ahmed**; four in Hamad Town—**Mohammed Saeed, Hussain Al Hamam, Mohammed Al Hajri** and **Zuhair Ismail**; six in Mahooz—**Ali Al Sabaa, Abdullah Anan, MAS**, a 16 year old, **Muzzafar Mousa, Saleh Matrook** and **Habib Asoumi**;

and four in Musallah—**Ameer Radhi, Hussain Abdali, Hussain Al Matrook and Hussain Al Arabi**. It is reported that the arrest in Musallah was performed by officers from the Khamis Police Station, allegedly following an order issued by the Public Prosecutor to arrest those involved in collecting signatures. Reports indicate that the 17 have been accused by the Public Prosecution of attempting to change the country's political system; causing hostility towards the Government; illegally forcing the King to abstain from any performance that lawfully falls within his competence; and disseminating false reports, statements or malicious rumours, or produce any publicity seeking to damage public security, or cause damage to the public interest. Under the 1976 Penal Code, these charges could lead to life imprisonment. Reports further indicate that three of the detainees—H.M., Muzzafar Mousa Shaker Bur, 42, and M.A.S.—were released on bail on 2 May 2004 for lack of evidence. No information was available on the whereabouts of the remaining 14 detainees at the time this communication was sent.

59. On 10 May 2004, the Government of the Kingdom of Bahrain sent a response to the Special Rapporteur's communication of 7 May 2004 concerning the arrest of 17 people in Bahrain. The Government stated that the arrests of the persons concerned were in no way arbitrary, nor was there any attempt or intention to curtail or limit the lawful rights to freedom of expression and opinion. These individuals were arrested on suspicion, inter alia, of attempting to change the constitution by means which were manifestly outside the accepted, lawful and legitimate procedures, and which are contrary to the laws of Bahrain. They were also suspected of violations of the clear and established legal requirements relating to membership, composition and conduct in societies. Furthermore, evidence suggests a degree of intimidation being employed in an attempt to gain signatures for a petition. The Government assures that the individuals in custody are being treated in full accordance with the law and relevant international standards. Their cases are being handled by the Public Prosecutor in the usual manner and will be determined by the court in accordance with the law.

60. On 11 May 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the situation of **Abdulla Al-Sibi**, spokesman for the Relatives of the Constitutional Petition Detainees Committee (RCPCD), a committee which was formed to demand the release of the 14 people who were allegedly arrested on 30 April 2004 for collecting signatures for a petition calling for constitutional reforms and whose case was the subject of an urgent appeal by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 7 May 2004. According to the information received, on 9 May 2004 Abdulla Al-Sibi was arrested during a peaceful demonstration outside the Government House in Manama organized by the RCPCD to demand the release of the 14 detainees. Abdulla Al-Sibi was reportedly arrested for distributing leaflets in Arabic condemning the arrests as well as for possessing a letter from the relatives of the detainees to the United Nations High Commissioner for Human Rights. He was reportedly released on bail on 10 May and has allegedly been charged with conspiring against the regime, publishing false information, violating the law on public gathering, and calling for and taking part in a public gathering. In this connection, and to follow up on the urgent appeal of 7 May 2004 on the same issue, the Special Rapporteurs wished to draw the attention of your Government to information received, according to which five more people, namely **Sadiq Abdul Redha Al Gawas**, aged 28, from Sanabis; **Tawfeeq Al Rayash**, 35, from Zayed Town; **Jaffer Salman Soail** from Sitra; **Abdul Hadi Al Hawaj** from Hamad Town and **Jamil Hassan**

Al Shuwaikh from Saar, were reportedly arrested on 6 May 2004 for collecting signatures for a petition calling for constitutional reforms.

61. The Government of the Kingdom of Bahrain sent a response to the Special Rapporteur's communication of 11 May 2004 concerning **Abdulla al-Sibi and five others** who took part in a demonstration outside the Government House on 9 May 2004 and who were also found in possession of leaflets which incited hatred and contempt against the Government and propagated inflammatory statements. The offence committed is the crime of unlawful assembly under article 178 of the Penal Code of 1976 and is punishable by a term of up to two years' imprisonment and/or a fine up to 200 dinars. The possession and distribution of publications inciting hatred towards the Government is a punishable offence under article 168 of the Penal Code and is subject to the same punishment as above. Having been caught in flagrante delicto, Abdulla al-Sibi was arrested since, in accordance with the law, there was sufficient evidence to charge him, as stipulated in article 55 of the Code of Criminal Procedure. Concerning **Abdulla al-Hawaj, Sadiq Abdual Redha, Ahmad al Gawas, Jamil Hassan Ahmad al-Shuwaikh, Tawfeeq Majid Mohammed al-Rayash** and **Jaffer Salman Abdul Hassan Soial**, following investigations carried out by the police, they were found to have distributed leaflets and a so-called popular petition inciting hatred towards the Government and disseminating propaganda which was damaging to the public interest. The police, in accordance with the law prepared a report and forwarded it to the Public Prosecutor's Office which has the right to issue a warrant of arrest and subpoena whenever there is evidence that a crime has been committed. The persons concerned were therefore arrested and referred to the competent judicial authority for questioning within the legal time limit as stipulated by the law. All procedures were in consistence with articles 9 and 10 of the Universal Declaration of Human Rights.

62. On 1 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the Bahrain Centre for Human Rights (BCHR) and its executive director **Abdul-Hadi Al-Khawaja**. It is reported that on 26th September 2004, Abdul-Hadi Al-Khawaja was arrested at approximately 10.30 p.m. at the Nabee Saleh police station, where he was summoned two days after his participation in a symposium called "Poverty and Economic Rights in Bahrain", organized by BCHR in the Al-Orooba Club. According to information received he was later brought to the Howdh Aljaf Detention Centre where the Public Prosecutor remanded him in custody for a period of 45 days. It is reported that he started a hunger strike, which he later stopped. However, reports indicate that he was continuing with his speech strike at the time this communication was sent. Abdul-Hadi Al-Khawaja was allegedly charged under articles 165 and 168 of the Bahraini penal code with "encouraging hatred of the State" and "distributing falsehoods and rumours", for which he could face up to five years imprisonment. Abdul-Hadi Al-Khawaja was allegedly being held in incommunicado detention and had been denied visits from his family and lawyer at the time this communication was sent. Further reports indicate that the Al-Orooba Club was officially closed down by the Government for having held such an event. On 28th September 2004 the BCHR reportedly closed down, on the authority of the Ministry of Labour and Social Affairs. Furthermore, according to information received, news about its closure was received by newspapers prior to the members or directors of BCHR. It was also reported that, on September 29, 2004, the Minister of Labour and Social Affairs issued a press release, in which he declared that he had issued an order to

dissolve the BCHR the night before, the order coming into force that same day. It was alleged that the official motive behind this decision was that the BCHR would have violated Law No. 21 of 1989 on Societies. Concern has been expressed that Abdul-Hadi Al-Khawaja may have been detained as a direct result of his human rights work with BCHR, in particular, his criticism of government policy in regard to poverty in Bahrain during the symposium. Further concern has been expressed for all members of BCHR due to reports of the creation of a multi-institutional committee by the Ministry of Labour aimed at “taking legal and punitive actions against BCHR”. It is feared that such a committee may lead to the closure of the organization. In view of his alleged incommunicado detention, concern was expressed that he may be at risk of torture or other forms of ill-treatment.

63. On 6 October 2004, the Government sent a response to the Special Rapporteur’s communication of 1 October 2004 concerning the arrest of **Mr. Abdul Hadi Al-Khawaja**. The Government categorically states that Mr. Abdul Hadi Al-Khawaja’s arrest was not linked to his human rights activities. Moreover, that Mr. Al-Khawaja was arrested at the request of the Attorney General’s Office, on suspicion of having committed offences under Articles 165 and 168 of Bahrain’s Penal Code. On 21 November 2004, the Criminal Court sentenced Mr. Al-Khawaja to one year’s imprisonment. The sentence was handed down in absentia since Mr. Al-Khawaja refused to appear before the court. The same day, His Majesty the King issued a decree pardoning Mr. Al-Khawaja from serving the remainder of the sentence, in light of the time already spent in custody prior to the court ruling. Moreover, the activities of Al-Oruba Club were suspended for 45 days as a result of its violating the law and its own constitution, primarily through involvement in political activities. The Club’s Board was notified and cautioned regarding these violations, but continued to disregard the law. Its suspension was then reversed by the Supreme Council for Youth and Sports following an amicable resolution with the Club’s board. The Club has resumed its activities. The Bahrain Center for Human Rights (BCHR) was involved in politics clearly outside its human rights mandate and, indeed, its own constitution. Furthermore, its political activities did not only take place within Bahrain, but also, for example, at the sixtieth session of the Commission on Human Rights in Geneva where, on a number of occasions, BCHR openly acted as a front for a political organization. The Government finally asserts that the Kingdom of Bahrain is committed to upholding human rights and to protect the rights to freedom of thought, opinion and expression and that NGOs remain fully active within the country, including the Bahrain Human Rights Society. The Government welcomes an open, active and vibrant civil society within the framework of the Constitution and the law.

64. On 6 October 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Nabeel Rajab**, the President of the Bahrain Centre for Human Rights (BCHR), and other members. BCHR and its executive director, Abdul-Hadi Al-Khawaja, were the subjects of an urgent appeal on 1 October 2004 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders. According to the information received, on 30 September 2004, the Minister of Labour and Social Affairs, was quoted in the newspaper *Al-Wasat* stating that punitive actions would be taken against the members of BCHR, in particular Nabeel Rajab, if they kept trying to breach the Ministry’s order to close BCHR. Majeed Al-Alawi reportedly commented that Nabeel Rajab was “sending messages abroad to create a chaotic atmosphere”, with reference to BCHR’s correspondence

with media and non-governmental organisations abroad on the re-establishment of BCHR and the release of its executive director, Abdul-Hadi Al-Khawaja. Concern has been expressed that Nabeel Rajab and the other members of the Bahrain Center for Human Rights (BCHR) may have been threatened with punitive actions as a direct result of their human rights work with BCHR and in particular their attempts to re-establish BCHR and secure the release of its executive director, Abdul-Hadi Al-Khawaja.

65. On 13 October 2004, the Government sent a response to the Special Rapporteur's communication of 6 October 2004 concerning the **Bahrain Center for Human Rights (BCHR)**. The Government stated that the Minister of Labour and Social Affairs did not threaten to take punitive actions, nor did he refer to any disapproval of any legal action to seek redress for any alleged grievances. Moreover, the Minister made clear that the dissolving of the Bahrain Center for Human Rights was taken in accordance with the Societies Law No. 21 of 1989, as amended, and that such a decision should be respected unless reversed by the courts. The Minister had furthermore recalled that the decision was only issued after the BCHR had, over a period of many months, committed numerous and repeated breaches of the above-mentioned law, despite a number of clear written warnings of these breaches. The Government moreover confirmed its position in upholding human rights and in protecting the right to freedom of thought, opinion and expression and that procedures exist to ensure the protection of these rights, including recourse to the courts, if necessary. BCHR has initiated court proceedings in relation to its dissolution. Proceedings, in accordance with the law, are underway.

Observations

66. The Special Rapporteur thanks the Government for its replies to all of his communications.

Bangladesh

67. On 16 January 2004, the Special Rapporteur sent an urgent appeal concerning reports that, on 8 January 2004, the Government announced through a press release of the Interior Ministry that it had decided to ban "the sale, publication, distribution and retention of all books and booklets on Islam published by the **Ahmadiyya Muslim Jamaat**, Bangladesh, which includes the Bengali or any other translation (with explanation) of the 'Quran Majid'." It is reported that this decision was taken at a high-level meeting held on 7 January at the Ministry of Religious Affairs. The reason invoked is that these publications contain "objectionable materials ... which hurt or might hurt the sentiments of the majority Muslim population of Bangladesh". Reports indicate that this decision was taken in the context of an intensifying campaign by certain groups, allegedly on the extreme religious right, demanding the enactment of a law declaring the Ahmadiyyas as non-Muslims. It is not clear whether the decision has been implemented yet.

68. On 19 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Abdul Mahbud Mahu**, of the local daily *Ajker Desh Bidesh*, who was arrested following pressure by a local leader of the ruling Bangladesh Nationalist Party (BNP), who objected to his critical articles. According to information received, Mr. Mahu was arrested without a warrant in the southeastern town of Cox's Bazar on 14 February 2004 under the 2002 Special Powers Act. It is reported that this Act allows the police to keep a suspect in detention pending trial. It is not known what the charges against Mr. Mahu are.

69. On 4 May 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning the **Human Rights Congress for Bangladesh Minorities (HRCBM)**, a human rights and humanitarian services organization which has publicly denounced human rights violations against minorities in Bangladesh and has filed a writ petition before the Bangladesh Supreme Court concerning the protection of religious and ethnic minorities. According to the information received, on 17 April 2004 a group of men, reportedly members of the ruling Bangladesh Nationalist Party (BNP) under the leadership of a local Member of Parliament, whose name is known to the Special Rapporteur, forcibly entered the offices of HRCBM in Dhaka. It is reported that they ransacked and looted the offices, taking furniture, computers, videos and cameras as well as HRCBM documents. They also reportedly assaulted the office assistant Kazi Shohag Hossain, who was allegedly later taken to hospital for treatment. According to information received, the perpetrators of the attack threatened members of HRCBM staff, including its Vice President, Advocate Dulal Choudhury, of serious consequences if the incident were reported. Police at Lalbag police station allegedly initially refused to register the case. A case was reportedly registered on 22 April 2004. Concern has been expressed that the alleged attack on the offices of HRCBM may be an attempt at hindering their human rights work on behalf of minorities in Bangladesh, in particular on recent reporting of human rights abuses against minorities in the country, including State discrimination.

70. On 10 May 2004 the Government sent a reply to the Special Rapporteur's communication of 4 May 2004 concerning the situation of the **Human Rights Congress for Bangladesh Minorities (HRCBM)**. The Government reported that the communication had been forwarded to the concerned authorities in Bangladesh for immediate attention and necessary action.

71. On 5 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the alleged attack of **Sumi Khan** (f), a journalist and Chittagong correspondent of the magazine *Weekly 2000*, who was reportedly stabbed and critically wounded in the Nandan Kanon area (Chittagong) on 27 April 2004. According to information received, the attack took place at about 10.30 p.m. as Sumi Khan was travelling to send a report to her editor. Three men in an auto-rickshaw allegedly attempted to drag her into their vehicle, but she resisted. They then reportedly stabbed her several times. As people in the vicinity came to her aid, they reportedly grabbed her handbag and drove away. The assailants allegedly threatened that she would be killed if she did not stop writing. It was reported that three policemen stood by while the attack was taking place. She has reportedly filed a complaint with the police but no one had been arrested at the time this communication was sent. Sumi Khan has reportedly written a number of investigative articles about human rights violations suffered by the Hindus and the alleged involvement of local politicians and religious groups in attacks on members of this community, kidnapping and land grabbing by some landlords. In weeks previous to the sending of this communication, she had allegedly received several anonymous threatening telephone calls, warning her not to "defame" people in her reports. It is believed that Sumi Khan has been targeted for her work as a journalist, in particular her articles raising human rights concerns. Sumi Khan allegedly continued to receive threatening phone calls.

72. On 7 May 2004 the Government sent a reply to the Special Rapporteur's communication of 5 May 2004 concerning **Sumi Khan**. The Government informed the Special Rapporteur that the

communication had been forwarded to the concerned authorities for immediate attention and necessary action.

73. On 9 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Dr. Qazi Faruque Ahmed** and **David William Biswas**, respectively president and vice-president of PROSHIKA, an NGO working for human development. It is reported that they were arrested on 22 May 2004. According to the information received, Dr. Ahmed was arrested by secret agents and was not informed of the reason for his arrest. It is alleged that they were arrested for having defended an anti-Government political line during an opposition campaign of general strike to discharge the Government. It is furthermore alleged that PROSHIKA has been the target of political harassment by members of the Government. According to reports, many offices of the organization were ransacked throughout the country by people perceived to be supporters of the Government and employees have been beaten by members of the ruling party. The organization was reportedly accused of funding the opposition party and all donor funds were blocked for two years allegedly without any conclusive proof of misconduct. It is also reported that on 20 April 2004, Abdur Rob, a manager, was arrested. The police claimed, when he was presented before the court, that he had confessed that PROSHIKA was involved in political activity. However, he is said to have retracted his confession in court and claimed that he was forced to sign it under torture. It is reported that he was nonetheless charged with treason. Dr Qazi Faruque Ahmed and David William Biswas were, at the time this communication was sent, reportedly held incommunicado and at risk of being tortured. Furthermore, it was reported that Dr. Ahmed's health condition was deteriorating due to the lack of proper medical treatment for severe diabetes.

74. On 10 June 2004, the Government sent a response to the Special Rapporteur's communication of 9 June 2004 informing the Special Rapporteur that the High Court granted bail ad interim on 8 June 2004 to **David William Biswas**, vice-president of PROSHIKA, who was arrested on graft cases. By letter dated 27 October 2004, the Government further stated that **Quazi Faruque Ahmed** and David William Biswas, president and vice-president of PROSHIKA, were arrested on 22 May 2004 under two cases filed against them with Pallabi Police Station, Dhaka, on charges of misappropriation of funds of an NGO. Subsequently, 15 more cases were filed against them on similar charges. A separate case related to the involvement of subversive activities was filed against them on 20 June 2004. Meanwhile, Abdur Rob, manager of PROSHIKA, was arrested on charges of involvement in subversive activities. In a confession before the court, he implicated Quazi Faurqe and other members of the NGO. All the cases filed against the three persons were under investigation at the time this reply was sent. Quazi Faruque Ahmed and David William Biswas remain on bail. All had full access to and availed themselves of legal counsel of their choice.

75. On 30 June 2004, the Special Rapporteur sent a letter of allegation concerning **Mr. Humayun Kabir Balu**, aged 57, editor of the regional weekly *Dainik Janmabhumi*, who was killed in a bomb attack in the south-western city of Khulna. Attackers threw three bombs at Balu as he got out of his car in front of his office. He suffered serious stomach and leg injuries and died in hospital one hour later. His son, Asif Kabir, a journalism student, was seriously injured. Police sealed off the neighbourhood, but failed to apprehend his attackers. Two intact metal bottles filled with explosives were found at the scene. A man calling himself the regional head of the Janajuddha faction of the clandestine Maoist Purba Bangla Communist Party,

claimed responsibility in a telephone call to the Khulna Press Club, of which Humayun Kabir Balu was president, calling him a “class enemy.” Reports indicate that the journalist had previously received death threats and had informed press club officials about those threats on 22 June 2004.

76. On 7 July 2004, the Permanent Mission of Bangladesh in Geneva sent a response to the Special Rapporteur’s communication of 30 June 2004 concerning the killing of **Humayun Kabir Balu**. The Government states that Humayun Kabir Balu was a reputed journalist and his killing was strongly condemned by the Government. An inquiry was immediately commenced in order to bring those responsible to justice. The Special Rapporteur’s communication has been forwarded to the relevant authorities for immediate and necessary action. The Special Rapporteur will be kept informed of any developments on the matter.

77. On 27 July 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Salam Azad**, a writer who has numerous publications raising concerns on human rights of religious minorities in Bangladesh. According to information received, Salam Azad has recently published a novel, *Bhanga Math*, on discrimination and human rights violations against religious minorities in Bangladesh. On 18 July 2004 the Government banned the distribution and sale of this book, alleging that the book would incite violence between Muslims and Hindus. Salam Azad was at the time of the communication outside Bangladesh attending a United Nations human rights meeting. In the days following the alleged ban, Salam Azad was reportedly warned that he could be at risk of arrest by authorities upon his return to Bangladesh or of murder by political extremists. Salam Azad’s wife had reportedly received threatening phone calls.

78. On 3 August 2004, the Government sent a response to the Special Rapporteur’s communication of 28 July 2004 concerning **Salam Azad**. The Government claims to be surprised by these allegations since Mr. Azad was present at the Permanent Mission of Bangladesh in Geneva on 19 July 2004 and never mentioned, either then, later or during the Working Group on Indigenous Peoples, that he feared risk of arrest by the authorities or that his family felt threatened. Concerning the reported ban on his book, the Government states that Mr. Azad should have sought appropriate legal action if he felt that the Government acted beyond the law.

79. On 26 August 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the killing of **Dr. Kamal Hossain**, a journalist working for the daily *Ajker Kago*, secretary-general of the Manikchhari Press Club and a human rights advocate and founder of Ain-O-Shalishi Kendra (Center for Law and Justice, a human rights organization in Bangladesh). According to the information received, on 22 August 2004, Dr. Kamal Hossain was allegedly abducted and murdered by unknown individuals. According to his wife, the journalist hid when the attackers broke in, but surrendered to them after they threatened to kill his 2-year-old son. Police found the journalist’s body a few hours later, two kilometres from his home. Hossain had allegedly been investigating cases linked to organized crime and, a few days before his murder, he had helped police identify some gang members. Reportedly, he had also received death threats recently. Concern has been expressed that Dr. Kamal Hossain may have been targeted in relation to his human rights activities, in particular for his work on cases linked to organized crime and identification of some gang members. Concern is heightened by the fact that recently,

the editors and journalists at the largest Bangla daily, *Prothom Alo*, have also reportedly been threatened with attacks by an Islamist group for publishing investigative reports about the activities of a number of madrassas (religious schools) in rural areas. Additionally, family members of human rights defender Dr Humayun Azad, who died suddenly on 12 August 2004 whilst visiting Germany, were threatened with death if they went to the airport to receive his body on 27 August.

80. On 1 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation regarding information according to which police used batons and tear gas to disperse a student demonstration organized at Dhaka University on 2 March 2004. The demonstration was in protest of the attack on Mr. Humayun Azad, a university professor who was reportedly killed on 27 February 2004 in retaliation for his publication of a novel about Bangladesh religious groups. During the dispersal of the demonstration, **Mainul Hossain Chowdhury**, journalist with the Bangladesh-language daily *Ajker Kagoj*, was reportedly beaten by the police, even after he identified himself as a reporter. He was treated for a fractured leg and a head injury. It is believed that at least **six or seven other journalists** were wounded and 100 students were injured in this attack. It is also reported that the group Jatiyatabadi Chhatra Dal (JCD) attacked the student protesters. **Firoz Chowdhury**, chief-photographer of the popular Bangladesh-language daily *Prothom Alo*, was attacked by JCD activists while he was taking photos of the protest. He was hospitalized at Dhaka's Shamrita Hospital, with wounds on his back, shoulders and chest. The Special Rapporteurs have also been informed that on 5 June 2004, **M.A. Manik**, photographer with the local Bengali-language *Grammer Kagoj*, was beaten by police while covering a strike in the town of Jessore. The local press club later organized a march to protest against the attack against the journalist. During this second march, **five other journalists** were reportedly injured because of excessive use of force by the police.

81. On 6 October 2004, the Permanent Mission of Bangladesh, Geneva, replied to the Special Rapporteur's communication letter of allegation of 1 October 2004 informing the Special Rapporteur that his letter was forwarded to the concerned authorities in Bangladesh for necessary inquiry and action.

82. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning the following cases:

- On 1 November 2003, **Selim Jahangir**, a photojournalist for the national Bengali-language daily *Janakantha*, was arrested in Rajshani while taking photos at the police checkpoint in the Shehab Bazaar. The Magistrate concerned ordered his arrest after Selim Jahangir refused to stop photographing the checkpoint. The journalist was released from the Rajshani Central Jail on 10 November 2003 after being held for 10 days and denied bail;
- On 10 November 2003, five journalists were victims of a bomb attack in Feni. The group included **Bakhtiar Islam Munna**, the local Feni correspondent for the daily *Ittefaq* and for the wire service United News of Bangladesh; **Osman Harun Mahmud Dulal**, a correspondent for the daily *Janakantha*; **Shahjalal Ratan**, a reporter for the daily *Jugantor*; **Muhamed Jalaj Uddin**, a reporter for the daily *Manabzamin*; and **Asaduzzaman Dara**, a correspondent for the daily *Bhorer Kagoj*. The journalists were standing on the street talking when the assailants

threw a home-made bomb at them and fled the scene. None of the journalists were injured, but the explosion created a panic among local residents. It is reported that the assailants targeted Bakhtiar Islam Munna, because he was scheduled to testify in an assault case involving journalist Tipu Sultan, who was abducted and brutally beaten in January 2001;

- On 23 November 2003, Bangladesh Nationalist Party (BNP) activists prevented the independent *Janakantha* newspaper's distribution, burning hundreds of copies and threatening news vendors with violence if they sell the paper. BNP activists also burned an effigy and threatened to cut off the hands of **Shawkat Milton**, a correspondent from the daily;
- On 4 December 2003, local members of BNP's youth wing, Jatiyatabadi Chhatra Dal (JCD), attacked **Humayun Kabir**, a correspondent for the regional newspaper *Dakhinanchal*, in the town of Jhalakathi. The attackers beat him and stabbed him with sharp objects. The attack was apparently in retaliation for an article Humayun Kabir had written on 3 December 2003 about Mir Ziauddin Miza, the local head of BNP and JCD, and his connection to an alleged attack on a local engineer. Humayun Kabir was hospitalized for several days;
- On 8 December 2003, dozens of members of BNP and JCD prevented the Jhalakathi Press Club from holding a meeting and attacked several journalists. Five local newspaper reporters were injured in the attack. They included **Manabendra Batobayal** of *Dainik Sangbad*, **Azad Alauddin** of *Dakinanchal*, **Shamim Ahmed** and **Shamim Azad** of *Bhorer Kagoj*, and **Akkas Sikder** of *Dainik Arthaniti*. The reporters had gathered to protest against the attack on Humayun Kabir. Barisal Lawyers' Association Chairman **Mominul Islam Mahdi** and a driver were also injured during the attack;
- On 28 December 2003, **Shafiul Huq Mithu**, the Pirojur correspondent of the newspaper *Dainik Jankantha*, was attacked and left for dead by three hired killers. The attackers beat him around the head and body with pipes and other blunt instruments, breaking his right arm in several places and knocking him unconscious. The journalist was only saved by the intercession of passers-by who heard his cries for help and happened to be on the scene, causing his assailants to flee. The attack on Shafiul Huq Mithu is feared to be in reprisal for his 17 December 2003 report on the plight of the minority community living on the island of Chor Baniari, as well as his writings antagonistic to BNP;
- On 15 January 2004, **Manik Saha**, a correspondent with the daily *New Age* and a contributor to BBC's Bengali-language service, was killed in a bomb attack in the city of Khulna. The journalist was on his way home from the Khulna Press Club by rickshaw when unidentified assailants stopped his vehicle and threw a bomb at his head. The bomb killed the journalist instantly. The bombers managed to escape but several people witnessed the attack. Police were called to the scene but did not issue a statement;
- On 24 January 2004, photojournalist **Shahinur Rahman Bimu**, of the daily *Jugantor*, was attacked in Pakulla, district of Sonatola, by JCD activists. The journalist was taking a photograph of a building that was constructed illegally

when he was attacked. A lawyer was also beaten when he tried to help the photojournalist;

- On 3 February 2004, **Prabir Shikder**, staff reporter for the daily *Janakantha* in Faridpur, was chased by a car and three motorcycles. He escaped his pursuers by mingling with a crowd of Muslim worshippers. In 2001, the journalist had a leg amputated following an attack prompted by his reports about an influential businessman;
- On 6 February 2004, **11 members of the press club** in the town of Rajshahi received death threats in a letter from the Purbo Banglar Communist Party (PBCP). The PBCP accused the journalists of lying about the party and called them “associates of class enemies”. The letter added, “Our party’s guerrillas have already killed journalist Manik Saha and will kill you one by one in the coming months”;
- On 7 February 2004, **Iqbal Hasan**, a correspondent for the daily *Janakantha* in Natore, was attacked outside his home by 20 armed BNP members, who fled after neighbours intervened. The journalist had written about the torching of the homes of 16 supporters of the opposition Awami League by members of JCD;
- On 12 February 2004, **Mokarram Hossain Suvo**, *Prothom Alo* daily’s Dhaka University correspondent, was beaten by members of JCD while he was holding a discussion with other journalists about a column by his editor criticizing the BNP’s failure to control its youth wing;
- On 20 February 2004, the police, supported by BNP activists, barricaded roads, blocking participants from reaching the venue where the Awami League, the major opposition political party in the Parliament had organized a three-day programme in commemoration of the International Mother Language Day. As a consequence, the Awami League was unable to hold its traditional annual function;
- On 27 February 2004, Dhaka University professor and writer **Humayun Azad** was knifed in his face by unknown assailants, apparently in retaliation for the publication of his novel about religious groups in Bangladesh that collaborated with the Pakistani army during the 1971 independence war. Humayun Azad survived the attack but is still being treated at the Combined Military Hospital in Dhaka;
- In March 2004, **Golam Mortaza**, a journalist with the Bengali weekly news magazine *Shaptahik 2000*, was the victim of various death threats. Unidentified men called the journalist’s cell and office telephones threatening him with death. Golam Mortaza had written a number of articles exploring corruption, Islamic radicals and organized criminals. The journalist filed a complaint to the police and asked for protection;
- On 4 April 2004, **Delwar Hossain**, a correspondent for the daily *Jugantor*, was seriously wounded in the head and back after two unidentified youths fired several gunshots at him in Keraniganj. The journalist was talking to a salesman at the offices of an advertising agency when two young men asked the journalist to identify himself, before firing several shots and fleeing. It is believed that Delwar

Hossain was targeted because of an article he wrote condemning the murder of a businessman by members of “Five Star”, a local criminal gang. The journalist had received death threats from the gang shortly before the shooting;

- On 4 June 2003, four journalists, **Mamun Abedin** of *Bhorer Kagoj*; **Abu Taher Khokon** of *New Age*; **Ali Hossain Mintu** of *Dainik Janata*; and **Akhter Hossain** of *News Today* were injured in an attack by police as they covered a protest march in Dhaka;
- On 10 July 2004, 15 journalists in the cities of Sylhet and 2 journalists in Dhaka received individual letters containing death threats and accusing them of not being Muslim, calling them “enemies of Islam”. The letters also advised them to “get ready: you will die within a month”. In Sylhet, 15 journalists received threatening letters: local correspondents **Ahmed Noor** and **Partha Sarathi Das**, from *Prothom Alo*; correspondent **Liakat Shah Faridi**, from *Jugantar*, local correspondent **Al Azad**, from *Sangbad*; Ajoy Pal, from *Bangla Bazar Patrika*; local reporter **Kamkamur Razzak Runu**, from *Ajker Kagoj*; staff reporter **Salam Mashrur**, from *Janakantha*; the editor of *Shyamol Sylhet*, **Chowdury Mumtaz, Ahmed**, its news editor **Abdul Mukit** and staff reporter **Motiul Bari Khuhrshed**; *Jugobheri* editor-in-charge **Aziz Ahmed Selim** and news editor **Tapash Dash Purokayastho**; *Ajker Ragoj* district correspondent **Apurbo Dhar**, *Bhorer Kagoj* district correspondent **Bappa Ghose Chowdurry**; and *Manavjamin* staff reporter **M.A. Rahim**. In Dhaka, two journalists received threatening letters: *Prothom Alo* crime reporter **Parvez Khan** and *Bhorer Kagoj* local correspondent **Ikhtiar Uddin**;
- On 10 July 2004, in Barguna District, five journalists were threatened by an unnamed Islamic group. *Prothom Alo* local correspondent **Jasim Uddin** received a threatening letter containing a small piece of a burial shroud. The letter also mentioned threats against the Bangla-language daily *Ittefaq* local correspondent **Abdul Alim Himu**, *Jugantor* local reporter **Anwar Hossain Monwar**, *Sangbad* local correspondent **Chittyaranajan Shil**, and *Ajker Kagoj* local reporter **Hasanur Rahman Jhantu**;
- On 11 July 2004, an Islamic group calling itself the Mujahideen al-Islam issued public death threats to staff of newspapers in Dhaka. Among the threatened individuals were **Shahriar Kabir** and **Professor Muntasir Mamun**, both known for their writings against Islamic fundamentalists.

83. On 17 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Azaharul Islam Montu**, a correspondent for the daily *Grammer Kagoj*, based in Ashasuni Upazila, Satkhira district. On 19 September 2004, he was attacked by a gang of drug traffickers and left seriously injured and unconscious on the road. It is reported that the police has refused to open an investigation into the assault. The attack came only days after his newspaper published his investigative report on local drug trafficking.

84. On 22 November 2004, the Permanent Mission of Bangladesh, Geneva, replied to the Special Rapporteur’s communication of 17 November 2004 informing the Special Rapporteur

that his letter was forwarded to the authorities concerned in Bangladesh for the necessary inquiry and action.

Follow-up to previously transmitted communications

85. On 21 May 2004 the Government sent a reply to the Special Rapporteur's communication of 4 December 2003 (E/CN.4/2004/62/Add.1) concerning **Salah Uddin Shoaib Choudhury**. The Government reported that Mr. Choudhury was arrested on sedition charges as case no. 8 of 9 December 2003, under section 11 (3) of the Passport Act 1973 filed with Dhaka Airport Police Station. A separate case (no. 20) had also been filed against him with the same Police Station on 24 January 2004 under section 108(a)/120(b) 124(a)/505(a) of the Penal Code. Both cases were under investigation at the time. The Government stated further that Mr. Choudhury has made a written statement denying that he was tortured by the police while in custody, and reporting that neither he nor members of his family have filed any complaints of torture or ill-treatment against the authorities.

Observations

86. The Special Rapporteur thanks the Government for its replies to his communications of 4 December 2003, 9 June and 27 July 2004 and also thanks the Permanent Mission of Bangladesh to the United Nations Office at Geneva for forwarding to the Government his communications of 4 and 5 May, 30 June, 1 October and 17 November 2004. He regrets, however, not having received any responses to his communications of 16 January, 19 February, 26 August and 5 October 2004 at the time this report was finalized.

Belarus

87. On 16 June 2004, the Government sent a reply to the Special Rapporteur's communication of 9 February 2004 concerning the legal action taken against **Natalya Kalyada**. In its response, the Government referred to the illegal status of the organization "Human Rights Centre Charter '97", which is not registered and has never attempted to register. Therefore, according to the Government, the organization and its members exist and operate in violation of the law and are thereby subject to prosecution. The Government confirms that on 2 February 2004 Natalya Kalyada was fined 20 standard units, or US\$ 160 at a fixed rate of exchange.

88. On 28 April 2004, the Special Rapporteur sent an urgent appeal concerning reports of harassment from the authorities against the weekly newspaper **Den**. According to information received, the police seized 4,800 copies of the newspaper as they were being transported from Smolensk, Russian Federation, where they are printed, to Belarus. Although no reason was given for the seizure, it is believed that it was linked to an article in that edition, criticizing the police's refusal to take action against two men, allegedly including one KGB officer arrested on 18 March 2004 while attempting to break in the offices of Batskaushchyna, the organization hosting the offices of *Den*. It is also reported that a housing administrative office in Grodno ordered Batskaushchyna to vacate their offices by 15 May 2004, on the accusation of illegally subletting office space to the newspaper. Concern has been expressed that the alleged harassment of the *Den* newspaper might be linked to its editorial independence. This is similar to the past editorial line of the *Pagonya* newspaper, which was banned in 2001 in relation to articles by its editor, Nikola Markevitch, for which he was sentenced to 18 months of hard labour for insulting the President.

89. On 17 December 2004, the Government of Belarus sent a reply to the Special Rapporteur's communication of 28 April 2004 concerning the newspapers *Belorusskaya Delovaya Gazeta* and *Den*. The Government stated that relations between the enterprises Belpochta (the Belarus postal service), Belsoyuzpechat (the State distribution agency) and the editorial office of *Belorusskaya Delovaya Gazeta* (*Belorussian Business Gazette*), as well as with the editorial offices of other periodical publications, are based exclusively on a mutually advantageous contractual basis. In accordance with legislation currently in force, State administration bodies do not have the right to take decisions on the dissolution or conclusion of contracts between business entities, and the aforementioned enterprises and editorial board are business entities. In this connection, the allegation that Belpochta and Belsoyuzpechat cancelled their 2004 contracts with the newspaper *Belorusskaya Delovaya Gazeta* in order to obstruct the publication of that newspaper, appears to be unfounded. On 5 May 2004, pursuant to the distribution by unidentified persons in public places and residential areas in Grodno of leaflets insulting the honour and dignity of the President of Belarus, the investigative department of the Grodno office of the Committee for State Security of Belarus instituted criminal proceedings under article 368, paragraph 1 (Insulting the President of the Republic of Belarus), of the Criminal Code. Since there were sufficient grounds to assume that several members of the voluntary organization *Tovarystva Belaruskai Movy* (Belorussian Language Society), could have been involved in the preparation of the aforementioned leaflets using the Society's equipment, as well as in their distribution, on 11 May 2004, officers of the Committee for State Security, with the authorization of the first deputy procurator of Grodno oblast, conducted a search of the premises of the Belorussian Language Society. The search was conducted in the presence of the society's director, N.N. Markevich. A detailed record of the search was drawn up; the search was also videotaped. During the search, four computer system units and other articles of interest to the investigation were confiscated. Since no information relating to the aforementioned criminal case was found, the confiscated computer system units were returned to Mr. Markevich, who signed a receipt for them. In his statement confirming the return of the system units, Mr. Markevich signed as *starshynya Haradzenskai arhanizatsyi Tavarystva belaruskai movy imya F. Skoryny* ("chairman of the Grodno organization of the F. Skoryna Belorussian Language Society"). The Special Rapporteur's information, according to which the aforementioned computers belonged to the editorial office of the "weekly *Den*", was not confirmed by the investigation. Moreover, no lease of the premises was concluded between the editorial office of the newspaper *Den* and the owner of the building, the Unitary Housing Management and Repair Enterprise of Lenin district in Grodno. At the same time, although the publication details of the newspaper *Den* indicate that N.N. Markevich was the editor-in-chief of that newspaper, and the editorial office was situated at 16 Internatsionalnaya Street, Room 226, in Minsk.

90. On 26 May 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of the **Belarusian Helsinki Committee (BHC)**, the Belarus branch of the International Helsinki Federation, whose case was the subject of an urgent appeal by the Special Representative to the Secretary-General on the situation of human rights defenders on 1 October 2003 (E/CN.4/2004/94/Add.3). According to the information received, on 19 August 2003 BHC reportedly received an official warning from the Ministry of Justice for omitting the quotation marks from the organization's name on its official letterheads and organizational symbol. In this context, according to the information received, on 17 March 2004 following an investigation by the Department of Finance, criminal charges were brought against representatives of BHC under

Presidential Decree No. 8, article 12, on “Receipt and use of foreign financial assistance” and specifically for “failure to register foreign financial assistance”. The Department of Finance has reportedly stated that the Committee owed the State 385 million Belarus rubles in unpaid taxes and fines for alleged unlawful use of project funds received under the European Union’s Tacis technical assistance programme. It is reported that, according to the General Rules of the “Memorandum on Financing” between Belarus and the European Union of 10 May 1994, it was agreed that the Tacis programme would be exempt from taxation. According to the information received, representatives of BHC face criminal charges under article 243, part 2, of the Criminal Code which, if considered, would result in their arrest as well as the closure of the committee’s bank account and the confiscation of its property. It is reported that the Economic Court of the City of Minsk was to consider the lawsuit on 1 June 2004. Concern is expressed that the primary motivation behind these proceedings may be to prevent BHC from carrying out its human rights activities. This concern is heightened in the light of information received regarding the alleged closure of 51 NGOs, many of them human rights organizations, in the course of 2003, a number of which have also been the subject of urgent appeals by the Special Rapporteur (E/CN.4/2004/62/Add.1).

91. On 5 July 2004 the Government sent a reply to the Special Rapporteur’s communication of 26 May 2004 regarding the situation of the **Belarusian Helsinki Committee (BHC)**. According to the reports from the Government, on 23 June 2004, the Economic Court of the City of Minsk overturned the financial sanctions previously incurred by BHC for the non-payment of taxes on funds received under the Tacis programme. Consequently, all charges against BHC relating to this issue have been dropped and the court expenses transferred to the Tax Inspection Office.

92. On 9 June 2004, the Special Rapporteur sent an urgent appeal concerning the *Narodnaya Volya* newspaper. The newspaper was reportedly sentenced by a Minsk court to pay a 50 million ruble fine for libelling the former chief of State television on 17 November 2003. It is alleged that the amount of the fine would force the newspaper to close.

93. On 20 July 2004, the Government of Belarus sent a response to the Special Rapporteur’s communication of 9 June 2004 concerning the *Narodnaya Volya* newspaper. The Government stated that, on 26 September 2003, the Leninsky district court of the city of Minsk, examined the civil suit filed by E. V. Rybakov for the protection of his honour, dignity and business reputation and the recovery of monetary compensation for moral damages from the newspaper concerned, a private unitary enterprise. The Government further stated that *Narodnaya Volya*, in its issue 190 (1254) of 10 October 2001, published an interview under the byline of Eleonora Ezerskaya: “I guarantee five poods of love” (one “pood” equals 16.3 kilos), in which Eleonora Ezerskaya accused Mr. Rybakov of having committed an especially serious crime, which resulted in the deaths of Y. Kosmacheva and V. Skvortsov. E.V. Rybakov was awarded compensation for moral damages amounting to 10 million rubles from the newspaper. On 17 November 2003, the Minsk city court revised the decision and amended the amount of compensation to 50 million rubles. In revising this decision, the court was guided by article 152 (Compensation and moral damages) of the Civil Code of the Republic of Belarus. The court had concluded that in the article concerned, the information had not been verified and had been disseminated to a wide readership. Nevertheless, on 31 May 2004 the civil division of the Supreme Court, acting on a protest from the Vice-President of the Supreme Court, reduced the amount of monetary compensation to be recovered. The judicial decision was therefore in no way aimed at infringing the right to freedom of opinion and expression. Finally, the Government stated that legislation of Belarus and the

country's judicial authorities strove to ensure the fair exercise of those rights in accordance with article 19 of the International Covenant on Civil and Political Rights, while respecting the rights and reputations of others on a non-discriminatory basis.

94. On 17 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Harry Pahaniaila** and **Tatiana Reviaka**, human rights activists and members of the Belarusian Human Rights Committee, and journalist **Alexei Bukchin**. According to reports, Harry Pahaniaila, Tatiana Reviaka and Alexei Bukchin were detained by unidentified persons in civilian clothes on 15 September 2004, on the fifth anniversary of the violent disappearance of the Vice-Speaker of the Supreme Soviet, while they were waiting to meet the General Public Prosecutor. They were accompanied by Zinaida Hanchar, wife of Mr. Hanchar, whose legal representative is Harry Pahaniaila. It is also reported that, on this occasion, other human rights activists were handing out to the passing employees of the Prosecutor's Office the report of a Special Rapporteur of the Parliamentary Assembly of the Council of Europe (PACE) on the violent disappearances of politicians and a journalist, and the resolution of the United Nations Commission on Human Rights about the situation in Belarus. It was further reported that the detainees were brought to the Tsentralny District Department of Internal Affairs and accused of infringing part 3, article 172, of the Code of Administrative Offences, concerning the "dissemination of printed editions, made through breaching the established order and having no publisher's imprint, the contents of which is directed at causing damage to the State and social order, rights and legitimate interests of citizens", which entails a warning or a fine equal to five minimum wages, with confiscation of those publications. The three persons were subsequently released.

95. On 21 October 2004, the Government of Belarus sent a response to the Special Rapporteur's communication of 17 September 2004 concerning the detention of **Harry Pahaniaila** and **Tatiana Reviaka**, human rights activists and members of the Belarusian Human Rights Committee, and journalist **Alexei Bukchin**. According to the law enforcement authorities, there were 11 people gathered next to the Prosecutor's Office building on 16 September 2004. They did not make any claims or present any petition to the Prosecutor's Office. Harry Pahaniaila and Tatiana Reviaka, who were part of this gathering, were detained by administrative orders because they had broken the law against distributing booklets titled "Belarus: unsolved crimes of modern history", which was printed against the established order without the publisher's imprint. In accordance with the Administrative Offences Code of the Republic of Belarus, dissemination of print editions having no publisher's imprint is qualified as an unlawful act. On 27 September 2004, their cases had not yet been examined. No report on administrative offences was drawn up in relation to Alexei Bukchin.

96. On 30 September 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Professor Yuri Bandazhevsky**. The former rector of the Gomel Medical Institute, whose works raised awareness about the health effects of the radioactive fallout from the Chernobyl nuclear reactor disaster of 1986 on the inhabitants of Gomel's region of Belarus, openly criticized State authorities and, in his capacity as a member of a special research committee, reported about the research being conducted into the Chernobyl disaster of 1986 by the Institute of Radiation Medicine (part of the Belarusian Ministry of Health). He criticized the manner in which the research had been carried out and the fact that money had been spent on research that had not produced any important scientific findings. According to the information

received, on 13 July 1999, Yuri Bandazhevsky was arrested by a group of police officers in Gomel but he was not formally charged until 5 August 1999. He was reportedly not given access to a lawyer and he had limited opportunities to meet his wife. When, three weeks after his arrest, the lawyer received permission to visit his client, Yuri Bandazhevsky was transferred to a prison 160 km away in Mogilov without the lawyer's knowledge. There, Yuri Bandazhevsky was allegedly put in an isolation cell and transferred again to a maximum security prison in Minsk. On 18 June 2001, after a four-month trial in the Military board of the Supreme Court, Professor Bandazhevsky was convicted of accepting US\$ 26,000 in bribes from students seeking admission to the Gomel Medical Institute and sentenced to eight years' imprisonment and confiscation of his property; he was also banned from exercising any managerial and political functions for five years after his release. It is alleged that the prosecution did not produce any material evidence supporting this claim and that Yuri Bandazhevsky's co-defendant, the vice-rector of Gomel Medical Institute, was forced by the police to testify of Professor Bandazhevsky's involvement in taking bribes. It is reported that, for 14 to 16 hours a day, he was denied food and sleep, threatened that his wife and daughter would be harmed, and given psychotropic substances. He allegedly retracted his statements shortly afterwards. It is reported that Yuri Bandazhevsky is currently confined to the "free settlement" of Peskavtsy (Grodno region), a form of internal exile. Concern has been expressed that Professor Bandazhevsky's detention may have been decided in order to prevent him from continuing his scientific works and from denouncing the effects of radioactive disaster of Chernobyl on the inhabitants of Gomel's region.

97. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning that the Belarus postal service, Belpochta, which delivers newspapers to subscribers country-wide, and State distribution company Belsayuzdruk, both in January 2004 cancelled their 2004 contracts with the independent newspaper *Belorusskaya Delovaya Gazeta*. In addition, **Irina Makovetskaya**, the paper's correspondent in Gomel, received several death threats in anonymous telephone calls during the night of 10 to 11 January 2004. On 11 May 2004, the KGB raided the offices of the independent weekly *Den*. The newspaper also had several of its computers seized. The three-hour raid on the newspaper's offices was conducted on the orders of the deputy prosecutor for the Grodno region. The paper was suspected of being involved in the publication of leaflets seen as "discrediting" President Aleksander Lukashenko. On 21 June 2004, **Mikhail Podolyak**, a Ukrainian journalist, was deported by the Belarusian security service (KGB). Agents forced the journalist out of his home in the capital of Minsk and put him on a train to Odessa, Ukraine. His wife, a Belarusian native, was left behind. According to an official KGB statement, Mikhail Podolyak was expelled for violating a law that defines the rights of foreigners living in Belarus. The statement accused the journalist of writing "slanderous fabrications" about the political situation in Belarus. Mikhail Podolyak is banned from entering Belarus for a period of five years—a restriction noted in his passport. In analytical pieces for *Vremya*, the journalist frequently criticized the political and economic policies of Lukashenko's Government, especially those concerning relations with the Russian Federation.

98. On 17 December 2004, the Government of Belarus sent a reply to the Special Rapporteur's communication of 30 September 2004 concerning the journalists **Irina Makovetskaya** and **Mikhail Podolyak**. The Government stated that Mikhail M. Podolyak, a Ukrainian citizen and a journalist for the Belarusian newspaper *Vremya*, had a residence permit for Belarus that was valid until 2009. As the Special Rapporteur had been informed earlier, by its decision of

2 August 2002 the Moskovsky district court in Minsk upheld the action brought by A.A. Tozik, Chairman of the State Control Committee of the Republic of Belarus, against the editorial office of the newspaper *Nasha Svoboda* and Mikhail M. Podolyak for the protection of honour, dignity and business reputation and compensation for moral harm. On 16 July 2002, "Confidentiality", an article by Mr. Podolyak containing slanderous information about Mr. Tozik, appeared in issue No. 26 of *Nasha Svoboda*. Mr. Podolyak continued to publish articles calling for the destabilization of the social and political situation in Belarus, and for resistance to the work of Belarusian State administrative bodies. Pursuant to article 3 of the Aliens and Stateless Persons in the Republic of Belarus (Legal Status) Act, the exercise by aliens and Stateless persons in Belarus of their rights and freedoms must not be harmful to the interests of Belarus or to the rights and legitimate interests of Belarusian citizens and other persons. Since Mr. Podolyak repeatedly engaged in activities that contravened the national security interests of Belarus, the Committee for State Security, by a decision of 16 June [sic] 2004 and pursuant to article 25, paragraph 2, of the aforementioned Act and the Regulations governing the deportation of aliens and Stateless persons in Belarus, approved by Council of Ministers' decision No. 1653 of 25 October 1999, Mr. Podolyak was deported to Ukraine and his temporary residence permit for Belarus was cancelled. He was prohibited from entering Belarus for a period of five years. Current legislation does not provide for the issuance of a decision on deportation from Belarus directly to the person who is being deported. A Ukrainian citizen, Mikhail M. Podolyak received an explanation of the legal grounds for his expulsion and also of the procedure for deportation and his right to appeal the decision in the courts. The Government of Belarus hopes that the foregoing information will clarify the reports received by the Special Rapporteur, and it is prepared to submit any additional information concerning the aforementioned questions. Moreover, on 11 January 2004, **Irina V. Makovetskaya**, a journalist for *Belorusskaya Delovaya Gazeta* requested the second city internal affairs office of Zheleznodorozhny district in Gomel to take measures to establish the identity of the unknown man who had telephoned her home and threatened to murder her if she did not either give up journalism or leave Belarus. On the basis of Ms. Makovetskaya's complaint, the internal affairs offices conducted an investigation, as a result of which it was established that, at 4 a.m. on 11 January 2004, it was the editor of a Belarusian unitary enterprise who telephoned Ms. Makovetskaya. As he himself testified, he is not personally acquainted with Ms. Makovetskaya but knows that she is the author of publications in the media. He did not like certain opinions expressed by the journalist in her articles. He also confessed that he had telephoned Ms. Makovetskaya on his own initiative, and pledged not to disturb her again. On 20 January 2004, on the basis of the materials of the investigation, Ms. Makovetskaya's application for the institution of criminal proceedings was denied. However, on 22 January 2004, the Zheleznodorozhny district procurator's office in Gomel decided to rescind the earlier decision refusing the institution of criminal proceedings, and the investigation into Ms. Makovetskaya's complaint was resumed. Further investigations established that the person concerned was registered with the outpatient department of Gomel oblast psychiatric hospital No. 1 and had been diagnosed as having a mixed personality disorder. He was being observed by the medical consultative group of the psychiatric department. He was then prosecuted under article 156 (Anti-social behaviour) of the Code of Administrative Offences of Belarus and fined 35,000 Belarusian rubles.

99. On 4 November 2004, the Special Rapporteur sent a letter of allegation concerning the 17 October 2004 elections and referendum period which was marked by an atmosphere of intimidation and violence against **media workers**. Reportedly, a number of journalists were

physically attacked, some newspapers were temporarily suspended and equipment was confiscated by the police. On 20 October 2004, **Veronika Cherkasova**, a seasoned journalist working with the newspaper *Solidarnost*, was stabbed to death in Minsk. The exact circumstances of this murder are still unclear. According to the information received, Cherkasova was gathering information on the activities of organized crime groups and religious sects, and had just returned to the capital from a trip to the north of the country. Moreover, on 1 November 2004, **Pavel Mazheyka**, a member of the Belarusian Association of Journalists and chief editor of the newspaper *Pahonya*, was sentenced to a prison term of seven days by a district court in Hrodna, for participating in an unauthorized demonstration against the pressures on the independent media, on 4 October 2004.

100. The Government sent a reply to the Special Rapporteur's communications of 4 November 2004 concerning **Veronika Cherkasova**. The Government stated that, according to information provided by the competent bodies of the Republic of Belarus with regard to the killing of *Solidarnost* newspaper correspondent V.A. Cherkassova on 20 October 2004, a criminal case has been opened and an investigative task force established, consisting of staff members of the Minsk city procurator's office, the crime detection branch of the Ministry of Internal Affairs, the main internal affairs department of the Minsk city executive committee and the internal affairs department of the Sovetsky district of Minsk. All possible theories concerning this crime, including ones related to the victim's professional activities, are being checked. The investigation has established that V.A. Cherkassova was from 1995 to 2000 the author of articles of a socio-political nature, and was collecting material on the activities of religious sects in Belarus. However, the main subjects of her publications in the latter years were concerned with questions of culture (features on artists, folk craftsmen, directors, musicians, etc.). On 19 October 2004, shortly before her death, V.A. Cherkassova had been preparing her last interview, which the journalist undertook with a folk craftsman living in Minsk oblast. There are at present no grounds for supposing that the reason for the murder was her professional activity. All the necessary investigative procedures are being conducted to shed light on the crime. With regard to the detention of journalist **P.I. Mozheiko** in Grodno on 1 November 2004, it should be indicated that, on 20 September 2004, this citizen addressed a petition to the chairman of the Grodno city executive committee requesting permission to picket in a city park on 4 October 2004 for the purpose of "informing the residents of Grodno about intensifying pressure from the authorities on the independent press in Belarus". After considering the petition, the Grodno city executive committee declined to grant P.I. Mozheiko permission to hold the picketing event as it would contravene article 5 of the Belarusian law "On mass actions in the Republic of Belarus", and Mr. Mozheiko was duly notified of this. On 4 October 2004 an unauthorized procession, with the participation of P.I. Mozheiko, took place along Sovetskaya and Ozheshko streets in the city of Grodno. On account of his participation in the unauthorized procession, a report citing an administrative offence was filed in respect of Mr. Mozheiko. By a decision of Grodno's Leninsky district court of 1 November 2004, P.I. Mozheiko was sentenced to seven days' administrative detention pursuant to article 167-1, paragraph 1, of the Code of Administrative Offences. He has not appealed against this court decision.

Observations

101. The Special Rapporteur thanks the Government for its responses to his communications of 9 February, 28 April, 26 May, 9 June, 17 September, 30 September, and 4 November 2004. The Special Rapporteur also thanks the Government for its reply to his communication of

30 September 2004. Translation of this communication was still in progress at the time this report was finalized.

Benin

102. Le 7 mai 2004, le Rapporteur spécial a envoyé une communications au Gouvernement concernant **Jean-Baptiste Hounkonnou**, directeur de publication du quotidien *Le Nouvel Essor*, qui aurait été condamné le 16 mars 2004 à six mois de prison pour diffamation, et écroué le jour même de sa condamnation à la prison de Parakou. Selon les informations reçues, M. Hounkonnou aurait été libéré provisoirement le 27 avril, sur ordre de la cour d'appel. Il semblerait toutefois que M. Hounkonnou, dont l'appel de sa condamnation serait semble-t-il entendu le 27 mai, risque à nouveau d'être emprisonné si cet appel est rejeté.

103. Le 13 octobre 2004, le Rapporteur spécial a envoyé une communication au Gouvernement concernant **Jean-Baptiste Hounkonnou**, Directeur de publication du quotidien *Le Nouvel Essor*. Selon les informations communiquées, il avait été condamné pour diffamation puis écroué à la prison de Parakou le 16 mars 2004. Il avait été condamné pour avoir publié un article sur une femme adultère en décembre 2003.

Observations

104. Le Rapporteur spécial regrette de ne pas avoir encore reçu, au 31 décembre 2004, de réponse à ses communications des 7 mai et 13 octobre 2004.

Bolivia

105. El 16 de septiembre de 2004, el Relator Especial envió una comunicación con respecto al caso de **Hugo Manuel Mejía** y **Carlos Colque**. Según las informaciones recibidas, el 15 de octubre de 2003, efectivos del Ejército habrían disparado contra los dos periodistas, mientras cubrían la violenta represión ejecutada en la localidad de Patacamaya contra cooperativistas mineros que marchaban hacia la ciudad de La Paz para exigir le renuncia del Presidente Gonzalo Sánchez de Lozada. El periodista Hugo Manuel Mejía, reportero de Radio Aroma de comunicación, habría sido herido en el talón izquierdo por un disparo de arma de guerra, cuando se encontraba en su domicilio. Carlos Colque, corresponsal en Patacamaya de la cadena Educación Radiofónica de Bolivia, habría sido amenazado personalmente por un teniente coronel del Ejército. Un militar le habría disparado un balín de goma en la espalda. El mismo día, los equipos de Canal 13 Televisión Universitaria de La Paz y también de Radio Pío XII, habrían sido destruidos por dos desconocidos. El 15 de octubre de 2003, las ediciones del periódico *El Diario* y del semanario *Pulso*, en la zona sur de la ciudad de La Paz, habrían sido decomisadas por grupos no identificados. En su edición del 15 de octubre de 2003, *Pulso* habría manifestado que existían vías constitucionales para resolver la grave situación que atravesaba el país.

Observaciones

106. El Relator Especial lamenta que a la conclusión del informe no había recibido respuesta a su comunicación con fecha 16 de septiembre de 2004.

Brazil

107. On 29 April 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Fernanda Giannasi**, an official inspector of the Brazilian Ministry of Labour and campaigner on behalf of workers affected by asbestos, a mineral fibre used in certain building construction materials and a widely recognized health hazard. According to the information received, Fernanda Giannasi, who is the founding member of the Association of Asbestos-Exposed Workers in Brazil and the Latin America Coordinator of the Citizens Virtual Network Against Asbestos, has been actively involved in exposing the dangers of asbestos to workers and in campaigning to obtain justice for injured workers for the past 20 years. She has reportedly received international honours for her work, including the International Prize of Occupational and Environmental Health from the American Public Health Association. According to the information received, in the course of her work Fernanda Giannasi has been exposed to intimidation and harassment. On 2 December 2003, she was reportedly due to travel from São Paulo to carry out a visit to a factory in Recife in the state of Pernambuco. However, at the last minute, permission for her journey was reportedly rescinded by the Secretary of Labour Inspection. On 16 December 2003, she was reportedly informed that a former Labour Minister had instigated a criminal claim against her under article 139 of the Penal Code, allowing for criminal prosecution of critics of government officials, claiming that she had offended his honour. The claims reportedly referred to public statements made by Fernanda Giannasi criticizing the founding of a trade union by an asbestos multinational with the support of the former Labour Minister, allegedly to replace an independent union which had organized a strike at one of the factories of the multinational, and despite the fact that not all legal conditions were met. The criminal proceedings against Fernanda Giannasi reportedly began on 17 February 2004 but were allegedly postponed until September 2004. Simultaneously, on 1 February 2004, she reportedly received an anonymous threatening letter at her home from a group called the "movement in defence of national patrimony". The letter allegedly accused her of causing the decline of the Brazilian asbestos industry. On 20 February 2004 she received official notification from the Minister of Labour and Employment that she was no longer authorized to carry out inspection activities and would be required to carry out all her work from the São Paulo offices. Concern has been expressed that the reported legal proceedings against Fernanda Giannasi and the alleged restrictions being placed on her work are an attempt at hindering her activities on behalf of workers affected by asbestos, and in particular her publicly exposing the dangers of asbestos for workers.

108. By letter dated 1 September 2004, the Government replied to the communication sent on 28 April 2004. First, the Government informed the Special Rapporteur that the criminal charges against **Fernanda Giannasi**, although levied against her by a former Minister of State, nevertheless constituted a private, and not a public, action. Secondly, in response to concerns about the cessation of Fernanda Giannasi's inspecting activities and her relocation to the São Paulo offices, the Government stated that these decisions were taken solely for her personal safety after she became the victim of threatening letters. The Government declared that Fernanda Giannasi had since requested official protection and resumed her external inspecting activities on 15 April 2004. It also indicated that shortly thereafter, on 20 April 2004, an Inter-Ministerial Commission to elaborate a national policy on asbestos was established. Similarly, a Working Group on Asbestos, composed of labour inspectors and experts of FUNDACENTRO (a Foundation for Labour Safety), was created by the Ministry of Labour and charged with the

task of examining the impact of asbestos on workers. The Government highlighted that Fernanda Giannasi was invited to join the aforementioned Working Group, but to date has not accepted the invitation.

109. On 14 May 2004, the Special Rapporteur sent an urgent appeal concerning the alleged decision of the Brazilian authorities to cancel the visa of journalist **Larry Rother** of the newspaper *The New York Times* and to expel him, reportedly as a result of an article that appeared in that newspaper on 9 May 2004. According to information received, the Interim Minister of Justice said that authorities had decided to cancel Mr. Rother's visa under article 26 of Immigration Law 6815 of 1980, because of a "frivolous and misleading report that is offensive to the honour of the President of the Federal Republic of Brazil, with grave damage to the image of the nation abroad", after the journalist published a report in which he reportedly mentioned the alleged drinking problems of the President and their impact on his performance in office. It is not known whether this decision is open to appeal and when and whether it will be enforced.

110. On 16 September 2004, the Special Rapporteur sent a letter of allegation concerning:

- **José Armando Roque da Silva, Mauro Ferreira dos Santos, Severino Amaro da Silva, Eronildo dos Santos, and José Cícero da Silva**, all of them rural workers, who on 5 August 2003 were reportedly detained by armed police officers until 13 August 2003. The workers had blocked a road in the municipality of Porto de Pedras in protest of the Government's failure to distribute the provisions that it had promised;
- On 29 August 2003, **Alvanir Ferreira Avelino**, a journalist with the daily *Dois Estados*, was reportedly arrested at his home in Campos and taken to the Carlos Tinoco da Fonseca prison. He had previously been sentenced in 2001 to 10 months and 15 days in jail for "expressing an opinion" under the military's 1967 press law. Under the terms of the sentence, the journalist has to spend one day a week in prison. Alvanir Ferreira Avelino was sentenced as a result of several libel suits filed against him in 1999 by a judge from Miracema. It is believed that in a series of articles published in *Dois Estados*, Alvanir Ferreira Avelino had accused the judge of abusing his authority. Despite the fact that there exists a two-year time limit on press offences, the court still refused to waive the charges against the journalist;
- On 20 April 2004, **Mr. Samuel Romã**, a reporter for the Ñu Verá radio station in the Paraguayan township of Capitán Bado on the Brazilian border, was reportedly murdered by two men riding a motorcycle while he was heading to his home across the border in the town of **Coronel Sapucaia**, Brazil. Samuel Román reportedly hosted a programme entitled "La Voz del Pueblo", in which he raised questions about the conduct of Coronel Sapucaia city officials;
- On 24 April 2004, **José Carlos Araújo** of Radio Timbaúba, in Pernambuco State, was reportedly killed by two assailants as he left a recording studio at the radio station. The journalist used the programme "**José Carlos Entrevista**", to expose the existence of murder squads and the alleged involvement of local figures in a criminal case.

111. On 25 October 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Maria Joelma da Costa**, President of the Rural Workers' Union (STR), in Rondon do Pará, Pará State. According to the information received, during recent months Maria Joelma da Costa had allegedly been receiving anonymous threatening telephone calls to her home and office. She had allegedly been threatened that she will be killed unless she stops her work defending rural workers. It is reported that Maria Joelma da Costa had been receiving repeated death threats since she took over the presidency of the STR in mid-2002. According to information received, two of her colleagues recently stopped working at STR following threats and intimidation against Maria Joelma da Costa. On 6 February 2004, another colleague, **Ribamar Francisco dos Santos**, was reportedly shot and killed in front of his house. No one has been charged with his killing, which is believed to have been a direct result of his union activities. Maria Joelmy da Costa's husband, former STR President **José Dutra da Costa**, known as "Dezinho", was killed by a hired gunman on 21 November 2000 in front of his house after having received death threats since 1993. It is alleged that, although he had repeatedly reported these threats to the authorities, no steps were taken to ensure his protection. Concern has been expressed for the safety of Maria Joelma da Costa and other members of STR, as it is feared that she was being targeted as a direct result of her human rights work. Concern for her safety was heightened due to the reported withdrawal of her limited police protection on 2 October 2004.

112. On 25 October 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Eudo Lustosa Brasil**, member of Acre Human Rights Centre in the city of Rio Branco. According to information received, on 19 October 2004 Eudo Lustosa Brasil was reportedly the victim of an attempt on his life when he was fired at by three men on motorcycles on his way home. It is reported that he escaped unharmed. However, on 21 October 2004 he allegedly received an anonymous threatening phone call telling him that "that was just a warning, next time you will finish up in the ground". Concern has been expressed that Eudo Lustosa Brasil is being targeted as a result of his human rights work, in particular, his recent investigation and publication of the alleged torture of inmates by military police in a high security prison in Acre.

Observations

113. The Special Rapporteur thanks the Government for its reply to his communication of 29 April 2004. He, however, regrets not having received any replies to his communications of 14 May, 16 September and 25 October 2004.

Burkina Faso

114. Le 11 novembre 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant **Mathieu N'do**, directeur de l'hebdomadaire *San Finna* et membre du bureau politique de l'Union nationale pour la démocratie et le développement (UNDD), qui aurait été arrêté le 5 novembre 2004 par les services de la sécurité nationale à l'aéroport de Ouagadougou, alors qu'il rentrait de Côte d'Ivoire où il était allé suivre l'évolution des tensions entre les parties au conflit. Malgré le fait qu'aucune charge n'ait apparemment été retenue contre lui, M. N'do était semble-t-il toujours détenu au secret par ce même service au moment de l'envoi de la communication. Des

craintes ont été exprimées quant au fait que l'arrestation de M. N'do ne soit directement liée à ses activités de journaliste et à ses prises de position critiques quant à la politique menée par le Burkina Faso en Côte d'Ivoire. Au vu de sa détention au secret, des craintes ont également été exprimées qu'il ne soit soumis à des actes de torture ou à des traitements cruels, inhumains ou dégradants.

Observations

115. Le Rapporteur spécial regrette de ne pas avoir encore reçu de réponse à sa communication au moment de la finalisation du présent rapport.

Burundi

116. Le 29 septembre 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, 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, a envoyé une communication au sujet d'informations selon lesquelles **Pierre Claver** et **Célestin Nsavyimana**, respectivement président et trésorier de la Confédération des syndicats du Burundi (COSYBU), auraient été arrêtés le 24 septembre 2004 au siège de leur organisation à Bujumbura. Deux ordinateurs auraient été saisis au cours de leur arrestation. Au moment de l'envoi de la communication, les deux syndicalistes étaient semble-t-il détenus dans les locaux de la police présidentielle, et n'avaient pas encore eu accès à leur avocat. Il a été rapporté que ces arrestations seraient liées à un mémorandum critique sur l'adoption, le 17 septembre 2004, d'une nouvelle Constitution par le Parlement burundais, que Pierre Claver et Célestin Nsavyimana avaient soumis à signature aux membres de la COSYBU. Dans ce document, les deux syndicalistes s'inquiétaient du rôle et de la place des institutions garantissant les libertés syndicales, les libertés individuelles et la stabilité politique. Des craintes ont été exprimées que ces arrestations ne visent à empêcher leurs activités pour la défense des droits de l'homme. Au vu de leur détention au secret, des craintes ont également été exprimées que ces personnes puissent faire l'objet de torture ou de mauvais traitements.

117. Le 13 octobre 2004, le Rapporteur spécial a envoyé au Gouvernement une communication concernant les cas résumés ci-dessous:

- **Sept jeunes gens**, dont les noms ne sont pas connus du Rapporteur spécial, auraient été arrêtés devant l'hôtel Novotel de Bujumbura le 24 mars 2004 par les militaires du 1^{er} bataillon d'intervention, lors d'une manifestation de l'Association PA-Amasckanya organisée à l'occasion de la visite du Vice-Président sud-africain. Selon les informations communiquées, les manifestants revendiquaient le départ des forces sud-africaines du Burundi. Les personnes arrêtées auraient été conduites au Bureau spécial de recherche de Bujumbura. Il est rapporté que 48 heures après leur arrestation, elles n'avaient toujours pas été informées des charges retenues contre elles;
- Le 20 décembre 2003, à 11 h 30, la gendarmerie aurait usé d'une force excessive pour disperser une cérémonie non autorisée **d'intégration** des étudiants nouvellement admis à l'École normale supérieure (ENS). Une centaine de gendarmes, apparemment armés de matraques et de fusils, auraient été appelés par la direction de l'école afin de disperser les étudiants. Il a été rapporté que les

gendarmes évacuèrent les étudiants à coups de matraque. Les gendarmes auraient semble-t-il été en possession d'une liste d'étudiants membres de l'Association des étudiants futurs éducateurs (ASSFED) qu'ils auraient essayé d'identifier. Les étudiants se seraient rassemblés sur la route adjacente à l'ENS et les gendarmes se seraient positionnés en face d'eux, et auraient alors ouvert le feu sur la foule, faisant trois blessés. Il est par ailleurs rapporté que le Secrétaire du Comité exécutif de l'ASSFED, **Gordien Ndayahundwa**, aurait été tué par un gendarme, alors qu'il s'approchait de ce dernier à sa demande. Le Chef du service académique l'aurait alors désigné comme un perturbateur et le gendarme aurait alors tiré, tuant Gordien Ndayahundwa sur le coup. Les étudiants suivants, membres de l'ASSFED, auraient été arrêtés au cours de ces événements et détenus au Service de documentation avant d'être transférés au Cap Socarti: **Gahungu Eddy, Bimenylmana Nestor, Rivuzimana Pasteur, Baguva Agrippine, Ntunzwenimana Remy, Ndaylsaba Adrienne, Ndayishimiye Agrippine, Nduwimana Edouard, Ntiranyibagira Emmanuel et Gasore J. Claude**. Dans les jours qui ont suivi, et notamment les 3, 11 et 15 mars, de nombreux étudiants, pour la plupart membre de l'ASSFED, auraient également été arrêtés, dont les personnes suivantes: **Rénovât, Ntunzwenimana Claudette, Rivuzimana Innocent, Ndlkumana Jérémie, Nshimirimana Osias, Anatole et Floride**. Par ailleurs, le Conseil d'administration de l'ENS aurait décidé le licenciement définitif de 11 membres du Comité exécutif de l'ASSFED, de 42 membres du bureau du Conseil des délégués, de 5 membres du Comité d'arbitrage et de 42 membres du Comité des sages.

Observations

118. Le Rapporteur spécial regrette de ne pas avoir encore reçu, au 31 décembre 2004, de réponse à ses communications des 29 septembre et 13 octobre 2004.

Cameroon

119. Le 25 février 2004, le Rapporteur spécial a envoyé une communication au Gouvernement au sujet d'informations selon lesquelles le Ministre de la santé aurait ouvert, le 19 février 2004, une enquête administrative et judiciaire contre le journal *Le Messager*, à la suite de la publication par ce dernier, dans son édition n° 1624 du 18 février, d'un article de **Marie Noëlle Guichi** faisant état de l'utilisation sur près de 500 personnes d'un vaccin de mauvaise qualité pour lutter contre l'épidémie de choléra qui sévissait depuis sept semaines, à Douala, au sud de Yaoundé. Selon les informations communiquées, la journaliste risquait d'être accusée de «propagation de faux bruits ou fausse nouvelle», qui relève du Code pénal et qui porte une peine d'emprisonnement allant de un mois à cinq ans.

120. Le 7 avril 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant **Mosses Punnsa Komban**, militant du Southern Cameroon National Council (SCNC), un mouvement sécessionniste anglophone, qui aurait été arrêté à son domicile le soir du 14 septembre 2001 par ordre d'un préfet. Il aurait été maintenu en détention durant deux mois dans de mauvaises conditions et aurait été battu à plusieurs reprises. Il aurait finalement été transféré dans un hôpital où il serait resté une semaine, et aurait par la suite été présenté devant un tribunal qui ordonna sa libération.

Le 11 septembre 2002, il aurait de nouveau été arrêté par des gendarmes et emmené à la compagnie de gendarmerie de Kumbo. Il aurait été transféré à la brigade de Jakiri avec un autre militant du SCNC. Il y serait resté deux jours et aurait ensuite été ramené à Kumbo, où il aurait été entendu par un magistrat. Il aurait par la suite été emmené à la ville de Bamenda et exhibé sur la chaîne de télévision nationale avec des pancartes sur lesquelles auraient été inscrits des slogans tels que «tueurs de gendarmes». Comme il aurait refusé de les porter, il aurait été battu puis remis en cellule, les mains enchaînées derrière le dos. Il aurait ensuite été conduit à la prison de Bafoussa, où il aurait passé sept mois dans des cellules surpeuplées. Il aurait finalement été remis en liberté quatre jours après avoir reçu la visite du président du Tribunal militaire.

121. Le 4 juin 2004, le Rapporteur spécial, 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, a envoyé une communication concernant la situation de **Madeleine Afité**, présidente d'Action by Christian for the Abolition of Torture (ACAT) à Douala, pour laquelle une communication avait déjà été envoyée le 4 décembre 2003 par le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, et de **M^e Bisseck Issai**, Président d'ACAT-Cameroun. Selon les informations reçues, le 3 juin 2004, Madeleine Afité aurait reçu la visite de M^e Bisseck Issai à son bureau. Ce dernier lui aurait remis une convocation, lui signifiant qu'ils étaient tous deux convoqués au Commissariat spécial de la ville de Douala. La convocation n° 02/04, datée du 3 juin 2004 et semble-t-il signée de la main du commissaire de police, dont le nom est connu du Rapporteur spécial, lui demandait de se rendre au commissariat dès sa réception, sans apparemment mentionner de motif. Des craintes ont été exprimées que cette convocation ne soit en relation avec leurs activités de défense des droits de l'homme.

122. Le 16 juillet 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **Farouk Chotia** et **Ange Ngu**, journalistes à la BBC, qui auraient été arrêtés le 11 juillet 2004 par des soldats alors qu'ils effectuaient un reportage sur la remise de la péninsule de Bakassi aux autorités camerounaises. Les soldats leur auraient confisqué leur équipement, leurs papiers d'identité ainsi que l'autorisation de faire un reportage délivré par le Ministre de la communication. Ils auraient été ensuite conduits à Limbe où les gendarmes les auraient accusés d'espionnage. Selon les informations communiquées, Farouk Chotia et Ange Ngu étaient encore détenus au moment de l'envoi de la communication et n'avaient pas encore été informés des charges retenues contre eux. Des craintes ont été exprimées quand à l'intégrité physique des deux journalistes.

123. Le 13 octobre 2004, le Rapporteur spécial a envoyé une communication au Gouvernement au regard des informations résumées ci-dessous:

- Pendant la semaine du 22 décembre 2003, **plusieurs** stations de radio et de télévision privées auraient reçu l'ordre de fermer au plus tard le 31 décembre 2003. Au nombre des stations visées, les institutions suivantes ont été mentionnées: dans la région de Bamenda, **Radio Abakwa**, **Rédemption Radio**, **Che Radio**, **Republican Television Network** ainsi que la **BBC**; à Bafoussam, **Batcham FM** et **Radio Star**; à Dschang et Bafang, **Radio Yemba** et **Radio Site Art**. Selon les informations reçues, les ordres émaneraient du Ministère de la communication et seraient basés sur un défaut d'autorisation officielle de

fonctionnement. Il est également allégué que des agents de l'État auraient affirmé que le secteur de l'audiovisuel était «trop sensible pour ne pas être contrôlé»;

- **Jean Célestin Edjangué**, journaliste travaillant pour *Le Messager*, aurait été brutalisé et son appareil photo arraché par un policier accompagné de six de ses collègues, le 18 mai 2004, alors qu'il couvrait une manifestation devant le consulat de France contre les conditions de délivrance des visas;
- **Radio Véritas**, émettant à Douala, aurait reçu le 14 novembre 2003 l'ordre du Ministère de la communication d'arrêter immédiatement d'émettre. Selon les informations communiquées, cette décision s'expliquerait par une volonté de représailles à l'encontre du cardinal Tumi, fondateur de la station de radio, connu semble-t-il pour ses prises de position critiques à l'égard des autorités;
- **Denis Nkwebo et Jean-Baptiste Ketchateng**, journalistes travaillant respectivement pour *Les nouvelles du pays* et *La nouvelle expression*, auraient été arrêtés le 12 janvier 2004 par des **membres** du Groupement Mobile d'intervention (GMI) n° 2 de Douala, alors qu'ils effectuaient un reportage sur la collecte de signatures organisée par le Front des forces alternatives (FFA), regroupement de partis politiques et d'associations manifestant pour la transparence électorale dans le pays. Il est allégué que plusieurs pétitionnaires du FFA auraient été appréhendés par les forces de l'ordre à la même occasion. Selon les informations communiquées, Denis Nkwebo et Jean-Baptiste Ketchateng auraient été brutalisés par les agents de police au moment de leur arrestation, et ce en présence d'un commissaire, dont le nom est connu du Rapporteur spécial. Ils auraient été retenus toute la journée et interrogés pendant plusieurs heures avant d'être relâchés.

124. Le 10 décembre 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant des informations selon lesquelles **Eric Wirkwa Tayu**, qui publie le journal privé local *Nso Voice* dans la ville de Kumbo dans l'ouest du pays, serait emprisonné depuis le 28 juillet 2004, date à laquelle il aurait été condamné à cinq mois d'emprisonnement pour diffamation, ainsi qu'à une amende de 300 000 francs CFA (environ 590 dollars). Il semblerait que l'inculpation de diffamation daterait du 4 mai 2004, à la suite d'articles publiés dans *Nso Voice*, accusant le maire de Kumbo de corruption. Il semblerait que M. Tayu pourrait voir son emprisonnement se prolonger, s'il se trouve incapable de payer l'amende qui lui a été imposée.

Observations

125. Le Rapporteur spécial regrette de ne pas avoir encore reçu, au 31 décembre 2004, de réponse à ses communications des 25 février, 7 avril, 4 juin, 16 juillet, 13 octobre et 10 décembre 2004.

Central African Republic

126. Le 27 février 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **Judes Zossé**, le directeur du journal privé *L'Hirondelle*. Il aurait été arrêté le 25 février 2004, lorsqu'il s'est de lui-même présenté à la police suite à la détention supposée de son frère,

Didier Zossé, chargé de l'impression de ce même journal. Ce dernier aurait été par la suite remis en liberté sans inculpation. Judes Zossé aurait, quant à lui, été transféré à la prison de Bangui le 26 février 2004. L'origine de cette détention serait la publication d'un article dans l'édition de *L'Hirondelle* du 23 février 2004, portant sur une supposée appropriation de fonds en provenance des impôts, supposément de la part du Chef de l'État, que Judes Zossé aurait été accusé d'avoir insulté. Au moment de l'envoi de la communication, il n'avait pas été établi si le journaliste avait été inculpé.

127. Le 11 mars 2004, le Rapporteur spécial a envoyé une nouvelle communication concernant **Judes Zossé**, directeur de publication du quotidien *L'Hirondelle*, au sujet duquel le Rapporteur spécial et la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire avaient déjà envoyé une communication le 27 février. Selon des informations plus récentes, le procureur de Bangui aurait requis 18 mois de prison ferme contre M. Zossé pour «offense au chef de l'État». Il semblerait que le journaliste, détenu depuis le 25 février, n'avait pas obtenu la liberté provisoire dans l'attente du verdict, le 12 mars, et aurait été transféré à la prison de Ngarangba, à Bangui.

128. Le 14 juillet 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **Maka Gbossokotto**, directeur de publication du quotidien *Le Citoyen* et correspondant de Reporters sans frontières en République centrafricaine. Selon les informations communiquées, le 8 juillet 2004, il aurait été convoqué à la section recherches et investigations de la gendarmerie de Bangui, afin d'être interrogé sur la base d'une plainte en diffamation déposée à son encontre par l'ancien directeur de l'Énergie centrafricaine (ENERCA), qui aurait fait l'objet d'accusations de détournement de fonds dans plusieurs articles du *Citoyen*. Au terme de l'interrogatoire, le journaliste aurait immédiatement été placé en garde à vue sur instruction du procureur de la République et était semble-t-il toujours en détention au moment de l'envoi de la communication. Il est allégué que la détention de Maka Gbossokotto s'inscrirait dans le cadre d'un contexte général de harcèlement de la presse en République centrafricaine, qui s'exprimerait notamment par les récentes déclarations du Ministre de la communication, qui aurait, dans un communiqué daté du 7 juillet 2004, rappelé aux directeurs de publications qu'il attend d'eux de «Dire la vérité, rien que la vérité, tout en sachant que toutes les vérités ne sont pas bonnes à dire».

129. Le 13 octobre 2004, le Rapporteur spécial a envoyé une communication concernant **Corneille Wanguia-Vickot**, rédacteur en chef adjoint du quotidien *Le Confident*, qui aurait été interpellé, le 21 mai 2004, vers 8 heures, sur ordre du Ministre de l'intérieur. Le domicile du journaliste aurait été perquisitionné après qu'il eut refusé de donner la source d'informations publiées dans son journal. Corneille Wanguia-Vickot aurait été relâché après 48 heures sur ordre du commissaire de police du 1^{er} arrondissement. Il est allégué que son arrestation aurait été liée à la publication d'un compte rendu d'audition dans une affaire de détournement de fonds au Ministère de l'intérieur.

Observations

130. Le Rapporteur spécial regrette de ne pas avoir reçu, au 31 décembre 2004, de réponse à ses communications des 27 février, 11 mars, 14 juillet et 13 octobre 2004.

Chad

131. Le 1^{er} mars 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Représentante spéciale du Secrétaire général concernant les défenseurs des droits de l'homme, a envoyé une communication concernant **Tchanguiz Vathankha**, Iranien d'origine installé au Tchad depuis de nombreuses années, directeur de la radio privée Brakoss à Moissala qui diffuse des émissions relatives aux droits de l'homme. Selon les informations reçues, le 9 février 2004, Tchanguiz Vathankha aurait été arrêté suite à la diffusion sur les ondes de la radio d'une interview de Saleh Kebzabo, chef du parti de l'Union nationale pour le développement et le renouveau (UNDR), traitant de la situation socioéconomique au Tchad. Selon les informations reçues, Tchanguiz Vathankha aurait été torturé par la police locale au cours de sa détention. Son état de santé serait critique selon le médecin de l'hôpital de Moissala qui l'aurait examiné. Il aurait été détenu pendant 48 heures à la prison de la préfecture de Moissala, où tout soin médical lui aurait été refusé, puis remis en liberté le 11 février 2004. La radio Brakoss aurait été fermée sur ordre du préfet du Bahr Sara, puis ouverte de nouveau le 16 février avec une programmation limitée.

132. Le 27 juillet 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant **Évariste Ngaralbaye** et **Allahissem Ibn Miangar**, journalistes à la radio FM-Liberté, créée par des organisations non gouvernementales (ONG) indépendantes de défense des droits de l'homme. Selon les informations communiquées, plusieurs tracts signés par des «escadrons de la mort», dont le plus récent daterait du 9 juillet 2004, auraient été envoyés au siège de la radio et distribués dans les rues avoisinantes. Ces tracts menaceraient explicitement de mort les deux journalistes, leur reprochant d'appeler leurs auditeurs à la révolte. Il est allégué que ces menaces feraient suite à une interview du musicien ivoirien Tiken Djah Fakoly réalisée le 30 mai 2004 par les deux journalistes et dans laquelle il avait formulé de fortes critiques à l'encontre de certains gouvernements africains. Bien que ces faits aient été dénoncés à la police, il semblerait qu'aucune enquête n'ait été ouverte.

133. Le 13 octobre 2004, le Rapporteur spécial a envoyé une communication concernant le journal *N'djamena Hebdo* qui aurait fait l'objet d'une descente de la gendarmerie, le 22 mai 2004. Les gendarmes étaient semble-t-il à la recherche du directeur de publication ou de tout autre journaliste travaillant pour ce journal. Les gendarmes auraient ensuite monté la garde non loin des locaux du journal jusqu'en début de soirée. Les journalistes auraient été avertis et se seraient cachés durant toute la fin de semaine. Il est allégué que cette intervention de la gendarmerie serait liée à la publication, le 20 mai, d'une édition spéciale du journal relatant un coup d'État manqué.

Observations

134. Le Rapporteur spécial regrette de ne pas avoir encore reçu, au 31 décembre 2004, de réponse à ses communications des 1^{er} mars, 27 juillet et 13 octobre 2004.

Chile

135. El 12 de mayo de 2004, el Relator Especial, juntamente con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, envió un llamamiento urgente con

respecto al caso de Sra. **O.A.**, ex prisionera política en Chile, quien habría sido condenada por difamación criminal (injurias y calumnias) por la Corte de Apelaciones de Santiago el 26 de abril de 2004. Según las informaciones recibidas, O.A. habría sido condenada a una pena de prisión remitida de dos meses. Por otra parte, habría recibido una multa equivalente a 1.000 dólares y habría sido condenada a pagar dos millones de pesos (aproximadamente 3.350 dólares de los Estados Unidos) en concepto de daños y perjuicios. Sus abogados habrían apelado la decisión. Según las informaciones recibidas, en julio del 2003, O.A. habría manifestado en una entrevista de televisión que el director de la Policía de Investigaciones de Chile (cuyo nombre es conocido por el Relator Especial), la habría sometido a abusos sexuales mientras estuvo detenida por el ejército chileno en noviembre de 1973, en la Escuela de Artillería del ejército en Linares, lugar que habría sido usado como centro de interrogación después del golpe militar de 1973, y donde se habrían mantenido a casi todos los detenidos incomunicados y sometidos a torturas con participación de miembros de la Policía de Investigaciones en los interrogatorios. El 26 de abril de 2003, un juez de la Corte de Apelaciones de Santiago habría expresado que O.A. no habría presentado pruebas suficientes para sostener sus denuncias, y por eso sería culpable de difamación en contra del director de la Policía.

136. Por carta con fecha 19 de mayo de 2004, la Misión Permanente de Chile ante la Oficina de las Naciones Unidas en Ginebra transmitió la siguiente información en relación con la comunicación del 12 de mayo de 2004. En lo referente a la Sra. **O.A.**, el Gobierno informó de que el proceso penal iniciado aún se encontraba abierto y sujeto a recursos pendientes. Por lo tanto, no había lugar a la intervención de otros poderes del estado a pesar de que las autoridades competentes habían sido debidamente informadas del caso, de acuerdo con la comunicación transmitida por los relatores especiales.

137. El 20 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, envió un llamamiento urgente con respecto al caso del director periodístico **Alberto Luengo**. Según la información recibida, el 10 de agosto de 2004, el directorio del diario *La Nación*, que es propiedad del Gobierno, habría despedido al director periodístico Alberto Luengo debido a la cobertura del matutino sobre un caso de pedofilia que involucraría a altas figuras de la política chilena. Desde octubre de 2003, los poderes del estado y los medios de comunicación eran conmovidos por el denominado “Caso Spiniak”, una red de pornografía infantil y abuso sexual a menores de edad. Testimonios ante la justicia habrían señalado la participación del alcalde de Valparaíso, de la Democracia Cristiana (DC), una agrupación que integra la Concertación, alianza en el gobierno nacional, y de un senador de la Unión Democrática Independiente (UDI), partido de oposición que habría calificado las acusaciones como parte de un complot. El ministro secretario general de gobierno, Francisco Vidal, habría explicado a la prensa que el despido de Luengo “dice relación con el hecho de tratar, editorialmente, temas que actualmente se encuentran en conocimiento e investigación por parte de los tribunales de justicia”. Habría considerado que “la línea editorial de un diario que es de gobierno tiene que coincidir con el gobierno”.

138. El 22 de octubre de 2004 el Relator Especial, juntamente con el Relator Especial sobre la tortura, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Juana Calfunao Paillalef**,

líder de una comunidad indígena mapuche del municipio de Cunco de la IX Región. Juana Calfunao Paillalef es miembro fundador de la organización no gubernamental Comisión Ética Contra la Tortura y trabaja en la promoción y protección de los derechos de su comunidad. Su caso ya fue objeto de un llamamiento urgente enviado el 23 de agosto de 2004 por la Representante Especial del Secretario General para los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas. Según las nuevas informaciones recibidas, el 26 de septiembre de 2004 un funcionario de la Cooperación Nacional de Desarrollo Indígena (CONADI) habría amenazado a Juana Calfunao Paillalef y a su hija de 17 años diciéndoles: “¿Quieres que te queme viva ahora?” y “Voy a buscar el arma para matarlos”. Se alega también que más tarde, ese mismo día, alguien habría disparado varias veces contra la vivienda provisional en la que Juana Calfunao y su familia se refugian después del presunto incendio provocado que habría resultado en la destrucción de su casa y la muerte de su tío. Se teme que estas amenazas en contra de Juana Calfunao y su familia puedan estar relacionados con su trabajo en defensa de los derechos de su comunidad indígena. Además, se expresa temores por la seguridad y la vida de Juana Calfunao y sus familiares.

139. Por carta con fecha 27 de diciembre de 2004 el Gobierno transmitió la siguiente información en relación con la comunicación del 22 de octubre de 2004 sobre el caso de **Juana Calfunao Paillalef**. De acuerdo con el Gobierno, desde el año 2000, la Sra. Calfunao fue involucrada en agresiones contra varias personas en el marco de sus actividades de líder mapuche. En la actualidad Juana Calfunao está alejada del Consejo de Todas las Tierras y no estaría siendo apoyada en ninguna de sus demandas por esta organización indígena. Su vinculación organizacional más fuerte, es con la comunicada Unión Temulemu de la comuna de Traiguén, la cual es beneficiaria del Fondo de Tierras de la CONADI, y parte del Programa de Desarrollo Integral Orígenes. Por lo que se ha podido constatar, su presencia ha generado división y problemas organizacionales en esta comunidad especialmente en la distribución de recursos entregados por los programas de Gobierno.

140. De acuerdo con el Gobierno, es importante destacar con relación al tema indígena en general, que durante la última década la sociedad chilena, el Gobierno y los pueblos indígenas han realizado los esfuerzos necesarios para mejorar todas estas situaciones puntuales, en un contexto amplio de profundización democrática y mejoramiento de la equidad social y cultural de Chile. El gobierno añade que “finalmente, llama la atención la organizada campaña internacional a favor de una persona que constituye un caso excepcional de disconformidad con la nueva política indígena chilena”.

Observaciones

141. El Relator Especial da las gracias al Gobierno por sus respuestas a las comunicaciones con fechas 12 de mayo de 2004 y 22 de octubre de 2004, si bien espera otra respuesta a su comunicación del 20 de agosto de 2004.

China

142. On 8 January 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning **Cui Suzhen**, a 61-year-old female resident of

Shenze County, Shijiazhuang City, Hebei Province, who was reportedly detained in the Shijiazhuang Labour Camp because she practised Falun Gong. On 8 April 2001, she was reportedly transferred to the Gaoyang Labor Camp in Hebei Province. It is alleged that, since she went on a hunger strike to protest the treatment received, she was force-fed human excrement on three separate occasions, and afterwards suffered from serious diarrhea. As a result, she was reportedly sent to the Gaoyang County Hospital for emergency treatment. The attending doctor allegedly pointed out that feeding a person human excrement in that quantity can cause death. Upon being sent back to the labour camp, she was allegedly continuously beaten by the guards, who are said to have crushed her nipples, shocked her with electric batons simultaneously while pouring water on to her. They also used pliers to pinch her flesh, and buried her in snow until she passed out. At the time that this communication was sent, it was reported that she was still being detained in the labour camp, where she was believed to be at risk of being subjected to similar treatment.

143. On 21 May 2004, the Government sent a response to the Special Rapporteur's communication of 8 January 2004 stating that **Cui Suzhen** was ordered by the labour rehabilitation committee in Shijiazhuang, Hebei Province, to undergo three years' labour re-education (from 20 July 2000 to 19 July 2003) for having severely disrupted public order, owing to her severe obsession with Falun Gong. She entered the Shijiazhuang labour re-education facility in January 2001 and in April of that year was transferred to the facility in Gaoyang. She suffered from heart disease and received emergency medical treatment while in re-education. During that time she gradually realized that Falun Gong was a deceptive and harmful fallacy and overtly broke with it; because her conduct had significantly improved, she was rewarded with a 119-day reduction in her term, and was given an early release on 22 March 2003. The people's police at the labour re-education facility enforced the law in a civilized manner, and there were absolutely no instances of ill-treatment causing severe diarrhea or electric shocks being administered, as alleged. Cui underwent labour re-education in accordance with procedures prescribed by law because she accepted the delusions, poisons and incitement of Falun Gong and seriously disrupted social order; her case had nothing to do with freedom of expression.

144. On 15 January 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Kong Youping**, a 48-year-old factory worker from Anshan, north-eastern China, who was arrested on 13 December 2003 for posting five articles and seven poems on a foreign web site since June 2003, in which he called for a review of the events of the "Beijing spring" and an end to alleged corruption among political officials. Five police officers reportedly arrested Kong Youping at his home and seized his computer.

145. On 21 May 2004, the Government sent a response to the Special Rapporteur's communication of 15 January 2004 concerning **Kong Youping**. The Government stated that following a thorough investigation in November 2003, the Shenyang public security authorities cracked a major murder case in which the perpetrator had been at large. A suspect was caught. Following investigations with the suspect, he confessed that, after running away and hiding, he had continued, together with Kong Youping and others, to engage in illegal acts. The Government further stated that, after obtaining the relevant evidence, the public security authorities used coercive measures prescribed by law in respect of the suspect. In enforcing the law, China's public security authorities strictly observed legally prescribed procedures and acted in accordance with the law. Moreover, the Government asserts that Kong's legitimate rights were

fully guaranteed and that the case did not involve any arbitrary detention or has anything to do with freedom of expression.

146. On 4 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the right to health and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Tian Xianofei**, 40 years of age, and resident of Cuidong Street, Pingshan District, Liaoyang City, Liaoning Province, who was reportedly detained in the Huazi Prison in Liaoyang City, and sentenced to 10 years by the Pingshan District Court, allegedly for being a Falun Gong practitioner. According to the information received, Mr. Tian began a hunger strike on 20 July 2003, and was held in solitary confinement with two prisoners monitoring him around the clock. It is alleged that while he was asleep, his hands were handcuffed to the bed. His health was reportedly deteriorating from forced feedings and he had difficulty walking. It is alleged that he was denied medical treatment, and would continue to be denied such treatment until his internal organs malfunction or he renounced Falun Gong. He was reportedly not permitted visits by his family. Moreover, **Cao Jiguang**, 35, an employee of the Cotton and Linen Company, Linshui County, Sichuan Province, was reportedly detained in Guangyuan Jail in Sichuan Province, serving out a five-year sentence, allegedly for being a Falun Gong practitioner. It is reported that he was detained in a small cell where five inmates are ordered to watch him throughout the day. He was reportedly on the verge of death after beginning a hunger strike to protest against his alleged torture by the prison guards. It is reported that, on a previous hunger strike, Cao Jiguang was force-fed by the jail's doctor, who inserted a plastic tube into his trachea and pulled it out repeatedly to hurt him, and that before force-feeding him, the guards opened his mouth with an instrument, which caused severe injuries inside his mouth. It is further reported that after his hunger strike, the guards reduced his food by half.

147. On 21 May 2004, the Government sent a response to the Special Rapporteur's communication of 4 February 2004, stating that **Tian Xiaofei** was sentenced on 21 August 2002 by the Pingshan District People's Court in Benqi to 10 years' imprisonment for the crime of using a heretical organization to undermine law enforcement. After he entered prison he stopped eating normally, but through patient education and counselling his condition had stabilized; he was eating normally, and hospital tests indicated that his health was excellent. While serving his sentence he was never denied family visits, as alleged. **Cao Jiguang** was sentenced on 19 July 2002 by the Linshui County People's Court to five years' imprisonment for the crime of using a heretical organization to undermine law enforcement. After entering prison, he became impulsive and irritable, but through patient, attentive education and counselling provided by the prison his mood improved and he submitted to supervision. He has not been subjected to "torture", as alleged, nor is he "on the verge of death".

148. On 4 February 2004, the Special Rapporteur sent an urgent appeal regarding **Liu Xiaolian**, 64 years old, a resident of Chibi Town, Chibi City, Hubei Province. She was reportedly arrested on 28 December 2003 by the local Chibi City police and her whereabouts were unknown at the time this communication was sent. Ms. Xiaolian had reportedly been detained on several occasions and subjected to torture and ill-treatment for allegedly being a Falun Gong practitioner. For example, on 6 December 2002, while she was reportedly detained at the First Detention Centre, Chibi City, 19 police officers and inmates started to beat Ms. Liu. Her body was reportedly pulled in five different directions simultaneously; her vagina was torn from the force and all her joints became dislocated. Others reportedly took turns beating her with 55-pound shackles while she was being pulled apart. Ms. Liu reportedly suffered many broken

bones and other severe injuries over the course of the day and fell unconscious due to the intense pain. Her head was reportedly violently banged, and she was then reportedly cuffed with 55 pound shackles for one week, and denied food for two weeks. In view of past allegations of torture against Ms. Xioalian, and her present unknown whereabouts, serious concerns are expressed for her well-being.

149. On 21 May 2004, the Government sent a response to the Special Rapporteur's communication of 4 February 2004 stating that on 15 September 2002 **Liu Xiaolian** was placed in criminal detention by the local public security authorities, in accordance with the law, on suspicion of having committed a crime because she had engaged in heretical Falun Gong activities. Following education, she was released. On 29 December 2003, she was again placed in criminal detention for carrying out these activities. On 14 January 2004, the local labour rehabilitation committee ordered her to undergo a period of labour re-education of two years and six months. She is currently undergoing labour re-education. While in detention she was not subjected to any ill-treatment and her legitimate rights and interests were respected. The compulsory measures taken by the public security authorities in respect of Liu, as well as the decision in her case, all had their basis in her heretical Falun Gong activities and the fact that she was a criminal suspect and had absolutely nothing to do with freedom of expression or opinion. When Liu entered the facility the staff strictly followed the method of "educate, reform and rescue" in dealing with her and conscientiously sought to guarantee her legitimate rights and interests; she was never beaten, verbally harassed or subjected to ill-treatment.

150. On 13 February 2004, the Special Rapporteur sent an urgent appeal concerning **Ms. W.L.**, a 17-year-old middle school student, from Machang, Suileng County, Heilongjiang Province. According to information received, in July 2002, W.L. attended a joint entrance examination for a provincial high school and answered a question in the politics section of the paper concerning Falun Gong, saying that, "Falun Dafa is good, and Falun Dafa is righteous". It is reported that later, officials from the Political and Judiciary Committee of the Police Department and Provincial Education Committee came looking for her, and she was forced to leave home. It is reported that her parents were arrested and ill-treated by personnel from the "610 Office". In May of 2003, W.L. was working in Harbin City, where she was reportedly seized by the police and sent to Suileng, where she is reportedly still detained, and it is not clear whether she was charged with any offence. Reports indicate that specific orders were issued at the time of her arrest by the chief of the "610 Office" in Suileng County to detain her until she turned the legal age of 18 years and then to sentence her.

151. The Government sent a response to the Special Rapporteur's communication of 13 February 2004 concerning **Ms. W.L.** The Government stated that in 2001 she wrote statements advocating Falun Gong on a junior middle school exam, After this, the teachers tried to educate her, but she insisted, quit school and ran away from home. In May 2003, she engaged in heretical Falun Gong activities in Harbin and was placed in criminal detention, in accordance with the law, by the Harbin public security authorities. The security authorities there educated her and then released her, while providing her with appropriate assistance regarding schooling and livelihood. She resumed a normal life and was in excellent health. The allegations that her parents have been arrested and that she was being detained until she is 18 are groundless. The Government states that Falun Gong is not a religion but an antisocial, anti-scientific, anti-human heretical organization that had increasingly shown a tendency towards violence.

152. On 26 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Sun Yuhua**, who was reportedly arrested at her home on 14 January 2004 at about 2 p.m., by a group of policemen (whose names are known to the Special Rapporteurs), led by the Chief of the Political Security Team at the Hulan County Police Station, allegedly because she practised Falun Gong. The policemen reportedly took Ms. Sun to the Hulan County Police Station, where officers (whose names are known to the Special Rapporteurs) reportedly beat and tortured her. Reports indicate that she was later sent to the Hulan County Second Detention Centre, where she reportedly went on a hunger strike to protest her torture and detention. When she refused to give up her beliefs, she was reportedly transferred to the Hulan County First Detention Centre, where she continued her hunger strike, and was allegedly force-fed, causing her physical condition to become critical. Fears were expressed that she might die from the treatment she allegedly received. Reports also indicate that, reportedly as a result of his public disclosure of the persecution of Falun Gong, Ms. Sun's husband, **Zhang Qingsheng**, was detained at Hulan County First Detention Centre. The police from the Hulan County Police Station also reportedly arrested **Ms. Sun's daughter**, an 18-year-old student at Hulan County College, on 14 January 2004. She was reportedly interrogated and tortured for four days, before being sent to the Harbin Second Detention Centre.

153. On 5 July 2004, the Government sent a response to the Special Rapporteur's communication of 26 February 2004 stating that **Sun Yuhua** and **Zhang Qingshen** were ordered in April 2001 by the local labour rehabilitation authorities to undergo labour re-education for two and three years, respectively, for having produced and distributed Falun Gong propaganda. Because Sun was in poor health, she was allowed to undergo her re-education outside a facility, and in August 2002, Zhang Qingshen's term was converted to external re-education. In November 2003, he was arrested by the public security authorities while distributing Falun Gong propaganda in Hulan County, Heilongjiang Province. He was found to have on his person a large quantity of illegal propaganda. In February 2004, the Hulan County People's Court sentenced him to three years' imprisonment, in accordance with the law, for the crime of using a heretical organization to undermine the implementation of law. Because Sun Yuhua and Zhang Hui had helped him to produce the material, the local labour rehabilitation authorities ordered the two women on 13 February 2004 to undergo one year's labour re-education. During her sentence, Sun Yuhua began a hunger strike and was taken to the Hulan County No. 1 Hospital for treatment. The treatment was ineffective, however, and on 8 March 2004, she died. The judicial authorities strictly upheld the law and fully respected the legitimate rights of the two persons. Concerning Sun Yuhua, the authorities proceeded on the basis of humanitarian principles and, in accordance with the law, treated her leniently by, among other things, allowing her to undergo her sentence outside a facility. When her health declined, she was promptly taken to the hospital for treatment. The allegation of torture is pure fabrication.

154. On 1 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Deborah Xu Yongling**, one of the leaders of the Chinese house Church (the unregistered Protestant Church), who was reportedly arrested on 25 January 2004. Her whereabouts were not known at the time this communication was sent. According to information received, Ms. Xu Yongling was sleeping at her niece's home, when two female police officers reportedly came to the house at around 11 p.m. They reportedly rushed to the

second floor, where she was sleeping, handcuffed her and then took her to the central police station in Nanyang in Henan Province. It is also reported that they confiscated large numbers of photos, ID documents and other materials. Since her arrest, it has reportedly been impossible to receive news from her from the police in Nanyang. She is 58 years old and there is concern that she will not be able to withstand the physical and mental strain that she will be under. In addition, it is reported that due to the alleged persecution of the house church, she has spent most of the past 10 years in hiding, and as a consequence is in poor physical condition and suffers from breathing difficulties and high blood pressure. Deborah Xu Yongling is the sister of the well known house Church leader Peter Xu Yongze, who was reportedly detained many times until his departure abroad a few years ago.

155. On 26 May 2004, the Government sent a response to the Special Rapporteur's communication of 1 March 2004 stating that **Deborah Xu Yongling** employed deceptive means, fraudulently using the names of dead people to alter identity documents and making use of every trick in the book to engage in illegal activities. The facts were clear and the evidence conclusive: she violated the relevant laws and regulations and the police investigated her in accordance with the law. During the preliminary investigation, Deborah Xu Yongling made a full and candid confession. She was released on bail and is currently living with family members while awaiting trial. While taking compulsory measures in respect of Deborah Xu Yongling, the public security authorities acted strictly in accordance with the law and conscientiously protected her legitimate rights and interests; there were no instances of any ill-treatment. The allegations in the letter did not tally with the facts.

156. On 2 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Li Dongqing**, a Falun Gong practitioner. She is reportedly detained at Dabei Women's Prison, Baixitaizi Village, Pingluo Town, Shenyang City, Liaoning Province. Li Dongqing, who suffers from hepatitis, has allegedly been subjected to prolonged periods of solitary confinement, scolding, beatings, and shocks with electric batons by guards, including during her period of detention at the Masanjia Labour Camp. Currently, her body is swollen and her state of mental health is said to be deteriorating. In view of allegations of torture and ill-treatment of Li Dongqing in detention, and her present state of health, concern is expressed for her mental and physical integrity.

157. On 15 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning **Yiwen Tang** (f), a 37 year-old Falun Gong practitioner, from Zuhai suburb of Guangzhou City, Guangdong Province. On 23 February 2004 Yiwen Tang is said to have been taken from her home following an application for a passport. Her husband was reportedly also interrogated in connection with her passport application. It is reported that she was, at the time this communication was sent, being detained for re-education at the Chutou Law School, in Guangzhou Baiyun district. On 10 March 2004 information was received that Yiwen Tang's health condition was critical. She was said to have been on hunger strike for 17 days to protest her detention. It is reported that her family had appealed to the police in Guangzhou City for an investigation into the legality of her detention and called for her immediate release. Allegedly, no action had been taken at the time this communication was sent.

158. The Government of China sent a reply to the Special Rapporteur's communication of 15 March 2004 concerning **Tang Yiwen**, also known as Pang Dongwen. The Government stated that Tang Yiwen was a practitioner of Falun Gong. In April 2002 she was ordered, in accordance with the law, to undergo labour re-education for having twice disrupted public order. Then, in August 2003 she was released from re-education. In February 2004 the local government sought to re-educate her but she resisted by undertaking a hunger strike. The local government actively endeavoured to save her life and she is now in excellent health.

159. On 16 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Jiang Meili**, the wife of **Zheng Enchong**, a human rights defender who was imprisoned in October 2003 and whose case was the subject of an urgent appeal sent jointly by the Special Representative to the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion of the right to freedom of opinion and expression on 3 December 2003 (E/CN.4/2004/62/Add.1) and to which the Government responded on 2 March 2004, and the situation of **Shen Ting**, a campaigner on behalf of Shanghai residents displaced by urban developments who has also been advocating the release of Zheng Enchong. According to the information received, on 28 February 2004, Jiang Meili, who had travelled to Beijing to petition the National People's Congress on behalf of her husband, was reportedly detained by five women and two men who allegedly entered her hotel room, bound and gagged her and took her to a hotel in Hubei's Canzhou City. The following day she was reportedly taken to another hotel on Hutai Road. According to the information received, Jiang Meili was not informed of the reason for her detention and the men and women, reportedly officials of the Shanghai Representative Office in Beijing, the Shanghai Letters and Petitions Office and the Shanghai Municipal Public Security Bureau (PSB), did not present an arrest warrant. She was allegedly released on 1 March. It is reported that until the time this communication was sent, she had been under police surveillance and on 4 March was prevented from leaving her home to visit her husband. When she protested, she was allegedly taken to the Guoqing Lu Public Security Bureau and was released later that day. It is also reported that the authorities have confiscated her two mobile phones and have also reportedly disconnected her home phone line. According to additional information received, the mother of Shen Ting, **Mo Zhujie**, was reportedly abducted on 5 March 2004 while visiting a displaced resident. According to the information received, 11 individuals, some wearing police uniforms and one who was allegedly identified as a member of the Shimin Erlu Public Security Bureau, reportedly entered the premises and forced Mo Zhujie into a police vehicle. They allegedly placed a plastic bag over her head and threatened to kill her. She was reportedly released later that night. Concern has been expressed that Jiang Meili, Shen Ting and Mo Zhujie may have been targeted for their human rights work and in particular for campaigning against the reportedly arbitrary imprisonment of Zheng Enchong. Fears have been expressed for the life and physical integrity of the above-mentioned individuals.

160. By letter dated 26 May 2004, the Government replied to the urgent action sent on 16 March 2004 concerning **Jiang Meili**, **Zheng Enchong**, **Shen Ting** and **Mo Zhujie**. The Government reported that it had conducted diligent inquiries into the matters raised and concluded that Jiang Meili, female, age 50, from Shanghai, was displeased that the law-enforcement authorities had punished her husband, Zheng Enchong, for breaking the Chinese criminal law and falsified news reports time and time again, starting rumours and vilifying the Chinese authorities. In response,

the Shanghai municipal petitions department engaged with her in some educative mediation, on the basis of the relevant laws. In so doing, the public security organs did not apply any kind of coercion to her, nor did they confiscate any of her private belongings. The account given in the communication does not tally with the facts. Concerning Mo Zhujie, female, age 65, and her daughter Shen Ting, aged 38, they repeatedly spread rumours, influencing the foreign media and putting pressure on the Government in order to maximize their interests in a dispute over the demolition of their home. From March 2004 onwards, to create an impression, Mo has deliberately gone into hiding and the report has been put about abroad by her daughter, Shen Ting, that she has gone missing. On investigation, it transpires that the claims Mo was bundled by 11 individuals into a police vehicle and so forth do not tally with the facts.

161. The rumours that were spread and the disturbance caused by Jiang, Mo and Shen have nothing to do with freedom of speech and opinion. The Chinese Ministry of Justice took no coercive action against the three women, and their personal rights and other legitimate rights and interests were effectively guaranteed.

162. On 19 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning **Yang Jianli**, who was reportedly arrested on 26 April 2002, and for whom an urgent appeal was sent on behalf of the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 11 December 2002 (E/CN.4/2003/67/Add.1). According to more recent information received, Mr. Yang was tried on 4 August 2003. It is reported that the authorities had four months from that date to make a ruling, in accordance with Criminal Code provisions, but that at the time this communication was sent, they had failed to pass a sentence. It is further reported that Yang Jianli, who was reportedly not allowed to have access to his lawyer during the first 14 months of his detention, asked to be allowed to speak to his lawyer without prison guards and security agents recording their conversation, and to be allowed to write letters. He was said to have begun a hunger strike on 3 March 2004 to push for his demands. Yang Jianli was editor-in-chief of the online review "Yibao" (www.chinaeweekly.com). He was arrested when returning to China to investigate worker strikes in the country's North-East, after his expulsion from the country for taking part in Tiananmen Square demonstrations in 1989. He was arrested for "failing to have a valid passport", and was charged on 17 July 2003 with "illegal entry into Chinese territory" and "spying for Taiwan". However, it was believed that Mr. Yang's critical stance vis-à-vis the authorities, in particular on the review "Yibao", might be the reason for his detention.

163. On 5 July 2004, the Government of China sent a response to the Special Rapporteur's communication of 19 March 2004 concerning **Yang Jianli**. The Government stated that, on 13 May 2004, the Beijing Second Intermediate People's Court issued a verdict, sentencing him to five years' imprisonment for the crime of illegally crossing state borders and fining him 1,000 yuan renminbi. China's judicial authorities acted in accordance with the law and based their sentence on article 110 of the Criminal Law concerning espionage, and on article 322 of the law concerning illegal border crossings. International human rights law was also respected throughout.

164. On 24 March 2004, the Special Rapporteur sent an urgent appeal concerning the reported sentencing on 19 March 2004 by the Dongshan District Court in Guangzhou, Guangdong Province, of **Yu Huafeng**, the deputy editor-in-chief and general manager of the *Nanfang Dushi*

Bao newspaper, to 12 years in prison on corruption charges and of Li Minying, former editor of the *Nanfang Dushi Bao*, to 11 years for bribery in a related case. It is reported that both Yu and Li will appeal the ruling. It is also reported that on the same date, at about 3 a.m., public security officials from Guangzhou arrested *Nanfang Dushi Bao* editor-in-chief **Cheng Yizhong** while he was visiting Sichuan Province, and brought him back to Guangdong where he was reportedly detained at the time this communication was sent in the Number One Detention Center in Guangzhou on suspicion of corruption. Officials reportedly searched his home in Guangzhou and confiscated a number of publications and books about Chinese politics. It is further reported that on 6 January 2004, authorities already detained Cheng from the paper's offices and interrogated him about the paper's financial activities, and released him eight hours later. It is believed that these actions might have been triggered by the independent investigative reporting of *Nanfang Dushi Bao* on social issues and reported wrongdoing by local officials. In particular, reference is made to the newspaper's article on the case of college student Sun Zhigang, who was beaten to death in March 2003 while being held in police custody in Guangzhou, which reportedly led to the arrest of several local government and police officials, and to its 26 December 2003 article on a suspected Severe Acute Respiratory Syndrome (SARS) case in Guangzhou, the first new case in China since the epidemic died out in July 2003, at a time when the Government had not yet publicly released information about the case.

165. On 5 July 2004, the Government of China sent a response to the Special Rapporteur's communication of 24 March 2004 concerning State employee **Yu Huafeng**, former deputy editor, general manager and advertising manager of the Southern Metropolis News (*Nanfang Dushi Bao*). The Government stated that Yu Huafeng had obtained and made improper use of bonus monies, which constituted the crime of embezzlement, for which he was sentenced to 10 and a half years and ordered to pay 50,000 yuan as well as two years' imprisonment for bribery of State employees. Li Minying, former member of the management board of the Southern Metropolis News and investigator and editor of the paper, used his privileges as a member of the paper, accepted bribes and sought benefits from Yu Huafeng in the context of the advertising department. Considering the fact that he had voluntarily confessed to the plot and had undertaken on his own initiative to return the entire amount, his punishment was reduced. For accepting a bribe, he was sentenced to 11 years' imprisonment and fined 10,000 yuan. The case regarding Cheng Yizhong, former editor of the *Southern Metropolitan Daily*, also suspected of the crime of embezzlement, was in the investigation phase. The Government of China reiterated that its Constitution and legislation clearly stipulated that citizens enjoyed the right to freedom of opinion and expression. Article 35 of the Constitution of China stated that "citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration". The Government ensured that these freedoms and rights were protected in accordance with the law. In exercising these rights and enjoying these freedoms, however, citizens had to assume their corresponding duties under the law. While the Universal Declaration on Human Rights recognized that citizens enjoyed all sorts of rights, it clearly stipulated that, in the exercise of their rights and freedoms, all persons would be subject to such limitations as determined by the law. The present case, according to the Government of China, is a criminal case involving the use of professional privileges to engage in economic crime. The compulsory measure taken by the Chinese judicial authorities in respect of Yu and the others as well as the sentences imposed had their basis in those individuals' illegal activities, and had absolutely nothing to do with freedom of expression or opinion.

166. On 6 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Ding Zilin, Zhang Xianling and Huang Jinping**. It was alleged that, on 28 March 2004, the three women, who belong to a group called the "Tiananmen Mothers", were detained in an attempt to warn them against commemorating the 15th anniversary of the June 1989 pro-democracy protests in Tiananmen Square. It is reported that members of this group have campaigned on behalf of their children and other relatives killed there almost 15 years ago. The teenage sons of Ding Zilin and Zhang Xinliang, and Huang Jinpin's husband were reportedly killed at Tiananmen Square. No information on the whereabouts or on possible charges against the women was available at the time this communication was sent.

167. By letter dated 10 June 2004, the Government replied to the urgent appeal sent on 6 April 2004 concerning **Ding Zilin, Zhang Xianling and Huang Jinping**. The Government stated that it had carefully investigated the matters referred to and came to the following conclusions. Ding Zilin, Zhang Xianling and Huang Jinping colluded with foreign organizations and jointly plotted to use such fraudulent means as the use of false labelling of goods and the forging of shippers' names to bring illegal goods into China. They also engaged in activities that were harmful to State security, in violation of the Customs Law of the People's Republic of China and the applicable provisions of the Security Law of the People's Republic of China and the rules for their implementation. The relevant authorities, acting in accordance with the law, placed Ding and the others under investigation and determined that they were engaging in illegal activities. They had since made a statement of repentance and been released from investigation; they had returned home. The investigation of the actions of Ding and the others conducted by the relevant departments was based solely on those individuals's actions and had absolutely nothing to do with freedom of expression or assembly; it did not constitute any kind of arbitrary detention. China was one of the first States to become a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It consistently sought to prohibit torture and seriously performed the tasks required of it under the Convention, banning torture and other cruel, inhuman or degrading treatment or punishment. The Chinese Constitution contains clear provisions protecting the right of citizens to personal security. In addition, the relevant provisions of various laws, including the Criminal Law, the Criminal Procedure Law, the Police Law and the Prison Law of the People's Republic of China, all clearly stipulated that it was strictly forbidden to beat or harass persons in detention or to subject them to corporal punishment or ill-treatment. Under the Provisions on Procedures for the Handling of Administrative Cases by the Public Security Organs, evidence obtained illegally by the public security authorities in their law enforcement work was considered inadmissible; the Provisions also stipulate clearly that, in their law-enforcement work, the public security authorities must show respect for the human rights of accused persons. In taking compulsory measures in respect of Ding and the two others, the relevant authorities acted strictly in accordance with the law and conscientiously protected their legitimate rights and interests; the three were not tortured or subjected to any other inhumane treatment. The allegations in the letter did not tally with the facts.

168. On 23 April 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Wang Jinbo**, a political prisoner whose case was the subject of a joint communication by the Special Rapporteur on the question of torture and the Special Representative to the Secretary-

General on human rights defenders on 12 February 2003 (E/CN.4/2004/62/Add.1), to which the Government replied on 29 April 2003. According to the information received, Wang Jinbo was sentenced to four years' imprisonment in December 2001 on charges of "inciting the subversion of State power". It is reported that in 2003 he was subjected to repeated beatings by other inmates and that prison authorities failed to take action against the perpetrators. An investigation into the beatings has allegedly not been carried out. He was also reportedly held in solitary confinement for several months in 2003. According to new information received, Wang Jinbo was, at the time this communication was sent, permitted visits by his family although he was reportedly still not permitted to make telephone calls home. He reportedly continued to conduct several hunger strikes to protest against his sentencing and his treatment in prison. It is reported that, as a result, his health was deteriorating and it was not known if he was being allowed access to medical treatment. His family has reportedly applied for his release on medical parole. Concern was expressed for the physical integrity of Wang Jinbo. Concern was further expressed that Wang Jinbo was imprisoned for his work in defence of human rights and in particular for having called, through articles posted on the Internet, for a re-evaluation of the events surrounding the June 1989 pro-democracy protests in Tianamen Square.

169. By letter dated 5 July 2004, the Government replied to the urgent appeal sent on 23 April 2004 concerning **Wang Jinbo**. The Government stated that it had carefully investigated the matters referred to in this letter and made the following conclusions. Wang Jinbo is a male from Shandong Province born in October 1972. On 4 December 2001 he was sentenced by the Linzhe Intermediate People's Court in Shandong to four years' imprisonment (from 24 May 2001 to 23 May 2005) for the crime of inciting subversion of the political authority of the State. He was, at the time this reply was sent, serving his sentence in the Shandong No. 1 prison. The communication of the Special Rapporteur alleges that in 2003 Wang was subjected to repeated beatings by other inmates and was held in solitary confinement for several months. An investigation revealed that Wang was not involved with any fights with other prisoners during that time. On 19 November 2003 Wang was ordered by the prison administration, in accordance with the law, to spend 14 days in solitary confinement for having deliberately smashed glass and disrupted the normal prison routine. Wang subsequently acknowledged his error and undertook self-criticism in writing, so that the prison authorities released him from solitary confinement one day early. After Wang was incarcerated, the prison immediately allowed him to see members of his family once a week. During "atypical" periods, the prison authorities still arranged for him to speak to members of his family by telephone. The allegation in the letter that he was not permitted to call home was inconsistent with the facts. The letter further alleged that Wang went on several hunger strikes and that his health was deteriorating. In fact, while Wang had frequently said that he was going on a hunger strike, he never actually did, and his body weight increased from 64 kilograms, at the time he entered prison, to 74 kilos. At the time this reply was sent, his health was excellent; he never showed any illness at his annual medical check-up and his family never applied for him to be released on medical parole. In the present case, Wang was convicted because his actions harmed the political authority of the State, for where there are laws, they must be observed. The case has nothing to do with freedom of expression and opinion. China was one of the first States to become a party to the Convention against Torture, and the banning of torture and other cruel, inhuman or degrading treatment or punishment has been one of China's consistent positions. Legislation such as the Criminal Law and the Police Law contain extremely strict provisions relating to the ban on torture, and they seek to prevent and punish any State employees, particularly those in the justice system, who

practise torture. While Wang served his sentence, his legitimate rights and interests were being thoroughly guaranteed.

170. On 28 April 2004, the Special Rapporteur sent an urgent appeal concerning **Albert Cheng King-Hon**, a political journalist and businessman in Hong Kong. According to information received, Albert Cheng King-Hon had received death threats on an almost daily basis after February 2004. It was believed that these threats followed his criticism of the Government's ongoing reforms in his political programme "Teacup in a storm", on the station "Commercial Radio", and in his column for the daily *South China Morning Post*. It was reported that, on 31 March 2004, the offices of one of Albert Cheng King-Hon's companies were attacked. According to information received, Albert Cheng King-Hon was previously attacked on 19 August 1998, when he received six deep knife wounds from two assailants. Reports indicate that no arrest was made in relation with this case.

171. On 30 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the question of torture and Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning **Liu Mei**, 36, resident of Donggang City, Liaoning Province. She was reportedly held in Dabei Prison in Shenyang City at the time this communication was sent. On 10 March 2004, a relative who visited her reported that Liu Mei was carried to the visiting room wearing a big gauze mask, and that she was extremely weak and thin. It is reported that the guards immediately stopped the meeting when she said that she was dying, and since then no information on her situation had been available. It is reported that Liu Mei and her husband were arrested on 9 April 2002 and sentenced to 13 years in prison for producing and distributing materials about the alleged persecution of Falun Gong. It is alleged that since her arrest and detention at the Dandong City Police Station, and subsequently at the Dandong Detention Centre and then Dabei Prison, Liu Mei had been tortured in an attempt to force her to give up Falun Gong. The methods of torture and ill-treatment alleged include electric shocks all over the body and beatings on her head with hard plastic baton handles. It is alleged that she had been denied adequate medical attention, and as a consequence suffered among other things, high fevers which have damaged her lungs. Her health had reportedly continued to deteriorate. In view of the allegations of torture and the reported state of her health, concern was expressed for the physical and mental integrity of Liu Mei if she did not receive prompt and adequate medical attention.

172. On 3 May 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Cheng Fudong** (m), **Kong Wanli** (m) and **at least four others**, who had reportedly been detained by police in Henan province, central China, after seeking help from the local authorities. According to information received, the six men were detained on 27 April 2004 and were reportedly held in Shangcai county prison, Henan Province, at the time this communication was sent, after they travelled from their homes in Wenlou village, Shangcai county, to the provincial capital, Zhengzhou, to request Government help in repairing their homes. It is reported that the men were detained for "disturbing government organizations and disturbing government office work". It is believed that their arrest might have been prompted by a possible visit of the Prime Minister in the area on 1 May, in order to prevent them from protesting during the visit.

173. On 16 August 2004, the Government of China sent a response to the Special Rapporteur's communication of 3 May 2004 concerning **Chen Fudong**, who, according to the Government, was suffering from a serious disease. The Government further stated that Chen Fudong recently went on numerous occasions to premises of the working group set up by the Henan provincial government and asked for money. Moreover, that he made several unreasonable requests and cursed members of the working group, which prevented the group from working normally, and seriously disrupted the operations of the local Government. On 6 April 2004 the local public security authorities decided, in accordance with the law, to place Cheng in criminal detention for 15 days. He was subsequently released. Concerning **Kong Wanli**, the Government stated that, on 28 April 2004, he went to a highway construction site in a neighbouring village while drunk and caused a disturbance, holding up construction and asking for money. The local public security authorities decided, in accordance with the law, to put Kong in criminal detention for 15 days. He was then released. The Government further stated that in dealing with both cases, the Chinese judicial authorities used restraining measures because the actions of both individuals disrupted public security; It had nothing to do with the right to freedom of opinion and expression. The allegation that the men in question were detained because they sought help from the local authorities or expressed their opinions was groundless.

174. On 7 May 2004, the Special Rapporteur sent an urgent appeal concerning **Huang Xiangwei**, aged 44, a high school music teacher and a resident of Harbin City, Heilongjiang Province. He was reportedly held at Changlinzi Labour Camp at the time this communication was sent. It is reported that Huang Xiangwei went on hunger strike to protest alleged ill-treatment by the camp guards, as a result of which he lapsed into a coma and was sent to the hospital for emergency treatment. It is reported that, since his admission to the camp's hospital around early April 2004, no information had been available on his condition and he was not allowed any visitors. Huang Xiangwei was allegedly arrested on 15 May 2002 by the police from the Harbin City Police Station for being a Falun Gong practitioner, and brought to the Seventh Team of the Harbin City Second Detention Centre. It is alleged that he was tortured because he refused to renounce Falun Gong, and he became paralyzed from the waist down as a consequence of torture. On 3 November 2002, he was reportedly sentenced to three years of forced labor and transferred to the Wanjia Labor Camp, and later sent to the Wanjia Labor Camp Hospital. It is alleged that he was detained there for about one year, during which he was subjected to cruel and inhuman treatment, including being forced to crawl on the floor every time he needed to go to the bathroom. It is reported that in December 2003 he was transferred to the Changlinzi Labor Camp, where guards, allegedly falsely claimed that he was on hunger strike, force-fed him with concentrated salt water, and dragged him on the ground. Concern was expressed that Huang Xiangwei could be at risk of torture or other forms of ill-treatment.

175. On 16 August 2004, the Government sent a response to the Special Rapporteur's communication of 7 May 2004 where it informed the Special Rapporteur that **Huang Xiangwei** was ordered by the Harbin municipal labour rehabilitation committee to undergo three years' labour re-education (from 16 May 2002 to 15 May 2005) for engaging in illegal Falun Gong activities and disrupting the social order. On 5 November 2002 he was sent to the Changlinzi labour re-education facility in Heilongjiang to undergo re-education. After entering the facility, Huang Xiangwei was regularly sent to the Harbin No. 2 Hospital and the Harbin Public Security Hospital for treatment because he suffered from coronary disease and high blood pressure. In March 2004 the labour re-education facility sent him to the clinic at the Wanjia labour re-

education facility for treatment because, stubbornly holding on to the tenets of the heretical Falun Gong organization, he began a hunger strike and became seriously ill. While he was ill, relatives came to visit him regularly. Allegations that he was not allowed visitors are not true. China's judicial authorities took coercive measures in respect of him solely on the basis of his illegal actions; the case had nothing to do with the freedom of expression and opinion. When placing Huang Xiangwei in detention, the public security authorities never subjected him to ill-treatment. All of his legitimate rights were guaranteed and the police never subjected him to any corporal punishment or ill-treatment; the question of torture did not arise.

176. On 18 May 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Jin Jiang** and his wife, **Wei Limei**, both in their thirties and resident of Botou City, Hebei Province. They were allegedly arrested on 8 April 2004 for giving explanations in their restaurant about the alleged persecution of Falun Gong. It is alleged that the seven police officers who came to arrest them, ransacked the restaurant and took away Falun Gong books and materials. It is alleged that the couple were, at the time this communication was sent, detained at the Botou Detention Centre, where they started a hunger strike to protest their illegal detention, and were force-fed as a consequence. It is alleged that when Jin Jiang did not cooperate, the police brutalized him, allegedly broke his legs and two of his ribs, rupturing his right eardrum and dislocating his jaw. Wei Limei was allegedly beaten and was covered with bruises. It is alleged that they may be denied medical treatment. Concern was expressed for the physical and mental integrity of the two persons if they did not receive prompt and adequate medical treatment.

177. On 2 June 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning reports that several human rights defenders and pro-democracy activists had been placed under de facto house arrest, presumably to prevent them from publicly marking the 15th anniversary of the Tiananmen Square repression on 4 June 2004. It was reported that, among those allegedly placed under house arrest were **Liu Xiaobo**, one of the country's leading human rights figures, who strongly criticized the "subversion" charges that are typically brought against most of the country's cyber-dissidents, **Hu Jia**, an activist who denounced the inaction of officials in the face of the spread of AIDS in China, and **Ding Zilin**, leader of the "Mothers of Tiananmen", a group of mothers whose children were killed during the 1989 repression. In this respect, it should be noted that the alleged arrest of Ding Zilin and two other members of the Mothers of Tiananmen, reportedly in an attempt to warn them against commemorating the 15th anniversary of the Tiananmen Square Repression, was the subject of an urgent appeal on 6 April 2004 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative to the Secretary-General on the situation of human rights defenders. According to information received, the police had been surrounding the homes of well known activists for several days, de facto preventing them from meeting with journalists or with each other. It is also alleged that their telephone lines were cut as soon as they had conversations that were deemed to be politically "sensitive", and that their Internet access had been interrupted.

178. In reply to the Special Rapporteur's communication of 2 June 2004, reference was made to the Government's reply concerning the Special Rapporteur's communication of 6 April 2004,

since this communication, and therefore the corresponding Government reply, deals with the same allegations.

179. On 4 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Dr. Jiang Yanyong**, aged 72, and **his wife**. It was reported that they had been missing since they left their apartment in Beijing on 2 June 2004 with officials from the Government hospital where Dr. Jiang Yanyong is employed. It is alleged that the hospital officials had been evasive about Dr. Jiang Yanyong, aged 72, and his wife's whereabouts and relatives were cautioned against publicizing their disappearance. Officials allegedly told the family, "They are safe. You should not go beyond the authority to which you report." It is reported that the telephone to Dr. Jiang Yanyong's apartment was cut off on 3 June. It was believed that Dr. Jiang Yanyong and his wife might have been targeted in relation to a letter wrote in March by Dr. Jiang and widely publicized on the Internet, calling on the Government to admit that it was wrong in ordering the military assault against demonstrators in Tiananmen Square that killed hundreds and wounded thousands on 4 June 1989. It is alleged that, in connection with the 15th anniversary of the events in Tiannamen Square, these and other persons had been placed under house arrest or taken to locations outside Beijing until the anniversary had passed. In view of their alleged detention in an unknown location, concern was expressed that these persons could have been at risk of torture or other forms of ill-treatment.

180. On 8 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning reports that, on 18 May 2004, the trial of **Du Daobin**, for "incitement to subversion", before the intermediate peoples' court in the city of Xiaogan, Hubei province, central China, opened in the absence of Du Daobin's lawyer. According to information received, Du's lawyer, who was notified four days before the trial, could not travel to attend the trial and Du was appointed a lawyer, who refused to enter a not-guilty plea, despite the demands of his client. It was further reported that the trial was held behind closed doors. It was reported that Du Daobin, for whom urgent appeals were sent on 7 November 2003 (E/CN.4/2004/62/Add.1) on behalf of the Chairperson-Rapporteur of the Working Group on arbitrary detention and on 3 December 2003 (E/CN.4/2004/62/Add.1) by the Special Rapporteur on the right to freedom of opinion and expression, was already deprived of the services of his lawyer when, on 3 November 2003, his counsel reportedly had his licence withdrawn by his own law firm, preventing him from defending his client.

181. On 10 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Xiao Yunliang**, who was sentenced to a prison term for "illegal assembly and demonstration". The Special Rapporteur notes that Xiao Yunliang had been the subject of several previous appeals (i.e. E/CN.4/2003/68/Add.1, and E/CN.4/2004/56/Add.1). Notwithstanding the responses of the Government, dated 16 December 2003 and 2 March 2004, which indicated that he was in fine physical and mental health, and that the allegations of ill-treatment and poor medical facilities of Lingyuan Prison were unfounded, the Special Rapporteur wished to bring the following information to the Government's attention. It was reported that the condition of Xiao Yunliang continued to deteriorate; his abdomen became severely distended, and he could not, at the time this communication was sent, eat without experiencing pain or vomiting, and he suffers from heart trouble. It was also reported that Xiao Yunliang suffers from symptoms associated with tuberculosis, pleurisy, hypertension, and that his eyesight was failing. It was also alleged that he was, at the time this communication was sent, effectively being denied adequate medical treatment; the provincial police authorities

had allegedly indicated that Xiao Yunliang would need to apply for a “medical treatment permit” from Shenyang No. 2 Prison before treatment would be considered. Moreover, it was alleged that family visits were effectively hindered because family members are required to re-apply for a permit from city and provincial authorities for every visit. In view of reports of Xiao Yunliang’s deteriorating health, concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical attention.

182. By letter dated 16 August 2004, the Government responded to the Special Rapporteur’s communication of 10 June 2004 stating that, on 25 June 2003, the Intermediate People’s Court in Luoyang, Liaoning Province, sentenced **Xiao Yunliang** to four years’ imprisonment and two years’ deprivation of political rights for the crime of subverting the political authority of the State. He was, at the time this reply was sent, currently serving his sentence in the Shenyang No. 2 Prison, Liaoning Province. A physical examination revealed that, before he entered prison, he suffered from cataracts and meningitis. With prompt treatment by the prison medical staff, the symptoms of meningitis were relieved. Although he suffers from cataracts, he was able to care for himself: he could read books and newspapers, write letters and watch television. A complete physical examination indicated that he suffered from chronic indigestion, although he had not been ill recently. In fact the prison authorities had on a number of occasions taken Xiao Yunliang to the hospital to see a doctor for emergency treatment of pre-existing conditions; there was no question of his having been denied adequate medical treatment. Since entering prison, he had been allowed to see family members on numerous occasions. There had been no instances of torture in this case.

183. On 8 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, sent a letter of allegation concerning:

- **Sun Yanqing**, a resident of Hebei Province working for the mechanical maintenance facility of the Xuanhua District Steel Works in Zhanjiakou City. She was reportedly arrested in 2000 in Beijing when she went there to appeal for an end to the persecution of Falun Gong. According to the information received, her condition became critical after she was severely tortured. Reports indicate that she was sent back to her hometown where she was hospitalized and died a few days afterwards;
- **Chen Aizhong**, aged 33, a resident of Beixinbao Town, Huailai County, Zhangjiakou City, in Hebei Province. According to the information received, since 20 July 1999, Mr. Chen, together with his family, had gone to Beijing to appeal for an end to the persecution of Falun Gong. On 12 September 2000 he was reportedly arrested and sent to the Sixth Brigade of Hehuakeng Labor Camp in Tangshan City. He reportedly died on 20 September 2000 after being subjected to severe torture while in detention. Zhu Yourong, a Falun Gong practitioner residing in Xuanhua District, Zhangjiakou City, Hebei Province. It is believed that she was brutally tortured while being detained at the Women’s Second Brigade in the First Forced Labor Camp of Hebei Province. She reportedly died at the labour camp on 16 December 2000;
- **Fan Yaxiong**, aged 42, a resident of **Zhangjiakou** City, Hebei Province, and Chairwoman for Teaching and Guidance at High School No. 15, who was

reportedly arrested in Beijing while demonstrating against the persecution of Falun Gong in May 2000. According to the information received, the Zhangjiakou “610” officials reportedly sent her to the Shalingzi Mental Hospital where she was allegedly forcibly injected with nerve-damaging drugs. In June 2000, she was reportedly sentenced to three years of forced-labour education and she was brutally tortured at the Tangshan Forced Labour Camp. She was released at the end of 2000 and died at home shortly afterwards;

- **Zhang Zhigen**, aged 53, a Falun Gong **practitioner**, resident of Zhangjiakou City and working in the Zhangjiakou Embroidery Factory, who was allegedly arrested when she went to Beijing to appeal for an end to the persecution of Falun Gong in April 2000. According to the information received, she was detained by the “610 Office” deputies at the Xuanhua District Detention Center of Zhanjiakou City for 17 days, where she allegedly suffered severe torture. One of her legs allegedly became infected and had to be amputated. According to the information received, on 6 October 2000, she went to Beijing where she was rearrested. She was reportedly transferred to the Shisanli Zhangjiakou City detention centre and tortured for nine days. She was subsequently released and she reportedly died on 25 February 2001 as a result of the torture to which she was subjected while in detention;
- **Jiang Shuhua**, aged 50, was a Falun Gong **practitioner** residing in Shihuiyao Village, Yangtian Township, Chicheng County, Zhangjiakou City, Hebei Province, who was reportedly arrested by the police on 8 February 2002. According to the information received, she died on 3 March 2002 while in police custody allegedly as a result of the torture she was subjected to while in detention;
- **Shen Lizhi**, a 33-year-old university **graduate** from Shenyang City and his wife **Luo Fang**, from Leshan City, Sichuan Province, were reportedly arrested on 1 February 2002 by police officers from Yingmenkou Police Station in Chengdu City. The police allegedly claimed that they were carrying materials revealing the persecution of Falun Gong, at the time of their arrest on Bus No. 75. They were reportedly detained at the Chengdu Detention Centre. Shen Lizhi was allegedly tortured after his arrest and he reportedly died on the afternoon of 3 March 2002 at Qingyang District People’s Hospital. It was further alleged that the police only notified his parents one year later, on 3 March 2003. According to the information received, Luo Fang was eight months pregnant at the time of her arrest. Tian Xinming, from the “610 Office”, allegedly forced her to have an abortion. She was reportedly released on 8 May 2002 but was arrested again on 5 December. She was allegedly tortured and sentenced to 12 years in prison. Since August 2003, she was held at the Chuanxi Prison in Hongan Town, Longquan, Chengdu City;
- **Liu Haibo**, aged 34, a doctor from the CT (computed tomography) room of the Luyuan District Hospital in Changchun City, Jilin Province. According to the information received, since 20 July 1999 he had gone to Beijing twice to appeal to the Government to stop the persecution of Falun Gong. It was reported that for this reason, he was sentenced to one year of forced labor at the Weizigou Labor Camp in Changchun City. Refusing to give up Falun Gong, he was reportedly

transferred to the Fenjin Labor Camp and then to the Chaoyanggou Labor Camp in Changchun City. He was allegedly tortured numerous times while in detention and his term was extended by nine months. After his release, on 11 March 2002, police from the Kuancheng District Police Station in Changchun City allegedly abducted him from his home and tortured him to death. He reportedly died at the 120 Emergency Center on 12 March 2002;

- **Liu Yuqing**, aged 40, a resident of Wanghua District, Fushun City, Liaoning Province. She reportedly went to Beijing to appeal to the Government to stop the persecution of Falun Gong on 23 October 1999 and on 21 December 2000, as a result of which she was allegedly arrested, detained and tortured. After she was released, on 15 February 2001, it was reported that three police officers from the Putun Police Station in the Wanghua District forcibly dragged her down from the third floor of her work unit and took her to the police station. She was then reportedly sent to the Fushun City Detention Center and half a month later she was transferred to the Wujiabao Labor Camp in Fushun City where she was allegedly tortured again. She was reportedly taken home by her family on 11 April 2001 where she reportedly died on 13 April 2002 due to permanent damage to her internal organs;
- **Song Cuiling**, aged 52, a resident of **Zhangjiakou** City, Hebei Province. According to the information received, the police arrested her at Tiananmen Square on 5 May 2002 while she was there to appeal for an end to the persecution of Falun Gong. She was reportedly sent to the Zhangjiakou Detention Center where it is believed that she was subjected to torture. She reportedly went on a hunger strike to protest the persecution and was allegedly tortured to death on 20 May 2002;
- **Yin Ling**, aged 34, a resident of No. 597 Farm in Baoqing County, Heilongjiang Province. According to the information **received**, on 28 December 2001, the Chief of the No. 597 Farm Police Station, Zhu Shaokun, and several other policemen abducted her and sentenced her to three years of forced labour in the Jiamusi City Labor Camp. She allegedly began a hunger strike on 28 October 2002 to protest the detention. She was then reportedly force-fed for a long time, tortured and handcuffed to her bed all day. It was reported that her family was instructed to take her home on 13 November 2002 and that she died soon after. Concerns were expressed that she died as a result of torture to which she was subjected while in detention;
- **Xue Xia**, aged 33, a resident of Jiejiatun Village, Xingtai City, Hebei Province. According to the information received, she went to Beijing on 1 January 2000 to appeal to the Government to stop the persecution against Falun Gong, as a result of which she was reportedly arrested and sentenced to three years of forced labour at Shijiazhuang Labour Camp. She was allegedly beaten in detention and force-fed with unknown drugs. She was reportedly released in May 2001 on medical bail as she was reportedly on the verge of death. It was further reported that, on 27 September 2002, she was brought with her mother to the Shijiazhuang Labor Camp in order to allegedly brainwash them. According to the information received, she was sent to Xingtai City for medical treatment on 4 January 2003

and she reportedly passed away on 21 February 2003 as a result of torture she was subjected to throughout those years in detention;

- **Chen Hongping**, aged 32, a resident of Huailai County, Zhangjiakou City, Hebei Province who was arrested and beaten along with her sister, who was also a Falun Gong practitioner, in 2001 by the **Donghuayuan** police. She was reportedly sent to the Gaoyang Labor Camp and was subjected to further torture as well as round-the-clock brainwashing against her belief in Falun Gong. She reportedly died on 5 March 2003, soon after the authorities sent her back to her home;
- **Yu Yongquan**, aged 45, worked in the Daqing City No.2 Rice Mill in Daqing City, Heilongjiang Province. He was reportedly arrested on 11 May 2002 by police from the Ranghulu District Police Station and Chuangxin Police Station and sent to the Ranghulu District Detention Center. He was charged with making Falun Gong materials and was reportedly sentenced to 10 years in jail on 22 September 2002 by the Ranghulu District Court and detained in the Hongweixing Jail in Daqing City. According to information received, on 8 March 2003, he was sent to the jail hospital for emergency treatment and died the same day. It is alleged that Yu Yongquan died as a result of the torture he suffered while he was in detention;
- **Chen Xiangrui**, aged 29, a resident of Hengyang City, Hunan Province, reportedly went to Beijing three times to appeal to the Government to stop the persecution of Falun Gong, on 27 October 1999, 2 March 2000 and in late April 2000. As a result, he was reportedly detained several times. In January 2001, police allegedly abducted him from his home and detained him in a detention center for half a year. It was further reported that, on 11 March 2003, the head of the National Security Team of the Hengyang City Police Station, Lei Zhenzhong, led a group of policemen to break into his home. They allegedly beat and kicked him while they dragged him out of his house and forced him into a police van. He was allegedly further tortured in the police station. He was reportedly sent to a hospital the next morning where he allegedly died soon afterwards. The autopsy reportedly revealed that his internal organs had suffered trauma resulting from the severe beatings;
- **Gao Shuhua**, aged 49, a resident of Guanzhonghe Street in Weicheng District, Weifang City, Shandong Province, who was reportedly arrested on 14 March 2003 while distributing materials about the persecution of Falun Gong. She was detained in the Weicheng Detention Center for 13 days, during which she reportedly went on a hunger strike to protest her imprisonment. According to the information received, she died on 26 March 2003 as a result of torture and force-feeding by guards;
- **Li Jianhou**, a 67-year-old Falun Gong practitioner from Nanchong City, Sichuan Province was reportedly tortured to death on 27 March 2003 in the Deyang Prison in Sichuan Province. According to the information received, he had been arrested and imprisoned four times by the local "610 Office" (agency allegedly specifically created to persecute Falun Gong, with absolute power over each level of administration in the Party and all other political or judicial systems);

- **Li Ying**, resident of Youyan Street, Wanghua District, Fushun City, Liaoning Province was reportedly arrested on 31 March 2003 by police from the Public Security Bureau of Wanghua District and the local police station who took her to the No.1 Division of the Fushun City Public Security Bureau. She reportedly died on 2 April 2003. It is reported that her death was caused by the torture she has been subjected to while in detention;
- **Zhao Chunying**, aged 56, a Falun Gong practitioner from Jixi City, Heilongjiang Province. She was reportedly arrested and detained at the Hengshan District Branch Office of the Jixi City Police Department in 1999 and then sent to the Wanjia Labor Camp. After her release, she wrote about her alleged ordeal in the labor camp and posted it on the Internet. According to the information received, when the local police from the Hengshan District Branch Office discovered this, they arrested her again on 15 April 2003 and sent her to the Jixi City No. 2 Detention Centre. On 10 May 2003, her family was reportedly notified of her death. Following a request by her family, two autopsies were reportedly carried out and several signs of torture were allegedly found. It is alleged that Zhao Chunying died as a result of the treatment she was subjected to while in detention. Reports indicate that her family tried by different means to bring the perpetrators to justice in the previous few months before this communication was sent but without any results;
- **Yang Yufang**, aged 47, a resident of Dongyaozi Village, Qiaoxi District, Zhangjiakou City, Hebei Province, and who practised Falun Gong, was arrested on 17 May 2003. She reportedly died on 16 June 2003 as a result of torture she was subjected to while in detention at the Shisanli Detention Centre in Zhangjiakou City. Sui Guangxi and his wife were both Falun Gong practitioners from Xiangyangling Village, Niuxibu Township, Laixi City, Shandong Province. On 17 September 2002, the couple was reportedly forcibly dragged into a police van and brought to the Sanjiaocun Elementary School, where they were held for four days before they were transferred to the Xinzhuang "610 Office" in Laixi City, where they were allegedly forced to listen to broadcasts slandering Falun Gong every day. As Sui Guangxi reportedly refused to listen to the broadcasts, the police allegedly subjected him to various forms of torture. He reportedly escaped 20 days afterwards and died on 4 July 2003 in the Pingdu First People's hospital as a result of the torture he reportedly endured;
- **Cao Ping**, aged 40, a resident of Caojiaba, Jiulong Town, Linshui County, Sichuan Province. According to the information received, he was detained in June 2000 for 15 days because he went to Beijing to appeal to the Government to stop the persecution against Falun Gong. He was reportedly arrested again in May 2001 while distributing Falun Gong flyers and was detained at the Linshui County Detention Centre, where he was allegedly beaten by officers from the Linshui County Police Station and from the Chengbei Police Station. He was then reportedly sentenced to four years in prison at the Deyang Jail in Sichuan Province. It was alleged that while in custody, his internal organs were severely injured because of torture and beating. He was reportedly sent to a hospital and diagnosed as "untreatable". The authorities ordered his family to take him home on 27 May 2003 and he subsequently passed away on 17 July 2003;

- **Bai Xiaojun**, aged 35, a professor at the Northeast Normal University in Jilin Province, who was reportedly sent to a labour camp in Chaoyanggou because he had gone to Beijing to appeal for an end to the persecution of Falun Gong. He was reportedly beaten to death while in custody and passed away on 18 July 2003. Tan Chengqiang, a resident of Hongcheng Village, Handian Town, Shuangcheng City, Heilongjiang Province, was reportedly arrested and detained several times for being a Falun Gong practitioner. According to the information received, Mr. Tan was arrested one more time on 18 May 2003 by the “610 Office” in Shuangcheng City. He was reportedly held in the Second Detention Center in Shuangcheng City where he allegedly went on hunger strike to protest his detention. He was reportedly force-fed and was subsequently transferred to hospital. The “610 Office” ordered his family to take him home where he died a few days later, on the evening of 19 July 2003 as a result of the ill-treatment he had been subjected to while in detention;
- **Tian Junlong**, aged 45, from Majiatun, Wuyi Township, Yitong County, Jilin Province. In the fall of 2002, he was reportedly sent to the Weizigou Labour Camp for having distributed information materials on the persecution of Falun Gong. He was reportedly transferred three months later to the Chaoyanggou Labour Camp in Changchun City. It was alleged that Mr. Tian was severely tortured in both camps. He was reportedly sent home on 1 September 2003 since his condition had deteriorated and he reportedly passed away on 21 September 2003 as a result of torture he suffered while in detention;
- **Lu Bingshen**, aged 39, a firefighter in the 6th Fire Brigade in Daqing City, Heilongjiang Province, and residing in the Caikulou area of Ranghulu District. He was reportedly arrested by the police in October 2000 while he was distributing Falun Gong anti-persecution materials. According to the information received, he was later sentenced to two years and sent to the Daqing City Labor Camp. It was alleged that, on the afternoon of 20 October 2003, he was locked in a solitary compartment and tortured until he became unconscious. He was then reportedly sent to the Daqing City People’s Hospital for emergency care, where he died on 21 October 2003. Concerns have been expressed that Mr. Lu died as a result of the torture he was subjected to in detention;
- **Yan Hai**, aged 37, a farmer from Tumu Village, Tumu Township, Huailai County, Zhangjiakou City, Hebei Province. On 30 October 2002, policeman Wang Guohong from the Langshan Police Station reportedly led a dozen policemen to Yan Hei’s home and arrested him because he practised Falun Gong. From the time of his arrest, he allegedly endured various psychological and physical tortures at the Huailai County Detention Centre. The police also allegedly subjected him to continuous brainwashing in an attempt to force him to give up his practice of Falun Gong. According to the information received, Yan Hai was jailed and tortured for one year and 24 days. On 14 November 2003, he was reportedly transferred to the Shisanli Detention Center in an extremely weak condition. On 22 November 2003, he was reportedly sent to the 251 Hospital where he died on 24 November 2003. Concerns were expressed that he died as a result of the extended torture to which he was subjected. It was further alleged that, on 27 November, when his family members went to the hospital to look at

his body, more than 10 armed policemen were guarding the site and did not leave his family alone with his body;

- **Zhang Changming**, aged 50, a resident of Shuangyashan City, Heilongjiang Province, who reportedly appealed for the right to practise Falun Gong. He was allegedly arrested in that connection and arbitrarily sent to the Jiamusi Labour Camp in Heilongjiang Province where he was reportedly beaten to death. He was then reportedly transferred to a hospital for emergency treatment but doctors refused to treat him as they saw that he was on the verge of death. It was further alleged that, in order to avoid responsibility, the camp authorities sent Mr. Zhang back to his home, where he reportedly died as soon as he arrived.

184. On 14 July 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Zhang Youren**, the leader of a farmers' group in Tangshan, Hebei Province, that has organized peaceful protests against the flooding of farmland to make way for a reservoir. According to reports, Zhang Youren was arrested at his home on 6 July 2004 at around 10 a.m. by public security police officers. The police reportedly searched Zhang Youren's home and beat and arrested his wife, **Wang Yushu**. It is alleged that Zhang Youren's detention could be linked with the visit to Tangshan by Premier Wen Jiabao scheduled for July 8-10, during which the relocated farmers had been planning to petition him to intervene in the ir case. The arrest of Zhang Youren was believed to be an attempt to forestall any such action.

185. On 15 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the question of torture, sent an urgent appeal concerning:

- **Geng Juying**, resident of Luozhuang Hamlet, Chengbo Village, Mengzhou City, Henan Province, who in 2000 was arrested at her home and taken to a detention centre, together with her eight-month-old child, by the "610 Office" in Mengzhou City and officers from the Mengzhou City Police Station (whose names are known to the Special Rapporteurs). She is said to have been arrested because she is a Falun Gong practitioner. Geng Juying did not have enough milk to nurse her child due to the poor nutrition at the detention centre. On 25 May 2002, after Ms. Geng's release, police officers (whose names are known to the Special Rapporteurs) jumped over the wall into the courtyard of her house and took her away to the police station, without a warrant. Ms. Geng was again pregnant at the time. It is alleged that the police officers forced her to have an abortion so that she could be sent to a labour camp. They are said to have forcibly given her an injection to induce the abortion, watched the procedure and mocked her when she was in pain. Then she was sent to a detention centre in Jiaozuo City, Henan Province. Later, she was transferred to the Shibalihe Labour Camp because she refused to give up Falun Gong. She is still there. Furthermore, it was reported that Geng Juying's father, Geng Xuecai, her mother, Shen Guangbai, her elder sister, Geng Xiaocui, and her brother, Geng Huaming, have also been detained many times because they practise Falun Gong;

- In April 2001 **Chen Yaru**, aged 46, resident of Xiaohaidi in Tianjin City's Hexi District, was taken from her home and sentenced to two years of forced labour at the Tianjin City, Jianxin, Women's Forced Labour Camp, No. 3 Squadron of the No. 6 Brigade, where she was tortured. On 13 May 2002, Chen Yaru practised Falun Gong exercises in the labour camp and, as punishment, the camp police confined her to a small, dark room where they beat her and trampled on her arms. Then they handcuffed each of her arms to a bed, stretching her out spread-eagled. She remained handcuffed this way for 23 days. On 6 April 2003, Chen Yaru and another Falun Gong practitioner tore down the anti-Falun Gong slogans posted inside the Squadron. As a result, the guards dragged them into a room where they stripped them down to their underclothes and tied up their hands. Then the guards dragged them into the hallway and ordered them to kneel down. When they refused, six policemen (including officers whose names are known to the Special Rapporteurs) used six electric batons simultaneously on Ms. Chen. One policeman used the electric baton on her genitalia for 20 minutes. Then they did the same to the other female prisoner. They then shocked Ms. Chen again with electric batons all over her body, to the point that her teeth became loose. For more than one month after this torture, her right arm was paralyzed;
- **Yan Shujun**, in her fifties, was arrested by the Tianjin City, Heping District, Public Security Bureau in November 2000 because she refused to give up Falun Gong. She was taken to a police station where policemen violently slapped her face. She was sentenced to two and a half years of forced labour and detained at the No. 4 Brigade of the Banqiao Women's Forced Labour Camp in Tianjin City. On 1 June 2001 Yan Shujun was transferred to the Tianjin City, Jianxin, Women's Forced Labour Camp, No. 3 Squadron of the No. 6 Brigade. Because she refused to renounce Falun Gong, the female camp guards deprived her of sleep, allowing her as little as two hours of sleep per day. In protest, Ms. Yan went on a hunger strike for 12 days. Subsequently, the camp extended her term of detention. On 1 April 2003 the No. 3 Squadron attempted to brainwash Ms. Yan. The camp policewomen dragged her into a tiny, dark room and hit her all over her body with electric batons. They exposed Ms. Yan's body in front of the camp's male discipline instructors to demonstrate their electric baton torture. Then they confined Ms. Yan to a wooden cage measuring roughly 50 centimetres by 30 cm by 1.5 metres, where the 1.7 metre tall Yan Shujun was forced into a crouched position. Ms. Yan was tortured in this way for eight days. Afterwards she had significant muscular and skeletal problems;
- In April 2001, **Guo Baohua**, in her thirties, a resident of Tonggu District, Tianjin City, was arrested by the police who tied her up and subjected her to physical punishment because she refused to read anti-Falun Gong articles. They then confined her to a wooden cage for more than a month. Ms. Guo went on a hunger strike for 37 days to protest this persecution. During her hunger strike she was handcuffed and tied up, and afterwards she was put in solitary confinement for more than a month. Still refusing to abandon Falun Gong, police handcuffed her to a radiator, then handcuffed her spread-eagled between two radiators. Still later, the police handcuffed her and suspended her by her wrists, and subjected her to

further torture. On 1 April 2003, the police shocked Ms. Guo with several electric batons simultaneously. Then they put her in a wooden cage for several days;

- On 15 April 2002, **Su Yanhua**, a resident of Lianjiangkou, Jiamusi City, Heilongjiang Province, was arrested at her brother's house by local police because she was a Falun Gong practitioner. She was sent to Lianjiangkou Detention Centre and two weeks later transferred to the Jiamusi Labour Camp. Upon her arrival at Jiamusi, she was tortured and forced to undergo brainwashing. In July 2002, the labour camp guards forced her to sit on a small stool and watch anti-Falun Gong videos. When she refused to watch, a guard (whose name is known to the Special Rapporteur) dragged her downstairs and handcuffed her to a bed. She began a hunger strike to protest the torture, so the guards force-fed her milk saturated with salt, which was extremely painful. They tortured her like this for seven days. In November 2002, guards forced Ms. Su to sit on a stool with sharp triangular ridges across its surface for more than 10 hours a day. They made her put both hands on her thighs and didn't allow her to move. Eventually, the skin of her buttocks tore and began to bleed. Meanwhile, she was monitored by several guards brandishing electric batons. Each time she moved, they shocked and beat her simultaneously. When she refused to read an anti-Falun Gong article, they beat her again. Her body was black and blue with bruises, and she was unable to walk for a long time afterwards. At the end of November 2002, because Ms. Su still refused to watch the videos, a guard (whose name is known to the Special Rapporteur) cuffed her to a bed in an awkward, asymmetrical position, her hands tied to two different steel bars. She was cuffed in the same position for two weeks. When she was finally released, she was unable to move her any of her limbs. The conditions in Jiamusi Labour Camp are very unsanitary, and for a long time Ms. Su was not allowed to bathe. By February 2003, she had developed scabies, which prevented her from sleeping. At one point the guards sprayed her with a chemical that caused her severe chest pains and rendered her unable to move her head or hands. One morning in May 2003, Ms. Su began to practise the Falun Gong exercises. As soon as she was seen, two guards (whose names are known to the Special Rapporteur), rounded up some other inmates and they all beat her together. Then they dragged her to the second floor, where they forced her to sit on a cold cement floor with her hands cuffed behind her back for 10 days. The nights were bitter cold, and she was deprived of sleep. On the tenth day, guards (whose names are known to the Special Rapporteur) cuffed her hands in the forced backbend position (one arm is reaching down the back behind the head and the other hand meeting it from the lower back). She suffered this torture for 13 days. After her hands were released, she was unable to move her arms and could barely walk. In June 2003, a guard (whose name is known to the Special Rapporteur) slapped her face so hard that she temporarily lost her hearing. Ms. Su was not released after her term expired. She was, at the time this communication was sent, still being detained in the labour camp, and her health was in a critical condition.

186. On 16 July 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, 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 Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Wang Guofeng**, and his wife, **Li Suzhi**, both suffering from a serious disease. According to the allegations received: They were arrested in Shangqiu city, Henan province, on 12 July 2004, when they were about to travel to Beijing to petition the National Health Department. They wanted to protest inadequate healthcare and other services for those infected with their serious disease in the city. In particular, they were concerned that they had not received the medical treatment that had been promised by the central authorities. They were also concerned that the school of their children had been recently closed down by the local authorities. The school had been set up by a local activist for children whose parents were suffering from this disease or had died of this disease. The school was reportedly closed after its founder told the authorities that he was going to Thailand to participate in an international conference. Wang Guofeng and Li Suzhi were, at the time this communication was sent, detained in Shangqiu city. In the light of reports according to which people with this disease were detained in Henan province in the past had been beaten while in police custody, concern is expressed that Wang Guofeng and Li Suzhi may be at risk of torture or other forms of ill-treatment. Concern is also expressed for their physical and mental integrity if they do not receive adequate medical treatment during their detention.

187. On 1 September 2004, the Special Rapporteur sent an urgent appeal concerning **Chen Guidi** and **Wu Chuntao**. According to the information received, they were sued by the former Linquan County Communist Party secretary for libel in Fuyang Intermediate People's Court in connection with the publication of their book, *An Investigation of China's Peasantry (Zhongguo Nongmin Diaocha)*, in which they describe cases of abuse of farmers and extortion of lands by corrupt officials. They were reportedly requested to pay damages of around US\$ 24,000. The proceedings ended on 28 August 2004. It is also reported that the defense had requested that the trial take place outside Linquan County as the son of the plaintiff is a judge in the courthouse in the city of Fuyang. This appeal was reportedly denied.

188. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning:

- A Beijing court which sentenced on 28 November 2003 a cyber-dissident **Jiang Lijun**, who was arrested on 7 November 2003 and detained in Qincheng jail, to four years in prison for posting articles critical of the Government on the Internet. Jiang Lijun was charged with "inciting subversion" after writing an open letter to the 16th Congress of the Chinese Communist Party calling for democratic reforms. The Special Rapporteur had already sent, jointly with the Special Rapporteur on the question of torture, two urgent appeals regarding the case of Jiang Lijun on 28 March 2003 and 1 July 2003 (see E/CN.4/2004/62/Add.1);
- On 19 February 2004, five members of the Falung Gong movement, who were accused of helping to post news on a web site about ill-treatment in prison of a student member of the movement, appeared before the Court N°1 in western Chongqing. In its verdict, the court said that the report published online "tarnished the image of the Government by broadcasting fabricated stories of persecution suffered by cult members". **Lu Zengqi**, accused of writing the incriminating document, and **Yan Qiuyan**, who helped him publish the article, were both sentenced to 10 years in jail. **Li Jian**, who reportedly posted the article on a site run by the movement, was sentenced to 12 years in prison. **Chen Shumin**, head

- of the company where Lu Zengqi worked, was jailed for 12 years. **Yin Yan** was sentenced to five years without any evidence being given of the part he played;
- On 9 March 2004, authorities in Beijing interrogated **three reporters** from the Hong Kong-based *Apple Daily* newspaper and then deported them to Hong Kong. Security officials arrived at the journalists' hotel and brought them for questioning. The reporters were held for six hours before officials escorted them to the airport and put them on a flight to Hong Kong. The three journalists were in Beijing to cover the annual meetings of the National People's Congress and the Chinese People's Political Consultative Conference;
 - On 11 March 2004, the **Blogbus.com web site** was closed "until further notice" for allowing a letter that was critical of the Government to be posted. **Blogcn.com** was subsequently shut down on 14 March 2004. Both websites give Chinese Internet users the ability to create personal web pages without technical knowledge. Blogbus.com alone hosted more than 15,000 blogs that have been shut down;
 - On 16 March 2004, **Ouyang Yi** was sentenced to two years' imprisonment on a charge of "incitement to subvert State power". Ouyang Yi is an Internet dissident who was arrested on 5 December 2002 and has been detained ever while awaiting his trial. He was tried in secret at the Chengdu Intermediate People's Court without any prior notice having been given to his family or lawyer, who was unable to represent him in court. The Special Rapporteur already sent, jointly with the Special Rapporteur on the question of torture, two urgent appeals regarding the case of Ouyang Yi on 28 March and 1 July 2003 (see E/CN.4/2004/62/Add.1);
 - On 19 March 2004, the Shanghai Re-education Through Labor (RTL) Administrative Committee sentenced **Ma Yalian** to one and a half years of re-education. The decision claimed that, "from July 2003 until February 2004, Ma Yalian on numerous occasions posted on *chineselawyer.com.cn*, *dajiyuan.com* and other web sites, articles falsely accusing the Shanghai authorities of causing her physical injury". The decision also stated that Ma Yalian had "turned petitioning into pestering". The main reason for Ma Yalian's arrest was an article she posted on several web sites. The article includes accounts by many petitioners describing their brutal treatment at the hands of the authorities, providing the names, places of origin of victims and date of incident;
 - On 2 May 2004, freelance journalist **Liu Shui**, aged 37, was sentenced without trial to two years in a re-education camp. Officially charged with soliciting the services of several prostitutes, Liu Shui is believed to have been sentenced for posting sensitive material on the Internet, particularly concerning the Tiananmen Square massacre. Liu Shui worked for the *Southern Metropolis News* and the *Shenzhen Evening News*.
 - On 13 May 2004, United States resident and cyber-dissident Yang Jianli was sentenced to five years in prison for "espionage" and "illegally entering Chinese territory", after spending more than two years in prison awaiting his sentencing. Yang Jianly, now aged 40, was expelled from China after taking part in the 1989 Tiananmen Square demonstrations. He is the editor-in-chief of the dissident online review "Yibao". The Special Rapporteur on the question of torture, jointly

with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, already sent an urgent appeal regarding the case of Yang Jianli on 11 December 2002 (E/CN.4/2003/68/Add.1);

- On 19 May 2004, former Hong Kong radio host and delegate to the Chinese legislature **Allen Lee**, announced his resignation from both posts after being pressured by Government officials in Beijing because of his support on-air for democracy. He had been host on the popular morning phone-in radio show “Teacup in the storm”, produced by the privately owned Commercial Radio. In a specially convened meeting of Hong-Kong Legislative Council’s home affairs panel, Allen Lee described several meetings in which Beijing officials pressured him to cease his public support for democracy in Hong Kong. The journalist also told the panel that a person claiming to be a former Chinese official phoned him to request a meeting and then brought up his wife and daughter. Allen Lee interpreted the comment as a threat, and quit his posts as a “preventive measure”;
- At the end of May 2004, Chinese authorities placed several human rights activists under house arrest, preventing them from publicly marking the 15th anniversary of the Tiananmen Square massacre on 4 June 2004. The dissidents included **Liu Xiaobo**, one of the country’s leading human rights figures and the author of many articles about cyber-dissidence in the country. **Hu Jia**, an activist who allegedly denounced the inaction of officials in the face of the spread of HIV/AIDS in China, was also placed under house arrest, along with **Ding Zilin**, aged 67, leader of the “Mothers of Tiananmen”, a group of mothers who lost their children in the 1989 demonstration;
- On 11 June 2004, a Xiaogan court sentenced cyber-dissident **Du Daobin** to four years of house arrest and two years of privation of his civil liberties for “inciting subversion of the State”. Du Daobin was arrested on 28 October 2003 for posting articles on the Internet advocating democracy and respect for human rights. The Special Rapporteur had already sent an urgent appeal regarding the case of Du Daobin on 3 December 2003 (E/CN.4/2004/62/Add.1).

189. On 1 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Zhao Yan**, news assistant at the Beijing bureau of *The New York Times* and former reporter for *China Reform* magazine. He was arrested in Shanghai on 17 September 2004. He was charged on 21 September 2004 with “providing State secrets to foreigners”, allegations which could lead to the charge of treason, a crime punishable by execution. His arrest was reportedly linked with the publication of an article in *The New York Times* on 7 September 2004 revealing the plan of the Chairman of the Central Military Commission to retire and concerning the transfer of leadership to President Hu Jintao. This article preceded the official announcement about the latter’s retirement, which was made on 19 September 2004. Zhao Yan is thought to be under investigation as the source of the leak. It was also reported that in May 2004, he was forced out of his job as a reporter for *China Reform* magazine after he reported on allegations of Government abuse of peasants across China. Zhao Yan is said to be held incommunicado. Therefore, fears have been expressed for his physical and mental integrity.

190. On 4 October 2004, the Special Rapporteur sent an urgent appeal concerning **Tang Yiwen**, a Falun Gong practitioner. According to the information received, in May 2000, she was arrested in Beijing for appealing for Falun Gong. She was detained for two years in Chatou Women's Forced Labor Camp, Guangdong Province, and later transferred to Sanshui Labour Camp. During her detention, she was reportedly subjected to torture, in particular she was hung up, beaten and forced-fed with hot chili. She was released in August 2003 and re-arrested in February 2004. Since then, she reportedly tried several times to leave the country but was never issued a passport. In June 2004, her passport application was rejected for the third time by Guangzhou Police Department and on her file it was allegedly noted that "This person's activity is limited". On 25 June 2004, Tang Yiwen reportedly lodged a law suit in Guangzhou City Baiyun District Procuratorate (BDP) against those who illegally sentenced, detained and tortured her. It was furthermore reported that, since August 2004, she has been constantly followed by agents from the 6-10 Office. Fears were expressed regarding her physical and mental integrity, which may have been at risk.

191. On 12 October 2004 the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning **Mao Hengfeng**, who in April 2004 was sent to a labour camp by police in Shanghai, to undergo 18 months of "re-education through labour". According to the information received, the "re-education through labour" measure inflicted on Mao Hengfeng was motivated by her persistence in petitioning the authorities with regard to a labour dispute and to treatment allegedly suffered at the hands of the police. The labour dispute originates in Mao Hengfeng's dismissal from her job in 1988, when she refused to undergo an abortion in violation of the family planning policies of China. Mao Hengfeng was detained several times on account of these activities, and forcibly confined in psychiatric units where she was forced to undergo shock therapy. Her daughters, both under the age of 18, were also reportedly detained repeatedly by police and questioned about who is assisting their mother with her petitions. At the "re-education through labour" camp, where she was detained at the time this communication was sent, Mao Hengfeng was reportedly tied up, suspended from the ceiling and severely beaten. The ill-treatment Mao Hengfeng was allegedly subjected to repeatedly at the hands of officials, including during the current period of administrative detention in a "re-education through labour" camp, gives rise to fears about her being subjected to further ill-treatment.

192. On 15 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning reports of systemic repression against the **Falun Gong** and other "heretical organizations" (*xiejiao zuzhi*). Over the past five years, hundreds of cases of alleged violations of the human rights of Falun Gong practitioners have been brought to the attention of the Special Rapporteurs. Many of these allegations have been reported back to the Chinese authorities and were reflected in reports of the Special Rapporteurs to the Commission on Human Rights. The Special Rapporteur is concerned that reports of arrest, detention, ill-treatment, torture, denial of adequate medical treatment, sexual violence, deaths, and unfair trial of members of so-called

“heretical organizations”, in particular Falun Gong practitioners, are increasing. He is concerned that these allegations may reflect a deliberate and institutionalized policy of the authorities to target specific groups such as the Falun Gong. According to information received, on 10 June 1999 the Central Committee of the Chinese Communist Party established what is known as the “6-10 Office”, an institution which is linked to State Security Defence. The office reportedly was given a mandate to repress Falun Gong and other “heretical organizations”, and is operating outside of the rule of law. Reports indicate that the Falun Gong was officially banned on 22 July 1999 through a decision of the Ministry of Civil Affairs and, since then, several decisions, notices, regulations and other judicial interpretations have been issued by the Government and judicial authorities to legitimize the official repression against “heretical organizations”, including the Falun Gong. In addition, according to reports, a media campaign was launched against the Falun Gong and its practitioners in June 1999. It is believed that this campaign followed a protest gathering in Beijing on 25 April 1999, involving more than 10,000 Falun Gong practitioners. Further reports indicate that, in February 2001, the Central Committee of the Communist Party called for a Central Work Conference of high-level party officials. The purpose of this meeting was reportedly to adopt a plan calling for the formation of local “anti-cult task forces” in all universities, State enterprises and social organizations, to reinforce the “6-10 Office” and strengthen local control over the Falun Gong. An analysis of reports received by the Special Rapporteurs indicates that the alleged human rights violations against Falun Gong practitioners, including systematic arrest and detention, are part of a pattern of repression against members of this group. Most of those arrested are reportedly heavily fined and released, but many are detained and ill-treated in order to force them to formally renounce Falun Gong. Those who refuse are sent to “re-education through labour” camps, where torture is reportedly used routinely and in many cases has resulted in death. The Special Rapporteur is further concerned by reports that few Falun Gong practitioners are prosecuted. When charges are laid they reportedly include allegations such as “disturbing social order”, “assembling to disrupt public order”, “stealing or leaking State secrets” or “using a heretical organization to undermine the implementation of the law”. According to the information received, those prosecuted have been unfairly tried and many have received lengthy prison sentences. In this respect, it is reported that on 5 November 1999, a Notice issued by the Supreme People’s Court instructed all local courts to do their “‘political duty’ in bringing to trial and punishing ‘severely’” those charged with “heretical organizations crimes”, “particularly Falun Gong”, and to handle these cases “under the leadership of the Party committees”.

193. On 19 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning Falun Dafa practitioner **Zhao Yougang**, 32 years old. In June 2003, he was arrested by the Nanjing police while he was composing materials regarding Falun Gong. In jail he was reportedly subjected to torture and inhumane treatment. On 29 December 2003, he was sentenced to nine years in prison. According to the information received, he was then detained in Wuxi Prison where he was subjected to further torture. He started a hunger strike in June to protest the persecution and the ill-treatment to which he was subjected. He weighed 35 kg at the time this communication was sent. It was reported that he was being force-fed seven to eight times every night by the prison guards.

194. On 19 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Yan Zhengxue**, a human rights

defender, who has initiated an international petition campaign against the Re-Education Through Labour (RTL) system. According to the allegations received, on 14 September 2004 at 2:35 p.m., Yan Zhengxue was arrested by the Zhejiang Province State Security Department police in Taizhou City, Zhejiang Province, and taken away to an unknown location. Concerns have been expressed that the reported arrest and detention of Yan Zhengxue may be an attempt to prevent him from carrying out human rights activities, in particular in connection with the meeting of the Central Party Committee of the 16th Party Congress. In view of his alleged incommunicado detention, concern is expressed that he may be at risk of torture or other forms of ill-treatment.

195. On 26 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Zhang Bo, Wang Jie, and Cai Shaojie**, three Falun Gong practitioners, and **Li Weiji**. According to the allegations received, Zhang Bo was detained at an unknown location at the time this communication was sent, Wang Jie and Cai Shaojie were detained in the Dabei prison, and Li Weiji was detained in the Panjin Prison. It is reported that the police broke both the arms of Li Weiji and caused him to develop a lumbar inter-vertebral disc protrusion. As a result of the treatment suffered, he can hardly walk. On 5 March 2003, these persons were sentenced to imprisonment by the Yinzhou District Court in Tieling, Liaoning Province for collecting evidence of the persecution of Falun Gong practitioners in Liaoning Province (i.e. persecution by the local authorities, including local governments and local police stations, related to the use of detention, torture and forced labour). Li Weiji was also convicted of assisting Falun Gong practitioners to go abroad. Zhang Bo and Wang Jie were sentenced to seven years' imprisonment, Cai Shaojie to four years' imprisonment, and Li Weiji to eight years' imprisonment. In view of the allegations of ill-treatment, concern was expressed that Zhang Bo, Wang Jie, and Li Weiji were at risk of torture or other forms of ill-treatment. Moreover, concern was expressed that the imprisonment of the four individuals was an attempt to prevent their activities to protect the human rights of Falun Gong practitioners in Liaoning Province.

196. On 1 December 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Zheng Enchong**, a Shanghai lawyer involved in the defence of economic and social rights of displaced persons, who was, at the time this communication was sent, detained at Shanghai's Tilanqiao Prison. The case of Zheng Enchong has been the subject of previous urgent appeals to the Government by the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on freedom of expression on 3 December 2003 (E/CN.4/2004/62/Add.1), and by the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on freedom of expression, and the Special Rapporteur on extrajudicial, summary or arbitrary executions on 16 March 2004. The Special Rapporteurs and the Special Representative are also in receipt of the reply of the Government to the appeal of 16 March 2004. According to the information received, since being sentenced on 28 October 2003, Zheng Enchong has been imprisoned and denied access to his lawyer, which reportedly resulted in his not being able to file an appeal application against his sentence before the Shanghai Supreme People's Court. His wife reportedly filed an application on his behalf, but the court has not acknowledged it. Furthermore, the director of the Shanghai's Judicial Bureau and Prisons Bureau reportedly visited Zheng Enchong in detention on several occasions, telling him

that if he admitted wrongdoing, his three-year sentence would be reduced by one year. However, Zheng Enchong refused to do so. Moreover, according to the information received, in spite of his relatively light sentence, Mr. Zheng is housed in a high security prison where he is obliged to share his 3.5-square-metre cell with two other prisoners. In addition, Mr. Zheng's repeated requests to be allowed to telephone his family have consistently been denied. Concern was expressed that the denial of Mr. Zheng Enchong's right to see a lawyer and the right to appeal his sentence may be intended to prevent him from resuming his work as a lawyer who defends persons displaced from their homes by real estate projects. Such concerns are reinforced by the alleged attempts to induce Zheng Enchong to repudiate his work in defence of human rights, both by offering a reduction of his sentence and by aggravating the conditions of his detention. Concern was expressed that the denial of Zheng Enchong's right to see a lawyer and the right to appeal his sentence may be intended to prevent him from resuming his work as a lawyer who defends persons displaced from their homes by real estate projects. Such concerns are reinforced by the alleged attempts to induce Zheng Enchong to repudiate his work in defence of human rights, both by offering a reduction of his sentence and by aggravating the conditions of his detention.

197. On 15 December 2004, the Special Rapporteur sent an urgent appeal concerning **Liu Xiaobo** and **Yu Jie**. According to the information received, Liu Xiaobo and Yu Jie, who had been actively campaigning for the release of Shi Tao (concerning whom an urgent appeal, dated 15 December 2004, had already been sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression) were arrested and detained for 12 hours on 13 December 2004 by the Beijing National Security Bureau. Their arrest warrants stated that they were accused of participating in activities harmful to the State. Their houses were searched and documents seized. It was further reported that, following their release, their house was placed under police surveillance, which therefore places Liu Xiaobo and Yu Jie under de facto house arrest. Liu Xiaobo is a known literary critic as well as being one of the founders and now president for Independent Chinese PEN Centre. He has recently written articles on cyber-dissidence in China. Yu Jie is also a founder for International Chinese PEN Centre and an eminent writer known for his criticism of the Chinese authorities and for his support to writers attacked for the manifestation of their right to freedom of expression. Liu Xia, Liu Xiaobo's wife, was also briefly detained on 13 December 2004. Upon being released, the police warned her to make her husband stop publishing material on the Internet.

198. On 15 December 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning the freelance journalist and poet **Shi Tao**. According to the information received, Shi Tao was arrested on 24 November 2004 by national security police officers from the Hunan Province. Police officers of the local branch of national security also went to his house and, without showing a warrant to search the house, confiscated his computer and other documents. The police officers did not inform his relatives why and where he was being detained. It is reported that it was only on 2 December 2004, that his relatives were informed that Shi Tao had been arrested for exposing State secrets in accordance with article 61 of the Criminal Law. One of his relatives was allowed to visit him on Monday 13 December. She was allegedly driven at night by security officers to a place she could not recognize and allowed to speak to Shi Tao for half an hour. The conversation took place under constant surveillance of the security officers, who interrupted them whenever

they mentioned anything concerning the arrest. Shi Tao was not allowed, according to information received, to contact a lawyer until he is officially charged.

199. Shi Tao is a member of the Independent Chinese PEN Centre. His arrest was presumed to be linked to his articles critical of the Government of China. In view of his detention at an undisclosed location with only very limited and tightly supervised contact with his family, and no access to a lawyer, concern was expressed that Shi Tao may be at risk of ill-treatment.

200. On 16 December 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, concerning **Zhang Rongliang**, an underground Church leader who was reportedly detained by police on 1 December 2004 where he lives, in Xuzhai village, Zhengzhou city, Henan Province. It is alleged that he is at risk of being tortured. Moreover, since he is diabetic, concern was expressed that he would not have access to the medication or treatment he needed. It was reported that his wife and child were in hiding. According to witnesses, police searched every household in the village and confiscated Christian DVDs, other materials and photos revealing Zhang's connections with foreigners. Reports indicated that Zhang Rongliang was the leader of the China for Christ Church and of the Protestant Fangcheng Mother Church. He is the co-author of *House Churches of China—Confession of Faith and Declaration*. Zhang Rongliang had already been imprisoned five times for his beliefs, for a total of 12 years, during which time he was allegedly tortured.

Follow-up to previously transmitted communications

201. By letter dated 2 March 2004, the Government sent a reply to the Special Rapporteur's communication of 3 December 2003 (E/CN.4/2004/62/Add.1) concerning **Zheng Enchong**. The Government stated that Zheng Enchong is a former employee of the Minjian law firm in Shanghai, who, on 6 June 2003, was placed under criminal detention on suspicion of illegally transferring State secrets abroad. Moreover, on 18 June he was arrested and on 15 August 2003 the Second Branch of the Shanghai People's Procuratorate initiated proceedings against Zheng in the Second Intermediate People's Court of Shanghai Municipality. On 26 August the court heard the case in camera, in accordance with article 152, paragraph 1, of the Criminal Procedure Law of the People's Republic of China, because the case involved State secrets. The court's investigation revealed that in May 2003 Zheng had handed over to a foreign organization materials that were the property of the State. In the latter part of May, Zheng had sent official documents relating to the handling of an emergency by the Shanghai public security authorities by fax and e-mail to entities outside China. The Second Intermediate People's Court of Shanghai Municipality found that Zheng's actions violated article 111 of the Criminal Law of the People's Republic of China and constituted the crime of illegally transferring State secrets out of the country. On 28 October 2003 he was sentenced to three years' imprisonment. Following his sentencing, Zheng filed an appeal with the Supreme People's Court of Shanghai Municipality. Upon hearing the case, the Supreme People's Court found that the decision of the court of first instance and the facts of the case were clear, the evidence was conclusive and sufficient, the judgement had been accurate and the severity of the penalty was appropriate. On 18 December 2003 the court rejected the appeal and upheld the original verdict. During the proceedings in the courts of both first and second instance, Zheng's counsel fully exercised his right to a defence and other procedural rights. Any restraining measures taken by China's judicial authorities in

respect of Zheng were taken solely on the basis of his crime and were consistent with the relevant provisions of China's domestic legislation and international human rights conventions. The case had nothing to do with the freedom of opinion and expression.

202. On 21 May 2004, the Government of China sent a reply to the Special Rapporteur's communication of 9 December 2003 (E/CN.4/2004/62/Add.1) concerning **Lu Guiling**. The Government stated that on 20 June 2003, Lu Guiling was sentenced by the People's Intermediate Court of Huancui District in Weihai to 19 years of imprisonment for the crime of organizing and using a heretical organization to undermine law enforcement and to commit crimes, including the crime of sabotaging radio and television facilities. She was released on bail to obtain medical treatment. The Government therefore stated that Lu Guiling was sentenced for the above crimes because she took part in the activities of a heretical organization and sabotaged radio and television broadcasting facilities, in violation of China's laws, the case having nothing to do with freedom of expression. The Government finally stated that the allegations that she was subjected to ill-treatment in prison and that "the prison authorities refuse to release her for medical treatment", are simply hearsay.

Observations

203. The Special Rapporteur thanks the Government for its replies to his communications of 3 December 2003, 9 December 2003, 8 January 2004, 15 January 2004, 4 February 2004, 13 February 2004, 26 February 2004, 1 March 2004, 15 March 2004, 16 March 2004, 19 March 2004, 24 March 2004, 6 April 2004, 23 April 2004, 3 May 2004, 7 May 2004, 2 June 2004, 10 June 2004. Replies to the communications of 14 July 2004, 1 September 2004, 15 October 2004, 19 October 2004 and 26 October 2004 were received. Translation of these documents was not, however, completed at the time this report was finalized.

204. The Special Rapporteur, however, regrets that no replies to his communications of 2 March 2004, 28 April 2004, 30 April 2004, 18 May 2004, 4 June 2004, 8 June 2004, 8 July 2004, 15 July 2004, 16 July 2004, 30 September 2004, 1 October 2004, 4 October 2004, 12 October 2004, 19 October 2004, 1 December 2004, 15 December 2004 and 16 December 2004 were received at the date this report was finalized.

Colombia

205. El 5 de febrero de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con las supuestas agresiones que habrían sufrido miembros de la Organización Femenina Popular (OFP) y miembros de otras organizaciones no gubernamentales en Barrancabermeja. Según las informaciones recibidas, el 28 de enero de 2004, **Inés Peña**, coordinadora del Centro de Documentación de la OFP, presentadora del programa La Mohana e integrante de la Red Juvenil de Derechos Humanos en la Defensoría Regional del Pueblo, habría sido forzada con una arma de fuego por dos presuntos paramilitares, supuestamente respaldados por el ejército, a entrar en una furgoneta roja cerca de la Biblioteca Galvis, 300 metros de la base principal de la Policía en Barrancabermeja. De acuerdo con la información recibida, mientras realizaban un recorrido por la ciudad, los dos hombres le habrían quemado a Inés Peña los pies con agua hirviendo y le habrían afeitado la cabeza como medio de presión para que se desmarcara de la OFP. La habrían dejado más tarde en la parte posterior del Coliseo Luis F. Castellano. De

acuerdo con la información recibida, unas semanas antes, el 31 de diciembre de 2003, Inés Peña habría sido amenazada por un desconocido que le habría sugerido abandonar el programa de televisión que conduce llamado “Cultura de Vida” en el cual habría denunciado la llegada de paramilitares en la región y la violación de los derechos humanos desde la punta de vista de los jóvenes inmersos en el conflicto. Además, según la información recibida, el 27 de enero de 2004, una delegación humanitaria, formada por nueve personas, entre ellas la Presidente de la OFP, **Yolanda Becerra**, tres miembros del Consejo Noruego para Refugiados, cuatro de la Consejera de Proyectos y uno de las Brigadas Internacionales de Paz, se habría desplazado por el río Magdalena hacia el Municipio de San Pablo con el fin de visitar proyectos de vivienda de la OFP. Al pasar un control militar, varios hombres armados les habría hecho señales para que se detuvieran pero la delegación no habría hecho caso de las señales y los hombres habrían disparados contra el barco. La delegación habría escapado indemne pero habría sido obligada a regresar a la ciudad. Se teme que estas personas habrían sido objetos de agresión por causa de su trabajo de promoción y protección de los derechos humanos.

206. Por carta con fecha de 30 de marzo de 2004 el gobierno transmitió la siguiente información en relación con la comunicación del 5 de febrero de 2004 sobre los ataques, intimidación y amenazas en contra de **Inés Peña** de la OFP y miembro de la Defensoría Regional del Pueblo en Barrancabermeja:

- La Procuraduría General de la Nación requirió información acerca del estado de la investigación sobre los hechos a la sección de investigación de la Fiscalía General de la Nación, a la Policía, y al Comandancia militar en Granada;
- El 4 y 5 de Marzo 2004, la Dirección Regional de la DAS en Santander reportó que el caso se encuentra bajo competencia de la Fiscalía. La presunta víctima ha demostrado animadversión a las autoridades negándose a suministrar información sobre el caso;
- Los coordinadores de la OFP han recibido recomendaciones y pláticas sobre normas de autoprotección por parte de la DAS. Se recomendó a los coordinadores de la OFP presentar las denuncias en forma oportuna ante las instancias nacionales;
- Según Inés Peña Rodríguez, el 29 de enero de 2004, dos sujetos que se movilizaban en un vehículo abordaron a la persona y después de amenazarla quemaron sus pies. La OFP ha reaccionado señalando que estos hechos están relacionados con miembros de autodefensa quienes habrían sido los autores de la agresión en contra de Inés Peña;
- Según el parte médico legal practicado a Inés Peña, presenta leve tumefacción parietal izquierda zona eritematosa en dorso medio pie izquierdo causado por objeto físico de calor, con el resultado de 12 días de incapacidad;
- El 18 de Febrero de 2004, el DAS capturó a un individuo (cuyo nombre es conocido por el Relator Especial). Esta persona sería autor de más de 50 homicidios y está presuntamente vinculado a actividades delictivas de las Autodefensas. La persona sería responsable junto a un otro individuo (cuyo nombre también es conocido por el Relator Especial) de ordenar a otros miembros

de la organización delincencial de ejecutar diferentes acciones contra la ciudadanía. El 13 de febrero de 2004 la Policía Nacional capturó a este individuo;

- Sobre los actos de intimidación contra una delegación internacional conformada por miembros de las Brigadas de Paz, la Consejería en Proyectos, el Comité Noruego para los Refugiados y de la OFP entre ellos su presidenta Yolanda Becerra, la Procuraduría General de la Nación requirió al Comando Militar del puesto fluvial No. 31 incrementar los controles a lo largo del río Magdalena para así evitar la infiltración de grupos ilegales y proteger la vida y seguridad física de las personas;
- La Dirección Regional del DAS en Santander reportó que hasta este momento no existen pruebas fehacientes sobre la real ocurrencia de los hechos. Además el DAS requirió a la Defensoría del Pueblo mantener informado a las fuerzas de seguridad sobre el transito de las organizaciones de derechos humanos en el río Magdalena con el propósito de solicitar protección;
- Según la denuncia el 27 de Enero de 2004, mientras esta comisión se desplazaba por el río Magdalena, fueron hostigados con disparos de arma de fuego por un grupo de personas no identificadas. Sin embargo, la versión del piloto de la lancha señala que ésta se acercó al grupo y estos reaccionaron haciendo disparos hacia el aire y el agua pero no en dirección de la delegación;
- La defensoría del Pueblo ha realizado recomendaciones puntuales que contribuya a prevenir la ocurrencia de actos en contra de defensores de los derechos humanos en Barrancabermeja.

207. El 12 de febrero de 2004, el Relator Especial, juntamente con el relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario-General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con las amenazas de muerte en contra de varios sindicalistas miembros de la asociación de educadores de Arauca (ASEDAR), al parecer por paramilitares supuestamente respaldados por el ejército. El 7 de enero, **Francisco Rojas** habría recibido en su teléfono móvil una llamada de un hombre que le dijo: “a usted le han matado a su papá, su hermano, qué más espera, le damos ocho horas para salir de la ciudad o si no huelen a cadáver...”. De acuerdo con las informaciones recibidas, a primeras horas de la mañana del 28 de enero de 2004, alguien introdujo una carta con una amenaza de muerte bajo la puerta de la casa de **Jaime Carrillo**, presidente del sindicato de maestros ASEDAR en el municipio de Arauca, habría recibido una carta amenazándole de muerte así como al secretario general del sindicato, **Celedonio Jaimes Peñaloza**, y a su ex presidente, Francisco Rojas. Se informa que ese mismo día, a las 11 de la mañana, se recibió en la oficina central de ASEDAR una llamada telefónica que repetía la amenaza de muerte contra Jaime Carrillo y Celedonio Jaimes. El autor de la llamada se habría identificado como miembro de la organización paramilitar Autodefensas Unidas de Colombia (AUC). Informes señalan que Jaime Carrillo habría recibido otra carta con una amenaza similar en la cual las AUC amenazarían con matar a las mismas personas citadas en la carta del 28 de enero, además de a un maestro, Marcos García.

208. Por carta con fecha 1 de julio de 2004 el gobierno transmitió la siguiente información en relación con la comunicación del 12 de febrero de 2004: El DAS el mes de abril de 2004 envió información sobre el caso a la Sección Regional del DAS en Arauca. Con relación a las amenazas en contra de **Jaime Ernesto Carrillo, Celedonio Jaimes Peñalosa y Francisco Emilio Rojas Sánchez**, actualmente este caso se encuentra bajo investigación conforme a lo dispuesto por la Fiscalía de Arauca. Durante este período se realizaron las siguientes actividades de investigación:

- Declaraciones de ocho individuos, entre ellos Jaime Ernesto Carrillo, Celedonio Jaimes y Francisco Rojas. El DAS se encuentra pendiente de recibir más declaraciones;
- La Oficina de Protección del DAS llevo a cabo la evaluación técnica sobre el nivel de riesgo y amenazas de Jaime Ernesto Carrillo, Celedonio Jaimes Peñalosa y Francisco Emilio Rojas Sánchez. Asimismo, el DAS realizó recomendaciones a estas personas con la finalidad de mejorar su situación de seguridad personal;
- La policía actualmente vienen llevando a cabo patrullajes alrededor del lugar de residencia y trabajo de las personas mencionadas;
- El Gobierno estará atento a los resultados de las investigaciones las cuales se informaran oportunamente.

209. El 25 de febrero de 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la seguridad de **Jesús Alfonso Naranjo y Mario Mora**, representantes del departamento de derechos humanos de la Asociación Nacional de Trabajadores de Hospitales, clínicas, Consultorios y Entidades a procurar la Salud de la Comunidad (ANTHOC), un sindicato de trabajadores de la salud. Según la información recibida, Jesús Alfonso Naranjo y Mario Mora habrían sido objeto de amenazas y ataques en el pasado. En diciembre de 2003, tres hombres armados habrían atacado a la esposa de Jesús Alfonso, **Clara Sofía Caballero**, cuando salía de su casa en Honda, Departamento de Tolima. Mientras le habrían apuntado con un arma, la habrían dicho que su esposo estaba defendiendo a sindicalistas guerrilleros y que eso le costaría la vida. El 21 de enero de 2004 una carta habría sido entregada a las oficinas centrales de ANTHOC en Bogotá, la cual habría contenido una amenaza de muerte. La carta, que habría llevado el logotipo del grupo paramilitar Autodefensas del Magdalena Medio, supuestamente respaldado por el ejército, habría acusado a Jesús Alfonso Naranjo y Mario Mora de ser guerrilleros infiltrados en el movimiento sindical. Habría informado a los dos hombres de que los paramilitares los habrían declarado objetivo militar y habría manifestado que los matarían dondequiera que se encontraran. Se teme que estas amenazas de muerte estén relacionadas con su actividad de derechos humanos y en particular su trabajo de denunciar las repetidas amenazas, desplazamientos forzados y asesinatos de funcionarios de salud por parte de los grupos paramilitares.

210. Por carta con fecha 28 de mayo de 2004 el Gobierno transmitió la siguiente información en relación con las comunicaciones del 25 de febrero de 2004 y del 15 de marzo de 2004 sobre los casos de **José Luis Torres, Jesús Alfonso Naranjo y Mario Mora**. El Gobierno informó de que

la Fiscalía General, el Departamento Administrativo de Seguridad y la Policía Nacional habrían sido informados de las amenazas recibidas por los citados ciudadanos. Con respecto a **Jesús Alfonso Naranjo**, le habría otorgado un esquema de seguridad, en el que cuenta con dos escoltas, un apoyo de transporte terrestre por 192 horas mensuales y un medio de comunicación celular. Asimismo, y conforme con las recomendaciones del Comité de Reglamentación y Evaluación de Riesgo, las autoridades entregarán billetes internacionales para él y su grupo familiar toda vez que acorde con la información suministrada. Con respecto a **Mario Nel Mora**, el esquema de seguridad con el que anteriormente contaba fue suspendido. Sin embargo, le habría asignado a otro esquema por la protección de los dirigentes nacionales mediante el cual contaría con medio de comunicación Avantel. En la actualidad, espera una reevaluación de su nivel de riesgo por la Policía Nacional, que podría otorgarle mecanismos adicionales. El 30 de marzo de 2004, el Ministerio del Interior y de Justicia precisa que el difunto no habría solicitado alguna medida de protección de los organismos estatales.

211. Por carta con fecha 26 de julio de 2004 el Gobierno envió información adicional sobre la situación de **Jesús Alfonso Naranjo** y **Mario Mora**. El Gobierno informó que hasta la fecha la investigación con referencia a las amenazas sufridas por el denunciante, Jesús Alfonso Naranjo, se encuentra en etapa preliminar y en práctica de pruebas. Con respecto al denunciante Mario Mora, el Gobierno aclaró que no habría sido víctima de las amenazas mencionadas, y por consecuencia, no habría estado incluido en la investigación.

212. El 27 febrero de 2004, el Relator Especial, juntamente con el Presidente-Relator del grupo de trabajo sobre la detención arbitraria y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de miembros de la Asociación Campesina de Arauca (ACA) y en particular de **Luz Perly Córdoba, Juan de Jesús Gutiérrez, Víctor Enrique Amarillo y Moisés Elías Eregua**. Según la información recibida, el 18 de febrero de 2004 miembros del DAS habrían detenido a la Presidente de la ACA, Luz Perly Córdoba, cuando salía de sus clases en la Universidad INNCA de Colombia. Luz Perly Córdoba estaría detenida en las instalaciones del DAS de Paloquemao en Bogotá. Su vivienda habría sido registrada en un operativo policial durante el cual, el disco duro de la computadora, fotos, disquetes y papeles habrían sido sustraídos. De acuerdo con la información recibida, el mismo día 18 de febrero miembros de la Dirección de Policía Judicial e Investigación (DIJIN), el Cuerpo Técnico de Investigaciones de la Fiscalía (CTI), el DAS y la policía general en el municipio de Arauca se habrían presentado en las oficinas de la ACA, en el municipio de Arauquita, supuestamente con la misión de buscar documentos subversivos de acuerdo con una orden de un fiscal adscrito a la Fiscalía General de la Nación. Al encontrar las oficinas cerradas, los miembros de la operación se habrían dirigido a la casa de la dirigente de la ACA, Nubia Vega. Habrían allanado la vivienda y tomado fotos. También habrían detenido a dos de los escoltas de la ACA, Víctor Enrique Amarillo y Moisés Elías Eregua. Miembros del CTI se habrían llevado al esposo y al hijo, de 3 años de edad, de la secretaria de la ACA para que les abriera las oficinas de la misma. La secretaria habría llegado poco después para permitir la entrada a los responsables del operativo policial, los cuales se habrían llevado el disco duro de la computadora, documentos que contenían lecturas sobre derechos humanos, los Estatutos de la ACA, los recibos del teléfono, tres disquetes y dos fotografías. El 19 de febrero el tesorero de la ACA, Juan de Jesús Gutiérrez, habría sido detenido en Saravena. Habría sido llevado a las instalaciones de la Brigada 18 del Ejército en Arauca donde habría sido mantenido incomunicado. Le habría sido negada la visita de un abogado así

como el acceso a alimentación y su ropa. Se teme que la supuesta detención de los miembros de la ACA esté relacionada con su actividad en favor de los derechos humanos. Hemos sido informados igualmente que los miembros de la ACA habrían sido víctimas de constantes amenazas y hostigamiento. Tras recibir amenazas contra su vida, Luz Perly Córdoba se habría ido de Arauca para vivir en Bogotá. La Corte Interamericana de Derechos Humanos (CIDH) habría solicitado la adopción de medidas cautelares para su protección. Víctor Enrique Amarillo y Moisés Elías Eregua formaban parte de la escolta nombrada por el Ministerio del Interior para proteger a los miembros de la ACA en cumplimiento de las medidas cautelares recomendadas por la CIDH. Se han expresado temores por la integridad física y psicológica de Luz Perly Córdoba así como por las personas supuestamente detenidas mencionadas en este llamamiento, y la de los miembros de la ACA.

213. Por carta con fecha de 27 de julio el gobierno transmitió información en relación con la comunicación del 27 de febrero de 2004 sobre el caso de la señora **Luz Perly Córdoba**, presidenta de la Asociación Campesina de Arauca. Se informa que en el mes de enero de 2004, el DAS- seccional Arauca hizo entrega de un informe de inteligencia preparado durante varios meses relacionado con las actividades de la Sra. Córdoba. Con base en dicho informe y con fundamento en el artículo 333 del Código de Procesamiento Penal, se inició investigación formal por los presuntos delitos de rebelión y concierto para delinquir y se libró orden de captura el 16 de febrero de 2004. La Sra. Córdoba habría contado con todas las garantías procesales y la plena observancia de sus derechos y garantías fundamentales. El proceso penal no se había cerrado y se encontraba en la etapa de la instrucción, en el periodo de recaudo de las pruebas y, entre ellas, las decretadas para escuchar en testimonio a varios ciudadanos extranjeros, respondiendo positivamente a la solicitud del abogado defensor.

214. El 10 de marzo de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Berenice Celeyta Alayon**, Presidenta de la Asociación para la investigación y acción social NOMADESC y asesora del departamento de derechos humanos de SINTRAEMCALI. Según la información recibida, el 6 de febrero de 2004 un explosivo habría sido colocado en la puerta de entrada de la sede del Sindicato de las Empresas Municipales de Cali, SINTRAEMCALI, donde se encuentran también las oficinas de NOMADESC. Según la información, el mismo día, Berenice Celeyta habría recibido una llamada en el teléfono celular, que le fue asignado por el programa de protección del Ministerio del Interior, por la que se habría oído una ráfaga de arma de fuego. Ambos hechos habrían ocurrido unas horas después de la visita de una delegación británica, organizada por la organización no gubernamental inglesa Justice for Colombia y compuesta de diputados, sindicalistas y miembros de organizaciones no gubernamentales que se habrían venido para recibir denuncias sobre las violaciones de derechos humanos cometidos contra los sindicales y defensores de derechos humanos. Además según la información, el 19 de febrero, Berenice Celeyta habría encontrado en su contestador automático un mensaje que habría dicho: "Hija de puta, uno de estos días la vamos a matar". Se teme que estas amenazas contra Berenice Celeyta estén relacionados con su actividad de derechos humanos y en particular la de denunciar las violaciones de derechos humanos cometidos contra los miembros de INTRAEMCALI y otras organizaciones de derechos humanos.

215. Por carta con fecha de 27 de julio de 2004 el gobierno transmitió información en relación con la comunicación del 10 de marzo de 2004 sobre el caso de la Sra. **Berenice Celeyta Alayon**. La sección Valle del Cauca del DAS informó de que con relación al suceso ocurrido el 6 de

febrero de 2004 en la sede de SINTRAEMCALI, donde se detonó una carga de explosivos, se produjo la captura de un ciudadano y la detención preventiva por los presuntos delitos de terrorismo y porte ilegal de armas. La fuerza pública reforzó la seguridad en las instalaciones y plantas de EMCALI. La Oficina de protección Especial del DAS clarificó que la Sra. Celeyta Alayon no hizo ninguna presentación a ninguna dependencia de la Jefatura concernida el día 2 de abril y que se continuaba a la espera de atender el caso una vez la interesada informara sobre su disponibilidad y aceptación. El 7 de abril el Fiscal competente suscribió un oficio que informó que pese a que se ordenó insistir en la comparecencia de la Sra. Celeyta Alayon para escucharla en ampliación de la denuncia y como quiera que trascurrieron más de 180 días desde la iniciación de la etapa preliminar sin haberse logrado la identificación e individualización de los presuntos responsables de la conducta punible, mediante resolución de 30 de octubre de 2002 se ordenó la suspensión de las diligencias. Respecto a los nuevos hechos sucedidos los días 6 y 19 de febrero de 2004, la delegada no tenía conocimiento, consistentes en amenaza de muerte a la Sra. Celeyta Alayon, sucedidos en la ciudad de Cali.

216. El 15 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente con respecto al supuesto asesinato de **José Luis Torres**, una activista del sindicato de trabajadores de Salud ANTHOC y a la situación de **Jesús Alfonso Naranjo** y **Mario Mora**, miembros de ANTHOC cuyo caso fue objeto de un llamamiento urgente enviado conjuntamente el 25 de febrero de 2004 por la Representante Especial del Secretario General para los defensores de los derechos humanos, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias. Según la información recibida, el 4 de marzo de 2004, José Luis Torres habría sido asesinado por impactos de bala por hombres no identificados en la entrada principal del Hospital General de Barranquilla donde trabajaba. Se informa que los miembros de la ANTHOC serían víctimas de constantes amenazas y hostigamiento por grupos paramilitares supuestamente respaldado por el ejército. En este contexto cabe recordar que en la comunicación del 25 de febrero se llevó a la atención urgente del Gobierno la situación de Jesús Alfonso Naranjo y Mario Mora, quienes habrían sido informados el 21 de enero que los paramilitares les habrían declarado objetivo militar y que les matarían dondequiera que se encontraran. Se teme que el presunto asesinato de José Luis Torres y las presuntas amenazas de muerte contra los miembros de ANTHOC estén relacionados con su actividad de derechos humanos, en particular su trabajo de denunciar las repetidas amenazas, desplazamientos forzados y asesinatos de funcionarios de salud por parte de los grupos paramilitares.

217. Por carta con fecha 28 de mayo de 2004 el Gobierno transmitió la siguiente información en relación con las comunicaciones del 25 de febrero de 2004 y del 15 de marzo de 2004 sobre los casos de **José Luis Torres**, **Jesús Alfonso Naranjo** y **Mario Mora**. El Gobierno informó que la Fiscalía General, el DAS y la Policía Nacional habrían sido informados de las amenazas recibidas por los citados ciudadanos. Con respecto a **Jesús Alfonso Naranjo**, se le habría otorgado un esquema de seguridad, en el que cuenta con dos escoltas, un apoyo de transporte terrestre por 192 horas mensuales y un medio de comunicación celular. Asimismo, y conforme con las recomendaciones del Comité de Reglamentación y Evaluación de Riesgo, las autoridades entregarán billetes internacionales para él y su grupo familiar toda vez que acorde con la información suministrada. Con respecto a **Mario Nel Mora**, el esquema de seguridad con el que

anteriormente contaba fue suspendido. Sin embargo, se le habría asignado otro esquema por la protección de los dirigentes nacionales mediante el cual contaría con medio de comunicación Avantel. En la actualidad, espera una reevaluación de su nivel de riesgo por la Policía Nacional, que podría otorgarle mecanismos adicionales. El 30 de marzo de 2004, el Ministerio del Interior y de Justicia precisa que el difunto no habría solicitado medida de protección alguna por parte de los organismos estatales.

218. Por carta con fecha 26 de julio de 2004 el Gobierno envió información adicional sobre la situación de **Jesús Alfonso Naranjo** y **Mario Mora**. El Gobierno informó de que hasta la fecha la investigación con referencia a las amenazas sufridas por el denunciante, Jesús Alfonso Naranjo, se encuentra en etapa preliminar y en práctica de pruebas. Con respecto al denunciante Mario Mora, el Gobierno aclaró que no habría sido víctima de las amenazas mencionadas, y por consecuencia, no habría estado incluido en la investigación.

219. El 15 de marzo del 2004, el Relator Especial, juntamente con el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente sobre la situación de **Rodolfo Ríos Lozano**, un abogado de derechos humanos que representa a la presidenta de la Asociación Campesina de Arauca (ACA) cuyo caso fue objeto de un llamamiento urgente enviado conjuntamente el 27 de febrero de 2004 por la Representante Especial para el Secretario General para los Defensores de los Derechos Humanos, el Presidente Relator del Grupo de Trabajo sobre la detención arbitraria, y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión. Según la información recibida, el 24 de febrero de 2004, después de la indagatoria de Luz Perly Córdoba, Rodolfo Ríos Lozano habría recibido dos llamadas telefónicas anónimas. En la primera llamada el autor le habría acusado de ser un “perro terrorista de las FARC, abogado defensor de narcoterroristas” y en la otra, dos horas más tarde, le habría dicho que debería escoger entre abandonar el país, dejar los casos en los que estaba trabajando o morir. Se informa además que Rodolfo Ríos Lozano habría sido sometido a vigilancia y habría sido seguido por unos hombres no identificados. Se teme que esas amenazas estén relacionadas con el trabajo de Rodolfo Ríos Lozano de representar a los defensores de los derechos humanos.

220. Por carta con fecha de 1 de julio de 2004, el Gobierno transmitió información en relación con la comunicación del 15 de marzo de 2004 sobre el caso del Sr. **Rodolfo Ríos Lozano**. El Ministerio de Justicia informó de que el señor Ríos Lozano formaba parte del Programa Especial de Protección Integral para dirigentes y miembros sobrevivientes de la Unión Patriótica y del Partido Comunista Colombiano y era beneficiario de un esquema de protección compuesto por un vehículo blindado, dos escoltas, un celular, un radio Avantel y billetes nacionales para cuando lo solicitara. La Fiscalía General de la Nación informó que una vez determinó que no existía investigación por las amenazas contra el señor Rodolfo Ríos Lozano, asignó el caso al Fiscal de la Unidad de Delitos contra la Libertad Individual, otras Garantías y Otros.

221. El 15 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Marina Navarro** y **Daniel Botella**, dirigentes de la ACA en el municipio de Tame, quienes habrían recibido amenazas de muerte. Según la información recibida, el 21 de febrero miembros de la Brigada Móvil N.º 5 del ejército habrían entrado en la zona de Botalón, al parecer con órdenes de detener a Marina Navarro y Daniel Botella. Se informa de que los

soldados habrían dicho que no pensaban capturar a los dos dirigentes, sino que los iban a “dar de baja”. Se informa que los miembros de la Asociación Campesina de Arauca serían víctimas de constantes amenazas y hostigamiento. En este contexto nos gustaría señalar que la detención de varios miembros de la ACA ya fue objeto de un llamamiento urgente enviado conjuntamente el 27 de febrero de 2004 por la Representante Especial del Secretario General para los Defensores de los Derechos Humanos, la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión. Se teme que esas amenazas estén relacionadas con el trabajo de derechos humanos de Marina Navarro y Daniel Botella de denunciar las violaciones de derechos humanos en el departamento de Arauca en las que están implicadas las fuerzas armadas.

222. El 18 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, envió una comunicación sobre un suceso ocurrido el 22 de septiembre de 2003, cuando la policía antimotines habría hecho un uso excesivo de la fuerza en hechos ocurridos en la Universidad de Cali. Se alega que a inicios de la tarde, en predios de la Universidad del Valle, seis agentes del grupo de reacción de la policía, armados con fusiles, habrían disparado contra un grupo de aproximadamente 20 estudiantes. La policía habría empezado a disparar cuando los estudiantes realizaban una protesta de manera pacífica en las cercanías del campus universitario en contra de la privatización y liquidación de las Empresas Municipales de Cali, manifestación que habría estado escoltada por la policía metropolitana de Cali. Uno de los estudiantes de psicología, **Jhon Edward Osorio Grisales**, quien se habría parado en la puerta a gritar a los demás estudiantes que corrieran hacia adentro, habría resultado herido por bala. Los estudiantes que trataron de ayudarlo habrían sido rodeados por los policías, y golpeados con puntapiés. Jhon Edward Osorio Grisales habría sido arrastrado hacia la puerta de la Universidad mientras un comandante de la policía metropolitana, cuyo apellido ha sido llevado a conocimiento de los relatores especiales, habría gritado que lo mataran y habría amenazado con su pistola a los que se aproximaban. El estudiante habría podido ser finalmente llevado hacia una ambulancia y a las Urgencias de la Clínica Valle de Lili por personas que habrían sido atacadas por los miembros de la policía con disparos, golpes y gases lacrimógenos. Varios estudiantes que querían acompañarlo habrían sido agredidos brutalmente por miembros de la policía antidisturbios, y otros fueron detenidos, entre ellos: **María del Rosario Perdomo, Lenin David Campo, Walter Julián Rodríguez, Luis Ángel López, Ana Carolina Marcel, Natalia Peña, Edwin Andrés Sánchez, Andrés Felipe Arenas, Sandra Maritza Castro y Juan Carlos Barreto**. Durante su detención, Juan Carlos Barreto habría sufrido asfixia y parálisis y habría sido ingresado de urgencias a la mencionada clínica. Los relatores especiales también han sido informados de que el 24 de septiembre de 2003 al mediodía, la policía antimotines de Bogotá habría irrumpido en las instalaciones de la Universidad Distrital Francisco José de Caldas y habría golpeado y detenido, sin presentar ninguna orden judicial, a varias personas que se encontraban en predios del establecimiento educativo, ocupando de manera pacífica parte de la cafetería y del edificio del Programa de Física, como un acto de rechazo al nombramiento del rector del centro educativo. Como resultado de la agresión, al menos 60 estudiantes y profesores habrían sido golpeados y privados de libertad. Una parte de estudiantes que permanecía en clase habría sido igualmente golpeada y sacada por la fuerza de sus aulas. En las horas de la tarde, todos los edificios que componen la sede de La Macarena, habrían permanecido acordonados, sin que el resto de estudiantes pudiera salir de allí.

223. El 19 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación en relación con los casos individuales siguientes: Según la información recibida **Emanuel Rivero** habría sido golpeado cuando tropas del Batallón Revéiz Pizarro habrían allanado su casa en el barrio Vicente Primera Etapa, departamento de Arauca, el 1 de octubre de 2002. Emanuel Rivero se habría identificado como integrante de la seccional del Comité de Derechos Humanos Joel Sierra en Saravena y habría explicado a los soldados que la documentación que tenía eran materiales proporcionados por el Colectivo de Abogados José Alvear Restrepo y Humanidad Vigente, dos organizaciones no gubernamentales colombianas, ya que estaba capacitándose en derechos humanos. Los soldados le habrían respondido que se trataba de documentación política del Ejército de Liberación Nacional (ELN) y le habrían golpeado en la cara, mientras habrían seguido allanando la casa. Los soldados habrían encontrado unos videos de movilizaciones campesinas que habrían calificado de estar relacionados con la guerrilla y le habrían golpeado de nuevo. Los soldados también habrían encontrado un estuche de cirugía que empleaba para hacer las prácticas del bachillerato agrario y le habrían dicho que lo utilizaba para auxiliar a la guerrilla. Posteriormente se lo habrían llevado en una camioneta donde un soldado habría continuado pegándole hasta el punto que otro militar le recriminó. Una vez en la base del Batallón Revéiz Pizarro lo habrían tirado al suelo boca abajo y con las manos atadas. Habría pasado la noche atado a una ventana junto a un sofá. Al día siguiente habría sido interrogado sin atender la reclamación de que hubiera presencia de la Personería o de un abogado. Habría sido puesto en libertad unas horas más tarde pero no le habrían devuelto los documentos decomisados.

224. **Eduardo Peña Chacón**, 19 años, **R.P.C.**, 15 años y **Reinel Hermosa**, simpatizantes o miembros de la Asociación Campesina de Arauca (ACA), y otras dos personas habrían sido detenidos el 16 de mayo de 2003 por agentes de la Fuerza Pública en los municipios de Saravena y de Arauquita, departamento de Arauca. La ACA, una organización no gubernamental contaría con medidas cautelares de protección dictadas por la Comisión Interamericana de Derechos Humanos, pero sería objeto de constantes intimidaciones, señalamientos y agresiones por parte de agentes estatales y por los paramilitares de las Autodefensas Unidas de Colombia (AUC). Los hermanos Peña Chacón y Reinel Hermosa habrían sido conducidos al puesto de policía de Arauquita, donde a R.P.C. y Eduardo Peña Chacón, les habrían puesto bolsas de plástico en la cabeza, los habrían sumergido en agua, los habrían golpearon y los habrían acusado de ser guerrilleros. Habrían sido puestos en libertad diez horas más tarde sin recibir ningún tipo de explicaciones. Reinel Hermosa también habría sido golpeado y posteriormente trasladado a la cárcel de Arauca.

225. El 25 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura y la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, envió una comunicación en relación con **M.C.**, mujer integrante del Partido Comunista y militante de la Unión Patriótica (UP). Según la información recibida, M.C. habría sido víctima de maltratos verbales y físicos, así como de violencia sexual el 10 de diciembre de 2002 cuando su vivienda en Bogotá habría sido allanada por unos 80 hombres presuntamente miembros de la Policía Metropolitana, quienes iban vestidos de civil y sin ningún tipo de identificación externa. M.C. habría sido agredida en presencia de su hija de 9 años de edad, y de su hijo, que sufre de retardo mental. Sus hijos también habrían sido víctimas de maltratos verbales y físicos. Los miembros de la familia habrían sido filmados y sus habitaciones requisadas. Sin embargo, lo

único que se habría encontrado habrían sido documentos legales que demostrarían su filiación política.

226. Por carta con fecha de 27 de julio de 2004, el gobierno transmitió la siguiente información en relación con la comunicación del 25 de marzo de 2004 sobre el caso de la Sra. **M.C.**, integrante de la Unión Patriótica. Según la información recibida en la Procuraduría Delegada para la Defensa de los Derechos Humanos se cursó la actuación procesal por presunto allanamiento ilegal a la residencia de M.C, investigación que fue remitida a la Fiscalía General de la Nación el 18 de diciembre de 2003. Se adelantaba la investigación sobre las presuntas torturas de la que informaron fueron víctimas M.C y dos menores por hechos ocurridos el 9 de diciembre de 2002. Las diligencias se encontraban en la etapa de la investigación preliminar.

227. El 5 de abril de 2004, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación del líder indígena kankuamo **Gilberto Arlanht Ariza** y dos estudiantes **Germán Acosta** y **Diego Sierra**, quienes habrían participado en el XXXV Congreso Mundial de la Federación Internacional de Derechos Humanos (FIDH) en Quito entre el 1.º y el 6 de marzo de 2004. Según la información recibida el 2 de marzo Gilberto Arlanht Ariza habría denunciado ante el Congreso el supuesto genocidio que habría sufrido el pueblo Kankuamo desde al año 2001. Según se informa ese mismo día un grupo armado habría llegado al domicilio de Gilberto Arlanht Ariza en Bogotá. Habrían disparado contra la puerta y habrían proferido amenazas contra las personas que se encontraban allí. Según la misma información, el 3 de marzo se realizó una asamblea general en la Universidad de Tolima. Se informa de que, durante la asamblea general, habrían sido circulados panfletos que habrían acusado a Germán Acosta y a Diego Sierra de pertenecer a la guerrilla y también habrían acusado a miembros del Comité Estudiantil de Bienestar Universitario de apoyar acciones de protesta de tipo violento. Se teme que estas presuntas acciones de agresión contra Gilberto Arlanht Ariza, Germán Acosta y Diego Sierra estén relacionadas con su participación en el Congreso Mundial de la FIDH y sus trabajos en favor de derechos humanos con el hecho de que allí habrían denunciado la situación de derechos humanos del pueblo kankuamo.

228. Por carta con fecha de 27 de julio de 2004, el gobierno transmitió información en relación con la comunicación del 5 de abril de 2004 sobre el caso del líder indígena kankuamo **Gilberto Arlanth Ariza** y los dos estudiantes **Germán Acosta** y **Diego Sierra**. El Ministerio del Interior y de Justicia informó sobre las gestiones adelantadas por el gobierno nacional con el fin de garantizar la protección de la comunidad indígena kankuamo. Entre la comunidad, sus asesores, representantes y el estado colombiano existía un escenario de interlocución en el cual se habían concertado diversas acciones en desarrollo de las medidas cautelares decretadas por la Comisión Interamericana de Derechos Humanos a partir del 24 de septiembre de 2003. Se habían llevado a cabo dos visitas, una a la Comunidad de la Mina los días 18 y 19 de diciembre de 2003 y otra a la Comunidad de Atanquez del 6 al 8 de febrero de 2004. En las visitas se discutieron las propuestas de medidas a adoptarse para salvaguardar los derechos de la comunidad kankuama. En el marco de la segunda visita se estableció un grupo de trabajo para: *a*) visitar la zona regularmente; *b*) transmitir quejas a las autoridades competentes; *c*) impulsar las investigaciones; *d*) recomendar medidas de protección; y *e*) facilitar las relaciones entre las autoridades locales y la comunidad. El Gobierno elaboró un Plan de Acción que había sido puesto a conocimiento de los líderes indígenas para observaciones que ellos consideraran pertinentes. También se tenía

prevista la realización de un censo de la población kankuamo. En cuanto a medidas de seguridad y protección se decidió:

- La presencia permanente de un funcionario del Gobierno en la zona que trabajaría en coordinación con el Defensor Comunitario para verificar la situación en la zona, transmitir denuncias, acompañar a la comunidad, verificar el comportamiento de las fuerzas públicas y facilitar las relaciones Estado-Comunidad. Dicha persona habría estado en la zona a partir del mes de junio de 2004;
- La entrega de cuatro teléfonos satelitales para la comunidad para transmitir a las autoridades competentes las acciones urgentes que se presentaran en la zona;
- El 26 de septiembre de 2003 se llevó a cabo en Valledupar el primer Congreso de Seguridad Indígena con las comunidades de la Sierra Nevada de Santa Marta. En dicha reunión se aprobó un plan de acción. El 21 de abril de 2004, el Viceministro de Defensa se reunió con el Cabildo Gobernador y otros líderes de la comunidad kankuamo con el fin de discutir los avances en el plan de acción y tratar temas relativos a la seguridad de la comunidad;
- En cuanto a las medidas individuales al Cabildo Gobernador, líder y representante de la Comunidad, se le aprobó: apoyo de transporte terrestre por 92 horas mensuales; un medio de comunicación Avantel; un teléfono celular; y billetes aéreos nacionales. Para garantizar la vida y la integridad de los miembros de la Comunidad desplazado en Bogotá el Ministerio del Interior y Justicia adoptó las siguientes medidas: apoyo de reubicación temporal; apoyo de trasteo; apoyo colectivo de transporte; medios de comunicación Avantel. Adicionalmente se dispuso de tiquetes aéreos para trasladar a los Mamos (líderes espirituales) desde Valledupar a la ciudad de Bogotá con el fin de permitir que los miembros de la Comunidad desplazado en Bogotá adelantaran actividades propias de su cultura;
- El Ministerio del Interior aprobó la asignación de apoyo de reubicación temporal, un medio de comunicación Avantel y apoyo de transporte terrestre por 92 horas mensuales a Gilberto Arlhant Ariza;
- Entre el 18 y 29 de abril de 2004, la Fiscalía General de la Nación dispuso la realización de una Comisión a la Sierra Nevada de Santa Marta tendiente a verificar los hechos de los que habían sido víctimas los miembros de los pueblos arhuaco y kankuamo e impulsar las investigaciones;
- Con respecto al caso de los estudiantes Germán Acosta y Diego Sierra, el departamento de policía de Tolima informó de que el 18 de febrero de 2004 se realizó una jornada de protesta por parte de estudiantes de la Universidad de Tolima, la cual llevó a enfrentamientos con las Fuerzas Públicas de las 15:00 horas a las 18:30 horas aproximadamente. En los hechos resultaron lesionados con papas explosivas y metralla varios uniformados, la cuales fueron lanzadas por estudiantes. Se desconoce si fue a causa de la jornada de protesta que empezaron a circular una serie de panfletos. A mediados de febrero fue dado a conocer el volante “no nos gusta este mundo” donde el Grupo de Estudio del Pensamiento Liberario daba a conocer sus pensamientos, entre ellos el rechazo de la sociedad jerarquizada, al sistema militar, la religión, la represión sexual. A finales de

febrero apreció otro volante donde se denunciaba el proceder policial en la pasada jornada de protesta y a uno de los vigilantes de la de la Universidad que supuestamente estaba informando a las fuerzas públicas sobre los manifestantes. En la primera semana de marzo circuló dentro la Universidad un panfleto “ha llegado la hora de la renovación” firmado por Los Estudiantes Críticos de la Universidad de Tolima arremetiendo de una manera directa contra integrantes del Comité de Bienestar Universitario (CEBU), entre otros el Presidente del CEBU. Otros dos volantes fueron circulados en marzo en donde se declaraba que se haría un esfuerzo de discusión de la problemática guerrillera en la Universidad;

- Según la información proporcionada, los volantes circulados al interior de la Universidad de Tolima podían catalogarse como un medio de presión o intimidación de los mismos estudiantes hacia los estudiantes vinculados de una manera u otra a las diferentes jornadas de protesta y a su vez rechazar la forma de proceder de algunos estudiantes con el propósito de evitar que algún grupo al margen de la ley tuviera como base de las milicias la Universidad de Tolima;
- En la nota se informa además que se harían esfuerzos para identificar estudiantes vinculados con la AUC, según se aludía en los panfletos. La Policía Judicial estaba encargada de adelantar las labores investigativas tendiente a judicializar a las personas que estaban amedrentando a otros estudiantes. No se había obtenido ningún resultado debido al hermetismo de los estudiantes. El 18 de marzo de 2004 la Policía Nacional aseguró el normal desarrollo de la marcha de protesta realizada por los estudiantes en rechazo a las amenazas contra algunos estudiantes. Se recomendaba a los estudiantes afectados de instaurar las correspondientes denuncias legales ante la Fiscalía con el fin de consolidar bases jurídicas para la identificación de las personas vinculadas a algún grupo ilegal. En este sentido la Policía Nacional estaba presta a colaborar con las directivas de la Universidad con el fin de consolidar medios de comunicación que permitieran identificar a las personas encargadas de elaborar y distribuir los volantes;

229. El 7 de abril de 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario-General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de miembros del Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL). Según la información recibida, el 15 de marzo de 2004 miembros de SINALTRAINAL en Bucaramanga, Cúcuta, Barrancabermeja, Cartagena, Valledupar, Cali, Medellín y Bogotá habrían iniciado una huelga de hambre con el objetivo de reiterar sus denuncias a nivel internacional sobre los asesinatos, las desapariciones forzadas, los actos de hostigamiento y las amenazas de muerte y otras graves violaciones de derechos que estarían sujetos los miembros de este sindicato. Se informa además que en febrero de 2004 SINALTRAINAL habría interpuesto una acción de tutela en contra la empresa Burns Philp Colombia S.A. por el despido de los trabajadores el 29 de enero de 2004. El 19 de marzo se habría hecho pública la sentencia del juez Civil Municipal N.º 3 de Palmira Valle en la que se exigía a dicha empresa que reintegrara a los dos trabajadores. En este contexto y según la información recibida, el 19 de marzo de 2004, un comunicado firmado por las Autodefensas Unidas de Colombia habría sido circulado en el departamento de Valle de Cauca. El comunicado habría contenido la siguiente amenaza contra los integrantes de SINALTRAINAL: “El bloque

conjunto calima pacífica y demás colaboradores urbanos de la ciudad de Palmira, declaran la guerra a estos sujetos ya identificados como directivos de esta organización, para que la abandonen en un plazo no mayor de tres meses de lo contrario serán declarados objetivos militares por nuestra organización y acabaremos con todos.” Se informa además de que el 20 de marzo una carta parecida habría llegado a la sede de SINALTRAINAL en Palmira Valle que habría señalado que los directivos de esta asociación eran colaboradores en la insurgencia en el Valle de Cauca. Se teme que esas amenazas estén relacionadas con las actividades de SINALTRAINAL en favor de los derechos de trabajadores.

230. El 23 de abril de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Ademir Luna**, periodista y miembro de la Corporación Regional para la defensa de los Derechos Humanos (CREDHOS), una organización de derechos humanos en Barrancabermeja, Departamento de Santander, que ha denunciado públicamente la presencia de los paramilitares en la región. Según la información recibida, el 3 de febrero de 2004, hacia las 21.00 horas, Ademir Luna habría observado que varios hombres habrían estado vigilando su casa. Según la información recibida, el 29 de marzo de 2004, en un caso de confusión de identidad, **Fabián Correa**, el conductor de un taxi que es de propiedad del padre de Ademir Luna habría sido atacado por dos hombres. Los individuos habrían subido al taxi y obligado a Fabián Correa conducir hacia una calle sin salida sitio en la cual lo habrían encañonado con armas de fuego diciéndole: “Usted es Ademir Luna, ¿cierto? Lo vamos a matar”. Según los informes, habrían colocado a Fabián Correa contra el timón del carro y le habrían rociado gasolina en el cuerpo y en el carro, amenazando con quemarlo, mientras le habrían dicho que sí que era Ademir Luna, puesto que conducía el automóvil de éste. Posteriormente los individuos armados habrían intentado encenderle fuego al carro pero al no funcionar el encendedor, se habrían marchado diciéndole: “¿Sabe qué, gordo hijo de puta? usted esta rezado. Dígale a esa gonorra que se cuide, que lo vamos a matar.” Fabián Correa se habría dirigido inmediatamente a la policía para denunciar lo ocurrido. Se teme que Ademir Luna habría sido objeto de agresión por causa de su trabajo de promoción y protección de los derechos humanos y en particular, lo de denunciar las violaciones de derechos humanos cometidos por los paramilitares en el departamento de Santander.

231. Por carta con fecha de 26 de julio de 2004 la Misión Permanente de Colombia transmitió información proporcionada por el gobierno en relación con la comunicación del 23 de abril de 2004 sobre el caso del Sr. **Ademir Luna**, periodista de la CREDHOS. Según el informe del Segundo Distrito de Policía de Barrancabermeja, de acuerdo a entrevista realizada al Sr. Ademir Luna, él habría sido amenazado por un integrante de las autodefensas que delinquen en la región manifestándole que no debía continuar sus labores en la CREDHOS. El autor de estas amenazas fue capturado por la Policía Nacional en el año 2003 y posteriormente apareció muerto en la cárcel Modelo de Bucaramanga. En la entrevista el Sr. Luna dio a conocer que en el año 2001, un sujeto conocido en la estructura de las AUC con el alias de J., manifestó su desacuerdo con la actividad que el señor Luna realizaba en CREDHOS, por lo cual decidió hurtarle su motocicleta. El conocido como J. fue capturado por la Policía Nacional y se encontraba recluido en una cárcel. También el Sr. Luna expuso que en febrero de 2004, dos sujetos sin identificar se acercaron a su lugar de residencia y a través de la ventana lo llamaron por su nombre, desconociéndose las razones. La Policía Nacional nunca habría sido informada de este hecho. El día 29 de marzo de 2004, aproximadamente a las 23:30 horas, el ciudadano Fabiano Correa, llegó a las instalaciones de Policía y manifestó que, sujetos desconocidos, lo interceptaron, lo

intimidaron y lo llevaron a un lugar abandonado donde intentaron incinerarlo dentro del vehículo bajo la convicción de ser Ademir Luna. Según el informe, se estaba desarrollando una investigación, mediante la cual se había conocido que no existía una amenaza directa que pusiera en riesgo la vida del Sr. Luna o que impidiera el desarrollo de sus labores como periodista en CREDHOS. No obstante, la Policía Nacional había reforzado las medidas de seguridad dispuestas para los periodistas y con especial cuidado al afectado.

232. Por carta con fecha de 26 de julio de 2004 la Misión Permanente de Colombia también transmitió información adicional en relación con la comunicación del 23 de abril de 2004 sobre el caso del Sr. **Ademir Luna**. Según el oficio del Departamento Administrativo de Seguridad (DAS) de Santander, durante una entrevista el señor Luna informó que inicialmente la denuncia de amenazas en su contra fue formulada en el comando de la Policía del Magdalena Medio COEM, a través del Sr. Fabian Correa, que fue sucesivamente agredido por dos sujetos que manifestaron la intención de matarlo, siendo confundido el Sr. Correa con el Sr. Luna. Según manifestó el Sr. Correa, esta amenaza obedece a las denuncias por violaciones de derechos humanos y derechos humanitarios presentadas por el Sr. Luna según queja recibida en su despacho cuando se desempeñaba como coordinador del Área de Comunicaciones en CREDHOS (2001-2004). El Sr. Luna formuló denuncia en la Fiscalía general de la Nación de Barrancabermeja y en la Defensoría del Pueblo del mismo lugar. El Sr. Luna manifestó que directamente no había recibido amenazas en su contra, pero que en algunas ocasiones personas sospechosas habían merodeado su residencia y en algunos casos habían sido vistas observando por las ventanas. Por esta razón el señor Luna se retiró de su trabajo con CREDHOS. El DAS le dio a conocer las normas de autoprotección y le manifestó que comunicara cualquier acto o persona sospechosa que observara cerca de su residencia, contando con el apoyo de patrullajes esporádicos por parte de los funcionarios del Puesto Operativo de Barrancabermeja. La Fiscalía estaba adelantando investigaciones por las amenazas contra Ademir Luna.

233. El 26 de abril de 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre el supuesto asesinato de **Gabriel Remolina**, de su esposa **Fanny Robles** y su hijo **R.R.** Gabriel Remolina es el hermano de la esposa de Efraín Guerrero, Presidente de la seccional del Sindicato nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL). Cabe señalar que los miembros de dicho sindicato ya fueron objeto de un llamamiento urgente enviado conjuntamente el 7 de abril de 2004 por el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, la Relatora Especial sobre ejecuciones extrajudiciales y la Representante Especial del Secretario General para los defensores de los derechos humanos. Según la información recibida, el 15 de marzo de 2004 miembros de SINALTRAINAL en varias regiones del país habrían iniciado una huelga de hambre con el objetivo de reiterar sus denuncias a nivel internacional sobre las graves violaciones que estarían padeciendo los miembros de este sindicato. El Sr. Efraín Guerrero habría participado en la huelga de hambre. El 19 de marzo de 2004, un comunicado firmado por las AUC habría sido circulado en el departamento de Valle de Cauca en el que se habría amenazado a los directivos de SINALTRAINAL para que abandonasen su trabajo so pena de declarados objetivo militar. En este contexto y según la nueva información recibida, el 20 de abril de 2004, un grupo de hombres armados habría ingresado en la casa de Gabriel Remolina en la ciudad de Bucaramanga, Departamento de Santander. Los hombres habrían disparado contra la familia. Habrían matado a Gabriel Remolina y Fanny

Robles y herido a sus tres hijos, que habrían sido llevados al hospital. Unos de ellos habría fallecido poco después. Se informa además de que el 14 de abril, otro miembro de SINALTRAINAL, **Onofre Esquivel**, habría sido amenazado por dos individuos en su vivienda en Bugalagrande, Departamento del Valle. Según los informes, Onofre Esquivel habría sido amenazado de muerte previamente por los paramilitares, supuestamente respaldados por el ejercicio, en octubre de 2003. Se teme que el supuesto asesinato de Gabriel Remolina, Fanny Robles y su hijo R.R. esté relacionado con el trabajo de Efraín Guerrero como sindicalista de SINALTRAINAL y en particular su participación en una huelga de hambre para llamar la atención a nivel internacional sobre las graves violaciones de derechos humanos sufridos por los miembros de dicho sindicato.

234. Por carta con fecha de 26 de julio de 2004, el gobierno transmitió información en relación con la comunicación del 26 de abril de 2004 sobre el caso del Señor **Gabriel Remolina**, de su esposa **Fanny Robles** y su hijo **R.R.** El 11 de junio de 2004, el DAS informó de que el 20 de abril de 2004, a las 7.00 horas, en el barrio La Cumbre del municipio de Floridablanca, dos sujetos asesinaron a Gabriel Remolina Cepeda, quien presentaba un impacto en la cabeza producido con arma de fuego, así como de su esposa Fanny Robles Jaimes y su hijo R.R. La investigación fue asignada a la Fiscalía Quinta de la Ciudad de Bucaramanga. El Ministerio del Interior el 26 de Mayo de 2004 informó que solicitó a la Fiscalía General de la Nación adelantar las investigaciones y al programa de Víctimas de la Violencia de la Red de Solidaridad Social que se estudiara la posibilidad de incluir a los hijos de los Sres. Remolina dentro del mismo. El señor Efraín Guerrero era beneficiario del programa de Protección de la Dirección de Derechos Humanos y Derecho Internacional Humanitario.

235. Por carta con fecha de 14 de septiembre el Gobierno transmitió información adicional sobre el caso arriba mencionado. De acuerdo con la información acopiada por el Ministerio de Protección Social- Oficina de Derechos Humanos, suministrada por el Departamento de Relaciones Laborales de Coca-Cola, al parecer los hechos se debieron a una represalia contra el señor Remolina Robles, cuñado del sindicalista Efraín Guerrero, quien manifestó que Remolina Robles era conductor en la empresa de Coca-Cola y no tenía nada que ver con el Sindicato y que el atentado estaba dirigido a uno de los familiares de su cuñado, cuyo hogar era frecuentado por el señor Guerrero. La información suministrada por la compañía Coca-Cola apuntaría a que el homicidio de estas personas se dio por las actividades delictivas de Robinson Gabriel Remolina Robles quien tenía vario procesos en la Justicia Penal Militar y en la Ordinaria.

236. El 10 de mayo de 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación sobre el supuesto asesinato de **María Lucero Henao**, Presidente de la Junta Acción Comunal en la Vereda Puerto Esperanza del municipio El Castillo, en el Departamento del Meta, y de su hijo, de 16 años de edad. Según las informaciones recibidas, el 6 de febrero de 2004 a las 22:30 horas, civiles armados al parecer pertenecientes a grupos paramilitares habrían llegado a la casa de María Lucero Henao en la Vereda Puerto Esperanza. Al principio ella se habría negado a abrir pero cuando los hombres habrían amenazado con derribar la puerta, se habría sentido obligada a abrirla. Los hombres la habrían llevado a la fuerza a pesar de los ruegos de su madre, sus hijas y su hijo, quienes salieron detrás para tratar de impedir el hecho. Según la información, durante el trayecto a las afueras del caserío, los hombres armados habrían intentado amarrar a Maria Lucero Henao con cuerdas de nailon mientras le habrían gritado: “Desde hace tiempo le teníamos ganas

pero no se había presentado la oportunidad” y a la familia le habrían acusado de ser guerrilleros. A cinco minutos de la casa habrían obligado a la madre y a las hijas a volver y habrían quedado con María Lucero Henao y su hijo. Poco después, la familia habría oído disparos de armas de fuego pero, por miedo no habrían salido de la casa hasta la madrugada en que habrían encontrado los dos cuerpos sin vida. De acuerdo con la información, el cuerpo del menor de edad se encontraba desfigurado, con impactos en la boca y con una oreja amputada. Según la información, María Lucero Henao y su familia habría sido una de las diez únicas familias que permanecieron en el caserío Puerto Esperanza después de la incursión paramilitar del 2 de agosto del 2001. En su calidad de Presidenta de la Junta Acción Comunal para defender los derechos de los habitantes del caserío y ante la supuesta ausencia de la actuación rápida y oportuna de las autoridades, María Lucero Henao habría tenido que realizar el levantamiento de los cadáveres de siete vecinos de su vereda. Se informa además de que en varias ocasiones habría denunciado la grave situación de los pobladores de Puerto Esperanza ante la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos y varias delegaciones diplomáticas con sede en Colombia, entre ellas las embajadas de Austria, Canadá, Gran Bretaña, Italia, Alemania y Francia. También, habría representado su comunidad ante la comisión interinstitucional que visitó la zona en 2003 y habría relatado los hechos de agresión que sufrían la comunidad debido a la permanente presencia de los paramilitares supuestamente respaldados por el ejército en la zona. Se informa que habría sido objeto de amenazas y de un intento de asesinato en los últimos tres años. Se teme que este supuesto asesinato esté relacionado con el trabajo de María Lucero Henao en favor de los derechos humanos, y en particular su trabajo de denunciar las violaciones provenientes de grupos paramilitares.

237. El 5 julio de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Luz Perly Córdoba Mosquera** y **Juan de Jesús Gutiérrez Ardila**, Presidenta y Tesorero, respectivamente, de la Asociación Campesina de Arauca, cuyo caso ya fue objeto de un llamamiento urgente enviado el 27 de febrero de 2004 por el Presidente-Relator del Grupo de Trabajo sobre la detención arbitraria conjuntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario General para los defensores de los derechos humanos. Según la información recibida Luz Perly Córdoba Mosquera y Juan de Jesús Gutiérrez Ardila habrían sido detenidos durante la noche del 18 de febrero de 2004 en Bogotá. Según la nueva información recibida, el 18 de junio de 2004 Luz Perly Córdoba Mosquera y Juan de Jesús Gutiérrez Ardila habrían cumplido 120 días de privación de la libertad sin que la fiscalía hubiera hecho la calificación del merito de la instrucción como lo establece la ley.

238. Por carta fechada el 8 de diciembre de 2004 el Gobierno contestó a otra comunicación con fecha 5 de julio de 2004 en relación con la situación de **Luz Perly Córdoba Mosquera**. El gobierno transmitió un informe de la Vicepresidencia de la República en el cual comunicó que la Fiscalía General, después de escuchar a la Sra. Córdoba en diligencia de indagatoria, decretó en contra de ella imponiendo una medida de aseguramiento sin beneficio de excarcelación por el delito de rebelión. Informó de que la investigada contó con todas las oportunidades legales y constitucionales y que se le habría designado un Defensor de oficio tras la renuncia voluntaria de sus abogados defensores. El Gobierno dio a conocer que el 13 de agosto de 2004 se calificó el merito de la investigación y se emitió resolución de acusación contra la sindicada por los delitos de concierto para delinquir con fines de narcotráfico y rebelión. La decisión quedó ejecutoriada y

la causa fue remitida al Juzgado de Penal del Circuito Especializado de Arauca para iniciar la etapa de juicio. Se habría fijado el 5 de enero de 2005 como fecha para la audiencia preparatoria.

239. El 7 de julio de 2004, el Relator Especial, juntamente con el Relator Especial sobre la independencia de magistrados y abogados y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación en relación con el 14 de mayo de 2004, cuando **Pedro Julio Mahecha Ávila**, abogado y miembro de la Corporación Colectiva de Abogados José Alvear Restrepo, habría sufrido actos de hostigamiento por parte del DAS. El abogado habría sido hostigado y seguido en la ciudad de Cartagena por personas que se habrían identificado como funcionarios del DAS. La misma tarde, el abogado habría denunciado el supuesto hostigamiento ante la Policía. Sin embargo, el hostigamiento habría continuado y el abogado habría abandonado la ciudad de Cartagena y cancelado un viaje a la ciudad de Barranquilla donde se habría comprometido a dirigir un programa auspiciado por la Unión Europea. Los informes indican que funcionarios del DAS habrían dispuesto un operativo en la ciudad de Cartagena con el fin de demostrar que Pedro Julio Mahecha Ávila era guerrillero de las Fuerzas Armadas Revolucionarias de Colombia (FARC). Este supuesto hostigamiento del Pedro Julio Mahecha Ávila podría estar relacionado con su trabajo como abogado y defensor de los derechos humanos.

240. El 4 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió una comunicación en relación con **Fredy Loaiza Tique**, un indígena de 24 años de edad, militante del Partido Comunista Colombiano y de la Unión Patriótica y miembro de la Asociación de Cabildos Indígenas del Tolima (ACIT), que habría sido golpeado brutalmente por presuntos paramilitares pertenecientes al Bloque Tolima de las AUC que se habrían presentado el 14 de enero de 2003 en la casa de su familia en Coyaima, Tolima. Los paramilitares le habrían exigido que diera los nombres de sus familiares, quienes también serían miembros del Partido Comunista, de la Unión Patriótica y de la ACIT. Habría sido atado a un árbol y torturado con un machete. Los paramilitares le habrían hecho varios disparos simulando que lo iban a asesinar. En ese momento, sus hermanos, Hernán Loaiza Tique, antiguo gobernador indígena del cabildo, y Gendry Loaiza Tique, miembro del concejo municipal de Coyaima (Tolima) por el Partido Comunista y la Unión Patriótica, habrían llegado al lugar de los hechos. Los paramilitares habrían empezado entonces a disparar contra ellos y, en medio de la confusión, Fredy Loaiza Tique habría logrado escapar. Posteriormente habría sido llevado a un hospital por su familia. Los hechos habrían sido denunciados ante el comando de policía de Coyaima, pero no se habría tomado ninguna medida para garantizar la vida e integridad de la familia Tique Loaiza. Nueve días más tarde los paramilitares habrían vuelto a la casa familiar, disparando y lanzando granadas contra las viviendas de los habitantes de Coyaima. La casa de la familia Tique habría sido incendiada. Ese mismo día la familia se habría desplazado forzosamente hacia Ibagué.

241. El 31 de agosto de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de inseguridad y peligro en la que se encuentra **Lilia Solano**, profesora de la universidad y directora de la organización no gubernamental de derechos humanos Proyecto Justicia y Vida. Según la información recibida, el 28 de julio de 2004, Lilia Solana habría llevado a cabo una protesta dentro de la cámara de debate del Congreso nacional en Bogotá contra los posibles planes de conceder inmunidad procesal a los grupos paramilitares

presuntamente respaldados por el gobierno. Se informa de que este mismo día el Gobierno habría invitado a tres dirigentes paramilitares quienes habrían estado presentes durante la protesta. Desde entonces, se alega que Lilia Solano habría sido sujeto a amenazas de muerte recibidas tanto en el teléfono de su casa como en el teléfono móvil. Además, se informa de que las oficinas de Proyecto Justicia y Vida habrían estado sometidas a una vigilancia constante por desconocidos. Se teme que estas supuestas amenazas de muerte en contra de Lilia Solano puedan estar relacionadas con su trabajo de defensora de los derechos humanos y en particular su oposición a la impunidad de los combatientes paramilitares en Colombia.

242. Por carta con fecha de 8 de diciembre de 2004, el Gobierno transmitió la siguiente información en relación con la comunicación del 31 de agosto de 2004 acerca de la situación de **Lilia Solano**. El Gobierno informó de que una investigación habría sido iniciada de oficio por la Fiscalía el 28 de septiembre de 2004, la cual se encuentra en etapa previa. Tras un estudio técnico de nivel de riesgo y grado de amenaza, las autoridades habrían apuntado MEDIO, en consecuencia del cual, la interesada habría recibido un Avantel. En la actualidad, realizaría un estudio técnico de seguridad a su residencia.

243. El 6 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la independencia de magistrados y abogados, envió una comunicación en relación con **Diana Teresa Sierra Gómez**, abogada y defensora de derechos humanos, quien forma parte de la Corporación Colectivo de Abogados José Alvear Restrepo. De acuerdo con la información recibida, el 2 de septiembre de 2004 la señora Sierra Gómez tendría que haber viajado a la ciudad de La Haya (Holanda), para participar en la Asamblea de Estados Partes de la Corte Penal Internacional. Ese mismo día, la Corporación Colectivo de Abogados José Alvear Restrepo habría sido informada que el DAS estaba organizando un operativo contra la Sra. Sierra Gómez en el Aeropuerto El Dorado de la ciudad de Bogotá. Por ese motivo, su viaje fue cancelado. Asimismo se informa que el 24 de octubre de 2003 habría sido fotografiada y filmada junto con otro miembro del Colectivo de Abogados José Alvear Restrepo, en las inmediaciones de las oficinas de esta organización, por un hombre y una mujer desconocidos. Posteriormente, el día 28 de junio de 2004, habría sido fotografiada a la entrada de la sala de espera del aeropuerto de la ciudad de Armenia (Quindío) por un sujeto no identificado. A la luz de estas alegaciones, se han expresado temores por la seguridad e integridad física y psicológica de Diana Teresa Sierra Gómez.

244. El 15 de septiembre de 2004, el Relator especial envió una comunicación sobre el caso de la periodista **Zully Ester Codina Pérez** 49 años, que el 11 de noviembre de 2003 habría sido asesinada en Santa Marta, departamento de Magdalena, cuando salía de su casa hacia el Hospital central. Dos sicarios en una moto la habrían interceptado y habrían abierto fuego, causándole cuatro heridas de bala. La periodista dirigía el programa sabatino de opinión y actualidad regional "Entérese" en Radio Rodadero de la Emisora Modelar de Colombia. También estaba vinculada al Sindicato de la Salud Distrital del Magdalena del que fue secretaria general hasta 2002. El 4 de febrero de 2004, el periodista **Oscar Alberto Polanco Herrera** habría sido asesinado por un sicario a la salida del canal en Cartago. El periodista desempeñaba la función de director y presentador del noticiero CNC en Cartago. Dentro del noticiero CNC presentaba una sección llamada "Notas de dirección" donde daba su opinión crítica a ciertos funcionarios e instituciones de Cartago. El 18 de mayo de 2004, varios periodistas habrían sido agredidos por la Policía Nacional mientras cubrían las manifestaciones públicas contra las negociaciones del Tratado de Libre Comercio, en Cartagena. El periodista **Aníbal Terán** y el fotógrafo **Oscar**

Díaz, del diario *El Universal* de Cartagena, habrían sido agredidos por los policías antimotines al no acceder aquellos a entregarles el material fotográfico que habían obtenido sobre la marcha. **Wilfred Arias**, corresponsal del periódico *El Herald* de Barranquilla, también habría sido agredido por miembros de la policía que le habrían disparado balas de goma. Por otro lado, **Ronald Rodríguez** y su camarógrafo **Gerardo Solano**, de Noticias RCN, tal como el periodista **Alberto Julio Ordóñez** y el camarógrafo **Emiro Flerez**, del noticiero “CM&”, habrían sido agredidos física y verbalmente por manifestantes en otro lugar de la protesta. El corresponsal de la agencia internacional de noticias Associated Press, **Javier Galeano**, que también cubría las manifestaciones, habría sido golpeado por una piedra. El 20 de mayo de 2004, **Miguel Jaramillo Luján**, corresponsal en Antioquia de Caracol Noticias TV, habría sido agredido por un miembro del Escuadrón Móvil Antidisturbios (ESMAD) de la Policía Nacional. El ataque se habría producido cuando el periodista cubría los enfrentamientos entre los manifestantes y la Policía durante una protesta que se llevaba a cabo en la plaza principal del municipio de Barbosa, Antioquia. La manifestación habría sido ocasionada por la imposición de un peaje para terminar la construcción de una carretera en Antioquia. El 28 de mayo de 2004, en San Andrés de Sotavento, departamento de Córdoba, el locutor **Álvaro Paúl Márquez Polo** habría sido asesinado. El Sr. Márquez Polo trabajaba asesorando a concejales del municipio de Chinú y animaba eventos sociales. El 10 de junio de 2004, el periodista **Cristian Herrera** y el fotógrafo **Carlos Patiño**, del diario *La Opinión* de Cúcuta, habrían visto obstruido su trabajo por un miembro de la policía cuando se encontraban cubriendo una noticia sobre el traslado de un capturado hacia Bogotá. De acuerdo con las informaciones recibidas, Cristian Herrera y Carlos Patiño habrían sido confrontados por un agente de la Dirección de Policía Judicial que los habría obligado a mostrar las fotos que habían tomado. El 17 de junio de 2004, varios periodistas de Barrancabermeja habrían sido agredidos en medio de las protestas que se produjeron entre manifestantes de la Unión Sindical Obrera y el ESMAD. Las protestas habrían ocurrido en cercanías de la alcaldía municipal. Luz Dary Inés Mora, periodista del canal local Enlace TV, habría sido herida en el rostro. Durante la protesta también habrían sido agredidos por miembros del ESMAD los periodistas **Wilson Lozano**, corresponsal del Canal Caracol, **John León**, camarógrafo del canal local 3, y **Ricardo Mejía**, camarógrafo de Enlace TV.

245. Por carta con fecha de 8 de diciembre de 2004 el gobierno transmitió la siguiente información en relación con la comunicación del 15 de septiembre de 2004 sobre:

- Los presuntos asesinatos de los señores **Zully Codina**, **Oscar Polanco** y **Álvaro Márquez**, el programa de Protección a Periodistas y Comunicadores Sociales nunca habría tenido conocimiento de la situación de seguridad que presentaban los periodistas antes de su muerte y tampoco de petición alguna de protección. El Departamento de Seguridad informó que la inspección del cadáver de Zully Ester Codina Pérez evidenció tres heridas ocasionadas con arma de fuego. La Sra. Codina laboró como periodista en diferentes emisoras de la ciudad de Santa Marta y formaba parte de la Junta Directiva del Sindicato de empleados de Salud (SINDESS);
- Según las investigaciones, el día 4 de febrero el señor Polanco Herrera en el momento del homicidio se encontraba saliendo de su lugar de trabajo y abordar su motocicleta y según versiones de otras personas se dirigía a almorzar. La investigación se encontraba en la Fiscalía Tercera Especializada de Buga;

- En cuanto a las supuestas agresiones por parte de la Policía contra los periodistas **Aníbal Terán, Oscar Díaz, Wilfred Arias, Alberto Julio Ordóñez y Miguel Jaramillo, Luz Dary Inés Mora, Wilson Lozano, Jhon León y Ricardo Mejía**, el Gobierno informó que no se tuvo conocimiento al respecto;
- El DAS informó de que, respecto al caso de Luz Dary Inés Mora y otros, el 17 de junio de 2004, aproximadamente a las 14.00 horas, la Unión Sindical Obrera (USO) realizaba una protesta frente al Palacio Municipal de Barrancabermeja y de acuerdo con investigaciones preliminares la señora Luz Dary Inés Mora fue blanco de piedra y/o elementos contundente que habría sido lanzado por un marchante contra miembros de la fuerza pública. En la Fiscalía Sexta de Barrancabermeja se adelantaba la investigación del hecho donde resultó lesionada Luz Dary Inés Mora, figurando una denuncia contra desconocidos por el Delito de Lesiones Personales;
- Respecto al caso de Miguel Jaramillo Lujan, el DAS de Medellín comunicó que se logró contacto con el periodista quien en forma telefónica manifestó que efectivamente para la fecha de los hechos se desempeñaba como periodista del noticiario Caracol, cubriendo la manifestación entre los pobladores del municipio de Barbosa a raíz del nuevo peaje de Copacabana;
- Respecto a los periodistas **Cristian Herrera y Carlos Patiño** el gobierno informó de que al Sr. Herrera se le aprobó un mes de apoyo de transporte por 90 horas mensuales, un agente de escolta y un radio de comunicación Avantel. En julio de 2004 se aprobó también un segundo mes de apoyo de transporte por 90 horas y dos billetes aéreos nacionales para el periodista y su esposa. Respecto al Sr. Patiño se solicitó a la Policía Nacional adoptar las medidas preventivas de seguridad mientras se conocía el resultado del estudio técnico del nivel de riesgo y grado de amenaza del periodista para la adopción de las medidas necesarias a su protección.

246. El Gobierno se comprometió a seguir atento el resultado de las investigaciones que se adelanten y a informar oportunamente al Relator Especial.

247. El 23 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de la periodista e investigadora de derechos humanos, **Claudia Julieta Duque**, quien estaría recibiendo amenazas de muerte desde agosto de 1999, cuando inició una investigación periodística sobre las posibles irregularidades en el proceso penal del homicidio del humorista y periodista, Jaime Garzón, en la que se señalaba al DAS de ser responsable de un montaje jurídico para acusar dos individuos por el homicidio del Sr. Garzón. Se informa de que la Sra. Duque dio a conocer estos hechos ante la Dirección de Derechos Humanos de la Policía Nacional, quien realizó un estudio de riesgo que arrojó como resultado que hay un peligro inminente de que las amenazas se hagan efectivas. De acuerdo con las informaciones recibidas, la periodista también denunció las amenazas ante la Fiscalía. La Fundación para la Libertad de Prensa solicitó, por medio de un derecho de petición, información sobre el estado de las investigaciones en el caso de la señora Duque. En su oficio n.º 6601, la Fiscalía respondió “que el despacho no encontró información al respecto”, pese a que la Fundación para la Libertad de

Prensa había incluido el número del proceso y la Fiscalía en el que se debería encontrar la investigación. Informes indican que la Sra. Duque ha recibido protección de la Policía. Sin embargo, la Fiscalía no ha avanzado en las investigaciones y, por el contrario, informó a la Fundación para la Libertad de Prensa de que las denuncias que la Sra. Duque interpuso en sus despachos no existen.

248. Por carta con fecha 8 de diciembre de 2004 el Gobierno transmitió la siguiente información en relación con la comunicación del 23 de septiembre de 2004 respecto a la seguridad de **Claudia Julieta Duque**. El Gobierno informó de que habría presentado su caso ante el Comité de Reglamentación y Evaluación de Riesgos y el Programa de Protección a Periodistas y Comunicadores Sociales el 15 de octubre de 2004. La reunión habría recomendado que la citada ciudadana y su hija recibieran dos billetes aéreos internacionales, un vehículo blindado y un escolta conductor. La solicitud por la asistencia económica habría sido denegada. El Programa de Protección a Periodistas y Comunicadores Sociales, por su parte, le habría asignado desde diciembre de 2003 un dispositivo de comunicación Avantel, un esquema de seguridad —lo que no habría sido aceptado por la amenazada—, y en el ínterin, un apoyo de transporte por 90 horas mensuales y un blindaje arquitectónico del departamento. El Programa continuará solicitando a la Fiscalía y al Departamento Administrativo de Seguridad información sobre los avances en las denuncias presentadas.

Seguimiento de comunicaciones transmitidas previamente

249. Por carta con fecha de 29 de mayo del 2004, el gobierno transmitió la siguiente información en relación con la comunicación del 3 de diciembre de 2003 (E/CN.4/2004/62/Add.1) sobre el caso de **Adriana Cuéllar**. El 4 de febrero de 2004, la Defensoría del Pueblo informó a la Sección de Inteligencia de la Policía Metropolitana, al Programa de Protección de Testigos, y a la Fiscalía la denuncia sobre amenazas en contra de la periodista Adriana Cuéllar. Asimismo, se solicitó las investigaciones pertinentes y las medidas tendientes a asegurar los derechos fundamentales de la periodista. El Ministerio de Interior envió comunicación al DAS para la elaboración del estudio técnico sobre el nivel de riesgo y grado de amenaza de la periodista la cual es requisito para el ingreso al Programa de Protección de Periodistas y Comunicadores Sociales. El DAS informó con fecha 23 de febrero de 2004 que el estudio no se llevo a cabo debido a que el Colectivo de abogados donde trabaja la periodista Cuellar refirió que no era necesario. La Fiscalía ordenó previa verificación del caso el reparto del caso a una de las Fiscalías. El Gobierno informara oportunamente el resultado de las investigaciones que se adelante.

Observaciones

250. El Relator Especial da las gracias al Gobierno por sus respuestas a las comunicaciones con fechas 3 de diciembre de 2003, y 5, 12, 25 y 27 de febrero de 2004, 10, 15 (dos comunicaciones) y 25 de marzo de 2004, 5, 23 y 26 de abril de 2004, 5 de julio de 2004, 31 de agosto de 2004, y 15 y 23 de septiembre de 2004.

251. El Relator Especial lamenta que a la conclusión del informe no había recibido respuestas a sus comunicaciones con fechas 15, 18 y 19 de marzo de 2004, 7 abril de 2004, 10 de mayo de 2004, 7 de julio de 2004, 4 de agosto de 2004 y 6 de septiembre de 2004.

Costa Rica

252. El 22 de septiembre de 2004 el Relator Especial envió una comunicación en relación con el periodista **Ivannia Mora Rodríguez**, de 33 años, que el 23 de diciembre de 2003 habría sido asesinado mientras conducía su automóvil por una calle céntrica de San José. Dos individuos en motocicleta le habrían disparado a quemarropa y luego habrían huido. La periodista habría fallecido tiempo después cuando era llevada al hospital. Los informes indican que no habría habido intento de robo, por lo que se presume que Ivannia Mora Rodríguez habría sido asesinada a causa de sus actividades profesionales.

Observaciones

253. El Relator Especial lamenta que a la conclusión del informe no había recibido respuesta a su comunicacione del 22 de septiembre de 2004.

Côte d'Ivoire

254. Le 26 mars 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, la Rapporteuse spéciale sur la violence contre les femmes, la Rapporteuse spéciale sur les droits de l'homme des migrants, a envoyé une communication au Gouvernement concernant des informations selon lesquelles de **violentes manifestations auraient eu lieu à Abidjan le 25 mars 2004** entre des manifestants de l'opposition d'un côté et les forces de l'ordre et les milices progouvernementales de l'autre, et auraient fait de nombreuses victimes parmi les membres de l'opposition et des forces de l'ordre. Il semblerait qu'une vingtaine de personnes au moins auraient été tuées, des femmes et des fillettes auraient été violées, et que des exactions à caractère ethnique auraient eu lieu. Des migrants auraient été arrêtés et maintenus au secret. Les experts de la Commission des droits de l'homme s'inquiétaient également du risque de prolifération d'armes, suite aux informations selon lesquelles des manifestants se seraient emparés d'armes des forces de l'ordre. Des manifestations auraient également eu lieu à Yamoussoukro, à Bouaké et à Korhogo. Il semblerait également que de nouvelles manifestations devaient être organisées le 26 mars, et les experts exprimaient leur crainte que d'autres confrontations violentes aient lieu.

255. Le 25 juin 2004, le Gouvernement a répondu à la communication qui lui a été adressée le 26 mars 2004 concernant des **événements des 25 et 26 mars 2004**. Le Gouvernement a informé que le Ministère de droits de l'homme avait, suite aux événements, entrepris des démarches pour recueillir des témoignages et des informations auprès de différentes organisations nationales et internationales. Le Ministère avait également entrepris des investigations sur le terrain et auprès des différents services qui, en raison de leur mission, sont intervenus ou ont été sollicités à l'occasion des événements en question. Sur instruction du Président de la République, une enquête a été ouverte par le procureur de la République près le tribunal de première instance d'Abidjan Plateau. Des plaintes ont été déposées par des victimes auprès de certaines unités de police, notamment à la direction de la police judiciaire. Le procureur de la République a demandé au service de thanatologie du centre hospitalier universitaire de Treichville de faire pratiquer des autopsies en vue de déterminer les causes exactes des décès et d'établir leur lien avec les événements des 25 et 26 mars 2004. Les résultats de ces autopsies ne lui sont pas encore

parvenus. Le Gouvernement affirme qu'en l'état on ne peut pas valablement évoquer ni la question des responsabilités ni celle des sanctions pénales ou disciplinaires des auteurs et de l'indemnisation des victimes. Outre les procédures judiciaires, deux commissions parlementaires ont été mises sur pied pour enquêter sur les violations des droits de l'homme commises au cours des événements des 25 et 26 mars 2004, et sur celles commises sur l'ensemble du territoire national depuis le 19 septembre 2002. De ces investigations, il ressort les faits suivants:

- En réalité, il n'y aurait jamais eu de marche ni de rassemblement en vue d'une marche le 25 mars 2004, mais des affrontements entre les agents des forces de l'ordre et de sécurité, chargés de veiller à l'application du décret portant interdiction des marches et manifestation, et des groupes de manifestants armés de gourdins, de machettes et parfois d'armes à feu dans certains quartiers, qui n'auraient pas hésité à s'en prendre à la police, la gendarmerie et les forces armées, ni même à tuer deux sergents-chefs de la police et à en blesser d'autres. Dès les premières heures les 25 et 26 mars, il y aurait eu des barricades et des pneus enflammés sur la voie publique dans certaines communes;
- C'est la police qui, appuyée par des agents de la gendarmerie ainsi que par les forces armées, aurait été chargée de la protection de la ville d'Abidjan et de mener des patrouilles de dissuasion. Les consignes des forces de sécurité ont été, en utilisant les moyens conventionnels de maintien de l'ordre public, d'empêcher les attroupements d'individus et de disperser les manifestants. Les ordres ont été que le recours aux armes à feu étant réglementé, leur utilisation ne se fait que dans les conditions de légitime défense;
- Selon le Ministre de la sécurité intérieure, M. Martin Bleou, il y aurait eu une présence de personnes armées non identifiées qui auraient été aperçues sur le terrain des opérations. Le Gouvernement a souligné qu'Abidjan est infiltrée par des rebelles qui portent les mêmes tenues que les forces nationales de défense et de sécurité. Une enquête à cet égard a été ordonnée par le Gouvernement. Les résultats sont toujours attendus. Une autre enquête a été menée par le Ministre de l'enseignement supérieur sur la question des milices privées, qui a montré qu'il n'existe pas de milice et que les associations de la jeunesse ivoirienne mises en cause, regroupées sous le vocable «Jeunes patriotes», n'étaient pas armées;
- Il y aurait eu 80 morts, dont un à Yamoussoukro. Les frais médicaux pour tous les blessés ont été pris en charge par le Gouvernement;
- Aucune des personnes interpellées n'a été détenue en secret. Les personnes en question ont reçu des visites du Comité international de la Croix-Rouge et de la Mission des Nations Unies en Côte d'Ivoire;
- Il n'y a eu aucune exaction à caractère ethnique;
- Concernant les villes de Bouaké et de Korhogo, le Gouvernement ne peut pas confirmer les faits vu que ces villes sont sous contrôle des rebelles;

- Il y a un sérieux problème de prolifération des armes en Côte d'Ivoire, qui s'est produit particulièrement suite aux conflits de la sous-région. Le Gouvernement a créé une commission interministérielle, dénommée Commission nationale de lutte contre la prolifération et la circulation illicite des armes légères, pour lutter contre ce problème et l'insécurité qu'il engendre. La réalité reste telle que des armes de guerre circuleraient illégalement et serviraient fréquemment à la perpétration d'infractions, même dans la zone sous contrôle gouvernemental.

Le Gouvernement a ajouté qu'un numéro vert a été installé pour permettre aux victimes des violations de droits de l'homme de les dénoncer. Un Ministère des droits de l'homme a également été créé. Il souligne également que la guerre rend plus difficile la lutte contre l'impunité, même si le Gouvernement s'efforce de lutter contre l'impunité. Une liste des cas de violation de droits de l'homme commis pendant les années 2001 à 2004 et les suivis judiciaires pris par le Gouvernement a été jointe.

256. Le 21 avril 2004, le Rapporteur spécial a envoyé une communication au sujet de rapports selon lesquels le journaliste indépendant franco-canadien **Guy-André Kieffer** aurait disparu depuis le 16 avril 2004. Selon les informations reçues, M. Kieffer aurait été vu pour la dernière fois dans un centre commercial d'Abidjan. Sa voiture aurait disparu, son téléphone portable serait coupé et il n'aurait contacté personne. M. Kieffer vit depuis plusieurs années en Côte d'Ivoire, où il collabore épisodiquement à des revues spécialisées et à *La Lettre du Continent*, publication basée en France et consacrée à l'Afrique. Il serait également connu pour écrire dans la presse locale, sous couvert d'un pseudonyme. Spécialisé dans les matières premières et les affaires économiques et financières, il est apparemment bien connu dans le monde des affaires et de la politique, où il aurait un certain nombre de détracteurs. De plus, il est rapporté que M. Kieffer aurait récemment entrepris d'écrire un livre à quatre mains avec un des responsables des «forces nouvelles», Louis-André Dacoury-Tabley, coordonnateur des relations extérieures du Mouvement patriotique de Côte d'Ivoire (MPCI) et semble-t-il ancien collaborateur du Président Laurent Gbagbo.

257. Le 14 mai 2004, le Rapporteur spécial a envoyé une communication au regard de rapports indiquant que le Conseil national de la communication audiovisuelle aurait décidé de suspendre les programmes de **Radio France Internationale (RFI)** pour une durée de 24 heures à compter du 15 mai à 6 heures du matin, à la suite de la diffusion par RFI d'informations sur un rapport confidentiel des Nations Unies sur les événements de mars 2004, semble-t-il contenant des critiques à l'égard de la gestion de cette crise par les autorités. Le Conseil national de la communication audiovisuelle aurait justifié cette décision en invoquant la violation par RFI des lois imposant aux médias de promouvoir l'unité nationale, en rendant les conclusions de ce rapport avant qu'il ne soit rendu public par les autorités.

258. Le 2 juin 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale 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 une communication au sujet de rapports selon lesquels **Amourlaye Touré** et **Mamadou Fofana**, membres du Mouvement ivoirien pour les droits de l'homme (MIDH), seraient soumis à des actes d'intimidation et à des menaces de mort. Selon les informations reçues, Amourlaye Touré, président par intérim du MIDH, aurait reçu des menaces de mort alors qu'il se trouvait à Genève,

où il participait à des réunions organisées dans le cadre de la session annuelle de la Commission des droits de l'homme des Nations Unies. Mamadou Fofana serait quant à lui entré en clandestinité après avoir été la cible d'actes d'intimidation les 25 et 26 avril, lorsqu'un groupe de civils se serait présenté à son domicile en l'accusant de «vendre la Côte d'Ivoire aux étrangers». Selon les informations reçues, ces menaces et intimidations pourraient être liées à la publication par le MIDH, le 28 avril 2004, d'un rapport sur des violations des droits humains commises à Abidjan à la suite d'un défilé organisé le 25 mars, au cours duquel les forces de sécurité auraient recouru à une force excessive pour disperser les manifestants pacifiques et non armés (référence est faite à la communication envoyée au Gouvernement le 26 mars 2004 et reflétée ci-dessus).

259. Le 2 juin 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication concernant **Gaston Bony**, directeur de publication de l'hebdomadaire *Le Venin* et animateur de la radio de proximité «La voix de l'Agnéby», qui aurait été condamné à six mois de prison et 500 000 francs CFA (environ 760 euros) d'amende pour diffamation, suite à la parution d'un article intitulé «Le maire d'Agboville détourne trois millions de la subvention de la radio pour payer les services occultes d'un ami», et incarcéré depuis le 31 mars 2004 à la maison d'arrêt d'Agboville, proche d'Abidjan. Selon les informations reçues, M. Bony aurait entamé il y a quelques jours une grève de la faim pour protester contre sa condamnation à une peine de prison et contre ses conditions de détention. Il semblerait de plus que M. Bony serait l'objet de menaces de mort de la part du maire d'Agboville et de ses proches, qui lui auraient fait savoir qu'ils «l'auront coûte que coûte».

260. Le 30 juin 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, a envoyé une communication concernant **Dembélé Bazoumana**, journaliste au quotidien *Tassouman* et résidant à Abobo, qui aurait été interpellé par une quinzaine de policiers et gendarmes le 29 octobre 2002, alors qu'il venait de quitter son domicile, et conduit dans des locaux de la gendarmerie où il aurait été soumis à des actes de torture. Pendant que les coups lui étaient portés, les policiers et gendarmes auraient affirmé qu'ils tueraient tous les Dioulas comme lui. Il aurait ensuite été conduit près de Bingerville et d'un village nommé Ana, dans les environs du camp d'Akouédo. Cet endroit serait connu sous le nom de territoire d'Ana ou de Camp Bouaro. Sorti du véhicule, il aurait été placé dans un endroit où se seraient trouvés trois corps en décomposition, et où les policiers et gendarmes se seraient servis de lui comme d'une cible sur laquelle ils auraient tiré à maintes reprises. Le journaliste atteint d'une balle dans le mollet aurait été reconduit à la gendarmerie où il aurait à nouveau été soumis à des actes de torture avant d'être transféré à la gendarmerie de Cocody où il aurait passé la nuit. Le lendemain, ayant perdu beaucoup de sang pendant la nuit, il aurait été transféré dans un grand état de faiblesse à la brigade de recherche de la gendarmerie du Plateau où il aurait passé six jours avant d'être libéré, le 5 novembre 2002.

261. Le 26 juillet 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé une nouvelle communication concernant le journaliste franco-canadien **Guy-André Kieffer**, disparu le 25 juillet 2004 à Abidjan et au sujet duquel le Rapporteur spécial avait envoyé une communication le 21 avril 2004. Selon les nouvelles informations communiquées, le juge d'instruction français enquêtant sur cette affaire se serait plaint auprès de son homologue ivoirien, dont le nom est connu des Rapporteurs spéciaux, des obstacles au bon déroulement de cette enquête que semblent ériger certaines

autorités. Il est ainsi rapporté qu'il n'a pas pu interroger deux militaires cités par un témoin, dont le nom est connu des Rapporteurs spéciaux, qui est le beau-frère de l'épouse du Président et qui fut la dernière personne à avoir vu Guy-André Kieffer avant sa disparition. Il semblerait que la hiérarchie militaire ait évoqué le fait qu'elle ne pouvait pas les localiser pour expliquer la non-comparution des deux militaires. De plus, le responsable de la sécurité de Mme Gbagbo et le conseiller à la présidence chargé des affaires de défense, dont les noms sont connus des Rapporteurs spéciaux, auraient refusé de se soumettre aux convocations du magistrat. Il est également allégué que le témoin mentionné ci-dessus aurait mis en cause le Ministre de l'économie et des finances. Les Rapporteurs ont également été informés du fait que l'ordinateur et le téléphone portable du journaliste auraient été consultés après sa disparition, ce qui semble conforter la thèse selon laquelle le journaliste aurait été enlevé pour ses activités professionnelles.

262. Le 13 octobre 2004, le Rapporteur spécial a envoyé une communication au Gouvernement au sujet du cas de plusieurs journalistes qui auraient été inquiétés par des membres des forces de l'ordre le 25 mars 2004, jour des manifestations organisées par l'opposition à Abidjan:

Dembélé Al Séni et **Agbola Mesmer**, respectivement journaliste et photographe du quotidien *Le Patriote*, auraient été arrêtés par la police alors qu'ils couvraient les manifestations. Ils auraient été conduits au poste de police où ils auraient été sévèrement battus. Il est également rapporté que **Kady Sidibé**, photographe, aurait été arrêtée le même jour par des membres de la Garde républicaine à Treichville. Bien qu'elle se serait identifiée comme journaliste, les membres des forces de l'ordre l'auraient conduite au poste de police et battue. Ils l'auraient également accusée d'être une rebelle et auraient menacé de la violer. **Safi, Vamara et Malick**, du journal *Le Libéral Nouveau*, auraient été arrêtés à un poste de contrôle par les gendarmes le même jour alors qu'ils rentraient chez eux. Lorsqu'ils auraient dit travailler pour ce journal, les gendarmes les auraient sévèrement battus. **Habib Dembélé** et **Dramé Lancine**, respectivement journaliste et caméraman à la station de télévision TV2, auraient été empêchés de filmer l'arrestation de plusieurs manifestants par des membres de la garde présidentielle. Ils auraient été menacés de torture et de mort. Les gardes auraient confisqué leurs notes et leur auraient ordonné d'effacer de la caméra ce qui avait été filmé. Selon les informations communiquées, les stations de Radio France Internationale (RFI), BBC et Africa No.1 auraient été empêchées de transmettre durant et après les manifestations. Des individus non identifiés auraient débranché les émetteurs qui sont situés au siège de la SITEL, au cœur de la «zone rouge» – zone déclarée non accessible par les autorités durant les manifestations. Dans la même communication, le Rapporteur spécial a transmis au Gouvernement des informations qui lui sont parvenues sur les cas résumés ci-dessous:

- Par ailleurs, **Ouattara Kader**, administrateur général du journal *Le Patriote*, aurait été kidnappé par trois individus non identifiés aux abords des locaux du groupe Mayama le 11 mai 2004 vers 19 heures. Il aurait été emmené à bord de sa voiture sous la menace d'une arme à feu. Il est rapporté que ses assaillants l'auraient relâché lorsqu'ils se seraient rendus compte s'être trompé de personne: leur objectif était, selon leurs dires, de kidnapper **Méité Sindou**, journaliste et directeur général du groupe Mayama, qui édite *Le Patriote*;
- **Thibault Gbei**, journaliste à *L'Intelligent d'Abidjan* aurait été agressé par des officiers de police le 6 mai 2004 au campus de l'Université de Cocody, où il enquêtait sur des allégations de violences policières à l'encontre des étudiants.

Selon les informations communiquées, il se serait identifié auprès de la police comme journaliste et certains officiers auraient répliqué qu'il était la personne qu'ils recherchaient et l'auraient accusé de mentir au sujet de la Côte d'Ivoire. Il aurait alors été sévèrement battu;

- **François Agui**, caméraman à la Radio Télévision Ivoirienne (RTI) aurait été battu par des membres des Jeunes patriotes, considérés comme supporters du Président. L'agression se serait déroulée au stade Champroux à Abidjan, où les Jeunes Patriotes avaient organisé une manifestation. François Agui aurait été accusé de filmer des espaces vides afin de donner une fausse impression quant au succès de la manifestation. Il est également rapporté que **Laurene Gelfrand** de l'Agence France Presse (AFP) et **Germaine Boni** de l'Agence panafricaine d'information (PANA) aurait été empêchées d'accéder au stade.

263. Le 1^{er} novembre 2004, le Rapporteur spécial a envoyé une communication relatant des informations selon lesquelles, le matin du 26 octobre 2004, des groupes de jeunes Ivoiriens auraient saisi et détruit des exemplaires de plusieurs journaux en s'attaquant à des vendeurs de journaux des quartiers de Yopougon, Port-Bouët, Adjamé, La Riviera et Cocody. Après avoir menacé les commerçants en les enjoignant de ne plus vendre *Le Patriote*, *Le Nouveau Réveil*, *Le Front*, *24 Heures* et *Jour plus*, ils ont détruit tous les exemplaires qu'ils trouvaient. Ces violences feraient suite à un appel lancé par la Fédération nationale des agoras et parlements de Côte d'Ivoire (Fenapci), un mouvement qui avait demandé à ses militants «d'extraire du marché tous les journaux qui font l'apologie de la rébellion et du G7». Il semblerait que deux revendeurs de journaux, **Lamine Tierno** et **Apollinaire Kouassi**, auraient été sévèrement battus.

264. Le 9 novembre 2004, le Rapporteur spécial a envoyé une communication concernant les faits survenus le 4 novembre 2004 à Abidjan, quand les bureaux des quotidiens *24 Heures* et *Le Patriote*, auraient été saccagés et brûlés par des groupes de Jeunes patriotes. Le même jour, l'intégralité du matériel de la rédaction du *Nouveau Réveil* aurait été détruite par environ 200 civils armés de barres de fer et de gourdins, arborant des T-shirts d'un groupe proche du Front populaire ivoirien, le parti du Président Gbagbo. La veille, dans la nuit du 3 au 4 novembre, les diffusions de Radio France Internationale (RFI), de la BBC et d'Africa No.1 auraient été interrompues sur la bande FM, après qu'un commando aurait saboté leurs installations techniques communes.

265. Le 23 novembre 2004, le Rapporteur spécial a envoyé une communication concernant l'occupation alléguée, depuis le 4 novembre 2004, par les Jeunes patriotes et les militaires, du siège de la Radio Télévision Ivoirienne (RTI). Les occupants auraient également menacé à plusieurs reprises le directeur de la RTI, **M. Yakouba Kebe**, et ses proches. Appuyé par les Jeunes patriotes et les militaires, un ancien fonctionnaire de la RTI aurait semble-t-il de facto remplacé M. Kebe.

Observations

266. Le Rapporteur spécial remercie le Gouvernement pour la réponse apportée à sa communication du 26 mars 2004, mais il note qu'aucune réponse n'a été fournie aux communications des 21 avril, 14 mai, 2 juin, 30 juin, 26 juillet, 13 octobre, 1^{er} novembre, 9 novembre et 23 novembre 2004.

Croatia

267. On 22 July 2004, the Special Rapporteur sent an urgent appeal concerning **Ljubica Letinic**, a journalist for Croatian Radio and Television (HRT). On 12 July 2004 in Split, she was sentenced to a two-month suspended prison term for defaming a local businessman in the television programme, "Latinica", in March 2002.

268. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning information claiming that on 15 July 2004, a court in Split sentenced state television and radio journalist **Ljubica Letinic** to a two-month suspended prison term for defamation of a local businessman. Ljubica Letinic had accused him of corruption during a talk show that aired on the main television station on 18 March 2002. Her case will go before the Split Appeals Court.

269. On 22 November 2004 the Special Rapporteur sent a letter of allegation concerning 11 November 2004, when **Vladimir Matijanic**, a journalist for the weekly Feral Tribune, was reportedly given a suspended sentence of three months by a court in Split in a case of civil defamation against him.

Observations

270. The Special Rapporteur regrets that no replies to his communications were received at the time this report was finalized.

Cuba

271. El 19 de enero de 2004, el Relator Especial envió un llamamiento urgente en relación con las **restricciones del acceso y uso de Internet** en el país. En Cuba, la mayoría de la población tendría prohibido utilizar Internet. Para acceder a la Red, los cubanos estarían obligados a utilizar conexiones ilegales. Por ello, el gobierno cubano habría decidido, para luchar contra esta utilización clandestina de Internet, prohibir completamente la utilización de la red telefónica ordinaria para acceder a la Red. Además habría pedido a Etecsa, el único operador cubano de telecomunicaciones, "que emplee todos los medios técnicos necesarios que permitan detectar e impedir el acceso al Internet" a las personas no autorizadas. Según la información recibida, a partir del 24 de enero de 2004 estará prohibido utilizar la red telefónica ordinaria, facturada en pesos, para conectarse a Internet, salvo para las personas autorizadas directamente por el "responsable de un órgano y/o de una organización de la administración central". El cambio no afectaría a las empresas y administraciones extranjeras, que utilizan otra red, facturada en dólares, para acceder a Internet. En el fondo, el decreto no cambiaría la prohibición, ya vigente para la mayoría de los cubanos, de acceder a Internet. Para acceder a Internet, los cubanos seguirían teniendo la posibilidad de utilizar los cibercafés. Sin embargo, a aproximadamente 2,50 dólares para un cuarto de hora, el servicio resultaría inaccesible para la gran mayoría de la población.

272. El 12 de agosto 2004 el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación en relación con el periodista **Carlos Brizuela Yera**, de la agencia de prensa independiente Colegio de Periodistas Independientes de Camagüey. Según la información recibida, el 26 de abril de 2004 Carlos Brizuela Yera habría sido condenado por el tribunal provincial popular de Ciego de

Ávila a tres años de cárcel por “desacato”, “desorden público”, “resistencia a la autoridad” y “desobediencia”. El Sr. Carlos Brizuela Yera habría sido juzgado junto con otras nueve personas por manifestarse, el 4 de marzo de 2002, delante del hospital en que se encontraba ingresado Jesús Álvarez Castillo, al que la policía habría golpeado. Entre las otras personas figuraría **Lester Téllez Castro**, director de la agencia independiente Agencia de Prensa Vileza en el momento de los hechos y condenado a tres años y medio de prisión. Los otros ocho acusados serían miembros de la organización local de defensa de los derechos humanos Fundación Cubana de Derechos Humanos (FCDH) y habrían sido condenados a penas que van de tres años de residencia vigilada a siete años de prisión incondicional. Estas personas son **Lázaro Iglesias Estrada, Enrique García Morejón, Antonio Marcelino García Morejón, Delio Laureano Requejo Rodríguez, Virgilio Mantilla Arango, Odalmis Hernández Márquez, Ana Peláez García y Juan Carlos González Leyva**, abogado invidente y presidente de la FCDH.

273. El 16 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura y el Relator especial sobre el derecho de toda persona al disfrute del más alto nivel posible de salud física y mental, envió una comunicación en relación con la situación de algunas de las personas detenidas en marzo de 2003 y acusadas de participar en actividades consideradas por el Gobierno como subversivas y perjudiciales para el orden interno de Cuba, o favorables al embargo y a otras medidas afines adoptadas por Estados Unidos contra Cuba. La Fiscalía les habría acusado de publicar artículos críticos sobre asuntos económicos, sociales y de derechos humanos en Cuba, de participar en grupos no oficiales considerados por las autoridades como contrarrevolucionarios y de mantener contactos con individuos juzgados hostiles a los intereses del país. Las personas detenidas habrían sido declaradas culpables en virtud del artículo 91 del Código Penal y de la Ley de Protección de la Independencia Nacional y la Economía de Cuba. Estas personas habrían sido sentenciadas a penas de encarcelamiento de entre 6 y 28 años. Los Relatores Especiales han recibido información reciente según la cual al menos 75 de estas personas encarceladas estarían padeciendo diversas enfermedades de distinta gravedad. No todas estas personas recibirían el tratamiento adecuado para su estado de salud. En particular, los Relatores Especiales han recibido las alegaciones siguientes:

- **Víctor Rolando Arroyo Carmona**, 52 años, vicepresidente del Foro por la Reforma, un grupo no oficial, y miembro de la Unión de Periodistas y Escritores Cubanos Independientes (UPECI), que tampoco es oficial. Habría sido condenado a 26 años de prisión. Su lugar de residencia sería Pinar del Río, y estaría cumpliendo condena en la Prisión Provincial de Guantánamo. Según la información recibida, el 31 de diciembre de 2003 tres guardias lo habrían sacado de su celda, arrastrándolo por el suelo y golpeándolo en la cara y en el cuerpo. Los guardias lo habrían inmovilizado agarrando una de sus piernas con una puerta y siguieron golpeándolo. Esta paliza se habría producido después de que el preso se quejara por ser trasladado a otro edificio de la cárcel, donde presos acusados de delitos comunes se encontrarían reclusos en muy malas condiciones. Víctor Rolando Arroyo Carmona padecería varias dolencias, como hipertensión, dolores de cabeza, pérdida de peso y diarrea. Sus familiares habrían denunciado que no recibe el tratamiento médico apropiado. Se alega igualmente que los guardias penitenciarios trataron de manera humillante a unos familiares, cuando éstos intentaron visitarle en agosto de 2003;
- **Margarito Broche Espinosa**, 45 años, miembro del Comité Ciudadano local, asociación no oficial integrada en la iniciativa del Proyecto Varela, y fundador de

un grupo denominado Asociación Nacional de Balseiros, Paz, Democracia y Libertad del Centro Norte de Cuba. Habría sido condenado a 25 años de prisión. Su lugar de residencia sería Caibarién, provincia de Villa Clara, y estaría cumpliendo condena en la prisión de Guanajay, provincia de La Habana. Padecería bronquiectasia, uno de cuyos síntomas sería una tos constante. Sufriría también una úlcera en el intestino delgado e hipoglucemia crónica. Se alega que no recibiría un tratamiento médico adecuado para estas enfermedades. Además, se alega que no habría podido recibir ni enviar correspondencia de forma regular. Según la información recibida, el 3 de enero de 2004 Margarito Broche Espinosa inició una huelga de hambre, con una duración prevista de 75 días;

- **Próspero Gáinza Agüero**, delegado del Movimiento Nacional de Resistencia Cívica Pedro Luis Boitel, una organización no oficial, en la provincia de Holguín. Habría sido condenado a 25 años de prisión. Su lugar de residencia sería Moa, provincia de Holguín, y estaría cumpliendo condena en la Prisión Provincial de Boniato, provincia de Santiago de Cuba. Se alega que en julio de 2003, cuando sufría una fiebre muy alta debida a un fuerte ataque de gripe, fue encadenado de pies y manos y trasladado a la enfermería de la cárcel. El 31 de agosto de 2003, junto con otros cinco presos de la prisión de Boniato, habría empezado una huelga de hambre para llamar la atención sobre sus condiciones de reclusión, en particular, higiene deficiente, alimentación escasa y asistencia médica limitada. Inmediatamente, las autoridades penitenciarias habrían trasladado a distintas prisiones a algunos de los huelguistas. Se alega igualmente que como una forma de castigo adicional, no se le habría permitido tener una Biblia en la celda, ni recibir ni enviar correspondencia con la misma libertad o frecuencia que a otros presos;
- **Juan Roberto de Miranda Hernández**, 57 años, fundador y presidente del Colegio de Pedagogos Independientes de Cuba. Habría sido condenado a 20 años de prisión. Su lugar de residencia sería La Habana y estaría cumpliendo condena en la Prisión Combinado del Este, La Habana. Su estado de salud sería delicado. En abril de 2003 habría sido ingresado brevemente en un hospital militar para ser tratado de una afección cardíaca. Posteriormente habría sido sometido a una operación de las válvulas del corazón y a una intervención urgente como consecuencia de una oclusión de la arteria coronaria. Presentaría síntomas como hipertensión y fuertes dolores de cabeza. En octubre de 2003, habría sido sometido a una serie de exámenes médicos en el hospital Hermanos Almejeiras de La Habana. Sin embargo, se alega que no habría recibido tratamiento médico para un quiste de gran tamaño en la espalda. En numerosas ocasiones sus familiares habrían sufrido actos de acoso por parte de las autoridades, como amenazas de detenerlos de forma arbitraria;
- **Miguel Galván Gutiérrez**, 39 años, autor de varios artículos para la agencia de prensa no oficial Havana Press, antiguo presidente del Colegio de Ingenieros y Arquitectos de Cuba, un organismo no oficial, y coordinador de zona del Proyecto Varela. Habría sido condenado a 26 años de prisión. Su lugar de residencia sería Guines, provincia de La Habana, y estaría cumpliendo condena en la Prisión de Agüica, municipio de Colón, provincia de Matanzas. Se encontraría físicamente disminuido como consecuencia de un accidente de tráfico que sufrió en 1998. Su

estado de salud se habría deteriorado durante su detención. Según funcionarios de la prisión el deterioro de su estado de salud estaría relacionado varias huelgas de hambre a las que habría participado desde su encarcelación. Padecería diarrea, dolores abdominales, dolores en las articulaciones e inflamación en los pies, así como dificultades en el brazo que tiene impedido. Se alega que funcionarios de la prisión lo han amenazado en repetidas ocasiones con un nuevo juicio por haber redactado, junto con otros reclusos, un documento dirigido a la Cumbre Iberoamericana celebrada en Bolivia en noviembre de 2003, exigiendo la libertad de las personas encarceladas por motivos supuestamente políticos. Además, a Miguel Galván no se le habría permitido recibir ni enviar correspondencia con la misma libertad o frecuencia que a otros reclusos;

- **Juan Carlos Herrera Acosta**, 37 años, miembro del Movimiento Cubano de Jóvenes por la Democracia y de la Asociación de Presos Políticos Pedro Luis Boitel, organizaciones que no han sido reconocidas por las autoridades. Habría sido condenado a 20 años de prisión. Su lugar de residencia sería Guantánamo y estaría cumpliendo condena en la Prisión Kilo 7, Camagüey. Anteriormente, habría estado recluido en la Prisión Provincial de Boniato, en la provincia de Santiago de Cuba, y en la prisión Kilo 8 de Camagüey. Padecería varias afecciones, entre las cuales destacan úlceras en la piel y problemas cardiovasculares. En la cárcel no habrían podido administrarle el medicamento adecuado para su estado de salud. Cuando unos familiares habrían conseguido el medicamento, no se les habría permitido entregarlo al preso. El 31 de agosto de 2003 Juan Carlos Herrera y otros cinco presos de la prisión de Boniato habrían iniciado una huelga de hambre para llamar la atención sobre sus condiciones de reclusión y quejarse por problemas de higiene deficiente, alimentación escasa y asistencia médica limitada. En el transcurso de esta huelga, habría sido transferido a la prisión Kilo 8, en Camagüey. Se alega que en septiembre de 2003, él y otros presos de la prisión Kilo 8 habrían sido amenazados con la suspensión de las visitas de sus cónyuges y de otros familiares si seguían leyendo la Biblia en sus celdas. Se alega además que como una forma de castigo adicional, no le permitirían hablar por teléfono con sus familiares y no podría recibir ni enviar correspondencia con la misma frecuencia que otros presos;
- **Jorge Olivera Castillo**, 41 años, director de la agencia de prensa no oficial Havana Press. Habría sido condenado a 18 años de prisión. Su lugar de residencia sería La Habana y estaría cumpliendo condena en la Prisión provincial de Guantánamo. Se alega que en el momento de su detención, Jorge Olivera estaba siendo tratado de una inflamación crónica del intestino, una hernia de hiato, reflujo gástrico, una enfermedad del recto indeterminada e infección parasitaria. En diciembre de 2003 fue sometido a un examen médico en el que se le habría diagnosticado hipertensión, un alto nivel de colesterol e infección por parásitos. Además habría experimentado una gran pérdida de peso. Sus familiares se habrían mostrado preocupados por la posibilidad de que no estuviese recibiendo la atención médica adecuada para sus enfermedades en la prisión provincial de Guantánamo. Las cartas escritas por el recluso o por sus familiares no llegarían a su destino, y se teme que su correspondencia pueda ser más restringida que la de otros presos como una forma de acoso;

- **Héctor Palacios Ruiz**, 62 años, director del Centro de Estudios Sociales, una organización no oficial, y secretario del Comité de Relatoría de la coalición Todos Unidos. Habría sido condenado a 25 años de prisión. Su lugar de residencia sería La Habana y estaría cumpliendo condena en la Prisión Kilo 5 ½, provincia de Pinar del Río. En noviembre de 2003, Héctor Palacios Ruiz se habría quejado en una de sus cartas del maltrato y de la actitud agresiva del personal de la cárcel. Posteriormente funcionarios de prisiones habrían advertido a algunos familiares que no dieran cuenta de sus quejas a los medios de comunicación. En enero de 2004 Héctor Palacios habría empezado a sufrir diarrea y presentado infección de oídos, hipertensión y problemas de riñón y vesícula. En febrero de 2004, habría sido hospitalizado para ser operado de la vesícula. Las autoridades penitenciarias habrían señalado que sería sometido a una intervención quirúrgica para paliar este problema, pero no se habría comunicado la fecha de la operación. Sus familiares también habrían sido objeto de acosos. En septiembre de 2003, a su esposa, **Gisela Delgado**, directora ejecutiva del Proyecto de Bibliotecas Independientes de Cuba, se le habría denegado el permiso que había pedido para salir del país con el fin de atender una invitación de los organizadores de una feria de libros celebrada en la ciudad sueca de Gotemburgo. Las autoridades le habrían dicho: “Una contrarrevolucionaria no puede abandonar el país”;
- **Ariel Sigler Amaya**, 39 años, miembro del grupo no oficial Movimiento Opción Alternativa. Habría sido condenado a 20 años de prisión. Su lugar de residencia sería Pedro Betancourt, provincia de Matanzas, y estaría cumpliendo condena en la Prisión Provincial de Ciego de Ávila. Habría estado recluida en una celda de castigo sin adecuada luz ni agua. Según informes, sus familiares estarían preocupados por su mal estado de salud. Habrían asegurado que no recibe la alimentación ni la atención médica adecuada y acusado a las autoridades penitenciarias de no facilitarles información sobre su estado de salud. Entre otras dolencias, padecería rigidez muscular, que le impide hablar y moverse con normalidad. En enero de 2004, se le habría prohibido leer la Biblia.

274. Por carta con fecha de 30 de septiembre de 2004, el gobierno transmitió la siguiente información en relación con la comunicación del 16 de septiembre de 2004. En los casos de **Victor Rolando Arroyo Carmona, Margarito Broche Espinosa, Próspero Gainza Agüero de Cuba, Juan Roberto de Miranda Hernández, Miguel Galván Gutiérrez, Juan Carlos Herrera Acosta, Jorge Olivera Castillo, Héctor Palacios Ruiz y Ariela Sigler Amaya**, todas las alegaciones transmitidas por los Relatores Especiales serían falsas. Dichas personas no habrían sido arrestadas, enjuiciadas y sancionadas por el ejercicio o defensa de la libertad de expresión por no ser ninguna de ellas periodistas. Las personas arriba mencionadas habrían servido como mercenarios asalariados de la política de Estados Unidos contra Cuba y habrían participado en actos contra el orden constitucional cubano y las leyes cubanas. Todos habrían sido juzgados y sancionados por tribunales competentes, tras haberse cumplido todas las garantías del debido proceso. Todos habrían contado con el derecho de apelarse a un tribunal superior. Sus familiares habrían tenido acceso a los juicios y tendrían acceso periódico a las prisiones donde se encontraban. Ninguna de las alegaciones transmitidas por los relatores habría sido radicada ante la Fiscalía General de la República ni ante las autoridades pertinentes del sistema penitenciario. Las personas arriba mencionadas gozarían de todos los derechos de que gozan todos los presos en Cuba, incluso servicios de atención médica, una adecuada

alimentación, visitas familiares, acceso a pabellones conyugales, derecho a recibir correspondencia y mantener comunicación telefónica con la familia, derecho a ejercer un empleo remunerado, el disfrute de escuelas, entre otros. Todos tendrían derecho de ejercer su libertad de expresión y no estaría prohibido tener Biblia en las celdas. Serían falsas todas las acusaciones de amenazas o maltratos contra las personas arriba mencionadas por parte del personal de la prisión y de denegación de atención médica.

275. El 22 de septiembre 2004 el Relator Especial envió una comunicación en relación con el periodista **Abel Escobar Ramírez**, corresponsal de la agencia independiente Cuba Press, que el 29 de octubre de 2003, habría sido detenido por una patrulla de la Policía Nacional Revolucionaria en la carretera entre su pueblo de Patria y Morón. Según las informaciones recibidas, El Sr. Escobar Ramírez habría sido conducido a la sede provincial del Departamento de la Seguridad del Estado en Ciego de Ávila. Al periodista le habrían registrado e incautado su magnetófono, así como cuatro casetes que contenían informaciones destinadas al sitio www.nuevaprensa.org. Después de 72 horas de detención, el Sr. Escobar Ramírez habría sido liberado.

276. El 31 de diciembre de 2003, el periodista **Víctor Rolando Arroyo Carmona** habría sido golpeado violentamente por autoridades carcelarias en la cárcel provincial de Guantánamo. De acuerdo con las informaciones recibidas, los guardianes lo habrían sacado de su celda y llevado a una habitación donde lo habrían golpeado y herido.

277. El 10 de enero de 2004, una ley que restringe el acceso a Internet habría entrado en vigor. De acuerdo con las informaciones recibidas, la ley limitaría el acceso a Internet a aquellos que, como las empresas oficialmente reconocidas y las oficinas gubernamentales, tengan cuentas telefónicas especiales pagaderas en dólares estadounidenses. Esto impediría a los ciudadanos cubanos corrientes acceder al servicio.

278. Por carta de fecha 1.º de diciembre de 2004, el Gobierno respondió a la comunicación del 22 de septiembre de 2004. Respecto a la temática de los medios de comunicación y más específicamente el uso de internet, el Gobierno reiteró su compromiso en garantizar a la ciudadanía un acceso amplio a la información más diversa. En este sentido subrayó la importancia de la tecnología en los servicios de información y comunicaciones, lo cual incluye a Internet, y defendió los programas dirigidos a potenciar su uso por todos los cubanos y cubanas. El Gobierno matizó en cualquier caso, que la escasez de recursos y la necesidad de favorecer al mayor número de individuos posible, provocaba que la conexión a Internet fuera facilitada sólo a través de determinados puntos de interés social y comunitario. En el orden individual, se privilegiaba en la distribución de las capacidades de conexión a médicos, intelectuales e investigadores entre otros. Facilitó datos relativos al curso 2003 en el que el número de computadoras existentes alcanzaba los 270.000, estando un 65 % de ellas conectada a la Red, el país disponía de 750 sitios registrados en Internet y se habían registrado más de 480.000 cuentas de correo electrónico. El Gobierno confirmó que eran cientos de miles las personas que accedían en Cuba a Internet, y que el número de gente iría aumentando progresivamente en la medida que las condiciones económicas del país así lo permitieran. Preciso que en la Educación Superior, la práctica totalidad de los profesores y la gran mayoría de los alumnos se comunicaban con Internet y que las restricciones sólo estaban vinculadas a los recursos disponibles y a la velocidad que permitían las redes locales.

Seguimiento de comunicaciones transmitidas previamente

279. Por carta fechada el 25 de octubre de 2004 el Gobierno contestó a la comunicación transmitida por el Relator Especial el 28 de noviembre de 2003 (E/CN.4/2004/62/Add.1) con respecto a la situación de **Oscar Espinosa Chepe**. El Gobierno negó los hechos resumidos en la carta y señaló que el citado ciudadano habría contado sin excepción con toda la atención y tratamientos médicos necesarios y con el derecho a varias visitas familiares.

Observaciones

280. El Relator Especial da las gracias al Gobierno por sus respuestas a las comunicaciones con fechas 28 de noviembre de 2003, y 16 y 22 de septiembre de 2004, si bien espera otras respuestas a sus comunicaciones del 19 de enero y 12 de agosto de 2004.

Czech Republic

281. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning **Mr. Tomas Nemecek**, editor-in-chief of the weekly *Respekt*, who on 17 January 2004 was attacked with tear gas and then kicked and punched in the head by two men after leaving a shop near his Prague home. His assailants neither said anything to him nor did they rob him. He was hospitalized with injuries to his head and face. This attack could be linked with several articles published by the journalist in early January 2004 about a criminal gang operating in Most and Litvinov, in northern Bohemia, and the police's failure to take action against the gang. The newspaper has also published investigative reports on such sensitive issues such as a neo-Nazi group's racist behaviour towards Roma people in the eastern region of Ostrava, arms trafficking, and the privatization of coal mines in northern Bohemia.

282. On 16 December 2004, the Government sent a response to the communication of 30 September 2004 concerning **Mr. Tomas Nemecek**, editor in chief of *Respekt* weekly. According to the Government he was assaulted by two men in Mirovicka street, Praha 8 (in front of house 1116/29) on 17 January 2004 at 8.30 a.m. One of the men was later tracked down and charged with complicity in an assault causing bodily harm (section 9, para. 2 and section 222, para. 1 of the Criminal Code). He never admitted to the charges. However the Public Prosecutor, finding enough evidence pointing towards him, approved the criminal charges brought by the police. He was tried on 6 December 2004 and sentenced to 2.5 years in prison without suspension. The decision was not yet final at the time this reply was sent because the accused appealed the decision. The second attacker has not yet been apprehended. The Government also claims that the motive for the assault was never established. Due consideration was given to his situation as editor in chief of a weekly journal publishing articles on corruption in Most and Usti and Labem regions. This line of investigation did not, however, yield any results. An intensive search for the second aggressor remains underway.

Observations

283. The Special Rapporteur thanks the Government for its reply to his communication of 30 September 2004.

Democratic Republic of the Congo

284. Le 15 janvier 2004, le Rapporteur spécial a envoyé une communication au Gouvernement concernant le cas des personnes suivantes: **Mvidie, Tshitenge, Shango Onokoko, Soki Muanda, Gusonega, Batudianga, Nkanza, Mantuala et Basilua**, journalistes et syndicalistes de la chaîne de la Radiotélévision Nationale Congolaise (RTNC), qui auraient été condamnées le 5 janvier 2004, par le tribunal de paix de Kinshasa/Gombe, à 12 mois de prison ferme et au paiement de dommages et intérêts de 2 500 dollars chacun pour diffamation et dénonciation calomnieuse à l'endroit de l'ancien ministre de la communication et de la presse. Selon les informations communiquées, fin février 2003, l'assemblée générale des journalistes et agents de la RTNC demandait la démission du ministre de l'époque, et la réhabilitation du directeur général suspendu de la RTNC, Luboya Mvidie. À l'issue de l'assemblée générale, les neuf délégués syndicaux de la RTNC susmentionnés auraient adressé un memorandum au Président Joseph Kabila, avec copies à toutes les autorités, dénonçant, entre autres, «le détournement de deux émetteurs radiotélévision du lot des équipements achetés par la RDC (et) le détournement des recettes du loyer du patrimoine de la RTNC», et demandant le limogeage du Ministre de la communication et de la presse. Le 20 mars, le Ministre aurait déposé une plainte pour diffamation à l'encontre des neuf journalistes et agents de la RTNC, en vertu de l'article 74 du Code pénal. Selon les informations reçues, les accusés n'étaient pas présents au tribunal lors du prononcé de la sentence et étaient en liberté au moment de l'envoi de la communication.

285. Le 4 mars 2004, le Gouvernement a répondu à la communication du 15 janvier 2004, informant le Rapporteur spécial que la lettre a été adressée aux Ministères de la justice et des droits humains, afin d'obtenir des informations sur les mesures ayant été prises à la suite de cette condamnation du tribunal de paix de Kinshasa/Gombe.

286. Le 20 janvier 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication concernant **Nicaise Kibel'Bel Oka**, directeur de publication de l'hebdomadaire *Les Coulisses*, publié à Beni, qui serait l'objet de menaces de mort de la part de cinq cadres civils et militaires (dont les noms sont connus du Rapporteur spécial) du Rassemblement pour la démocratie-Mouvement de libération (RCD-ML), l'un des principaux partis des forces gouvernementales, suite à la parution d'un article dans lequel il aurait accusé des dirigeants du RCD-ML de créer de l'insécurité dans le nord-est du pays pour asseoir leur pouvoir. Selon les informations communiquées, dans le numéro 134 de l'hebdomadaire *Les Coulisses*, Kibel'Bel Oka avait publié une enquête au sujet de violents affrontements, en décembre 2003, dans la région de Beni (nord-est du pays), enquête qui contredisait la version gouvernementale sur les causes des affrontements, alléguant que les rebelles mis en cause étaient en réalité utilisés par le RCD-ML pour créer un climat de terreur et permettre aux dirigeants locaux de maintenir une présence militaire forte dans la région. Des officiers du RCD-ML auraient appelé M. Kibel'Bel le 10 janvier 2004, et auraient menacé de l'abattre «s'il remettait le pied à Beni».

287. Le 13 février 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a envoyé une communication concernant **Télesphore Namukama**, chargé des émissions à «Héritier de la Justice», une ONG de défense des droits de l'homme basée à Bukavu, chef-lieu de la province du Sud-Kivu, et présentateur sur Radio Sahuti ya Réhéma (La voix de la miséricorde) d'une émission en swahili intitulée «Plaidons pour la justice», qui aurait été interpellé, le 12 février

2004 à 15 heures, par des agents de la Direction de la sécurité et du renseignement (DSR). Selon les informations reçues, la DSR reprocherait à M. Namukama d'avoir «semé le trouble dans les esprits de la population» de Bukavu dans son émission du 10 février, dans laquelle il avait parlé de découvertes récentes de caches d'armes dans la ville de Bukavu, concluant que «la paix dans la province du Sud-Kivu n'est pas pour demain». Il semblerait que le 12 février au soir M. Namukama était toujours en train d'être entendu sur procès-verbal. Les informations reçues indiquent également que les locaux de Radio Sahuti ya Réhéma auraient été investis les 10 et 11 février par des agents de la DSR.

288. Le 24 février 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse 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 une communication concernant des rapports selon lesquels **Mlles Kanya Munga, Pélagie, Wivine et Elga**, étudiantes infirmières à l'Institut supérieur des techniques médicales de Kisantu (ISTM-K), auraient été arrêtées le 5 février 2004 à Kisantu, dans la province du Bas-Congo, vraisemblablement à la suite d'une manifestation de protestation contre la hausse excessive des frais de minerval. Selon les informations communiquées, elles auraient été acheminées dans un cachot situé à Kasangulu, province du Bas-Congo, et, après huit jours de détention, mises en liberté sous paiement d'une caution de 13 000 francs congolais, sur ordre du procureur. Il semblerait qu'elles auraient de nouveau été arrêtées le 21 février et placées en détention dans un cachot situé à la cité de Kimbala.

289. Le 27 février 2004, le Rapporteur spécial, conjointement avec le Vice-Président-Rapporteur du Groupe de travail sur la détention arbitraire, la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant l'arrestation alléguée des responsables du parti politique Démocratie chrétienne (DC) à Lodja. Selon les informations reçues, une délégation de DC, constituée de **MM. Ekanga Voki, Diongokene Omekenge et Lokunga Adima**, se serait rendue à Lodja (territoire de Sankuru) dans le but d'implanter le parti dans ce territoire, et aurait été arrêtée à l'aérodrome de Lodja sur ordre du gouverneur RCD (Rassemblement congolais pour la démocratie) du Kasai-Oriental. Il semblerait que des militants de la DC qui auraient effectué le déplacement à l'aéroport pour recevoir la délégation auraient également été appréhendés. Toutes ces personnes auraient été placées en détention, et subiraient des traitements inhumains ou dégradants. Deux défenseurs des droits de l'homme qui seraient intervenus en faveur des victimes auraient aussi été arrêtés et placés en détention. Il semblerait que les autorités territoriales de Lodja reprocheraient à ces personnes d'avoir violé le territoire du RCD.

290. Le 6 avril 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a envoyé une communication au sujet de **Norbert Kisanga**, un journaliste, qui aurait été battu durant les six jours qu'aurait duré sa détention aux mains de membres de la Direction générale de sécurité (DSR) du Rassemblement congolais pour la démocratie-Goma (RCD-Goma) en octobre 2001. Son journal, *Les Coulisses*, aurait dénoncé l'implication d'officiers du RCD-Goma dans l'importation de contrefaçons. En parallèle, **Claude Olenga Sumaili**, un prêtre de l'Église catholique romaine et membre de la Commission de justice et paix, aurait été battu durant plusieurs heures par des membres de la DSR le 9 août

2001. Il semblerait que ces événements aient fait suite à une émission radiophonique dans laquelle il aurait soutenu la démilitarisation de Kisangani.

291. Le 22 avril 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la question de la torture, la Rapporteuse spéciale 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 une communication sur la situation de **Dieudonné Been Masudi Kingombe**, directeur du Centre des droits de l'homme et du droit humanitaire (CDH), une association de défense des droits de l'homme basée à Lubumbashi, **Grégoire Mulamba Tschisabamka**, Secrétaire général de la CDH et **M^e Freddy Kitoko**, vice-président de l'ASADHO/Katanga. Selon les informations reçues, M. Dieudonné Been Masudi Kingombe aurait été arrêté le samedi 10 avril 2004 à 18 heures, à Lubumbashi, par des officiers de l'Agence nationale de renseignements (ANR). Il aurait été transféré à la direction provinciale de l'ANR où il aurait été frappé violemment au corps et à la tête. M. Been Masudi aurait été libéré deux heures plus tard dans un état de santé très précaire. Le motif de son arrestation ne lui aurait pas été communiqué. Grégoire Mulamba Tschisabamka et M^e Freddy Kitoko auraient quant à eux été arrêtés le 15 avril 2004 par des agents de l'ANR, semble-t-il sur ordre du directeur provincial de l'ANR, dont le nom est connu des Rapporteurs spéciaux et de la Représentante spéciale. Aucune information n'a été reçue sur le lieu de détention de ces personnes ni sur les éventuelles accusations portées contre elles. Il semblerait de plus que l'ANR détiendrait une liste sur laquelle figureraient 10 noms de personnes à arrêter, dont certains noms sont connus des Rapporteurs spéciaux et de la Représentante spéciale, toutes membres d'associations de défense des droits de l'homme. Ces arrestations seraient intervenues après la parution, le 6 avril 2004, d'un communiqué de presse du CDH dénonçant la situation d'insécurité des ressortissants de la province de l'Équateur vivant au Katanga. Selon les informations reçues, le 8 avril 2004, l'Observatoire national des droits de l'homme aurait contacté par téléphone les membres du CDH, et les aurait informés du «mécontentement» du gouverneur du Katanga à la suite de la publication de ce communiqué. Depuis le 10 avril 2004, le secrétaire général du CDH, M. Grégoire Mulamba Tschisabamka, aurait reçu plusieurs fois par jour des appels anonymes le menaçant de mort. Des craintes ont été exprimées que ces arrestations soient en relation avec le travail de défense des droits de l'homme des personnes susmentionnées.

292. Le 27 avril 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant **Faustin Bella Mako**, correspondant pour la province du Katanga de l'ONG Journalistes en danger (JED), organisation de formation et de défense des droits des journalistes, et directeur de l'hebdomadaire *Congo News*, paraissant à Lubumbashi, chef-lieu de la province du Katanga, qui aurait été interpellé le 20 avril 2004 vers 11 heures à l'aéroport international de Lubumbashi/Luano par des agents de l'Agence nationale de renseignements. Il semblerait que M. Mako a été arrêté au moment où il s'apprêtait à embarquer à bord d'un vol régulier de la Compagnie africaine d'aviation (CAA) en partance pour Kinshasa. Au moment de l'envoi de la communication, il était semble-t-il détenu dans les cachots de l'ANR dans la commune de Lubumbashi. Bella Mako était semble-t-il attendu le 21 avril à Kinshasa où s'est ouverte une session de formation de tous les correspondants de JED à travers la République démocratique du Congo, consacrée aux techniques d'investigation sur les allégations d'atteintes à la liberté de la presse et la rédaction des alertes.

293. Le 4 mai 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant **M. Paul Nsapu**, qui, rentrant chez lui en voiture dans la nuit du 27 au 28 avril 2004 après avoir assisté au séminaire organisé par l'Organisation internationale de la francophonie (OIF) intitulé «Gestion de la transition au regard du rôle des institutions d'appui à la démocratie», aurait été suivi par deux voitures aux vitres teintées et aux plaques d'immatriculation maquillées. Les conducteurs de ces deux véhicules auraient tenté de provoquer un accident, puis l'auraient poursuivi jusqu'à une station service fréquentée, où M. Nsapu se serait réfugié. Ses poursuivants l'auraient surveillé pendant une demi-heure avant de partir. Des craintes ont été exprimées que cette agression ne représente une forme de représailles pour ses activités en faveur des droits de l'homme. Selon les informations reçues, cette agression serait survenue au lendemain d'une interview que M. Paul Nsapu avait donnée à la télévision Antenne A, reprise par Télé Kin Malebo (TKM), concernant la situation politique en République démocratique du Congo et la suite à donner à la saisine de la Cour pénale internationale (CPI) sur les violations des droits de l'homme dans l'est du pays.

294. Par lettre datée du 3 juillet 2004, le Gouvernement a répondu à la communication envoyée par le Rapporteur spécial le 4 mai 2004 relative à **Paul Nsapu**, l'informant qu'il serait dans l'impossibilité de vérifier les dires énoncés dans l'appel urgent ou d'identifier les responsables, faute d'une plainte de la victime et, par conséquent, d'une enquête ouverte.

295. Le 26 mai 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication concernant **Modeste Shabani**, directeur de la radio «Sauti ya Mkaaji» (La voix du paysan), une radio communautaire émettant dans la ville de Kasongo, qui aurait été interpellé les 10, 11, 13 et 14 mai 2004 par des agents de la police nationale congolaise locale et par des agents des services de renseignements, à la suite d'une plainte déposée à charge de la radio par un adjudant dont le nom est connu des Rapporteurs spéciaux. Selon l'information qui nous a été communiquée, il serait reproché à M. Shabani d'avoir diffusé, les 2 et 3 mai 2004, des informations faisant état de méfaits qu'aurait commis cet adjudant contre des habitants du village de Samba, situé à 45 km de Kasongo. Selon les informations reçues, depuis le 11 mai 2004, cet adjudant ne cesserait de proférer des menaces de mort contre les journalistes de la radio en promettant également de saboter le studio de la radio.

296. Le 28 mai 2004, le Rapporteur spécial a envoyé une communication concernant **Roger-Salomon Lulemba Kiabululu**, correspondant de l'hebdomadaire *L'Éveil* à Tshikapa, dans la province du Kasai-Occidental, qui aurait été condamné, le 25 mai 2004, par le tribunal de paix de Tshikapa à six mois de prison, dont deux avec sursis, et l'équivalent de 526 dollars en dommages et intérêts pour diffamation à l'encontre d'un exploitant de diamants dans la ville de Tshikapa. Les rapports indiquent que, dans son édition du 3 octobre 2003, le journal *L'Éveil*, sous la plume de Roger-Salomon Lulemba Kiabululu, aurait publié un article dans lequel le journaliste aurait fait état d'un conflit opposant des militaires à la solde de cet exploitant de diamants à des jeunes appelés «armée rouge» de la localité de Mutshima, située à 110 km de Tshikapa, vers la frontière sud avec l'Angola. Selon les informations reçues, deux personnes auraient trouvé la mort au cours de ces affrontements. Le journaliste aurait imputé ces faits à cet exploitant, qui aurait déposé une plainte pour diffamation et dénonciation calomnieuse. Le ministère public près du tribunal de paix de Tshikapa, dans son réquisitoire, aurait demandé une peine de 12 mois de prison ferme contre le journaliste. La partie civile, en guise de réparation du

préjudice subi, aurait réclamé des dommages et intérêts de l'ordre de 6 millions de francs congolais (environ 16 000 dollars).

297. Le 2 juin 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **Lucien-Claude Ngongo**, éditeur délégué du journal *Fair Play*, paraissant à Kinshasa, qui aurait été arrêté le 19 mai 2004 par des inspecteurs judiciaires et gardé pendant six jours dans le cachot du parquet de grande instance de Kinshasa/Gombe, avant d'être transféré, le 25 mai, au Centre pénitentiaire et de rééducation de Kinshasa (CPRK, ex-prison centrale de Makala). Selon les informations reçues, et bien que le motif officiel de l'arrestation de M. Ngongo ne soit pas connu, il semblerait que cette arrestation soit liée à une série d'articles publiés par son journal sur le conflit entre deux hommes d'affaires expatriés installés à Kinshasa, dans lesquels M. Ngongo aurait semble-t-il pris parti pour l'un des deux hommes d'affaires et reproduit une lettre du Vice-Ministre de la justice à l'inspecteur général des services judiciaires, datée du 19 avril 2004.

298. À la même date, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication au sujet de rapports selon lesquels **Rose Lukanu Tshakwiza**, journaliste à la station locale de la Radiotélévision Nationale Congolaise (RTNC) et correspondante locale de Radio France Internationale (RFI), et **Pierrot Senga**, également journaliste à la RTNC et correspondant à Lubumbashi du journal *Le Révélateur* paraissant à Kinshasa, feraient l'objet de menaces de mort, semble-t-il proférées par des personnes se présentant comme des membres de la jeunesse de l'Union des fédéralistes congolais (UNAFEC), parti politique dont le président est le ministre de la justice, et dont le représentant local est un député et ancien gouverneur de la province du Katanga – dont le nom est connu des Rapporteurs spéciaux. Selon les informations reçues, les militants de l'UNAFEC, dont semble-t-il un conseiller du député, dont le nom est également connu des Rapporteurs spéciaux, et semble-t-il un conseiller du ministre de la justice en séjour à Lubumbashi, reprocheraient à Rose Tshakwiza de n'avoir pas mentionné, dans son émission «L'Invité de la semaine» du 24 mai, qu'il y aurait eu des morts lors de l'intervention de la police nationale pour disperser, le 19 mai à Lubumbashi, une marche des femmes de l'UNAFEC qui protestaient contre la désignation d'un nouveau gouverneur de la province du Katanga. En parallèle, des menaces de mort auraient également été proférées à l'encontre de Pierrot Senga, qui avait publié, dans la semaine du 21 mai, des informations faisant état de l'agitation créée à Lubumbashi par le député mentionné ci-dessus au lendemain de la publication des décrets présidentiels nommant les nouveaux gouverneurs des provinces, qui, pour n'avoir pas été désigné gouverneur, aurait protesté pour fraude.

299. Le 3 juin 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication concernant des rapports selon lesquels **Jean-Jacques Luboya Samba Shake**, éditeur du journal *La Vérité*, paraissant à Lubumbashi, serait victime de menaces de mort, semble-t-il provenant de proches d'un député et ancien gouverneur de la province du Katanga (référence est faite à la communication envoyée le 2 juin 2004 concernant deux cas semblables). Selon les informations communiquées, ces menaces seraient liées à des articles parus dans l'édition du 27 mai de *La Vérité*, indiquant que la tête de Jean-Claude Muyambo, président de la Communauté des sudistes de Lubumbashi, a été «mise à pris par la bande [de ce député]».

300. Le 9 juin 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire a envoyé une communication concernant **Albert Kassa Khamy Mouya**, ancien directeur de publication du journal *Le Lauréat* et actuellement journaliste à *Fair Play*, et de **Rakys Bokela**, éditeur du journal *Le Collecteur*. Selon les informations reçues, M. Mouya serait détenu au Centre pénitentiaire et de rééducation de Kinshasa (CPRK) où il aurait été transféré le 3 juin 2004. Il est rapporté qu'il avait été incarcéré précédemment au cachot du parquet général près la cour d'appel de Kinshasa/Gombe depuis le 27 mai 2004. Cette arrestation serait liée à une poursuite pour diffamation, à la suite d'un article publié en mars 2004. Par ailleurs, Rakys Bokela serait détenu au CPRK, ex-prison centrale de Makala, également depuis le 27 mai 2004. Il serait poursuivi pour diffamation pour avoir permis la publication le 18 février 2004 dans *Le Collecteur* d'un article dans lequel il aurait accusé l'ancien président de la Fédération congolaise de boxe (FECOBOS) de mauvaise gestion.

301. Le 14 juin 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **Gustave Kalenga Kabanda**, éditeur et directeur de *La Flamme du Congo*, paraissant à Kinshasa, qui aurait été arrêté le 7 juin 2004 par des inspecteurs de la police judiciaire qui auraient affirmé agir sur ordre du vice-président de la République, puis conduit au cachot «casier judiciaire» à Kinshasa/Gombe et transféré le 9 juin au cachot du parquet général près du tribunal de grande instance. Selon les informations communiquées, M. Kabanda serait accusé d'espionnage par le Vice-Président pour avoir filmé sans autorisation le chantier de sa résidence à Gemena lors d'une visite de plusieurs journalistes qui s'est déroulée du 29 mai au 5 juin. Il est rapporté que le 31 mai, le groupe de journalistes avait été interpellé et gardé à vue durant quatre heures par les services de renseignements du Mouvement pour la libération du Congo pour avoir filmé la maison du Vice-Président sans autorisation. Les appareils de communication et les cassettes appartenant aux journalistes auraient été confisqués à cette occasion. Le 1^{er} juin, M. Kabanda aurait comparu devant le procureur général de Gemena qui l'aurait accusé de violation de domicile. Il aurait été ensuite conduit à la prison centrale de Gemena puis aurait bénéficié cinq jours plus tard d'une libération provisoire. Le 6 juin à l'aube, des militaires se seraient présentés au domicile de M. Kabanda pour l'arrêter mais y aurait renoncé lorsque ce dernier leur aurait présenté l'attestation de liberté provisoire, puis arrêté de nouveau le 7 juin. Il est rapporté que depuis son arrestation du 7 juin, M. Kabanda n'aurait pas été entendu par un magistrat.

302. Le 23 juin 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication concernant **Modeste Shabani**, directeur de la radio communautaire et associative «Sauti ya Mkaaji», émettant à Kasongo, dans la province du Maniema, pour lequel le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur les exécutions sommaires, extrajudiciaires et arbitraires ont envoyé une communication le 26 mai 2004 (voir ci-dessus). D'après les informations reçues, le 20 juin 2004 dans la matinée, des hommes armés, conduits par un colonel de la garnison de Kasongo, dont le nom est connu des Rapporteurs spéciaux, auraient fait irruption dans les locaux de la station de radio, menacé le personnel présent et battu Modeste Shabani, auquel ils auraient reproché de s'intéresser de trop près aux violations des droits de l'homme prétendument commises dans cette région. Au moment de l'envoi de la communication, le journaliste faisait-il toujours l'objet de soins intensifs à l'hôpital

général de Kasongo. Aux vues des informations reçues et des précédentes menaces de mort dont Modeste Shabani et les journalistes de «Sauti ya Mkaaji» auraient fait l'objet, des craintes ont été exprimées pour leur intégrité physique et mentale.

303. Le 22 juillet 2004, le Rapporteur spécial a envoyé une communication concernant **Brahimu Mohamed Kambumbu** et **Losatcha Omenguo**, respectivement présentateur et rédacteur en chef à la Radiotélévision Nationale Congolaise (RTNC) à Kindu, qui, selon les informations communiquées, seraient poursuivis devant le tribunal de grande instance de Kindu pour «diffamation et injures» à l'endroit de l'ancien président local de l'Initiative congolaise pour la reconstruction de Goma (ICG), une plate-forme d'ONG de développement dont le siège est à Kinshasa/Limeté. Il est rapporté que la RTNC/Kindu aurait diffusé, le 15 mai 2004, une information faisant état de la révocation de cet ancien président pour détournement de fonds. Lors de leur première comparution le 20 juillet 2004, le tribunal aurait exercé des pressions sur les deux journalistes poursuivis afin qu'ils dévoilent la source de l'information diffusée. La prochaine audience était fixée au 3 août 2004.

304. Le 22 juillet 2004, le Rapporteur spécial a envoyé une communication concernant **Deo Namujimbo**, correspondant à Goma de l'Agence de presse internationale SYFIA basée à Montpellier (France). Selon les informations communiquées, depuis le 18 juillet 2004, il serait entré en clandestinité pour se soustraire aux menaces de militaires proches d'un général mutin et agissant sous les ordres d'un certain commandant, dont les noms sont connus du Rapporteur spécial. Il est rapporté que les menaces dont ferait l'objet Deo Namujimbo feraient suite à la publication le 15 juillet 2004 dans l'édition électronique du SYFIA GRANDS LACS d'un article dans lequel il accuserait ce général et ses hommes de faire régner la terreur à Minova. Ce reportage aurait par la suite été repris par des journaux de Kinshasa, notamment le quotidien *Le Potentiel* dans son édition n° 3175 du 17 juillet 2004. Il est également rapporté que des témoins auraient affirmé que, depuis le 16 juillet 2004, des militaires dits proches de ce général se seraient renseignés au sujet du journaliste et que, dans la nuit du 17 juillet, les mêmes militaires auraient quadrillé le quartier jusqu'aux environs de 3 heures du matin et qu'ils auraient posé des questions sur l'heure de retour du journaliste.

305. Le 6 août 2004, le Rapporteur spécial a envoyé une communication concernant **Radio Hosanna**, une radio confessionnelle propriété de l'Église «Nouvelle Cité de David» émettant à Lubumbashi, et six membres de son personnel, **Didier Lofoli**, **Roger Senda**, **Constantin Kazadi**, **Maturin Kasumpa**, **Clément Kabwe** et **Mimi Kanjinga**. Selon les informations reçues, le 4 août 2004 vers 16 heures, des agents de l'Agence nationale des renseignements (ANR/Lubumbashi) auraient effectué une descente à Radio Hosanna et y auraient saisi tout le matériel de radio, et procédé à l'arrestation des six personnes susmentionnées et d'un fidèle de l'église présent dans les locaux. Les personnes interpellées étaient semble-t-il détenues dans les locaux de la direction provinciale de l'ANR/Kapenda au moment de l'envoi de la communication. Il semblerait que l'ANR aurait expliqué que ces arrestations ainsi que la saisine du matériel de la radio faisait suite à la diffusion par Radio Hosanna le 31 juillet d'une prédication du pasteur Albert Lusuka du 30 juin, dans laquelle il aurait incité les populations à la révolte contre les autorités nationales. Il est néanmoins allégué que lors de cette prédication, le pasteur Lusuka avait évoqué le rôle de l'Église en République démocratique du Congo et affirmé que les pouvoirs publics étaient incapables de répondre aux besoins élémentaires de la population. Il est également rapporté que le pasteur Lusuka avait été

interpellé les 7 et 13 juillet, puis arrêté le 3 août par l'ANR/Lubumbashi suite à la première diffusion de cette prédication le 1^{er} juillet.

306. Le 24 août 2004, le Rapporteur spécial a envoyé une communication concernant **Jean Kasangana Mbengu** et **Diaki Vangamene**, respectivement journaliste et caméraman à la Radiotélévision Nationale Congolaise (RTNC), qui auraient été arrêtés à Kamituga le 19 août 2004 et emmenés à Bukavu où ils étaient semble-t-il détenus au secret au moment de l'envoi de la communication.

307. Le 13 octobre 2004, le Rapporteur spécial a envoyé une communication concernant les cas suivants:

- **Niçaise Kibel-Bel-Oka**, directeur du journal *Les Coulisses* paraissant à Béni, aurait été condamné le 19 juin 2004 à six mois de prison ferme avec arrestation immédiate et au paiement de 5 000 dollars de dommages et intérêts pour diffamation par le tribunal de paix de Béni. Selon les informations communiquées, il aurait été interpellé à son domicile vers 15 heures par quatre agents des renseignements militaires agissant sous les ordres du procureur. Il aurait été conduit directement à la prison centrale de Béni où le jugement lui aurait été communiqué. Il est également rapporté que Niçaise Kibel-Bel-Oka avait été condamné le 2 mars, par défaut, par le même tribunal à cinq ans de prison et au paiement de 2 000 dollars de dommages et intérêts pour diffamation et escroquerie. Néanmoins, lorsque la sentence avait été notifiée au journaliste le 20 mars, elle avait semble-t-il été réduite à 5 000 dollars de dommages et intérêts et six mois de prison. Aucune explication n'avait semble-t-il été avancée pour expliquer cette modification de la sentence. Les avocats de Niçaise Kibel-Bel-Oka avaient fait opposition à ce jugement;
- Le 27 avril 2004, à Ngaliema, **une manifestation pacifique des étudiants de l'Institut pédagogique national (IPN)** aurait été réprimée par la police qui aurait fait un usage excessif de la force armée. Il est ainsi rapporté que la police d'intervention rapide (PIR) qui intervenait en renfort d'éléments de la police déjà postés aux abords du campus serait arrivée à bord de quatre camions et quatre véhicules 4x4, et lourdement armés. Les policiers auraient tiré à balle réelle contre les manifestants et se seraient introduits dans le site universitaire pour les poursuivre. Les policiers auraient alors violé en public quatre étudiants et torturé d'autres. Ils auraient en outre extorqué des téléphones et des bijoux à certains étudiants et auraient forcé plusieurs manifestants à se déshabiller en public. Il est aussi allégué que le directeur de l'IPN aurait menacé d'exclure de l'Institut les étudiants qui témoigneraient de ces événements;
- Une note circulaire du Ministère de la presse et de l'information relative au «strict respect des consignes éditoriales en cette période de crise» et diffusée le 12 juin 2004 comporterait des dispositions tendant à imposer une ligne éditoriale aux organes de presse. Il est ainsi rapporté que la note stipulerait que les rédactions qui publieraient des propos tendant à démoraliser les forces armées ou à traiter avec légèreté les événements de cette période seraient sanctionnées;

- **Alexis Ndjeko**, étudiant en dernière année de droit et animateur à la radio universitaire Radio Phoenix Université (RPU), émettant à Lubumbashi, chef-lieu de la province du Katanga, aurait été interpellé le 30 mai 2004 au siège de la RPU, située dans le bâtiment administratif de l'Université de Lubumbashi, par des agents de l'ANR et conduit au cachot de ce service, situé à l'hôtel de ville de Lubumbashi, où il aurait passé deux nuits de détention. Selon les informations communiquées, son arrestation serait liée à la diffusion les 26 et 29 mai de deux communiqués d'un parti politique local dénommé Conscience républicaine pour la démocratie (CRD). Dans le premier communiqué, le CRD appelait la population de la ville de Lubumbashi à observer une journée ville morte en guise de protestation contre l'insécurité grandissante dans la ville, et dans le second communiqué, le parti protestait contre les recherches lancées par l'ANR contre les responsables du parti pour avoir appelé à une action de désobéissance civile;
- **Alexis Mugisha Rubuga**, caméraman à la Radiotélévision Nationale Congolaise (RTNC) à Goma, aurait été interpellé le 18 mai 2004 par deux agents de la Direction spéciale de renseignements (DSR) qui lui auraient confisqué une bande vidéo contenant des images de la manifestation de clôture de l'atelier de redynamisation de la société civile du Nord-Kivu, tenue du 16 au 18 mai. M. Rubuga venait semble-t-il de terminer son reportage sur la clôture de ladite manifestation et se trouvait aux environs du camp militaire de Katindo lorsqu'il aurait reçu un coup de téléphone des deux agents de la DSR lui demandant de les attendre sur place pour une communication venant de l'autorité. À leur arrivée, ils auraient arraché la cassette de la caméra et seraient partis indiquant qu'ils rendront prochainement la cassette. Au jour de l'envoi de la communication, la cassette vidéo n'aurait toujours pas été rendue;
- **Ibrahim Kayembe** et **Ali Tshitoko**, respectivement directeur des programmes et animateur à la radiotélévision Sumbula Number One, auraient été interpellés, le 13 mai 2004 à 9 heures, par quatre militaires des Forces armées congolaises (FAC) appartenant à la première compagnie du bataillon unique de Luiza. Les militaires seraient entrés dans le studio de Sumbula Number One et auraient détruit les cassettes audio et vidéo trouvées dans la cabine technique, avant d'emmener avec eux les deux journalistes. Il serait reproché à M. Tshitoko d'avoir dénoncé, au cours d'une émission libre, le 13 mai à 8 heures, des militaires qui ravissent l'eau à boire vendue dans des sachets en plastique par des enfants de la localité de Sumbula;
- **Laurent Lukengu**, journaliste de la chaîne privée Kasai Horizon Radio Télévision (KHRT), émettant à Tshikapa, aurait été interpellé le 10 mai 2004 et détenu de 9 heures à 17 heures par un officier de police chargé des liaisons à la mairie de la ville de Tshikapa. Pendant sa garde à vue, il aurait été interrogé au sujet des informations diffusées le 8 mai dans son journal, dénonçant le mauvais traitement infligé aux refoulés congolais d'Angola qui rentrent au pays par la frontière à Tshikapa. À l'issue de cet interrogatoire, M. Lukengu aurait été présenté au maire de la ville, qui aurait sommé le journaliste de lui apporter, dans les 48 heures, la liste des commerçants qui auraient cotisé pour venir en aide aux

refoulés d'Angola, faute de quoi, le maire de la ville aurait promis de lui tenter un procès;

- **Maurice Bokoko** et **Valère Mulopo Kisweko**, respectivement deuxième vice-président et secrétaire général de l'Union de la presse du Congo (UPC), auraient été interpellés, le 6 octobre 2003 à 14 heures par des éléments des services spéciaux de la police nationale congolaise (PNC) puis conduits au bureau dit «Kin-Mazière» à Kinshasa/Gombe où ils auraient été détenus pendant cinq heures. Selon les informations communiquées, les services spéciaux de la PNC leur auraient reproché de faire obstruction à l'enquête visant à localiser l'adresse du journal *L'Interprète* ou de son directeur. Cette enquête ferait suite à la publication dans ce journal d'informations relatives à l'assassinat, fin septembre, d'un directeur des impôts. Ces informations seraient considérées comme fausses par la police;
- **Augustin Lubukayi**, directeur général de la Radiotélévision Lumière (RTL), propriété de l'Église Péniel Restaurée à Tshikapa (province du Kasaï-Occidental) aurait été interpellé par des agents de l'Agence nationale de renseignements (ANR) et conduit dans leurs locaux le 3 octobre 2003 à 11 heures. Cette arrestation serait liée à la diffusion, le 1^{er} octobre, d'une émission en langue locale «Kashingi Kaditele» («Aiguille qui coud elle-même»), critiquant les pratiques d'un pasteur qui demanderait 100 dollars à chacun de ses fidèles pour recevoir une bénédiction. Un adepte de l'église incriminée, travaillant à l'ANR, aurait alors décidé d'interpeller M. Lubukayi. Il est rapporté qu'avant sa libération, le 4 octobre, les agents de l'ANR lui auraient fait signer une déclaration par laquelle il dément toutes les informations diffusées par son média;
- **Jean-Denis Lompoto**, directeur de publication du journal satirique *Pili-Pili*, aurait été arrêté le 19 mars 2004 suite à la publication d'un article accusant le Ministre des mines de corruption. Il aurait été transféré le 21 mars à la prison centrale de Kinshasa. Il aurait été accusé, conjointement avec **Prosper Dawe**, éditeur, et **Angwalima**, journaliste, de diffamation à l'encontre du Ministre. M. Lompoto aurait été présenté à un juge le 20 mars mais sans l'assistance d'un avocat. Il aurait été relâché le 27 mars suite au paiement d'une caution de 100 dollars;
- Dans la nuit du 2 au 3 mars 2004, des civils armés se seraient introduits dans les locaux de la **radio communautaire Maendeleo**, à Bukavu, afin d'imposer la diffusion d'un communiqué intitulé «Un cri d'alarme de la communauté banyamulenge de Bukavu», traitant une autre station, Radio Maria, de «média de la haine»;
- Le 17 mars, à Bukavu, la police aurait investi les locaux du mensuel *Le Souverain*, et saisi du matériel sans donner d'explications;
- **Ali Kitoko**, de la radio privée Concorde Nationale, aurait été interpellé à Tshikapa, le 26 mars 2004, alors qu'il se rendait à une convocation de l'ANR, pour répondre d'accusations de «propagation de fausses nouvelles»;

- **Solange Lusiku** de la radio communautaire Radio Maria basée à Bukavu ferait l'objet de menaces par téléphone, depuis le 28 mars. Elle serait semble-t-il menacée pour avoir parlé d'une altercation entre plusieurs étudiants. Des agents de l'ANR seraient venus la chercher à plusieurs reprises dans les locaux de la radio. Elle serait depuis contrainte à la clandestinité;
- Le 29 mars, **Radio Mutshima**, basée près de la frontière angolaise, aurait été interdite de diffusion par l'ANR. Les autorités lui reprocheraient de fonctionner dans l'illégalité, sans autorisation écrite du Ministère de l'information et des services de renseignements;
- Le 30 mars, **Arnaud Zajtman**, correspondant à Kinshasa de la BBC, aurait été convoqué par le parquet général de la République. Il lui aurait été demandé de révéler les sources d'un reportage sur une manifestation de femmes, perçue par le Gouvernement comme une tentative de déstabilisation organisée par l'opposition. Le journaliste aurait refusé, mais il est rapporté qu'il devrait être à nouveau convoqué par le magistrat;
- Sept militaires de la Détection militaire des activités antipatrie (DEMIAP, renseignements militaires) et trois agents de l'Agence nationale de renseignements (ANR) auraient fait irruption, le 1^{er} avril 2004 vers 19 h 30, dans les installations de la **Radio Kilimandjaro**, une radio privée émettant à Tshikapa. Dès leur entrée dans le studio de la radio, ils auraient interrompu les émissions et auraient demandé à chacune des personnes présentes de faire un test de voix pendant deux minutes. À l'issue de cet exercice et après près d'une heure de siège de la radio, ils seraient repartis laissant derrière eux deux agents de l'ANR. Il semblerait que les forces de l'ordre étaient à la recherche de **Sami Mbeto**, animateur de l'émission en langue lingala intitulée «Tongo Etani, Ndeko ya Makambo», qui était absent à leur arrivée. Dans une émission du 1^{er} avril, Mbeto aurait dénoncé les «traitements dégradants» que les services de sécurité militaire et civile feraient subir aux Congolais refoulés d'Angola qui rentrent en République démocratique du Congo par la ville de Tshikapa;
- Une **marche pacifique** prévue le 20 avril 2004 à Kinshasa aurait été interdite par les autorités de la ville aux motifs qu'elle risquerait d'avoir des incidences sur l'ordre public et la protection des personnes et de leurs biens. La marche avait été organisée par les ONG et les associations regroupées au sein de la Dynamique des organisations de la société civile/Forces vives pour manifester contre la guerre, la pauvreté, la partition de la République démocratique du Congo et en faveur de la tenue d'élections libres et démocratiques. La manifestation devait commencer à la gare centrale et finir au Palais des peuples, en passant par le siège de la Mission de l'Organisation des Nations Unies en République démocratique du Congo (MONUC). Les organisateurs de l'événement, dont le Conseil national des organisations de développement (CNOGD), le Centre national d'appui à la participation populaire (CENADEP), et le Réseau national des organisations des droits de l'homme en RDC (RENADHOC), avaient semble-t-il envoyé une lettre d'information au gouverneur de la ville de Kinshasa. Ce dernier leur aurait répondu dans une lettre datée du 19 avril 2004, veille de l'organisation de

l'événement, leur refusant le droit d'organiser cette manifestation. Le 20 avril 2004, les manifestants auraient été dissuadés de se réunir par l'important déploiement policier à la place de la gare centrale et tout au long de l'itinéraire prévu;

- **Acquitté Kisembo**, collaborateur de l'Agence France-Presse (AFP) à Bunia aurait été enlevé par un groupe de miliciens le 26 juin 2003 alors qu'il interviewait des populations civiles. Les miliciens auraient proféré des menaces à son encontre, en raison de sa collaboration avec les médias étrangers, l'AFP en particulier. Depuis cette date, le journaliste est porté disparu;
- **Symphice Kalunga wa Kalunga**, journaliste et présentateur de l'émission «Nouvelle donne», de la chaîne privée de télévision Channel Media Broadcasting (CMB), aurait été interpellé, le 29 octobre 2003, vers midi, au siège de la CMB, par des inspecteurs de la police judiciaire en possession d'un mandat d'amener et accompagnés d'éléments armés de la police nationale congolaise. Il est rapporté que le journaliste aurait été brutalisé au moment de son interpellation, embarqué de force dans un véhicule et menotté puis conduit au parquet de grande instance de Kinshasa/Gombe. Il aurait été interrogé à propos d'une émission diffusée le 23 octobre et au cours de laquelle il avait reçu Kudura Kasongo, président du Front pour l'intégration sociale (FIS), pour faire l'évaluation des 100 jours du Gouvernement, en particulier dans le domaine de la justice. Les interrogateurs l'auraient en particulier pressé de reconnaître avoir insulté le Ministre de la justice lors de son émission. Le journaliste aurait été libéré vers 18 heures après que M. Kasongo se fut présenté pour se constituer prisonnier en déclarant qu'il assumait pleinement la responsabilité de ses propos. La cassette contenant l'émission aurait été saisie.

308. Le 9 novembre 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant les cas résumés ci-dessous:

- Le lieutenant **Constantin Lubala Tshimpuya** alias Mugulu Pande, membre du Groupe spécial de sécurité présidentielle (GSSP) et ancien commandant du cachot du GSSP. D'après les informations reçues, suite à la tenue de propos relatifs à un changement imminent au sein du cabinet du chef de l'État, le lieutenant Lubala Tshimpuya aurait été enlevé dans la journée du 11 septembre 2004 dans un bar situé aux abords du Ministère des travaux publics et infrastructures à Kinshasa/Gombe. L'enlèvement aurait été perpétré par un groupe de militaires du GSSP qui aurait conduit le lieutenant Lubala Tshimpuya à un cachot du GSSP dénommé «cave» au camp militaire Tshatshi. Le 12 septembre 2004, il aurait été frappé à la tête à l'aide de barres de fer et de crosses de fusil, ce qui aurait causé une importante hémorragie et une perte de connaissance. Le 14 septembre 2004, sa dépouille aurait été conduite, par un groupe de militaires du GSSP, à la morgue de l'hôpital général de Kinshasa avant d'être transférée au camp militaire Tshatshi pour inhumation. Il a également été rapporté que des militaires du GSSP auraient menacé la famille du défunt alors que celle-ci souhaitait emmener son corps à Bukavu. Son corps aurait finalement été enterré à Kinshasa à l'insu de sa famille. En outre, le début d'enquêtes au niveau de l'Auditorat militaire et de l'état-major

des renseignements militaires (ex-DEMIAP) ainsi que des rapports adressés au Chef de l'État seraient, à ce jour, restés sans effet;

- **Mbuyi Tshibwabwa**, communément appelé «Mbote ya Kabambi», journaliste de la presse militaire et présentateur de l'émission «Armée et peuple» diffusée tous les jours à 19 heures (heure locale) sur la station locale de la chaîne publique Radiotélévision Nationale Congolaise (RTNC) à Goma, qui aurait été arrêté le 16 août 2004 pour avoir refusé d'obéir aux ordres de sa hiérarchie qui lui aurait demandé d'accompagner le commandant de la 8^e région militaire dans une tournée de «sensibilisation» à l'intérieur de la province du Nord-Kivu. Enfermé au cachot de l'auditorat militaire de Goma, il aurait été battu sur ordre présumé du commandant de la 8^e région militaire avant d'être libéré le 18 août. Un mois avant son arrestation, le journaliste avait consacré une de ses émissions à téléphone ouvert à la problématique de l'insécurité dans la ville de Goma. Les populations qui intervenaient en direct par téléphone auraient alors accusé le commandant de la 8^e région militaire d'être à l'origine du climat d'insécurité. Le 22 août 2004, en raison des actes de torture qu'il aurait subis, il aurait été conduit d'urgence à l'hôpital militaire du camp Katindo-droite où il se trouvait au moment où ces informations ont été reçues.

309. Le 28 décembre 2004, le Rapporteur spécial a envoyé une lettre d'allégation concernant à M. **Feu D'or Bonsange Ifonge**, directeur général du journal *Tapis Rouge*, paraissant à Kinshasa, arrêté le 18 décembre 2004 par la police judiciaire du parquet de grande instance de Kinshasa/Gombe. Le journaliste a été entendu le 20 décembre par un substitut du procureur de la République au sujet de l'article paru le 16 décembre dans le journal *Tapis Rouge* concernant la gestion de la Direction générale des impôts. Bonsange aurait obtenu, le 24 décembre, la liberté provisoire en payant une caution de 340 dollars.

310. Le 30 décembre 2004, le Rapporteur spécial a envoyé un appel urgent concernant Messieurs **Delphin Manesa** et **Jean Kambamba**, journalistes à la Radio Arc-en-ciel émettant à Kamako, qui ont été arrêtés le 28 décembre 2004, par un groupe de policiers de cette localité située dans la province du Kasai-Occidental. Selon les informations parvenues au Rapporteur, les policiers étaient à la recherche de M. Idrissa Katawa, directeur de la Radio Arc-en-ciel, accusé d'avoir dénoncé le comportement des policiers de Kamako, lors d'une émission diffusée le 28 décembre. Katawa aurait accusé les policiers d'utiliser la force pour pousser la population commerçante à intégrer le nouveau marché qui a été construit en ville, alors qu'elle s'y refusait.

Observations

311. Le Rapporteur spécial remercie le Gouvernement pour ses communications du 4 mars et du 3 juillet 2004, en réponse à ses communications du 15 janvier et du 4 mai, mais il regrette de ne pas avoir reçu, au 31 décembre 2004, de réponses à ses autres communications.

Denmark

312. On 12 May 2004, the Special Rapporteur sent an urgent appeal concerning **Jesper Larsen** and **Michael Bjerre**, journalists with the daily *Berlingske Tidende*, who were reportedly charged on 26 April 2004 with "publishing information illegally obtained by a third party" under

article 152-d of the Danish Criminal Code. It is reported that they face a six-month to two year (in case of aggravating circumstances) prison sentence if found guilty. It is further reported that according to the law, no charges can be withheld against them if the information concerned is deemed important for public interests. It appears that the charges stem from a series of articles published since 22 February, in which the journalists quoted excerpts from past Danish military intelligence reports, reportedly given to them by an Intelligence agent, which denied the availability of credible information on the existence of weapons of mass destruction (WMD) in Iraq before the March 2003 military intervention, at a time when the existence of such weapons was publicly used by the Government as an argument to justify Danish involvement with coalition forces in Iraq.

313. On 24 June 2004, the Government of Denmark sent a response to the Special Rapporteur's communication of 12 June 2004 concerning **Jesper Larsen** and **Michael Bjerre**, journalists with the daily *Berlingske Tidende*. The Government states that there is a clear separation between the executive and the judiciary in Denmark and the Government is not in a position to decide what charges are to be brought against whom by the public prosecutor's office. The public prosecutor is currently considering if there is a basis for pressing charges in the case under consideration. In the Government's opinion, the rules in the Danish Penal Code prohibiting the dissemination of information obtained by breaching military secrecy are in full conformity with Denmark's international obligations, including article 18 of the International Covenant on Civil and Political Rights.

Observations

314. The Special Rapporteur thanks the Government for its response to his communication of 12 May 2004.

Djibouti

315. Le 18 juin 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **M. Houssein Ahmed Farah**, journaliste au *Renouveau*. Selon les informations reçues, il aurait été arrêté par la police à Djibouti-ville le mardi 8 juin 2004 vers midi, lors du passage du cortège de l'épouse du Chef de l'État. Détenu pendant plus de quatre jours dans les locaux de la police, il aurait été accusé de mettre en danger le cortège, placé sous mandat de dépôt à la prison centrale de Gabode et mis à l'isolement dans le bloc de cellules connu sous l'appellation de «cellules 13», dans lesquelles les conditions de détention seraient très mauvaises. En raison du fait qu'Houssein Ahmed Farah serait privé de tout contact avec l'extérieur, des craintes ont été exprimées qu'il pourrait être soumis à des actes de torture ou à des traitements cruels, inhumains ou dégradants.

316. Le 8 juillet 2004, le Gouvernement de Djibouti a répondu à la communication du 18 juin 2004, déclarant que les allégations communiquées ne sont pas fondées. Selon le Gouvernement, Houssein Ahmed Farah est en réalité un fonctionnaire du Trésor public et son procès est consécutif à la commission par ce dernier d'une infraction en matière de circulation routière. Houssein Ahmed Farah ne s'est pas arrêté comme demandé par la brigade de la circulation routière et a évité de justesse le policier, ce qui a conduit à son interpellation. Il a été conduit au commissariat central, où il a lui-même reconnu les faits. Le magistrat du parquet a ordonné son placement en garde à vue et sa présentation au parquet pour avoir mis en danger

l'agent de la police de la circulation, et il a reçu une peine de trois mois de prison. Le président du tribunal a prononcé une décision de relâche, et Houssein Ahmed Farah a été libéré sur le champ.

Observations

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

Dominican Republic

318. El 16 de septiembre de 2004 el Relator Especial envió una comunicación en relación con el 11 de junio de 2003, cuando el periodista independiente **Marino Zapete Corniel** habría sido detenido durante un breve período e interrogado por agentes del Departamento Nacional de Investigaciones, tras publicar, al parecer, críticas a la deficiente actuación del gobierno en un caso vinculado con el banco Baninter e informar de la presunta malversación de fondos públicos en la compra de una casa de campo para el presidente. De acuerdo con las informaciones recibidas, Marino Zapete Corniel, que trabaja en el periódico en línea con sede en Miami *Los Nuevos Tiempos Digital* y en el semanario dominicano *Primicias*, habría sido puesto en libertad unas horas después, aunque la prensa habría publicado que el presidente había afirmado que podría presentar una querrela contra él. El 28 de julio de 2003, los locutores de radio de la provincia de Montecristi **Horacio Emilio Lemoine** y **Carlos Martínez** habrían sido puestos en libertad tras pasar detenidos varios días, en el transcurso de los cuales habrían sido conducidos a la jefatura de la Policía Nacional de Santo Domingo e interrogados. Los informes indican que habían organizado una encuesta informal para saber a quién votarían los oyentes en las próximas elecciones presidenciales. El 12 de enero de 2004, el programa "**El Poder de la Tarde**" que se emitía en Radio Cielo FM y presentado por César Medina, habría sido suspendido al parecer por orden de un miembro de la oficina de prensa presidencial. Se teme que este cierre fuera un intento de reprimir las críticas. Los informes indican que Radio Cielo FM forma parte del grupo de medios de comunicación Listín Diario, al que el gobierno habría declarado en suspensión oficial de pagos tras la detención de su propietario en relación con un caso vinculado con el banco Baninter.

Observaciones

319. El Relator Especial lamenta que a la conclusión del informe no había recibido respuesta a la comunicación con fecha 16 de septiembre de 2004.

Ecuador

320. El 4 de febrero de 2004, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación del Sr. **Leonidas Iza**, Presidente de la Confederación de Nacionalidades Indígenas del Ecuador (CONAIE). De acuerdo con las informaciones recibidas, el 1 de febrero de 2004, hacia las 22.00 horas, el Sr. Leonidas Iza, Presidente de la CONAIE y los familiares que le acompañaban, habrían sido atacados por hombres desconocidos que, después de amenazar al Sr. Leonidas Iza diciéndole "Te vamos a

matar”, habrían comenzado a disparar al grupo a quemarropa, hiriendo a un hijo, a un sobrino y a un hermano del Sr. Iza, los cuales se encuentran hospitalizados. Según la fuente, el hijo del Sr. Leonidas Iza habría recibido disparos de arma de fuego en el abdomen por lo que habría tenido que ser operado de urgencia y se encuentra en estado de salud muy grave. Se teme que el ataque contra el Sr. Leonidas Iza estaría relacionado con sus acciones en defensa del pueblo, en particular de las poblaciones indígenas y a sus manifestaciones públicas contra el Tratado de Libre Comercio (TLC), el Área de Libre Comercio de las Américas y las políticas del Presidente de la República. Según los informes, el Sr. Leonidas Iza habría criticado públicamente al presidente, luego de que el mandatario rompiera una alianza con los indígenas gracias a los que había accedido al poder en las elecciones del año 2000. Además, había anunciado que la CONAIE, dentro de su trabajo, preparaba la realización de protestas contra la política del gobierno.

321. El 11 de febrero, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con las amenazas de muerte y hostigamientos contra los periodistas **Miguel Rivadeneira**, (del periódico El Comercio y de radio Quito) **Marco Pérez Torres** (de radio Tarqui), **Paco Velasco** (de Radio La Luna) y **Kintto Lucas** (de la revista *Tintají*). De acuerdo con las informaciones recibidas, habrían recibido amenazas durante estos últimos meses por haber criticado a las autoridades ecuatorianas y el Gobierno del presidente Lucio Gutiérrez. Miguel Rivadeneira, director del programa de noticias *Ecuadoriado* en Radio Quito habría recibido amenazas telefónicas ordenándole que dejara de criticar al Gobierno después de que denunció actos de corrupción involucrando a miembros del ejército y familiares del presidente Lucio Gutiérrez. De acuerdo con las informaciones recibidas, las autoridades denunciaron tales amenazas y declararon que no tolerarían violaciones del derecho a la libertad de expresión. Sin embargo, se informa de que los días 3 y 4 de febrero de 2004, mediante declaraciones del presidente Lucio Gutiérrez y de otras autoridades, el gobierno ecuatoriano habría amenazado a Radio La Luna con un posible cierre. El argumento sería que la emisora estaría afectando la honra del presidente y de todo el gobierno. Se informa también que periodistas de Radio La Luna habrían criticado fuertemente al Gobierno por haber detenido al líder indígena Humberto Cholango en diciembre de 2003. Además, se señala que el director de la emisora, Paco Velasco, habría recibido llamadas amenazando a su familia; el Gobierno habría declarado que iba a presentar una denuncia contra él. Asimismo, Marco Pérez Torres, el nuevo director de Radio Tarqui, habría recibido amenazas de muerte en septiembre y diciembre de 2003 ordenándole que dejara de criticar al gobierno. Se informa de que Kintto Lucas, correspondiente de la revista *Tintají*, también habría recibido amenazas de muerte supuestamente por haber criticado al Gobierno.

322. El 5 marzo 2004, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de las organizaciones dedicadas a la protección de los derechos humanos, las tradiciones culturales y el territorio de la comunidad sarayaku, ubicada en la selva amazónica ecuatoriana, en la provincia de Pastaza. En este caso quisiera llamar la atención urgente de su Gobierno sobre la información adicional que he recibido en relación con las agresiones sufridas por el Sr. **Marlon Santi**, presidente de la Asociación Sarayaku, una organización dedicada a la defensa de la cultura, las tradiciones y los derechos humanos de la comunidad indígena kichwa de Sarayaku. Cabe señalar que la situación

de dicha comunidad ya fue objeto de un llamamiento urgente enviado conjuntamente el 27 de febrero de 2004 por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos. Según la información recibida, el Sr. Marlon Santi fue agredido y golpeado en Quito la noche del 29 de febrero de 2004. Después de sufrir tales abusos, los agresores se habrían llevado los documentos de identificación personal y de viaje del Sr. Santi, así como su dinero. Posteriormente el agredido informó del suceso y del robo a las autoridades ecuatorianas. Se teme que esta acción esté relacionada con la intención del Sr. Santi de viajar a Costa Rica el día 3 de marzo, para asistir a una reunión en apoyo de la causa presentada por la comunidad indígena de Sarayaku ante la Comisión Interamericana de Derechos Humanos contra el Estado de Ecuador y la empresa petrolera argentina Compañía General de Combustibles (CGC). En este contexto y según las informaciones recibidas la comunidad de Sarayaku, habría sido objeto de una campaña de intimidación aparentemente a consecuencia de su oposición a la concesión otorgada a las empresas petroleras para que empiecen los trabajos de perforación en su territorio. Según se informa, las organizaciones locales de derechos humanos que apoyan la reclamación de la comunidad de Sarayaku también habrían recibido amenazas de muerte, como es el caso de la Fundación Pachamama. La comunidad de Sarayaku afirma que la extracción de petróleo en su territorio dañaría su entorno y su forma de vida, en este sentido la propia comunidad ha propuesto un desarrollo alternativo y sostenible en su territorio para que su cultura no sufra las consecuencias de tales actuaciones. Cabe señalar que en mayo de 2003, la Comisión Interamericana de Derechos humanos, ordenó a Ecuador que protegiera a la comunidad de Sarayaku después de que algunos de sus dirigentes recibieran amenazas de muerte en febrero de ese mismo año. En diciembre, la Comisión amplió las medidas cautelares después de que miembros de la comunidad de Sarayaku fueran víctimas de repetidas amenazas de muerte y de agresiones físicas y verbales durante una manifestación celebrada ese mismo mes.

323. El 17 de marzo, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de **Pablo Xavier Ortíz**, asesor de la organización indígena Instituto Amazango, una organización que apoya a la comunidad indígena de Sarayaku, en la provincia de Pastaza. Dicha comunidad ya fue objeto de dos llamamientos urgentes enviados conjuntamente el 27 de febrero de 2004 y el 5 marzo de 2004 por el Relator Especial sobre la situación de los derechos humanos y libertades fundamentales de los indígenas, la Representante Especial del Secretario General para los defensores de los derechos humanos y el Relator Especial para la promoción del derecho a la libertad de opinión y de expresión. También se transmitió al Gobierno la información adicional recibida en relación con las amenazas que habría recibido Pablo Xavier Ortíz, según la cual, el 18 de febrero de 2004 habría recibido una llamada telefónica anónima en la que el individuo le habría gritado: “Hijo de puta, vos que andás con los indios del Puyo”. El 12 de febrero, Pablo Xavier Ortíz habría recibido otra llamada anónima en un hotel de la localidad de Puyo donde estaría trabajando, en la cual el autor le habría dicho: “Vas a ver, hijo de puta, qué te hacemos.” Se informa además de que el 1.º de marzo un hombre habría llamado a la casa de Pablo Xavier Ortíz y, al enterarse de que no estaba, habría pedido otros números de teléfono donde se le pudiera localizar diciendo que tenía una reunión con el Ministro de Relaciones Exteriores. Se teme que estas presuntas amenazas de muerte estén relacionadas con el trabajo llevado a cabo por Pablo Xavier Ortíz y el Instituto

Amazango a favor de la comunidad indígena Sarayaku en su oposición a la extracción de petróleo en su territorio.

324. El 17 de marzo, el Relator Especial, juntamente con el Relator Especial sobre la tortura, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **P.O.M.**, 27 años, miembro de la Fundación Amigos por la Vida, una organización no gubernamental que trabaja para los derechos de las personas lesbianas, gays, bisexuales y transexuales. P.O.M. habría sido detenido dos veces en mayo y junio de 2001 por agentes de la Policía Nacional en Quito. Durante su primera detención habría sido sometido a abusos sexuales por un agente que le habría amenazado de muerte en caso de que denunciara los hechos. Sin embargo, en junio de 2001 habría presentado una denuncia ante la Policía Nacional. En su carta de fecha 2 de septiembre de 2002, el Relator Especial sobre la tortura notificó al Gobierno que había recibido información sobre estas alegaciones (E/CN.4/2003/68/Add.1, párr. 430). Desde que interpuso su primera denuncia, P.O.M. habría recibido varias amenazas de muerte. El 25 de febrero de 2002, uno de los agentes denunciados se habría presentado en un restaurante donde se encontraba con unos amigos y lo habría amenazado de muerte si no retiraba la denuncia. Tras este incidente, P.O.M. habría presentado otra denuncia y se habría instalado en otra ciudad por temor a su seguridad. El pasado 12 de marzo de 2004, un intruso se habría introducido en las instalaciones de la Fundación Amigos por la Vida, habría atacado a P.O.M. y lo habría amenazado de muerte. P.O.M. habría conseguido escapar pero habría resultado herido en el pecho y la espalda. El intruso no habría robado nada en las instalaciones, y todo indicaría que su única intención era atacar a P.O.M. Más tarde, éste habría presentado una denuncia ante la Policía Judicial de Guayaquil. El incidente del 12 de marzo de 2004 habría ocurrido una semana después de que P.O.M. expuso su caso durante una reunión organizada en Quito por la Federación Internacional de Derechos Humanos. Según la información recibida, P.O.M. todavía no habría sido notificado de los resultados de las investigaciones abiertas a raíz de sus repetidas denuncias ni habría sido informado sobre las medidas tomadas para llevar los agentes denunciados ante la justicia.

325. El 24 de marzo de 2004, el Relator Especial envió un llamamiento urgente en relación con las amenazas de muerte contra el periodista **Iván Toral Calle**, directivo del diario *El Tiempo*; los periodistas de Teleamazonas; el presidente ejecutivo de Telesistema, **Carlos Muñoz Insua**, y los periodistas del diario *El Comercio*. Iván Toral Calle habría sido atacado en la madrugada del 4 de marzo de 2004. Según la información recibida, se encontraba descansando en su domicilio en la ciudad de Cuenca cuando individuos desconocidos habrían disparado contra su vivienda en dirección a su dormitorio. El 11 de febrero de 2004, Teleamazonas habría anunciado públicamente haber recibido tres llamadas telefónicas en las que se habría proferido amenazas de muerte en contra de sus periodistas. Según la información recibida, el 9 de febrero de 2004, varios individuos no identificados habrían disparado contra el vehículo de Carlos Muñoz Insua, presidente ejecutivo de Telesistema, hiriendo a su chofer quien posteriormente habría fallecido. El mismo día, directivos del diario *El Comercio* habrían presentado una denuncia ante el Ministerio Público por amenazas que habrían recibido cinco de sus periodistas. De acuerdo con las informaciones recibidas, todos estos periodistas habrían recibido amenazas por haber criticado a las autoridades ecuatorianas y al Gobierno del presidente Lucio Gutiérrez.

326. El 7 de abril 2004, el Relator Especial, juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación con Sr.

Floresmilo Villalta, Presidente de la Asociación Campesina Ecuador Libre. Según la información recibida, Floresmilo Villalta fue arrestado el 9 de marzo de 2004 junto a otros 14 campesinos, en Las Golondrinas, Predio El Pambilar, Esmeraldas. El Sr. Villalta habría sido acusado de ser el autor intelectual de acciones de terrorismo contra la firma maderera Botrosa. La acusación la habría formulado el representante legal de dicha empresa (cuyo nombre es conocido por el Relator Especial). Dicha acusación habría sin embargo sido motivada en represalia por las actividades del Sr. Villalta en favor de los derechos de los campesinos. Se informa también de que esta persona habría padecido diversos actos de hostilidad por parte de la firma desde 1997, e incluso habría recibido amenazas de muerte anónimas si continúa con sus denuncias. Se informa también que la Segunda Sala del Tribunal Constitucional de Ecuador acordó un amparo constitucional en favor de los campesinos del Predio El Pambilar en contra de la empresa Botrosa, en razón de que las actividades de dicha firma maderera habrían “afectado gravemente la vida de los habitantes del Predio El Pambilar”. El Tribunal Constitucional habría también declarado insubsistente la adjudicación de 3,123 hectáreas del Predio El Pambilar a la mencionada firma maderera realizada en 1998 por el Instituto Nacional Agrario (INDA). El Sr. Floresmilo Villalta y los otros 14 campesinos se encontrarían detenidos sin que se les haya formulado cargos legales válidos, en represalia por sus actividades sociales a favor de los derechos de los campesinos de Las Golondrinas.

327. El 26 de abril 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con los miembros de la Fundación Amigos por la Vida, una organización no gubernamental que trabaja para los derechos de las personas lesbianas, gays, bisexuales y transexuales, y en particular de unos de los miembros de la organización, **P.O.M.** Según la información recibida P.O.M habría sido detenido en mayo y junio de 2001 por agentes de la Policía Nacional en Quito. Durante su primera detención habría sido sometido a abusos sexuales por un agente que le habría amenazado de muerte en caso de que denunciara los hechos. Sin embargo, en junio de 2001 habría presentado una denuncia ante la Policía Nacional. Desde que interpuso su primera denuncia, P.O.M habría recibido varias amenazas de muerte y el 12 de marzo de 2004 habría sufrido un atentado contra su vida. Su caso ya fue objeto de una llamamiento urgente enviado conjuntamente el 17 de marzo de 2004 por el Relator Especial sobre la tortura, Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos y el 2 de septiembre de 2002 por el Relator Especial sobre la tortura. Según la información adicional recibida, el 11 de abril de 2004 el personal de la Fundación Amigos por la Vida habría recibido una llamada telefónica anónima cuya autor habría dicho: “Se va a colocar una bomba en la Fundación para que vuelen con todo, ya que son unos maricones hijos de puta.” El mismo día, según se informa, un individuo vestido en ropas de civil que se habría identificado como miembro de la Policía Nacional de Ecuador habría acudido a la Fundación Amigos por la Vida. Habría dicho que venía para llevar a P.O.M. a la comisaría para que hiciera una declaración. Cuando el personal de la Fundación le pidió que mostrara su identificación, el individuo se habría ido y según se informa, habría sido visto entrando en un automóvil dorado con cristales tintados y sin placa de matrícula.

328. El 30 abril 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **José Serrano Salgado**, miembro de la organización no gubernamental Centro de

Derechos Económicos y Sociales (CDES), quien habría sido amenazado de muerte el 25 de abril de 2004. Según la información recibida, José Serrano Salgado viajaba en su coche en la Vía Norte-Sur, en Quito, provincia de Pinchincha, cuando tres individuos no identificados que viajaban en un automóvil sin placa de matrícula le habrían obligado a pararse. Los informes indican que uno de los individuos llevaba un revólver. Cuando José Serrano Salgado habría salido del automóvil, el individuo armado le habría amenazado de muerte e insultado varias veces. Según la información recibida, los tres individuos le habrían pedido que les entregara su móvil y al ver que lo había dejado en su casa, habrían seguido amenazándole de muerte. Antes de marcharse, los tres agresores se habrían llevado las llaves del automóvil de José Serrano Salgado. Se teme que estas presuntas amenazas contra José Serrano Salgado estén relacionadas con sus actividades en la comunidad indígena de Sarayaku, en la provincia de Pastaza y su oposición a la concesión otorgada a las empresas petroleras para que empiecen los trabajos de perforación en su territorio. Se informa que José Serrano Salgado habría denunciado la agresión ante la policía el 25 de abril de 2004.

329. El 7 de mayo de 2004 el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **José Solís**, periodista del diario *El Universo* en Guayaquil. Según la información recibida, el 26 de abril de 2004, José Solís habría recibido dos llamadas telefónicas de un individuo no identificado quien habría dicho: “¿El Licenciado Solís? Dígame al Licenciado Solís que no se meta con nosotros que ya vamos a salir”. Dos semanas antes, cuando José Solís se encontraba cerca de su casa, cuatro desconocidos que viajaban en un vehículo blanco sin placas de matrícula le habrían gritado: “Cuídate”. José Solís habría presentado una denuncia ante la Fiscalía General por los hechos ocurridos. Las amenazas contra José Solís estarían relacionadas con sus informes sobre las presuntas ejecuciones extrajudiciales de personas detenidas después de un robo en una farmacia en Guayaquil y sobre la presunta desaparición de tres individuos. Las tres personas habrían sido detenidas por la policía el 19 de noviembre de 2003 en relación con el robo. Habrían telefonado a sus familiares poco después de ser detenidas y les habrían dicho que estaban bajo custodia en el cuartel de la Policía Judicial de Guayaquil. Según la Fiscalía General de Guayaquil, las tres personas habrían sido liberadas. Según la policía, no habrían sido trasladadas a un centro de detención y uno de ellos no habría sido arrestado.

330. El 26 octubre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Leonidas Iza**, Presidente de la Confederación de Nacionalidades Indígenas en Ecuador (CONAIE) cuyo caso fue objeto de un llamamiento urgente enviado conjuntamente el 4 de febrero de 2004 por la Representante Especial del Secretario General para los defensores de los derechos humanos, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión. Según la información recibida, el 13 de octubre de 2004 a las 9.45 aproximadamente, Leonidas Iza habría recibido una amenaza de muerte anónima en su teléfono celular. Se alega que el autor de la llamada habría amenazado de muerte a Leonidas Iza y a toda su familia. Se informa también que la madrugada del 14 de octubre de 2004 se habría producido un robo en las oficinas de la sede de CONAIE en Quito en el cual varios ordenadores que contenían información importante para el movimiento indígena habrían sido robados. De acuerdo con las informaciones recibidas, el

resguardo policial de la sede no estaba presente ese día. Se teme que las amenazas de muerte en contra de Leonidas Iza y su familia puedan estar relacionados con su trabajo como defensor de los derechos de las poblaciones indígenas y a sus manifestaciones públicas contra las políticas del gobierno. Además se teme que el allanamiento de la sede de CONAIE pueda constituir un claro intento de impedir las actividades de la organización.

331. El 29 de diciembre de 2004, el Relator Especial juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con el caso de **Sr. Marlon Santi**, presidente de la Asociación Sarayaku, una organización dedicada a la defensa de la cultura, las tradiciones y los derechos humanos de la comunidad indígena kichwa de Sarayaku. La situación de dicha comunidad ya fue objeto de dos llamamientos urgentes enviados conjuntamente el 27 de febrero de 2004 por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos, y el 5 de marzo de 2004 por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario General para los defensores de los derechos humanos.

332. De acuerdo con la nueva información recibida, el Sr. Marlon Santi habría recibido amenazas de muerte durante los días 21 y 22 de diciembre del año en curso. Según se informa, el 21 de diciembre, mientras el Sr. Marlon Santi participaba en el Segundo Congreso de Nacionalidades y Pueblos Indígenas del Ecuador, habría recibido una llamada telefónica anónima en la cual un hombre le habría dicho: “Te vamos a matar”. Se alega también que el día 22 de diciembre habría recibido otra llamada amenazadora de un desconocido quien le habría dicho “Desiste de tu candidatura porque no vas a lograr ni 24 horas en el cargo, se te va a acabar la respiración”.

333. Se teme que las nuevas amenazas de muerte en contra del Sr. Marlon Santi estén relacionadas con su trabajo de defensor de los derechos humanos de la comunidad indígena Kichwa de Sarayaku. La Representante Especial del Secretario General para los defensores de los derechos humanos manifestó su grande preocupación con respecto a la seguridad y la integridad física de los defensores de los derechos humanos en el Ecuador y urgió al Gobierno Ecuatoriano a iniciar una investigación sobre las denuncias presentadas en sus comunicaciones y a tomar las medidas cautelares necesarias para garantizar la seguridad de dichas personas.

Observaciones

334. El Relator Especial lamenta que a la conclusión del informe no había recibido respuestas a sus comunicaciones con fechas 4 y 11 de febrero, 5, 17 (dos comunicaciones) y 24 de marzo, 7, 26 y 30 de abril, 7 de mayo, 26 de octubre y 29 de diciembre de 2004.

Egypt

335. On 12 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning several women who were reportedly kidnapped and sexually assaulted by known organized Muslim groups. One

of the groups allegedly behind the disappearances of 16 Christian minors was reportedly financed by sources in Saudi Arabia that offered rewards to persons who converted Christian girls. The victims were reportedly subject to continuous threats and rape to force them to convert to Islam and to live with a member of the group. In this connection, the Special Rapporteur would like to bring to your attention the following cases of abduction of Christian women:

- On 20 October 2003, **H.S.W.** (f) was reportedly abducted from her home town of Samalut, Minia Governorate. H.S.W., age 19, was last seen on the campus of El Minia University where she was a student. Family members reported H.S.W.'s disappearance to the local police, but they were told that she had converted to Islam and were warned not to intervene further. The family met repeatedly with police officials requesting that appropriate actions be taken to find H.S.W. In response to their inquiries, the family was reportedly threatened with arrest. Following her disappearance, eight of H.S.W.'s family members began a hunger strike, demanding her return. In response to the family's subsequent hospitalization, a meeting between State Security officials, the family, and the daughter was reportedly arranged. It is reported that the meeting was later cancelled with no reasons given to the family. H.S.W.'s abductor was reportedly known to the police;
- On 27 September 2003, **E.E.N.** (f) reportedly went out and never returned home to her father and brother in Cairo. When E.E.N.'s father went to the police station to report his daughter's disappearance, he was reportedly detained overnight on accusations of trying to interfere with his daughter's alleged conversion to Islam. E.E.N.'s abductor was reportedly known to the police. It was reported that she was forced on the second day of her abduction to announce her conversion at a police station with the help of her abductor's lawyer. On 29 September 2003, the Giza state Security Directorate reportedly held a hearing on her case which E.E.N. attended, dressed in an Islamic veil and allegedly appearing emotionally unstable. On 18 October 2003, two Coptic priests were present at a second hearing to ask her about her decision to convert to Islam but she did not attend the meeting;
- On 2 July 2003, **M.S.B.** was reportedly abducted in the village of Abou Tsht, Qinna Governorate, in Upper Egypt. She was reportedly released later but her abductors were never prosecuted. Finally, on 30 June 2003, **N.S.** was reportedly abducted from the front of her school in Alexandria by people who stopped their car there, according to an eyewitness. A police report was filed, but no efforts have reportedly been made to return her. On 12 April 2003, **N.M.K.** was abducted from the village of Samalut, Minia.

336. On 29 April 2004, the Government sent a response to the Special Rapporteur's communication of 12 March 2004, with the following reply:

- Concerning **H.S.W.**, the Government indicated that it emerged from the investigations that she had gone to Al-Azhar al-Sharif to declare her conversion to Islam, in accordance with her own wishes and beliefs, and that she had obtained a certificate testifying to her conversion. A.F.H. had nothing to do with her conversion to Islam. There is nothing to the relationship between the two, other than the fact that they are both students at the same faculty;

- Concerning **E.E.N.**, the Government stated that, on 27 September 2003, she applied to the competent authorities for permission to convert to Islam in accordance with her own belief in the Islamic religion. During that period, she had formed a sentimental attachment to a Muslim man and had announced her intention of marrying him as soon as the conversion process was completed. Although three religious counselling sessions were held with her in the presence of three Christian clergymen and her family (her mother and her sister), she insisted that she wanted to convert to Islam;
- Concerning **M.S.B.**, the Government indicated that, on 1 July 2003, she went together with a Muslim man to the Naja` Himadi police, and together they informed the police of their desire to marry once the girl had converted to Islam. The girl had already appeared before the Fatwa Committee of Al-Azhar al-Sharif on 30 June 2003 and declared her desire to convert to Islam. However, she had been unable to complete the procedure. On 2 July 2003 a religious counselling session was held with the Christian girl at the Abu Tashit centre, in the presence of three Christian clergymen and some members of her family. She explained that the reason for her wishing to convert to Islam was that her family was trying to force her, against her will, to marry a man who was a Christian. The required official report was prepared, and the girl was handed over to her family in exchange for a pledge that her welfare would be guaranteed;
- Concerning **N.S.S.**, the Government indicated that, on 2 July 2003, a Christian man filed a report with the Ramal police in Alexandria that his daughter was missing and that he suspected that she had been abducted after taking one of her examinations for her secondary school certificate. He did not blame anyone for the disappearance. From the investigations it emerged that the girl had gone to the Azhariya district of Samuha in Alexandria with a view to initiating the procedure for her conversion to Islam. However, her application had been rejected because she was too young. There was no evidence as to the girl's whereabouts at the time this reply was sent, nor was there any evidence to support the allegation that she was abducted;
- Concerning **N.M.K.**, the Government stated that, on 13 April 2003, her mother filed a report with the Samalut police in the governorate of Mina that her daughter had been missing from home since 12 April 2003. She accused a Muslim of being responsible for the disappearance because he had formed a sentimental attachment to her daughter. Thanks to the efforts of the security forces, the whereabouts of the missing Christian girl were traced to Cairo. She was handed over to her family, in the presence of a Christian clergyman, in exchange for a pledge that her welfare would be guaranteed.

337. On 23 March 2004, the Special Rapporteur sent an urgent appeal regarding **Ingy Helmy Georgy Labibe**, an 18-year-old Coptic women, who was reportedly abducted on 4 January 2004 while shopping in her hometown, Mahala el Kobra. On 5 January 2004, her family reportedly received a telephone call notifying that their daughter was in the custody of a person whose name is known to the Special Rapporteur, that she would officially convert to Islam and that her return would be contingent upon payment of a sum of money. According to information received, after several attempts to retrieve their daughter, the family reportedly sought police

assistance, but the police chief reportedly refused to file a report on the disappearance of the 1 woman, allegedly asserting her imminent conversion to Islam. The family was reportedly told that the 18-year-old Coptic woman would be officially declared a convert to Islam on 19 January 2004. According to information received, the parents struggled to postpone the official confirmation of her allegedly forced conversion to Islam and the date was pushed back to 1 March 2004. During this time, the family allegedly received reports indicating that Ingy Helmy Georgy Labibe's abductor was a civilian advisor to the police chief and his unit.

338. The Government of Egypt sent a response to the Special Rapporteur's communication of 23 March 2004 concerning the abduction of **Ingy Helmy Georgy Labibe**. The Government stated that, on 15 January 2004, Labibe informed the police at the Greater Mahala second police precinct that she was living in an orphanage in Tanta and had applied for formal conversion to the Islamic religion. A religious counselling session was organized for her on 19 January 2004 and was then postponed until 26 January 2004, since no one from the Church had appeared. Soon thereafter, the girl's father filed a complaint with the Deputy Public Attorney-General against the police chief of the Mahala second police precinct, accusing him of having refused to hand the girl over to her family. He also filed a complaint against F.T.M.M., whom he accused of having abducted his daughter, despite knowing that she was mentally ill and needed special medical care. The complaint was referred to the Greater Mahala second police precinct, which filed it under administrative complaint No. 904/2004. When it was passed on to the East Tanta Department of Public Prosecutions, the department decided to release the girl from the Department of Public Prosecutions and to establish a three-person committee consisting of psychiatrists from Tanta University Hospital to conduct a medical assessment of her in order to determine her state of mental and psychological health. On 29 January 2004, the committee issued a medical report declaring that the girl was not suffering from any mental or psychological illness and that her state of health was normal. The suspicions of abduction were therefore dropped and maintained in the register of administrative complaints. On 1 March 2004, the girl changed her religion.

339. On 23 March 2004, the Special Rapporteur sent an urgent appeal concerning the reported arrest and imprisonment of four Coptic college students in the southern Sinai region of Egypt on 26 January 2004. **Peter Nady Kamel, Ishak Dawood Yessa, John Adel Fokha and Andrew Saeed**, college students at Minia and Cairo Universities, aged between 19 and 24 years, were reportedly arrested by Naweeba district police. According to information received, the four young men were on a recreational trip in the Sinai, carrying with them a small number of Christian books, Bibles, and Christian music tapes. The local police reportedly entered their hotel in Naweeba, arrested them, searched their room, and seized the Christian material. It is reported that the four have been imprisoned at the Tor Sinai police station since 26 January 2004, and have been charged with the creation of a group that poses a threat to national unity and social peace. It is reported that their initial detention was extended on 9 February 2004 and 20 March 2004, and that, at the time, this communication was sent, they have not yet been brought before a judge. It is believed that their detention is linked to their being Coptic and to their possession of Christian literature.

340. The Government of Egypt sent a response to the Special Rapporteur's communication of 23 March 2004 concerning four Coptic college students in the southern Sinai region of Egypt on 26 January 2004. **Peter Nady Kamel, Ishak Dawood Yessa, John Adel Fokha and Andrew Saeed**, college students at Minia and Cairo Universities, aged between 19 and 24 years, were

reportedly arrested by Naweeba district police of Southern Sinai. The Government stated that the four students were arrested under the terms of an arrest warrant issued by the Department of Public Prosecutions in case No. 354/2004 and charged with forming a group for the purpose of undermining national unity, possession of publications and recordings aimed at achieving that purpose, exploiting religion and making false claims, by word and in writing, with a view to provoking social strife and threatening social peace. The Department decided to remand them in custody for 15 days, pending further investigations. Their period of remand in custody was extended several times. On 3 April 2004, the Southern Sinai Department of Public Prosecutions decided to release them on bail and that decision was implemented. The proceedings taken against these persons were consistent with the law and were based on a warrant issued by the Department of Public Prosecutions.

341. On 8 June 2004, the Special Rapporteur sent an urgent appeal concerning reports that the Minister of Justice recently empowered **inspectors of al-Azhar**, a religious organization which is the dogmatic reference for Sunni Muslims and which has the authority to issue fatwas (or religious decrees), to confiscate all publications, tapes and speeches that contradict Islamic principals, legislation and values. It was reported that this decision reinforced the powers of the Islamic Research Council, a department of al-Azhar, which, according to al-Azhar Law 13 of 1961 and its implementing statute, can monitor and correct publications concerned with Islam. Reports indicate that, on the basis of this law, the Court of Cassation, in its decision 2062 [51], condemned the request of the Islamic Research Council to confiscate books.

342. On 8 September 2004, the Government of Egypt sent a response to the Special Rapporteur's communication of 8 June 2004 concerning allegations regarding the Minister of Justice's decision to empower **inspectors of Al-Azhar** to confiscate publications. The Government stated that, on 4 July 1985, Act No. 102 of 1985 regulating the publication of the Holy Koran and the Hadith of the Prophet was promulgated. This Act vested the Islamic Research Council with responsibility for authorizing the publication, distribution and circulation of all copies of the Holy Koran and of the Hadith of the Prophet. It also granted powers of distraint to the competent officials of the Islamic Research Council, whose powers were defined in a decree which the Ministry of Justice issued, following consultations with the Sheikh of the Azhar. In pursuance of the Act, Ministry of Justice decree No. 163 of 1986, granted powers of distraint to certain officials of the Islamic Research Council's General Department for Research, Writing and Translation. On 24 August 2003, the Ministry of Justice issued decision No. 4392 of 2003, granting powers of distraint to certain officials of the General Department for Research, Writing and Translation of the Islamic Research Council with respect to offences under Act No. 102 of 1985, which decision replaced that of 1985. This decision was issued because Muslims were getting upset in view of the large number of publication of unauthorized copies of the Holy Koran containing numerous errors. This decision did not, therefore, have the aim of censoring or confiscating literary works. News agencies then reported that, three days after the Ministry of Justice had given the Azhar inspectors the power to confiscate material which they deemed to be contrary to Islamic principles, officials from the Islamic Research Centre of the Azhar raided bookshops and confiscated hundreds of publications, books and video and audio tapes containing material which they deemed to be contrary to the precepts of Islam. They characterized this initiative as an attempt to stifle free speech and to encourage violence against professional writers. The Ministry of Justice referred the matter back to the Imam of Azhar, who, in a letter dated 7 June 2004, categorically denied the news agency reports, describing them as divisive and totally groundless, as did the Minister for the Interior as well. The Minister of Justice then wrote

a letter to the *Messa* newspaper, outlining all the information set out above and affirming that the decision in question had been issued merely to prevent the appearance of errors in the published texts of the Holy Koran and the Hadith and not with a view to inspecting, seizing or confiscating literary works. He furthermore denied that there was any truth to the news agencies' reports.

343. On 18 June 2004, the Special Rapporteur sent an urgent appeal regarding **Mr. Ahmed Ezzedine**, a correspondent with the weekly *Al-Ousbou*. According to the information received, on 16 June 2004, he was condemned to a two-year prison sentence for defaming Deputy Prime Minister and Agriculture Minister in an article issued on 23 June 2003, in which he accused the Minister of false testimony. Ahmed Ezzedine was allegedly not summoned to the trial, which reportedly took place in his absence. It is alleged that Ahmed Ezzedine had gone into hiding at the time this communication was sent and faced immediate imprisonment if he decided to appeal the verdict; as Egyptian law provides for imprisonment pending appeal.

344. The Government sent a response to the Special Rapporteur's communication of 18 June 2004 concerning the journalist for *Ousbou*' newspaper, **Ahmad Izzedin Ibrahim Mohamed**. The Government stated that, on 16 September 2004, Ahmad Izzedin Ibrahim Mohamed was sentenced in absentia by a Cairo court to two years' imprisonment with hard labour and a fine of 20,000 Egyptian pounds for libelling and defaming the Deputy Prime Minister and the former Minister of Agriculture in a number of articles in the newspaper and which the complainant regarded as defamatory. The Government further stated that defamation was a punishable offence insofar as it related to the principles set forth in article 29 of the Universal Declaration of Human Rights of protecting the rights and freedoms of others. Moreover, concerning the allegation that a penalty of deprivation of liberty was disproportionate to the offence, a legislative review of the penalties for publishing offences was under way.

Observations

345. The Special Rapporteur thanks the Government for its replies to all of his communications.

Eritrea

346. On 24 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on torture, sent an urgent appeal concerning reports that on 24 January 2004, the police arrested **38 members of the Jehovah's Witnesses**, while they were holding a religious service in a private home in Asmara. It was reported that 10 were released without charge in the next few days, but 28 reportedly remained in custody, including children, and a 90-year-old man. While the authorities had not publicly acknowledged the arrests or given any reason for them, it was believed that the arrests could have been aimed at forcing them to abandon their faith, and to force those of conscription age (18-40) into military service. It was reported that the whereabouts of the 28 were not known at the time this communication was sent, but they were believed to be held in one of Eritrea's many secret detention centres.

347. On 11 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the question of torture, sent an urgent appeal concerning reports that police and security officers arrested

Pastor Mengist Tewelde-Medhin and 55 women, children and men from the Hallelujah Pentecostal Christian Church in Asmara on 12 February 2004, while they were participating in a religious service in a private home. It is believed that most of the arrested people were still being held incommunicado, at the time this communication was sent, without charge or trial, in police stations or army camps, and were allegedly ill-treated or tortured in order to force them to abandon their faith. The head of church, Pastor Mengist Tewelde-Medhin, was reportedly being held at Adi Abeto military prison near Asmara, in harsh conditions. Like other members of the church, he was said to be under pressure to abandon his religion. Following their arrest, about 18 church members were reportedly taken to Mai Serwa military prison and punished for evading national service, which is compulsory for all males and females aged over 18. They were reportedly locked in metal shipping containers, where conditions are said to be suffocating and in which temperatures range from zero degrees at night to 28 degrees during the day. It was also reported that **25 girls and boys** were arrested and taken to the main Sawa military training centre, where they were locked up in a shipping container and forced to do farm work. Younger children were reportedly arrested and held in police custody for several days until their parents were finally allowed to take them home, allegedly after being made to sign a statement declaring they would no longer practise their religion. Older men and women were reportedly detained in police stations without charge or trial and allegedly coerced into abandoning their faith. It was alleged that some were subsequently released when they signed a statement in which they promised not to worship again. It is believed that persecution on the grounds of religion intensified in Eritrea after the closure of “minority” Christian churches in May 2002. Reports were received of arrests in the past year of hundreds of “home worshippers” or military conscripts found with Bibles (see also two urgent appeals sent on 23 September 2003 (E/CN.4/2004/62/Add.1) by the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and on 1 December 2003 (E/CN.4/2004/62/Add.1) by the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the question torture).

348. On 3 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the question of torture, sent an urgent appeal regarding **Haile Naizgi**, pastor and chairperson of the Eritrean Full Gospel Church, **Dr. Kiflu Gebremeskel**, pastor of the Eritrean Full Gospel Church, and **Tesfatsion Hagos**, pastor of the Rema Evangelical Church. It was alleged that, on 23 May 2004 Haile Naizgi and Dr. Kiflu Gebremeskel were arrested at their homes in Asmara, and were held incommunicado in the 1st and 6th police stations, respectively, at the time this communication was sent. They allegedly had not been taken to court within the 48 hours required by law, or charged with an offence. It was alleged that Tesfatsion Hagos was arrested on 27 May while on a visit to Massawa port. His whereabouts were reportedly unknown. It is believed that the above-mentioned persons had been targeted for belonging to minority Christian churches, in the context of reported harassment and arrests since early 2003 of members of evangelical and Pentecostal churches. In view of their alleged detention incommunicado or in an undisclosed location, concern was expressed that these men might have been at risk of torture or other forms of ill-treatment.

349. On 20 July 2004 the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Ms. Akberet Gebremichael**, 30, **Mr. Asmerom Beraki**, 50, **Mr.**

Gebrehiwet Tedla, 87, **Mr. Gebreselassie Adhanom**, 94, **Mr. Mikias Gebru**, 19, **Ms. Rebka Gebretensae**, 39, **Mr. Samson Tesfalem**, 24, **Mr. Sertsu Yilma**, 55, **Mr. Tedros Atsbeha**, 25, **Mr. Tekle Gebrehiwet**, 40, **Mr. Tsegaberhan Berhe**, 41 and **Mr. Yemane Tsegay**, 41, all Jehovah's Witnesses. They were reportedly arrested on 24 January 2004 in Asmara along with 26 other people, including eight children. The Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a joint urgent appeal in connection with their case on 24 February 2004.

According to new allegations received, 26 individuals who were arrested at the same time as the 12 above-named persons had been released, at the time this communication was sent. However, the latter were reportedly still detained incommunicado at an unknown location, without charge or trial. It was also reported that they were warned not to worship or conduct religious activities again. In view of their alleged prolonged incommunicado detention at an undisclosed location, concern was expressed that they might have been at risk of torture or other forms of ill-treatment. Concern was also expressed for the physical and mental integrity of Mr. Gebrehiwet Tedla and Mr. Gebreselassie Adhanom, in view of their advanced age and probable poor health in prison.

350. On 11 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the question of torture, sent an urgent appeal concerning large scale **round-ups of Eritrean males**. According to the allegations received:

- On 4 and 5 November 2004, the Eritrean Defense Force (EDF) conducted large-scale round-ups in Asmara of Eritrean men between 18 and 40 years of age. However, during their search the EDF also arrested teenagers, college and university students, demobilized soldiers, policemen, national civil servants and foreigners who could be taken for Eritrean. More than 50,000 men were arrested over this period. People were arrested in the streets, schools, workplaces, homes, in a harsh, systematic manner and without search warrants. Houses of United Nations staff members were also searched. It is reported that the round-ups were connected with the Eritrean National Service Policy. Eyewitnesses reported that all those who did not comply with orders were publicly beaten. On the night of 4 November in Adi Abeto military camp, 4 kilometres outside Asmara, a riot between detainees and prison guards broke out, sparked by the lack of food provided by the guards. Some detainees attempted to escape over a wall, which subsequently collapsed. A shooting incident followed, with at least 25 deaths, including five guards, and around 100 people were injured. They reportedly received medical treatment at Halibet Hospital. Conditions in the camp were severe, with little sanitation, and detainees had been forced to sleep outside in the cold, without blankets or shoes. The prisoners had no access either to their families or to lawyers;
- According to the Eritrean National Service Proclamation No. 82/1995, all Eritrean citizens between 18 and 40 years old were required to perform 18 months' military and national service. However, following the conflict with Ethiopia, this obligation continued indefinitely. The Government reportedly called up United Nations national staff members for service, in contravention of section 18 (c) of the 1946 Convention on the Privileges and Immunities of the United Nations. Since its launch in 2004, more than 50 staff members of the United Nations

Mission in Ethiopia and Eritrea (UNMEE) have reportedly been arrested and detained, four of whom were still unaccounted for. About 30 national staff of UNMEE were reportedly arrested while returning home on an UNMEE bus. Some of these persons were immediately sent to the military camp in Sawa.

351. In view of the allegations of ill-treatment, arbitrary and incommunicado detention, deaths in custody and unknown whereabouts, concern was expressed that those detained could have been at risk of torture and other forms of ill-treatment.

Observations

352. The Special Rapporteur regrets that no replies to his communications were received at the date that this report was finalized.

Ethiopia

353. On 23 January 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Ahmed Haji Wasse**, who was reportedly arrested in Asaita town in the Afar region on 3 October 2003 by the security forces, and then disappeared. It is believed that he might have been taken to Dessie town. According to information received, Mr. Wasse, a reporter for the information department of the Afar region, was covering the fighting between Afar rebels and government troops in the Afdera district when he was arrested. It is believed that this arrest was linked to his reports on these clashes, as well as his reports on the alleged diversion of food aid sent to the displaced people settled in Bure by the army.

354. On 27 January 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Terfessa Barkessa; Million Diriba; Getachew Gadissa; Imira Gemechu; Tamirat Gemechu; Temesgen Gameda; Balina Manocha and Merga Namo**, male students from the Oromo ethnic group, who were reportedly arrested by police officers in the evening of 18 January 2004 on the Addis Ababa University campus, after protests took place at a cultural performance staged by the Oromia region ruling party. They were allegedly accused of causing damage to university property, including broken windows. It was reported that the cultural performance broke up when several Oromo students protested to Oromia regional state officials about a recent federal Government decision to transfer the regional state capital from Addis Ababa to Adama (Nazareth). It was also reported that, on 21 January 2004, many Oromo students gathered to present an appeal to the university administration requesting to secure the release of the above-mentioned detainees. That same evening, police entered the campus and arrested a large number of Oromo students, who were reportedly taken to Kolfe police camp. Some reports claimed that over 500 students were arrested and that 240 would still be detained. On 22 January 2004, police reported that 315 students had been released but suspended for a year, and 18, at the time this communication was sent, remained in custody for possible charges of criminal damage or possible expulsion from the university. Fears have been expressed that these students may be at risk of serious ill-treatment while in detention.

355. On 13 February 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning alleged actions by the Government to interfere with the functioning of the **Ethiopian Free Journalists' Association (EFJA)**, a private association defending the rights of journalists working in the country, for whom a letter of allegation was sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression on 28 November 2003 (E/CN.4/2004/62/Add.1). According to more recent information received, on 4 January 2004, the Ministry of Justice convened a meeting of EFJA's members, which, due to the boycott of the members, was re-scheduled on 18 January. On that day, and reportedly despite sparse attendance, the Ministry announced the election of a new executive committee of EFJA. Fears had been expressed that this action might have been politically motivated, as EFJA had been critical of a proposed new press law, which contained provisions that might, in effect, reinforce the authorities' control over the press and journalists. In particular, it would introduce criminal sanctions for the press's failure to "investigate the correctness of the news that it publishes" (art. 19); require publications and distributors to be registered and licensed (arts. 7 and 9); give the Government power to withhold or withdraw registration and licences subject only to post-denial or post-revocation of judicial review; and allow the Minister for Information to prohibit the local press from reprinting news published outside the country if it is deemed that the report endangered "peace and security", "spread false accusations and defamation against public bodies and officials" and "harmed and weakened" patriotism.

356. By letter dated 7 May 2004, the Government replied to the urgent appeal sent on 13 February 2004. The Government reported that the **Ethiopian Free Journalists' Association (EFJA)** had failed to present activities, performance and audit reports adopted by its general assembly for three consecutive years. The Ministry of Justice gave several notices to EFJA in this regard. Upon the failure by EFJA to respond to these notices, the Ministry was forced to take legal measures and decided to suspend the organization until it fulfilled its obligations. The Government stated, however, that taking into account the importance of the resumption of its function, the Ministry decided to discuss the problems with members of EFJA. To this end, the general assembly of the organization was convoked within one month of the suspension of EFJA. The first meeting was adjourned, as most of the members of the general assembly were not present. According to the Government, the second meeting decided, after dealing extensively with the issues, to change the EFJA leadership, whose term of office was long overdue (four years). A new Executive Committee was then established from among the members of the general assembly present at the meeting. The Government reported that this procedure was in accordance with the statutes of EFJA. It stated that this election was entirely undertaken by EFJA members present at the meeting and was not related to the press law, as alleged.

357. On 26 March 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Yohannes Solomon**, a member and employee of the Ethiopia Human Rights Council (EHRCO) and a member of the Central Council of the Ethiopian Teachers' Association. According to the information received, on 6 and 8 March 2004, two plainclothes policemen reportedly came to the home of Yohannes Solomon in Addis Ababa and stated that they had come in an attempt to arrest him. Yohannes Solomon was reportedly not there at the time, having left the country on 6 March to attend events in Geneva related to the Commission on Human Rights. His sister reportedly asked him why they wanted to arrest him. They allegedly

stated that they wanted to investigate him and further stated that he should stop working for EHRCO. According to the information received, Yohannes Solomon was reportedly the victim of previous harassment by members of the security forces, on 25 May and 10 September 2001. Concern has been expressed that Yohannes Solomon was being targeted for his human rights activities and, in particular, his advocacy work on behalf of EHRCO and his work on the Central Council of the Ethiopian Teachers' Association on education and the rights of teachers.

358. On 8 April 2004, the Special Rapporteur sent an urgent appeal concerning **Merid Estifanos**, former editor-in-chief of the private Amharic-language weekly *Satanaw*, who was reportedly imprisoned on 2 April 2004 after he was unable to pay bail in a criminal defamation case. According to information received, Mr. Estifanos appeared before a federal court in Addis Ababa on 2 April, in connection with a defamation charge stemming from a September 2001 opinion piece titled "The hidden agenda of Prime Minister Meles". It was reported that Mr. Estifanos did not write the article but, as editor-in-chief of the newspaper, he was held responsible for its content. Following the article's publication, Mr. Estifanos was allegedly charged with defaming the prime minister, and ordered to pay bail of 1,000 birr (US\$ 120) while awaiting trial. It was further reported that, at the 2 April hearing, the court told Mr. Estifanos that since he had missed his previous court hearing, the court had imposed an additional bail of 3,000 birr (US\$360), and when Mr. Estifanos was unable to pay this amount, the court ordered that he be transferred to prison. Finally, reports indicate that if convicted, Mr. Estifanos could face imprisonment.

359. On 20 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Abebe Chimdi, Dinsa Serbessa, Mosissa Futasa, Tesfaye Teresa, Ashebir Oncho, Merga Legesse and Woldeyesus Mengesha**, teachers in Gudar High School and in Ambo secondary school and **about 50 others**, who were reportedly arrested on 9 April 2004 in western Oromia Region, west of Addis Ababa, in connection with demonstrations by school students in the towns of Ambo and Gudar, which began in late February 2004. It is believed that the teachers had been accused of instigating these demonstrations, during which many students were arrested, of whom dozens were allegedly still detained without charge or trial at the time this communication had been sent. It was reported that the authorities had alleged that the demonstrations were orchestrated by the armed opposition Oromo Liberation Front (OLF), and that several of the arrested teachers had previously been detained on suspicion of links with the OLF, which they denied, and were later released without charge or trial. It was reported that these persons were detained incommunicado in a police detention centre in Ambo Palace. These arrests were placed in the context of demonstrations by school and college students in many towns in Oromia region, including Jimma, Waliso, Bishoftu (Debre Zeit), Ziway, Dembi Dollo, and also in Harar city, reportedly leading to most schools in the Oromia region being closed. It was reported that the demonstrations started as protests at the transfer of the Oromia Region Administration from the national capital of Addis Ababa to the newly designated Oromia regional capital in Adama. It was reported that, in the context of the demonstrations, many of the demonstrators were severely beaten. Some were said to have been released after some days with warnings, but hundreds were allegedly still in detention without charge or trial at the time this communication had been sent. Over 300 Oromo student demonstrators reportedly arrested at Addis Ababa University on 18 January 2004 were said to have been released within a few days but it was reported that they were expelled from the university.

360. On 3 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Diribi Demissie, Gemechu Feyera and Sentayehu Workneh**, respectively President, Vice President and Treasurer of the Macha Tulema Association (MTA), an officially registered Oromo community welfare organization, and 13 other members of the Oromo. According to the information received, MTA had been raising funds to provide food and shelter for 300 Oromo students who were suspended or expelled from Addis Ababa University following their arrest on 21 January 2004 during a demonstration to demand the release of eight other students. These students had allegedly been arrested after protesting against the Government's decision to transfer the Oromia regional capital from Addis Ababa to Adama. According to the information received on 18 May 2004, Diribi Demissie, Gemechu Feyera and 13 other members of the Oromo were reportedly arrested in Addis Ababa. Sentayehu Workneh was reportedly arrested on 20 May and was allegedly beaten during his arrest. They were reportedly initially held incommunicado at the Central Investigation Department "Maikelawi". Six of the students allegedly were released provisionally while the three MTA officials and the seven other Oromo reportedly were accused of involvement in a bombing incident at Addis Ababa University on 29 April 2004 and of having links to the Oromo Liberation Front (OLF). It is reported that they were due to appear in court on 3 June 2004. Concern had been expressed that Diribi Demissie, Gemechu Feyera and Sentayehu Workneh may have been targeted for their human rights work and in particular their work on behalf of the Oromo.

361. By letter dated 29 July 2004, the Government replied to the communication sent by the Special Rapporteur on 3 June 2004 concerning the situation of **Diribi Demissie, Gemechu Feyera and Sentayehu Workneh**. According to the Government, Macha Tulema was an affiliate of the Oromo Liberation Front, and its work with the welfare association for Oromo people was a cover for its more violent and illegal activities. Indeed, the Government declared that the police had uncovered factual evidence implicating their alleged involvements. The Government therefore emphasized that legal proceedings against the officials of the Macha Tulema Association and 13 other individuals were in complete conformity with the law. The aforementioned were arrested in connection with the terrorist attack on Addis Ababa University on 29 April 2004. They were standing trial and remanded in custody until the Court presented its findings.

362. On 23 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Imiru Gurmessa Birru**, who was reportedly arrested in mid-March 2004. The specific grounds for his arrest were not known and he had allegedly not been formally charged when the communication was sent. It was reported that he appeared in court five times, but that each court hearing was adjourned in order to allow the police more time to present evidence against him. At the time of his arrest, he was reportedly beaten at the central police investigation unit known as Maikelawi. He was also reportedly denied medical treatment, in particular for his diabetes and the injuries resulting from the ill-treatment he had reportedly been subjected to while in custody. The judges hearing his case were reported to have paid no attention to his health condition, which gradually deteriorated. As his condition became critical, he was eventually hospitalized at the Police

Hospital in Addis Ababa around 11 June 2004. However, he reportedly received no adequate medical treatment. In view of these allegations, concern had been expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment. Imiru Gurmessa Birru was reported to have already been detained without charge in 2000 for his alleged support to the Oromo Liberation Front (OLF). At that time, he was reportedly tortured during his detention and has suffered from poor health ever since.

363. On 29 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mr. Abdu Mohamed Zein, Mr. Abdulaziz Abba-Fitta, Mr. Balina Gudina, Mr. Getinet Gemechu, Ms. Khadija Hassan, Mr. Siraj Mohamed** and **Mr. Tesemma Olessa**. According to the allegations received, they were arrested on 26 August 2004 in Agoro town, Oromia Region, along with a number of other people accused of having links with the armed opposition Oromo Liberation Front (OLF). However, the precise reason for their arrests had allegedly not been disclosed by the authorities at the time this communication was sent. Some of them were reportedly subjected to torture and other forms of ill-treatment while in detention. It was reported that the whereabouts of Getinet Gemechu were unknown since his arrest. The other detainees were being held in incommunicado detention without charge or trial in Agaro prison at the time this communication was sent. They had not been brought to court within the 48-hour period required by law. In view of their reported incommunicado detention, concern was expressed that they might have been at risk of torture or other forms of ill-treatment. Concern was expressed in particular for the physical and mental integrity of Getinet Gemechu, since he was allegedly detained at an undisclosed location.

Observations

364. The Special Rapporteur thanks the Government for its replies to his communications of 13 February and 3 June 2004. He, however, regrets that no replies to his communications of 23 January 2004, 27 January 2004, 26 March 2004, 8 April 2004, 20 April 2004, 23 June 2004 and 29 September 2004 were received at the date that this report was finalized.

France

365. Le 30 juillet 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant **Mme Keita Matindie**, membre du parti ivoirien d'opposition le Rassemblement des républicains (RDR), trésorière de la section jeunesse et membre active de la section femmes du parti, et défenseur des droits de l'homme, dont la demande d'asile aurait été rejetée. Mme Keita Matindie, faisant l'objet d'une procédure d'expulsion du territoire français, devait être renvoyée en Côte d'Ivoire de façon imminente au moment de l'envoi de la communication. Par ailleurs, elle aurait participé à la marche de protestation organisée par les partis d'opposition le 25 mars 2004 et aurait été témoin de sérieuses violations des droits de l'homme dont des exécutions sommaires perpétrées par les forces de sécurité du pays. Elle aurait à cette occasion été battue par les CRS avec d'autres militants du RDR. Au cours de ces manifestations, son époux, Paul Kiburugupu et sa mère auraient été arrêtés et seraient portés disparus depuis. En avril 2004, Mme Keyta Matindie aurait témoigné sur les violations commises par les forces de l'ordre dont elle aurait été témoin lors des événements des 25 et 26 mars 2004 à Abidjan auprès de la Commission d'enquête internationale établie par le

Haut-Commissariat des Nations Unies aux droits de l'homme. Suite à son témoignage, elle aurait fait l'objet de nouveaux harcèlements, notamment, elle aurait reçu des menaces de mort de la part de membres du GPP (Groupement patriotique pour la paix), proche de la présidence. Durant plusieurs mois, elle aurait été obligée de fuir son domicile en raison du harcèlement dont elle aurait fait l'objet. Selon les informations reçues, le 20 juillet 2004, elle serait arrivée à l'aéroport de Roissy-Charles-de-Gaulle, en France, en possession d'un visa Schengen valide et aurait sollicité son admission au titre de l'asile à la frontière. Sa demande aurait été refusée par le chef du bureau d'asile politique à la frontière en raison du caractère «manifestement infondé» de sa demande. Elle n'aurait pas été autorisée à rentrer sur le territoire pour que sa demande soit examinée sur le fond. Le motif de la décision reposerait sur le fait que «les déclarations de l'intéressée seraient imprécises et lacunaires» et qu'elle n'apporterait pas d'éléments probants sur les faits mentionnés ci-dessus. Néanmoins, selon les informations reçues, Mme Matindie aurait de sérieuses difficultés à s'exprimer en français et n'aurait pas été assistée d'un interprète lors de son premier entretien. Il semble qu'au moment de l'envoi de la communication Mme Matindie se trouvait en zone d'attente à Roissy et son expulsion serait prévue pour le 31 juillet 2004. De sérieuses craintes ont été exprimées que son retour en Côte d'Ivoire ne mette sa vie et son intégrité physique en danger.

366. Le 16 août 2004, le Gouvernement a répondu à la communication envoyée le 30 juillet 2004 concernant Mme Keita Matindie. Le Gouvernement explique que les autorités françaises ont conduit une enquête concernant une personne se présentant comme Mme Kaita Matindie, se trouvant en attente de reconduite en Côte d'Ivoire au moment de l'envoi de la communication du Rapporteur spécial. Cette personne a été entendue à plusieurs reprises, avant et après l'intervention du Rapporteur spécial et de la Représentante spéciale, sans que ses déclarations permettent d'étayer sa demande d'asile. De plus, il est apparu que le passeport de cette personne était un passeport volé. Les autorités françaises ont donc estimé que la personne qui se présentait comme Mme Kaita Matindie n'était pas la personne qui avait témoigné devant la Commission d'enquête internationale établie par le Haut-Commissariat aux droits de l'homme.

Observations

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

Gabon

368. Le 12 mars 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **Alfred Ngamba**, journaliste au journal bimensuel *Le Nganga*, paraissant à Libreville, qui aurait été interpellé le 8 mars 2004 et incarcéré à la maison d'arrêt «Gros bouquet» à Libreville. Selon les informations reçues, M. Ngamba serait accusé d'avoir diffamé un médecin, président d'une ONG, dans un article publié par *Le Nganga*. Il semblerait que M. Ngamba était toujours détenu au moment de l'envoi de la communication.

Observations

369. Le Rapporteur spécial regrette de ne pas avoir reçu de réponse à sa communication au moment de la finalisation du présent rapport.

Gambia

370. On 23 January 2004, the Special Rapporteur sent an urgent appeal concerning reports that **Yorro Jallow**, managing editor of the *Independent* newspaper, received a letter dated 13 January 2004, in which a group called the “Green Boys” threatened to “eliminate” him if the *Independent* continued to publish stories about the majority leader in the National Assembly, who was arrested on 25 December 2003 and faced charges of tax evasion and other related economic crimes. According to information received, the letter included the following statement: “This is a final warning to you. Stop it now or else you will never see a newspaper again... Stop telling lies and writing about the majority leader in the National Assembly or you will regret it”. The police reportedly said they would investigate the incident and bring those responsible to justice, but it is alleged that, until the time this communication was sent, no action had been taken. Further reports indicated that this was not the first time that threats were made in relation to the *Independent*'s critical reporting. On 17 October 2003, unidentified assailants allegedly attempted to burn down the newspaper's offices in Banjul, and, in doing so, attacked a private security guard and damaged Yorro Jallow's office and the offices of the newsroom.

371. On 20 December 2004 the Special Rapporteur sent an urgent appeal concerning the **Criminal Code Amendment Bill 2004** and the **Newspaper Amendment Bill 2004**, which were before President Yayah Jammeh and to be signed into law. If the Criminal Code Amendment Bill became law, press offences would be punishable by three months' to three years' imprisonment. The Newspaper Amendment Bill would nullify all existing registration of media establishments and oblige them to re-apply for registration, within two weeks of the coming into force of the law, upon payment of a licence fee, one which is five times higher than before.

372. On 28 December 2004, the Special Rapporteur sent a letter of allegation concerning **Deyda Hydera**, managing editor and co-owner of the weekly *The Point*, who was killed on 17 December 2004 shortly after midnight, as he left his office. Two of his newspaper's employees with him were injured in the shooting. Hydera was a renowned journalist in the country: he had been the local correspondent for Agence France-Presse (AFP) since 1974 and had collaborated with Reporters Without Borders for many years. Moreover, Hydera had written articles on the recently adopted legislation on the press, which was the subject of an urgent appeal of the Special Rapporteur, dated 20 December 2004, to the Government of the Gambia.

Observations

373. The Special Rapporteur regrets that no replies to his communications were received at the time this report was finalized.

Georgia

374. On 6 January 2004, the Special Rapporteur sent an urgent appeal concerning a rocket attack that shook the Tbilisi headquarters of the **television station Rustavi 2** on 29 December

2003 and damaged the building's façade. It had been reported that, although 15 journalists were inside at the time, nobody was injured. Apparently, this was the second attack against a television station in Georgia in less than a month: the State television company's building in Tbilisi was also damaged by an explosive device on the evening of 3 December 2003. Rustavi 2 programmes had apparently been blocked for several weeks in the autonomous republic of Adzhara. Fears had been expressed that the television station would be targeted because of its role in reporting the protests of November 2003 and the subsequent legislative elections. The police were reportedly treating the attack as an act of sabotage at the time this communication was sent.

375. On 16 September 2004, the Special Rapporteur sent a letter of allegation concerning:

- **Giorgi Mshvenieradze**, a 21-year-old election observer and member of the Georgian Young Lawyers' Association, Kutaisi Branch. On 2 November 2003, he was beaten and detained by Adjara Autonomous Republic police, when he alerted members of the election commission of an attempt by a local inhabitant, who later turned out to be a policeman in plainclothes, to stuff ballots at polling station number 23, Kobuleti district. On 5 November 2003, he was convicted and sentenced to three months of imprisonment in Batumi Prison No. 3 on charges of "hooliganism", "infringing on the expression of the will of the electorate", and "committing a crime against a government official." He was released on 7 December 2003;
- **Vakhtang Komakhidze**, a reporter for the programme "60 Minutes" on the Rustavi 2 television station. On 5 March 2004, as he was driving to Batumi, Republic of Ajaria, he was stopped by transit police at a checkpoint. Unidentified men in black uniforms forced him out of his car, began to beat him and confiscated his videocamera, tapes, and documents. The transit police did not prevent the beating. He was treated for serious injuries in a Batumi hospital. Vakhtang Komakhidze was reportedly investigating corruption by officials of the regional government.

376. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning events on the night of 7 to 8 January 2004, when **Irakli Shetciruli**, a journalist from Rustavi 2 TV station, was prevented from crossing the Chokoli administrative border. A member of the security forces told the journalist in a sarcastic tone that his station had caused a revolution in Georgia and asked if he was planning on doing the same thing in Adjara. The Adjarian Interior Ministry said the refusal to allow the journalist into the region was legitimate, because of the state of emergency in the autonomous republic. On 13 January 2004, around 15 thugs in Batumi beat **Davit Gogitauri**, a cameraman from the Imedi television station, and seized his camera. Just before the attack, the journalist had been sent to interview a man who was assaulted after hanging the new Georgian flag from his window. The flag was a symbol of President Mikhail Saakashvili's National Movement party. Moreover, on 28 January 2004, four armed men burst into the home of **Davit Gogitauri**. They beat him and threatened further reprisals unless he stopped covering political events in Ajaria. On 20 February 2004, at a demonstration against President Abashidze in Batumi, counter-demonstrators attacked television journalists who were covering the event. **Ramaz Jorbenadze**, a cameraman for Channel 9, was assaulted. **Nato Imedaishvili**, his colleague **Diana Trapaidze** and **Irakli Kifiani** of the private station Imedi, together with **Nestan Checkhladze** and **David Maisuradze** of Rustavi 2, were all

targeted by the counter-demonstrators and forced to hand over the film they had just shot. The demonstrators also threatened to ransack the offices of the weekly *Batumelebi*.

377. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning the 10 January 2004, when police officers in Batumi assaulted **Diana Trapaidze**, of Imedi television, and **Nestan Sheckhladze** of the Rustavi 2 station, after they filmed the police ripping down posters of the Kmara movement. The group spearheaded the protest during the “Rose revolution”, which saw former president Shevardnadze’s peaceful resignation and the taking of power by the opposition after legislative elections on 2 November 2003. The officers accused the journalists of giving publicity to Kmara. Journalist **Tedo Jorbenadze**, of *Batumelebi* magazine was beaten by the police officers. The three journalists were held for less than one hour and subsequently released after the intervention of the former Adjarian Member of Parliament and the Interior Ministry Press Officer. On 11 January 2004, around 15 black-clad men beat journalists **Mzia Amaglobeli** and **Eter Turadze**, both from *Batumelebi*. The men also seized and damaged the camera of **Diana Trapaidze** and seized video equipment from **Nestan Sheckhladze**. The journalists were attacked as they covered a demonstration in support of President Saakashvili. On 25 January 2004, the police again targeted Eter Turadze and Mzia Amaglobeli during a demonstration against the local government in Batumi. They seized and destroyed their equipment. On 5 March 2004, **Vakhtang Komakhidze**, a reporter for the “60 Minutes” investigative journalism programme on Rustavi 2 TV, was brutally attacked in the autonomous republic of Ajaria. As the journalist was driving out of the city of Batumi, transit police stopped him at a checkpoint. Several unidentified men in black uniforms forced him out of his car and began to beat him. The men also took the journalist’s videocamera, tapes, and various documents. It is believed that the unidentified men were with an Ajarian special task unit. The transit police did nothing to prevent the beating. Vakhtang Komakhidze was working on an exposé about allegations of corruption by Ajaria’s regional leader, and his family.

Observations

378. The Special Rapporteur regrets that no replies to his communications were received at the time this report was finalized.

Greece

379. On 15 June 2004, the Special Rapporteur sent an urgent appeal regarding the **private radio station Makedonikos Ichos** in Naoussa. According to the information received, on 4 June 2004, the police entered the premises of the radio station, which broadcasts in Macedonian, and seized transmitting equipment. **Aristoteles Vottaris**, owner of Makedonikos Ichos, was reportedly arrested and charged with illegal transmission and lack of appropriate documents, as the radio allegedly did not have a licence for local or regional transmission.

380. On 5 November 2004, the Government of Greece sent a response to the Special Reporter’s communication of 15 June 2004 concerning **Aristoteles Vottaris**. According to the Government, Aristoteles Vottaris, of Kara Visa, Pella, was arrested on 4 June 2004 for having violated article 16 of law 2801/2000 and Law 2121/93, in conjunction with article 16 of the Penal Code. Specifically, he was accused of illegal operation of a radio station in violation of the copyright and forgery provisions (possession of 56 pirate CDs). The amateur radio station was broadcasting music at the frequency of 88.8 FM for a year without having a fixed programme,

but more of an ad hoc one. The frequency was interfering with another established radio station, which led to the filing of the complaint lodged by the manager of the latter radio station, as a result of which the Public Prosecutor of Giannitsa brought the case before the court. The hearing of the case is scheduled for 12 January 2005.

381. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning the 21 June 2003 European Union (EU) summit in Thessaloniki, when the police used excessive force against protesters. Over 100 individuals were detained between 21 and 23 June 2004; 29 of them were arrested and charged, including three minors. Seven of them, four nationals of Spain, the Syrian Arab Republic and the United Kingdom of Great Britain and Northern Ireland and three Greek citizens, were still in prison at the end of November 2003. During their arrest, British citizen **Simon Chapman**, aged 30, Spanish citizens **Carlos Martín Martínez**, 25, and **Fernando Pérez Gorraiz**, 22, and Syrian citizen **Solaiman Dakdouk**, 34, were kicked, beaten with batons, spat at, and verbally assaulted by police officers. It is believed that they were ill-treated during their initial detention period. As a result, they sustained head injuries and bruising; Simon Chapman received stitches to the forehead. Moreover, on 28 December 2003, the TV station Alter sent its reporter **Antonis Papadopoulos**, a member of the Athens Union of Daily Newspapers, along with a camera crew, to the public Nikea General Hospital, after it received several telephone calls from relatives of patients hospitalized there. They claimed that, owing to the large number of patients needing medical treatment and a shortage of appropriate rooms, the patients were put in so-called “rantza” beds in the corridors of the hospital, where they were kept under poor conditions. Antonis Papadopoulos and his crew went to investigate and were able to enter the hospital without any problems. They filmed the situation, which proved to correspond to the accusations of the patients’ relatives. Soon people from a private security company, who were responsible for maintaining order in the hospital, arrived and attacked the journalist and his crew. Antonis Papadopoulos was beaten repeatedly. His clothes were torn, his bag taken, and he was forced to go to the basement of the building where he was questioned by people with no authority to do so. Finally, on 3 May 2004, Greek state television **ET-3** cancelled the showing of the documentary “The Other Side”, scheduled for 11 p.m. that day. The documentary, produced by journalist Fani Toupalgiki, presents the events of 1963-1964 in Cyprus from the point of view of Turkish-Cypriots and received an honorable mention in the Sixth International Festival of Thessaloniki in March 2004 for “its handling of a difficult and sensitive topic”. The Athens daily *Eleftherotypia* reported that the cancellation was the result of an intervention by the Director General of ET-3 before a visit by Turkish Prime Minister Recep Tayyip Erdogan.

382. On 9 December 2004, the Government sent a response to the communication of 30 September 2004 concerning the 21 June 2003 EU Summit in Thessaloniki. The Government claims that, on 21 June 2003, between 5 p.m. and 9.30 p.m., some people held a protest meeting and marched at the centre of Thessaloniki, in view of the EU leaders’ summit. During this protest, punishable acts which may be prosecuted ex officio, such as arson to commercial shops, banks, parked vehicles, unprovoked damage to third-party property, etc., were committed: 124 participants, Greeks and foreigners, were taken to the Security Directorate of Thessaloniki, where 30 were arrested and detained for the commission of punishable acts. The following day, these persons were referred to the Public Prosecutor of the Magistrate’s Court of Thessaloniki. Two girls detained were released and one was referred to the Public Prosecutor responsible for sentence enforcement. The other 27 detainees were referred to investigation by the 2nd Section of the First Instance Court of Thessaloniki. The investigator released 20 accused persons,

prosecuted for misdemeanours, six of whom were released without restrictions and the other 14 with restrictions. The remaining seven as well as the foreigners were prosecuted for felonies and were detained in remand. Two of them were taken to the Special Detention Facility for Young People at Avlona, Attica, and the other five were taken to the Judicial Prison of Diavata, Thessaloniki. The latter seven were released from prison on 26 November 2004 with restrictions. British citizen **Simon Chapman** was amongst the protesters that day, particularly among a group of protesters called the Black Block. This included around 100 people equipped with bags, black hoods, gas masks, crowbars, hammers, slings, improvised flares, etc. This group had proceeded, according to the Government, to vandalize and burn commercial shops, banks, parked vehicles, etc, as well as throwing a large number of Molotov cocktails. A group of police officers of the Order Restoration Sub-Directorate was ordered to prevent/restrict the destruction of property and to arrest the offenders. The protesters reacted violently, throwing Molotov cocktails, rocks and metal balls at the police, to which they responded with tear gas. Simon Chapman was one of the persons arrested at that point; he was in possession of Molotov cocktails and two hammers. Following his arrest, he was taken to a hospital to receive first aid, having sustained minor injuries after having slipped on the ground. He was then sent before the Public Prosecutor of the Magistrate Court of Thessaloniki, and upon the request of the investigator, detained in remand. Owing to a letter written by his parents, forwarded to the Public Prosecutor, and also due to publications of his case on different newspapers, a preliminary inquiry was initiated. This inquiry did not confirm the reported events, as a result of which the case was filed. An administrative inquiry into the same case did not confirm the commission of disciplinary offences, either. The case was put on file from the disciplinary point of view, upon the orders of the General Police Director of Thessaloniki. Concerning the beating of TV station ALTER reporter **Papadopoulos Antonios** by security officers of the General Hospital of Nikea in December 2003, the Government claims that, following an incident between the said person and two hospital security guards, the three of them were taken to the Police Station of Nikea. It appears that the incident happened when the security guards arrested Papadopoulos because of his reporting on the conditions of patient hospitalization without having prior consent. Papadopoulos tried to escape from a window but waited at the entrance of the hospital for the arrival of the police officers. The officers on duty at the police station of Nikea took all the required steps and recommendations needed to avoid similar future events, and all were free to leave soon after without prejudice to their lawful rights.

383. On 9 November 2004, the Special Rapporteur sent a letter of allegation concerning the events of 18 October 2004, at around 4 p.m., when **Philippos Syrigos**, radio and TV announcer, and sports editor for the Athens daily *Eleftherotypia*, was attacked by two unknown men while leaving Super Sport FM Radio station after having hosted a programme. He was reportedly hit in the head with a metal bar and stabbed several times in the back. As a result, he underwent surgery and was released from hospital on 23 October. It is also reported that Mr. Syrigos had been the subject of threats made over the phone. For example, it appears that persons, whose identity is unknown, called the radio station to protest against Mr. Syrigos's revelations concerning certain sport and health issues.

Observations

384. The Special Rapporteur thanks the Government for its replies to his communications of 15 June 2004 and 30 September 2004, but regrets not having received any reply to his communication of 9 November 2004 at the time this report was finalized.

Grenada

385. On 16 September 2004, the Special Rapporteur sent a letter of allegation concerning the 30 March 2004 when, the Miami-based **Internet newsletter “OffshoreAlert”** published a report denouncing the alleged corruption of the Government of Grenada. On 10 May 2004, the opposition National Democratic Congress reportedly held a press conference denouncing the alleged corruption of Grenadian authorities. Reports indicate that the Government Information Service of Grenada then issued a warning that media outlets that broadcast or publish the content of the press conference could face legal action. Within a few days, the Government had allegedly filed a criminal libel lawsuit against “OffshoreAlert” and its publisher, **David Marchant**, a British national. On 11 May 2004, **Odette Campbell**, news director for the Grenada Broadcasting Network, walked out of a press conference held by the Minister of Tourism to protest the Government’s attitude toward the local media. It is reported that a dozen other journalists also participated in the walk out. Odette Campbell was reportedly suspended for one week for her actions. This suspension allegedly led her to resign from her position on 25 May 2004. On 27 May 2004, **Leroy Noel**, a Grenadian freelance reporter, was held for questioning about the content of an article published on 21 May 2004 in the Grenadian weekly *Spice Isle Review*. It is believed that the article, “NNP days are numbered”, reported on connections between members of the ruling New National Party and people accused of corruption. The journalist, who regularly contributes to the Cayman Islands-based “Caribbean Net News”, was reportedly detained by four police officers while he was on his way to work. Authorities released him after four hours without charge. On 2 June 2004, Leroy Noel received an anonymous death threat on his mobile phone. An unidentified male reportedly ordered him to stop writing about the Prime Minister or he would be killed. Leroy Noel’s attorney requested that Grenada’s Police Commissioner begin an investigation on the matter and provide security for the journalist.

Observations

386. The Special Rapporteur regrets that no reply to his communication was received at the date that this report was finalized.

Guatemala

387. El 20 enero de 2004, el Relator Especial, juntamente con el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, el Relator Especial sobre la independencia de magistrados y abogados y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con el caso pendiente de **Bruce Harris**, Director Ejecutivo de los Programas para América Latina de Casa Alianza y un defensor de los derechos de los menores de edad, que será analizado por un tribunal guatemalteco el 22 de enero próximo. Según la información recibida Bruce Harris fue acusado de difamación por Susana de Umaña después de una conferencia de prensa celebrada en septiembre de 1997 en la cual la Oficina del Procurador General y Casa Alianza expusieron el tráfico ilegal de niños en Guatemala. Durante la conferencia, Bruce Harris habría declarado que la Susana de Umaña había utilizado “influencia indebida” con las autoridades gubernamentales para facilitar a las adopciones internacionales. En febrero de 1999, la Corte Constitucional habría dictado que, por no ser miembro de los medios de comunicación, Bruce Harris no tiene derecho a la libertad de expresión, la defensa en contra de la difamación.

De esa manera Bruce Harris enfrenta la posibilidad de una condena criminal y cinco años de encarcelamiento.

388. Por carta con fecha 28 de junio de 2004, la Misión permanente de Guatemala ante la Oficina de las Naciones Unidas en Ginebra transmitió la siguiente información en relación con la comunicación del 20 de enero de 2004: Este caso está siendo ventilado ante el Sistema Interamericano de Derechos Humanos por lo cual ya existe un mecanismo internacional encargado de examinar el caso y los denunciantes han presentado solicitudes múltiples ante varios procedimientos internacionales (sistema interamericano y Naciones Unidas). Además, los denunciantes no han agotado los recursos de la jurisdicción interna. No obstante lo anterior, el Gobierno informa lo relativo a los avances en la jurisdicción interna:

- El 30 de enero de 2004, un tribunal jurisdiccional absolvió a Bruce Campbell Harris Lloyd por los delitos de Calumnia, Injuria y Difamación por los cuales fue acusado por la Sra. Susana Luarca de Umaña. Esta resolución fue fundamentada en la legislación interna y la Convención Americana sobre Derechos Humanos;
- El 13 de febrero de 2004 la Sra. Susana Luarca de Umaña apeló el fallo del Tribunal. El Tribunal envió a la Sala correspondiente para su estudio y determinara si procede o no dicho recurso;
- El Estado de Guatemala manifiesta que no se han agotado aún los recursos y remedios de la jurisdicción interna y que el presente caso es un asunto contencioso entre particulares. Para los efectos el Estado ha proveído el proceso penal e instancia donde se dirime esta controversia.

389. El 5 marzo de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Eloída Mejía Samoya**, presidenta y representante legal de la Asociación Amigos del Lago Izabal, una organización que se opone a la reactivación de las actividades mineras en el departamento de Izabal. Según la información recibida, el 18 de febrero Eloída Mejía Samoya habría sido advertido de que si no dejaba de oponerse las actividades mineras, se arriesgaba a que la mataran. Habrían dicho además a su casero que quemarían a la casa en la que vive Eloída Mejía Samoya si ésta continuaba con sus actividades. El 21 de febrero, según la información, la Asociación Amigos del Lago Izabal habrían convocado una reunión en la localidad de Puerto Barrios para informar a los habitantes de la zona sobre las repercusiones ecológicas de las actividades mineras. Durante la reunión, un grupo de individuos desconocidos se la habrían interrumpido y habrían amenazado a Eloída Mejía Samoya diciendo “que cayera su cabeza”. Se informa además que estas amenazas vienen presididas por el presunto asesinato de **Enrique Alcantará**, trabajador del Consejo Nacional de Áreas Protegidas (CONAP) y activista medioambiental quien habría luchado contra el tráfico ilegal de fauna silvestre. Según la información, el 10 de febrero de 2004 a las 15.00 horas, Enrique Alcantará habría sido asesinado por disparos efectuados por desconocidos en la ciudad de Puerto Barrios. Se teme que estas presuntas amenazas de muerte contra Eloída Mejía Samoya y el presunto asesinato de Enrique Alcantará estén relacionados con sus actividades de defensa del medio ambiente a favor de los habitantes del departamento de Izabal.

390. El 19 marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura y la Representante Especial del Secretario General para los defensores de los derechos

humanos, envió un llamamiento urgente en relación con **Victoriano Zacarías Mindez**, Secretario ejecutivo de la Central General de Trabajadores de Guatemala (CGTG) y Secretario General del Sindicato de Pilotos Automovilistas y Similares de Guatemala, tal como **Wilson Carreto** y **Miguel Angel Ochoa**, directivos de la Unión de Pilotos de Transporte Pesado por Carretera, quienes habrían sido detenidos el 25 de febrero de 2004, supuestamente de manera violenta, por las fuerzas estatales de seguridad en la ciudad de Guatemala. Según las informaciones recibidas, estas tres personas se habrían manifestado contra la medida que habría implementado la Municipalidad de Guatemala, la cual restringiría la circulación de vehículos pesados en la capital, obligando a los conductores a trasladar su trabajo a horarios nocturnos y peligrosos. Durante esta manifestación, se habrían observado incidentes de orden público. Debido al derrame de gasolina de dos cisternas que se colocaron en un cruce de avenidas en el centro de Guatemala, a las personas detenidas durante la manifestación, se les habría tipificado entre otros cargos, el de “terrorismo”. Sin embargo, según testimonios, este acto habría sido realizado por personas infiltradas dentro de la manifestación para provocar el caos. De acuerdo con las informaciones recibidas, Victorio Zacarías Mindez, Wilson Carreto y Miguel Ángel Ochoa se encontrarían actualmente detenidos en incomunicación en una cárcel judicial preventiva, en condiciones de hacinamiento y de insalubridad debido a la deficiencia de las instalaciones. A la luz de estas alegaciones, se han expresado temores por la integridad física de las personas arriba mencionadas.

391. El 5 de abril de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Thelma Peláez**, Fiscal de la Sección de Derechos Humanos del Ministerio Público cuyo caso ya fue objeto de un llamamiento urgente enviado por la Representante Especial del Secretario General para los defensores de los derechos humanos el 21 de junio de 2003. De acuerdo con la nueva información recibida el 11 de marzo de 2004, el vehículo donde viajaba Thelma Peláez habría sido perseguido por una motocicleta Honda blanca con una placa de circulación perteneciente al Ministerio de Defensa Nacional. Los custodios de Thelma Peláez habrían interceptado a los tripulantes de la motocicleta quienes se habrían identificados como miembros del Ejército de Guatemala. Al inquirir acerca del motivo de la persecución, habrían dicho a los custodios que la fiscal “debería dejar las cosas en paz”. Se informa además que el mismo 11 de marzo una furgoneta *pick-up* con vidrios polarizados y sin placas de circulación habría perseguido por más de una hora al vehículo de Thelma Peláez. Se teme que estos presuntos actos de hostigamiento en contra de Thelma Peláez estén relacionados con su trabajo de investigar, entre otros casos, el asesinato del auxiliar de la Procuraduría de los Derechos Humanos (PDH) de Chimaltenango, José Israel López, el 11 de junio de 2003 y los hechos del 24 y 25 de julio de 2003 durante una manifestación Pro Ríos Montt organizado por la Frente Republica Guatemalteca en la cual fueron detenidos varios indígenas.

392. Por carta fechada el 13 de octubre de 2004, el Gobierno contestó a la comunicación transmitida por la Representante Especial el 5 de abril de 2004 referente a la situación de **Thelma Inés Peláez Pinelo de Lam**. Según la Policía Nacional Civil, habría brindado medidas de seguridad a la afectada, y en la actualidad, habría asignado seis agentes uniformados de la PNC a la casa de su madre. En cuanto a la Fiscalía, una investigación habría sido iniciada, tras de la cual habría solicitado al Servicio de Investigaciones Criminalísticas de la Policía Nacional Civil y al Director de Investigaciones Criminalísticas del Ministerio Público la designación de las personas para realizar la investigación respectiva. Asimismo, habría solicitado al Ministerio

de la Defensa información sobre los presuntos sindicados, y a la Superintendencia de Administración Tributaria-SAT información sobre el vehículo presuntamente utilizado en la persecución contra la agraviada. El Gobierno informó igualmente que no sería necesario que la citada ciudadana fuese entrevistada por el Servicio de Investigaciones Criminalísticas de la Policía Nacional Civil y que la identificación del vehículo notado en la denuncia sería suficiente. El 3 de agosto del 2004, la afectada habría tenido una entrevista con la Comisión Presidencial por medio de la cual habría manifestado que se le siguen brindando las medidas de seguridad. El Gobierno declaró seguir atento al resultado de las investigaciones e informar oportunamente a la Representante Especial.

393. El 23 de abril de 2004, el Relator Especial, juntamente con el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación del personal de la organización no gubernamental “¿Dónde están los niños y las niñas?” y en particular de **María Isabel Escobar Donis, Ana Morales, María Teresa Soto, Manuel Cedillo y Diego Sunuc**. Según la información recibida la organización “¿Dónde están los niños y las niñas?” estaría investigando las circunstancias en que se adoptó a niños tras separarlos de sus padres durante la guerra civil de Guatemala. Se informa de que altos mandos del ejército estarían implicados en las adopciones. Se informa de que el personal de la organización estaría víctimas de constantes amenazas y hostigamiento. En marzo de 2003 dos empleadas de la organización habrían sido agredidas al regresar de una investigación y las bolsas que contenían grabaciones magnetofónicas y otra información sobre el caso habrían sido robados. En vista del constante hostigamiento, la organización se habría visto obligada a mudarse de oficinas en cuatro ocasiones a lo largo de 2003. En este contexto y según la información recibida, a mediados de marzo de 2004, María Isabel Escobar Donis habría sido interceptada por tres hombres armados cerca de las oficinas de la organización. A punta de pistola, los hombres le habrían exigido que les entregase sus llaves y habrían llevado el automóvil de la organización. Además según la información recibida, durante las vacaciones de Pascua del 8 al 12 de abril las oficinas de la organización habrían sido asaltadas y además de ordenadores y otros aparatos, habrían sido robados archivos que contenían información sobre la participación de militares en violaciones de derechos humanos durante la guerra civil. Se teme que estos actos de agresión sean una forma de intimidar a los miembros de “¿Dónde están los Niños y las Niñas?” para que abandonen su trabajo de investigar y resolver las adopciones supuestamente ilegales de niños durante la guerra civil.

394. El 27 de mayo de 2004, el Relator Especial envió un llamamiento urgente en relación con **Héctor Ramírez Rubio**, periodista de 25 años, **David Hernández Rubio**, 18 años y **Roxana Marubbeny Gubien Morales**. Según los informes, estas personas habrían sido atacadas e intimidadas en un intento de impedir que se investigue la muerte de un familiar suyo. De acuerdo con las informaciones recibidas, el 17 de mayo de 2004, dos hombres armados que viajaban en motocicletas se habrían presentado en la casa del periodista Héctor Ramírez Rubio y habrían preguntado a sus dos hermanastras, de forma intimidatoria, dónde estaba Héctor Ramírez Rubio y cuándo volvería a casa. Las hermanastras habrían respondido diciendo que iban a llamar a la policía y habrían cerrado la puerta cuando uno de los hombres habría intentado entrar en la casa. Se informa además de que el 17 de mayo de 2004, dos motociclistas y un automóvil blanco habrían seguido a la hermanastra de Héctor Ramírez Rubio mientras conducía su automóvil. El 18 de mayo de 2004, la esposa de Héctor Ramírez Rubio, Roxana Marubbeny Gubien Morales, también habría observado que una camioneta la habría seguido. El 19 de mayo de 2004, David

Hernández Rubio habría sido atacado por dos hombres no identificados cerca de su casa. Los desconocidos habrían empezado a propinarle patadas y puñetazos, hasta que él huyó de la escena mientras sus atacantes le gritaban: “Mejor ándate corriendo, porque si te alcanzamos, te matamos”. Tras estos ataques, Héctor Ramírez Rubio y David Hernández Rubio habrían pedido medidas cautelares a la Comisión Interamericana de Derechos Humanos. Los informes indican que Héctor Ramírez Rubio y David Hernández Rubio son hijos de Héctor Ramírez, el periodista conocido como “Reportero X”, que murió durante el estallido de violencia política del 24 y 25 de julio de 2003. Su muerte estaría siendo investigada a raíz de una querrela presentada por sus hijos contra miembros del antiguo gobierno de Alfonso Portillo.

395. El 9 de agosto de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la seguridad de los miembros del **Centro para Acción Legal en Derechos Humanos (CALDH)**, y de los testigos de la masacre de Plan de Sánchez, Guatemala, cuyo caso ya fue objeto de un llamamiento urgente enviado el 2 de agosto de 2004 por la Representante Especial del Secretario General para los defensores de los derechos humanos. El CALDH actúa como asesor jurídico de los supervivientes de la masacre de Plan de Sánchez de 1982 y habría presentado el caso de Plan de Sánchez el 29 de abril de 2004 ante la Corte Interamericana de Derechos Humanos con la consecuencia de que la Corte habría condenado al gobierno guatemalteco por la matanza. De acuerdo con las informaciones recibidas, durante el mes de julio de 2004 el CALDH y los testigos del Plan Sánchez habrían sido sujetos de una campaña de intimidación y hostigamiento que habría resultado en el allanamiento de la casa de la directora del CALDH y de las oficinas de la sede. El 17 de julio se habría amenazado de muerte a uno de los testigos de la masacre de Plan de Sánchez. Se informa también que el día 30 de julio, se habrían recibido en la sede de CALDH llamadas anónimas que habrían avisado de la colocación de una bomba en el edificio. Sin embargo, estas amenazas no se habrían cumplido hasta la fecha. Según la nueva información recibida, el 1.º de agosto una nota escrita a mano habría sido dejada en la sede del CALDH de Rabinal, Baja Verapaz en la cual habría amenazado de muerte al mismo testigo de la masacre de Plan de Sánchez y al personal del CALDH, en particular al vocero, Miguel Ángel Albizures. La amenaza de muerte les habría avisado: “Si siges hablando con los derechos humanos de los de la masacre los días pueden regresar como los años 80 (...) si no te vas de esta tierra juntos (...) Van a morir muy pronto (...) y a los demás morirá.” Se presume que “Advisures” está mal escrito y quiere decir “Albizures”. Se teme que estos nuevos actos de hostigamiento en contra del personal del CALDH y esta segunda amenaza de muerte en contra del mismo testigo del plan de Sanchez puedan constituir un verdadero intento de intimidar a los supervivientes de la masacre y al personal del CALDH para que dejen de expresarse sobre la masacre y perseguir a los responsables de las matanzas perpetradas durante los años de conflicto en Guatemala. En particular se teme que la vida del testigo y de los empleados del CALDH puedan correr peligro.

396. El 6 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura y Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación en relación con **Gerardo Montenegro, Luis Romero, Mynor Tuc, Edwar Morales, Mario Morales, Julio Rodas, Francisco Revolorio y Dervin Revolorio**, periodistas de varios medios de comunicación en Guatemala. Según la información recibida, el 31 de agosto de 2004 estos periodistas habrían sido agredidos por agentes de la Policía Nacional Civil (PNC) durante un enfrentamiento armado entre

campesinos y las fuerzas del orden. Los hechos habrían tenido lugar durante el desalojo forzado de más de mil campesinos de la Finca Nueva Linda, Puerto Champerico, departamento de Retalhuleu, al que los campesinos se habrían opuesto. Se alega que los policías habrían golpeado a los periodistas, tirándolos al suelo y pateándolos, y habrían confiscado sus equipos de trabajo, incluso cámaras fotográficas y de televisión. Los agentes de la PNC habrían agredido a los periodistas cuando éstos habrían intentado cubrir el supuesto excesivo uso de fuerza con la que la policía habría actuado en contra de los campesinos. En particular, los periodistas habrían intentado filmar como unos policías golpeaban a un campesino gravemente herido. Según se informa, varios policías y campesinos habrían fallecido durante el desalojo, y otros habrían resultado heridos. Se teme que estos actos de violencia en contra de los periodistas puedan estar directamente relacionados con su trabajo de difundir las imágenes de las supuestas violaciones de derechos humanos cometidas por los agentes de la PNC en contra de los campesinos.

397. El 19 de octubre de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la seguridad del personal de la Procuraduría de Derechos Humanos (PDH) de Coatepeque, Quetzaltenango y en particular, el auxiliar **Luis Alberto López Batzín**. Según la información recibida, el 30 de julio de 2004 la sede de la PDH habría sido avisado sobre la existencia de una bomba que les obligó a suspender una conferencia de prensa en la que se convocaba a la marcha nacional contra la violencia. De acuerdo con la nueva información recibida, el 4 de agosto de 2004 Luis Alberto López Batzín habría sido amenazado de muerte por hombres armados que habrían entrado en la oficina de la PDH. Se informa también que durante los días posteriores de dicho suceso habría recibido llamadas telefónicas en la oficina amenazando a todos los funcionarios de la PDH y en particular a la familia de Luis Alberto López Batzín. Se alega que la situación se habría agravado a tal manera que el personal de la PDH decidió encerrar la oficina para prevenirse de posibles riesgos mayores. Se teme que estos actos de hostigamiento y las amenazas de muerte en contra de Luis Alberto López Batzín y el personal de la Procuraduría de Derechos Humanos (PDH) puedan estar relacionados con ciertos casos actualmente a cargo de la Procuraduría, en los que podrían estar involucrados grupos armados ilegales de la zona.

398. El 17 de diciembre de 2004, el Relator Especial envió una comunicación en relación con la periodista Miriam Espina. De acuerdo con las informaciones recibidas, el programa televisivo "Entre Mujeres", conducido por la periodista Miriam Espina, ha sido objeto de amenazas y censura presuntamente por aportar a su contenido un enfoque de género. En particular, Miriam Espina ha recibido amenazas para con ella y su familia que supuestamente se pondrían en práctica en caso de que el programa no variara su temática. Miriam Espina vincula dichas amenazas con los dueños del local donde se realiza la filmación de su espacio televisivo, quienes le habrían conminado a dejar dicho lugar para lo cual, además de no recibirle las cantidades que regularmente abona, habrían presionado también a los anunciantes con noticias falsas.

Observaciones

399. El Relator Especial da las gracias al Gobierno por sus respuestas a las comunicaciones con fechas 20 de enero de 2004 y 5 de abril de 2004.

400. El Relator Especial lamenta que a la conclusión del informe no había recibido respuestas a sus comunicaciones con fechas 5 y 19 de marzo, 23 de abril, 27 de mayo, 9 de agosto, 6 de septiembre, 19 de octubre y 17 de diciembre de 2004.

401. El Relator Especial quisiera agradecer el Gobierno por la invitación a visitar el país.

Guinea

402. Le 14 avril 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant Mme **Roughui Barry**, militante de l'Union des forces républicaines (UFR), un parti de l'opposition, qui aurait été arrêtée le 29 mars 2004 à son domicile dans une banlieue de Conakry par des agents de la Direction centrale de la police judiciaire. Elle aurait été conduite au tribunal de première instance de Kaloum. Il semblerait que les motifs de son arrestation et l'endroit où elle se trouvait détenue au moment de l'envoi de la communication n'auraient pas été dévoilés. Toutefois, des craintes ont été exprimées que sa détention pourrait être liée à ses activités au sein de l'opposition politique et à des propos critiques vis-à-vis du Gouvernement, propos qu'elle aurait tenus lors d'une émission radiophonique. En raison des allégations selon lesquelles elle se trouverait détenue au secret dans un endroit inconnu, des craintes ont été exprimées quant au fait qu'elle serait exposée au risque d'être soumise à des actes de torture ou autres formes de mauvais traitements.

403. Le 26 novembre 2004, le Rapporteur spécial a envoyé une communication concernant le cas du journal privé **Le Quotidien**, qui aurait été l'objet d'une suspension illimitée par une décision du Conseil national de la communication (CNC) du 13 novembre 2004, suite à la publication d'un article intitulé «Le pays va mal ... À quand le soulèvement?». L'éditeur du quotidien, Siaka Kouyaté, aurait pris connaissance de la fermeture du journal par un communiqué du CNC diffusé par les médias nationaux. M. Kouyaté, qui affirme avoir reçu des menaces, aurait essayé de s'expliquer auprès du CNC, sans succès.

Observations

404. Le Rapporteur spécial regrette de ne pas avoir reçu, au 31 décembre 2004, de réponse à ses communications des 14 avril et 26 novembre 2004.

Haiti

405. Le 21 janvier 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la question de la torture, a envoyé une communication au Gouvernement au sujet de la **situation des droits de l'homme dans le pays**, qui ne cesserait de se détériorer, plus particulièrement depuis le début des violentes confrontations qui ont eu lieu au cours des mois précédents entre militants pro et antigouvernementaux, de même qu'avec des membres de la police. Selon les informations reçues, le 7 janvier 2004, deux personnes auraient été tuées et une trentaine d'autres blessées à Port-au-Prince au cours de confrontations entre des manifestants du parti d'opposition d'un côté et des partisans du Gouvernement et les forces de l'ordre de l'autre.

Par ailleurs, il semble que, depuis plusieurs mois, de nombreuses attaques ont eu lieu contre des militants politiques, des journalistes et des stations de radio sur l'ensemble du territoire, portant ainsi atteinte au respect effectif du droit à la liberté d'opinion et d'expression en Haïti. En particulier, les Rapporteurs spéciaux et la Représentante spéciale se sont référés à des rapports selon lesquels, le 15 janvier 2004, les stations de **Radio Pyramide** et **Radio America** auraient été attaquées dans la ville de Saint-Marc, vraisemblablement par des partisans de l'opposition, à l'issue d'une manifestation antigouvernementale. Cette attaque aurait été effectuée en représailles à l'attaque armée de manifestants antigouvernementaux par des partisans du Président, qui avait fait trois blessés.

406. Le 23 février 2004, le Rapporteur spécial a envoyé une communication concernant **Sony Bastien**, président et directeur général de la station de radio privée Radio Kiskeya, basée à Port-au-Prince, qui aurait reçu des menaces de mort. Selon les informations reçues, après avoir lu un éditorial sur la radio le 5 février 2004, dans lequel il critiquait le Président Aristide pour ses accusations à l'encontre de l'Association nationale des médias haïtiens et à l'encontre d'un journaliste, M. Bastien aurait reçu des coups de téléphone anonymes, disant qu'il devrait «commencer à marcher avec un cercueil sous le bras». Il semblerait que le nom de M. Bastien se trouverait sur la liste des «personnes à abattre» des organisations populaires qui soutiennent le Président (organisations connues sous le nom de «chimères») et que, depuis le 14 février, des personnes armées, appartenant semble-t-il aux chimères, auraient pris position aux alentours de son domicile.

407. Le 4 août 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant M. **Jean-Claude Bajoux** et Mme **Sylvie Bajoux**, responsables du Centre œcuménique des droits de l'homme (CEDH), une organisation de défense des droits de l'homme basée à Port-au-Prince, pour qui une communication avait déjà été envoyée le 18 juillet 2002 par la Représentante spéciale et le Rapporteur spécial conjointement avec la Rapporteuse spéciale sur les exécutions sommaires, arbitraires ou extrajudiciaires. Selon les informations reçues, vers 3 heures dans la nuit du 1^{er} au 2 août 2004, des hommes armés auraient tiré à deux reprises sur le domicile de M. et Mme Bajoux. Prévenue à 3 h 20, la police scientifique ne serait venue constater les faits que vers 10 heures du matin. L'attaque visant les responsables du CEDH est intervenue après le cinquième Forum pour la réforme de la justice pénale dont M. Jean-Claude Bajoux est le porte-parole, et alors qu'une délégation de la Fédération internationale des droits de l'homme, qui aurait particulièrement bénéficié de l'aide du CEDH dans l'organisation de sa mission, est actuellement présente en Haïti. Des craintes ont été exprimées que cette attaque ne soit en relation avec les activités de défense des droits de l'homme, et en particulier leur participation active au Forum pour la réforme de la justice pénale, de M. et Mme Bajoux. Ces craintes sont d'autant plus vives que M. et Mme Bajoux auraient déjà fait l'objet d'attaques et de menaces en raison de leur action en faveur des droits de l'homme en Haïti. En particulier, en octobre 2003, ils auraient été attaqués par des hommes armés au moment où ils rentraient chez eux, et en juillet 2002 leur résidence aurait été prise d'assaut par des hommes qui, sous la menace d'armes de poing, auraient séquestré Mme Sylvie Bajoux et quatre de leurs employés.

408. Le 16 septembre 2004, le Rapporteur spécial a envoyé une communication concernant les cas résumés ci-dessous:

- **Peterson Milord**, journaliste à Radio Vision 2000 et Radio Passion à Léogane, aurait été brutalement expulsé de l'église de Sainte Rose de Lima le 23 août 2003, alors qu'il couvrait une messe qui se déroulait en présence du président Aristide. Le prêtre Fritz Sauvaget aurait par la suite motivé cette expulsion en accusant le journaliste d'avoir diffusé de fausses informations le concernant. Il semblerait que, le 27 août 2003, Peterson Milord aurait été victime d'un enlèvement, et aurait été retrouvé nu et ligoté le 29 août 2003 dans un champ de canne, en bordure de la rivière Rouyonne à 30 km de Port-au-Prince;
- Le 24 février 2004, **Michel Jean** et **Sylvain Richard**, respectivement journaliste et caméraman de la Radio Canada, auraient été la cible de tirs de la part de manifestants dans le nord de Port-au-Prince, alors qu'ils couvraient une manifestation d'opposants à l'ancien président Jean-Bertrand Aristide;
- Le 7 mars 2004, le journaliste espagnol **Ricardo Ortega**, envoyé spécial de la chaîne espagnole Antena 3 en Haïti, aurait été mortellement blessé par balle alors qu'il couvrait une manifestation d'opposants à l'ancien président Jean-Bertrand Aristide. Les rapports indiquent qu'une fusillade aurait éclaté au moment de la dispersion de la manifestation. **Michael Laughlin**, photographe du quotidien *Sun-Sentinel* publié en Floride, aurait été blessé durant la même manifestation. Selon les informations reçues, immédiatement après avoir été touché, Michael Laughlin aurait trouvé refuge avec Ricardo Ortega dans une maison. Les deux hommes auraient ensuite été transportés à l'hôpital privé de Canapé Vert, à Port-au-Prince, où Ricardo Ortega serait décédé. Les rapports indiquent qu'au total la fusillade aurait fait au moins six morts et une trentaine de blessés.

409. Le 22 octobre 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, 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 une communication concernant la situation de **Rénan Hédouville**, avocat et secrétaire général du Comité des avocats pour le respect des libertés individuelles (CARLI), et de **Mario Joseph**, avocat travaillant pour le Bureau des avocats internationaux. Selon les informations communiquées, Rénan Hédouville et Mario Joseph travailleraient à la défense de personnes dont les droits fondamentaux auraient été violés par l'armée haïtienne entre 1991 et 1994, et notamment en faveur des familles des victimes du massacre de Raboteau en avril 1994. En août 2004, le CARLI aurait notamment protesté contre l'acquittement d'officiers de l'armée qui auraient été impliqués dans le meurtre d'Antoine Izméry en septembre 1993. Mario Joseph représenterait par ailleurs des partisans notoires du parti de l'ex-président Aristide, Famille Lavalas, qui auraient récemment été emprisonnés sans charge. D'après les informations reçues, tous deux seraient actuellement menacés de mort s'ils ne cessent leurs activités de défense des droits de l'homme et s'ils persistent à accuser d'anciens officiers de l'armée. D'autres membres du CARLI, parmi lesquels **Marie Nadia Charles**, directrice exécutive, et **Morisseau Jean Rony**, avocat, ainsi que **Carline Séide**, qui avait reçu l'aide de l'organisation, seraient contraints de vivre dans la clandestinité en raison du harcèlement dont ils feraient l'objet.

Observations

410. Le Rapporteur spécial regrette qu'aucune réponse à ses communications des 21 janvier, 23 février, 4 août, 16 septembre et 22 octobre 2004 ne lui soit parvenue au 31 décembre 2004.

Honduras

411. El 19 de abril de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Sara Saucedá Flores**, cuyo hijo, **Darwin Roberto Saucedá Flores**, habría sido detenido y sometido a malos tratos en varias ocasiones, amenazado de muerte y ejecutado sumariamente el 17 de febrero de 2002 en el barrio de Colonia La Trinidad, en Comayagüela, en la ciudad de Tegucigalpa. El caso de Darwin Roberto Saucedá Flores fue objeto de una comunicación transmitida al Gobierno de su Excelencia el 8 de abril de 2004 por el Relator Especial sobre la tortura. De acuerdo con la nueva información recibida, Sara Saucedá Flores habría denunciado a dos agentes a los que acusa de ser responsables del homicidio de su hijo. Además habría criticado abiertamente a las autoridades por no llevar a cabo una investigación adecuado sobre el caso de su hijo. Dicho caso habría sido asignado al Juzgado de Letras Segundo de lo Criminal para que se iniciaran procedimientos judiciales. Desde que habría interpuesto su denuncia, Sara Saucedá Flores habría sido repetidamente intimidada. El 12 de abril de 2004, Sara Saucedá Flores habría recibido una amenaza de muerte anónima en su lugar de trabajo, en la ciudad de Tegucigalpa. Según indican los informes, el 17 de marzo de 2004, cuando Sara Saucedá Flores se dirigía a su trabajo, el taxi en el que viajaba habría sido golpeado por un automóvil en el que viajaban dos personas. Sara Saucedá Flores habría reconocido al pasajero como el hombre que anteriormente la habría acosado desde otro automóvil. Además, según la información recibida, en enero de 2004, Sara Saucedá Flores habría encontrado tres casquillos de bala en su taquilla de su lugar de trabajo. Habría denunciado todas las amenazas y los actos de intimidación al Ministerio de Seguridad Pública de Honduras.

412. Por carta con fecha 28 de mayo de 2004, el Gobierno transmitió la siguiente información en relación con la comunicación del 19 de abril de 2004. Según las investigaciones realizadas por la Unidad Especial de Muertes de Menores de la Secretaría de Seguridad, el día de su muerte **Darwin Roberto Saucedá Flores** fue interceptado en la colonia El Pedregal de Comayagüela, por una furgoneta *pick up* en el cual se conducían tres integrantes de la Pandilla MS y fue trasladado hasta la Colonia Trinidad donde fue ejecutado en represalia por ser parte de una pandilla rival y haber participado en supuestos homicidios perpetrados contra miembros de la Pandilla MS en días anteriores. Se habían identificado plenamente a los responsables de este hecho como integrante de la Pandilla MS que operaban en esta fecha en la Colonia Bella Vista de Comayagüela, y en el expediente investigativo figurarían sus fotografías por las cuales habían sido identificados mediante acta de reconocimiento fotográfico, descartándose la posible participación de autoridades policiales en este hecho y quedando pendiente solamente la localización de un testigo para poder ser remitido a la Fiscalía del Ministerio Público.

413. El 8 de junio de 2004, el Relator especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **José Idalecio Murillo**, líder de la Coordinadora

Regional de Resistencia Popular (CRRP), una organización de defensa de los derechos humanos y del medio ambiental basada en el departamento de Intibucá, y varios activistas del Consejo Cívico de Organizaciones Indígenas Populares. De acuerdo con las informaciones recibidas, el 27 de mayo de 2004, cuatro desconocidos habrían disparado en contra de la casa de José Idalecio Murillo. Los informes indican que el líder de la CRRP habría denunciado este caso ante la Fiscalía y la Dirección General de Investigación Criminal (DGIC). Otros miembros del CRRP también habrían sido amenazados de muerte durante las últimas semanas. Se teme que estas amenazas estén vinculadas con la campaña realizada por el CRRP contra la explotación maderera en la zonal central del país y contra la presunta corrupción del gobierno local. Se informa además de que varios activistas del Consejo Cívico de Organizaciones Indígenas Populares (COPINH), una de las organizaciones más importantes del CRRP, habrían sido agredidos por sus esfuerzos por proteger el entorno natural de la zona de explotación por parte de las empresas madereras. El 19 de mayo de 2004, unos activistas del COPINH habrían bloqueado camiones y confiscado las maderas que transportaban hasta el departamento de La Paz. El 20 de mayo de 2004, un hombre habría entrado en las oficinas del COPINH y habría amenazado a las personas presentes. Habría preguntado: “¿Con qué derecho me robaron mi madera?”. Al salir, habría gritado: “A los tres los voy a matar”. El 29 de mayo de 2004, una bala de calibre 9mm habría sido encontrada en la puerta de entrada del COPINH. Estos hechos habrían sido denunciados ante la DGIC, el Comisionado Nacional de Derechos Humanos (CONADEH) y la Fiscalía, pero se teme que la Fiscalía según los informes esa última no habría querido aceptar rechazado la denuncia. Las amenazas contra activistas del COPINH ya fueron objeto de un llamamiento urgente enviado por la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la tortura, la Representante Especial del Secretario General para los defensores de los derechos humanos, el Relator Especial sobre la independencia de magistrados y abogados y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas el 8 de octubre de 2003.

414. El 12 de agosto de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación en relación con el mes de mayo de 2004, cuando varios activistas del COPINH habrían sido agredidos por sus esfuerzos por proteger el entorno natural de la zona de explotación por parte de las empresas madereras. El 20 de mayo de 2004, un hombre habría entrado en las oficinas del COPINH y habría amenazado a las personas presentes. Al salir, habría gritado: “A los tres los voy a matar”. El 29 de mayo de 2004, una bala de 9mm habría sido encontrada en la puerta de entrada del COPINH. Estos hechos habrían sido denunciados ante la DGIC, la Comisión Nacional de Derechos Humanos y la Fiscalía, pero se teme que la Fiscalía habría rechazado esta denuncia. Además se informe que el 27 de mayo de 2004, cuatro desconocidos habrían disparado en contra de la casa de José Idalecio Murillo, líder de la CRRP. Habría denunciado este caso ante la Fiscalía y la DGIC. Otros miembros del CRRP también habrían sido amenazados de muerte. Se teme que estas amenazas estén vinculadas con la campaña realizada por el CRRP contra la explotación maderera en la zonal central del país y contra la presunta corrupción del gobierno local.

415. Por carta con fecha 18 de octubre de 2004 el Gobierno contestó a la comunicación del 12 de agosto de 2004 referente a las varias denuncias de miembros del COPINH. El Gobierno confirmó que los afectados habrían presentado unas denuncias ante el Ministerio Público e informó que el procedimiento investigativo se encuentra en etapa preliminar y continuará con el

objetivo de determinar la verdad sobre las denuncias presentadas. Con respecto a la denuncia interpuesta por el Sr. Murillo Mejía, esta fue totalmente investigada y remitida al Ministerio Público, sin embargo el ofendido habría desautorizado a la Fiscalía General para que ejercitara la acción penal pública por tratarse de un delito de orden público a instancia, y como consecuencia se ordenó el archivo el archivo administrativo del caso.

416. El 16 de septiembre de 2004, el Relator Especial envió una comunicación en relación con el 26 de noviembre de 2003, cuando el periodista **Germán Antonio Rivas**, director gerente de la Corporación Maya Visión, Canal 7, que se transmite en Santa Rosa de Copán, habría sido asesinado de un tiro en la cabeza, cuando aparcaba su vehículo frente a las instalaciones del canal. Los informes indican que el 24 de febrero de 2003, Germán Rivas había sobrevivido a un atentado cuando se aprestaba a ingresar a su vivienda. El periodista se habría destacado por efectuar trabajos de investigación vinculados al contrabando de ganado, café y la contaminación ambiental por parte de una empresa minera.

- El 18 de febrero de 2004, un tribunal de Tegucigalpa habría condenado a **Renato Álvarez**, presentador del programa “Frente a Frente” difundido por el grupo Corporación Televisión, a dos años y ocho meses de cárcel, con la condena en suspenso y puesta a prueba, y a la privación de algunos de sus derechos civiles. El 4 de febrero de 2004, el mismo tribunal le habría declarado culpable de difamación y calumnia. El caso de Renato Álvarez ya fue objeto de un llamamiento urgente con fecha 21 de agosto de 2003;
- El 9 de junio de 2004, el periodista **Arnold Girón**, conductor del programa “La Voz del Pueblo” en el Canal 45 de televisión, habría recibido una nota de la administración del canal avisándole de la cancelación de su espacio, luego de haber reportado acerca de un informe de la Procuraduría General de la República, en el que se señalaban presuntas irregularidades cometidas en una de las dependencias de la Secretaría de Obras Públicas, Transporte y Vivienda. Los informes indican que el titular de esta institución gubernamental y uno de los accionistas del Canal 45 habrían advertido previamente que esa información no debía publicarse.

Observaciones

417. El Relator Especial da las gracias al Gobierno por sus respuestas a las comunicaciones con fechas 16 de abril y 12 de agosto de 2004 si bien espera otras respuestas a las comunicaciones del 8 de junio y 16 de septiembre de 2004.

418. El Relator Especial quisiera agradecer el Gobierno por la invitación a visitar el país.

Hungary

419. On 26 January 2004, the Special Rapporteur sent an urgent appeal concerning **Andras Bencsik**, editor-in-chief of the weekly *Magyar Demokrata*, who was reportedly sentenced on 21 January 2004 to 10 months in prison with no parole for “libelling” a Liberal Democrat member of Parliament (MP). **Laszlo Attila Bertok**, another journalist with the same newspaper, was reportedly given a suspended eight-month prison sentence for the same offence. It was reported that both journalists were planning to appeal their sentences within the few days

following the day this communication was sent. These sentences reportedly follow articles published in the *Magyar Demokrata* on 15 November 2001, in which Mr. Bencsik and Mr. Bertok claimed that the Liberal Democrat MP concerned had informed on four 1956 revolutionaries who were sentenced to death and hanged on the basis of his testimony.

Observations

420. The Special Rapporteur regrets that no reply to his communication was received at the date this report was finalized.

India

421. On 12 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal concerning **James T. Godwin** of Mahim, Mumbai, and his sister, **Violet Godwin**. According to information received, Mr. Godwin reportedly challenged the corruption in society for several years and filed various complaints with the Mahim Police Station. This regarded, in particular, alleged illegal activities carried out by the Mahim Police with organized crime, with no serious action being taken by the authorities. For this, Mr. Godwin was reportedly being threatened and harassed. After his complaints about the illegal activities of organized crime, he was reportedly approached by a local member of the Legislative Assembly (MLA), whose name is known to the Special Rapporteur, who allegedly offered him cash in return for his abandoning the complaints. When Mr. Godwin refused, he was reportedly threatened by politicians, policemen and businessmen with being charged in false cases. The MLA reportedly published false news about Mr. Godwin in local magazines, and in association with another MLA, the senior police inspector of Mahim police station reportedly gave false information about Mr. Godwin and his family. It is also reported that Mr. Godwin approached the National Human Rights Commission and the Lokayut by letter dated 13 May 2003, and that as a result, the Mahim police reportedly threatened Mr. Godwin and his family with dire consequences if he did not withdraw his complaints. In parallel, it was also reported that Violet Godwin, a journalist, who was also active in reporting police corruption, notably concerning verification of passport applications, was kidnapped from Gopi Tank Fish Market in Mumbai on 15 December 2002. It seems that, in the follow-up to her investigations, she lodged a complaint at the police station. As a result of the inquiry, senior police officials of Mumbai were suspended from service. Soon after the incident, Ms. Godwin was reportedly kidnapped and her whereabouts were still unknown at the time this communication was sent, despite several complaints with the local police station and with the higher authorities. Further reports indicated that her family obtained an order from the Maharashtra High Court, in which the police were ordered to conduct an immediate inquiry, but the police reportedly failed to take appropriate action. Given the lengthy period of time since her disappearance, fears have been expressed that Ms. Godwin might have been killed.

422. On 7 July 2004, the Special Rapporteur sent an urgent appeal concerning the 29 June 2004 when members of the Bharatiya Janata Party (BJP) attacked the offices of the daily *Mahanagar* in Mumbai. The BJP militants were looking for the paper's editor-in-chief, Nikhil Wagle, who was out of the office at the time. Eventually, journalists Yuvraj Mohite, Jayesh Shirsat and Vaishali Rode were injured and office premises ransacked by BJP militants. The attack targeted a media outlet that has repeatedly stood out against extremism of political parties and it could be linked to the paper's coverage of BJP's action during recent general elections.

Police reportedly arrested nine people, some of them BJP staff members, in Mumbai. They were all placed in custody. The federal police (CID) were put in charge of the investigation.

423. On 17 September 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation regarding members of the **Jangipara branch of the Association for Protection of Democratic Rights (APDR)**, a human rights organization in West Bengal working for the promotion of democratic rights. According to the information received, on 21 August 2004, human rights defenders from APDR who had assembled for a peaceful street meeting in Hooghly to protest alleged State repression were reportedly attacked at about 4.40 p.m. by 50 or 60 local members of the Communist Party of India (CPIM). It is alleged that the human rights defenders were punched, beaten with poles, kicked and verbally abused. Sources indicated that, although a number of people participating in the meeting allegedly rushed to a police station to seek help, none of the police officers posted nearby came to stop the violence or to arrest the perpetrators. It was reported that Sri Amitadyuti Kumar, Vice President of APDR, and Gautam Munshi, Treasurer of the Hooghly District Committee, were among the alleged victims later treated in Walsh Hospital, Srirampur. Concern was expressed that the alleged attack on members of the APDR were made to prevent their protest against human rights violations reportedly carried out by the State.

424. On 20 September 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning the situation of the Manipuri indigenous communities in some of areas of the Manipur State. According to the information received, on 11 July 2004, **Ms. T.M.D.**, an indigenous woman from the Imphal East District in Manipur, was raped and killed. It is alleged that the perpetrators were members of the 17th Assam Rifles. The dead body was reportedly found with seven bullets probably fired at point-blank range. The autopsy confirmed that she had been raped prior to death. The incident was called a consequence of her suspected links with the People's Liberation Army (PLA). Following her death, a number of demonstrations took place where people protested against her murder and requested a prompt and fair investigation. During the demonstrations, several people reportedly suffered due to the tear gas used by the police and one person, **Ms. Kangjam Memita**, died as a result. In this context, the Special Rapporteurs would like to express their extreme concern over the reported human rights violations suffered by indigenous people in Manipur. The Special Rapporteurs also express their concern regarding the allegations of excessive use of force and intimidation by the police and other military personnel during the above mentioned demonstrations. Furthermore, the Special Rapporteurs are concerned following reports regarding mass arrests of indigenous protesters in the course of various peaceful demonstrations. Concerns have been expressed over the way the arrests were carried out as well as on the basis of the charges against those detained. The arrests were reportedly carried out within the application of the sections 121/121-A/124-A of the Indian Penal Code and the "Seven Criminal Law Amendment Act of 1932", establishing the death penalty or imprisonment for life of any persons waging or attempting to wage war against the Government of India.

425. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning the 7 November 2003, when the state assembly Tamil Nadu sentenced five journalists from *The Hindu* newspaper and the editor of the Tamil-language daily *Murasoli* to 15 days in jail for

“breach of privilege” following the publication of an article criticizing the authorities. *The Hindu* journalists were sentenced to jail in absentia after accusing the state government of “rising intolerance towards political opponents”. The editor of *Murasoli* was given the same sentence for publishing a translation of *The Hindu* editorial.

426. On 23 December 2004, the Permanent Mission of India to the United Nations Offices sent a response to the Special Rapporteur’s communication of 5 October 2004, concerning the alleged sentencing to jail of **five journalists** from *The Hindu* newspaper and the editor of the Tamil-language daily *Murasoli* by the Tamil Nadu State Assembly in India. The Government stated that all action proposed by the Tamil Nadu Legislative Assembly has since been withdrawn/dropped. The Legislative Assembly referred certain articles from *The Hindu* and the *Murasoli* to the Privileges Committee, since in its opinion the articles concerned constituted a breach of privilege. The Privilege Committee provided all journalists concerned with an opportunity to appear before it to offer explanations. The five journalists called from *The Hindu* requested an extension of time which the Committee provided. They did not, however, appear for the hearing and stated that they had requested another extension, which the Committee denied ever having received. Instead, the Committee accepted a written explanation. After careful consideration of their case, the Privilege Committee decided that gross breach of privilege had in fact been committed, since the publications concerned provided a false, distorted version of the conduct and performance and on the independent functioning of the Honourable Chief Minister. The Committee decided that each journalist should serve seven days of simple imprisonment and that all of them would have their press gallery pass withdrawn for 10 working days. This sentence was then increased to 15 days by the Privilege Committee since *The Hindu* went on to publish an article that cast aspersions on the Privilege Committee itself and on the expected outcome of its decision. On the same grounds, with regards to *Murasoli*, the Privilege Committee also decided that there had been a gross breach of privilege and decided to sentence the editor of the newspaper to 15 days’ simple imprisonment and to withdraw the press gallery pass from the reporters of *Murasoli* for 15 working days. On 7 November 2003, The House adopted both resolutions of the Privilege Committee. The Honourable Chief Minister stated that he wished that the first charges of seven days be dropped, which proposal was accepted by the House. The second resolution concerning the 15-day punishment was accepted and warrants of arrest were immediately ordered, as was the 15-day sentence concerning the *Murasoli* editor. The Supreme Court, however, decided to stay the warrants following which the Legislative Assembly, then withdrew their resolution of 7 November 2003.

427. On 5 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning the 12 November 2003, when police abused **500 Burmese refugees and asylum-seekers** during demonstrations in New Delhi. Riot police used water cannons, electric batons, and canes to forcibly disperse a group of 500 Burmese nationals, many already recognized as refugees by the United Nations High Commissioner for Refugees (UNHCR), who were staging a protest outside the UNHCR office. At least 25 demonstrators were injured. Many of the injuries were severe, including head and chest injuries, bruised backs and legs, and broken bones. Police officers detained several hundred protesters at four different police stations. Most of the protesters were released that night; 24 protesters were sent to Tihar Central Jail in New Delhi and charged with rioting and obstructing the police. The New Delhi police commissioner declared a 30-day curfew effective 12 November 2003 in order to prohibit any gathering within 200 metres of UNHCR. On

13 November, after more than 100 protesters gathered again in front of UNHCR, police officers arrested another 20 Burmese and sent them to Tihal Jail. In the days following the arrest, large numbers of protesters continued to gather near the UNHCR office. On 20 March 2004, police officials used excessive force during a march held by the Association of Parents of Disappeared Persons (APDP) in Srinagar, Jammu and Kashmir. The demonstrators were planning to present a memorandum to the United Nations Military Observers Group, calling upon the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights to take notice of the cases of “disappearance” in the state and to punish those responsible. At 12:30 p.m., the march was dispersed by police personnel. The participants were charged with canes and women were dragged by their hair, beaten and had their clothes ripped off. Witnessing this use of excessive force by the police on women, some passers-by and local shopkeepers started to throw stones at police officials. Several APDP members, human rights defenders as well as family and friends of the “disappeared” were arrested and taken into police custody. Criminal charges under RPC section 323 were lodged against 5 APDP members, including **Perveena Ahangar, Pervez Imroz, Bilal Mohammad Bhatt, Yasin Rah** and **Umtoo**. These charges are for unlawful assembly and simple injuries that were allegedly sustained by the police personnel. After seven hours in custody, they were released on bail.

428. On 27 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Sanjay Arya**, freelance journalist, resident of Chirapatla village in Betul district of Madhya Pradesh. According to reports, Sanjay Arya had been jailed since 21 October 2004 under alleged false accusations under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Although reports indicate that the police found no prima facie evidence against Arya, he was allegedly arrested under pressure from local politicians and bureaucrats. It is reported that Arya’s investigations into alleged government corruption and failures in the public health and education systems had been instrumental in local campaigns to enforce accountability from the local administration. He had also written several exposés on the exploitation of tribal groups by gambling rings, illegal hunting, tree felling and mining in the reserved forests. It was alleged that such investigations had left Arya a target for both politicians and bureaucrats and for local gangs. He reportedly received threats to stop his investigative stories.

429. On 30 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Rafiq Maqbool**, a journalist with the Associated Press, and **Amin War** of the national newspaper *The Tribune*. On 25 September 2004, while covering a demonstration in Srinagar, they were beaten by police with rifle butts and bamboo batons. Rafiq Maqbool was beaten on his back and arm, and both men received medical treatment for their injuries. The deputy general of the local police has reportedly ordered an official inquiry into the attack on the journalists.

Observations

430. The Special Rapporteur thanks the Government for its reply of 23 December 2004 to his communication of 5 October 2004, but regrets not having received any replies to his communications of 12 February 2004, 7 July 2004, 17 September 2004, 5 October 2004, 27 October 2004 and 30 November 2004 at the time this report was finalized.

Indonesia

431. On 17 February 2004, the Special Rapporteur sent an urgent appeal concerning reports that, on 20 January 2004, the South Jakarta Lower Court declared **the newspaper *Koran Tempo*** guilty of libel and ordered it to pay US\$ 1 million in compensation to businessman Tomy Winata. According to information received, the founder of the Artha Graha Group sued *Koran Tempo* chief editor Bambang Harymurti, reporter Dedy Kumiawan and the PT Tempo Intl Media Harian company for defamation, after the magazine published a report in February 2003 saying that the founder of the Artha Graha Group had applied to open a casino in South Sulawesi province. It was reported that he sought 21 billion rupiah (about US\$ 2.5 million) in damages, saying that the report harmed his reputation as a businessman. Further reports seem to indicate that the court award contravenes Press Law 40/1999, which stipulates that the maximum fine in media-related cases should not exceed Rp 500 million. The newspaper is said to be appealing the verdict.

432. On 25 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Masrizal, Iwan Irama Putra**, aged 27, a human rights defender, **Harlina** (f), 22, a student and human rights defender, **Nova Rahayu** (f), 23, a student and human rights defender, **Nursida** (f), 22, a student and human rights defender, and **Syafruddin**, a human rights defender. According to information received, on 19 February 2004 Police Mobile Brigade (Brimob) officers arrested Masrizal at his home in the Nanggroe Aceh Darussalam Province (NAD) provincial capital, Banda Aceh, reportedly on suspicion of being a member of the armed opposition group the Free Aceh Movement (*Gerakan Aceh Merdeka*, or GAM). He was believed to be held in Banda Aceh Regional Police Station. On 22 February at around 12.30 p.m., Iwan Irama Putra was reportedly arrested by Brimob at a friend's home in Banda Aceh, and had not been seen since then at the time this communication was sent. He was a member of the Network of Linge Students (IMPEL), based in Central Aceh District, whose work included providing assistance to internally displaced people. He was an acquaintance of Masrizal, and the two arrests were believed to be linked. Early on 23 February, police allegedly made a series of raids on the homes of members of the Acehnese Democratic Women's Organization (ORPAD), which carried out activities in Banda Aceh for women's education and empowerment throughout NAD. They reportedly detained Harlina, a member of IMPEL and ORPAD, at around 4 a.m. at her home. She was reportedly beaten before being taken away in a Kijang minivan. She was reportedly last seen two hours later, when police took her with them to the house of another activist, who was not at home at the time. On the same date, Nursida and Nova Rahayu, both members of ORPAD, were reportedly arrested at Nursida's home at around 6 a.m. They were reportedly taken away in two trucks. It was reported that the police and the military had denied, at the time this communication was sent, having any information on the three women's whereabouts. At around 5 a.m. the same day, police reportedly arrived at the

student dormitory looking for Syafruddin, an activist with the educational and human rights organization Student Solidarity for the People (SMUR). They did not find him, but reportedly questioned and beat other residents of the dormitory. Syafruddin returned to the dormitory a few hours later and was reportedly beaten before being taken away by the police.

433. On 5 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Bestari Raden**, 55, an environmental and pro-democracy activist. On 23 March he was allegedly arrested by soldiers from the Aceh Tenggara District Military Command (Kodim 0108) in Lawe Pakam Village, Babul Makmur Sub-district, Aceh Tenggara District, NAD. He was allegedly then held in Kodim 0108, and underwent intensive interrogation. Bestari Raden was reportedly the coordinator of the Environmental Caucus, whose activities included advocacy and environmental and human rights education. He was reportedly a member of the Indigenous Peoples' Alliance of the Archipelago (*Aliansi Masyarakat Adat Nusantara*, or AMAN), which campaigned for the rights of indigenous peoples. It was reported that Bestari Raden had been previously accused of being a leader of the armed opposition group, the Free Aceh Movement. In view of past allegations of torture and ill-treatment in military custody in NAD, concern was expressed that Bestari Raden might have been at risk of torture or other forms of ill-treatment.

434. On 17 June 2004, the Government of Indonesia sent a reply to the joint urgent appeal sent on 5 April 2004 regarding the arrest, on 23 March 2004, of **Bestari Raden**. In this regard, the Government informed the Special Rapporteur that Bestari Raden was arrested for, inter alia, his role in masterminding a rally which degenerated into violence, culminating in the torching of a timber factory belonging to Medan Remaja Timber (PT MRT). The Government provided additional information concerning Bestari Raden's legal records. His detention, reported the Government was motivated by solid evidence of repeated and averred involvement in criminal activities that threatened the security of the State and the safety of ordinary citizens, and hence ran counter to strengthening a peaceful environment in the province of Aceh. The Government further claims that Bestari Raden was accused of being involved in the abduction of two police officers who were presumed dead; the murder of another police officer; possession of illegal weapons; several instances of arson against public premises and property; and, with a group of others, a number of instances of extortion against civilians. The Government wished to reassure the Special Rapporteurs that a thorough inquiry into Bestari Raden's activities was, at the time this communication was sent, being conducted responsibly, and that it was still ongoing. It was also stressed that all the necessary measures were being taken to ensure the full protection of his rights, and he was given due process of law throughout the duration of his detention. According to the Government, the expressions of concern over allegations of torture and ill-treatment against him were unfounded. It was reported that Bestari Raden was, at the time this reply was received, in the custody of the South Aceh police headquarters, where he was transferred after one month spent in the custody of the local Aceh Tenggara district police station following his arrest. During this time, he had access to lawyers, no fewer than five of whom accompanied him during his transfer.

435. On 4 June 2004, 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

order of expulsion delivered on 1 June 2004 to **Sidney Jones** (f) and **Francesca Lawe-Davies** (f), respectively Southeast Asia director and analyst of the Jakarta office of the International Crisis Group (ICG), a non-governmental organization based in Brussels. According to information received, Sidney Jones and Francesca Lawe-Davies were ordered to leave Indonesia “immediately” because they were in violation of immigration laws. The order allegedly followed public statements by the National Intelligence Agency head, General Hendropriyono, that ICG’s reports were “not all true” and “damage the country’s image”. It was reported that, since establishing its Jakarta office in 2000, ICG had published 37 reports and briefing papers on conflict-related issues, including Aceh, Papua, the Jemaah Islamiyah terrorist movement, communal violence and the transition from military to civilian rule. ICG has allegedly regularly criticized Indonesian authorities about their response to the ongoing activity of the militant group Jemaah Islamiyah as well as the Government’s responsibility for human rights violations during armed conflicts in the provinces of Aceh and Papua. It is feared that the decision to expel Sidney Jones and Francesca Lawe-Davies is directly related, inter alia, to their reports on alleged human rights violations.

436. On 25 June 2004, the Government of Indonesia sent a response to the Special Rapporteur’s communication of 4 June 2004 concerning the alleged expulsion of **Sidney Jones** (f) and **Francesca Lawe-Davies** (f), respectively South East Asia director and analyst of the Jakarta Office of the International Crisis Group. The Government claims that the allegations are unfounded, since no expulsion order was ever issued against the persons mentioned. Ms. Jones’ visa expired on 10 June 2004 and it was therefore routine procedure for the relevant authorities to examine whether to extend her working visa. The presence of a foreign national in any host country remains entirely at the discretion of that country’s authorities.

437. On 5 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Muhammad Nazar**, leader of the Aceh Information Referendum Centre (*Sentral Informasi Referendum untuk Aceh*, SIRA). His case was included in a communication sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 27 October 2003 (E/CN.4/2004/62/Add.1). According to new information received, he was beaten in the face and kicked in the chest on 19 February 2004 while being questioned by police intelligence (Intel) in Aceh Regional Police Station (*Markas Kepolisian Daerah*, or Mapolda). He was subsequently denied access to his lawyers and relatives. **Dewi Meuthia**, his wife, was reportedly questioned for six hours at Mapolda, Aceh, on 27 February 2004, about her campaign to release Muhammad Nazar and her association with Amnesty International.

438. On 6 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Alif Imam Nurlambang**, an editor from Indonesia’s 68H radio station. He had been in Aceh for three weeks reporting about the conditions of the displaced population in South Aceh. He was reportedly severely beaten by members of Indonesia’s security forces while reporting from Panton Luas, South Aceh, at about midday on 4 July 2003. Alif Imam Nurlambang and his guide were reportedly pulled outside the house of a resident he was interviewing in Panton Luas. Although he identified himself as a journalist, five of the soldiers reportedly severely beat and kicked him. In particular, he was beaten in the back with an M-16 rifle butt and threatened with being shot. He was reportedly interrogated about numbers in his mobile phone address book, and accused of carrying the

numbers of a well-known GAM commander. He was subsequently released. Concerned about security conditions, he eventually left Aceh.

439. On 20 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Johan Calvin Werianggi**. He was arrested on 4 September 2001 by Police Mobile Brigade (Brimob) and taken to Windesi Police Sector (Polsek). It was reported that, while being taken there, he was punched, kicked and beaten with the butt of a gun. He was allegedly tied to a flagpole in front of Polsek and beaten. He was reportedly subject to similar treatment once in Polsek Windesi. Later on the same day, he was allegedly seen being taken to a boat by members of Brimob. As far as the Special Rapporteurs have been informed, at the time this communication was sent, he had not been heard of since. Concern has been expressed that he may have been extrajudicially executed. The reasons for his arrest were not known. However, he was a strong advocate of independence for Papua; local human rights activists have speculated that he may have been detained because he participated in the Papuan Taskforce (*Satgas Papua*) and the National Liberation Movement (*Tentara Pembebasan Nasional*, TPN) training in Wondiboi in late 2000 and early 2001. It is also believed that he may have been targeted because, as the representative of the local community, he had in the past persuaded local government, police and military officials to allow the Morning Star flag to be raised in Windesi.

440. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning information received from reliable sources which claims that since the state of emergency on 19 May 2003, Indonesian security forces verbally and physically intimidated journalists in Aceh. Military officials also arbitrarily detained correspondents in the field. In one case, members of the Special Forces, on 4 July 2003, reportedly beat an Indonesian radio journalist who was reporting on the situation of civilians fleeing the military campaign in the region. In addition to that, the Government of Indonesia restricted access to Aceh for foreign correspondents through a series of regulatory measures issued since June 2003. The Government also denied access to diplomats, independent international observers and international human rights organizations. According to information received by the Special Rapporteur, the Free Aceh Movement had also intimidated journalists. GAM allegedly abducted two reporters on 29 June 2003 while numerous journalists were shot at by unknown gunmen. On 20 January 2004, according to information received by the Special Rapporteur, the South Jakarta District Court delivered a verdict ordering *Koran Tempo* to pay 8.4 billion rupiah (US\$ 1 million) in damages to the founder of the Artha Graha Group, a business company. According to international news reports, the magazine was also ordered to publish apologies for three consecutive days in newspapers and broadcast media. Artha Graha Group founder sued *Koran Tempo* chief editor Bambang Harymurti, reporter Dedy Kumiawan, and the PT Tempo International Media company for defamation, saying that their reports on the activity of his company harmed his reputation as a businessman. Moreover, on 5 December 2003, intelligence officers reportedly interrogated for 10 hours **Maarif**, the editor of the biweekly *Beudoh*, published in the province of Aceh. He went into hiding after being questioned about the contents of his reports. In an article that appeared at the end of November, the biweekly criticized the Government's decision to maintain martial law in Aceh and questioned the legitimacy of elections scheduled for next year. Maarif reported that the intelligence officers roughed him up and threatened to kill him if he did not change the newspaper's editorial line. He also stated that he refused to comply with a request from the army officers to publish an apology or to sign a letter recognizing that he had published false information.

441. On 17 December 2004, the Special Rapporteur sent an urgent appeal concerning information according to which six persons were seriously injured, a number of other people, including women and children, injured, and 34 people arrested in Bojong Village, Kelapanunggal District. According to reports received, on 22 November 2004, police officers called the paramilitary police force Brimob from Resimen I Kedunghalang Bogor, and intervened during a demonstration being carried out by villagers in protest against the implantation of an integrated waste treatment plant at Bojong Village. It was reported that Brimob opened fire on the villagers and, following the shooting, they searched houses and arrested 34 persons, 18 of whom reportedly remained in detention, their case files having been submitted to the Cibinong Prosecutor's Office. Information received indicates that among the six persons allegedly severely injured, five have been identified as **Mr. Dede**, 28, **Mr. Hendi**, 30, **Mr. Oman**, 28, **Mr. Sanin**, 28, and **Dan Minun**, 28. Information suggested that this demonstration started at around 7 a.m. on 22 November, when villagers, who were upset because of an incident with the police the previous day and due to the authorities ignoring their protests concerning the dangers of the waste plant to the environment and their health, reportedly blocked the streets leading to the plant. It is further reported that at 11:45 a.m., when the villagers heard the arrival of the trucks with the waste, they attempted to burn it. Further reports indicate that, after the incident, a police disciplinary committee was formed and has reportedly found that six Bogor Police officers were responsible for disciplinary violations and two officers have violated the Criminal Code on two accounts "causing serious injuries to others" and "unpleasant conduct". It was also reported that eight members of Brimob have been found guilty of using excessive methods to restore order. It is also reported that the National Police's internal affairs division questioned several low and middle-ranking officers, and that three middle-ranking Mobile Brigade officers have allegedly been found responsible for abusing their power, and were issued warning letters. Five low-ranking officers have also reportedly been found responsible for abuse of power while on duty, and will see their planned promotions being delayed. However, it is alleged that no disciplinary sanctions but only administrative sanctions have been taken against the responsible officers so far, and that some officers who have allegedly been found in violation of the Criminal Code have not yet been prosecuted. It is further reported that, to date, no compensation had been paid to the victims.

Observations

442. The Special Rapporteur thanks the Government for its replies to his communications of 5 April 2004 and 4 June 2004, but regrets not having received any replies to his communications of 17 and 25 February, 5, 6 and 20 August, 5 October and 17 December 2004 at the time this report was finalized.

Iran (Islamic Republic of)

443. On 22 January 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent a joint urgent appeal concerning **Ensafali Hedayat**, a journalist working for a number of reformist newspapers, who was reportedly arrested at his home by order of the Tabriz Revolutionary Court on 16 January 2004. According to information received, at the time of his arrest Mr. Hedayat had just returned from Germany, where he attended, as an accredited journalist to cover the event, the inaugural conference of the Union of Iranian Republicans in Berlin from 8 to 10 January. It is reported that

the authorities who arrested him searched his home and seized personal documents, included data CDs and his computer's hard drive. It is not clear whether charges were brought against Mr. Hedayat. Further reports indicate that Mr. Hedayat was arrested on 16 June 2003 at the University of Tabriz, where he was reportedly covering student demonstrations, and accused of "inciting students to revolt". After allegedly spending more than 20 days in solitary confinement, he was reportedly released on 14 July.

444. On 29 January 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Arzhang Davoodi**, an Iranian citizen aged 47, engineer and poet, who was reportedly arrested in July or August 2003 in Tehran by members of the security forces, after he gave an interview to the BBC about the political corruption in Iran. The authorities had however reportedly denied his arrest and detention, at the time this communication was sent. It was further reported that, since December 2003, Mr. Davoodi was secretly maintained in solitary confinement in the Evin prison of Tehran where he had allegedly been victim of ill-treatment and torture. As a result, he had reportedly lost his vision in the left eye and was in very poor health condition at the time this communication was sent. Concern has been expressed that Arzhan Davoodi might have been targeted for his activity in the defense of human rights. Further fears for his life had been expressed.

445. On 10 June 2004, the Government sent a response to the Special Rapporteur's communication of 29 January 2004 stating that **Arzhang Davoodi** had been under medical examination by the prison doctors as required. He was examined by an eye doctor due to dizziness and headaches while reading and had been provided with glasses. As a result of an examination by an ear, nose and throat doctor, his left ear was diagnosed as being slightly impaired, which could be a sign of previous damage. There was no urgent treatment required for that ear as it would improve gradually.

446. On 10 February 2004, the Special Rapporteur sent an urgent appeal concerning reports that, since the 11 January 2004 ruling by the Council of Guardians regarding the list of candidates eligible to run for the 20 February election in Parliament (Majlis), there were recurrent cases of harassment and obstruction of journalists reporting on the election process. According to information received, during the week of 29 January, several daily newspapers (reportedly all reformist politically), including *Yas-e no*, *Sharq*, *Nassim-e Sabah*, *Tosseh*, *Aftab-e Yazd*, *E'temad*, *Hambastegi* and *Mardomsalari*, were reportedly threatened by the legal authorities for their coverage of a sit-in by reformist members of Parliament in front of Parliament. It was alleged that the Tehran Chief Prosecutor called on the Ministry of Culture and Islamic Guidance to issue a warning to the eight newspapers, accusing them of "sowing discord". It was further reported that, on 8 February, the Prosecutor indicated that "any newspaper carrying articles about the election boycott will be immediately closed". Further reports indicated that five journalists were officially summoned by the Justice Ministry, allegedly in relation to the situation regarding the elections:

- **Shadi Sadr**, a *Yas-e no* journalist and publisher of the web site www.womeniran.com, who was reportedly due to appear before a court in Qazvin to respond to a complaint from the Prosecutor's Office;

- **Abdollah Nasser**i, head of the official IRNA news agency, who was reportedly summoned by Section 1083 of the Tehran court to respond to complaints from the Prosecutor's Office concerning his coverage of the political crisis;
- **Mashallah Shamsolvaezin**, editor-in-chief of several major banned reformist newspapers, who was reportedly summoned on 28 January by the Sixth Section of the Tehran court over his articles on the parliamentary crisis;
- **Abdolrassul Vessal**, publisher of the daily *Iran*, who was reportedly summoned by the Sixth Section of the Tehran court over his paper's report on the Government spokesman's speech during the sit-in by reformist members of parliament, and who is reportedly accused of "publishing false news";
- **Rassul Montakhabnia**, a reformist member of parliament and journalist, who was reportedly summoned by the Clergy Court over an article about a speech by the Guide of the Islamic Republic about the Iranian press.

447. On 16 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Amir Abbas Fakhra**var, for whom an urgent appeal was also sent on 4 April 2003 on behalf of the two Special Rapporteurs. According to information received, Amir Abbas Fakhravar, who had been in prison for over a year after being sentenced to eight years' imprisonment on defamation charges in November 2002 because of comments on Iran's political leadership in his book *Inja Chah Nist (This Place is Not a Ditch)*, was taken in January 2004 from Qasr prison to a detention centre called 125 to be interrogated about his alleged links with a political organization called Jonbesh-e Azadi-ye Iraniyan, which opposes the Government. It was alleged that the centre was under the control of the Revolutionary Guards, and that his cell in the 125 detention centre had no windows, and was entirely coloured creamy white, as were his clothes. At meal times, he was reportedly given white rice on white, disposable paper plates and if he needed to use the toilet, he had to put a white slip of paper under the door of the cell to alert guards, who reportedly had footwear designed to muffle any sound. He was reportedly forbidden to speak to anyone. Reports refer to this technique of sensory deprivation as "white torture" (*shekanjeh-e sefid*), and it appears to be designed to weaken the prisoner by causing persistent and unjustified suffering that amounts to torture. It is then reported that, on or around 8 February 2004, Amir Abbas Fakhravar was allowed to leave the detention centre, but that two days later he was taken into custody again. His whereabouts were unknown at the time this communication was sent.

448. On 19 February 2004, the Special Rapporteur sent an urgent appeal concerning reports that, during the night of 18 February 2004, a group of officials from the Prosecutor General's Office were referred to the building of the daily newspaper *Yas-e no* and shut it down using special padlocks. Similarly, reports indicate that at about 11 p.m. on 18 February, a number of officers from the Prosecutor General's Office came to the editorial office of the daily newspaper *Sharq* and talked with the daily's officials for a while, reportedly asking the editors to stop publication until further notice and indicating that a final decision on *Sharq* would be announced officially on 21 February 2004. The decision to close down these two newspapers might be linked to their publication of an open letter from parliamentarians to the Supreme Leader.

449. On 20 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence

of judges and lawyers, sent an urgent appeal concerning **Ensafali Hedayat**, a freelance journalist, for whom an urgent appeal was sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 22 January 2004. According to information received recently, Mr. Hedayat's month-long detention was extended for a further 10 days on 16 February 2004, by order of the Ministry of Intelligence. While it appears that Mr. Hedayat had access to legal counsel on at least three occasions after his arrest on 17 January, his lawyer was apparently not permitted to be present during interrogation sessions. According to new information, there was now concern that the prosecutor would have the dual role of also being the judge during Mr. Hedayat's trial. Ensafali Hedayat reportedly faces charges relating to national security due to his coverage of events, as an accredited journalist, of a conference in Berlin in January 2004 sponsored by an organization that supports a non-violent approach to establish a new pluralistic and democratic system of government in Iran. There is concern that this trial, scheduled to be held in the Public and Revolutionary Court, may contravene the international standards for fair trial, including the provisions set out in article 14, paragraph 1, of the International Covenant on Civil and Political Rights. Guideline 10 of the Guidelines on the Role of Prosecutors states that "the office of prosecutors shall be strictly separated from judicial functions".

450. On 25 February 2004, the Special Rapporteur sent an urgent appeal concerning reports that on 23 February 2004, the Prosecutor General for Tehran, announced that he would shortly order the shutting down of **pro-reformist website Emrooz** (www.emrooz.ws), which the authorities view as "damaging to the country's security". It is reported that Emrooz has been blocked in Iran since the start of 2004, and might therefore be definitely shut down. It is also reported that the **news website Rouydad** (www.rouydad.ws), which has reportedly been the target of technical strikes that made it inaccessible for several days, has reportedly been officially blocked since 18 February and risked being closed down permanently by the authorities. Further reports indicate that the website of the non-governmental organisation Reporters Without Borders, which is available in Persian, was recently added to the list of filtered sites and is now unavailable in Iran.

451. On 10 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Arzhang Davoodi**, for whom an urgent appeal was sent on 29 January 2004 on behalf of the Special Rapporteur on the right to freedom of opinion and expression, 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 human rights defenders. Mr. Davoodi, who was reportedly arrested after he spoke about political prisoners, and the death of Canadian-Iranian photojournalist Zahra Kazemi in a television documentary, has reportedly been severely beaten in detention, allegedly requiring several hospitalizations. It is reported that following his arrest, Arzhang Davoodi was taken to Evin prison, where he was reportedly held in solitary confinement for approximately three and a half months, during which his relatives had no news about him. According to more recent information received, the lawyer of Arzhang Davoodi was not able to gain access to him for almost a month after his appointment in January 2004 and has never been present when Arzhang Davoodi was interrogated. It was reported that, under Iran's Code of Criminal Procedure, a lawyer's appointment is not official until the client had signed a document to this effect, and lawyers were not permitted to be with their clients at interrogations before they were formally charged. It was not known if charges had been brought

against Mr. Davoodi, although he was believed to be accused of spying, and working with an unspecified “dark organization” (*sazman-e siyah*).

452. By letter dated 6 October 2004, the Government reported that **Arzhang Davoodi** was charged with activities against the internal security of the State. He was sentenced to imprisonment and was currently serving his prison term. He was temporarily transferred to Rajaei Shahr prison, but was never in solitary confinement. He recently met with his family.

453. On 11 March 2004, the Special Rapporteur sent an urgent appeal concerning **Emadoldin Baghi** and **Iraj Jamshidi**. Emadoldin Baghi, a journalist, was reportedly summoned to appear before the Tehran Revolutionary Tribunal’s Third Division on 3 March 2004, under the accusation of writing an article in the suspended reformist daily *Yas-e no*, in which he described the 20 February 2004 legislative elections as “illegal”. It is reported that on 4 December 2003, the Tehran Revolutionary Tribunal’s Sixth Division handed Mr. Baghi a one-year prison sentence, suspended for five years, reportedly on an unspecified charge, and that he was therefore, at the time this communication was sent, at risk of going to prison as a result of the new hearing. Mr. Baghi was allegedly targeted by the authorities for several years; in particular, he was reportedly jailed for three years on 23 October 2000 for “damaging national security” and spreading “false news” and was released on 6 February 2003 (for urgent appeal sent by the Special Rapporteur on 5 September 2000, see E/CN.4/2001/64). We would also like to draw the Government’s attention to Iraj Jamshidi, editor-in-chief of the suspended financial daily *Asia*, who was arrested on 6 July 2003 and for whom an urgent appeal was sent on 22 July 2003 (E/CN.4/2004/62/Add.1) on behalf of the Special Rapporteur on the right to freedom of opinion and expression. According to information received, Mr. Jamshidi’s trial opened on 24 February 2004 before the Tehran Revolutionary Tribunal’s 26th Division, and it was reported that, although his lawyer was allowed to attend the trial, he had no access to his client’s file.

454. On 12 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning **Iraj Jamshidi**, editor-in-chief of the suspended financial daily *Asia*, who was arrested on 6 July 2003. An urgent appeal was also sent on 22 July 2003 (E/CN.4/2004/62/Add.1) by the Special Rapporteur on the right to freedom of opinion and expression. According to information received, Mr. Jamshidi’s trial opened on 24 February 2004 before the Tehran Revolutionary Tribunal’s 26th Division, and it is reported that, although his lawyer was allowed to attend the trial, he has had no access to his client’s file, according to information at the time this communication was sent.

455. On 25 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the right to health, Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Arzhang Davoodi**. Two urgent appeals were also sent on 29 January 2004 by the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Representative of the Secretary-General on human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and on 10 March 2004 by the Special Rapporteur on the right to freedom of opinion and expression, the Special Representative of the Secretary-General on human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to more recent information received, Mr. Davoodi was still in prison at the time this communication was sent, although it is reported that 50 million Tomans (US\$ 59,380) bail was paid, as requested by the judicial

authorities, to secure his release. It was alleged that the authorities refused to release him on the grounds that his file was “not complete”. It was also reported that Arzhang Davoodi was tortured and kept in solitary confinement for 100 days while he was held in Section 325, a detention facility run by the Revolutionary Guard in Evin prison. During the winter, for several days he was reportedly kept in a room with the air conditioning turned on all night, making the room even colder. The alleged torture has reportedly left him with a broken shoulder blade, bleeding in his left eye, deafness, a broken jaw and broken teeth, for which a doctor reportedly assessed that he required treatment of his eyes, ears and teeth, and physiotherapy for his shoulder. The authorities had, at the time this communication was sent, allegedly provided him with no treatment. Further information indicates that on 17 March, Arzhang Davoodi was transferred from Salon 1 of Evin prison, where he had been detained since his transfer from Section 325 in early March, to Salon 8 of Evin prison, which is reportedly used for people detained for financial offences, and which has no medical facilities. It was reported that prison officials refused to grant him leave to obtain the required medical treatment. Finally, it was reported that since his arrest in July or August 2003, Arzhang Davoodi had been allowed to make phone calls to his lawyer, and to meet with him on one occasion. However, his lawyer was reportedly not able to have a copy of his file, and it was not established whether Mr. Davoodi was formally charged with an offence.

456. The Government sent a reply to the Special Rapporteur’s communication of 25 March 2004 concerning **Arzhang Davoodi**, stating that Mr. Davoodi has been under medical examination by the prison doctors as required. He has been examined by an ophthalmologist due to dizziness and headaches while reading and according to the ophthalmologist and optometrician’s advice, he needs glasses. Also as a result of examinations by an otorhinolaryngologist, his left ear has been diagnosed as being slightly impaired, which could be a sign of previous damage. Accordingly, impaired hearing has been diagnosed. According to the medical records, there is no urgent treatment required for that ear as it will improve gradually.

457. On 13 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the right to health and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Siamak Pourzand**, aged 74, head of Majmue-ye Farhangi-ye Honari-ye Tehran (Tehran Artistic and Cultural Centre), whose case was included in an urgent appeal sent by the Special Rapporteur on the question of torture, the Chairman-Rapporteur of the Working-Group on arbitrary detention and the former Special Representative on the situation of human rights in the Islamic Republic of Iran on 28 March 2002 (E/CN.4/2003/67/Add.1) and in a second urgent appeal sent by the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working-Group on arbitrary detention on 10 May 2002 (E/CN.4/2003/68/Add.1). No response has been received to these two communications at the time this communication was sent. According to information received, Siamak Pourzand is serving an 11-year sentence, handed down in 2002 after a closed trial, which was said to have fallen short of international standards. It was alleged that he eventually admitted in a television programme to a range of accusations including “having links with monarchists and counter-revolutionaries”, “spying and undermining state security” and “creating disillusionment among young people”. He was reportedly allowed out of Evin prison on leave in November 2002, but rearrested in April 2003 by agents of the Edare-ye Amaken, an organization reportedly responsible for the enforcement of accepted moral codes in companies and other offices. During interrogation he was reportedly urged to implicate film critics detained at that time in unspecified

“acts against Iran”, to appear on “another television programme” possibly a reference to his televised “confession”, and to sign a book about singers, artists and film-makers who had “acted against Iran”. He reportedly refused, and was released. While he was in custody four of his ribs were reportedly broken. According to the information received, approximately two weeks after his release he was summoned to a court and taken back to Evin prison, as he reportedly refused to cooperate and appear in another television programme. He was allegedly not allowed to take with him the medicine he requires. It was alleged that he was then held in solitary confinement in poor conditions of detention. Siamak Pourzand is reportedly suffering from spinal stenosis, a narrowing of the spinal canal that causes pinching of the spinal cord. If left untreated, this could lead to organ failure, notably of the bowels and bladder, and to paralysis. Doctors allegedly concluded that he required immediate surgery on his spine. However, at the time this communication was sent, he had reportedly not received medical treatment for this condition. Around 31 March 2004, he reportedly fell into a coma. He was allegedly not treated until another prisoner went to the prison medical facility and insisted that someone examine him. He reportedly regained consciousness 36 hours later. On 5 April 2004, Tehran’s Chief Prosecutor reportedly visited him in prison and allegedly told him that he would not be released in the near future, reportedly telling him that if he was released he would “make too much noise”. However, it should be noted in this respect that, after the Special Rapporteur on the right to freedom of opinion and expression met with Mr. Pourzand during his visit to Iran in November 2003, the authorities agreed to grant him a complete amnesty (see E/CN.4/2004/62/Add.2). In view of these allegations, concern was expressed for his mental and physical integrity if he did not receive prompt and adequate medical treatment.

458. On 23 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the right to health and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Siamak Pourzand**, 74, and head of Majmue-ye Farhangi-ye Honari-ye Tehran (Tehran Artistic and Cultural Centre). His case was included in an urgent appeal sent by the Special Rapporteur on the question of torture, the Chairman-Rapporteur of the Working-Group on Arbitrary Detention and the former Special Representative on the situation of human rights in the Islamic Republic of Iran on 28 March 2002 (see E/CN.4/2003/68/Add.1). Additional urgent appeals were sent by the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairman-Rapporteur of the Working-Group on Arbitrary Detention on 10 May 2002 (E/CN.4/2003/67/Add.1), and by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to health and the Special Rapporteur on the question of torture on 13 April 2004. No response has been received to these communications. According to the information received, Siamak Pourzand, who is serving an 11-year sentence, handed down in 2002 after a closed trial which was said to have fallen short of international standards, was reportedly suffering from spinal stenosis. According to information received, on 18 April 2004, Mr. Pourzand—allegedly unable to walk and supported by two prison guards—was taken to the prison’s visiting room to see his sister. It was reported that, a few hours later, he was transferred to the intensive care unit of Modares hospital. While in hospital, Mr. Pourzand was allegedly chained to his bed by his feet. It was not clear whether Mr. Pourzand was still in the hospital, subjected to this treatment, or was returned to the prison. Information received at the time this communication was sent indicated that he was in need of an urgent operation for his back problems. The Special Rapporteur was concerned that adequate medical treatment was not being granted to him.

459. On 4 May 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Farzad Samadli, Ali Reza Farshi, Mehdi Gharadaghi, Hasan Rahimi Bayat, Sayyad Mohammadian, Rasul Samadpur, Parisa Babai (Mahni Zenganli), Gholam Reza Amani, Arkin Musavi, Fazel Musavi, Mahmud Fazli, Ebrahim Jaafarzadeh, Seid`Mughanli, Ilqar Marandli, Atila Kishizade, Eyvaz Qoshachay, Hafiz Qoshachay, Said Naimi and Reza Abbasi**. They were allegedly arrested in Tehran and held without charge. Reports further indicated that Said Naimi might have been held at the Rajashahr prison in Karaj and that Farzad Samadli, Ali Reza Farshi, Mehdi Gharadaghi and Masud Yusefi might have been held at Evin prison in Tehran. The whereabouts of the other 14 were reportedly unknown at the time this communication was sent. It was reported that they were either called to the offices of the intelligence agency Vezerat-e Ettalaat Va Annayat-e Keshvar, or arrested at their homes or in the streets. It was reported that all 19 persons are sympathizers or members of the Committee for the Defence of Azerbaijani Political Prisoners (ASMEK). According to information received, 30 sympathizers and members of ASMEK were arrested in the cities of Tabriz, Ardabil, Parsabad-Mughan and Tehran at the time this communication was sent. In view of the alleged detention of these persons in undisclosed locations, concern was expressed that they might be at risk of torture or other forms of ill-treatment.

460. On 11 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Abbas Kakavand**, who was reportedly imprisoned on 7 June 2004 on charges of “disseminating false news”. According to the information received, during the hearing, the Tehran Criminal Court ordered his immediate imprisonment as Mr. Kavakand was unable to post the 100 million rials bail. Mr. Kavakand’s indictment would be linked to articles he wrote where he allegedly denounced political corruption and which were published in reformist newspapers as well as the website www.gooya.com.

461. On 21 June 2004, the Government of the Islamic Republic of Iran sent a response to the Special Rapporteur’s communication of 11 June 2004 concerning **Mr. Kakavand**. According to the Government, Mr. Kakavand was accused of disseminating false statements, libel and publicity against the State. The action was taken by the Public Prosecutor for public employees of branch 6. He was released on bail after having paid 100 million Rials. This concerned a private case lodged by the editor-in-chief of the *Resalat* daily.

462. On 24 June 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation regarding the case of **Ali Al Chaldawi**, a human rights defender who had been working on behalf of the Iranian Arab minority in Khuzestan and in particular on education projects to improve literacy rates among Ahwazi Arab children. According to the information received, Ali Al-Chaldawi was arrested in February 2003 by Iranian security authorities in Ahwaz. He was reportedly held in detention until August 2003 when he was allegedly charged with the “establishment of a library and distributing free text books in Arabic to Ahwazi Arab school children” and sentenced to two and a half years imprisonment. It was reported that he appealed his sentencing and on 3 April 2004, the Khuzestan branch of the Iranian Revolutionary Court of Appeals upheld its decision. Concern has been expressed that the alleged sentencing of Ali Al Chaldawi might have been aimed at preventing him from carrying out his work in defence of the rights of the Iranian Ahwazi Arabic minority.

463. On 9 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning:

- **Akbar Mohammadi**, a student who was arrested in early July 1999 during a demonstration. He was sentenced to death in September 1999 but later had his sentence commuted to 15 years' imprisonment. He was, at the time this communication was sent, held at Evin prison. The Special Rapporteur on extrajudicial, summary and arbitrary executions and the Special Rapporteur on the question of torture sent an urgent appeal in connection with this case on 23 February 2000 (see E/CN.4/2001/66). The Special Rapporteurs acknowledge the responses received in this regard. According to the new allegations received: Akbar Mohammadi was subjected to several mock executions during his first year of imprisonment. During this year he was also subjected to severe ill-treatment. He was handcuffed, suspended by his arms, and whipped on the soles of his feet with electric cables. His beatings allegedly resulted in the loss of 40 per cent of his hearing in his left ear. On one occasion, he was kicked down a flight of stairs and broke his pelvis. He was allegedly denied medical treatment and he has been unable to walk comfortably since. At the end of November 2003, Akbar Mohammadi was hospitalized due to stomach and kidney problems, including internal bleeding, and possibly a lung infection. It is alleged that, although a hospital doctor recommended a hospital stay of one month, he was transferred back to Evin prison after six days. His health reportedly deteriorated since then, as the operation he underwent at that time was reportedly unsuccessful. A medical report prepared by medical officials in Evin prison allegedly stated that Akbar requires further medical intervention outside the confines of the hospital and a period of rehabilitation in a suitable environment. Concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment;
- Akbar Mohammadi's brother, **Manuchehr Mohammadi**, a member of the Anjoman-e Daneshjuyan va Daneshamuktegan-e Melli (National Association of Students and Graduates). The Special Rapporteur on extrajudicial, summary and arbitrary executions and the Special Rapporteur on the question of torture sent an urgent appeal on connection with this case on 20 August 2002 (see E/CN.4/2003/68/Add.1). Another urgent appeal was sent by the Special Rapporteur on the question of torture and the Special Representative on human rights defenders on 20 June 2003 (see E/CN.4/2004/56/Add.1). According to the new allegations received, when his mother visited him in Evin prison on 5 September 2003, shortly after he had been returned to Evin prison, his face was badly bruised, he could hardly walk and told her that he had been tortured. His sentence was extended by two years at the end of November 2003. According to recent reports, Manuchehr Mohammadi was, at the time this communication was sent, suffering from gingivitis and chronic, severe bleeding from the gums—which was said to cause him pain when he speaks or eats. Doctors in Evin prison reportedly recommended that he be treated outside the prison. Concern was also expressed for his physical and mental integrity if he did not receive prompt and

adequate medical treatment. Finally, we have also received information according to which their relatives have also been subjected to intimidation and harassment for their efforts to seek guarantees for the rights of the two detainees;

- On 8 July 2003, the father of the two detainees above, **Mr. Muhammad Muhammadi**, and their sister, **Simin**, were arrested and taken to Evin prison. Simin was reportedly beaten in front of her father and dragged away. She was held in solitary confinement for 14 days. She was interrogated for several hours every night and asked about the activities of her sister Nasrin, who lived in Europe, and her brother Manuchehr. She was allegedly threatened with further beatings and with death. While in custody, she spent five days in prison hospital due to breathing problems. She was released on bail on 22 July 2003. When Simin was in custody, her father was reportedly told that they would be severely beaten if he kept asking about her whereabouts. He allegedly suffered a heart attack while kept in solitary confinement. He was then released on bail. It is further reported that, on 28 June 2004, the family of Akbar Mohammadi and Manuchehr Mohammadi were threatened again with unspecified reprisals if they publicly discussed the plight of Akhbar and Manuchehr Mohammadi.

464. On 12 August 2004, the Government sent a response to the Special Rapporteur's communication of 9 July 2004 concerning **Akbar Mohammadi** and **Manoochehr Mohammadi**, stating that they are both serving their prison term, enjoying the required medical care and other facilities, together with the right to go on leave on regular intervals. The Government claims that there was no record of the detention of the father and sister of the above two detainees, **Mahmood Mohammadi** and **Nasrin Mohammadi**.

465. On 26 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the question of torture, sent a letter of allegation regarding the brief trial of **Mohammad Reza Aghdam Ahmadi** which ended abruptly on the 18 July 2004. Mr. Ahmadi was charged with the "semi-intentional" murder of Zahra Kazemi, a journalist who died in a Tehran jail in July 2003, after she was reportedly beaten and subjected to other forms of ill-treatment while in custody. According to the information received, the trial did not meet international standards of fair trial as lawyers involved in the case claimed that key evidence was either ignored or covered up, including documents and testimony by witnesses that may have disclosed incriminating evidence against judicial officials, the prosecutor's office and the intelligence ministry. Of further concern is that journalists and other trial observers such as foreign diplomats, who were initially approved to attend the entire trial, were barred full access to the courtroom. It was furthermore reported that the Tehran prosecutor pressured some journalists in order for them not to report on parts of the trial of Mr. Ahmadi. The prosecutor was quoted of saying to a journalist "It's in your interest to consider the murder trial over and avoid publishing things that you should not". Without in any way implying any determination on the facts of the case, the Government was urged to ensure that the judiciary was able to function in an independent and impartial manner and that there should be a thorough and public inquiry into all aspects of this case. The need for prompt and impartial investigation whenever acts and practices of torture are alleged was also stressed.

466. The Government sent a response to the communication of 26 July 2004 concerning **Mohammad Reza Aghdam Ahmadi**. The Government stated that Ms. Kazemi's murder case

was assigned to the Tehran Public Court, branch 1158 for consideration by the Tehran Office of Public Prosecutor. The first hearing took place in public and in the presence of the accused, his legal counsel, a representative of the public prosecutor, media, the Canadian ambassador to Tehran and a number of diplomats from other countries. This hearing was suspended at the request of the accused's legal counsel for further preparatory measures. The next hearing was convened in the presence of four legal counsels of Ms. Kazemi's family, the accused and his counsel, the Canadian ambassador and two diplomats from the British and Dutch Embassies and domestic and international media. The two sides presented their cases in a hearing lasting 15 hours and the court issued the initial verdict. This verdict was appealed by the victim's counsels and the case was still open for further consideration, at the time this reply was sent.

467. On 3 August 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mostafa Piran**, a 47-year-old retired teacher, father of Peyman Piran, a member of the National Union of Iranian Students and Graduates, who was jailed on charges connected with his student activism. According to the allegations received, on 4 July 2004, Peyman Piran and 11 other prisoners allegedly detained on political grounds began a hunger strike to mark the fifth anniversary of the July 1999 student-led demonstrations, known as 18 Tir. The hunger strikers called for those who had authorised the 1999 attack against students to be identified and for the release of the demonstrators and other prisoners detained on alleged political grounds. As a response, the prison guards reportedly warned Peyman Piran that his family would "pay the price" for his actions. On the other hand, his family was allegedly pressured to publicly beg forgiveness for Peyman Piran and to urge him to publicly admit his "mistakes" and seek forgiveness. As they refused, they were threatened with eviction from their apartment. On 6 July 2004, Mostafa Piran and his family were forcibly evicted by a large group of security forces from their rented apartment, owned by the Education Ministry. The security forces threw the family's belonging into the street and confiscated them. They sealed off the apartment and the streets surrounding the building. During the eviction, Mostafa Piran was severely beaten in front of his family. He was reportedly first taken to an unofficial detention centre under the control of the Ministry of Intelligence and later transferred to Evin prison, where he was being held, at the time this communication was sent. He was reported to have been ill-treated during prolonged interrogation sessions. A relative who was allowed to visit him reported that Mostafa Piran was badly bruised. He had allegedly not been allowed to see a lawyer and had not been informed of any charges against him. However, it was believed that his forced eviction, arrest and detention were linked to his son's activism. Before his arrest, Mostafa Piran had also been trying to organize a teacher's strike to mark 18 Tir. In view of these allegations, concern was expressed that Mostafa Piran may be at risk of torture or other forms of ill-treatment, including further beatings, while in custody.

468. On 12 August 2004, the Special Rapporteur sent an urgent appeal regarding an **official bill on the punishment of crimes linked to the Internet**. According to the information received, the bill proposed a legislative framework that could contravene international standards on freedom of expression. In particular, it included provisions for prison sentences of one to three years for the dissemination of "information that poses a threat to the country's internal or external security", and five to 15 years if the information is passed to "foreign States or foreign organizations". The bill reportedly proposed sentences of up to one year in prison and a fine of

10 million rials for offences such as “sexual organs or sexual acts—heterosexual, homosexual or with animals”. The dissemination of “false information” about the Supreme Guide or other regime officials, would reportedly be punishable by six months in prison and a 10 million rial fine. It was furthermore reported that the bill defined the responsibilities of Internet companies such as cybercafés and Internet service providers (ISPs), which would be required to monitor all content to which they offer access, and would have to block illegal sites. They would also be required to alert the police and help identify those responsible for disseminating such content. Cybercafé and ISP owners who do not comply would risk sentences of up to five years in prison, the closure of their company and a ban on working in the Internet sector for a duration decided by the judge. They would also be required to preserve all connection data and the identity of their clients for three months after each online session. The police would apparently not require a judge’s authorization in order to search Internet users’ homes or the premises of any legal entity involved in Internet activity and, when carrying out searches, the police would be able to confiscate computer equipment and files.

469. On 23 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Arzhang Davoodi**. He was arrested in October 2003 after he assisted in the making of a TV documentary in which he criticized the Iranian authorities. In connection with his case, three previous joint urgent appeals were sent by several mandate-holders of the Commission on Human Rights, including the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Representative on human rights defenders and the Special Rapporteur on the right to health, on 29 January, 10 and 24 March 2004, to which the reply of the Government, dated 10 June 2004, was received which stated that Arzhang Davoodi had been under medical examination and that he had been provided with glasses. According to the response sent by the Government, impaired hearing was diagnosed but no urgent medical treatment was required. New information received stated that Arzhang Davoodi had been in solitary confinement, and was not allowed phone calls or visits from his family and he had only been able to meet his lawyer on one occasion, on 15 August. The visit lasted five minutes. Other information described how he has been subjected to other instances of torture and other forms of ill-treatment against him since March 2004. On one occasion, he and 22 other detainees were reportedly kept in a 24-square-metre room without air-conditioning or water. He is also believed to have been repeatedly subjected to beatings, including more than 500 blows to his left ear. Finally, although a prison doctor made a formal request to the prison authorities that Davoodi’s left ear be operated on as soon as possible, the judge responsible for his case refused, allegedly on grounds that in hospital the detainee would spread the story that he was being treated for injuries caused by torture in detention. As reflected in previous joint urgent appeals, Arzhang Davoodi was due to be released in March 2004 after his family paid bail. However, he was reportedly told by the judge that the court would not hear his case and that he would not be released until he signed the confession that he had been asked to sign. According to the information received, he had not been formally charged yet, at the time this communication was sent.

470. On 6 October 2004, the Government sent a response to the communication of 23 August 2004 concerning **Arzhang Davoodi**. The Government stated that Mr. Davoodi had been charged with activities against the internal security of the State, was sentenced to imprisonment and was

servicing his prison term. He had been temporarily transferred to Rajae Shahr prison but had never been in solitary confinement; he had recently met with his family.

471. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning the Khuzestan Branch of the Islamic Revolutionary Court of Appeals which, on 3 April 2004, sentenced **Ali Al-Chaldawi** to two and a half years of prison for the “establishment of a library and distributing free textbooks to Ahwazi school children in Arabic, their mother tongue”. Apparently, Al-Chaldawi, who is a well-known member of the Awazi Arab ethnic minority, was arrested several times in 2003. According to information received by the Special Rapporteur, the weekly *Hadith-e Kerman*, in Kerman province was closed on 7 February 2004 for the coverage of a number of killings allegedly committed by unknown armed militia in 2003. Another weekly in Khorassan province, *No Andish*, was suspended for one year on 4 February 2004 on the order of the 7th appeal court in Mashhad, reportedly on the basis of a complaint from the Prosecutor’s office. The editor-in-chief, the publisher and a journalist of the weekly were reportedly fined 5 million rials (about 500 euros at the official rate) and another journalist was fined one million rials (about 100 euros). On 19 March 2004, according to information received by the Special Rapporteur, **Mostafa Sabti**, editor of the weekly *Gorgan-e emrouz*, was reportedly arrested and sentenced to three months in prison with no parole by a court in Gorgan, northern Iran. Sabti also received an additional four-month suspended sentence for publishing an open letter in which residents of a Gorgan neighbourhood raised the issue of the future destination of a public park. In addition to this second sentence, judicial authorities involved in the matter allegedly filed a defamation complaint against Sabti. According to information received by the Special Rapporteur, on 9 November 2003, the Sixth Revolutionary Court of Tehran passed a suspended sentence of one year in prison, against journalist **Emadoldin Baghi**. Moreover, the sentence was reportedly announced only on 9 December 2003 and it could be changed to an actual prison sentence at any time during the next five years. Baghi, who worked for Neshat, a daily closed down by the authorities, is a well-known contributor to the reformist dailies *Shargh* and *Yas-e-no* on matters concerning freedom of expression in Iran.

472. On 10 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning:

- **Mahboudeh Abbasgholizadeh**, editor of *Ferzaneh*, a magazine treating women’s issues. According to the information received, she was arrested and detained on 1 November 2004 upon her return from abroad. Police reportedly searched her home in the capital, confiscated her computer hard drive and other items. It was further reported that the nature of the accusations brought against the journalist were not clear. According to information received, **Fershteh Ghazi**, who works for the daily *Etemad* and writes about women’s issues, was arrested on 28 October by the Teheran morality squad (Edareh Amaken), when she answered a summons to appear before the ninth chamber of the Teheran Prosecutor-General’s office. Authorities did not provide any information about the reason why she was arrested or where she was being held but it was reported that her arrest might have been linked to her activity in the field of women’s rights. In 2001, Ghazi wrote a letter to the Iranian authorities in which she criticized the violation of women’s rights in the country and called for the release of Afsaneh Noroozi, a woman who had been sentenced to death.

473. On 15 November 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Omid Memariyan**, a 30-year-old Internet journalist and civil-society activist working on the training and capacity-building of Iran's developing non-governmental organization (NGO) sector. According to the allegations received, on 10 October 2004, he was arrested at his office in Tehran. His house was searched by officials from the judiciary, and his personal notes and computer were confiscated. He was being detained without charge at an undisclosed location at the time this communication was sent, although he was believed to be held in solitary confinement, under the jurisdiction of Branch 9 of the Revolutionary Court, in the vicinity of Tehran airport. His family had seen him just once, in a meeting of four minutes' duration, which took place at Branch 9 of the Revolutionary Court. Omid Memariyan appeared extremely distressed. He has reportedly refused to exercise his right to appoint a lawyer. In view of his alleged detention in an unknown location, concern was expressed that he might have been at risk of torture or other forms of ill-treatment.

474. By letter dated 20 December 2004, the Government replied to the urgent appeal sent on 15 November 2004. The Government reported that **Omid Memariyan** was detained for participating in the establishment of an association against the internal security of the State, activities against the State and dissemination of false accusations. The Government stated that he had been released on bail.

475. On 9 December 2004, the Special Rapporteur sent an urgent appeal concerning **Hamed Motaghi**, editor of website Naqshineh.com, who on 18 November 2004 was reportedly sentenced to a three month suspended sentence in Qom for having published false information with the aim of disrupting public order. It was furthermore reported that on 19 November 2004 three web-loggers going by the names of **Dariush** (www.dariushkabar.com), **Omid** (www.shurideh.com) and **Payvand** (www.gayaneh.net), were arrested, whilst two cyber journalists, **Fershteh Ghazi** and **Javad Gholam Tamayomi**, arrested and detained for contributing to reformist websites, were still being detained at the time this communication was sent. Fershteh Ghazi was the subject of an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, on 10 November 2004. Concern was expressed that the arrests mentioned, in suppressing the Internet activities of the persons concerned in violation of their right to freedom of opinion and expression, might also have been a means to deter others from carrying out similar activities and to therefore generally discourage the use of the Internet as a means of exercising one's freedom of opinion and expression.

476. On 15 December 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Farid Modarresi**, a 26-year-old member of the student organization, the Office to Consolidate Unity, Qom. According to the allegations received, on 28 November 2004, Farid Modarresi was arrested on the orders of the Qom Prosecutor's Office, and was, at the time this communication was sent, detained in solitary confinement at the main prison of Qom. He had one visit from family members on 11 December. He was reportedly beaten in detention. Farid Modarresi had posted a number of articles on his website about incidents of harassment carried out against reformists. It was reported that several online

journalists, including **Omid Memariyan** (who was the subject of an urgent appeal, dated 15 November 2004, by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders), **Fershteh Ghazi** and **Maboudeh Abbasgholizadeh** (who were the subjects of a communication, dated 10 November 2004, sent by the Special Rapporteurs on violence against women, its causes and consequences, and on the promotion and protection of the right to freedom of opinion and expression), **Rozbeh Mir Ebrahimi**, aged 27, and **Shahram Rafihzadeh**, 36, both journalists for the newspaper *Etemad*, were arrested by Adareh Amaken in relation to reformist articles published online. They were reportedly freed on bail. They were punched during questioning, and Shahram Rafihzadeh was beaten on the soles of his feet with electrical cables. The whereabouts of another online journalist detained, **Javed Gholam Tamayomi** (who was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 9 December 2004), was unknown at the time this communication was sent.

477. On 15 December 2004, the Special Rapporteur, jointly with the Chair of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Bahram Mashhadi**, aged 31, and a member of the Bahá'í community. According to the allegations received, on 1 December 2004 he was arrested by the Iranian intelligence authorities when he arrived to present an appeal on the situation of Bahá'ís in Iran to a group called the Eastern Tehran Assembly of Jurists (Majma'-e-Qada'i-e-Sharq-e-Tehran). He was taken to the local police station, where he spent the night. On 2 December, he was transferred to the headquarters of the Prosecutor's Office of the Revolution (Dadsitani-e-Markaz-e-Enghelab), where he was interrogated. Accompanied by a guard, he was subsequently brought back to his home to collect some personal effects and then taken to Evin Prison, Tehran. Since then, his relatives had gone there on several occasions in order to visit him. Each time, the prison authorities denied any knowledge of him being held there. It was impossible to obtain any further information on Mr. Mashhadi's whereabouts. It was believed his detention was related to a written appeal submitted to the President of the Islamic Republic of Iran on 15 November 2004 on the situation of Bahá'ís in Iran and on behalf of the entire community, by a group of Iranian Bahá'ís. Subsequently, some of the Bahá'ís who distributed the message were arrested. Most of these individuals were detained for a short period of time and then released.

Follow-up to previously transmitted communications

478. By letter dated 18 May 2004, the Government replied to the letter of allegation sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers on 5 December 2003 (E/CN.4/2004/62/Add.1) concerning **Nasser Zarafchan**. The Government reported that Mr. Zarafchan was sentenced to five years' imprisonment for illegal possession of weapons and disclosure of classified information regarding the trial of the alleged murder of intellectuals. Mr. Zarafchan was serving his terms in Evin Prison and met his family and attorney on a regular basis at the time this communication was sent. The Government stated that, on the occasion of the visit of the Special Rapporteur on the promotion and protection of the right to

freedom of opinion and expression to Iran, due to its short notice, it was impossible to schedule a meeting with Mr. Zarafchan.

Observations

479. The Special Rapporteur thanks the Government for its replies to his communications of 5 December 2003, 29 January, 10 and 25 March, 11 June, 9 and 26 July 2004, 23 August and 15 November 2004. He regrets, however, not having received any replies to his communications of 22 January, 10, 16, 19, 20 and 25 February, 11 and 12 March, 13 and 23 April, 4 May, 24 June, 3 and 12 August 2004, 5 October, 10 November, 9 and 15 December 2004, at the date this report was finalized.

Iraq

480. On 2 March 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Yanar Mohammed** (f), a journalist campaigning for women's rights in Iraq, head of the Organization of Women's Freedom in Iraq, who publishes the *Al Nisa* magazine and runs a website (www.equalityiniraq.com). Recently, Ms. Mohammed had been involved in campaigning against the introduction of the Shari'ah law in civil matters, and advocated the maintaining of a secular law. According to reports received, Yanar Mohammed had receiving threats from Jaysh Al-Sahaba (Army of Sahaba), a militia group based in Baghdad. She reportedly received a first death threat on 31 January 2004. It was reported that in one recent email, at the time this communication was sent, she received threats to kill her within a few days. She was warned that, if she published the next edition of her *Equality* newsletter, she would be killed. Other members of the Organisation of Women's Freedom in Iraq were reportedly also threatened.

481. On 4 June 2004, the Special Rapporteur sent an urgent appeal concerning reports that on 29 May 2004, **Ismail Zair**, editor-in-chief of the independent daily *Al-Sabah al-Jadid*, was reportedly the target of an attempted kidnapping. According to information received, at 9 a.m. on 29 May, a police vehicle and three unmarked cars parked in front of Zair's home, and a man dressed in a police uniform told him he had a summons to deliver to him. Zair reportedly went back into his home and phoned a government official, who reportedly denied that a summons had been issued and, on those grounds, the journalist remained inside his home. However, his driver and bodyguard were kidnapped and later killed. Although the identity of the attackers was not known, it was believed that they might either be supporters of the former regime or people who did not appreciate that he resigned as editor-in-chief of the occupation forces-funded *Al-Sabah* newspaper, allegedly to protest against American interference in its editorial line, to launch an independent newspaper on 3 May 2004. Concern was expressed that Zair, who did not benefit from official protection after he left the newspaper *Al-Sabah*, might continue to be the target of attacks.

482. On 12 August 2004, the Special Rapporteur sent an urgent appeal regarding the **Baghdad Bureau of the Qatari television news channel Al-Jazeera**. According to the information received, the Government decided on 7 August to close the Baghdad bureau of Al-Jazeera for 30 days. This decision was reportedly taken to "protect the people of Iraq and the interests of Iraq" and based on an Iraqi media commission's report, which allegedly accused

Al-Jazeera of inciting violence and hatred. It was also reported that, in January 2004, Al-Jazeera was banned for a month from covering the activities of the Iraqi Interim Government council and that, in April, the authorities threatened it with sanctions, accusing it of inciting violence and of being “anti-Coalition”.

483. On 20 August 2004, the Special Rapporteur sent an urgent appeal regarding the situation of **Micah Garen**, an American journalist working with Four Corners Media, and his translator, **Amir Doushi**. According to the information received, both men were abducted Friday by two armed men with civilian clothes in a market in Nasiriyah. A group calling itself the Martyrs’ Brigade reportedly threatened to kill the journalist unless American forces withdrew from the city of Najaf. They released a video to the Qatar-based channel Al-Jazeera showing Micah Garen kneeling in front of five armed, masked men. The video however made no mention of Doushi.

484. On 27 August 2004, the Special Rapporteur sent a letter of allegation concerning Italian journalist **Enzo Baldoni**, 56, of the weekly newsmagazine *Diario*, who, on 26 August 2004, was executed in Iraq by his kidnappers. Baldoni disappeared on 19 August while participating in a convoy of medicine and other relief material, operated by the Red Crescent and the Italian Red Cross, being delivered to the town of Najaf. A group defining itself as the Islamic Army in Iraq claimed responsibility for his abduction on 24 August. The group stated that Baldoni would be executed if the Italian military contingent did not leave Iraq within 48 hours. In a message broadcast on 25 August by the Italian public television service Rai Uno and by Qatari television Al-Jazeera, Baldoni’s two children appealed to the kidnappers for his release. In the message, they underlined that their father was in Iraq not only to report about the conflict, but also to help humanitarian organizations.

485. On 4 November 2004, the Special Rapporteur sent a letter of allegation concerning Iraqi television journalist **Likaa Abdel-Razak**, who was killed in Baghdad on 27 October 2004. Abdel-Razak was travelling in a taxi with a friend and an interpreter when the vehicle was attacked by unidentified gunmen. Abdel-Razak, the interpreter and the taxi driver all died instantly, while her friend was rushed to the nearest hospital. The mother of two children, Abdel-Razak had been working for the past month for the Iraqi television station Al-Charkia of the Al-Zaman press group. She also had a contract with the television station Al-Iraqiya. Moreover, five employees of the Dubai-based broadcaster Al-Arabiya—**Ali Adnan, Ramziya Moushee, Alahin Hussein, Hassan Alwan and Nabil Hussein**—were killed, and several others wounded, in a car bomb attack on 30 October 2004 in Baghdad. The blast shattered a building in which two other news stations, Al-Akhbariya and Middle East Broadcasting, have their offices. Finally, on 1 November 2004, **Dhia Najim** a freelance cameraman working for Reuters, the Associated Press and other news agencies, was killed while covering fighting in the city of Ramadi. The exact circumstances of Najim’s death are still unknown.

Observations

486. The Special Rapporteur regrets that no replies to his communications were received at the time this report was finalized.

Israel

487. On 21 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning a civil demonstration organized on 19 May 2004 by the residents of Rafah town and refugee camp. It was reported that thousands of protesters marched to protest against a reported operation by Israeli forces, which had been ongoing since 17 May, to demolish houses in the Tel Sultan area of Rafah and which allegedly resulted in the death at least 30 civilians. According to information received, as the demonstrators were heading towards the Tel Sultan area, the Israeli forces allegedly opened fired on them with heavy artillery, including machine guns and tanks, at the same time as an Israeli Defence Force helicopter gunship reportedly fired a missile at the crowd of marchers. The assault allegedly resulted in the killing of 10 individuals, among whom there were children, and allegedly wounding another 50. Six of those killed have been identified as **Walid Naji Abu Qamar**, 10, **Mubarak Salim Al Hashash**, 11, **Mahmoud Tareq Mansour**, 13, **Mohammed Talal Abu Sha'ar**, 20, **Alla Musalam Sheikh-Eid**, 20, and **Fuad Khamis Al-Saqqa**, 31.

488. On 24 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent an urgent appeal concerning reports that the Government of Israel was unwilling to issue press cards to **Palestinian journalists**. According to information received, the Government had refused to renew press accreditation to Palestinian journalists since 2001, allegedly on the grounds that they posed a potential security threat by being Palestinians. It was reported that this position had been challenged by media organizations before the Israeli High Court of Justice, which found that the Government Press Office was acting illegally, in a 25 April 2004 ruling. The Court also added that Palestinian journalists should be given press cards if they had been given security clearance to work in Israel. However, reports indicate that, on 11 May, the Government petitioned the High Court, claiming that threatening statements from militant Palestinian groups had made Palestinian journalists a danger to Israeli leaders in particular, therefore in effect continuing the discriminatory practice implemented since 2001.

489. On 9 August 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Abd al-Latif Gheith**, a human rights defender and board chairman of Addameer Prisoner's Support and Human Rights Association, a Palestinian non-governmental organization based in Ramallah, which works to bring an end to the torture of political prisoners. According to the information received, on 29 July 2004 Abd al-Latif Gheith was detained after security guards had reportedly stopped him at a military checkpoint and questioned him about Addameer's activities and staff. It is further reported that, on 4 July 2004, an order was allegedly issued by Israel's deputy military commander for the six-month detention of Abd al-Latif Gheith. This order was reportedly issued on the grounds of "endangering security" in the absence of any official charge being brought against him. Concern was expressed that Abd al-Latif Gheith might be detained in an attempt to hinder his work with political prisoners, his human rights activities with Addameer as well as his active participation in campaigning against Israel's construction of a separation barrier in the West Bank and East Jerusalem.

Observations

490. The Special Rapporteur regrets that no replies to his communications were received at the time this report was finalized.

Italy

491. Le 27 février 2004, le Rapporteur spécial a envoyé une communication concernant **Massimiliano Melilli**, ancien journaliste pour l'hebdomadaire local *Il Meridiano*, qui aurait été condamné en appel par le tribunal de Trieste, le 24 février 2004, à un an et demi de prison ferme et 100 000 euros d'amende pour diffamation. Selon les informations reçues, les articles incriminés, publiés les 9 et 16 novembre 1996, rapportaient des rumeurs sur des soirées érotiques auxquelles aurait participé la haute société de Trieste. Le journaliste visait semble-t-il une personne en particulier, épouse d'un homme politique de la région, sans toutefois la nommer. Cette personne avait nié les faits et porté plainte pour diffamation, estimant que ses propos, recueillis dans une interview publiée par *Il Meridiano*, avaient été déformés par le journaliste. Il est rapporté que, le 1^{er} juin 2000, Massimiliano Melilli et **Francesco Paticchio**, rédacteur en chef de l'hebdomadaire, avaient été condamnés à un an et demi de prison en première instance, alors que l'accusation réclamait une peine de six mois d'incarcération. En appel, M. Paticchio a été relaxé en raison de son état de santé. Il semblerait que M. Melilli se soit pourvu en cassation.

Observations

492. Le Rapporteur spécial regrette que le Gouvernement n'ait pas encore envoyé de réponse à sa communication au moment de la finalisation du présent rapport.

Jamaica

493. On 11 March 2004, the Special Rapporteur sent an urgent appeal concerning reports that a prohibitive fine had been imposed on several newspapers. According to information received, in 1996, the former Minister of Tourism won a libel suit against the **Gleaner Company Limited** and **Dudley Stokes**, a former editor-in-chief of several Gleaner newspapers in Jamaica, for a story written by the Associated Press, which appeared in three Gleaner newspapers on 17 September 1987, about a U.S. federal investigation into the activities of a member of the Jamaican Parliament. This was in relation to an income-tax evasion scheme uncovered by the Internal Revenue Service. The former member of the Jamaican Parliament concerned denied the allegations made in the Associated Press article, which Mr. Stokes published in his newspapers, but the former claimed that the Gleaner Company committed libel against him. A judgment of approximately US\$1 million was awarded to him in penalties, interest and costs. It is reported that Mr. Stokes was, at the time this communication was sent, currently appealing his case to the Inter-American Commission on Human Rights.

494. On 6 December 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning individuals and associations defending the rights of homosexual men and women in Jamaica, in particular the members of the human rights organisation **JFLAG, the Jamaican Forum of Lesbians, All-Sexuals and Gays**. The Special Rapporteur's attention had been drawn

to a letter to the editor by the Jamaican Police Federation's Public Relations Officer, published in the *Jamaica Observer* of 25 November 2004. In his letter, which followed the publication on 16 November 2004 of a report by Human Rights Watch entitled "Hated to death: homophobia, violence and Jamaica's HIV/AIDS epidemic", the Police Federation's Public Relations Officer "condemn[s] the role of these so-called 'human rights' groups to spread lies and deliberately malign and slander the police force and the Government". He called on "the Minister of Justice to examine these allegations and slap on sedition charges where necessary to both foreign and local agents of provocation". In stating that "the Government and the police cannot be held responsible for ... the cultural responses of the population towards gay" people, the letter also appeared to condone violence against homosexual men and women. This impression was insufficiently dispelled by the assurance that "as law enforcement officers, we try our utmost 'to serve, to reassure and to protect' ". The letter to the *Observer* editor raised particular concerns, against the background of reported attacks and threats against persons defending the rights of homosexual men and women in Jamaica. According to information received, on 9 June 2004 Brian Williamson, a well-known gay rights activist, was murdered in his home. Within an hour after his body was discovered, a crowd reportedly gathered outside the crime scene. A man called out, "Battyman [homosexual] he get killed!" Many others reportedly celebrated Williamson's murder, laughing and calling out, "Let's get them one at a time", "That's what you get for sin" and "Let's kill all of them." Furthermore, it is reported that JFLAG regularly received intimidating mail, e-mails and telephone calls. For example, according to the information received, on 16 November 2004 an anonymous male called JFLAG and stated that "homosexuals should be dead". On 17 November at 2 p.m., an anonymous female caller stated that homosexuals should "either stay in the closet or seek asylum abroad". On 22 November an anonymous male caller again stated that homosexuals should be dead. A letter received through the regular mail service during that week bore the message "You are a go-dead faggard". These incidents were reported in writing to the Matilda's Corner police station in Kingston on 26 November 2004. In view of the above, concern was expressed that individuals and associations defending the rights of homosexual men and women, in particular the members of JFLAG, might have been at risk of, on the one hand, attempts by public authorities to suppress their exercise of free speech, and, on the other hand, of violent attacks by homophobic individuals who may have gained the impression that the Government would not vigorously pursue such violence.

Observations

495. The Special Rapporteur regrets that no replies to his communication of 11 March and 6 December 2004 were received at the time this report was finalized.

Japan

496. On 7 May 2004, the Special Rapporteur sent an urgent appeal concerning **Oonishi Nobuhiro**, 30, a care worker for handicapped people, **Takada Sachimi** (f), 30, a musician, singer and a songwriter, and **Oobora Toshiyuki**, 46, a district public servant providing lunch to schools. According to information received, the three were arrested on 27 February 2004 for distributing pamphlets opposing the dispatch of Japanese Self-Defence Forces (SDF) to Iraq. It is reported that they were charged with "trespassing" under article 130 of the Japanese Criminal Code, for which they faced a penalty of up to three years in prison, because they were

distributing pamphlets to mailboxes at the SDF personnel's housing units in the western Tokyo suburb of Tachikawa. The trial of the three activists reportedly began on 6 May 2004 at the Tokyo District court, Hachioji Branch. Further reports indicated that the three were subjected to interrogations periods of eight hours a day, including on weekends, during their detention in police custody in Tachikawa, and that they were denied access to their lawyers. It was also reported that Ms. Takada was verbally assaulted during interrogation sessions. Information seemed to indicate that they had been interrogated by authorities belonging to the public security unit of the Tokyo Metropolitan Police, suggesting that this case might have had national security implications. The three were reportedly transferred to the Tokyo Detention Centre, Hachioji Branch, on 30 April 2004. Furthermore, it was alleged that their families had been harassed, their houses searched and their notes and personal computers subsequently impounded.

Observations

497. The Special Rapporteur regrets that no reply to his communication was received at the time this report was finalized.

Jordan

498. On 12 May 2004, the Special Rapporteur sent an urgent appeal concerning **Fahd al-Rimawi**, the editor of the newspaper *Al Majd*. According to information received, on 9 May 2004 the State Prosecutor reportedly ordered Mr. al-Rimawi to be remanded in custody for two weeks, allegedly over an editorial said to be "harming relations with a brotherly Arab country". He was apparently held in Al-Jweida prison in the South of the country before being brought before the State Security Court. It was reported that Mr. Al-Rimawi was arrested on 9 May on his return to Jordan from abroad for allegedly harming ties with Saudi Arabia in an editorial published on 3 May entitled "Cowardice is guideline for policies", in which he reportedly accused the Saudi authorities of being the "lackeys" of the United States. It was further reported that, on 10 May, the State Prosecutor also ordered the suspension of *Al Majd*.

499. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning a cartoon of the Jordanian Prime Minister Faisal Al-Fayiz and other members of the Cabinet, which, on 25 October 2003, was censored prior to its publication in the weekly *Al-Wehda*. Allegedly, informers systematically checked the content of publications printed by companies owned, either partially or totally, by the State. According to information received by the Special Rapporteur, at the end of September 2003 an issue of the same weekly was banned on the order of the State Security Court Prosecutor, who had reportedly been informed about the contents of that issue prior to its publication.

Observations

500. The Special Rapporteur regrets that no replies to his communications had been received at the time this report was finalized.

Kazakhstan

501. On 4 February 2004, the Special Rapporteur sent an urgent appeal concerning a **draft media bill**, entitled "On Mass Media in the Republic of Kazakhstan", which was

reportedly passed by the Parliament's lower house on 25 December 2003 and was awaiting approval by the Senate. Although the purpose of the draft bill was allegedly to protect journalists from State interference and censorship, fears had been expressed that some of its provisions contained vague language, which might in practice weaken the legal protection of the media and expand the ability of the authorities to influence and censor journalists and the media. In particular, the following provisions of the draft bill were argued to have potential negative effect on the exercise of the right to freedom of opinion and expression:

- Article 3.1 reportedly banned the media from engaging in "propaganda" and "agitation", without providing definition of these terms, and it was believed that journalists could face up to five years in prison and fines of as much as 10 months salary for violating this article;
- Article 3.2 reportedly prohibited media outlets from revealing vaguely defined "State secrets", and it was believed that journalists could face up to three years in prison and a ban on practising their profession for violating this article;
- Article 17 reportedly authorized courts to temporarily close media outlets for up to three months if they violated several articles in the draft media legislation. (Both articles 17 and 26 reportedly contained vaguely defined procedures for shuttering broadcast media outlets for up to three months when they commit their first violation and closing them permanently when they commit their second violation within the same year);
- Articles 29 and 30 reportedly required that independent broadcasters publicize official government statements;
- Article 34 reportedly prohibited journalists from distributing information that is "contrary to fact", and it was believed that journalists could face up to three years in prison for violating this article.
- Further reports indicated that, throughout the process of preparing the draft media bill, the authorities, including some involved in the parliamentary working group preparing the draft legislation, had rejected substantive changes proposed by intergovernmental and non-governmental organizations, aimed at bringing the draft legislation in line with international human rights standards.

502. On 31 March 2004, the Special Rapporteur sent an urgent appeal concerning reports that **Vladimir Mikhailov**, managing editor of the independent weekly *Diapazon*, was sentenced on 16 March 2004 by a court in Aktobe, western Kazakhstan, to one year in prison for failing to apply a court ruling ordering him to reposition a load-bearing wall in the offices of the Arsenal publishing house by 70 centimetres, to the benefit of the adjoining building firm Aktubrentgen. The journalist planned, at the time this communication was sent, to appeal the decision. Concerns had been expressed that the sentence might have been intended to put pressure on *Diapazon*, which was the largest-circulation newspaper in the Aktobe region in the lead-up to legislative elections scheduled for September.

503. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning:

- The events of 11 March 2004, when sports journalist **Maxim Khartashov** was beaten up by two unidentified assailants in the capital Almaty. The journalist, who suffered head and facial injuries, was treated in hospital. According to

information received, the attack against Khartashov was linked to his work, probably in reprisal for his articles exposing drug scandals, match-fixing and embezzlement in the sports world;

- On 12 February 2004, according to information received, the Minister of Tourism and Sports fired **Nesip Zhunusbayev**, the editor of the weekly *Sport & KS*, published by the Ministry of Tourism and Sports. Reportedly, the cause of the dismissal was an article criticizing the way Kazakhstan's athletes were being trained for the Athens Olympic Games, the privatization of several sports facilities and the lack of government support for the development of sport in rural areas. Zhunusbayev, a well-known journalist and writer, was one of the founders of *Sports & KS*;
- On 30 January 2004, **Svetlana Rychkova**, a journalist with the daily *Assandi Times*, was arrested and was interrogated for several hours at a police station in the town of Talgar, 40 kilometres north of the capital, Almaty. Reportedly, during the interrogation, Rychkova was threatened and beaten by the police. Two of her friends who were traveling with Rychkova, were also taken to the police station. According to information received, this was not the first case of violence against journalists. Moreover, the daily *Assandi Times* was apparently under severe pressure from the Government because of its articles about alleged government corruption, politics and the rights of the mass media.

Observations

504. The Special Rapporteur thanks the Government for its reply to his communication of 5 October 2004. Translation of this reply was not yet available at the time this report was finalized. Translation of this reply will be included in next year's report. The Special Rapporteur, however, regrets not having received any replies to his communications of 4 February and 31 March 2004.

Kuwait

505. On 11 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Yasser al-Habib**, for whom an urgent appeal had also been sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on arbitrary detention on 18 December 2003 (E/CN.4/2004/62/Add.1), and who had reportedly been sentenced to a one-year prison term on 20 January 2004, on the basis of a conviction of "questioning the conduct and integrity of some of the companions of the prophet Muhammad" in a lecture he delivered. Mr. Al-Habib was reportedly arrested in connection with an audio cassette recording of a lecture he gave to an audience of 10 to 20 people in a closed environment on Islamic historical issues, which lecture relied on research on Wahhabi references and texts. This lecture was said to have angered hardline Wahhabi groups, who had allegedly used their influence within the establishment to bring about the maximum punishment against him. Further reports indicated that Mr. Al-Habib suffered from asthma and stomach problems, and was in frail health at the time this communication was sent, and that he had reportedly been

subject to several orchestrated violent attacks in prison by Wahhabi inmates. It was reported that Mr. Al-Habib was, at the time this communication was sent, appealing his sentence, and it was believed that his case might have been considered for an amnesty on 25 February, Kuwaiti National Day, when the Emir, Sheikh Jaber, would have declared clemency for some prisoners.

506. On 11 March 2004, the Special Rapporteur sent an urgent appeal concerning the writer, journalist and researcher **Yasser al-Habib**, who was reportedly sentenced in absentia to 15 years in prison by the Kuwait Criminal Court on 9 March 2004. It was believed that his case had been transferred to the State Security Court, and no further details of the new charges brought against him were made public at the time this communication was sent. According to information received, Mr. Al-Habib was amnestied by the Emir on 25 February, Kuwaiti National Day, after being sentenced to one year in prison on 20 January for “defaming the companions of the prophet Muhammad” in a lecture he had delivered see urgent appeal sent on 11 February 2004 by the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the question of torture). It was feared that some parliamentarians in the Kuwaiti National Assembly might have pressured the authorities to have his pardon overturned and have Mr. al-Habib re-arrested.

Observations

507. The Special Rapporteur regrets that no replies to his communications were received at the time this report was finalized.

Lao People’s Democratic Republic

508. Le 11 mars 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication au sujet de la situation d’un certain nombre de **membres de la communauté chrétienne de plusieurs villages** du district de Sanamsay dans la province d’Attapeu (Sud), qui seraient la cible d’actes de violence et de menaces de mort de la part des autorités locales, visant semble-t-il à les contraindre à renoncer à leur foi. Il semblerait que la répression anti-chrétienne se poursuivrait et semblerait même s’intensifier dans ces villages depuis le début de l’année 2004. Selon les informations reçues, entre le 3 et le 19 février 2004, des chrétiens des villages de Ban Donthapad et de Ban Donsua auraient fait face à des menaces de mort répétées ainsi qu’à du harcèlement de la part des autorités, consistant notamment à essayer de les expulser de la région. Il a également été rapporté que, lors d’une réunion tenue dans la matinée du 19 février à Ban Donthapad et à laquelle ont été convoqués tous les chrétiens du secteur, des responsables locaux de haut niveau auraient annoncé leur volonté «d’éradiquer totalement la chrétienté» du district de Sanamsay, en termes menaçants.

509. Par lettre datée du 21 avril 2004, le Gouvernement a répondu à l’appel urgent envoyé le 11 mars 2004 concernant les menaces de mort reçues par des croyants chrétiens du district de Sanamsay, dans la province d’Attapeu. À cet égard, le Gouvernement a souligné que ce n’était pas la première fois qu’il devait répondre à de telles accusations. Le Gouvernement a précisé que le droit de religion est prévu par la Constitution, par le biais de laquelle il serait entièrement respecté. Donc, il a jugé fausses et sans fondements les allégations émises à son encontre. Selon les statistiques, il y aurait 245 églises en République démocratique populaire lao, où plus de

147 000 croyants chrétiens pratiqueraient librement leur foi et habiteraient tranquillement parmi d'autres communautés religieuses. Néanmoins, le Gouvernement a déclaré que toute personne qui violerait la loi serait punie, quelle que soit sa religion, en accord avec le droit commun.

Observations

510. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à sa communication.

Lebanon

511. Le 30 avril 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant des rapports selon lesquels un **rassemblement pacifique** en faveur de la libération de prisonniers libanais détenus en République arabe syrienne, organisé le 7 avril 2004 à Beyrouth, aurait été violemment dispersé. Selon les informations reçues, près de 500 personnes, dont des étudiants, des familles de détenus et des représentants d'ONG, se seraient réunies dans la matinée du 7 avril 2004 à l'initiative du Comité des familles de détenus libanais en Syrie et de SOLIDE (Soutien aux Libanais détenus et exilés). Selon les informations reçues, l'organisation de ce rassemblement avait été annoncée deux jours plus tôt lors d'une conférence de presse. Selon les rapports, ce rassemblement visait à soutenir la délégation qui devait se rendre au siège de la Commission économique et sociale des Nations Unies pour l'Asie occidentale à Beyrouth, afin de déposer une pétition lancée par différents mouvements étudiants demandant la libération de quelque 200 Libanais qui seraient détenus en République arabe syrienne. Selon les informations disponibles, plus de 10 000 signatures avaient été recueillies en ce sens. Toutefois, il semblerait que les participants aient été violemment dispersés par l'armée, qui aurait notamment utilisé des lances à eau. Plusieurs d'entre eux auraient été frappés au moyen de matraques, y compris des personnes âgées, ainsi que **M. Ghazi Aad**, responsable de SOLIDE, dont la chaise roulante aurait été cassée. Au moins un étudiant aurait été transporté à l'hôpital. Selon les rapports, la délégation n'aurait pas pu se rendre au rendez-vous qui lui avait été fixé avec un fonctionnaire des Nations Unies chargé des droits de l'homme.

512. On 26 July 2004 the Government sent a reply to the Special Rapporteur's communication of 30 April 2004, in which it indicated that, on 7 April 2004, the organization SOLIDE (Support of Lebanese in Detention and Exile), which lobbied for the liberation of alleged Lebanese prisoners in the Syrian Arab Republic, organized a demonstration in the centre of Beirut, despite a ban on all demonstrations adopted by the Council of Ministers. The demonstrators gathered and made their way towards the city's centre, and were stopped by the security forces when they tried to move away from the location assigned by the authorities for the demonstration. An hour after the beginning of the demonstration, the security forces were taking measures to protect and maintain security and order, when a number of demonstrators attacked them, trying to break through their ranks in order to reach the city's centre. Security forces used the legal means at their disposal to defend themselves and arrested a number of demonstrators, without using any form of violence, for staging an unlawful protest. These people were released after a few hours.

513. By a further communication dated 16 September 2004, the Government transmitted additional information in relation to this case from the General Directorate of Internal Security Forces, indicating that freedom of opinion and expression was guaranteed to all in accordance

with the Constitution, and the security forces had carried out their duties in this domain in an exemplary fashion. The procedures and measures adopted by the security forces were merely intended to preserve security and public order in accordance with the prevailing laws, applicable regulations and human rights law. Persons are normally arrested under the laws in force for breaching security or for committing offences punishable by law, and they are not subjected to any form of torture. Finally, all the methods used by the security forces to prevent the commission of offences are the same as those applied in other States and they do not violate human rights or the right to freedom of opinion and expression. The security forces carry out their duties in a serious, disciplined, competent and proper manner.

514. Le 21 juillet 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication concernant **au moins cinq personnes**, incluant une femme, qui auraient été tuées et des dizaines d'autres blessées dans la banlieue de Hay al-Sellom à Beyrouth, le 27 mai 2004. L'armée libanaise aurait tiré des coups de feu d'avertissement afin de disperser une foule d'environ 600 personnes venues protester contre la hausse du prix de l'essence. Il y aurait des raisons de croire que l'armée aurait recouru à un usage excessif de la force lors de cette opération.

515. Le 27 septembre 2004, le Gouvernement a répondu à la communication du 21 juillet 2004, expliquant que le Conseil des ministres a, immédiatement après les incidents, chargé une commission, présidée par le procureur général près la Cour de cassation et comprenant le commissaire du Gouvernement près le Tribunal militaire et le commandant de la police militaire, d'effectuer les investigations nécessaires et de lui soumettre un rapport. Tous les services compétents ont effectué ces investigations et la Commission a établi un rapport préliminaire présenté au Conseil des ministres. Les enquêtes judiciaires sont encore en cours dans ce dossier, et le procureur général près la Cour de cassation a délivré des mandats judiciaires à tous les services de sécurité des forces de sécurité intérieure, de la sûreté générale, des renseignements de l'armée et de la sûreté de l'État pour collecter des informations et enquêter sur quelques personnes soupçonnées d'avoir participé à ces incidents. Ces enquêtes préliminaires sont secrètes et, par suite, il ne peut être rendu public aucune information les concernant ou portant sur les résultats auxquels elles ont abouti, qu'ils soient provisoires ou définitifs. En conséquence, aucune décision judiciaire ou administrative n'a été prise concernant la détermination de la responsabilité de ces incidents ou d'éventuelles sanctions. Le Conseil des ministres a décidé de verser des aides aux familles des victimes de ces incidents, aides dont le total a atteint 50 millions de livres libanaises, et qui ne revêtent pas la qualité d'indemnisations que les tribunaux compétents décideraient d'attribuer au cas où un crime serait prouvé et qu'une demande d'indemnisation serait déposée. Les rapports établis par le médecin légiste et la police judiciaire ont déterminé la cause du décès des victimes: atteintes par balles. Il n'est pas possible de donner des informations ou de fournir des documents à cet égard en raison du caractère secret que revêtent les investigations préliminaires. La décision judiciaire qui sera prise dans cette affaire après la fin des enquêtes préliminaires déterminera si des personnes ont perpétré des actes constituant des crimes, auquel cas elles seront poursuivies par les autorités judiciaires compétentes; le parquet près la Cour de cassation a pris toutes les dispositions nécessaires pour finaliser ces investigations et prendre la décision adéquate à la lumière de leurs résultats.

Observations

516. The Special Rapporteur wishes to thank the Government for its responses to his communications.

Liberia

517. On 10 February 2004, the Special Rapporteur sent an urgent appeal concerning reports that, on 16 January 2004, the editor-in-chief of the newspaper *The Telegraph*, **Philip Moore Jr.**, its managing editor, **Adolphus Karnuah**, and sub-editor, **Robert Kpadeh Jr.**, were reportedly arrested and brought to the Magistrate Court in Monrovia, where they were charged with “criminal malevolence”. Moreover, **Rennie Moses**, a former business manager for *The Telegraph*, and **Rudolph Gborkeh**, the newspaper’s chief reporter, were charged in absentia. It was reported that Moore, Karnuah, and Kpadeh were released the same day on bail. It seems that the charges stem from a story published in *The Telegraph* on 30 December 2003, which alleged that National Security Minister Losay Kendor embezzled US\$ 15,000, reportedly based on sources from within the National Security Ministry. Reports indicated that the case was, at the time this communication was sent, pending in Monrovia’s Magistrate Court, and that the charge of “criminal malevolence” carried a maximum sentence of one year in prison.

518. On 16 February 2004, the Special Rapporteur sent an urgent appeal concerning reports that the newspaper *The Chronicle* had been brought before the Sixth Judicial Circuit Court in Monrovia in an action for “damages for injury to reputation”. According to information received, Philip Keikpo, former business manager of the exiled former president, was claiming US\$ 5 million for a front page lead story entitled “How Taylor diverted millions”, published in the 23 January 2004 edition of *The Chronicle*, in which it was alleged that Mr. Keikpo was a close associate of the former president and had information on some of the former President’s secret bank accounts abroad. Also, that he was the paymaster of the Revolutionary United Front (RUF) rebels in Sierra Leone, allegations which Mr. Keikpo denied.

Observations

519. The Special Rapporteur regrets that no replies to his communications were received at the time this report was finalized.

Libyan Arab Jamahiriya

520. On 22 April 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the situation of **Fathi El-Jahmi**, a human rights defender and recently released political prisoner, who had reportedly disappeared. According to information received, Fathi El Jahmi was sentenced to five years’ imprisonment in October 2002, following an address to the People’s Congress in Tripoli during which he reportedly called for democratic and political reform. He was allegedly not permitted to attend the trial. Fathi El Jahmi was reportedly released from prison on 12 March 2004. According to the information received, following his release Fathi El-Jahmi was reportedly subject to 24-hour surveillance and his home phone as well as electricity supply was reportedly disconnected. He was also allegedly threatened by members of the

Revolutionary Committee Party, who stated that they would kidnap his wife and daughters if he continued to express his views on the human rights situation in Libya. On 19 March it was reported that the computer business of Fathi El-Jahmi's son was ransacked, allegedly by members of the Revolutionary Committee Party. On 4 April 2004 an unidentified security group allegedly raided the home of Fathi El-Jahmi and took him away to an undisclosed location. In view of his alleged disappearance, concern was expressed that Mr. El-Jahmi, who was diabetic and suffered from cardiovascular diseases that require daily medication, might have been at risk of torture or ill-treatment. Concern was also expressed that Fathi El-Jahmi had been targeted for his work in defense of human rights and, in particular, in calling for political reform in the Libyan Arab Jamahiriya.

521. On 22 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, 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 an urgent appeal concerning **Fathi al-Jahmi**, his wife, **Fawzia 'Abdullah Gogha**, and their eldest son, **Muhammad Fathi al-Jahmi**. They were taken from their home in Tripoli by the authorities on 26 March 2004. Their arrest was allegedly linked to several media interviews given by Fathi al-Jahmi including to the United States of America-based Arabic-language channel al-Hurrah and to the Dubai-based Arabic channel al-'Arabiya, in which he called for reform within the Libyan Arab Jamahiriya. After the interviews, basic services to his house, such as his telephone connection, were reportedly suspended. No charges were reportedly brought against him. It was reported that the authorities claimed that he was being held for his own protection because of alleged public outrage generated by his media interviews. Since their arrest, Fathi al-Jahmi, his wife and eldest son had reportedly been denied access to the outside world, including to lawyers, relatives and doctors. Fears have been expressed for their health and safety, in particular as it was reported that Fathi al-Jahmi was in poor health condition and required medical treatment. It was also reported that Fathi al-Jahmi was previously arrested in 2002 following a statement he made at a session of the Basic People's Congress in al-Manshia, Bin Ashour, Tripoli, on 19 October 2002. At the Congress, he reportedly stated that reform within the Libyan Arab Jamahiriya would never take place without legal and political change, such as the introduction of a constitution, pluralism and democracy. On 10 March 2004 his case was heard before the People's Court of Appeal and he reportedly received a suspended sentence of one year's imprisonment. According to the information received, he was released on 12 March 2004, before being re-arrested on 26 March 2004.

522. On 9 December 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the withholding of visas by the Government of the Libyan Arab Jamahiriya to members of **Human Rights Watch**, scheduled to begin a three-week fact-finding trip in the country on 7 December 2004. Human Rights Watch planned to investigate the human rights condition of women and the Government's treatment of migrants and refugees. The organisation also planned to investigate cases of political prisoners, in particular the cases of Fathi al-Jahmi and 86 students and professionals allegedly imprisoned for supporting or sympathizing with the banned Libyan Islamic Group, also known as Muslim Brotherhood. Reportedly, on 1 December 2004, an appeals chamber of the People's Court upheld the sentences for the group, including for two university professors, Salem Abu Hanak and Abdullah Ahmed Izzedin, allegedly sentenced to death. Concern was expressed that the alleged withholding of the visas of members of Human

Rights Watch may represent an attempt to limit independent scrutiny of the human rights situation and suppress the right to freedom of opinion and expression in Libya.

Observations

523. The Special Rapporteur regrets that no replies to his communications were received at the time this report was finalized.

Malawi

524. On 26 May 2004, the Special Rapporteur sent an urgent appeal concerning the Catholic radio station **Radio Maria**. According to information received, the Malawi Communications Regulatory Authority (MACRA) Director, threatened to withdraw Radio Maria's broadcasting license, accusing the Catholic radio station of being partisan in its coverage. Reports indicated that the matter followed a directive issued by the President saying that MACRA had powers to revoke the licences of radio stations that intervened in politics and should "deal with religious stations that are brewing trouble" in the country. The President allegedly issued the directive after launching his own radio station, FM 89.6, in Blantyre, on 14 May 2004. The President was supposedly reacting to a sermon aired on Radio Maria, on 14 May 2004, in which a preacher allegedly condemned the tendency to impose leaders on the people. Shortly after the function, the director of MACRA warned Radio Maria's general manager, Monsignor Joseph Kim, that it could revoke the station's license. The director of MACRA also reportedly sent officials to the station to obtain tapes of programmes aired between 6 and 7 a.m. that day. According to other information received, MACRA had attempted to block private and community radio stations from analysing topical political issues on several previous occasions.

525. On 2 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning six journalists, among them **Raphael Mwenenguwe**, **George Ntonya**, reporter with *The Nation* newspaper and **Chikondi Phikiso** (f) from Malawi Broadcasting Corporation, who were reportedly beaten and verbally assaulted by the police. According to information received, on 18 October 2003, officers of the Malawi Police Service beat up the six journalists for attempting to take photographs of a scuffle between police and a motorist at a police roadblock on Zalewa Road, between Blantyre and Mwanza districts. The police allowed the journalists to photograph the incident until their officer-in-charge arrived at the site and assaulted George Ntonya, grabbing him by the neck and dragged him around. The policemen joined and beat up the journalists using batons and the butts of their guns. They also scratched Chikondi Phikiso's chest with the butts of their guns while insulting her.

526. On 29 October 2004, the Government of Malawi sent a response to the Special Rapporteur's communication of 2 July concerning the six journalists who were reportedly beaten and verbally assaulted by the police. The Government stated that a thorough investigation into the allegations was carried out. Journalists **Geirge Ntonya**, **Chikondi Phikiso**, **Raphael Mwenenguwe** and two others were interviewed. They claimed that, on 18 October 2003, they went to the Mwanza district to gather materials for their documentary programmes as well as feature articles on activities of TEVETA, an organization funding community-driven projects on sustainable livelihoods with special focus on the environment in the district. On 18 October 2004, the Government claims that the journalists were focusing on TEVETA's funding of small-scale activities aimed at discouraging communities in Mwanza from indulging in charcoal-

selling businesses, which activities are widely blamed for the wanton cutting down of trees. This had led to devastating environmental degradation in the area. On their return to Blantyre, the journalists found forestry officials exchanging bitter words with a motorist at the Zalewa roadblock over two bags of charcoal that the motorist was carrying. At one point, the motorist threatened to run over the bags, and the journalists decide to encourage this endeavour and placed the two bags in front of his motorcycle. A disagreement erupted between the journalists and the police as the latter were not pleased about the journalists' intervention. Finally the journalists and the police apologized to each other. No action was taken by the journalists except in their articles, where the incident was mentioned. According to the Police Public Relations Officer, the Police Service instituted its own investigations after the matter was carried by the *Nation* newspaper and Radio One of the Malawi Broadcasting Corporation. The police stated that they could not take action without having a formal complaint. Upon contacting two of the journalists, both claimed not to be interested in pursuing the issue any further. The Government concluded by asserting its commitment to tolerate, encourage and protect media freedoms and international human rights norms generally.

Observations

527. The Special Rapporteur thanks the Government for its reply to his communication of 2 July 2004, but awaits a reply to his communication of 26 May 2004.

Malaysia

528. On 8 March 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning members of **Suara Rakyat Malaysia (SUARAM)**, a human rights NGO, and other participants who took part in a peaceful demonstration against the misuse of police power. According to information received, on 28 February 2004 100 people, including members of SUARAM and political parties, gathered outside the Bukit Aman Police Station to protest against the misuse of police powers, in particular the death of suspects while in police custody, police shootings, and violations of the remand procedure and the dispersion of peaceful assemblies. According to information received, the demonstrators were reportedly going to hand a memorandum to the Inspector General of the Police when the police allegedly intervened, confiscating the memorandum and ordering the demonstrators to disperse. It was reported that they attempted to arrest **Fahmi Reza**, a member of SUARAM, and, when the crowd protested and demanded his release, members of the police allegedly beat him up. The police also reportedly sprayed chemical-laced water on the crowd. Following this, 17 demonstrators, including **Eric Paulsen, Elizabeth Wong and Fahim Reza** of SUARAM, **Sivarasa Rasiah**, Vice President of the Malaysian People's Party and **Tian Chua**, Vice President of the National Justice Party, were arrested. In the course of their arrest Tian Chua and Elizabeth Wong allegedly sustained bruises due to ill treatment at the hands of the police. All those arrested had reportedly been released on bail and were requested to report back to the police on 15 March 2004. Concern had been expressed that the members of SUARAM and other demonstrators may have been arrested for their human rights activities, in particular their condemnation of the misuse of police powers.

529. By letter dated 23 June 2004, the Government replied to the urgent appeal sent on 8 March 2004 concerning **Eric Paulsen, Elizabeth Wong, Fahim Reza, Sivarasa Rasiah, Tian Chua** and **Suara Rakyat Malaysia of SUARAM**. The Government stated that police officers

had received information that a group of demonstrators intended to gather in front of police headquarters in Bukit Aman to submit a memorandum to the authorities. The police agreed to allow three representatives of the demonstrators to enter police headquarters in order for them to formally hand over the memorandum to the officer-in-charge. According to the reply, the demonstrators insisted that 10 of them should be allowed to enter. The police stood by their earlier decision, since three representatives would likely create less upheaval within police headquarters, but would still serve the primary purpose of the demonstration. The Government indicated that, at the same time, police officers requested the demonstrators outside police headquarters to disperse, since such a gathering would require a police permit obtained in advance under section 27 of the Police Act 1967. It stated that, after the demonstrators repeatedly ignored these requests, 17 demonstrators were arrested on the charge of convening an illegal assembly. They were released the same day on police bail. The Government indicated that at no time was force used to either detain or keep them in custody.

530. On 5 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the arrest of **P.Uthayakumar**, a human rights lawyer, and several other people, in particular **S. Jayathas, Ganesan, Dhayalan, Raju, Batumalai, Kanthan, Devarass, Letchumanan, Nambirajan, Antonyamma**, during a demonstration protesting the alleged death in police custody of a suspect in a theft case. According to information received, on 30 April 2004, a group of 20 people gathered outside the Brickfield police station in Kuala Lumpur to protest against police brutality, and in particular the alleged death in custody of Francis Udayapan, and to demand to see his body. Riot police were reportedly waiting outside the police station and while the mother of Francis Udayapan went inside to lodge a report regarding the alleged death of her son, police with batons reportedly broke up the demonstration and arrested 11 of the protestors including P.Uthayakumar, S. Jayathas, Ganesan, Dhayalan, Raju, Batumalai, Kanthan, Devarass, Letchumanan, Nambirajan, Antonyamma. They were allegedly released on bail shortly afterwards and were required to report to the police on 15 May when charges were to be brought against them. Concern had been expressed that P.Uthayakumar and other demonstrators may have been targeted for their human rights activities, in particular their condemnation of the alleged death of suspects in police custody.

531. By letter dated 14 June 2004, the Government replied to the urgent appeal sent on 5 May 2004 concerning **P. Uthayakumar, S. Jayathas, Ganesan, Dhayalan, Raju, Batumalai, Kanthan, Devarass, Letchumanan, Nambirajan and Antonyamma**. The Government stated that, on 29 April 2004, the Royal Malaysian Police received a fax concerning plans of a demonstration, as referred to in the communication sent by the Special Rapporteur. The Government stated that between 30 and 40 people took part in this demonstration. When the demonstrators reached the gates of the Brickfields police station, police officers warned the group to disperse, since a demonstration without a legal permit is considered an illegal assembly. The police informed them that only those who intended to lodge a police report would be allowed into the police station, and only the mother of Francis Udayapan and a lawyer did so. According to the Government, after several warnings by the police, those who refused to disperse, 12 people, were arrested. The arrests were based on section 27 of the Police Act 1967 for the offence of convening an illegal assembly. The Government indicated that, on 30 April 2004, those who were arrested were released on bail. The police continue their investigations.

Finally, the Government asserted that the concern expressed in the communication sent by the Special Rapporteur that some members of the demonstrators were specifically targeted for arrest, was groundless.

532. On 13 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the independence of judges and lawyers and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **P. Uthayakumar**, a human rights lawyer whose case was the subject of an urgent appeal on 5 May 2004 by the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression, Special Rapporteur on the independence of judges and lawyers and the Special Representative to the Secretary-General on Human Rights Defenders. According to information received, P. Uthayakumar worked on behalf of victims of alleged police brutality and was, at the time this communication was sent, representing the family of Francis Udayappan who was alleged to have died in police custody. It was reported that he had received numerous threatening phone calls related to his work and, on 8 May 2004, the brother of P. Uthayakumar, Wanytha Moorthy, reportedly received a call on his mobile phone from an anonymous caller who reportedly stated that his brother should “not fool around with the police” and further stated that if he did not heed this warning he would be killed. Moreover, on 11 May 2004 P. Uthayakumar was driving along Jalan Medang in Bangsar when a motorcycle reportedly began to trail his car. A short time after, he was reportedly blocked by three or four cars. The driver of one of the cars reportedly alighted from his vehicle and approached the car of P. Uthayakumar with a sledgehammer, allegedly smashing the windscreen and the driver’s side window. It is reported that the driver of the motorcycle then pointed a gun at him, following which P. Uthayakumar allegedly jumped out of the passenger side door of his car and managed to escape his assailants. He reportedly suffered injuries to his face, hands, legs and back during the incident. Immediately after the alleged attack he reportedly filed a complaint at Brickfields police station. Reportedly, P. Uthayakumar has filed a number of reports to the police about threatening calls that he had received but, at the time this communication was sent, no action by the police has been taken. Concern had been expressed that P. Uthayakumar was being targeted for his human rights activities and in particular his work to defend victims of police brutality.

533. By letter dated 7 October 2004, the Government replied to the urgent appeal sent on 13 May 2004. The Government confirmed that **P. Uthayakumar** lodged a police report concerning the assault referred to in the communication sent on 13 May 2004. It stated that, in this report, lodged on 10 May 2004, Mr. Uthayakumar accused the police of being behind the incident. The Government mentioned that an investigation had been launched under sections 324, 427 and 506 of the Penal Code, and that no arrests had been made at the time this reply was received. According to the Government, the investigations has been hampered due to Mr. Uthayakumar’s refusal to give police statements under section 112 of the Criminal Procedure Code. On 17 June 2004, he was subpoenaed under this section in an effort to record his statement for further investigation into the case. Despite acknowledging receipt of the subpoena, Mr. Uthayakumar did not turn up at the police station. The Government informed that, on 27 August 2004, the Kuala Lumpur Magistrates’ Court issued a warrant to ensure Mr. Uthayakumar’s compliance under section 111 (2) of the Criminal Procedure Ordinance. On 9 September 2004, he was picked up by the police for his statement to be recorded, and he was released the same day. The Government asserted that there was no evidence to prove that the incidents involving Mr.

Uthayakumar had any connection with the police, or were the direct result of Mr. Uthayakumar's work to discredit the police force.

On 7 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent an urgent appeal concerning the safety of **P. Uthayakumar**, a human rights lawyer, advocate and solicitor at the High Court of Kuala Lumpur and the honorary legal adviser of the Police Watch and Human Rights Committee. P. Uthayakumar was reportedly assaulted twice in May 2004 and was the subject of two joint urgent appeals sent on 5 and 13 May 2004, for which on 14 June the Special Rapporteur received replies. It was reported that P. Uthayakumar had again been threatened on two occasions. On 20 May 2004, he was assaulted at gunpoint by persons believed to be members of the Royal Malaysian Police Force. He sought temporary asylum in the United Kingdom, and returned to Malaysia on 13 June 2004, with the assurances of the Government of Malaysia that his safety would be guaranteed. Information indicates that following his return, P. Uthayakumar's office had been repeatedly visited by the Royal Malaysian Police Force, in response to which Mr. Uthayakumar lodged a complaint with the police. The officer in charge of the Police District of Brickfields had since lodged a police report against Mr. Uthayakumar for alleged criminal defamation of the police. On 29 June 2004, P. Uthayakumar found in his letter box an envelope containing a live bullet in a plastic casing and a threatening note.

534. By letter dated 7 October 2004, the Government replied to the urgent appeal sent on 7 July 2004, concerning **P. Uthayakumar**. The Government, while reaffirming Malaysia's adherence to the principles of non-discrimination and right to freedom of opinion and expression, asserted that, following the lodging of two complaints with the police by P. Uthayakumar, two criminal investigations were launched. The police could not link either of the alleged assaults on P. Uthayakumar to the Malaysian police personnel and the fact that P. Uthayakumar refused, even under subpoena, to give police statements to make official what he was alleging further hampered the investigations in his case. It was only on 9 September 2004, when the police took P. Uthayakumar themselves to the police station that a police statement was finally recorded. The Government of Malaysia claims that P. Uthayakumar's rights have not been violated.

535. On 26 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the continued harassment of **P. Uthayakumar**, a human rights lawyer, advocate and solicitor at the High Court of Kuala Lumpur and the honorary legal adviser of the Police Watch and Human Rights Committee. P. Uthayakumar was the subject of joint urgent appeals sent on 5 May 2004 by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, on 13 May 2004 by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, and on 7 July 2004 by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and

related intolerance, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders. The Special Rapporteur received replies to the 5 and 13 May and 7 July 2004 appeals. According to the information received, in a letter dated 21 June 2004, the Director General of Income Tax informed P. Uthayakumar that he was not allowed to leave Malaysia, since he allegedly owed income tax. On 16 July, P. Uthayakumar paid this amount and subsequently sent three letters asking for a certificate of release that would enable him to travel abroad again, which he had not yet received at the time this communication was sent. It was further reported that, on 9 September 2004, P. Uthayakumar was arrested at his law firm in Kuala Lumpur and brought to Brickfields police station, the Kuala Lumpur Magistrates Court Police Headquarters at Jalan Hang Tuah. Reportedly, he was required to provide a statement in relation to the proceedings opened against him on charges of defaming the police. According to the information received, these charges resulted from statements made by P. Uthayakumar after the attack on him on 10 May 2004, in which he voiced his suspicion that high-ranking police officers were involved in the attack. He was released four hours after the arrest.

536. By letter dated 22 December 2004, the Government replied to the urgent appeal sent on 26 October 2004. The Government reiterated its response dated 7 October 2004, by which it explained the reasons behind the arrest of **P. Uthayakumar** on 9 September 2004. The Government stated that it failed to see how the execution of a warrant, issued by the country's independent judiciary, for Mr. Uthayakumar's failure to respond to a subpoena can possibly be construed as a violation of his basic human rights. With regard to the restriction on Mr. Uthayakumar's travels abroad, the Government reported that the restriction would remain as long as the amount he owed to the Inland Revenue Board is not settled in full, pursuant to subsection 104 (1) of the Malaysian Immigration Department's Suspected List. According to the Government, in order for Mr. Uthayakumar to be allowed to travel overseas again, he would need to submit a release letter to the Immigration Department from the Inland Revenue Board, which would state, inter alia, that he had paid his arrears in full.

Observations

537. The Special Rapporteur thanks the Government for its replies to his communications of 8 March, 5 and 13 May, 7 July and 26 October 2004.

Maldives

538. On 18 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Fathimath Nisreen**, her brother **Mohamed Niyaz**, **Ahmed Ibrahim Didi**, **Mohamed Zaki**, his son **Muad Mohamed Zaki**, **Maria Manike**; **Ibrahim Hussain Zaki**, and **Mohamed Monawar**, a former Attorney-General, and both members of the Citizens' Majlis (Parliament); and **Ibrahim Ismail**, **Ghasim Ibrahim**, **Ali Faiz**, **Hussain Rasheed**, **Ilyas Hussain Ibrahim**, members of the Special Majlis (parliamentary committee). According to the allegations received. These persons were taken to police headquarters in Malé for interrogation after they took part in large demonstrations concerning democratic reforms on 12 and 13 August 2004. Several were reportedly beaten when they were arrested, and they were held incommunicado. Fathimath Nisreen, and Ahmed Ibrahim Didi, who were already under house arrest at the time they were detained, left their houses and

briefly joined the demonstrators but returned to their homes before they were taken into police custody. Mohammed Zaki, who was also under house arrest, did not leave his home during the demonstrations. (Fathimath Nisreen, Ahmed Ibrahim Didi, Mohamed Zaki were previously the subject of urgent appeals by the Special Rapporteur on the question of torture and the Special Rapporteur on the right to freedom of opinion and expression, dated 23 January 2003 and 27 June 2003; see E/CN.4/2004/62/Add.1). Among those arrested, Maria Maniké, had been voicing her concern at the slow pace of the trial of those involved in the killing of her son, who was beaten to death by guards at Maafushi prison in September 2003. In view of their alleged incommunicado detention, concern was expressed that they might have been at risk of torture or other forms of ill-treatment.

539. On 23 September 2004 the Government sent a response to the communication of 18 August 2004 concerning the events of 12 and 13 August 2004. The Government stated that, in the early evening of 12 August 2004, a crowd had gathered at the jamboree Maidhaan opposite the police headquarters in the capital, Malé, demanding the release of some convicted criminals and other individuals who had been detained for questioning. The Government claimed that the detainees were released, in the hope that the crowd would disperse peacefully. However, they did not, and kept making impossible demands. For over 17 hours National Security Service personnel acted with restraint, advising the crowd to disperse, until the crowd degenerated into a mob and turned increasingly violent, stabbing two unarmed policemen, torching a government building and eventually charging the police headquarters, compelling National Security Service personnel to step in to disperse the crowd and restore order and public safety. A state of emergency was then declared by the President, under the powers vested in him by the Constitution of the Republic of Maldives, to safeguard national security, public safety and to maintain the law and order. Some rights of detainees remained suspended under the state of emergency, at the time this reply was sent. The Government hoped, at the time this reply was sent, to lift the state of emergency as soon as possible and assured the Special Rapporteur that the detainees were being treated humanely. They were to be charged or released, depending on the findings of the investigations. Members of the National Human Rights Commission and of a European Union fact-finding mission met with seven of the detainees referred to in the communication sent by the Special Rapporteur. Court proceedings of those persons involved in the Maafushi prison incident and the riots in Malé in September 2003 were underway. The Government also informed the Special Rapporteur of the creation of a National Human Rights Commission as well as its accession to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. Moreover, a constitutional assembly had been convened to address the issue of constitutional reform. The Government was also working closely, it said, with international organizations to seek technical support for their reform agenda. As part of the reform measures, police forces have been separated from the national Security Services as of 1 September 2004. A memorandum of understanding (MOU) with the International Committee of the Red Cross (ICRC), allowing access to detention centres, was also in the process of being signed.

540. On 6 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning

Ismail Asif and **Jennifer Latheef**, respectively an employee of a television company and a video producer, both of whom were working to draw attention to human rights concerns. According to information received, Ismail Asif, who was also an activist for the political opposition was arrested at his home at around 10 p.m. on 17 September 2004. He was reportedly held without charge and was not given access to a lawyer. It is reported that he was questioned about organizing a peaceful political meeting in July 2004, one disguised as a birthday party. It was also alleged that he was arrested because of his involvement in a civil society network that monitored the conditions of detention of those arrested following the August demonstrations to ensure their human rights were protected. From mid-August 2004 until his arrest, Ismail Asif had been interviewing those who had been released from detention to document human rights violations against detainees and had been helping families of the detainees to draft letters to the authorities requesting the right to visit the detainees. According to information received, Jennifer Latheef, who has particularly focused on the prevalence of sexual abuse in the country, was reportedly arrested in front of the National Security Services (NSS) on 13 August 2004, as the Government broke up a demonstration with baton charges and tear gas. She was, at the time this communication was sent, reportedly being detained at the Dhoonidhoo interrogation centre and was denied access to family members until 17 September 2004. It was also reported that, during her detention, police kicked her in the back numerous times whilst she was blindfolded. She was reportedly detained a first time on 22 September 2003, for taking part in a protest regarding the killing of Evan Naseem on the 19 September 2003 and the killing of three other prisoners and fatal injury of others on the 20 September 2003 in Maafushi Jail.

541. On 27 November 2004, the Government sent a response to the Special Rapporteur's communications of 6 October 2004 and 20 October 2004 concerning:

- **Jennifer Latheef**, who according to the Government, was arrested on 13 August 2004 in connection with the investigations relating to the mob violence which took place on 12 and 13 August 2004. Investigations concerning her were concluded and she was currently under house arrest since 26 October 2004 and charges were to be filed against her in accordance with the law at the time this reply was sent;
- **Ismail Asif**, who according to the Government, was arrested on 17 August 2004 in connection with the investigations relating to the mob violence that took place on 12 and 13 August 2004, and not because of his involvement in a civil society network. He will be charged or released once investigations against him are concluded;
- **Mohamed Yoosuf**, who according to the Government, was arrested on 13 August 2004 in connection with the investigations relating to the mob violence on 12 and 13 August 2004, and not because of the petition he signed calling for the establishment of a political party in the Maldives. He will be charged or released once investigations against him are concluded. The Government finally stated that article 25 of the Constitution guaranteed the freedom of every citizen to express his or her thoughts or conscience orally or in writing or by other means unless prohibited by law in the interest of protecting the sovereignty of the Maldives, of maintaining public order and protecting the basic tenets of Islam. The Government claimed that persons were not prosecuted for merely expressing their views. However, when a person exceeded constitutionally permissible limits for

freedom of speech and expression and engaged in criminal activities, the Government took action as required by the law.

542. On 20 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mohamed Yoosuf**, a political activist. According to allegations received, on 13 August 2004 at about 10:45 p.m., he was arrested by the police at his home. Mohamed Yoosuf was transferred to the Dhoonidhoo Detention Facility seven days after his arrest and was in solitary confinement since then. On 11 September 2004, Mr. Yoosuf was sent to a hospital for an X-ray. He informed visitors at the hospital that he was frequently tortured while being handcuffed and blindfolded, and that, as a result of torture, he sustained injuries to his back. On 16 September, during a visit by his family at the Dhoonidhoo Detention Facility, he said that after his hospital visit he was handcuffed for about a week, and kept blindfolded for two days. Mr. Yoosuf said that he was hit on his back severely, and remained handcuffed and blindfolded while eating, praying and using the toilet. He also mentioned that prison officials stepped on him to prevent him from falling asleep. During the family visit, the police were present and tape-recorded their conversation. Mohamed Yoosuf was brought for further medical attention on 7 October 2004. The family's request for an independent medical assessment was denied by the authorities. Except for these three occasions, Mr. Yoosuf had been held in incommunicado detention. His arrest was believed to be related to his signature on a petition calling for the establishment of a political party in the Maldives. His arrest took place in the context of police action against large demonstrations in Malé concerning democratic reforms on 12 and 13 August 2004. The arrest, detention and the ill-treatment of another 13 persons on the same occasion was the subject matter of an urgent appeal to the Government by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 18 August 2004. In view of his alleged incommunicado detention and allegations of ill-treatment, concern was expressed that Mohamed Yoosuf might have been at risk of torture and other forms of ill-treatment and that his health could further deteriorate. Moreover, concern was expressed for his physical and mental integrity if he did not receive prompt and appropriate medical treatment.

543. On 27 October 2004, the Government of Maldives sent a response to the Special Rapporteur's communication of 20 October 2004 concerning **Mr. Mohammed Yoosuf**. The Government reported that Mr. Yoosuf was arrested in connection with an investigation into the mob violence of 12 and 13 August 2004. He was arrested on 13 August 2004, and his arrest had nothing to do with his signing a petition calling for the establishment of a political party in the Maldives. He was still, at the time this reply was sent, under detention as investigations were not complete. Once finalized, he would be charged or released. In the event that charges were to be brought against him, he would be provided with a fair and impartial hearing.

Observations

544. The Special Rapporteur thanks the Government for its replies to all of his communications.

Mauritania

545. Le 15 avril 2004, le Rapporteur spécial a envoyé une communication au sujet de rapports selon lesquels **les rédacteurs des hebdomadaires *L'Éveil Hebdo*, *L'Authentique*, *Le Journal* et *Al Moujtamaa***, dont les noms n'ont pas été transmis au Rapporteur spécial, seraient poursuivis pour diffamation contre un membre éminent du Parti républicain démocratique socialiste (PRDS, au pouvoir) et proche du Président Maaouiya Ould Sid' Ahmed Taya. Selon les informations reçues, ces quatre personnes devaient comparaître devant le procureur de la République à Nouakchott le 1^{er} avril 2004. Les quatre journaux avaient vraisemblablement publié des articles faisant état de détournements de fonds publics par cette personne du temps où celle-ci était membre du gouvernement. Il est rapporté que si ces personnes sont reconnues coupables, elles risquent, en vertu des articles 25, 26 et 27 de l'ordonnance n° 91-023 du 25 juillet 1991 relative à la liberté de la presse, un emprisonnement de cinq jours à six mois et une amende de 80 000 à 400 000 ouguiyas (environ 300 à 1 500 dollars) ou l'une de ces deux peines seulement.

546. En réponse à une communication envoyée par le Rapporteur spécial le 15 avril 2004, le Gouvernement a indiqué, par lettre en date du 30 juillet 2004, que le cas référé dans la communication en question concerne un citoyen qui s'est estimé victime de diffamation à la suite de déclarations publiées dans des articles de presse et a poursuivi les auteurs des articles en question. Quelles que soient les fonctions publiques exercées par une personne, cela ne la prive pas du droit de se défendre, et cela n'a pas de rapport avec le Gouvernement ni le parti politique au pouvoir. Par ailleurs, le Gouvernement a informé que les journaux en cause ont reconnu leur faute dans un arrangement conclu devant le tribunal, et ont présenté des excuses et publié un démenti dans leurs colonnes respectives, sur la base de quoi le plaignant a retiré sa plainte.

547. Le 2 décembre 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, la Rapporteuse spéciale sur la violence contre les femmes et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant neuf femmes membres du Collectif des familles de détenus, **Mmes El Moumne Mint Mohamed Elemine, Raky Fall, Khadijetou Mint Maghlah, Teslem Mint Oumar, Mariem Mint Neyni, Fatimetou Mint Khaya, Mariem Fall Mint Chenouve, Meye Mint Hamady et Fatma Mint Hamady**. Selon les informations reçues, sept d'entre elles auraient été arrêtées le 21 novembre 2004 par la gendarmerie, lors de l'ouverture de la première audience du «procès des putschistes», auteurs présumés de la tentative de coups d'État des 8 et 9 juin 2003, et dont elles seraient les proches. Elles auraient été conduites à la brigade d'Ouad Naga où elles auraient été parquées sous le soleil et à même le sol pendant toute la journée du 21 novembre. Mmes Meye Mint Hamady et Fatma Mint Hamady auraient quant à elle été arrêtées le 22 novembre 2004, alors qu'elles protestaient contre des gendarmes qui semblaient vouloir maltraiter une femme âgée à la sortie de la salle d'audience. Le même jour, Mme Mariem Mint Neyni, enceinte, aurait été libérée, mais aurait à nouveau été arrêtée le 29 novembre au soir. Sans semble-t-il avoir été informées des raisons de leur arrestation, elles auraient été interrogées à plusieurs reprises sur les raisons pour lesquelles deux membres du Collectif participaient à la trente-sixième session de la Commission africaine des droits de l'homme et des peuples (CADHP). Le 30 novembre 2004, après avoir apparemment été accusées de «distribution de tracts» et de «menaces de mort», elles auraient été transférées à la prison des femmes de Nouakchott. Toutes les autorisations de visite demandées par leurs proches auraient été refusées.

Mme Raky Fall, enceinte, souffrirait depuis le début de sa détention de douleurs dans la poitrine. En raison de leur détention au secret, des craintes ont été exprimées pour l'intégrité physique et psychologique de ces femmes, et notamment Mme Raky Fall qui se trouve dans un état de santé fragile.

548. En réponse à la communication du Rapporteur spécial du 2 décembre 2004, le Gouvernement a indiqué que les personnes concernées par la communication en question ont été arrêtées pour des motifs prévus et sanctionnés par les articles 204 (outrage à magistrat) et 281 (menace de mort) du Code pénal. Selon le Gouvernement, elles ont été informées des raisons de leur arrestation et traitées avec humanité. Il n'a pas été porté atteinte à leur intégrité physique et psychologique contrairement à ce qui est allégué et le droit de visite de leurs familles et de leurs avocats a été respecté. L'invocation, selon le Gouvernement, de l'article 19 de la Déclaration universelle des droits de l'homme n'est pas pertinente car la liberté d'opinion et d'expression ne peut être confondue avec la commission d'actes délictueux au regard de la loi, spécialement quand cet article 19 comporte des devoirs spéciaux et des responsabilités spéciales. Pour le moment, les femmes en question ont bénéficié d'une liberté provisoire. Sur le fond, elles auront l'occasion de présenter leur cause lors d'un procès public et équitable au cours duquel toutes les garanties nécessaires à leur défense seront assurées.

Observations

549. Le Rapporteur spécial remercie le Gouvernement pour ses réponses à ses communications.

Mexico

550. El 23 de enero de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente con respecto a la situación de **Martín Barrios Hernández**. Según la información recibida, el día 30 de diciembre de 2003 a las 9.30 de la mañana, Martín Barrios Hernández estuvo a punto de entrar en su casa cuando un individuo se le habría acercado y le habría dicho "Fernando, ya deja de estar chingando". De acuerdo con la información, el individuo habría golpeado a Martín Barrios Hernández en la cabeza y en la espalda con un ladrillo y al tratar de defenderse, el individuo le habría dado puñetazos en la cara y los brazos y le habría dado una patada en el estómago. Luego el individuo habría huido en un taxi que lo habría aguardado al otro lado de la calle. Martín Barrios Hernández, por sangrar profusamente por la cabeza, habría sido trasladado a un centro de la Cruz Roja para recibir primeros auxilios y el mismo día 30 de diciembre, habría denunciado el incidente ante el Ministerio Público de Tehuacan. Esta incidencia de agresión habría precedido una serie de amenazas recibido por Martín Barrios Hernández. Se teme que las amenazas y el ataque en su contra están relacionados con su trabajo como co-ordenador de la Comisión de Derechos Humanos y Laborales del Valle de Tehuacán que ha apoyado a trabajadores despedidos de fábricas que producen pantalones vaqueros tanto como a otras pequeñas maquilas en Tehuacan. En enero de 2003 la Comisión de Derechos Humanos y Laborales del Valle de Tehuacán, produjo, conjuntamente con la organización Red de Solidaridad de la Maquila, con sede en Canadá, un informe sobre la situación de los trabajadores (principalmente mujeres indígenas) empleados en las diversas fábricas de jeans en el valle de Tehuacán y los problemas que se enfrentan, que incluyen salarios bajos, largas

jornadas de trabajo, restricciones a la formación de sindicatos, mano de obra infantil y peligros para la salud a causa de los productos químicos utilizados en las lavanderías, así como problemas medioambientales causados por las maquilas.

551. Por carta fechada el 27 de abril de 2004 el Gobierno contestó a la comunicación con fecha 23 de enero de 2004 con respecto a la situación de **Martín Barrios Hernández**. El Gobierno informó de que el 30 de diciembre de 2003 la víctima habría presentado una denuncia ante la Procuraduría General de Justicia del Estado de Puebla en la cual habría identificado a los probables responsables. Por consecuencia, la Policía habría iniciado una investigación del nombre y domicilio de los probables responsables, así como de los testigos presenciales. De manera paralela el Sr. Martín Amaru Barrios presentó una queja ante la Comisión de Derechos Humanos del Estado de Puebla (CDH Puebla). A petición de la CDH, la Dirección de Seguridad Pública de Tehuacan proporcionó medidas de seguridad para garantizar la integridad física de Martín Amaru. Se envió parte de las investigaciones a la CDH Puebla. La autoridad ministerial local y la CDH Puebla se encuentran investigando los hechos ocurridos en contra del Sr. Martín Amaru Barrios y se espera que la indagatoria sea determinada y se consigne al responsable o responsables. A medida que se obtenga más información relevante será trasladada a fin de que sea conocida debidamente.

552. El 26 de enero de 2004, el Relator Especial juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con la situación de inseguridad y peligro que se vive por parte de las comunidades de Tlanepantla. En particular, los Relatores Especiales expresaron preocupación respecto de la situación de los miembros del **Consejo Autónomo Popular** como consecuencia de los recientes actos de violencia que se habrían llevado a cabo en la zona por parte de la policía. De acuerdo con las informaciones recibidas, las tensiones habrían aumentado desde que el Alcalde, miembro del Partido Revolucionario Institucional (PRI), se habría negado a permitir elecciones de representantes locales de la comunidad según los usos y costumbres indígenas. Se informa que el 2 de noviembre de 2003, miembros de la comunidad habrían ocupado el Ayuntamiento como forma de protesta contra la decisión de su Alcalde. El 26 de noviembre, la policía habría disuelto una marcha de protesta que se dirigía hacia la capital del Estado, Cuernavaca, para comunicar al gobernador las quejas de la comunidad. Como consecuencia la policía habría detenido a 59 personas y herido a otras dos. El 11 de enero, un grupo de miembros de la comunidad contrarios a las posiciones del Alcalde habría creado el Consejo Popular Autónomo, una administración local alternativa. Dos días después, según los informes, hasta 400 partidarios del Alcalde habrían ocupado el centro de la comunidad, amenazando a todos aquellos relacionados con el Consejo Popular Autónomo. Se informa de que agentes armados de la policía estatal y federal habrían hecho uso de fuerza excesiva durante el desalojo de los indígenas que ocupaban el ayuntamiento de la comunidad de Tlanepantla, estado de Morelos, el 14 de enero de 2004. Según los informes, un hombre, **Gregorio Sánchez**, habría muerto a consecuencia de los disparos. Al menos otros 12 habrían resultado heridos, incluidos tres policías. La policía detuvo al menos a 15 personas. Se denuncia que ninguno de los detenidos habría sido acusado de ningún delito común reconocible como tal. En vista de estos recientes actos de violencia, los relatores especiales sienten profunda preocupación por la posibilidad de que se produzcan nuevos y más violentos actos de confrontación dentro de la comunidad de Tlanepantla.

553. El 29 de enero 2004, el Relator Especial, juntamente con el Relator Especial sobre la venta de los niños, la prostitución infantil y la utilización de niños en la pornografía infantil, envió un llamamiento urgente en relación con la periodista **Irene Medrano Villanueva**, del periódico *El Sol de Sinaloa*. Según la información recibida, el 17 de enero de 2004, la periodista habría denunciado haber recibido llamadas anónimas en las que la amenazaban de muerte. Las llamadas se habrían iniciado el 6 de enero, luego de que la periodista publicara trabajos sobre una red de prostitución en la que supuestamente estarían involucrados funcionarios públicos del estado Sinaloa, ubicado al noroeste de México. La periodista habría señalado en conferencia de prensa que, según investigaciones judiciales, las llamadas provenían de la alcaldía de Culiacán, capital de Sinaloa. El acoso habría empezado con un mensaje escrito sobre el cristal de su automóvil, con la palabra “muerte”. Después le habrían roto un vidrio del auto y luego le habrían cortado los frenos. Luego de la denuncia de la periodista, la Procuraduría General de Justicia del Estado habría intervenido su teléfono y le habrían informado de que las llamadas habrían provenido del Ayuntamiento, por lo que habría responsabilizado al alcalde de lo que le pudiera pasar. Sin embargo, el alcalde se habría presentado el 19 de enero a declarar ante el agente del Ministerio Público a cargo del caso. Habría presentado su declaración por escrito y posteriormente habría recriminado a autoridades judiciales por la divulgación en diversos medios de comunicación de parte de las investigaciones relacionadas con la identificación del teléfono de su despacho. Según la información recibida, hace algunos meses la misma periodista habría manifestado públicamente haber sido amenazada por un diputado local. Sin embargo, no habría presentado una denuncia formal ante las autoridades.

554. Por carta con fecha 3 de mayo de 2004 la Misión permanente de México ante la Oficina de las Naciones Unidas en Ginebra transmitió la siguiente información en relación con la comunicación del 29 de enero de 2004:

- El 8 de diciembre de 2003, la Procuraduría General de Justicia del Estado de Sinaloa recibió la denuncia de la periodista Irene Medrano Villanueva. De acuerdo con la Ley de Protección de Testigos a víctimas de delitos, la periodista Medrano solicitó acogerse al beneficio de protección. El mismo día la policía inició las investigaciones y diligencias sobre los hechos, y la Procuraduría solicitó autorización para registrar las llamadas telefónicas de la línea de teléfono donde se registraron las amenazas;
- El 15 de diciembre de 2003 la periodista amplió su denuncia por daños a su vehículo y los desperfectos intencionales causados a su vehículo (sistema de frenos) que le provoco un accidente vehicular;
- Las autoridades llegaron a la conclusión e que una de las líneas telefónicas desde donde provinieron las amenazas corresponde a las oficinas de la Presidencia Municipal de Sinaloa. Se citó a las personas de esas dependencias. El secretario de la Presidencia Municipal manifestó que los teléfonos de donde provinieron las llamadas, tienen un amplio uso debido a que pueden realizar llamadas tanto personal del Ayuntamiento como particulares que llegan a ese lugar;
- La periodista cuenta con protección física por parte de la Policía. Las autoridades continúan con las diligencias de investigación para determinar los responsables de las amenazas en contra de la periodista cuyos resultados el Gobierno informara oportunamente.

555. El 24 de febrero 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación del general **José Francisco Gallardo**, ex general del ejército mexicano y defensor de los derechos humanos. Según la información, en octubre de 1993 el General José Francisco Gallardo publicó en la revista *Forum* un artículo titulado “Las necesidades de un ombudsman militar en México” en el cual proponía la creación del cargo de Defensor del Pueblo para las fuerzas armadas para examinar las acusaciones de violaciones de derechos humanos cometidas por el personal militar. También, al considerar inconstitucionales los poderes especiales del ejército, proponía ponerles fin. El 9 Noviembre de 1993 habría sido arrestado por delitos de malversación, fraude y de daños a una propiedad militar, de los cuales ya había sido exonerado años atrás. En marzo de 1998 le habrían condenado a 28 años y ocho meses de cárcel y le habrían quitado los grados militares. En diciembre de 1998, el Grupo de Trabajo sobre la detención arbitraria emitió una opinión sobre el caso del general Gallardo en la cual afirmó que el motivo para la privación de libertad del general era el del ejercicio legítimo de su libertad de expresión y opinión. Quedó en libertad el 7 de febrero de 2002, dos semanas antes de la reexaminación de su caso por la Corte Interamericana de Derechos Humanos. Según la nueva información recibida, el 17 de enero de 2004 un periódico nacional habría citado unas palabras del general José Francisco Gallardo en las cuales habría criticado el nombramiento de un general del ejército para la unidad antiterrorista de la Procuraduría General de la República. El 19 de enero de 2004, habría recibido una llamada telefónica en la cual, un presunto miembro del ejército le habría dicho: “Cuídate porque te van a cargar”. Desde la llamada, el general Gallardo habría visto vehículos desconocidos cerca de su casa vigilando sus movimientos. Habría denunciado ambos incidentes ante la Procuraduría General de Justicia del Distrito Federal. Se teme que esta amenaza esté relacionada con su actividad de denunciar las violaciones de derechos humanos cometidas por las fuerzas armadas mexicanas.

556. Por carta con fecha 11 de marzo de 2004 el Gobierno transmitió la siguiente información en relación con la comunicación del 24 de febrero de 2004 sobre el caso de **José Francisco Gallardo Rodríguez**. El Gobierno confirmó que el 21 de enero de 2004 el afectado habría presentado una denuncia ante la Fiscalía desconcentrada en Tlalphan. En la actualidad las amenazas serán investigadas por parte de la Fiscalía local, y en cuanto se termine la investigación el Gobierno remitirá el resultado a la mayor brevedad posible. Por el momento, el Gobierno informó de que el citado ciudadano gozará de medidas provisionales otorgadas por la Corte Interamericana de Derechos Humanos, entre ellas, un servicio de acompañamiento y protección.

557. El 24 de febrero de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de **Arturo Solís**, Presidente del Centro de Estudios Fronterizos y de Promoción de los Derechos Humanos. La Representante Especial en su carta del 13 de enero de 2003, ya había expresado su preocupación por las amenazas que este último habría recibido al principio de este año. Según la nueva información recibida, el 4 de febrero de 2004 Arturo Solís habría recibido otra llamada anónima cuyo autor le habría amenazado gravemente. Según las informaciones recibidas, el individuo habría pronunciado las palabras “Deja de estar chingando o le va a llevar la chingada”. Se temen que estas presuntas amenazas de muerte estén relacionadas con el trabajo de Arturo Solís a favor de los derechos humanos y en particular de denunciar la presunta implicación de la policía mexicana en asesinatos y secuestros ocurridos en el norte del estado de Tamaulipas y en particular con las varias declaraciones

públicas realizado por el respecto a la presunta responsabilidad de la policía mexicana en el asesinato del empresario José Antonio Cervantes Ezpeleta, ocurrido en diciembre de 2003.

558. Por carta con fecha 10 de junio de 2004 el Gobierno transmitió la siguiente información en relación con la comunicación del 24 de febrero de 2004 sobre el caso de **Arturo Solís Gómez**, presidente del Centro de Estudios Fronterizos y de Promoción de los Derechos Humanos (CEFPRODHAC), una organización que está investigando la muerte de José Antonio Cervantes. Respecto a la seguridad del citado ciudadano, la Policía Ministerial del Estado de Tamaulipas habría recibido de oficio la denuncia que se le habría permitido de abrir una investigación. La autoridad ministerial lo habría juzgado necesario de otorgar varias medidas cautelares para asegurar la integridad física de Arturo Solís Gómez, entre ellas, la vigilancia policial y contacto inmediata entre la víctima y la Comisión de Derechos Humanos del Estado en todo momento. Respecto a la investigación del secuestro y homicidio del difunto, el 5 de enero de 2004, los supuestos responsables habrían sido puestos a la disposición del Juez Segundo de Primera Instancia Penal del Quinto Distrito Judicial del Estado. Asimismo, habría solicitado ordenes de aprehensión en contra de cuatro otras personas, los trámites para la extradición de una que habría estado interceptado en los Estados Unidos habrían sido iniciados.

559. El 1 de marzo de 2004, el Relator Especial envió un llamamiento urgente en relación con la situación del 17 de febrero de 2004, cuando el Congreso Local de Chiapas aprobó reformas al Código Penal. Entre estas reformas, se habría establecido que se sancionará con prisión de tres a nueve años y multa de 100 a 1.000 días de salario a quienes cometieran el delito de difamación. El 24 de febrero de 2004, el Gobernador del Estado de Chiapas habría confirmado su disposición a ratificar las reformas y adiciones al Código Penal aprobadas por el Congreso Local. Ante las preguntas de periodistas, el Gobernador habría declarado categóricamente que no se despenalizaría la difamación. Este mismo día, periodistas locales habrían realizado una marcha en la capital del Estado en protesta por las reformas. El titular de la Comisión Estatal de Derechos Humanos (CEDH) y representantes de grupos cívicos también habrían participado a dicha marcha. A la conclusión de este evento, se habría entregado al Gobernador una petición para que se abstuviera de ratificar las reformas y adiciones al Código Penal en cuestión, recomendando que los agravios contra el honor sean tratados en el fuero de lo civil, a lo que el mandatario se habría negado. El Gobernador habría señalado que, si no había acuerdo sobre las reformas, se podía recurrir a la Suprema Corte de Justicia de la Nación (SCJN) y él acataría la resolución del máximo tribunal. El Relator Especial comparte la preocupación expresada ante las alegaciones según las cuales se penalizarán los agravios contra el honor y ante la dureza de las sanciones penales con las que se podrían castigar estas infracciones, puesto que tales medidas podrían limitar el pleno ejercicio del derecho de opinión y expresión en el Estado de Chiapas.

560. El 24 de marzo de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación del Comité de Derechos Humanos, una organización que brinda ayuda humanitaria y refugio a emigrantes en el estado de Tabasco, y en particular su representante **Fray Blas Alvarado**. Según la información recibida, en octubre de 2003 un desconocido se habría acercado al esposo de un integrante del filial del Comité de Derechos Humanos en Pueblo Nuevo y refiriéndose a Fray Blas Alvarado le habría dicho: “Al curita lo tenemos fichado y pronto va a caer”. Según la información, el 6 de febrero de 2004 la Secretaria del Comité de Derechos Humanos en Tenosique habría encontrado en la filial un papel que habría dicho:

“Cúidense, los estamos vigilando.” El papel habría venido amarrado en la cola de una iguana, la cual se habría encontrado escondida dentro de una bolsa de plástico. Se teme que esta amenaza este relacionado con la actividad de derechos humanos del Comité de Derechos Humanos y en particular la de denunciar públicamente el trato que reciben los emigrantes tanto como las posibles redes de corrupción que favorecen a los traficantes de indocumentados.

561. El 2 de junio de 2004, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Lucía Genaro Linares, Erika González Genaro, Elisabeth González Genaro y Adriana Rubio Jorge**. Según las informaciones recibidas, estas personas habrían sido objeto de amenazas después de presentar una denuncia oficial contra las autoridades municipales de Zapotitlán Tablas, Estado de Guerrero. Los informes indican que la denuncia habría sido presentada tras la supuesta muerte bajo custodia, en enero de 2004, de un miembro de la familia Genaro: **Sócrates Tolentino González Genaro**. Según la información recibida, Sócrates Tolentino González Genaro, de 18 años, habría sido detenido el 14 de enero de 2004 en Zapotitlán Tablas por agentes de la policía preventiva municipal que lo habrían llevado a la prisión municipal. Al día siguiente, las autoridades municipales habrían dicho a la madre del joven, Lucía Genaro Linares, que éste se había suicidado en la prisión. Tras la muerte de su hijo, Lucía Genaro Linares habría firmado, por instrucción del síndico municipal, unos documentos oficiales, después de que el síndico municipal le hubiese dicho que las autoridades pagarían los gastos del funeral. Los informes indican que el 17 de enero de 2004, la hija de Lucía Genaro, Erika González Genaro, habría descubierto que su madre había renunciado involuntariamente al derecho de la familia a que se realizara la autopsia, y había declarado que su hijo planeaba suicidarse. Ante el intento de encubrimiento, la familia, con la ayuda de una organización local de derechos humanos, habría conseguido que se exhumara el cadáver de Sócrates. El 10 de marzo de 2004, un examen forense habría concluido que el joven había sido brutalmente golpeado y había muerto a consecuencia de las lesiones sufridas, que incluían dos fracturas de cráneo, una fractura en una costilla derecha, fractura de la tibia izquierda y fractura del esternón. Lucía Genaro habría presentado posteriormente una denuncia ante el ministerio público de Tlapa, estado de Guerrero, contra varias autoridades municipales, entre las que se encontrarían el presidente municipal, el síndico municipal y tres agentes de la policía municipal de Zapotitlán Tablas. Según indican los informes, desde que se habría presentado la denuncia, Lucía Genaro y otros familiares habrían sido intimidados en varias ocasiones. En una de ellas, el síndico municipal habría amenazado a Lucía diciendo: “Te vamos a matar si no te callas”. El 22 de abril de 2004, varios agentes de la policía preventiva municipal que viajaban en un vehículo habrían apuntado con sus armas a las hermanas de Sócrates, Erika y Elizabeth González Genaro, así como a su tía, Cesárea Linares, en Zapotitlán Tablas. El 3 de mayo de 2004, tres policías municipales habrían gritado “señora pendeja” a Lucía Genaro en la calle y le habrían dicho que no hiciera nada sobre la muerte de su hijo. Erika González Genaro habría dejado de ir a la escuela por temor por su propia seguridad. La novia de Sócrates, Adriana Rubio Jorge, también habría sido acosada cuando, el 7 de mayo de 2004, a las tres de la madrugada, dos agentes municipales habrían pasado por delante de su casa y habrían arrojado piedras al tejado del edificio.

562. Por carta con fecha de 1 de julio de 2004, el gobierno transmitió la siguiente información en relación con la comunicación del 2 de junio de 2004 sobre la situación de

Sócrates Tolentino González Genaro. El 15 de enero de 2004, La Procuraduría General de Justicia del Estado de Guerrero dio inicio a una averiguación previa por el delito de homicidio cometido en contra de Sócrates Tolentino González Genaro. Conforme a dicha averiguación, el 14 de enero de 2004, aproximadamente a las 21 horas, el señor González Genaro se encontraba en una de las calles del poblado de Zapotitlan Tablas, Guerrero en forma sospechosa y toda vez que un día antes, los profesores y alumnos del colegio de Bachilleres de ese poblado, se habían quejado de que el Sr. González Genaro los había insultado y de que en otras ocasiones había estado en el plantel educativo drogándose con disolvente, la Policía Preventiva Municipal lo detuvo y trasladó al área de seguridad de dicha corporación. A las 24 horas de ese mismo día, los elementos de la policía salieron a realizar su recorrido, quedándose únicamente en los separos un guardia y el detenido. Posteriormente el guardia salió de dicho lugar para llevar a cabo el recorrido en las instalaciones de la presidencia Municipal de ese poblado, quedando con candado las puertas del lugar en donde se encontraba el detenido. Aproximadamente a medianoche del día 15 de enero, al regresar los policías de su recorrido, se percataron de que el detenido, con un paliacate de color rojo, se había colgado del cuello privándose de la vida. Con el fin de constatar la certeza de esos hechos, se habían llevado a cabo diversas diligencias. La indagatoria continuaba en trámite. El gobierno informó que, una vez se contara con los elementos necesarios, se ejercitaría la acción penal correspondiente.

563. El 4 de junio de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, envió una comunicación según la cual la policía habría recurrido a detenciones y a un uso excesivo de la fuerza en contra de miembros de distintas organizaciones nacionales e internacionales y habitantes, que estuvieron presentes en la ciudad de Guadalajara, Estado de Jalisco, en el marco de las actividades alternativas a la III Cumbre de la Unión Europea y América Latina y el Caribe (ALCUE), a finales de mayo de 2004. De acuerdo con la información recibida, el 28 de mayo, dichas actividades alternativas habrían concluido con una marcha, la cual habría transcurrido de manera pacífica. Sin embargo, un grupo de personas ajenas a las organizaciones participantes se habrían juntado a la marcha y habrían perpetrado actos violentos. Si bien la policía no habría intervenido durante la manifestación, al finalizar ésta, habría procedido a detener a los participantes, recurriendo al uso excesivo de la fuerza. Se alega además que policías vestidos de negro a los que no se habría podido identificar claramente detuvieron a muchas personas a través de redadas en las calles aledañas al centro de la ciudad. Algunas personas habrían sido incluso sacadas de establecimientos comerciales. Otras personas habrían sido detenidas en las instalaciones de la Cruz Roja, donde eran atendidas por lesiones presuntamente propinadas por la policía. Esta operación habría durado hasta la madrugada del 29 de mayo. Se calcula que alrededor de 95 personas habrían sido detenidas y llevadas a las instalaciones de la Secretaría de Seguridad Pública. Entre las personas detenidas se encontrarían las siguientes: **Daniel Alejandro Olvera Sule**, del Distrito Federal, **Jesús Miguel Ramos Partida**, de Guadalajara, **José Miguel González López**, de Guadalajara, **Juan Salvador Lara Piña**, de Ciudad Juárez, **Jorge Octavio Castilla Gutiérrez**, del Distrito Federal, **Freddy Javier Carrillo Márquez**, de Zapopan, Jalisco, **Ricardo Zaleta Colmenero**, de Guadalajara, **Jesús Fernández Sagrado**, **Elsa Hernández Arguello** (m), del Distrito Federal, **Edgar Flores Murillo**, **Norberto Alejandro Ulloa Martínez**, de Monterrey, **Miguel Ángel Ramírez López**, de Culiacán, **Ricardo Medina Ramos**, de Tlaquepaque, Jalisco, **Juan Carlos Flores González**, de Tlaquepaque, Jalisco, **Juan Manuel Barrios González**, **Sergio Pérez Neufeld**, de Guadalajara, **José Martí García Espinoza**, **José Cruz Lujan Sánchez**, de Monterrey, Nuevo León, **Manuel De Jesús Pereira Anguiano**, de Jalisco, **Francisco Felipe García**, del Valle De

Bravo, Edo De México, **Francisco De Jesús Becerra Vázquez**, de Guadalajara, **José Luis Alejo Vázquez**, de Zapopan, Jalisco, **Gerardo Ernesto Treviño Olvera**, de Culiacán Sinaloa, **Gerardo Alberto Corona Jiménez**, de Edo De México, **Miguel Ángel Medina Hernández**, de Guadalajara, **Mauricio Uribe García**, de Edo De México, **Oscar Chávez Castillo**, del Distrito Federal, **Adrián Simón Chávez Hernández**, **Julio César González Martínez**, **Ramiro Daniel Flores Patricio**, de Guadalajara, **Haydee Berenice García Rodríguez**, **Jaime Humberto Carrero Aceves**, de Guadalajara, **Eddy Marcelino García Gómez**, de Guadalajara, **Raúl Morales Caballero**, de Zapopan, Jalisco, **Arturo Rosav Fisert**, de Zapopan, Jalisco, **Juan Manuel Flores Herrera**, de Guadalajara, **Salvador Aranda Ramírez**, de Guadalajara, **Miguel Ángel León**, de El Salto Jalisco, **Dagoberto Rivera Servín**, de Tlajomulco De Zúñiga, Jalisco, **Leonardo Rosales Delgado**, **Osvaldo Montes Ascencio**, de Tonalá, Jalisco, **Liliana Galavis López** (m), de Monterrey, Nuevo León, **Alicia Aleida Torres Belmares** (m), de Monterrey, Nuevo León, y **Felipe De Jesús Landeros**, de Guadalajara. Asimismo, las siguientes personas, todas ellas de nacionalidad extranjera, habrían sido detenidas y expulsadas entre el 1 y el 2 de junio de 2004: **Patrick Leet**, ciudadano de los Estados Unidos de América, **Matteo Zanotti**, ciudadano italiano, **Laloue Desperrier Roux** (m), ciudadana canadiense, **Roxana Yanira Bestrin Fuentes** (m), ciudadana australiana, **Silvia Ordaz Amor** (m), ciudadana española, **John Domínguez Achalandavaso**, ciudadano español, **Maria Mar Domínguez** (m), ciudadana española, y **Juan Francisco Maestre Morales**, ciudadano español. Las personas detenidas no habrían sido puestas a disposición del Ministerio Público de manera inmediata y habrían sido mantenidas incomunicadas durante aproximadamente 24 horas. Mientras se encontraban detenidas a la Secretaría de Seguridad Pública, no se les habría suministrado agua ni alimento en las primeras 36 horas de haber sido detenidos, algunas mujeres habrían sido obligadas a desnudarse y hacer sentadillas, muchos de los detenidos habrían sido golpeados, no se habría proporcionado atención médica adecuada a las personas lesionadas que se encontraban detenidas, no se les había hecho saber cuáles eran los cargos en su contra, ni quienes los acusaban así como las pruebas que existían en su contra. Se alega igualmente que los detenidos habrían sido coaccionados mediante amenaza y presión para firmar una declaración que no conocieron. No se habría proporcionado una relación oficial de las personas detenidas y sus familiares no habrían sido informados. Durante la misma noche y el día siguiente de su detención, 43 personas habrían sido puestas en libertad. Sin embargo, los otros detenidos habrían sido trasladados al Penal de máxima seguridad de Puente Grande, Jalisco. Cuatro menores habrían sido trasladados al tutelar. Los cargos que se les imputa serían motín, atentado a las vías generales de comunicación, resistencia a la ley y al arresto, vandalismo, lesiones y daños a propiedad privada. Finalmente, se ha informado a los Relatores Especiales de que las autoridades del Estado de Jalisco, en particular el Gobernador, habrían afirmado que en todo momento se respetaron las garantías y derechos de los detenidos y que quienes han sido consignados ante el Ministerio Público son solamente aquellas a las que se les ha logrado acreditar plenamente la comisión de alguna conducta ilícita. Sin embargo, varios detenidos no habrían participado ni en los actos violentos, ni en la marcha.

564. El 9 de junio de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Isidro Baldenegro** y **Hermenegildo Rivas**, defensores de derechos humanos y ecologistas que trabajan a favor de los derechos de la comunidad de indígenas rarámuri y en particular para poner fin a la explotación maderera no regulada de tierra forestales. Según la información recibida, el 29 de marzo de 2003 agentes de la Policía Judicial del Estado

(PJE) habrían detenido a Isidro Baldenegro y Hermenegildo Rivas sin orden judicial en la comunidad de Coloradas de Virgen en el estado de Chihuahua. Se habrían acusado a ambos de posesión ilegal de armas e Isidro Baldenegro habría sido acusado de posesión de marihuana. El 7 de abril de 2003 el juez del Juzgado Penal del Distrito Judicial de Hidalgo habría ordenado la prisión preventiva de ambos. Según los informes, numerosos testigos habrían declarado que las pruebas contra ambos habrían sido falsificadas supuestamente por orden del cacique local y en junio de 2003 la Comisión Estatal de Derechos Humanos de Chihuahua habría dicho al procurador general de Justicia del estado de Chihuahua que investigara a los agentes implicados. En este contexto y según la información recibida, en abril de 2004 la unidad de asuntos internos de la Procuraduría General del Estado de Chihuahua habría concluido que siete agentes de la policía judicial habrían sido responsables de falsificar las pruebas contra Isidro Baldenegro y Hermenegildo Rivas y habría iniciado procedimientos penales en su contra en los tribunales estatales. Según la información recibida, a pesar de que se habría demostrado que los cargos contra los dos hombres habrían sido falsificados, el fiscal federal no los habría retirado y habría seguido pidiendo que ambos sean condenados. Según los informes, el veredicto judicial de su caso es inminente. Se teme que la supuesta detención arbitraria y las pruebas falsas que han sido objeto Isidro Baldenegro y Hermenegildo Rivas representen una manera de impedir sus actividades de defender los derechos de su comunidad.

565. Por carta con fecha 21 de junio de 2004 el Gobierno transmitió la siguiente información en relación con la comunicación del 9 de junio de 2004 sobre el caso de **Isidro Baldenegro y Hermenegildo Rivas**. El Gobierno informó de que la Comisión Estatal de Derechos Humanos de Chihuahua habría abierto una investigación al fin de la cual habría recomendado que la Subprocuraduría de Justicia Zona Sur investigara la forma y los términos en que los citados ciudadanos se habrían encontrado detenidos.

566. Por carta con fecha 4 de agosto de 2004 el Gobierno transmitió la siguiente información adicional sobre el caso de **Isidro Baldenegro y Hermenegildo Rivas**. En junio de 2004 una opinión técnico-jurídica habría ratificado conclusiones no acusatorias a favor de los detenidos. A raíz de eso, el juez habría sobreesido la causa penal y el 23 de junio de 2004 los habría puestos en libertad.

567. El 28 de junio de 2004, el Relator Especial envió una comunicación en relación con el 22 de junio de 2004 cuando en la ciudad de Tijuana, dos sujetos desconocidos habrían asesinado a **Francisco Javier Ortiz Franco**, editor y cofundador del semanario *Zeta*. El hecho habría ocurrido a 300 metros de la oficina de homicidios de la Procuraduría General de Justicia del Estado de Baja California. Los informes indican que sería el tercer atentado que sufren directivos del semanario *Zeta*. Héctor Félix Miranda, codirector de tal revista, habría sido asesinado el 20 de abril de 1988 de manera similar. En noviembre de 1997, Jesús Blancornelas, director del semanario, habría sido herido de bala en otro atentado.

568. El 22 de julio de 2004, el Relator Especial envió un llamamiento urgente en relación con la desaparición de **Leodegradio Aguilera**, editor de la revista *Mundo Político*. De acuerdo con las informaciones recibidas: El 21 de mayo de 2004, Leodegradio Aguilera habría sido apresado y sacado de forma violenta de su casa en el Estado Guerrero. Tres sujetos lo habrían llevado por la fuerza a un lugar desconocido. El periodista habría criticado en varias ocasiones la supuesta corrupción de las autoridades gubernamentales. Su paradero aún es desconocido por su

familia. Además, se alega que hasta la fecha de hoy, las autoridades no habrían adoptado las medidas necesarias para investigar el caso.

569. Por carta con fecha de 29 de noviembre de 2004 el gobierno transmitió la siguiente información en relación con las comunicaciones del 22 de julio de 2004 y del 17 de septiembre de 2004 sobre el caso del señor **Leodegario Aguilera Lucas**. La Procuraduría General de Justicia del Estado de Guerrero dio inicio a la averiguación previa en agravio del periodista Leodegario Aguilera Lucas. El 2 de septiembre de 2004 la Comisión de Derechos Humanos de Guerrero informó de que estaba apoyando a los familiares de la víctima ante las instancias encargadas de la procuración de justicia para que se esclarezcan los hechos relacionados con el señor Aguilera Lucas. Esa Comisión también informó de que, de acuerdo a la petición del cónyuge del señor Aguilera Lucas, dicha instancia no había intervenido de manera directa en las investigaciones de la procuraduría para no entorpecerlas ya que al parecer los hechos eran atribuidos a particulares y no servidores públicos. El Gobierno de México había solicitado a las autoridades competentes un informe oficial pormenorizado sobre la integración, desahogo y determinación de la indagatoria que se hará de conocimiento del Relator.

570. El 6 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, envió un llamamiento urgente sobre los casos individuales siguientes: Miembros de la comunidad indígena zapoteca de Unión Hidalgo, en el municipio de Juchitán, estado de Oaxaca, habrían resultado heridos y uno de ellos, **Manuel Salinas Santiago**, habría fallecido, en el curso de una manifestación llevada a cabo el 13 de febrero de 2003 ante el ayuntamiento de Unión Hidalgo y encabezada por el Consejo Ciudadano Unihidalguense (CCU). Se alega que agentes de la policía municipal y otros hombres armados que habrían actuado a las órdenes del presidente municipal habrían abierto fuego contra los manifestantes. La manifestación del 13 de febrero habría sido convocada porque la Contaduría Mayor de Hacienda de la Legislatura del estado de Oaxaca no habría llevado a cabo una auditoría de las cuentas de las autoridades municipales, como lo había pedido la CCU después de que se habrían formulado denuncias de fraude contra el presidente del municipio y otros administradores locales pertenecientes al partido que gobierna en Oaxaca, el Partido Revolucionario Institucional (PRI). El CCU habría denunciado el incidente del 13 de febrero ante la Procuraduría General de Justicia del Estado (PGJE), pero no se habría emprendido ninguna acción judicial contra los responsables. Por otra parte, el presidente del municipio habría presentado una denuncia oficial por daños contra los miembros del CCU. En este contexto, el 26 de abril de 2003, **Ausencio Rodríguez Orozco** y **Romel Giovanni Matus** habrían sido detenidos temporalmente y supuestamente golpeados por la policía municipal. El 13 de mayo de 2003, los miembros de la comunidad habrían protestado contra las obras municipales que se llevaban a cabo en el barrio de Manuel Salinas Santiago. Los agentes de la policía municipal que protegían a los trabajadores de la construcción habrían amenazado a los miembros de la comunidad y habrían realizado disparos, tras los cuales varias personas habrían resultado heridas. El día siguiente, **Carlos Manzo** habría sido detenido por la policía en Unión Hidalgo. El 15 de mayo de 2003, **Luis Alberto Marín** habría sido detenido y supuestamente golpeado durante una protesta por la detención de Carlos Manzo. **Francisco de la Rosa** habría sido detenido ese mismo día. Los cargos contra los tres estarían relacionados con los sucesos del 13 de febrero y consistirían en robo, privación de la libertad e intento de asesinato. Sin embargo, Carlos Manzo, Luis Alberto Marín y Francisco de la Rosa son miembros del CCU, y se cree que los cargos presentados contra ellos podrían constituir un intento de silenciar las críticas de la organización a las autoridades municipales.

571. Por carta con fecha de 29 de octubre de 2004, el Gobierno transmitió la siguiente información en relación con la comunicación del 6 de agosto de 2004. El 18 de febrero del 2003, aproximadamente a las 18.00 horas, los integrantes del CCU, después de haber realizado un mitin frente a la casa de la cultura da Unión Hidalgo, Oaxaca, se dirigieron al Palacio Municipal de la población con la finalidad de tomar el inmueble, gritando consignas en contra del Presidente Municipal. Tras lo anterior, quemaron pedazos de escombros que se encontraba en el atrio, lanzaron pedazos del mismo en contra del personal municipal, rompieron la puerta del inmueble y se introdujeron a todos y cada uno de los espacios que ocupan las dependencias municipales, saqueando y dañando los muebles, enseres y equipo de oficina. Durante el enfrentamiento entre los integrantes del Consejo Ciudadano Unihidalguense con los policías municipales, resultó muerto el Sr. Manuel Salinas Santiago y siete personas más resultaron lesionadas. En relación con los hechos sucedidos el 13 de mayo de 2003, de las investigaciones realizadas por la Autoridad Ministerial se desprende que fueron integrantes del Consejo Ciudadano Unihidalguense, encabezados por Carlos Manzo, Luis Alberto Marín y Francisco de la Rosa, quienes se oponían a la realización de los trabajos de pavimentación realizados por las autoridades del Municipio, por lo que realizaron diversos disparos en contra de los trabajadores y autoridades municipales, resultando lesionados dos individuos. Por lo que respecta la circunstancia de que Carlos Manzo, Luis Alberto Marín y Francisco de la Rosa fueron detenidos por los delitos de robo, privación ilegal de la libertad e intento de asesinato, lo anterior resultaría ser cierto únicamente en lo que respecta a las dos primeras personas y no en cuanto al tercero de los citados. No resultaría tampoco acertado que dichas detenciones fueron en represalia por su participación en las manifestaciones del 13 de febrero y del 13 de mayo de 2003, sino que fueron en cumplimiento a las órdenes de aprehensión libradas por el Juez competente. La Averiguación Previa solicitaba el libramiento de la orden de aprehensión en contra de los probables responsables por los delitos de homicidio, tentativa de homicidio y abuso de autoridad, el primero en agravio de Manuel Salinas Santiago y el segundo de los ilícitos en agravio de cuatro individuos. La acción judicial por los citados hechos se encontraba en etapa de instrucción. En la respuesta se incluyen los resultados del protocolo de necropsia y de los exámenes médicos efectuados por el perito de la Subprocuraduría Regional de Justicia del Istmo.

572. El 12 de agosto de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió una comunicación en relación con el 13 de mayo de 2004 cuando el periodista y corresponsal de Cima Noticias en Chiapas, **Manuel de la Cruz**, habría sido secuestrado y golpeado por una veintena de policías municipales en Tuxtla Gutiérrez. Manuel de la Cruz habría presentado una queja ante la Comisión Estatal de Derechos Humanos (CEDH) el 13 de mayo de 2004. La CEDH le habría ofrecido medidas precautorias para él y su compañera Laura Matus. Se teme que estos hechos estén relacionados con las denuncias públicas de Manuel de la Cruz respecto a violaciones de derechos humanos que habrían ocurrido durante el conflicto indígena de Los Altos.

573. Por carta fechada el 29 de octubre de 2004 el Gobierno contestó a la comunicación con fecha 12 de agosto de 2004 relativa a la situación de **Manuel de la Cruz**. El gobierno informó de que existen evidencias en la averiguación previa iniciada por el Ministerio Público que permiten presumir que los agentes municipales denunciados incurrieron en hechos delictivos, situación que en su oportunidad valorará el órgano jurisdiccional. Agregó que es cierto que el Sr. Manuel de la Cruz fue objeto de abuso y negligencia por parte de servidores públicos municipales. Además, se informó que el 2 de agosto de 2004 se dictó auto de formal prisión en contra de

cuatro policías municipales como probables responsables de los delitos de robo con violencia, privación ilegal de la libertad, abuso de autoridad y lesiones. Los cuatro policías se encuentran privados de su libertad (prisión preventiva) y están siendo procesados bajo una causa penal del Juzgado Segundo de primera Instancia del Ramo Penal del Distrito Judicial de Tuxtla que se encuentra en etapa de instrucción. Asimismo la CEDH lleva a cabo una investigación que se encuentra pendiente de conclusión definitiva.

574. El 19 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, envió una comunicación sobre el caso individual siguiente: **Martín Serrano Herrera**, propietario del periódico Tribuna, habría sido golpeado el 22 de mayo de 2004 por tres sujetos que pertenecerían, según él, a los cuerpos de seguridad del Estado de Veracruz. De acuerdo con las alegaciones recibidas, no se habría iniciado ninguna investigación en relación con este incidente. Se alega que a lo largo de los cuatro últimos años el periodista habría sido objeto de otras agresiones, supuestamente relacionadas con la publicación de artículos en las que se señalan irregularidades en la forma en que se gobierna el Estado de Veracruz y se destacan vínculos entre la delincuencia organizada y colaboradores cercanos a las autoridades. Antes de la supuesta agresión del 22 de mayo, Martín Serrano Herrera habría presentado diversas denuncias por las agresiones recibidas contra su persona y contra su periódico. Según el periodista, no se habrían realizado diligencias para investigar dichas denuncias. La Comisión de Derechos Humanos del Estado de Veracruz también habría sido informada de estas alegaciones.

575. Por carta con fecha de 29 de noviembre de 2004, el gobierno transmitió la siguiente información en relación con la comunicación del 19 de agosto de 2004 sobre el caso de **Martín Serrano Herrera**. El 22 de Mayo el Sr. Serrano Herrera se presentó ante la Fiscalía de la Zona Oriente de la Procuraduría General de Justicia del Estado de Veracruz, para iniciar una querrela en contra de quien o quienes resultasen responsables por el delito de lesiones cometido en su agravio, no pudiendo aportar características físicas de sus agresores. En esa misma fecha la Dirección de Servicios Periciales solicitó se realizaran exámenes a efecto de clasificar las lesiones que presentaba. El Sr. Serrano Herrera fue requerido en diversas ocasiones durante el desarrollo de la averiguación previa, sin que acudiera a hacerlo a efecto de aportar nuevos datos, probanzas, ni solicitar informes sobre el avance de la integración de la investigación ministerial, por lo que al no contar con datos suficientes que permitan continuar con las investigaciones tendientes al esclarecimiento de los hechos, el 9 de septiembre de 2004, se determinó la reserva de la misma. La determinación fue notificada personalmente al agraviado quien manifestó encontrarse disconforme con dicha determinación y el 28 de septiembre de 2004 interpuso en tiempo y forma el recurso correspondiente. El 29 de septiembre de 2004, se remitió la investigación ministerial a la Sala Constitucional del Tribunal Superior de Justicia del Estado de Veracruz, para efectos de revisión y dictamen. El gobierno también informó de que el Sr. Serrano Herrera en los últimos años había presentado diversas denuncias ante la Procuraduría General de Justicia del Estado de Veracruz y diversas personas se encontraban sujetas a proceso penal y en otros casos se continuaba con las investigaciones correspondientes.

576. El 1 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente en relación con los altercados producidos y las denuncias de violación de los derechos humanos formuladas en el marco de la pasada cumbre UE-América Latina. De acuerdo con las informaciones recibidas, entre 6 y 19 personas habrían sido torturadas antes y después de la manifestación de 28 de mayo de 2004 que acabó con 111 detenidos. Supuestamente se habrían formulado también

amenazas de muerte y se habría incurrido en irregularidades procesales con el fin de bien amedrentar, bien criminalizar a los manifestantes. Por otro lado, también se han recibido denuncias que afirman que agentes de seguridad se habrían infiltrado entre los manifestantes con el fin de crear un estado de confusión y violencia que sirviera de pretexto a los agentes antidisturbios uniformados para intervenir con dureza. Además, existen múltiples inquietudes acerca del esclarecimiento de los primeros y la investigación de las segundas. Según los informes recibidos, el Gobernador del Estado de Jalisco, en cuya capital Guadalajara se celebró la III Cumbre de América Latina, Caribe y la Unión Europea, habría decidido junto al Ayuntamiento de dicha ciudad, no investigar las denuncias de vulneración de los derechos humanos por parte de las fuerzas de seguridad sobre los manifestantes allí congregados. Asimismo, tampoco la supuesta implicación policial en el origen de alguno de los altercados sería investigada. Dicha decisión resulta preocupante en modo sumo atendiendo al informe del pasado 16 de agosto la Comisión Nacional de derechos Humanos, organismo público que denuncia en dicho informe que la policía de Guadalajara cometió graves violaciones de los derechos humanos. Así, de acuerdo con la Comisión Nacional de Derechos Humanos, los derechos a la libertad de movimiento y a no sufrir torturas ni tratos inhumanos o degradantes habrían sido violados mediante el recurso a detenciones arbitrarias y vejaciones físicas y psicológicas de diversa gravedad sobre los manifestantes.

577. El 17 de septiembre de 2004, el Relator Especial envió una comunicación sobre los casos siguiente:

- El 15 de diciembre de 2003, la oficina local de la Secretaría de Comunicaciones y Transportes en Jalisco habría clausurado tres radios comunitarias: Santa María de Zapotitlán, de Vadillo; Radio Grafía, de Tolimán; y Emisora Zona Cero, de Tonaya. Los informes indican que las tres radios pertenecían a la Asociación Mundial de Radios Comunitarias (AMARC-México);
- El 4 de enero de 2004, **Walter Hernández González**, ex director del periódico *Siglo XXI*, de San Cristóbal de las Casas, habría sido detenido por haber calumniado y difamado al gobernador Pablo Salazar Mendiguchía. El ex editor se encontraría preso en el penal estatal de Cerro Hueco. Pablo Salazar Mendiguchía habría demandado penalmente a Walter Hernández González debido a que en una nota de opinión publicada en *Siglo XXI*, el periodista lo habría llamado “pillo” por convencer a presidentes municipales de destinar recursos públicos a la reconstrucción de un estadio de fútbol;
- Desde el mes de marzo de 2004, **Francisco Guerrero Garro**, director del diario *El Clarín/Sur*, publicado en Cuernavaca, Estado de Morelos, habría sufrido presiones, por causa de la publicación de unas informaciones sobre la presunta implicación de dos policías de la ciudad de Cautla en un caso de violación. Francisco Guerrero Garro también habría implicado al equipo municipal en un presunto caso de corrupción. El alcalde de la ciudad habría multiplicado los actos de hostigamiento contra el periódico y su corresponsal **Margarita Ruiz**. El periódico habría denunciado los hechos ante la Comisión Estatal de Derechos Humanos del Estado;
- El 19 de marzo de 2004, **Roberto Javier Mora**, director del periódico local *El Mañana*, habría sido asesinado en su apartamento de la localidad de Nuevo Laredo. Antes de su muerte, el periodista habría denunciado públicamente casos

de corrupción y de tráfico de drogas. La Procuraduría de Justicia de Tamaulipas habría declarado que Roberto Javier Mora habría sido asesinado por celos por, un ciudadano estadounidense de 23 años (cuyo nombre es conocido por el Relator Especial), quien habría sospechado que su compañero habría tenido una aventura con él. Se habría utilizado una presunta confesión en vídeo de la presunta perpetrador para respaldar esta denuncia;

- El 13 de mayo de 2004, el periodista y corresponsal de Cimacnoticias en Chiapas, **Manuel de la Cruz**, habría sido secuestrado y golpeado por una veintena de policías municipales en Tuxtla Gutiérrez. Manuel de la Cruz habría presentado una queja ante la CEDH el 13 de mayo de 2004. La CEDH le habría ofrecido medidas precautorias para él y su compañera. Se teme que estos hechos estén relacionados con las denuncias públicas de Manuel de la Cruz respecto a violaciones de derechos humanos que habrían ocurrido durante el conflicto indígena de Los Altos;
- El 22 de mayo de 2004, tres desconocidos habrían secuestrado a **Leodegario Aguilar Lucas**, director de la revista *Mundo Político*, en su domicilio de Acapulco, Estado de Guerrero. Su familia habría pedido a las autoridades que no intervinieran, para poder negociar su liberación. Ese secuestro podría estar relacionado con los artículos del periodista sobre presuntas irregularidades imputadas a las autoridades locales;
- El 23 de mayo de 2004, **Maximiliano Cortéz Zepeda**, de Radio Variedades, **Mario Solís Espinoza** y **Edgar Badilio Medina**, del Diario de Colima, habrían sido agredidos por un grupo de una veintena de jóvenes, presuntamente dirigidos por un pariente (cuyo nombre es conocido por el Relator Especial) de un ex gobernador del Estado de Colima. Los tres periodistas habrían sido perseguidos en las calles de Colima y habrían sido golpeados violentamente al llegar al domicilio de Maximiliano Cortéz Zepeda. Los agresores habrían hecho referencia a unas informaciones difundidas por los tres periodistas, que habrían denunciado el presunto gran consumo de alcohol y droga de Samuel Rodríguez Moreno;
- El 26 de mayo de 2004, disposiciones adicionales al Código Penal chiapaneco que habían sido aprobadas el 25 de febrero de 2004 habrían entrado en vigor. Las disposiciones penalizarían con nueve años de prisión los delitos de difamación y calumnia. Desde la entrada en vigor de estas disposiciones, varios periodistas habrían sido amenazados por parte de la policía o representantes oficiales de la ciudad de Chiapas:
 - a) El conductor del programa de noticias “Radio Núcleo”, **Javier Figueroa Niño**, habría sido amenazado por teléfono y al aire por una alcaldesa (cuyo nombre es conocido por el Relator Especial). La alcaldesa habría amenazado con demandarlo penalmente por difamación si seguía cuestionando a sus órganos policíacos por su responsabilidad en casos penales;
 - b) La conductora de un programa de radio, **Arlet Aguilar Molina**, habría sido expulsada de antena cuando estaba al aire en entrevista con el columnista de “Cuarto Poder”, **Miguel**

- González Alonso**, quien estaría activo en el movimiento por la despenalización de la difamación y el rechazo al Código Penal vigente;
- c) El reportero de la “OEM” en Tapachula, **Rosario González Chay**, habría sido amenazado por un aspirante a alcalde del municipio fronterizo de Tuxtla Chico. Habría amenazado al reportero con demandarlo penalmente por difamación, después de haber hecho público el testimonio de una secretaria que habría acusado al eventual representante popular de acoso sexual y quien habría sido despedida sin justificación legal alguna;
 - d) A principios de junio de 2004, el reportero del programa “Noticinco” de Canal 5, **Juan Álvarez Moreno**, habría sido amenazado por abogados de presuntos secuestradores con demandarlo penalmente por difamación, tras hacer públicas imágenes de ellos al momento en que eran presentados por la Secretaría de Seguridad Pública;
 - e) Las casas de los administrativos de “**Cuarto Poder**” habrían sido registradas por agentes de la Procuraduría local. Los directivos del rotativo, **Francisco Barbosa** y **Ricardo del Muro**, habrían sido amenazados con integrarles un proceso penal. El reportero gráfico de “Cuarto Poder” que cubría los cateos, **Pablo Virgen**, habría recibido el mensaje siguiente: “Estamos preparando tu averiguación previa y también las de tus jefes, Barbosa, Del Muro y Alejandra”. Se informa además que tras ese registro, el abogado de “Cuarto Poder”, **Armando Gutiérrez Trujillo**, habría sido detenido y luego acusado como probable responsable de los delitos de abuso de confianza y usurpación de profesión, cometidos supuestamente en agravio de la empresa Servicios de la Riva y de la sociedad, respectivamente. Se expresa preocupación de que estos agravios, amenazas y censuras estén relacionados con las actividades de lucha por la despenalización de la difamación, las cuales son llevadas a cabo por las personas mencionadas anteriormente;
- El 27 de mayo de 2004, un agente de la Procuraduría de Justicia habría contactado con al menos nueve periodistas de Ciudad Juárez, Estado de Chihuahua, para que revelaran el origen de unas informaciones que habrían publicado sobre los asesinatos de mujeres. Un funcionario de la Procuraduría habría explicado que la difusión de la información perjudicaba las investigaciones. Los periodistas se habrían negado a responderle. Entre los profesionales atañidos figurarían **Daniel Domínguez**, de Radio Cañón 800, **Jacinto Segura**, del diario *El Mexicano*, **Gabriel Jasso**, del Canal 56, **Armando Rodríguez**, de *El Diario*, **Raúl Pérez**, del canal Televisión Azteca, **Víctor Armando Rey**, del canal local

Canal 5, **Edgar Román**, del Canal 44, y **Carlos Huerta y Salvador Castro**, ambos del diario *El Norte* de Juárez.

578. Por carta con fecha de 22 de noviembre de 2004 el Gobierno transmitió la siguiente información en relación con la comunicación del 17 de septiembre de 2004. **Maximiliano Cortez Zepeda, Mario Alberto Solís Espinoza y Edgar Horacio Badillo Medina**, habrían presentado, con fecha 23 de mayo de 2004, denuncia por lesiones en contra de un grupo de jóvenes. De las diligencias practicadas se desprendería que los hechos en donde resultaron lesionados Maximiliano Cortez Zepeda, Mario Alberto Solís Espinoza y Edgar Horacio Badillo Medina no habrían sido ocasionados por pertenecer a algún medio de comunicación, sino que esto habría ocurrido fuera de una discoteca por haber participado en una riña. La investigación se habría encontrado en trámite y se habrían estado practicando diligencias para esclarecer los hechos y la determinación de la posible responsabilidad penal consiguiente.

579. A **Walter Hernández González** se le instruyó causa penal por delito de difamación. Cuando se recibió la información se encontraba corriendo el término para que el Representante Social formulara sus conclusiones.

580. En el caso de **Manuel de la Cruz Rodríguez** se habría dado inicio a una averiguación previa por los delitos de robo con violencia, abuso de autoridad, lesiones, privación ilegal de libertad en contra de elementos de seguridad pública municipal. Esos hechos no guardarían relación alguna con las actividades periodísticas de Manuel de la Cruz Rodríguez.

581. Respecto al periódico *Cuarto Poder*, el Ministerio público se había constituido en el domicilio ubicado en Sexta Avenida Sur Número 659 de Tuxtla Gutiérrez, Chiapas para dar cumplimiento a un mandato judicial de registro. Según el informe del Agente del Ministerio Público, mientras que se estaba llevando a cabo la diligencia, apreció en el interior del inmueble una persona que tomó una fotografía en el lugar, por lo que se le preguntó quien era y dijo ser periodista, por lo que se le explicó que no podía estar presente por razones de seguridad. No se le habría hecho ninguna amenaza. De hecho la persona, que resultó más tarde ser un fotógrafo del diario *Cuarto Poder*, habría esperado fuera del domicilio hasta que se terminara la diligencia para después tomar más fotos.

582. Respecto a **Daniel Domínguez Jacinto Segura, Gabriel Jasso, Carlos Huerta y Salvador Castro**, no existía asunto alguno en la Controlaría de Asuntos Internos de la Procuraduría General de Justicia del estado de Chihuahua que ameritara o justificara algún citatorio a los mencionados periodista y nunca se les había girado. Tampoco existía denuncia de alguna víctima o familiar o acción judicial al respecto. No contaba tampoco con datos que las personas arriba mencionadas hubieran denunciado algún hecho ante las autoridades competentes.

583. Respecto a las presuntas amenazas en contra de **Francisco Guerrero Garro y Margarita Ruiz**, no existían en los archivos de la Procuraduría General de Justicia de Morelos, antecedente alguno de que hubiesen sido denunciados hechos que atentaran a la libertad de expresión o integridad de estas personas. Los hechos denunciados por Francisco Guerrero Garro en el diario *El Clarín del Sur* dieron origen a una indagatoria penal. Los dos probables responsables de la violación denunciada por el periodista se encontraban privado de su libertad y no podían obtener libertad provisional en tanto que no se concluyera el proceso penal.

584. Por carta de fecha 20 de diciembre de 2004 el Gobierno respondió a la comunicación del 17 de noviembre de 2004. En relación con el caso del Sr. **Walter Hernández González**, la información facilitada hacía referencia únicamente a la causa penal abierta en contra del ciudadano mencionado por delito de difamación. La investigación que siguió a la presunta comisión de tal delito se estaba tramitando ante la Procuraduría General de Justicia del Estado de Chiapas. En lo que respecta al proceso penal, el Gobierno precisó que éste aún no había concluido y que el Juez de la causa había dictado orden de aprehensión el 24 de noviembre de 2003 y posteriormente, auto formal de prisión el 6 de enero de 2004 en contra del Sr. Walter Hernández.

- En lo referente al caso del Sr. **Javier Figueroa Niño**, el Gobierno declaró que no existían antecedentes del mismo en los archivos de las autoridades competentes por lo que resultó imposible recabar información alguna;
- En lo referente a los casos del Sr. **Arlet Aguilar Molina**, la Sra. **Rosario González** y el Sr. **Juan Álvarez Moreno** no fueron encontrados antecedentes de los casos al no haberse determinado las identidades de las personas presuntamente ofendidas.

585. El 15 de noviembre de 2004, el Relator Especial envió un llamamiento urgente en relación con 27 y 28 de octubre de 2004 cuando el editor jefe de *La Crisis*, Sr. **Carlos Ramírez**, recibió amenazas de muerte que se materializarían en caso de no clausurar *La Crisis*. Las amenazas fueron enviadas por medio de correos electrónicos anónimos, amenazas de muerte que iban dirigidas a él, a su familia y compañeros de trabajo. Dicha situación resulta particularmente preocupante teniendo en cuenta que el presente año otros tres periodistas, Roberto Mora, Francisco J. Ortiz Franco y Francisco Arratia Saldierna, han sido asesinados.

586. El 17 de noviembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de inseguridad, peligro e indefensión judicial que se vive por parte de las comunidades indígenas de Oaxaca. En particular, se expresó preocupación con respecto a la situación de los miembros del Consejo Indígena Popular de Oaxaca "Ricardo Flores Magón" como consecuencia de los recientes actos de hostigamiento y posibles intentos de asesinato que se habrían llevado a cabo por parte de distintas corporaciones policíacas de Oaxaca. De acuerdo con las informaciones recibidas, el 29 de septiembre **Raúl Javier Gatica Bautista**, dirigente indígena de la antes mencionada organización y defensor de los derechos humanos de los indígenas, y la persona que lo acompañaba, **Pedro Bautista Rojas**, habrían padecido un intento de homicidio mientras regresaban a la Ciudad de México. Se alega que en dicha ocasión tres sujetos que presuntamente trabajan con el Gobernador del Estado de Oaxaca habrían atentado contra la vida de Raúl Javier Gatica Bautista pero debido a la intervención de la policía auxiliar las armas fueron retiradas y el atentado fue impedido. Según se informa, dichos hechos se suman a recientes actos de intimidación sufridos por los miembros del Consejo Indígena Popular de Oaxaca Ricardo Flores Magón. En varias ocasiones Raúl Javier Gatica Bautista se entrevistó con el Relator Especial sobre la situación de los derechos humanos y libertades fundamentales de los indígenas y le manifestó su preocupación por las constantes amenazas y acosos sufridos por él y las poblaciones indígenas de Oaxaca. A pesar de dos reuniones llevadas a cabo los días 8 y 13 de octubre 2004 con las instituciones públicas en las cuales se discutieron posibilidades de habilitar mecanismos temporales de protección para

garantizar la integridad física y la vida de los miembros del Consejo Indígena Popular de Oaxaca “Ricardo Flores Magón”, se denuncia la escasa voluntad política de los representantes tanto federales como estatales de cumplir con los requisitos mínimos de seguridad. Se teme que estos actos de hostigamiento en contra del Consejo Indígena Popular de Oaxaca “Ricardo Flores Magón” y el atentado en contra de la vida de Raúl Javier Gatica Bautista y Pedro Bautista Rojas puedan estar relacionados con sus actividades como defensores de los derechos humanos, en particular en la defensa de los derechos de los pueblos indígenas.

587. El 10 de diciembre de 2004, el Relator Especial envió una comunicación en relación con el reportero y columnista **Víctor Ulín Fernández**. Según la información recibida, Víctor Ulín Fernández habría sido agredido gravemente, un acto que tendría relación con el contenido de sus artículos diarios en el periódico *La Verdad del Sureste*. Según las fuentes, entre la madrugada del lunes día 1 y martes día 2 de noviembre, cuando el Sr. Ulín llegaba a su casa, dos hombres secuestraron durante dos horas al Sr. Ulín, tiempo que emplearon para golpearle mientras le gritaban: “Te pasaste, cabrón”. Posteriormente, le sustrajeron su vehículo. Se da la circunstancia que en sus últimos artículos el Sr. Ulín se había referido en términos negativos a varios personajes políticos y públicos del Estado de Tabasco, por lo que la víctima supone que la agresión sufrida está vinculada a dichos personajes.

588. El 29 de diciembre el Relator Especial envió una comunicación en relación con la situación de la editora del Diario *Noticias Voz e Imagen de Oaxaca*, cuyos directivos estarían siendo objeto de una serie de acciones tendientes a coactar su derecho a la libertad de opinión y expresión. Según la información recibida algunas altas autoridades del Estado de Oaxaca estarían involucradas en dichos actos debido al ejercicio independiente del Diario Noticias. En particular el Relator Especial ha recibido las siguientes alegaciones:

- Durante los primeros días de noviembre de 2004, varios agentes de la Procuraduría General de Justicia del Estado habrían sido detenidos en flagrante delito realizando pintas ofensivas por la Ciudad de Oaxaca en contra del Diario *Noticias Voz e Imagen de Oaxaca* y sus directivos;
- El 26 de noviembre de 2004, habría aparecido en distintos lugares de la Ciudad de Oaxaca afiches impresos calumniando a los directivos del Diario;
- El 28 de noviembre de 2004, el inmueble donde la editora almacena los insumos necesarios —papel, tinta, láminas para película, productos químicos, herramientas— para la edición del diario habría sido ocupado violentamente por personas que estarían vinculadas con algunas autoridades del Gobierno del Estado de Oaxaca. Al día siguiente de la ocupación del inmueble habría aparecido el cuerpo sin vida de **Juan Alfredo Méndez García**, víctima de disparos de arma de fuego, hecho que habría ocasionado el retiro de los ocupantes y la intervención de las autoridades policiales y judiciales en el lugar. Sin embargo, el 1.º de diciembre de 2004 el inmueble fue ocupado nuevamente por otro grupo de personas vinculadas a las autoridades del Gobierno de Oaxaca hecho que habría contado con la connivencia de algunas autoridades policiales que custodiaban el lugar.

Observaciones

589. El Relator Especial da las gracias al Gobierno por sus respuestas a las comunicaciones con fechas 23 y 29 de enero, 24 de febrero (dos comunicaciones), 2 y 9 de junio, 22 de julio, 6 ,

12 y 19 de agosto, y 17 de septiembre de 2004, si bien espera otras respuestas a sus comunicaciones con fechas 26 de enero, 1.º y 24 de marzo, 4 y 28 de junio, 1.º de septiembre, 15 y 17 de noviembre, y 10 y 29 de diciembre de 2004.

Morocco

590. Le 18 février 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Représentante spéciale du Secrétaire général concernant les défenseurs des droits de l'homme, a envoyé une communication concernant des informations selon lesquelles le 28 janvier 2004, lors d'un sit-in pacifique devant le parlement à Rabat organisé à l'appel de la coalition pour le droit aux soins et à l'accès aux médicaments et celle des artistes pour la diversité culturelle, **Abdelhamid Amine** ainsi que plusieurs militants auraient été violemment frappés par la police. M. Amine serait resté inanimé pendant plusieurs minutes suite aux coups qu'il aurait reçus.

591. Le 16 mars 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **Mohamed Fadel Sidina Beray**, qui aurait été arrêté le 9 mars à Dakhla par les forces d'intervention rapide et les renseignements généraux, au cours de la dispersion d'une manifestation pacifique contre la discrimination à l'encontre des personnes d'origine sahraouie en matière d'emploi et de logement. Selon l'information reçue, M. Beray était toujours détenu par la police au moment de l'envoi de la communication. Il a également été rapporté qu'**Azouha Beray**, la sœur de Mohamed Fadel Sidina Beray, aurait été frappée par les forces de sécurité alors qu'elle tentait de s'interposer lors de l'arrestation de son frère, et traînée par une voiture de police sur 50 mètres.

592. Dans la même communication, le Rapporteur spécial a rapporté des informations selon lesquelles **Mohamed Bahia Sidi Brahim Errachid** aurait été interpellé par la police marocaine le 14 février 2004 à El Ayoun, alors qu'il assistait à un match de football entre une équipe algérienne et une équipe marocaine, au cours duquel des jeunes gens d'origine sahraouie auraient exprimé leur opposition aux autorités marocaines en soutenant l'équipe algérienne. Il semblerait que M. Errachid ait été frappé lors de son arrestation et maltraité pendant son interrogatoire au commissariat d'El Ayoun, et que sa famille ait été menacée par les agents de police. M. Errachid aurait été présenté au procureur général d'El Ayoun, qui aurait ordonné son incarcération à la Prison Noire en attendant son jugement, mais il semblerait que les charges retenues contre lui ne soient pas publiques.

593. Par lettre datée du 11 juin 2004, le Gouvernement a répondu à l'appel urgent envoyé le 16 mars 2004 se référant à la situation de MM. Mohamed Fadel Sidina Beray et Mohamed Bahia Sidi Brahim Errachid. En ce qui concerne Mohamed Bahia Sidi Brahim Errachid, la cour d'appel d'El Ayoun nous a informé qu'une enquête aurait été menée par le département de l'investigation criminelle à la suite de laquelle il aurait été confirmé que Mohamed Bahia Sidi Brahim Errachid aurait été arrêté par la police après avoir été trouvé en possession de 13 grammes de cannabis, et non pour avoir soutenu l'équipe algérienne lors d'un match de football contre le Maroc. Selon le Gouvernement, l'intéressé aurait plus tard admis son rôle dans le trafic de drogues. Par conséquent, il aurait été amené devant un tribunal, chargé pour possession, consommation et trafic de cannabis. Il aurait été condamné à 18 mois

d'emprisonnement et une amende de 2 000 dirhams par la cour de première instance d'El Ayoun. En ce qui concerne Mohamed Fadel Sidina Beray, le Gouvernement a confirmé la présence de plusieurs personnes devant la préfecture de Wadi al-Dhahab, qui auraient bloqué l'entrée et la sortie des fonctionnaires du bâtiment. Face à cette situation, le Gouvernement a déclaré que la police aurait demandé aux personnes présentes de s'éloigner de l'entrée, et de se rendre à un endroit où elles auraient eu l'occasion de discuter de leurs problèmes avec le préfet. Bien que certains aient accepté de le faire, Mohamed Fadel Sidina Beray serait resté à sa place. À ce moment, tout en pensant que son frère avait été arrêté, Mme Azouha Sidina Beray aurait commencé à crier. Néanmoins, le Gouvernement a précisé que le problème demeurait dans le rassemblement du groupe de personnes à l'entrée de la Préfecture et ce, sur une route assez fréquentée. Selon le Gouvernement, la police n'aurait fait aucune arrestation et n'aurait suivi aucune action légale à l'encontre des personnes présentes. Le Gouvernement aurait nié toute accusation de violence.

594. Le 28 avril 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication concernant **Anas Tadili**, directeur de l'hebdomadaire *Akhbar al-Ousbouâ*, qui aurait été incarcéré le 15 avril 2004, officiellement pour une affaire de droit commun datant de 1994. Selon les informations reçues, cette arrestation aurait suivi la publication d'un article de M. Tadili le 9 avril, dans lequel les mœurs d'un ministre facilement identifiable étaient exposées. Le 15 avril, Anas Tadili était semble-t-il incarcéré, apparemment suite à une convocation au commissariat de Rabat, pour avoir enfreint le contrôle des changes en 1994, pour laquelle on lui demandait de s'acquitter immédiatement d'une amende de 3 millions de dirhams (environ 270 000 euros), ce qu'il n'a pas été en mesure de faire. Une contrainte par corps aurait alors été prononcée, et M. Tadili aurait été incarcéré. Toutefois, il semblerait que cette convocation et l'arrestation qui s'est ensuivie pourraient avoir été initiées afin de faire pression sur le journaliste à la suite de son article du 9 avril. Il semblerait à cet égard que, le 19 avril, M. Tadili aurait été entendu par le procureur du roi du tribunal de Rabat pour une enquête ouverte sur ordre du Premier Ministre Jettou, habilité par la loi à engager des poursuites lorsqu'il s'agit d'atteinte à l'honneur d'un membre du gouvernement.

595. Par lettre datée du 25 mai 2004, le Gouvernement a répondu à la communication qui lui a été adressée le 28 avril 2004 concernant les plaintes de diffamation et de diffusion de fausses nouvelles portées contre **Anas Tadili**, éditeur d'*Akhbar al-Ussu*. Le Gouvernement a transmis une liste détaillée des cas à son encontre, indiquant ceux qui auraient déjà été présentés devant la cour, et ceux qui resteraient toujours à être présentés. Spécifiquement, quant à la plainte déposée suite à la publication d'un article le 9 avril 2004, le Gouvernement a indiqué que la cour de première instance de Rabat se serait référée au Département d'enquêtes criminelles de Rabat pour l'investigation pénale. Le Gouvernement a également précisé que M. Tadili n'aurait pas été arrêté en vertu de la loi sur la presse, mais à la requête du Département d'administration des douanes, après avoir manqué de payer ses dettes publiques.

596. Le 27 mai 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant **Mohammed Rachid Chrii**, vice secrétaire général de la section de l'Association marocaine des droits de l'homme (AMDH) à Safi, qui aurait été interpellé le 22 avril 2003 à la suite d'une altercation avec un policier, alors que ce dernier aurait été en train de brutaliser un homme en état d'arrestation dans un quartier de la ville de Safi. Il aurait été emmené par ce même policier dans un centre de détention non

officiel où il aurait été battu et abusé sexuellement. Il aurait ensuite été conduit au commissariat de police où il aurait de nouveau subi des mauvais traitements. Alors que des certificats médicaux attesteraient des sévices et traumatismes subis par Mohammed Rachid Chrii, aucune enquête n'aurait été ouverte sur ces faits. Par ailleurs, le 9 mai 2003, Mohammed Rachid Chrii aurait été condamné par le tribunal de première instance de Safi pour outrage à des fonctionnaires publics dans l'exercice de leurs fonctions à 18 mois de prison ferme et 4 000 dirhams d'amende. Ce verdict aurait été confirmé par la cour d'appel de Safi le 10 juin 2003. Ses avocats auraient dénoncé les conditions dans lesquelles se seraient déroulés l'enquête et le procès, et notamment la supposée falsification du procès-verbal de la police judiciaire et l'absence de preuve matérielle. Le détenu aurait été incarcéré dans un premier temps à la prison de Safi, transféré à la prison de Benhamed et plus tard à la prison d'Aladir, à la périphérie d'El Jadida. Cette prison étant particulièrement éloignée de son domicile et de sa famille, Mohammed Rachid Chrii aurait sollicité son transfert à la prison de Safi. Il aurait poursuivi une grève de la faim à deux reprises pour protester contre sa détention. La Représentante spéciale du Secrétaire général concernant les défenseurs des droits de l'homme est intervenue au sujet de sa situation à travers un appel urgent daté du 12 janvier 2004.

597. Le 6 août 2004, le Gouvernement a envoyé une réponse à la communication du Rapporteur spécial du 27 mai 2004, l'informant que la police poursuivait un revendeur de drogue quand M. Rachid Chrii s'est interposé de manière à lui permettre d'échapper à la police. Interrogé, le revendeur de drogue a affirmé que M. Chrii lui avait fourni de la drogue, ce que M. Chrii aurait admis lors d'un interrogatoire. Lors de sa comparution devant le tribunal de première instance, M. Chrii s'est plaint de tortures et blessures infligées par la police. Trois médecins l'ont examiné et dans leur rapport daté du 24 avril ont constaté des bleus et des blessures mais ont conclu qu'il ne présentait aucun signe de torture. Néanmoins, à la demande de la défense, le tribunal a ordonné qu'une expertise légale soit conduite par trois médecins qui ont décelé des blessures significatives et d'importants bleus sans trouver de trace de violences perpétrées au niveau de l'anus. Après avoir été jugé et avoir bénéficié de toutes les garanties d'un procès équitable, le tribunal a rejeté les allégations de torture présentées, et a condamné M. Chrii à un an et demi de prison et une amende pour avoir aidé un revendeur de drogue et de tabac et tenté de faciliter son évasion, insulté un agent de la force publique et porté une arme. Ce verdict a été partiellement confirmé par la cour d'appel, mais M. Chrii a bénéficié du pardon du Roi le 7 janvier 2004.

598. Le 10 juin 2004, le Rapporteur spécial a envoyé une communication concernant **Anas Tadili**, directeur de l'hebdomadaire *Akhbar al-Ousbouââ*, au sujet duquel un appel urgent avait été envoyé le 28 avril conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire. Selon les nouvelles informations reçues, M. Tadili aurait été condamné le 1^{er} juin 2004 par le tribunal de première instance de Rabat à six mois de prison ferme suite à une plainte pour diffamation, dénigrement d'une personnalité gouvernementale et diffusion de fausse nouvelle. Il est rapporté que cette plainte aurait été déposée à la suite d'un article qu'il aurait publié le 9 avril 2004. Il est également rapporté que M. Tadili devait être jugé le 15 juin 2004 pour une seconde affaire de diffamation.

599. En réponse à la communication envoyée le 10 juin 2004, qui faisait suite à une communication envoyée conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire le 28 avril 2004, le Gouvernement a indiqué, le 3 août 2004, que M. Tadili a été condamné par contumace à trois mois de prison ferme, à une amende de 2 000 dirhams et à

une indemnisation de 50 000 dirhams envers la partie civile. Le verdict a été communiqué à M. Tadili le 27 avril 2004 par voie du tribunal de première instance de Tanger. Le Gouvernement a confirmé que M. Tadili a été incarcéré à la suite d'une action de contrainte corporelle relative à une dette publique non pourvue à la Direction des douanes et des impôts, qui a déposé plainte contre lui, et que, par conséquent, il n'a pas été condamné pour diffamation dans le cadre de l'exercice de son travail de journaliste.

600. Le 5 juillet 2004, le Rapporteur spécial a envoyé une communication concernant **Tor Dagfinn Dommersnes** et **Fredrik Refvem**, journalistes pour le journal norvégien *Stavanger Aftenblad*, qui auraient été arrêtés le 16 juin 2004, expulsés et déclarés *personae non gratae* par les autorités marocaines. Selon les informations communiquées, les deux journalistes étaient sous mandat à Rabat depuis trois jours lorsque les forces de sécurité seraient venues à leur hôtel et leur auraient ordonné de quitter immédiatement le pays. Ils étaient arrivés au Maroc afin de mener des interviews à propos de la société marocaine, des développements en matière de droits de l'homme, et de la question du Sahara occidental. Tor Dagfinn Dommersnes et Fredrik Refvem étaient en possession de visas de journalistes et d'autorisation de prendre des photos, accordés par lettre du Ministère des communications marocain adressée au journal *Stavanger Aftenblad* le 6 juin 2004.

Observations

601. Le Rapporteur spécial remercie le Gouvernement du Maroc pour ses réponses. Il regrette toutefois de n'avoir pas encore reçu, au 31 décembre 2004, de réponses à ses communications datées des 18 février et 5 juillet 2004.

Mozambique

602. On 24 May 2004, the Special Rapporteur sent an urgent appeal regarding the detention of reporter **Fabiao Mondlane**. According to information received, Fabiao Mondlane, who worked for the independent Niassa newspaper *Faisca* and was also a correspondent for the Maputo weekly *Demos*, was arrested on 15 May 2004 in the provincial capital, Lichinga, on orders of the provincial chief attorney. According to reports, the chief attorney claimed that Fabiao Mondlane defamed him in a 13 May 2004 *Faisca* article on corruption in the provincial attorney's office. It is believed that the individual who made the corruption allegation was the chairperson of the Mozambican Human Rights League (LDH), who was on a visit to Niassa. Reports indicated that *Faisca* quoted her as saying at a press conference that there was "unprecedented corruption" in the chief attorney's office and that Attorney-General should take "urgent measures" to bring the situation to an end. The chairperson of the Mozambican Human Rights League (LDH) reportedly confirmed that the corruption consisted of illegal billing by officials in the provincial attorney's office and that the provincial attorney himself was allegedly involved. It was reported that when the article on the chairperson of the Mozambican Human Rights League (LDH)'s claims and an accompanying editorial were published, the chief prosecutor allegedly signed a warrant for Fabiao Mondlane's immediate arrest on libel charges. According to reports, Fabiao Mondlane had been thrown into a dank and foul-smelling cell, alongside people accused of serious crimes. Ten hours after being detained, he was allegedly released by the director of the Lichinga prison.

Observations

603. The Special Rapporteur regrets that no reply to his communication was received at the time this report was finalized.

Myanmar

604. On 19 January 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal concerning the reported arrest on 22 December 2003, of **Daw Tin Myint** (f), **Ma Hninn Pa Pa Hlaing** (f), **U Than Win**, **U Win Kyi**, **U Myint Oo**, **U Hla Oo**, **U Hla Soe** and **Ko Aung Aung**, during a raid on the residence of eight members of the National League for Democracy (NLD) from Mandalay Division by the Military Intelligence Service (MIS). It was reported that, until the day this communication was sent, family members had not been allowed to meet with the detainees and it was not clear whether charges had been brought against them. Reports indicated that most of these people had been released from prison, after they were arrested on 30 May 2003, together with **Daw Aung San Suu Kyi**. Reports also indicated that three other NLD members from Tennasserim Division, **Ma Than Soe** (f) from Longlon township and **Nyi Nyi Lay** and **Phoe Pe** from Tha-yet-chaung township, were arrested in mid December by the local MIS, and that their whereabouts was still unknown at the time this communication was sent. Finally, further reports mention that **Nyi Soe** from Tha-yet-chaung and **Aung Minn** from Pu-law in Tennasserim Division were accused of participating in anti-government political activities and later arrested by a Captain of Light Infantry Battalion (LIB) No 262 in December 2003.

605. On 21 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Aye Myint**, **Min Kyi** and **Shwe Mann**, whose cases were included in a joint urgent appeal sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights in Myanmar and the Special Rapporteur on the right to freedom of opinion and expression on 4 December 2003 (E/CN.4/2004/62/Add.1). They were reportedly arrested in July 2003 by members of Military Intelligence (MI) and convicted and sentenced along with seven other individuals to death by a Yangon court martial under article 122/1 of the Law on High Treason for supposedly trying to murder leaders of the State Peace and Development Council (SPDC). According to new information received, during a visit by representatives of the International Labour Organization (ILO) to Insein Prison on 19 March 2004, the two detainees stated that, immediately after their arrest, they had been interrogated for several days, deprived of food, water and sleep and beaten. After his visit, the ILO informal facilitator considered that the case "was not investigated or prosecuted in a systematic or credible way. It appeared that police or intelligence officers initially used methods of entrapment and that the subsequent procedures of investigation and prosecution were unsound, without any of the fundamental guarantees necessary to produce a credible outcome" (see ILO document GB/289/8/2, issued at the 289th session, March 2004). Shwe Mann was visited by ILO representatives on 25 March 2004. He was also alleged to have been beaten at the time of his arrest and during interrogation at an MI detention centre. Concern was further expressed that Aye Myint, Min Kyi and Shwe Mann might have been accused of high treason because of reported contacts with ILO.

606. On 18 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **U Aye Kyu, also known as “Monywa” Aung Shin**, a former newspaper editor, **U Aung Myint, also known as “Phyapon” Ni Loan Oo**, a newspaper journalist, **U Tun Myint**, a teacher, **U Naing Naing, also known as Saw Naing Naing**, an elected Member of Parliament, and **U Soe Han**, a former high court advocate, all of whom have been involved in the work of the **National League for Democracy (NLD)**. According to the allegations received, U Aye Kyu, U Tun Myint, U Naing Naing and U Soe Han, who were detained in the Insein Prison, all suffer from serious health problems. U Aye Kyu specifically suffers from asthma and respiratory problems. U Aung Myint was, at the time this communication was sent, held at the Kalay Prison, approximately 600 miles away from Yangon, where prisoners allegedly rely on the provision of food and medicine from relatives. In September 2000, the five persons mentioned above participated in the writing of a statement that was broadcast over the radio protesting against the de facto house arrest of Daw Aung San Suu Kyi, leader of the NLD, as well as other NLD members. On 14 December 2000, they were sentenced to 21 years imprisonment by the Insein Jail Additional Military Tribunal for violation of press and security laws in a trial during which they did not have legal representation.

Observations

607. The Special Rapporteur regrets that no replies to his communications of 19 January, 21 July and 18 October 2004 were received at the time this report was finalized.

Nepal

608. On 3 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Bhagarith Kharel**, for whom an urgent appeal was sent on 13 November 2003 (E/CN.4/2004/62/Add.1) on behalf of the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention. According to information received, Bhagarith Kharel was reportedly immediately re-arrested after he was released on bail on 30 December 2003. It was reported that he was then held at the Central Jail in Kathmandu. According to information received, Bhagirath Kharel, who was originally arrested at his home in Kathmandu on 6 November 2003, was first presented to the Appellate court on 27 November when police appealed for his detention to be extended to allow for further investigations under the 2002 Terrorist and Disruptive Activities (Control and Punishment) Act (TADA). He was reportedly not able to contact his family and tell them that he was detained at Hanuman Dhoka police station for one week. On 29 and 30 December 2003, Bhagirath Kharel was reportedly again taken to the Appellate Court where he was charged under TADA with being involved in anti-State activities, and ordered to be released on bail pending trial on 11 February 2004. The police allegedly released him when he signed the bail document, and did not take off his handcuffs until court staff protested that he should be released. However, it was reported that once outside the court, he was immediately rearrested under the Public Security Act (PSA). In addition, concerns were expressed that Bhagirath Karel was not receiving proper medical treatment for a heart condition, as reports indicated that since his arrest he

apparently had only one health checkup, while before his arrest he had been receiving treatment at Sahid Gangalal hospital for a heart condition.

609. On 3 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Rakesh and Durga Prasai**, two brothers running a furniture business in Birtamod bazaar, Anarmuni, who were reportedly arrested by army personnel in Jhapa district on 24 January 2004. According to information received, army personnel in uniform came to the furniture showroom at 2 p.m. to look for Durga Prasai. When they found out that he was away from the showroom they reportedly took his brother away in a van and allegedly told staff that Rakesh Prasai would not be released until Durga Prasai was handed over to them. It was reported that, when Durga returned to the showroom, he immediately went to Charali army barracks with one of his relatives, and when he asked officials at the barracks why his brother had been arrested, he was reportedly detained too, apparently without being given any reason. It was believed that Rakesh and Durga Prasai may have been detained because they were suspected of having links with the Communist Party of Nepal (Maoist). Appeals have been made for the men's release to the National Human Rights Commission, the Defence Ministry, the Home Ministry and high-ranking members of the armed forces, without success.

610. On 8 November 2003, the Government sent a reply to the Special Rapporteur's communication of 3 February 2004 concerning **Rakesh and Durga Prasai** stating that, after having been interrogated on 4 July 2004, they were both released on the same day.

611. On 10 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Narendra Maharjan**, a resident of Sagal, in Ward no. 5 of Kirtipur municipality, Kathmandu district, who was reportedly arrested on 21 January 2004, while at work as a field supervisor for a bus company. According to information received, Mr. Maharjan was at the company office in Kirtipur on 21 January, when five men in plainclothes arrived, identified themselves as security forces and took him away in a white Tata jeep. It was believed that Narendra Maharjan may have been targeted because of his former involvement with the Newar Khala (Newari Family), which is an organization campaigning for language rights for minorities, and promoting the rights of the Newar community (the ethnic group indigenous to the Kathmandu valley). Reports indicated that in the past the security forces had made arrests at Newar Khala meetings, and reportedly targeted members of other ethnic and cultural organizations. At the time this communication was sent, the whereabouts of Mr. Maharjan had been unknown since his arrest.

612. On 13 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture sent an urgent appeal concerning **Lekhnath Sapkota**, who was reportedly arrested in Kathmandu on 4 February 2004. Mr. Sapkota was originally from Kharkhola village in ward No. 5 of Mirkot Village Development Committee (VDC), Gorkha district, and was living in Lainchaur, in ward No. 29 of Kathmandu municipality. According to information received, at 2 p.m. on 4 February, he was arrested at his office at Yeti Travels by three security forces personnel in plain clothes. Reports suggested that he had been followed all morning before he was arrested. Reports indicated that Lekhnath Sapkota had been arrested and held without charge on two previous occasions: in 2002, he was held at a police station in Maharajganj for 15 days, before being released without charge. He was reportedly arrested a second time on 22 September

2003, when he was at work in his office. The Supreme Court ordered his release on 17 November, after his family filed a writ of habeas corpus, and he was released the next day. At the time, police said that he had been detained because he was working for the Communist Party of Nepal (CPN) (Maoist), which his relatives strongly denied. No reasons were given for his arrest this time, although it was believed that Lekhnath Sapkota is being repeatedly targeted because the security forces now associated him with the CPN (Maoist). Reports indicated that his whereabouts were not known, at the time this communication was sent, and that his relatives had contacted the National Human Rights Commission to locate him, but without success.

613. On 16 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Sho Prasad Khatiwada**, who is originally from ward No. 3, Bhadrutar, in Nuwakot district, and had been living in Sitapaila. According to information received, he was reportedly arrested at 8 a.m. on 3 January 2004 at his place of work in the office of "Duke Nepal Private Limited" garment factory in Sitapaila, Kathmandu, by a group identifying themselves as security forces personnel. It was believed that Sho Prasad Khatiwada may have been arrested on the wrongful suspicion of being involved with the Communist Party of Nepal (CPN) (Maoist) since, while he was living in Nuwakot, Sho Prasad Khatiwada was reportedly abducted by CPN and forced to take part in one of their programmes. Reports indicated that the International Committee of the Red Cross (ICRC) and the National Human Rights Commission (NCHRC) were informed of his arrest, but that his whereabouts remained unknown at the time this communication was sent.

614. On 16 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Gyan Bahadur Koirala** and **Maheshwar Pahari**, two friends who were reportedly arrested in separate incidents in the Kaski district of Western Nepal on 2 January 2004. Both men's whereabouts were unknown at the time this communication was sent, but they were believed to be held at Phulbari army barracks in Pokhara, which the army had denied. According to information received, Gyan Bahadur Koirala, a resident of ward No. 5 in Firkepul municipality in Kaski district, who owns a truck haulage business, was inspecting some works a short distance outside of town at 8 a.m. on 2 January when about 25 uniformed army personnel reportedly came to arrest him. He was allegedly bound and held for one hour at the scene, before the soldiers reportedly took him away in a convoy of some three vehicles. It is reported that Gyan Bahadur Koirala had been seen in Pokhara and the surrounding area since his arrest, allegedly in a vehicle seated between two army personnel and reportedly wearing army uniform. Maheshwar Pahari, a resident of Buddha Chowk, ward No. 10, Pokhara municipality, Kaski district, worked as a journalist for the *Rastriya Swabhimani Weekly*, a local newspaper in Pokhara, which ended publication when the ceasefire between the Government and the Communist Party of Nepal (CPN-(Maoist) broke down. He was reportedly arrested on 2 January 2004 in Khorako Mukh village in Lwang Ghalel Village Development Committee (VDC), in Kaski district, by a group of uniformed army personnel. Reports suggested that Maheshwar Pahari was on his way to attend a political programme of the CPN (Maoist) at the time of his arrest. He was reportedly seen around the Pokhara area being escorted by army personnel. It was reported that both men were previously arrested at the outbreak of the first State of Emergency on 26 November 2001 on suspicion of sympathising with the CPN (Maoist), and that Maheshwar Pahari was detained for 13 months, and Gyan Bahadur Koirala was held in detention for 17 months, before being released on the orders of the Supreme Court. It was

believed that their recent arrests might be linked to their previous detention, and the fact that the authorities continued to regard both men as Maoist sympathizers.

615. On 25 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal concerning two lawyers, **Bal Krishana Devkota and Dhananjaya Khanal** who were reportedly arrested on 21 February 2004 in separate incidents. According to the information received, around 11 p.m. on 21 February, three security personnel in plainclothes came to Mr. Devkota's house in Sita Paila VDC Ward No. 2 Kathmandu, and started questioning him. Mr. Devkota replied that he was a lawyer at the Supreme Court. His house was then searched and he was taken away for further questioning. His whereabouts, since he was taken away, remained unknown. In a separate incident, Mr. Khanal was reportedly arrested by a group of army personnel at around 11 p.m. on the night of 21 February at his residence in Sanepa-2 Lalitpu, Kathmandu. Mr. Khanal is from the Tanahun District and worked as a lawyer with the Central Legal Service, Maitighar Kathmandu. Since his arrest his whereabouts also reportedly remained unknown. Concern was expressed that these lawyers had been possibly targeted by the authorities for being "associated" with their clients who were reportedly charged under the provisions of the anti-terrorist legislation of Nepal (TADA).

616. On 21 May 2004, the Government sent a response to the Special Rapporteur's communication of 25 February 2004 stating that there was no person by the name of **Dhananjaya Khanal** in police detention at the time this reply was sent.

617. On 26 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mukunda Ghimire**, a political worker aged 25 originally from Khartanchha VDC in Bhojpur district, and **Keshav Chudal**, a taxi driver aged 25 originally from Taplejung district, both in eastern Nepal. According to information received, the two men, resident in Ghattekulo, in ward No. 32 of Kathmandu municipality, were reportedly arrested on 3 February 2004 in Ramshahpath, in central Kathmandu, by a group of security forces personnel in plainclothes, one of whom allegedly showed identification (his name is known to the Special Rapporteur). Following their arrest, Mukunda Ghimire and Keshav Chudal were reportedly taken away in a blue van heading north. It is reported that Mukunda Ghimire was involved in politics, but he was not aligned with any of the main political parties. It is believed that the security forces were wrongly informed that he was involved with the Communist Party of Nepal (CPN) (Maoist). Keshav Chudal may have been arrested because he was with Mukunda Ghimire at the time. Their whereabouts remained unknown at the time this communication was sent.

618. On 8 November 2004, the Government sent a response to the Special Rapporteur's communication of 26 February 2004, stating that **Mukunda Ghimire** was released on 14 September 2004 from detention at the Jagannath Dewal Detention Centre, Kathmandu.

619. On 26 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Purushotam Chudal**, a student aged 20, who was reportedly arrested by the security forces. His whereabouts remained unknown at the time this communication was sent. According to information received, Purushotam Chudal, a

resident of ward No. 9 of Shurunga Village Development Committee (VDC) in Jhapa district was staying in a friend's home at Shuketangi in ward No.1 of the same VDC on the morning of 23 December 2003, when a large group of armed security forces personnel in plainclothes reportedly surrounded the house. Five of them reportedly came in, removed Purushotam Chudal and took him away in the direction of the Charali army barracks, where he was believed to be still detained at the time this communication was sent, although the army denied having arrested him or having him in custody there. Purushotam Chudal was reportedly previously involved in student union politics, but it is reported that he had no links to the Communist Party of Nepal (CPN) (Maoist). It is believed that his arrest was the result of false information provided to the security forces about him.

620. By letter dated 8 November 2004, the Government stated that **Purushotam Chudal** was being detained at Dhankutta under the District Administration Office, Dhankutta, at the time reply was sent.

621. On 26 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Chandra Prasad Nepal** and his wife **Sabitri Nepal**, who were reportedly arrested on 17 February 2004 by security forces personnel in plainclothes. Their whereabouts, at the time this communication was sent, remained unknown. According to information received, a group of about 20 men arrived at their home in ward No. 1, Belsi, in Ratnanagar municipality, Chitwan district, at 1 p.m. on 17 February. They reportedly said they were soldiers of the Royal Nepal Army, arrested the couple and took them away on foot. It was reported that, when they reached the highway, the soldiers hailed a public transport minibus, and the couple were driven away, allegedly to Bhandara camp, the security post of the Unified Command (army and armed police force) for Chitwan district. However, it was reported that staff at the camp said that the couple were taken somewhere else. The reasons for their arrests were not known at the time this communication was sent, but it was believed that the security forces may have suspected Chandra Prasad and Sabitri Nepal of involvement with the Communist Party of Nepal (CPN) (Maoist).

622. On 26 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning the alleged arrest and disappearance of **Lok Krishna Bhattarai**, a member of the Lalitpur Bar Association and General Secretary of the Pushpa Lal Memorial Foundation, a social organization named after the founder of the Communist Party of Nepal (CPN), now known as the CPN-United Marxist Leninist (CPN-UML), a legal party that was the principal opposition party before Parliament was dissolved in October 2002. According to information received, on 18 February four men in plainclothes who identified themselves as security personnel allegedly arrived at the house of Lok Krishna Bhattarai in Baluwatar, Kathmandu. They allegedly did not produce any formal identification, and when Lok Krishna Bhattarai demanded to see some, they reportedly informed him that to say they were security forces was sufficient. It was reported that they told him to wear warm clothes, as he was to accompany them to help with inquiries and would be returned in two hours. They reportedly denied him permission to call his office before taking him from the house. According to information received, relatives of Lok Krishna Bhattarai contacted human rights organizations and the press in Kathmandu regarding his whereabouts but were unable to locate him. Fear was expressed that the alleged arrest and disappearance of Lok Krishna Bhattarai might have been connected to his human rights activities.

623. On 27 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Shankha Buddha Lama**, an activist of the Nepali Congress Party and a social worker, who was reportedly arrested by security forces personnel in plainclothes in Dulikhel, Kavrepalanchowk district, on 24 February 2004. According to information received, Shankha Buddha Lama, a resident of Dhulikhel in Kavrepalanchowk district, was the Constituency President for the Nepali Congress Party, and was involved with several social organizations locally, including the District Committee of the Non-Governmental Organization (NGO) Federation of Nepal. It was reported that he was in a committee meeting of the NGO Federation at 4 p.m. on 24 February when he was called outside by two men in plain clothes. They reportedly identified themselves as security forces personnel, and took him away. His colleagues at the meeting reportedly did not realize that he had been taken away until several minutes later when they heard about his arrest. They reportedly attempted to contact him on his mobile phone, but it was switched off. It was believed that he might have been detained at Surya Binayak Army Barracks in the neighbouring Bhaktapur district. Shankha Buddha Lama would often visit remote areas in the course of his NGO work, particularly drinking-water projects, and it was believed that the security forces suspected him of having contact with the Communist Party of Nepal (CPN) (Maoist), while travelling in these remote areas. It was reported that his whereabouts were unknown at the time this communication was sent, and that efforts to locate him, including visiting the district government offices, and army camps including Surya Binayak, were unsuccessful.

624. On 1 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning the reported arrest by the security forces on 21 February 2004 of journalist **Laxmi Pandey**. It was believed that he was arrested for questioning in Nawaparasi district. Mr. Pandey was a journalist associated with the Nepal Press Union (NPU), which is a member of the International Federation of Journalists. Mr. Pandey's whereabouts were unknown at the time this communication was sent. It was believed that his arrest might have taken place in a context where security forces detain and interrogate more and more people, in particular those believed to have political affiliations with opposition parties, those suspected to have links with the Communist Party of Nepal (CPN) (Maoist) or those who protest the current situation.

625. On 2 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Kaushalya Pokhrel** (f), aged 21, student, **Arjun Pokhrel**, 24, student (her brother) and his wife **Madhu Mandal**, 22, student, all students at the Gramin Adarsha Multiple Campus in Kathmandu, who were reportedly arrested by security forces personnel in separate incidents between 26 November and 16 December 2003. According to information received, Kaushalya Pokhrel, who lives with her family in Chabahil, Kathmandu, was arrested on 29 November when she was on her way home from visiting her sister in Dukuchhap Village Development Committee (VDC) in Lalitpur district. Soldiers patrolling in the area had reportedly arrested a group they suspected of being members of the Communist Party of Nepal (CPN) (Maoist), and reports suggested that they arrested Kaushalya Pokhrel because she was near this group at the time. She was believed to be held in Shree Jang Gan army camp, at Singha Durbar, Kathmandu. Her family reportedly received a message saying that she had been released from Shree Jang Gan on or around 18 February 2004. However, she was reportedly not seen or heard of after her arrest, and it was believed that she might still be

detained at an unknown location at the time this communication was sent. Arjun Pokhrel was reportedly arrested in the afternoon of 26 November in Chabahil, Kathmandu. He was a member of the Kathmandu District Committee of the All Nepal National Independent Student Union (ANNISU) (Revolutionary), which is aligned with the CPN (Maoist); it is believed that this might be the reason for his arrest. Madhu Mandal, who is married to Arjun Pokhrel, was reportedly arrested at 1 p.m. on 16 December at her home in Manamaiju VDC, Kathmandu district. Five security forces personnel in plainclothes reportedly arrived at her home and arrested both her and another member of the family, who was later released. They were reportedly taken away in a Tata Mobile pickup truck. It is believed that both Madhu Mandal and Arjun Pokhrel were held at Bhairab Nath Gan army camp in Maharajganj, Kathmandu, at the time this communication was sent, although this has allegedly been denied by army sources. It is suspected that Madhu Mandal was arrested because of her husband's links with ANNISU (Revolutionary). It is reported that a writ of habeas corpus was filed on behalf of both Kaushalya and Arjun Pokhrel on 2 December, after which the authorities allegedly denied they had been arrested. Their whereabouts remained unknown.

626. On 4 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Surendra Rai**, a 40-year-old resident of Nakkhu, Lalitpur Municipality ward No. 13, Lalitpur district, and a carpet factory worker at Sigarse Carpet Industry (P) Ltd. He was reportedly arrested by three security personnel in civilian clothes on 27 February 2004 from his residence. His whereabouts remained unknown at the time this communication was sent. The District Police Office in Lalitpur reportedly denied his arrest. The National Human Rights Commission, the Defense Ministry, the Home Ministry, the Human Rights Protection Centre PM Office and the main security force offices were reportedly also informed about this case. Surendra Rai used to be a member of Trade Union Federation (Revolutionary), which is affiliated to the Maoist organizations. However, he dissociated from it seven months before his arrest and his family denied his having any involvement in Maoist activities. According to information received, he had been detained twice for a couple of days in November 2001 and January 2002 and subsequently released without charges. Moreover, **Ambir Babu Gurung**, a 38-year-old restaurateur from Rumjatar, in Okhaldhunga district, and resident of ward No. 34, Panchkumari, in Kathmandu municipality, was allegedly taken away from his home by a group of men in plainclothes who identified themselves as security forces personnel on 16 February 2004 at midnight. He was allegedly told that he was needed for some inquiries, but no details of the reasons for his arrest or where he would be taken were given. Efforts by relatives to locate him, including informing the National Human Rights Commission, were unsuccessful. Ambir Babu Gurung's relatives believe that he may have been arrested because the security forces had been given false information about him. Ambir Babu Gurung reportedly used to be a local area coordinator for the Communist Party of Nepal-United Marxist Leninist (CPN-UML) until five years ago, but was no longer involved in politics at the time he was taken away from his home. In view of their alleged detention at undisclosed locations, fears had been expressed that they might have been at risk of torture or other forms of ill-treatment.

627. On 8 November 2004, the Permanent Mission of the Kingdom of Nepal to the United Nations and other International Organizations in Geneva, responded to the Special Rapporteur's communications of 4 March 2004 concerning **Surendra Rai**, stating that he was being detained at Mahabir Military Barrack Chauni, KTM, under TADA at the time this reply was sent.

628. On 4 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Bhimsen Kumar Gautam**, a 40-year-old teacher and auditor from Dhuseni Shivalaya Village Development Committee (VDC) in Kavrepalanchowk district, resident in Shreenagar Tole, Minbhawan, in Kathmandu municipality. He is reported to be a member of the Nepal National Teachers' Association, which is close to the Communist Party of Nepal-United Marxist Leninist (CPN-UML), and of the Nepal section of Amnesty International. He was reportedly questioned and arrested on 3 March 2004 by a group of men who entered the building where he rented a room; they identified themselves as security forces personnel. His papers and citizenship documents were reportedly checked and he was allegedly told to put some clothes on and prepare to leave. It was also alleged that the security forces made a brief attempt to search the room before taking him away. It was reportedly not known why he was arrested or his whereabouts, since he was taken away. Efforts by relatives to locate him, including informing the National Human Rights Commission, were unsuccessful.

629. On 10 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Yamanath Lohani**, a 50 year-old teacher, resident of ward No. 9, Thananpati Village Development Committee, in Nuwakot district. According to information received, on 1 March at 10.30 a.m., the bus he was riding on stopped for a routine check at Fhusredada, near the Shivapuri army camp in the northern end of the Kathmandu valley. Yamanath Lohani was detained by security forces personnel manning the post. The reasons for his arrest were unknown at the time this communication was sent, and his family denied that he had any links with the Communist Party of Nepal (CPN) (Maoist), as he was a member of the CPN-United Marxist-Leninist (UML). Reports suggested that he might have been held at Gha Gul army barracks in Shivapuri. Efforts to locate Mr. Lohani by relatives, including informing the National Human Rights Commission, were unsuccessful.

630. On 17 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Dhani Ram Tharu**, the district secretary of the Bardiya District "Backward Society Education Society" (BASE) and presenter of a radio programme which caters for Tharu people, a socially and economically deprived ethnic group living mainly in the southwest of Nepal. According to information received, at around 5.30 p.m. on 13 March 2004, Dhani Ram Tharu and six colleagues who work on the same radio programme, were in the office of the "Youth Society Adult Education Service Forum" in Nepalgunj, Banker District, when they were reportedly arrested by uniformed members of the Armed Police Force, allegedly on suspicion of involvement in Maoist activities. They were reportedly taken away in a white van with government number plates to Birendra Prahari Byayamshala police compound. It was reported that Dhani Ram Tharu was blindfolded and taken inside, while the other six were taken to the District Police Office, and were released the following morning. It was further reported that Dhani Ram Tharu had not been released and his whereabouts were unknown at the time this communication was sent. His arrest was reported to the National Human Rights Commission.

631. On 19 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Chakrapadi Acharya**, who was reportedly arrested by security forces personnel on 8 March 2004, and whose whereabouts were not known at the time this communication was sent. According to information received, Chakrapadi Acharya ran a small grocery shop in Niskot village development committee (VDC), ward No. 3,

Myagdi district. At the time of his arrest, 100 army personnel were reportedly marching through Niskot VDC, and came into Chakrapadi Acharya's shop at around 11.30 a.m., asking him his name and saying they were looking for him. It was reported that army personnel slapped his father before dragging Chakrapadi Acharya from the shop to take him away. It was believed that Chakrapadi Acharya was being detained incommunicado at the army barracks in Myagdi district headquarters, at the time this communication was sent. His arrest might have been related to the fact that members of the Communist Party of Nepal (CPN) (Maoist) reportedly tried to force Chakrapadi Acharya to take up a post in a local CPN (Maoist)-affiliated "people's Government", and that the authorities suspect his involvement with the CPN (Maoist).

632. On 24 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Tikaram Bishwakarma**, a man originally from Hemagunga VDC, Ramechhap district, and currently residing in Jorpati, Kathmandu, who was reportedly arrested on 26 February 2004 at 8:30 a.m. by two men in civilian clothes, claiming to be security forces personnel, who came to his home on motorcycles, and took him away. Tikaram Bishwakarma had reportedly worked previously as an activist for the Communist Party of Nepal (CPN) (Maoist), although he had renounced the party more than one year prior to his arrest. Relatives believed that his arrest might have been linked to his former association with CPN (Maoist). Reported efforts to locate him by his relatives, including informing the National Human Rights Commission, and visiting police and army camps, were unsuccessful. In view of his alleged incommunicado detention at an unknown place, fears had been expressed that he might be at risk of being subjected to torture or other forms of ill-treatment. Concerning **Narayan Dhvaj Mahat**, a resident of Bidur municipality, Nuwakot district, information received said that, on 16 March 2004 at 1p.m., he was arrested at his workplace in the Land Revenue Office in Kalanki, Kathmandu, by two men in plainclothes who allegedly identified themselves as security forces personnel. He was reportedly taken to an undisclosed destination. Narayan Dhvaj Mahat had previously been arrested by the police on suspicion of involvement with the CPN (Maoist), and imprisoned between March 2002 and March 2003. However, the reasons behind his second arrest were not known. His family reportedly denied that he had any involvement with the CPN (Maoist) and said that he surrendered himself in order to avoid any further trouble and suspicion. Reported efforts to locate him by his relatives, including by informing the National Human Rights Commission and visiting police and army camps, were unsuccessful. In view of his alleged incommunicado detention at an unknown place, fears had been expressed that he might have been at risk of being subjected to torture or other forms of ill-treatment.

633. On 8 November 2004, the Government responded to the Special Rapporteur's communications of 24 March 2004, stating that **Narayan Dhoj Mahat** was being detained at Bhairab Nath Military Barrack, Maharaj-gunj, KTM, under TADA at the time this reply was sent.

634. On 2 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning the cases of **Sitaram Tamang, Samundra Budathoki, Man Bahadur Shrestha, Surya Bastakoti, Tuk Nath Dhungana, Govinda Ghimire and Achyut Kumar**. According to information received, all the persons named above were allegedly arrested on suspicion of being involved with the Communist Party of Nepal (CPN) (Maoist), and their whereabouts since their arrest remained unknown at the time this communication was sent. Sitaram Tamang is originally from Balkumari Village Development

Committee (VDC) in Nuwakot district and a resident of Mahadevtar, in Gangabu VDC, ward No. 8, Kathmandu. At 9 p.m. on 24 March 2004, 10 soldiers in uniform reportedly came to his room and told him that he was required for questioning. When Sitaram Tamang reportedly asked to know what he had done wrong, one of the soldiers allegedly threatened to hit him if he did not come with them immediately. The soldiers reportedly took him away in a van that had been parked nearby, and told his wife that they would bring him back either the same night or the next morning. Surya Bastakoti is originally from Tandruka VDC in Gorkha district, but currently resides in Kushlechowr, ward No. 16, Kathmandu. At 9:50 p.m. on 22 March 2004, six men in plainclothes wearing masks reportedly arrived at his home and identified themselves as security forces personnel. They reportedly demanded that he go with them to the Sorakhutte police office for questioning and took him away in a blue van marked with the logo of the Sorakhutte police. When relatives visited the police office a short while later, they were reportedly told that Surya Bastakoti had been there, but that he had been moved to an unknown destination. The next morning, staff at the same station reportedly denied that he had been held there, and instead suggested that the family try the National Police Academy, in Maharajganj, central Kathmandu. When relatives went to the Academy, the police reportedly denied that Surya Bastakoti was held there. In a related incident, Raju Pande, an employee of Surya Bastakoti's office was reportedly detained by the security forces on 22 March. Samundra Budathoki is a resident of ward no.3, Shikarbesi Village Development Committee (VDC) in Nuwakot district. He had recently been living at Manmaiju in Kathmandu, where he was building a house for his family. He was spending the night at the site of his new house on 19 March 2004, when two men in plainclothes reportedly arrived at 10 p.m., saying they were from the Armed Police Force. They reportedly searched the property, and although they found nothing, they reportedly arrested Samundra Budathoki, saying that he was needed for questioning, and took him away in a blue van, which had been parked near the house. It was reported that Samundra Budathoki was forcibly recruited into the All Nepal National Independent Student Union (ANNISU) (Revolutionary), which is aligned with the Communist Party of Nepal (CPN) (Maoist), when he was a student in Nuwakot, in 2001. In 2002 he reported to police officers in his home village, and told them that he had been forced into accepting membership, stating that he was not involved in ANNISU (Revolutionary) activities. They reportedly advised him to make an application to the security forces in the area, explaining his situation, and asserting his innocence. He did this, and reportedly received the assurance of the security forces that they accepted his statement. Although the reasons for his arrest are not known, it was believed that it might have been linked to his forced recruitment in ANNISU (Revolutionary). On 17 March 2004, Tuk Nath Dhungana was reportedly arrested from his home by armed security forces personnel in both uniform and civilian clothes. Early in the morning, Tuk Nath Dhungana was working in his fields when around 20 security forces personnel, who were patrolling the area, reportedly came to his house in ward No. 5, Chautha Village Development Committee, Nuwakot District. The security forces reportedly searched Tuk Nath Dhungana's house and asked his daughter to bring her father. When he returned at around 7 a.m., they reportedly arrested him. His arrest might have been linked to the suspicion that other members of his family have links with the CPN (Maoist). Man Bahadur Shrestha originally comes from Boguwa Village Development Committee (VDC) in Gorkha district of western Nepal. He currently resides at Dhapasi, in Kathmandu. At 1 a.m. on 11 December 2003, an army patrol was carrying out a search of houses in the neighbourhood where Man Bahadur Shrestha was living. It was reported that a group of 10 soldiers entered his home, saying that they were carrying out a routine search. They reportedly discussed Man Bahadur Shrestha's business before taking him away, telling his family that they were going to

one of his factories and that they would return him soon. Achyut Kumar KC is a resident of Jivanpur VDC in Dhading district. He was returning home from his farm carrying a load of rice at 5 p.m. on 17 November 2003 when he was reportedly stopped by an armed security forces patrol. Witnesses reported that his hands were tied and he was forced to carry the load of rice away in the direction of Kumari and Chaute VDCs. Govinda Ghimire is originally from Bethan Village Development Committee (VDC) in Dolakha district, although he had recently been residing in Chabahil, Kathmandu. At 9 a.m. on 29 August 2003, a group of about 12 armed security forces personnel in plainclothes arrived at his home. Govinda Ghimire was behind the house, where three of the security forces personnel reportedly took hold of him and pulled him away to a waiting van. Other members of the household were reportedly told not to come near. It was believed that he may have been targeted because of his links to the All Nepal National Independent Student Union (ANNISU) (Revolutionary), which is aligned with the Communist Party of Nepal (CPN) (Maoist), in the two months prior to his arrest.

635. By letter dated 21 May 2004, the Government informed that there was no person by the name of **Surya Bastakoti** in police detention at the time this reply was sent. Moreover, on 8 November 2004, the Government responded to the Special Rapporteur's communication of 2 April 2004, stating that **Govinda Ghimire** was being detained at Bharai Nath Military Barrack, Maharaj-gunj, KTM under TADA.

636. On 14 April 2004, the Special Rapporteur, jointly with the Chair of the Working Group on Enforced and Involuntary Disappearances and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Kedar Prasad Bidari** and **Ngadar Bhote**, who were reportedly arrested in Kathmandu district on 7 and 17 March 2004, respectively. Efforts to locate both men, including informing the National Human Rights Commission, have so far failed. According to information received, Kedar Prasad Bidari was originally from Mahadevbesi in Dhading district. On 24 June 2002 four members of the Communist Party of Nepal (CPN) (Maoist) reportedly came to his home to demand a donation. When he refused to pay them, they shot at him. He was slightly injured, but he managed to flee the scene, and made his way to Kathmandu. Since then he has reportedly not returned to Dhading district, and has been living in Swayambhu, in Kathmandu municipality. It is reported that, on 7 March 2004 at 7 a.m., two men on a motorbike arrived at his workplace, looked around without saying a word, and then left. A short time later, a private van reportedly pulled up at the site, and four men in civilian dress reportedly entered and introduced themselves as soldiers. They allegedly took hold of Kedar Prasad Bidari, put him in the van and took him away. It was believed that Kedar Prasad Bidari was being held in Jag Dal Gan, in Chhauni army camp. On 30 March, Kedar Prasad Bidari's Jeep was reportedly taken by security forces personnel manning a check point at Nagdhunga on the edge of the Kathmandu valley. Relatives were reportedly able to retrieve the vehicle from Chhauni army camp on 2 April, and were told that it had been taken for checking by the army. It was, however, reported that the army denied that Kedar Prasad Bidari was being held in the camp. It was believed that his arrest might be linked to the fact that he was contacted by CPN (Maoist). Ngadar Bhote was a resident of ward No. 3 of Mahankal Village Development Committee (VDC), in Kathmandu district, where he works on his family's pig farm. At 4 a.m. on 17 March 2004, a group of 15 Armed Police Force personnel reportedly arrived at his house, and asked for Ngadar Bhote by name. When they were shown the place where he was asleep, they allegedly arrested him immediately and took him away on foot, heading south towards the Boudha area of the city. Ngadar Bhote is originally from ward No.1 of Hatia VDC, in Sankhuwasabha district. On 16 January 2004 his elder brother was reportedly killed in an

encounter with the security forces who reportedly suspected him of being a worker for CPN (Maoist). Following this incident the Maoists allegedly targeted Ngadar Bhote, calling on him to join their army. Ngadar Bhote fled to live with family in Kathmandu to escape the attention of the CPN (Maoist), but it is believed that he has been arrested because of his brother's suspected links with the CPN (Maoist). In view of the alleged detention at unconfirmed locations of the two above-named men, fears have been expressed that they may be at risk of torture or other forms of ill-treatment.

637. On 8 November 2004, the Government sent a response to the Special Rapporteur's communication of 14 April 2004, stating that **Ngdar Bhote** was being detained at a prison in Kathmandu under TADA by the District Administration Office, Kathmandu.

638. On 26 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal concerning an order issued on the 8 April 2004 banning public demonstrations and the assembly of more than five persons within the Kathmandu Ring Road and Lalitpur areas which was allegedly issued by the Kathmandu District Administration. Following this, lawyers, journalists and other people demonstrating to protest against the current situation in the country were reportedly violently repressed. On 9 April, **a few hundred lawyers** were arrested and released following a demonstration. On 11 April 2004, the security forces allegedly released **50 journalists** after detaining them for two hours in Kathmandu. It was believed that these journalists were taking part in a protest against the 8 April renewal of the Government's prohibition of public assemblies of more than five people. It was also reported that in the afternoon of 15 April 2004, **over 1,000 peaceful demonstrators** were arrested and then held in warehouses and other overcrowded and unsanitary locations unsuitable for the detention of prisoners—in many cases for a number of days—before being released without charge. In addition, it was believed that three students and 11 political party members, who reportedly participated in the protests, including the President of the Nepali Congress, **Girija Prasad Koirala**, were being held in preventive custody under the Public Security Act. It was also alleged that some of those arrested continued to be held incommunicado at the time this communication was sent. According to additional reports, **200 journalists** from different locations in Kathmandu were arrested by the security forces on 17 April 2004 and held at several detention centres before being released the same day. It was reported that the journalists were protesting the alleged detention of 74 journalists who were arrested on 16 April 2004 while reporting on a protest organized by the five main political parties. According to information received, at least two journalists arrested on 16 April 2004 were beaten and released on the morning of 17 April 2004. On 21 April 2004, it is reported that **between 300 and 500 lawyers** were arrested during a peaceful demonstration in Kathmandu, organized by the Nepal Bar Association. According to the information received, the demonstration was in protest against the Government's decision to prohibit all demonstrations and denounce the restriction on right to peaceful assembly. Reportedly, the lawyers were taken to Mahindra Police Club where they were subsequently released. In this respect, the Special Rapporteur expressed his concern for the arrest and detention of other journalists and lawyers, in particular the following lawyers: **Shyam Kumar Shrestha, Gopi Krishna Thapaliya, Gopi Bahadur Bhandar, Basudev Sigdel, Krishna Silwal, Laxman Prasar Ayril and Jeetaman Basnet**. Lawyers and journalists in Nepal are apparently subject to an increasing number of incidents of harassment and interference in their professional activities.

639. On 2 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Khadga Bahadur Swar**, also known by the name of **K.B. Jumli**, a correspondent for the private Kathmandu-based daily *Nepal Samacharpatra*, who was reportedly arrested by local authorities in the western Jumla District on 4 April 2004. According to information received, the Jumla District local administration office accused Jumli of being involved in Maoist activities and reportedly imprisoned for 90 days under the Terrorist and Destructive Activities (Control and Punishment) Act (TADA), under which any organization or individuals suspected of supporting the Communist Party of Nepal-Maoist (CPN-Maoist) and its activities were considered terrorists, and individuals could be detained without trial for renewable periods of up to 90 days on suspicion of planning “terrorist” acts. However, it was believed that Jumli’s detention might have been linked to his journalistic work, in particular to some of his reports critical to the local administration and the security forces.

640. On 9 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning reports that **Phulmaya Dahal**, aged 19, **Chandra Bahadur Prasai**, 22, **Debraj Pradhan**, 35, **Dilliram Rizal**, 30, a teacher and **Gangaram Lamitaray**, 40, all refugees from Bhutan living in Beldangi 1 refugee camp in the Jhapa district of eastern Nepal, were arrested by security forces on 2 and 3 June 2004. It was reported that the four men and the woman were being held in incommunicado detention, at the time this communication was sent, and it was believed that they may have been arrested on suspicion of involvement with the activities of the Communist Party of Nepal (CPN (Maoist)). According to information received, Phulmaya Dahal and Chandra Bahadur Prasai were reportedly arrested on 2 June by around 10 plainclothes security forces personnel, who allegedly searched their huts in Sectors E1 and E2 of the refugee camp and reportedly took away some documents. They were reportedly taken to a nearby army barracks before being transferred first to the Padajungi Security Post, and then reportedly to the Chandragadi Police Post early the next morning. Chandra Bahadur Prasai was reportedly beaten during his interrogation. It was further reported that a 16-year-old girl, **J.T.**, who was arrested at the same time, was released later the same day on condition that she report to the Beldangi 1 army barracks every afternoon. On 3 June, security forces reportedly arrested Debraj Pradhan and Dilliram Rizal from their homes in Sector E1 and G2 of the refugee camp, and took them to the local army barracks before transferring them to Padajungi security post. Although their whereabouts at the time this communication was sent had not been made official, it was believed that they were subsequently taken to the Chandragadi Police Post. A fifth person from the refugee camp, Gangaram Lamitaray, was also believed to have been held at Chandragadi Police Post following his transfer from the Damak police post on 3 June.

641. On 11 June 2004, the Special Rapporteur, jointly with the Chair of the Working Group on Enforced and Involuntary Disappearances and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Jetendra Khadka**, 23, a grocery shopkeeper, who was reportedly arrested by around 15 security personnel on 18 May 2004 at night, from Tinthana VDC-9, Kathmandu district. He was reportedly taken away in an army van towards an unknown destination, and his whereabouts remained unknown at the time this communication was sent. According to information received, the security personnel told Mr. Khadka’s relatives that they were taking him away for inquiries. Sources reported that the family visited the Panighat barracks, Thankot, several times, but were informed that Mr. Khadka was not in their custody. Reportedly, Mr. Khadka, who was previously involved in Maoist activities, had issued a press

statement saying that he was no longer involved in Maoist activities, and that he surrendered to Panighat barrack, Thankot, Kathmandu in September 2003, after the breakdown of the ceasefire in August. His arrest was reported to the NHRC, the Home and Defense Ministries, the Human Rights Protection Center PM Office and Security Forces on 28 May 2004.

642. On 7 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, Special Rapporteur on violence against women, its causes and consequences, and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the case of **M.S.**, a 15-year-old girl whose whereabouts remained unknown since her alleged arrest on 17 February 2004. The Special Rapporteur sent an urgent appeal in connection with this case on 3 March 2004. In this context, the Special Rapporteur have received further information concerning **B.B.K.** (f), a 20-year-old resident of Kharelthok Villagde Development Committee (VDC) 4 of Kavre, who reportedly witnessed the arrest of Maina Sunuwar. According to the new information received, B.B.K. was arrested by the police of Bhagvati Station on 11 February 2004 at around 10 a.m., when she was returning home from Bhagvati Temple. She was arrested on suspicion of being a Maoist. It was reported that she was severely beaten on various occasions at Bhagvati Police Station where she was hit with plastic pipes, her head submerged into water, her knees and feet slit with a sharp blade and salt and chilli powder were sprinkled over the injuries. She was reportedly gang-raped by soldiers over 15 consecutive nights. She was also reported to have been forced to take sedatives. According to the information received, on 18 February 2004, she was taken to Bhagvatisthan and forced to show to the police the house of Maina Sunuwar. Ms. Sunuwar was arrested and they were both taken together to Shantigate Army Barrack and to Panchkal Centre, where they were kept in separate rooms and beaten. B.B.K. later reported that she had heard Maina Sunuwar screaming out of pain. On 19 February 2004, B.B.K. was taken to Dhulikhel Police Station and did not see Maina Sunuwar after that. Whenever she asked the police about her location and condition, she was given varying responses. On one occasion, she was told that Ms. Sunuwar had been killed. On 24 March 2004, B.B.K. was transferred from Dhulikhel Police Station to a Women Prison. No detention warrant had reportedly been issued by any judicial authority. It is reported that a foreign diplomatic embassy was informed by the army that Maina Sunuwar was killed when she tried to escape from custody, that an autopsy was conducted and the body handed over to her family. However, her relatives sustained that they had never seen her body nor received any information about her fate. Finally, according to information received, relatives of Maina Sunuwar were subjected to harassment and intimidation after her arrest.

643. On 12 July 2004, the Special Rapporteur, jointly with the Chair of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Babu Raja Prajapati**, a 38-year-old resident of Myehapi, Kathmandu Metropolitan City 06. He was a treasurer of a local organization known as Jyapu Malaguthi and member of All Nepal Peasants' Organization, Kathmandu District Chapter, affiliated with the Communist Party of Nepal Unified Marxist-Leninist (CPN-UML). According to allegations received, he was arrested by four security personnel in plainclothes on 6 July 2004 at 11 a.m. at his residence. The security personnel conducted a search of his house and interrogated him about the tenants of the house. He was taken away in a van and his whereabouts were not disclosed. His wife reportedly witnessed his arrest. She reported the case to a human rights organization, which in turn sent an appeal to the National Human Rights Commission, the Defence Ministry, the Home Ministry and other relevant authorities. In view of his alleged

detention at an undisclosed location, concern was expressed that he may have been at risk of torture or other forms of ill-treatment.

644. The Government sent a reply to the Special Rapporteur's communication of 12 July 2004, concerning **Babu Raja Prajapati**, stating that he had already been released from detention on 20 August 2004, at the time this reply was sent. The Permanent Mission informed the Special Rapporteur that further information would be provided in the future.

645. On 13 July 2004, the Special Rapporteur, jointly with the Chair of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Hari Sharan Maharjan**, a 23-year-old resident of Bosigaun, Ward No. 3 of Satungal Village Development Committee (VDC), of Kathmandu district. According to the allegations received, he was arrested by security personnel from the office of Machhindra Nath Brick Industry, Ward No. 4, Satungal VDC, on 2 July 2004 at 4 p.m. He was subsequently taken away and, since then, his whereabouts remained unknown. Although the reasons for his detention were not disclosed, it was believed that it was related to his suspected affiliation or support to the Communist Party of Nepal (CPN) (Maoist). The National Human Rights Commission (NHRC) and the International Committee of the Red Cross (ICRC) were informed about the case. In view of his alleged detention at an unknown location, concern was expressed that he might have been at risk of torture or other forms of ill-treatment.

646. On 21 July 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning four journalists, namely **Dil Bahadur Shahi** of the news agency **Rastriya Samachar Samiti**, **Hari Bishnu Oli**, of Kantipur Publications, **Narayan Shah**, of the weekly *Dristi*, and **Kamal Thapa**, of the weekly *Chhalphal*. According to information received, they were arrested on 11 July 2004 for having published articles about the alleged involvement of the head of the District Animal Care Office in financial irregularities in Rukum district. It is also reported that, prior to their arrest, they had gone to the office of the head of the District Animal Care Office to obtain more information about the allegations, but he was allegedly verbally abused by them. The District Animal Care Office's head reportedly filed a complaint against them at the District Police Office under the Public security law.

647. On 30 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Ajaya Shahi**, a 24-year-old butcher residing in Tusal Tole, Boudhanath Marg, Kathmandu municipality, Ward No. 6. He was a member of the Kathmandu branch of the Newa National Liberation Front, an organization promoting the rights of the Newari ethnic group, which was reportedly affiliated to the Communist Party of Nepal (CPN) (Maoist). According to allegations received, he was arrested at his place on 19 July 2004 at around 11 a.m. by six men in plainclothes who identified themselves as members of the security forces. Some persons allegedly witnessed the arrest. The security forces reportedly said that they wanted him for inquiries and took him away. His whereabouts remained unknown. It was believed that he might have been detained for being a member of the Newa National Liberation Front. His case was reported to the Defence and Home Ministries, the head of the security forces, the National Human Rights Commission (NHRC) and the Human Rights Promotion Centre in the Prime Minister's office. In view of his alleged detention at an undisclosed location, concern was expressed that he might have been at risk of torture or other forms of ill-treatment.

648. On 12 August 2004, the Special Rapporteur, 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 Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **several male transvestites** and the **Blue Diamond Society of Nepal**, a non-governmental organization working with sexual minorities on sexual health, including HIV-AIDS, and campaigning for the rights of sexual minorities. According to the allegations received, on 9 August 2004, **39 male transvestites**, called *metis*, all members of the Blue Diamond Society, were arrested on the street and in public places, including bars and restaurants. They were, at the time this communication was sent, being held in Hanuman Dhoka police station and were not given food or drinking water for their first 15 hours in custody. They were not charged with any offence at the time this communication was sent. Concerns were expressed that their physical integrity might have been at risk. On 25 July, the Police allegedly raped four male transvestites, **J.B.L., R.L., B and M**. They were reportedly stopped by the police at about 3:30 a.m. on a street near Jamal, forced into a police van, beaten, and their money was taken away. While driving around the city, the van stopped and one officer allegedly took J.B.L. into the street, beat him, forced him to perform oral sex and anally raped him. The men were then reportedly taken to Gausala police station, where R.L. was taken into the backyard of the police station, beaten and forced to perform oral sex. Although J.B. and R.L. managed to escape from the police, B and M were kept inside the van and were reportedly beaten and raped by approximately 12 policemen for around three hours. The Blue Diamond Society made a complaint to police authorities about this attack, Concern was expressed that the arrests might have been in retaliation to this complaint. A private writ was then filed with the Supreme Court of Nepal against the Blue Diamond Society, a non-governmental organization which is a member of the Asia Pacific Council of AIDS Service Organizations. The writ called for the closing down of the Blue Diamond Society on the grounds that the organization "promotes homosexuality". Concerns were expressed that defending this court action would seriously hinder the effective functioning of the Blue Diamond Society, given the organization's limited human and financial resources, and that closing down the Blue Diamond Society would be detrimental to HIV-prevention efforts in Nepal. Concerns were also expressed that other organizations working in the area of HIV prevention could be open to similar charges.

649. On 26 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Subid Guragain**, a local reporter for the daily *Rajdhani*, published in Kathmandu, and vice-chairperson of the Sunsari section of the Federation of Nepalese Journalists (FNJ). He published two articles criticizing the Royal Nepal Army (RNA) for their alleged mistreatment of citizens. He was arrested on 17 June 2004 in Sunsari district and kept for three hours at the Shree Meher Company headquarters. During his detention, he was severely beaten with gun butts and army boots. He was reportedly threatened with death. Moreover, **Ram Mani Misra**, sub-editor of the weekly *Nawajagriti* and central councillor of the Federation of Nepalese Journalists (FNJ) was approached by RNA personnel in Siraha district on 19 July 2004, when he was crossing a road to go to his press office. Without giving any reason, RNA personnel beat him. Information was also received according to which an order banning public demonstrators and the assembly of more than five persons within the Kathmandu Ring Road and Lalitpur areas was issued by the Kathmandu District Administration on 8 April 2004. In the weeks before this order was issued, massive demonstrations had reportedly been held for a return to multi-party democracy and the reinstatement of an elected

Government. Following this order, demonstrators were reportedly violently repressed. Many of them were reportedly beaten and arrested without warrants by armed police. In this context, **Girija Prasad Koirala**, the President of the Nepali Congress, was arrested along with 1,000 allegedly peaceful demonstrators on 15 April 2004 in the Bagbazaar area, Kathmandu. The armed police reportedly threw stones at the demonstrators in and around Padma Kanya Campus. **Kamala Pant**, an employee at Nepal Bank Ltd. who had recently given birth to a child, was reportedly manhandled and dragged on the ground by the police. **Ram Kumar Mahato**, a journalist with the Janakpur Bishow Jagaran, Danusha, was reportedly beaten with lathi on the head and was subsequently hospitalized. **Om Bandhu Karki**, a journalist for the *Naulo Nepal Weekly*, **Ram Prasad Adhikari**, a Central Committee member of the Nepal Student Union, **Jeevan Dangol**, a former Central Committee member of Nepal Student Union, **Devendra Niroula**, from Solukhumbu, and at least five other people were injured on the head with stones reportedly thrown by the police. They were all also hospitalized. **Kudan Kaphley**, President of the Student Union of Pashupati Bahumukhi Campus, Chabahil, was also injured. It was also reported that 1,000 persons, including demonstrators, journalists, lawyers and bystanders, were detained in the Nepal Food Cooperation Godown, in facilities usually used for the storage of animals, without access to basic needs such as shelter from the rain, bedding, drinking water, adequate food or toilet facilities. Two hundred women were reportedly held along with men, with no separation. Moreover, **N.M.**, a 16-year-old student, who was also the subject of a joint urgent appeal sent on 13 November 2003 (E/CN.4/2004/62/Add.1) by the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, according to further allegations received, was harassed following his release by security forces personnel, who asked him to contact them regularly. On 8 January 2004, he was reportedly told by security forces personnel that, if he did not hand over another person, he would himself be arrested again. If they could not find him in his house, they would then arrest other members of his family. N.M. reportedly killed himself the following day. It was believed that he committed suicide to escape the threats and harassment by the security forces.

650. On 1 September 2004, the Special Rapporteur sent an urgent appeal regarding **Arun Shingania**, publisher of *Janakpur Today* newspaper in Janakpur, Dhanusha district. According to reports, on 15 August 2004, he received a death threat (by a person whose name is known to the Special Rapporteur). The same morning, Shingania reportedly received an anonymous telephone call in which he was also threatened with death. In a previous incident, **Brij Kuman Yadav**, editor of the *Janakpur Today* was assaulted by an individual at the newspaper's office. The motive for the attack reportedly remained unknown at the time this communication was sent. Fears were expressed for the physical integrity of Arun Shingania. It was also reported that, on 22 August 2004, **Punya Prasad Poudel**, editor of the daily *Pokaharpatra* in Pokhara, Kaski district, was threatened by the outgoing vice-president of the district development committee for reporting on the vice-president's alleged involvement in misusing Pokhara stadium land for personal business. On 29 August 2004, **Raju Timilsina**, camera operator for the private television station Kantipur in Nayabaneswor, Kathmandu, was reportedly assaulted by a group of four persons who damaged his camera in the incident. The motive for the attack remained unknown at the time this communication was sent.

651. On 15 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning

Hira Lal Khadka, chairman of the Rukhum district branch of Human Rights and Peace Society (HURPES), Nepal. According to the information received, on 29 August 2004, at approximately 8 p.m., Hira Lal Khadka was arrested at his home/office in Jumlikhalanga, Rukum district and taken to Rukum District Police Office. It was reported that prior to his arrest, an estimated 40 to 50 police officers surrounded the building and searched his home. It was further reported that a detention order had been issued against Hira Lal Khadka under TADA, authorizing his detention for 90 days without trial. In the days subsequent to his arrest, he was allegedly given a letter in which he was accused of publishing pamphlets written by relatives of members of the Communist Party of Nepal (CPN) (Maoist) who had “disappeared”. Sources indicated that these pamphlets appealed to the authorities to make known the whereabouts of the “disappeared”. After three days in detention, representatives of civil society were allowed to visit him and, according to reports received, it was feared that he might have been subjected to ill-treatment. On 6 September Hira Lal Khadka was reportedly transferred to Nepalgunj Prison, Banke district, where he remained in detention. Concern was expressed that Hira Lal Khadka might have been arrested and detained as a direct result of his human rights activities as chairman of HURPES and, in particular, his public condemnation of human rights violations, including disappearances, allegedly committed by the security forces. Further concern was expressed for the safety of Hira Lal Khadka after the alleged killing of Dekendra Raj Thapa on 11 August 2004, also a member of HURPES whose case was also the subject of a communication sent to the Government on 14 September 2004.

652. On 23 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Man Bahadur Budhamagar**, a 22-year-old farmer-resident of the Basneuta Village Development Committee, who was reportedly arrested by members of the Royal Nepal Army at around 12.30 p.m. on 16 September 2004. The arrest took place as Man Bahadur Budhamagar was on his way to the District Administration Office of the Majaha Gaon Army Barrack Mahendra Nagar, Kanchanpur District, to which he had been ordered to report. He was stopped and put into an army van, blindfolded and taken to the Majaha Gaon Army Barrack, where he was believed to be detained at the time this communication was sent. Man Bahadur Budhamagar had already been arrested on 17 August 2004 and detained at the above-mentioned barracks until 2 September 2004. During this period of detention, he was subjected to repeated assaults by members of the Army, aimed at extorting information on Maoist activities. Man Bahadur Budhamagar required medical treatment after his release. The arrest of Man Bahadur Budhamagar on 16 September 2004 was reportedly motivated by the accusation that he defamed the Royal Nepal Army after his release on 2 September 2004. His detention raised serious concerns in the light of the treatment he was allegedly subjected to during his first period of detention. Moreover, considering that Man Bahadur Budhamagar was denied access to his family and lawyers, fears were expressed that he might have been at risk of torture or other forms of ill-treatment.

653. On 14 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the question of torture, sent an urgent appeal regarding **Yagya Dhakal**, publisher and chief editor of *Aawaj Weekly*, from Shantinagar, Kathmandu. According to the allegations received, on 9 October 2004, plainclothes security forces arrested him without charge and took him to an undisclosed location.

In view of his alleged detention at an undisclosed location, concern was expressed that Yagya Dhakal might have been at risk of torture or other forms of ill-treatment.

654. On 14 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding **Ek Nath Chaulagain**, a businessman aged 42 and resident of Koteshwor, Kathmandu. Ek Nath Chaulagain was reportedly first arrested at his home in Koteshwor, Kathmandu, on 11 September 2003 for his alleged links with the Communist Party of Nepal (CPN). Reports suggested that he was being held at Singha Durbar army barracks, and was then later moved to Bhadra Bandi Griha jail, where his family was able to visit him. On 16 August 2004, they were told that he would be released, and his wife signed the release papers. However, when Ek Nath Chaulagain left the jail, he was re-arrested by soldiers in civilian clothes and taken away in a pickup truck. He was held at an unknown location for a week. Subsequently, he was taken back to the Bhadra Bandi Griha jail in Tripureshwar, Kathmandu. His family was able to visit him, but he had not been told why he was being detained. A communication was sent by the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention to the authorities on 1 October 2003 regarding Ek Nath Chaulagain (E/CN.4/2004/62/Add.1). On 2 December 2003, a second communication was sent to the authorities by the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression, the Special Rapporteur on the question of torture (E/CN.4/2004/62/Add.1). Considering the circumstances of Ek Nath Chaulagain's rearrest on 16 August 2004 and his past detention at undisclosed locations, concerns were expressed that he might have been at risk of torture or other forms of ill-treatment.

655. On 14 October 2004, the Special Rapporteur, sent a letter of allegation regarding the following events:

- On 11 October 2003, when security forces reportedly detained journalist **Sharad Adhikari** for approximately one hour in Kusum, Banke district. Adhikari was taken into custody while gathering information following a clash between Communist Party of Nepal (CPN-Maoist) rebels and security forces in the region. Police Inspector Ram Bahadur Thapa arrested Adhikari, alleging that he was tied to the CPN-Maoist. Adhikari had been working as a reporter for the daily *Space Time* in Dang district. He was under surveillance by the security forces. On the same day, plainclothes security forces reportedly arrested Subindra Budhamagar, publisher of the monthly magazine *Nischal*, in Balaju, Kathmandu. Security forces also raided his rented room and confiscated his mobile phone. The same day, security forces raided the premises of Inderni Offset Printing Press in Baghbazar, Kathmandu, where *Nischal* was printed. Security forces confiscated printed materials, including a biography of Latin American revolutionary Che Guevara, written by prominent journalist Rajendra Maharjan;
- On 3 November 2003, security forces reportedly arrested journalist **Madhav Bidrohi** in Jhiljhile, while he was on his way from Birtamod to Damak, in Jhapa district. He was detained at the Char Aali Military Barrack. He was released after five hours in detention. Bidrohi is the Federation of Nepalese Journalists' (FNJ) Jhapa section president and works for the daily *Space Time*. The security forces also confiscated his belongings;

- On 4 November, security forces reportedly physically assaulted journalist **Umesh Ojha** at the main entrance to Tribhuvan International Airport in Kathmandu. Ojha is associated with the State-owned daily *Gorkhapatra*. A police constable pushed the journalist and threw his “press pass” to the ground;
- On 9 November 2003, security forces reportedly searched reporter **Shahi Man Rai’s** personal belongings and confiscated documents related to rebel activity in Bhojpur district, eastern Nepal. Rai is based in Khotang and works for Kantipur Publications. According to information received, security personnel searched the hotel room where the reporter was staying and confiscated eight photographs related to the rebels’ activities. The photographs showed a wounded rebel, images of the Village Development Committee (VDC) office after it had been vandalized, banners related to Kirat Autonomy and rebels role-playing using sophisticated weapons, such as machine guns. News reports further stated that the army personnel went straight to the journalist’s room and started looking for items that could be considered incriminating, even after being shown the reporter’s identification card. The four officers, who were part of a large military contingent that had come to the village where Rai was staying, said that the photograph of the injured rebels would be returned to the journalist. However, Rai was not told when and where he could recover the photographs;
- On 13 November 2003, the Royal Nepal Army (RNA) reportedly arrested and detained journalist **Sharad Adhikari** in Ghorahi. According to reports, the journalist was kept in a dark room and beaten up by a lieutenant and a major (whose names are known to the Special Rapporteur). He was released after spending several hours in detention. Adhikari works for the Kathmandu-based daily *Space Time* and weekly *Janaastha* and has been in journalism for the past eight years. According to information received, Adhikari was detained and tortured for writing news reports about the killing of peasant Lotan Chaudhari. His reports were published in the 12 November issues of both newspapers. On 7 November, Chaudhari was shot dead by the RNA in Tribhuvan municipality, in the Masina area of Dang district, while he was working in a corn field;
- In a separate incident, NPA interrogated reportedly **Babita Basnet**, editor of the weekly *Ghatana Ra Bichar*, for approximately one and a half hours. The security forces asked her about a news report on Lieutenant General Bibek Kumar Shah in the weekly’s 12 November edition. King Gyanendra reportedly dismissed Shah from his position as military secretary earlier in the week. Army sources claimed that the editor was called in for a “friendly talk”. However, it was said that the army asked her the source of the story and let her go, under condition that she should report to them whenever summoned. Basnet is also associated with Sancharika Samuha, an organization of women journalists, and is a member of the International Press Institute Nepal National Committee;
- On 19 December 2003, plainclothes security personnel reportedly arrested journalist **Marika Poudel** from the office of Nepal One television station, which operates from Delhi, India. Reports indicate that the security personnel detained Poudel in order to interrogate him and gave assurances that he would be released,

but the journalist's whereabouts were unknown at the time this communication was sent;

- On 5 January 2004, **Rabindra Shah**, managing editor of the weekly *Biswo Jagaran*, was reportedly held for one day in Janakpur, Dhanusha district, after his paper carried an article about an army officer;
- On 6 January 2004, security forces reportedly assaulted journalists **Bal Ram Baniya, Ghana Shyam Ojha, Ajaya Siwakoti, Rohit Dahal, Sita Ram Parajuli** and **Prabin Dhakal** in Ratna Park, Kathmandu. The journalists were brutally beaten while they were gathering information on a protest rally against the king's assumption of executive power, which took place on 4 October 2002. The rally had been organized by the major political parties. Baniya and Ojha are associated with the daily newspapers *Kantipur* and *The Kathmandu Post*. Siwakoti, Dahal, Parajuli and Dhakal are associated with Image Metro television station and the weekly *Budhabar*. Dilip Pokhrel and Dilip Thapa Magar, camera operators for Image Metro television station, were also injured in the same incident;
- On 9 January 2004, according to information received, **N.M.**, aged 16, killed himself one month after he was released. He appears to have taken his own life to escape threats and harassment by the security forces. Following his release he was reportedly harassed by security forces personnel, who asked him to contact them regularly. On 8 January security forces personnel reportedly told him that if he did not hand over another person—whom Naresh Maharjan apparently did not know—they would come to his house to arrest him the following evening. The security forces personnel also said that, if they did not find Naresh Maharjan in his house when they came for him, they would arrest members of his family instead. Naresh Maharjan reportedly killed himself at around 3 p.m.;
- On 30 January 2004, according to reports, the security forces physically assaulted three journalists from the daily *Nepal Samacharpatra* in Kathmandu. Associate editor **Tank Panta**, reporter Ram Prasad Shrestha and photojournalist **Naresh Poudel** were beaten and verbally abused while covering a protest rally organized by five opposition political parties. A police officer also attempted to confiscate a cassette recorder from *Nepal Samacharpatra* journalist Saroj Dahal. The officer also warned the journalist against complaining about his behaviour. In a separate incident, the Rajbiraj District Administration Office issued a charge sheet calling for the arrest of journalist Ashok Sharma. The charge is based on an article that appeared in the newspaper *Rajbiraj Today* on 19 January about kerosene price hikes on the local market;
- On 1 February 2004, two men in civilian clothes allegedly arrested reporter **Shakti Rak Bhattari**, of the weekly *Sachar Darpan*, in Pokhara. According to information received, his family has had no news of him since and they do not know why he was arrested. In a separate incident, police officers reportedly forcefully entered the Kathmandu offices of the weekly *Drishti* and assaulted reporter Saroj Adhikari and computer operators Kedar Adhikari and Ram Krishna Rana. The officers also caused damages to the office premises. They claimed to be pursuing protesters who had earlier taken part in a demonstration against King Gyanendra;

- Journalist and lawyer **Jeetaman Basnet** was reportedly last seen on 4 February 2004 talking to three people in uniform in Kathmandu. His family allegedly informed the Nepalese Human Rights Commission of his disappearance;
- On 5 February 2004, customs officials in Tatopani, Sindhupalchowk district, at the Nepal-China border, reportedly physically assaulted journalist **Pabitra Kumar Khadka**, who is associated with the Tatopani-based weekly *Ghatana Ra Bichar*. Khadka was allegedly attacked for publishing a report about irregularities committed by certain customs officials in the region;
- On 7 February 2004, **Padma Raj Devkota** was reportedly killed by the security forces in the western district of Jumla during routine security operations in the area. According to information received, Padma Raj Devkota had been working as editor-in-chief of *Bhurichula* newspaper, published twice monthly. The journalist also worked as a local correspondent for *Nepal Today* magazine and *Karnali Sandes*, both published in Kathmandu. It was reported that the security forces had claimed that Padma Raj Devkota was killed along with six Communist Party of Nepal (CPN-Maoist) rebels;
- According to reports, in a 9 February incident, two student leaders associated with the Nepali Congress Party, **Hari Sigdel** and **Padama Bahadur Khati**, physically assaulted journalists Amar Raj Nakarmi and Sankar Raj Nakarmi. The journalists are affiliated with the *Nepal Samacharpatra* and *Space Time* dailies, respectively. The attack allegedly came in response to their recent news reports criticizing Nepali Congress Party leader Govinda Raj Joshi;
- **Asif Hussein**, a senior journalist with the *Sunday Observer*, was reportedly dismissed by ANCL (Associated Newspapers of Ceylon Limited) management on 11 March 2004. According to reports, ANCL argued that Asif Hussein had “caused irreparable damage to the reputation of the entire organization by way of hurting the feelings of the world Buddhist community. And by such actions he had further brought disrepute to the leadership of the *Sunday Observer*, of which the majority is Buddhist”. According to information received, Asif Hussein’s dismissal was attributed to an indictment on 6 January 2002 for an article written on the Tooth Relic, held sacred by the Buddhist community. It was reported that Asif Hussein was later exonerated of all charges and reinstated at the *Sunday Observer*. On 5 March 2004, after the presidential takeover of the media ministry, Asif Hussein was allegedly indicted by the newspaper’s new management;
- **Laskman Gunasekara**, chief editor of the *Sunday Observer*, the weekend English-language newspaper of the State-owned ANCL, was reportedly relieved of his editorial responsibility on 18 March 2004. Although no formal reason was given for his suspension, it was believed that Laskman Gunasekara’s editorializing that State-owned media should maintain a neutral position during election periods led to his dismissal. According to information received, Laskman Gunasekara has served as editor for more than three years, under the tenures of both main political parties. On the same day, in a separate incident, Kusum Weeratunga, manager of a community radio station in Uva province, was reportedly transferred and replaced by Pradeep Weerasinha. According to information received, this action resulted in protests from staff members of the

radio station and claims that the management change was to enable political propaganda programming to be launched during the election campaign;

- The house of **Raynor Silva**, ABC Radio managing director, was reportedly attacked by grenade on the night of 28 March 2004 as an act meant to intimidate the ABC radio network. According to reports, the attack injured a security guard and caused extensive damages to some vehicles. It is believed that Minister Lakshman Kadirgamar cancelled a licence given to the ABC network to operate a TV station, but ABC's management was able to obtain a stay on the Minister's cancellation. According to information received, this action was seen as a step to restrict the activities of the ABC network;
- In a separate incident, the *Sunday Leader* press housed in Ratmalana was allegedly raided by the Mount Lavinia police on 28 March 2004, without a proper court order or search warrant. According to information received, The *Sunday Leader* and its editor, **Lasantha Wikramatunga**, have faced many attacks in the past and have been severely criticized by the President's political alliance. It is feared that this raid could be part of the ongoing harassment of the *Sunday Leader*;
- On 2 April 2004, the police inspector reportedly verbally abused and harassed journalist **Shiva Lamsal** in Naya Baneshwar, Kathmandu. Lamsal, who is president of the Nepal Press Union's Kathmandu section, was reporting on the ongoing protest launched by five major political parties against King Gyanendra's policies. Lamsal was a special correspondent for the Nepal One television network, which broadcasts from Delhi;
- On 3 April, a group of students allegedly seized and damaged journalist **Dipendra Baduwal**'s camera in Butwal, western Nepal. Baduwal, who works for Kantipur Publications, was taking pictures of a public bus whose tires had been set on fire when the scuffle took place. His camera was returned following a meeting between the students and journalists;
- On 4 April 2004, **journalist K. B. Jumli** (Khada Bahadur Swar) was reportedly arrested at his residence and transferred to the local prison on 11 April 2004. According to information received, K. B. Jumli had been working as a local correspondent for *Nepal Samacharpatra* and had also worked as a primary school teacher in Jumla district. According to reports, the Jumla district local administration office sentenced K. B. Jumli to 90 days in prison for his alleged involvement in Communist Party of Nepal (CPN-Maoist) activities;
- On 6 April 2004, **Demling Lama**, a journalist associated with the Himalayan Broadcasting Corporation's HBC FM radio station, reportedly received a threatening telephone call from Chief District Officer Rudranath Basyal, in the Sindupalchowk district, north of Kathmandu. According to information received, Rudranath Basyal threatened the journalist for broadcasting new reports on HBC FM radio station regarding the resignation of a Nepal police official. On the same day, in a separate incident, Ram Chandra Basnet, of the weekly *Sanghu*, was allegedly beaten by a Nepal Police official in Kathmandu;

- On 8 April 2004, an order banning public demonstrations and the assembly of more than five persons within the Kathmandu Ring Road and Lalitpur areas was allegedly issued by the Kathmandu District Administration. Following this, journalists and demonstrators have reportedly been violently repressed;
- On 10 April 2004, six unidentified assailants attacked **Krishna Lamsal**, managing editor of the weekly *Rastriya Janamancha*, at his residence in Bakhtapur. It is believed that Krishna Lamsal sustained injuries to the head and his right leg was fractured;
- On 11 April 2004, security forces allegedly released **50 journalists** after detaining them for two hours in Kathmandu. It was believed that these journalists were taking part in a protest against the 8 April renewal of the Government's prohibition of public assemblies of more than five people;
- In the afternoon of 15 April 2004, over **1,000 peaceful demonstrators** reportedly arrested and then held in warehouses and other overcrowded and unsanitary locations unsuitable for the detention of prisoners—in many cases for a number of days—before being released without charge. In addition, it was believed that three students and 11 political party members, who reportedly participated in the protests, including the President of the Nepali Congress, Girija Prasad Koirala, are being held in preventive custody under the Public Security Act. Some of those arrested allegedly continue to be held incommunicado;
- On 17 April 2004, the security forces reportedly arrested nearly **200 journalists** from different locations in Kathmandu. They were held at several detention centres and released the same day, between 6 and 8 p.m. (local time). The journalists were protesting the 16 April 2004 detention of 74 journalists who were arrested while reporting on a protest organized by five main political parties. Of those arrested on 16 April, two were beaten following their arrest and released on the morning of 17 April;
- On 20 April 2004, journalist **Prajaya Shukla**, who worked for the weekly *Jana Ekata*, was reportedly injured in Kathmandu by police while breaking up a protest rally organized by five political parties. The journalist's left leg was broken by a police officer who struck him with a baton. The police assaulted and injured several other journalists in the incident, despite the fact that media representatives allegedly displayed their press cards and wore clearly identifiable press jackets;
- On 21 April 2004, senior photojournalist **Gopal Chitrakar**, who works for the daily *Kantipur*, was reportedly seriously injured by police officers who were dispersing protesters in Baghbazar, Kathmandu. He suffered a serious head injury after being struck by stones that were thrown by police. Journalists Sagar Shrestha and Milan Pandey were also injured in the incident. They suffered minor injuries after being hit by stones in the same incident. Police also used batons to break up the demonstration;
- On 30 April, according to information received, a police officer physically assaulted journalist **Punya Bhandari**, of Radio Sagarmatha, a community radio station, in front of Kathmandu's Royal Nepal Airlines (RNAC) building. Bhandari was also reporting on the demonstrations launched by the five main

political parties. The police officer allegedly dragged the journalist on the ground and severely beaten him, even though Bhandari showed him his press identity card;

- On 1 May 2004, police officials under the command of an inspector (whose name was known to the Special Rapporteur) interrogated journalist **Dinesh Acharya** in Bidur, Nuwakot district, regarding a 30 April news report published in the local weekly *Trishuli Prawaha*. The police also searched Acharya's residence before taking him into custody. They confiscated a Communist Party of Nepal (CPN-Maoist) press statement and publications by the Human Rights and Peace Society (HURPES). Acharya was released after spending a few hours in detention. According to the journalist, the police asked about the confiscated press statement and his contacts with CPN-Maoist leaders;
- In a separate incident, on 1 May the police detained journalists **Janma Dev Jaisi, Dhurba Raimajhi, Subash Pokhrel** and **Amrit Baniya** for about five hours. The journalists were arrested on Kathmandu's New Road while reporting on a protest organised by Nepal's five main political parties. The same day, security forces also briefly detained journalist Om Dhungana, of *Diamond Time* magazine. Dhungana was arrested in Chabahil, Kathmandu;
- On 3 May 2004, police officers reportedly assaulted journalists **Dipak Rijal, Lila Raj Khanal, Mukunda Subedi** and **Damodar Dawadi** in the Putali Sadak and Bhrikuti Mandap districts of Kathmandu. The journalists were severely beaten by officers who ignored their press identification and hit them with batons. The journalists were covering a street demonstration organized by Nepal's five leading political parties. They were treated for their injuries at Miteri hospital, in Bagh Bazar, Kathmandu;
- On 7 May 2004, police officers reportedly assaulted at least a dozen journalists, including **Dipendra Kunwar, Jitendra G.C.** and **Dinehsh Pande**, in the town of Butwal, Rupandehi district, western Nepal. The journalists were severely beaten while they were covering a referendum held in Butwal by Lumbini Commerce Campus students. The police also assaulted other journalists, including **Sher Bahadur K.C., Yub Raj Pande, Dipendra Baduwal, Ram Prasad Acharya, Bishnu Prasad Ghimire** and **Bishnu Poudel**, at the Saugat Hotel, where they were having lunch after visiting their injured colleagues at the Lumbini Zonal hospital. The journalists who were assaulted work for several local newspapers;
- On 12 May 2004, the police reportedly arrested **7 civil servants** during a peaceful rally in Kathmandu, in which over 500 civil servant and over 1,500 persons representing different professional organizations participated. According to reliable sources, the arrested civil servants were held in the following detention centres: at Tinkune Police Post, Kathmandu—**Bhola Dawadi** and **Sri Narayan Pathak**; at Anamnagar Police Post, Kathmandu—**Tara Koirala, Tilak Khanal, Daya Ram Pandey**; at Kamal Pokharai Police Post—**Rudra Khanal** and **Milan Dhakal**;
- On 13 May 2004, according to reports received, the police arrested 12 civil servants (**Tara Nath Subedi, Lok Nath Kaphley, Govinda Sahi, Shyam Bahadur Khadka, Dharma Bairagi, Ram Hard Pudasaini, Prasanna Koirala,**

Ramesh Pokharel, Ms. Sita Giri, Ms. Rajeshwori Pandey, Ms. Durga Thapa and Ms. Pabitra Parajuli) during a peaceful rally in New Road, Kathmandu. They were detained in Jansewa Police Custody, Bissal Bazaar, and Kathmandu. They were arrested without warrant. Men and women were kept in the same room. One of the detainees, Ms. Sita Giri, was taken to the Bir hospital this evening as she reportedly fell unconscious after police personnel kicked her during custody. None of the detainees arrested were provided access to lawyers. Their family members were not allowed to visit them. Except Ms. Giri, none of them have reportedly been provided medical attention. Those arrested have neither been released nor were they taken to the court today, although the Nepali constitution requires that any arrested person should be produced before the court within 24 hours of arrest;

- On 15 May 2004, poet **Bimal Nibha** was reportedly brutally beaten by a group of police officers in Hanuman Dhoka, Kathmandu, while returning to his residence. He was found bleeding and managed to get home with the assistance of local people after police left the scene;
- On 16 May 2004, a police officer under the command of an inspector (whose name is known to the Special Rapporteur) reportedly physically assaulted journalist **Jagat Nepal** in Khasi Bazar, Kathmandu, while he was covering a protest rally organized by student groups. The journalist works for the private television network Kantipur Television. His journalist identity card was clearly displayed when he was brutally beaten. He was wounded in the neck and was treated for his injuries at Model hospital.

656. On 29 October 2004, the Permanent Mission of the Kingdom of Nepal to the United Nations and other International Organizations in Geneva, informed the Special Rapporteur that his communication of 14 October 2004 had been forwarded to Kathmandu for speedy action.

657. On 25 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal regarding **Rajendra Karki**, a journalist for the Kathmandu-based daily *Rajdhani*. On 7 October 2004 a group of police officers beat Rajendra Karki in Jajarkot district, as he was returning from reporting. One police officer threatened to kill him if he “went on talking”. Mr. Karki tried to register a complaint but the police officers refused to record it.

658. On 17 November 2004, the Special Rapporteur sent a letter of allegation concerning Nepalese police officers who, on 4 November 2004, allegedly assaulted journalist **Surya Bahadur Chanda**, a district correspondent for the State-owned daily *Gorakhapatra*, despite having showed his press identification to the police officers. This reportedly took place while Mr. Chanda was gathering information in Kanchanpur, Western Nepal, specifically in front of the Nepal Electricity Authority.

659. On 22 November 2004, the Special Rapporteur, jointly with the Chair of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Prakash Thapa**, a 36 year-old construction worker, Kapan Village Development Committee, Kathmandu District. According to the allegations received, on 10 November 2004 at 11:30 p.m., he was arrested at home by six security forces

personnel. Three of the men were wearing civilian clothes, while the other three wore army uniforms. They searched the house and took away a computer and Prakash Thapa's mobile phone. They said that they were taking him away for questioning and would inform the family when the investigation was completed, in about two to three days. It was reported that Prakash Thapa was taken away in a pickup truck. Prakash Thapa's family members visited local army barracks but were unable to locate him. Prakash Thapa was reportedly a member of Amnesty International. In view of his alleged detention in an unknown location, concern was expressed that he might have been at risk of torture or other forms of ill-treatment.

660. On 25 November 2004, the Special Rapporteur sent a letter of allegation concerning two bombs, which were reportedly planted on the premises of **Triyuga Offset Printing Press** in Anamnagar, Kathmandu, on 20 November 2004. Triyuga Offset Printing Press is situated next to the Asia Pacific Communication Association building, which association publishes the two prominent dailies *The Annapurna Post* and *The Himalayan Times*. One of the bombs exploded, causing minor damages to the Triyuga building itself as well as six other surrounding buildings. No one was injured. The second bomb was detonated by the Royal Nepal Army. According to information received, Maoist rebels who were initially suspected for having planted the bombs have declined responsibility.

661. On 14 December 2004, the Special Rapporteur, jointly with the Chair of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Prakash Thapa**. He was the subject of a joint urgent appeal sent by the Chair of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the question of torture and the Special Rapporteur on the right to freedom of opinion and expression, dated 22 November 2004. According to new information received, on 9 December 2004, Prakash Thapa was released, but rearrested immediately after. He and his wife left the building compound of the Chief District Officer together with some human rights activists and proceeded to leave in a taxi. A Tata van with registration number "Ba 1 Cha 9769" stopped in front of it, and security forces personnel in plainclothes emerged from it and took Prakash Thapa away. Before he was taken away, Prakash Thapa confirmed to his wife that the security forces personnel were from the Shree Jang army barracks. He also confirmed that he had been tortured in detention, but that a soldier had told him that, due to his link to a "U.K.-based organization", he was not tortured as badly as some of the other detainees. Following his previous arrest, a habeas corpus petition was filed at the Supreme Court on 16 November 2004. On 2 December, the Supreme Court informed the family that Prakash Thapa was held on the orders of the Kathmandu Chief District Officer at the Shree Jang army barracks, Singha Durbar, under the Terrorist and Disruptive Activities (Control and Punishment) Act (TADA). The Shree Jang army barracks also confirmed to the Supreme Court that he was being held there by the order of the Kathmandu Chief District Office. The Court subsequently ordered the Shree Jang army barracks to release Prakash Thapa.

Observations

662. The Special Rapporteur thanks the Government for its replies to his communications of 3, 25 and 26 February, 4 and 24 March 2004, 2 and 14 April, and 12 July and 14 October 2004. He awaits, however, replies to his communications of 10, 13, 16, 26 and 27 February, 1, 2, 4, 10, 17, 19 and 26 April 2004, 2, 9 and 11 June 2004, 7, 13, 21 and 30 July 2004, 12 and 26 August

2004, 1, 15 and 23 September 2004, 14 and 25 October 2004, 17, 22 and 25 November 2004 and 14 December 2004.

Nicaragua

663. El 17 de septiembre 2004, el Relator Especial envió una comunicación en relación con los sucedido el 22 de octubre de 2003, cuando una juez habría ordenado que se impidiera el acceso a la periodista **Eloísa Ibarra**, de *El Nuevo Diario*, a las instalaciones de la Dirección de Auxilio Judicial, donde se encontraba detenido el ex presidente Arnoldo Alemán quien sería procesado por delitos de corrupción. El 10 de febrero de 2004, el periodista nicaragüense **Carlos José Guadamuz** habría sido asesinado a balazos, cuando llegaba a su trabajo. El periodista presentaba el programa vespertino “Dardos al centro” en el Canal 23 en Managua.

664. Por carta con fecha de 4 de enero de 2005, el Gobierno transmitió la siguiente información en relación con la comunicación del 17 de septiembre de 2004.

- En relación con el caso de la periodista **Eloísa Barra**, no hubo proceso de investigación porque no se habría interpuesto denuncia o demanda alguna. La situación expuesta por el Relator Especial habría representado un hecho personal y aislado. La víctima manifestó que habría continuado realizando su trabajo en un ambiente hostil por la actitud personal de la juez hasta que la misma fue nombrada Magistrado del Tribunal de Apelaciones por lo que ya no se relacionaban de manera directa. De acuerdo con una entrevista realizada con Eloísa Barra tanto ella como el medio de comunicación para el cual trabaja decidieron de no denunciar dado que por el tipo de trabajo que desarrollan se tenían que relacionar constantemente con la juez;
- El 10 de febrero de 2004 el periodista **Carlos José Guadamuz Portillo** llegó como era su costumbre al parqueo del edificio donde se encuentra el periódico Bolsa de Noticias y el Canal 23 de televisión a las 15.50 para realizar su programa televisivo. Ese día el periodista llegó acompañado de su joven hijo E.E.G.Q. y su conductor. Cuando salió del vehículo le salió al paso un individuo (cuyo nombre es conocido por el Relator Especial), quien portaba un arma de fuego oculta en un periódico y le disparó en tres ocasiones. También disparó al hijo del periodista al verse perseguido por él, pero el joven logró alcanzarlo y retenerlo a pocos metros del lugar. La Fiscalía, en coordinación con la Policía Nacional, realizó las investigaciones y promovió la acción penal. En la audiencia preliminar se decretó la prisión preventiva como medida cautelar. El 20 de febrero de 2004, la Fiscalía presentó escrito de intercambio de información y prueba donde se ofrecía elementos probatorios tales como 19 declaraciones testimoniales, 44 pruebas documentales, y pruebas instrumentales varias incluso el revólver con el cual fue baleada la víctima;
- En al audiencia inicial el acusado, utilizando el artículo 271 del Código Procesal Penal declaró en forma voluntaria admitiendo los hechos y declarándose como responsable material e intelectual, renunciando al juicio oral y público. Sin embargo expresó que no aceptaba la calificación del hecho como delito de asesinato sino como homicidio doloso. La fiscalía solicitó no se admitiera la petición del acusado, por cuanto el artículo 271 establece que el acusado debe

admitir los hechos por los que se formuló acusación, en este caso asesinato y homicidio frustrado. De conformidad con el artículo 271 se rechazó la declaración de culpabilidad hecha por el acusado y ordenó la continuación del proceso. En la audiencia también fueron admitidas las pruebas presentadas por el Ministerio Público. En la audiencia preparatoria el acusado manifestó que declaraba sin presión ni halagos, que asumía y aceptaba su responsabilidad total individual y personal de los hechos por los que se le acusó, admitió ser autor intelectual y material de los dos hechos lo que fue admitido por la judicial;

- El 19 de abril se dictó sentencia de condena al acusado como autor directo del delito de asesinato, condenándolo a la pena principal de 18 años de presidio y 3 años y 6 meses por tentativa de homicidio. Respecto a la posible participación de dos individuos (cuyos nombres son conocidos por el Relator Especial), los acusados se sometieron a ser juzgados por juez técnico. La judicial declaró la no culpabilidad y absolviendo de toda pena de los dos acusados de ser respectivamente cómplice y cooperador necesario;
- El Ministerio Público interpuso recurso de apelación del fallo judicial dictado al acusado (cuyo nombre es conocido por el Relator Especial), con fundamento en los siguientes agravios: falta de correlación entre acusación, admisión del hecho y sentencia; calificación jurídica errónea; falta de proporcionalidad de la pena impuesta con la circunstancia de hecho y la peligrosidad del agente. En el recurso se solicitó audiencia oral para presentar los fundamentos del mismo y ratificar la solicitud de que se resuelva: tener como culpable al acusado de todos los hechos por los que le acusó el Ministerio Público; que se califique el hecho de haber querido dar muerte al hijo de la víctima como delito de homicidio frustrado; que se reforme la sentencia en cuanto a la pena impuesta imponiéndosele la pena máxima de 30 años;
- También el Ministerio Público, en desacuerdo con el fallo judicial en la que se dictó la no culpabilidad a los dos acusados, arriba mencionados, interpuso Recurso de Apelación argumentando falta de fundamentos en la valoración de la prueba y la sentencia, solicitando se declaren con culpabilidad a los acusados en la tramitación del recurso. Estaba pendiente de celebrarse las audiencias orales para presentar los fundamentos de los recursos de apelación.

665. El 10 de diciembre de 2004, el Relator Especial envió una comunicación en relación con la periodista **María José Bravo**, corresponsal de los diarios *La prensa* y *Hoy*, quien fue víctima de un homicidio en el departamento de Chontales, a 140 kilómetros al sur de Managua. Según las fuentes, la Sra. Bravo resultó mortalmente herida mientras cubría la información relativa al recuento de votos en el municipio de Juigalpa. Aparentemente, la riña entre los seguidores de dos partidos originó el tiroteo en el cual la Sra. Bravo resultó herida, muriendo pocos minutos más tarde en su traslado al hospital. De hacerse particular mención a la Sra. Bravo es la segunda profesional de la comunicación asesinada en lo que va de año, ya que el pasado 10 de febrero el periodista **Carlos Guadamuz** fue asesinado enfrente de los locales de la televisión para la cual trabajaba.

Observaciones

666. El Relator Especial da las gracias al Gobierno por su respuesta a la comunicación con fecha 17 de septiembre de 2004 si bien espera otra respuesta a la comunicación del 10 de diciembre de 2004.

Niger

667. Le 17 août 2004, le Rapporteur spécial a envoyé une communication au sujet de **Moussa Kaka**, directeur de la radio Saraounia FM et correspondant de Radio France Internationale. Selon les informations communiquées, il aurait été arrêté le 12 août 2004 vers midi, à Niamey, par des agents de la gendarmerie et conduit au poste de gendarmerie où il était semble-t-il détenu au secret au moment de l'envoi de cette communication. Des membres des forces de sécurité auraient également procédé à la fouille des bureaux de M. Kaka ainsi que de sa résidence. De nombreux livres et documents auraient à cette occasion été confisqués. L'arrestation de Moussa Kaka serait liée à la diffusion, le 11 août 2004, sur Saraounia FM d'une interview téléphonique du chef d'un nouveau groupe rebelle ayant revendiqué la responsabilité pour les attaques contre trois bus le 10 août.

Observations

668. Le Rapporteur spécial regrette de n'avoir pas reçu, au 31 décembre 2004, de réponse à sa communication.

Nigeria

669. On 28 January 2004, the Special Rapporteur sent an urgent appeal concerning reports that, on 21 January 2004, the management of the public Ondo State Radiovision Corporation (OSRC) in south-western Nigeria, suspended news director **Seinde Omokoba**, his deputy, **Sanya Adeleye**, and journalists **Taiwo Fagbuyi**, **Akinwale Oshodi**, **Franklin Olaleye**, **Daisi Ajayi**, **Remi Olagookun**, **Daiso Ifaleyimu** and **Bola Akinrunjomo**, for an indefinite period of time, reportedly for "dereliction of duty". According to information received, the nine people listed above were suspended for giving prominent airtime to an aborted strike over increases in petroleum product prices, which had been planned by the Nigeria Labour Congress (NLC) for 21 January. It seems that the state governor, after the airing of these reports, reportedly summoned the OSRC board chairman and the state commissioner for information, and that after the meeting OSRC's management decided to suspend the nine journalists.

670. On 15 April 2004, the Special Rapporteur sent an urgent appeal concerning reports that a lawsuit for libel had been filed with the Abuja High Court against The Sun Publishing Limited of Nigeria and its senior editors, **Mike Awoyinfa**, managing director and editor-in-chief, **Louis Odion**, editor of the *Sunday Sun*, **Femi Adesina**, editor of *The Sun* daily and **Steve Nwosu**, editor of the *The Sun on Saturday*. Chief Orji Uzor Kalu, the newspaper's publisher and the governor of Abia state in south-eastern Nigeria, were also reportedly cited in the suit as the principal defendants. According to information received, the former Works and Housing Minister and current chairman of the board of trustees of the ruling People's Democratic Party (PDP), filed the suit on 23 March 2004, claiming damages in the amount of

five billion naira (approx. US\$37 million) and sought the retraction of a letter to the President and for an apology to be published in all of the country's national dailies. It is reported that the lawsuit followed a series of reports published by the *Sun* about an allegation by the governor of Abia state saying that the former Minister of Works and Housing had threatened to give him "the Bola Ige treatment", a euphemism for assassination in a manner similar to that of the former justice minister, who was murdered two years ago. It seems that the governor's allegation was contained in a 22 February 2004 letter addressed to the President. It is reported that the letter was leaked to the media when the President failed to respond, and in the wake of the recent assassination of the PDP's deputy national chairman and the failed attempt on the life of the Benue state governor. It was further reported that although the allegations had been given widespread coverage by all media outlets in Nigeria, the former Works and Housing Minister singled out the *Sun* in the lawsuit.

671. On 21 July 2004, the Government of Nigeria sent a response to the Special Rapporteur's communication of 15 April 2004 concerning **the former Works and Housing Minister**. The Government stated that the allegation does not constitute a violation of the right to freedom of opinion and expression. The former Works and Housing Minister went to court to challenge a news report in the *Sun* newspaper which, he claimed, was libelous and malicious in nature. The matter was resolved amicably.

672. On 3 May 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Buba Galadima**, a member of the Conference of Nigerian Political Parties (CNPP) and chairman of the mobilization committee of CNPP. It is reported that he was arrested at his office on the evening of 29 April 2004, by intelligence officers from the State Security Services. He was allegedly detained incommunicado without charge. It was alleged that the arrest of Buba Galadima was connected to his involvement in an anti-government protest due to take place on 3 May. Protestors were to march against a range of issues such as alleged election rigging, corruption, poverty and crime. Abuja police refused permission for the march to go ahead as they feared it would be taken over by "hoodlums and miscreants".

673. On 9 July 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Kola Oyelere**, a correspondent for the *Nigerian Tribune* newspaper. According to the allegations received, on 4 July 2004, he was arrested by the police of Kano state. He was detained in a cell in the State Criminal Investigation Department, tortured, and prevented from taking his medication for typhoid fever. The next day he was charged by a Kano State Magistrate with publishing false information. This was in connection with an article he co-authored, entitled "Panic in Kano as fresh crisis looms", 4 July, the *Sunday Tribune*. His case was to be heard on 29 July, and pending the completion of the police investigations, Kola Oyelere was remanded in custody.

674. On 8 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Raphael Olatoye**, aged 47, production manager of *Insider Weekly* magazine, **Cyril Mbamulu**, 32, distribution officer, and a **security guard**. According to the allegations received, on 4 September, Raphael Olatoye was arrested by officers

of the State Security Service (SSS) and taken away to an unknown location. The SSS officers arrested Cyril Mbamulu and the security guard the next day and took them away to an unknown location. They were reportedly detained without charge. The magazine had published stories critical of the Government. The SSS officers were occupying the building. In view of their alleged detention in an unknown location, concern was expressed that the three men might have been at risk of torture or other forms of ill-treatment.

675. On 20 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Isaac Umunna**, an editorial consultant for the Lagos-based weekly *Global Star* and general editor of the London-based magazine *Africa Today*. He was reportedly arrested on 9 September 2004 by members of the State Security Service (SSS). He was detained at the SSS's Lagos State headquarters. However, on 15 September, his wife was told that he had been transferred to another location. It was reported that on 14 September, he was suffering from high diarrhoea and was taken to the SSS clinic where no doctor was available to attend to him. Fears were expressed for his health and safety.

676. On 25 November 2004, the Permanent Mission of the Federal Republic of Nigeria to the United Nations and other international organizations in Geneva sent a response to the communication of 20 September 2004 concerning **Isaac Umunna**, stating that, according to the Government, police investigations revealed that Isaac Umunna was invited by the State Security Service (SSS) to its headquarters in Abuja in connection with national security investigations on the 16 September 2004 and was released on the same day. He was seen off at Abuja airport by officials of the SSS, where he boarded a domestic flight with airline IEA for Lagos.

677. On 18 November 2004, the Special Rapporteur sent a letter of allegation concerning **Diran Oshe**, a photojournalist working for the newspaper *Vanguard*, who on 11 November 2004, was reportedly assaulted by security agents at the High Court in Ikeja, Lagos, as he was attempting to take photos of the former chief security officer to the late Nigerian head of State. It was reported that the security agents hit Oshe repeatedly and smashed his camera. It should be noted that the former chief security officer was standing trial with four other individuals at the High Court in Ikeja for his alleged involvement in the attempted killing of a journalist. In a separate incident, according to information received, in the night of 10 and 11 November 2004 a group of supporters of a local politician attacked public radio stations in Enugu-Ukwu and in Onitasha where they allegedly tied up and beat the staff and then proceeded to burn the premises.

678. On 30 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Uja Emmanuel**, a correspondent for *The Sun* newspaper, Makurdi, Benue State. On 21 July 2004, when he went to the Benue State Police Headquarters to investigate the alleged abduction and detention of a fellow journalist by police, his camera and tape recorder were destroyed by police officers acting on orders of the Assistant Commissioner of Police (whose name is known to the Special Rapporteur). The Assistant Commissioner of Police also ordered his men to beat the journalist as a deterrent to others.

Observations

679. The Special Rapporteur thanks the Government for its replies to his communications of 15 April and 20 September 2004, but regrets that no replies to his communications of 28 January, 3 May, 9 July, 8 September, 18 and 30 November 2004 were received at the date this report was finalized.

Pakistan

680. On 20 January 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning reports that the Federal Investigation Agency (FIA) had denied, before two Sindh High Court judges, that it was holding journalist **Khawar Mehdi Rizvi** in custody. Mr. Rizvi was reportedly arrested together with two French journalists (E/CN.4/2004/62/Add.1) on 16 December 2003. According to information received, the FIA deputy director and the deputy prosecutor made their statement on 13 January 2004, in response to a habeas corpus petition lodged earlier by the lawyer for Mr. Rizvi's family, although it was alleged that high-level government officials, including the Foreign Ministry spokesman, had said that the journalist was being held by the security services for "investigation". Reports further indicated that the court had had no access to Mr. Rizvi or to his file, the latter being held incommunicado in an unknown location since his arrest. It was finally reported that the Sindh High Court judges called on the federal Government to appear before the court on 20 January to explain Rizvi's situation and the official reasons for his detention.

681. On 25 February 2004, the Government sent a response to the Special Rapporteur's communication of 20 January 2004 stating that **Khawar Mehdi Rizvi**, along with two others were involved in making a fake movie on the Taliban for two French journalists of the weekly *L'Express*. They were charged by the Quetta police and presented before a court in Quetta on 30 January 2004, and again on 16 February. The proceedings were under way at the time this reply was sent, and the decision would be conveyed in due course.

682. On 28 January 2004, the Special Rapporteur sent an urgent appeal concerning **Khawar Mehdi Rizvi** (with regards to whom other urgent appeals were sent on 24 December 2003 (E/CN.4/2004/62/Add.1), on behalf of the Special Rapporteur on the right to freedom of opinion and expression and on 20 January 2004 on behalf of the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the question of torture), and, with regards to **Allah Noor** and **Abdullah Shakirfor**. According to information received, on 24 January 2004, the police formally charged the three men with sedition, conspiracy, and impersonation under section 124-A of the Penal Code, which is defined as using speech that "brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Central or Provincial Government established by law", offences which carry a maximum penalty of life imprisonment, after accusing them of fabricating video footage of Taliban activity in Pakistan. The three were said to have been held, at the time this communication was sent, in police custody in the south-western city of Quetta. Reports indicated that the charges stemmed from Mr. Rizvi's work with two French journalists from the newsweekly *L'Express*, in December 2003, when they went to Quetta to research a story about Taliban activity along the Pakistan-Afghani border. Mr. Rizvi was allegedly arrested together with the two French journalists on 16 December 2004, but police officially denied holding him until 24 January. It was reported that the authorities alleged that Rizvi intentionally hired Noor

and Shakir to impersonate members of the Taliban in video footage made by the two French journalists, but since Rizvi had been held in secret detention by security agencies since 16 December, his version of the events was unknown. Reports indicated that the three men were to appear in court within seven days of being charged, when a regional district judge in Quetta would have reportedly heard the police's charges against him and the two other individuals and decide whether they will be formally indicted.

683. On 10 June 2004, the Government sent a response to the Special Rapporteur's communications of 24 December 2003, 20 and 28 January 2004 concerning **Khawar Mehdi Rizvi**. The Government stated that the case of Khawar Mehdi Rizvi was not pending before any anti-terrorist court. Khawar Mehdi Rizvi had already been granted bail and the case was sub judice.

684. On 24 March 2004, the Special Rapporteur sent an urgent appeal concerning freelance journalist **Khawar Mehdi Rizvi**, for whom urgent appeals were sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression on 24 December 2003 (E/CN.4/2004/62/Add.1), the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 20 January 2004, and the Special Rapporteur on the right to freedom of opinion and expression on 28 January 2004. According to more recent information received, Mr. Rizvi was scheduled to appear at a court hearing on 24 March 2004 in the south-western city of Quetta, in order for the court to rule whether his upcoming trial on sedition charges would be held in an anti-terrorism court or regular court. This followed the filing of criminal complaints against Mr. Rizvi, Allah Noor and Abdullah Shakir on 24 January 2004, and the laying of charges against them for sedition, conspiracy and impersonation, which carry a maximum sentence of life imprisonment, after they were accused of fabricating video footage of Taliban activity in Pakistan. It was reported that, on 12 February, formal sedition charges against Rizvi, Noor, and Shakir were submitted to an anti-terrorism court, which was designed to try cases that were a threat to law and order, and to accelerate the judicial process. On 24 February, Mr. Rizvi's lawyer reportedly filed a request to have the charges against Mr. Rizvi dismissed. After a hearing on 11 March, Mr. Rizvi indicated that he had been tortured while in police custody and that he had not been allowed visitors. Concern was also expressed about the composition of such anti-terrorist courts which, according to information received, could include a military official sitting with civilian judges on the bench. There was the additional concern that, despite the Amendment Act, which was passed to amend the anti-terrorism law first passed in 1997, that these anti-terrorist courts might not operate independently and might compromise the accused's right to due process and a fair trial. Concerns were also expressed that that the holding of Mr. Rizvi's trial in an anti-terrorism court might be meant to send a warning to journalists in Pakistan against reporting on certain issues.

685. On 10 June 2004, the Government sent a response to the Special Rapporteur's communications of 24 March 2004 concerning **Khawar Mehdi Rizvi**. The Government stated that the case of Khawar Mehdi Rizvi was not pending before any anti-terrorist court; he had already been granted bail and the case was sub judice.

686. On 31 March 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the situation of **Dr. A.H. Nayyar**, a peace activist, anti-globalization campaigner and former professor of Quaid-i-Azam University. According to information received, during April and May

2003 Dr. A.H. Nayyar and a group of students staged a protest outside Kentucky Fried Chicken and Pizza Hut restaurants in Islamabad in protest against the Iraq war and as part of a general campaign to boycott goods from the United States of America. According to information received, the police were initially cooperative with the demonstrators until they reportedly came under pressure from the franchise management to stop the demonstration. It was reported that, on 9 April 2003, a minor confrontation took place in which the police pushed the demonstrators back and stopped them from using a megaphone and from shouting slogans. No further confrontation was reported and the demonstration allegedly continued peacefully for another month. However, according to the information received, on 9 April 2003 a criminal case was allegedly registered against Dr. A.H. Nayyar for his involvement in the demonstration. No further action was reportedly taken until 24 March 2004 when two policemen allegedly came to the office of Dr. A.H. Nayyar and reportedly informed him that a First Information Report (F.I.R) had been filed against him. They advised him to obtain bail before his arrest. The F.I.R reportedly states that Dr. A.H. Nayyar and his colleagues had staged an unlawful demonstration. Concern had been expressed that the registration of a criminal case against Dr. A.H. Nayyar might have been an attempt at hindering his human rights work.

687. By letter dated 16 June 2004, the Government replied to the communication sent by the Special Rapporteur on 31 March 2004 in connection with the situation of **Dr. A.H. Nayyar**, a peace activist, anti-globalization campaigner and former professor of Quaid-i-Azam University. On 9 April 2004 the police filed a FIR against the Dr. A.H. Nayyar and several other protestors for violations against section 144 (holding a protest demonstration without obtaining prior permission). The Government declared that the accused petitioned for a writ in the Lahore High Court Rawalpindi Bench challenging the aforementioned FIR. The same court ruled in favour of the accused and the FIR was quashed on the grounds that it had been lodged without any lawful authority.

688. On 22 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Zulfiqar Ali Khaskheli**, a correspondent in the town of Nawabshah for the Hyderabad-based, Sindhi-language daily *Ibrat*, who was reportedly severely beaten by police. It is reported that the journalist had to be admitted to the People's Medical College Hospital in Nawabshah, and it was feared that he was going to lose his eyesight and hearing. It was further reported that visitors were not allowed to see the journalist, who had allegedly been chained and handcuffed in the hospital, and it was reported that Mr. Khaskheli was maintained under arrest. It was believed that Nawabshah's chief of police, a District Police Officer whose name is known to the Special Rapporteur, arrested Mr. Khaskheli on 11 April 2004 in relation to a report on gambling operations in the district under that same District Police Officer's command.

689. On 10 June 2004, the Government sent a response to the Special Reporter's communication of 21 April 2004, stating that **Zulfiqar Ali Khaskheli** developed differences with another man and threatened him with harm. A complaint was filed and Zulfiqar Ali Khaskheli was arrested and later released on bail. He organized a hunger strike and rallies against the District Police Officer for allegedly torturing him during detention. The allegations were false and fabricated.

690. On 28 April 2004, the Special Rapporteur sent an urgent appeal concerning **Makhdoom Javed Hashmi**, leader of the opposition Pakistan Muslim League and of the Alliance for the Restoration of Democracy, a party campaigning for the restoration of civilian rule, who was reportedly sentenced after a closed trial on 12 April 2004 to 23 years' imprisonment for "inciting mutiny in the army", "forgery" and "defamation", after allegedly circulating a letter critical of the army on military letterhead. According to information received, Mr. Hashmi was arrested on 29 October 2003, after he reportedly released to the press a letter written by dissatisfied army officers, calling for an inquiry into alleged corruption in the senior ranks of the army, demanding a judicial investigation into a military operation in Indian-administered Kashmir in 1999, and expressing criticisms against the President and the alliance with the United States of America. It was reported that the authorities claimed the letter was a forgery, although it was widely believed that the letter was genuine and that Mr. Hashmi's arrest and trial might have been politically motivated. It was further reported that the sentence would be appealed to the High Court.

691. On 28 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Sami Yousafzai**, a journalist from Afghanistan working for *Newsweek* magazine, and his driver, who had allegedly been detained incommunicado at an undisclosed location by the security forces since 21 April 2004. According to information received, on 21 April, **Eliza Griswold**, a citizen of the United States of America working as a freelance reporter and regular contributor to the American weekly *The New Yorker*, **Mr. Yousafzai**, and their driver were arrested at a checkpoint in Bakhakhel, near Bannu, as they attempted to enter North Waziristan, without the special authorization required by the authorities since the start of the military operations against Al-Qaeda groups. Ms. Griswold was reportedly wearing a burka to avoid being identified, as a few hours earlier they had allegedly been turned back at the Jandola checkpoint and not allowed to enter the South Waziristan tribal area. It was reported that the three were questioned for several hours and then allowed to return towards Peshawar. However, it was believed that security forces or the intelligence services rearrested them near Bannu. Ms. Griswold was expelled to the United States of America a few days later, but it was reported that Mr. Yousafzai and his driver were still being held in a secret location at the time this communication was sent. In view of the reported detention of Sami Yousafzai and his driver at an unknown place, concern has been expressed that they might have been at risk of torture or other forms of ill-treatment.

692. On 10 June 2004, the Government sent a response to the Special Rapporteur's communication of 28 April 2004, stating that **Sami Yousaf Zai** had been released from custody on 2 June 2004. He had not been deported to Afghanistan and was allowed to stay in Pakistan until his visa expired two months later.

693. On 2 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning reports that, on 25 May 2004, the provincial government in the southern province of Sindh banned eight newspapers in the city of Karachi on charges of "publishing obscene photographs" and "blackmail". According to information received, large contingents of police raided the offices of the newspapers *Morning Special*, *Evening Special*, *Zamana*, *Daily Special* and *Mid Special*, as well as the Mashriq Press where the newspapers are printed, allegedly after the provincial Home Department received complaints that the newspapers were involved in blackmailing and publishing obscene material. It was reported that the newspapers had been monitored for the past

two months and issued notices by the Home Department not to publish obscene photographs, which the newspapers allegedly ignored. Reports also indicated that the owners of the above-mentioned newspapers and some of the staff were arrested, including **Ashfaq Jafri, Hanif Dawami, Liaquat Ali, Aleem Azad, Nisar, Tariq Ali, Mehboob, Abrar, Danish, Aziz, Ashfaq Jaffery, Iqbal Saif, Ghulam Shah, Ali Angora Abrar** and **Ghulam Mohammed**. It was not known whether, at the time this communication was sent, these people were released; neither was it known what charges were brought against them.

694. On 14 July 2004, the Government of Pakistan sent a response to the Special Rapporteur's communication of 2 June 2004 concerning the ban by the provincial government of Sindh of **eight newspapers** in the city of Karachi on charges of publishing obscene photographs and blackmail. The Government stated that, on the recommendation of the Information Department and Home Department, the government of Sindh initiated legal action against five Karachi-based newspapers for gross violation of the Press and Publication Act of 22 May 2004. This action was taken on the basis of several complaints pertaining to blackmail and publishing objectionable material containing nude photographs and vulgar stories. The newspapers were given several warnings to mend their ways and follow the norms of clean journalism as defined by the law; however, they continued to publish such material. Legal action was therefore taken and the Provincial Police Officer was directed to take the following action under MPO Ordinance 1960: suspension of the publication of these newspapers for 30 days (extendable), and lodging FIR u/s 292 of the Pakistan Penal Code against the editor, publisher and printer. Following this, the publisher of the *Daily Evening Special* submitted an undertaking stating that he would follow the code of conduct formulated by the government of Sindh and the All Pakistan Newspapers Society. The Government therefore stated that no illegal action was taken against the above newspapers and the provincial government of Sindh did not carry out any activities against the liberty and freedom of independent and decent press. All the banned newspapers restarted publication and were available in the market.

695. On 4 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning regarding **Diwan Hashmat Hayat**, who on 3 April 2004, was attacked by a mob outside his house because he asked people at a neighbouring mosque to make less noise. Despite his serious injuries, it was alleged that he was arrested and taken to Jhelum District Central Jail, Punjaab, where he was beaten on the orders of the jail authorities. He was reportedly charged with blasphemy under section 295-C of the Pakistan Penal Code, which carried a death sentence for the offence of defiling the Prophet Mohammed. That section provided: "Whoever by words, either spoken or written or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammed (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to a fine". He was allegedly being held in solitary confinement in Jhelum District Central Jail, in unsanitary conditions, without sufficient food or appropriate medical treatment for his injuries, at the time this communication was sent. It was alleged that he was given painkillers only after his family agreed to pay a bribe of 3,000 rupees (US\$ 52), and he was denied sufficient food and clean bedding because his family could not pay a second bribe.

696. On 7 July 2004, the Government sent a response to the Special Rapporteur's communication of 4 June stating that, on 11 July 2003, a complaint was filed by **Diwan Hashmat Hayat** at 7:45 p.m., concerning the threatened demolition of his home by

neighbouring residents. At 10:30 p.m. a mob arrived and looted and demolished the building. An investigation into the incident confirmed this. However, because Diwan Hashmat Hayat neither pursued the case nor presented evidence, the perpetrators were not prosecuted, and the case was suspended. On 3 April 2004 Diwan Hashmat Hayat was arrested in relation to a homicide.

697. On 21 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Samuel Masih**, resident of Saidan Shah Lahore, who was reportedly charged with blasphemy under section 295 of the Pakistan Penal Code in August 2003 after a librarian at Dar-ul-Islam, Lahore, had registered a First Information Report (FIR) against him. Mr. Masih was sent to Kot Lakhpat Jail for trial. He was admitted to the Lahore General Hospital on 19 May 2004 in critical condition after a police constable hit him on his head with an iron bar while in detention. The constable who attacked Samuel was reportedly sent to jail after a case was registered against him. Reports indicated that Samuel Masih died in hospital after remaining in coma for three days. Mr. Masih's body was handed over to his family after an autopsy was carried out. His family did not pursue the case, as they were reportedly scared of the police. According to the information received, Mr. Masih was in jail since August 2003. Nevertheless, no lawyer was appointed to defend his case.

698. On 14 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Sarwar Mujahid**, a 42-year-old journalist of the Urdu-language daily *Nawa-i-Waqt*. On 31 July 2004 he was arrested without a warrant at his home by the police of Okara District, Punjab Province, under the Maintenance of Public Order Act, which states that a person may be detained for three months if the Government feels they represent "a threat to public order". He was beaten at the time of his arrest and was held in incommunicado detention at Sahiwal Prison at the time this communication was sent. He was apparently held in connection with articles he wrote on the conflict between Pakistani paramilitaries and agricultural labourers, who had been cultivating land belonging to the army and were refusing to leave their farms. In view of his alleged detention incommunicado, concern was expressed that he might have been at risk of torture or other forms of ill-treatment.

699. On 13 December 2004, the Government sent a response to the communication of 14 September 2004 concerning **Sarwar Mujahid**, reporter for the daily *Nawa-e-Waqt*, in Okara. According to the Government, he was arrested at his residence by the local police. His detention orders were issued by the provincial government for disrupting public order by instigating tenants to launch a protest against the District Administration/Armed Forces and to retain their occupation of military farmlands and to oppose through false coverage and baseless articles the Government's policy for the said lands. Earlier, the journalist was warned by the Press Club, Okara, about his activities aimed at instigating disruptions. On 27 July 2004, the journalist was involved in a scuffle outside the Session Court in Okara with the representative of the police. He was therefore arrested on 28 July 2004 for disrupting public order and kept in detention in Sahiwal prison to be released on 30 September 2004. The Government claimed that his arrest and detention were in accordance with the provincial legal regulations.

700. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning the following cases:

- On February 2004, the Government suspended advertising in newspapers belonging to the Nawa-i-Waqt Group of Publications, including the dailies *The Nation*, *Nawa-i-Waqt*, *Balochistan Express*, *Ummat*, *Ausaf*, *Jassarat*, *Azadi*, *Daily Intikhab*, the *Financial Post*, the *Monthly Moon Digest*, the *Intikhab* and *Shahrag-e-Pakistan*, although it seemed that no official ban had been issued. According to information received, the Government effectively stopped all advertising revenue from both federal and provincial government sources to the newspaper group, and it was believed that this action came as a retaliation of the group's newspapers critical coverage, in particular, concerning democratic institutions in the country;
- On 2 March 2004, the Quetta city offices of the daily *Jang* and the offices of **Geo** television station were the target of an arson attack during rioting that followed a Shiite religious procession. According to information received, about 20 rioters came to the *Jang* and **Geo** offices, which were closed because of a holiday, and fired shots in the air to scare away the security guards. The rioters then reportedly broke through the internal gate and set fire to cardboard cartons, newspapers, newsprint, printing ink and other supplies, destroying administrative records and the offices' telephone lines;
- On 1 March, unidentified gunmen conducted coordinated raids on newspapers distribution points in various parts of Karachi, taking bundles of newspapers and setting them ablaze. Armed youths raided the depots at New Challi, Old Numais, Gulshan-e-Iqbal, Saddar, Hussainabad and Water-Pump (in the Federal B area), aiming their guns at the vendors before forcibly taking the newspaper bundles;
- On 24 February, a bomb exploded outside the offices of *Jang* and **Geo**, and that on 29 February, protesters demonstrating against the **Geo** television station attacked the Karachi Press Club, injuring one person. It was further reported that at least 45 people were killed and more than 150 were injured in the day-long violence in Quetta, capital of Balochistan province, which borders Afghanistan, but that, according to information received, no arrests were made. It was believed that these acts were linked to a show aired during the week of 23 February by **Geo** television, which was allegedly felt to be offensive to the community by Shiite religious organizations;
- The alleged decision by the Government to prevent all foreign and local journalists from reporting on the army's offensive against armed Taliban and Al-Qaeda fighters in the Wana region of South Waziristan, reportedly barring Pakistani and foreign journalists from the South Waziristan tribal area;
- On 20 March 2004, the army organized a helicopter tour of the region for journalists, excluding the area where the fighting has been taking place. In this respect, it was further reported that at least four journalists were arrested over incidents, including filming military activities, reporting around the Wana region and trying to interview military personnel. The reported cases involve **Mujeebur Rehman**, a correspondent for the Urdu-language daily *Khabrian* and a stringer for several foreign television stations, who was reportedly arrested on 16 March while filming military operations near Wana, and held for several hours. It is also reported that his digital camera was confiscated and has not been returned to him.

On 18 March, **Shaukat Khattak**, a reporter with the privately-owned Pakistani Geo TV station, was reportedly arrested in Dabkot while filming army activities. It was reported that, despite having the required documents, he was detained for four hours, during which time he was allegedly threatened and insulted by soldiers. On 19 March, a reporter and a photographer for the **Associated Press news agency** were reportedly turned back by troops at a roadblock located about an hour's drive from Wana. As well, half a dozen other journalists, including two Pakistani photographers, were reportedly not allowed into South Waziristan. On 21 March, **Haroon Rashid**, a correspondent for BBC World Service radio in Peshawar, and Saiful Islam, a reporter from the Urdu-language daily *Surkhab* and correspondent for Al-Jazeera, were reportedly arrested at a Peshawar military hospital, while they were trying to interview soldiers who were wounded in the South Waziristan fighting. It was reported that, after a three-hour wait, intelligence officials interrogated them, destroyed their film and confiscated their mini-disc recorders;

- The authorities prevented journalists from covering the attempted return from exile of opposition politician Shahbaz Sharif, the brother of former Prime Minister, who was deposed in 1999 by General Musharraf. According to information received, on 9 May 2004, **ARY Digital TV** cancelled an interview with Shahbaz Sharif, president of the opposition Pakistan Muslim League-Nawaz Group (PML-N) party, shortly before it was to air. The interview was reportedly intended to mark the politician's return from a three-year exile. Reports indicated that the decision of the television station's management was the result of "huge government pressure". It was further reported that on the evening of 10 May, police placed **Syed Mohsin Naqvi**, a producer for the American cable television station CNN, under house arrest to prevent him from interviewing Shahbaz Sharif; it was believed that security forces used the pretext of a bomb alert to enter the producer's Lahore home without proper authorization. Also on 11 May, police allegedly prevented journalists from reaching Lahore international airport to witness the opposition politician's return from exile. Several reporters who travelled in the same plane as Shahbaz Sharif were reportedly arrested, questioned, searched or roughed up by commandos who surrounded the plane after it landed. In particular, reports indicate that the police manhandled Zafar Abbas, the BBC's Islamabad correspondent. They confiscated his passport and equipment, before reportedly holding the BBC cameraman travelling with him, Ali Faisal Zaidi, in a police van for one hour. It was reported that when they were released, their equipment and passports were returned to them, but not their tapes. In addition, a journalist from an English-language daily and a reporter from an Urdu-language daily were allegedly beaten at a police checkpoint at the entrance to the airport. Finally, security forces were said to have checked and harassed opposition supporters in Lahore to forestall any pro-Sharif demonstrations, and it was reported that Shahbaz Sharif himself was expelled from Pakistan after spending less than two hours in the country;
- On 12 June 2004, the authorities arrested four journalists for several hours in South Waziristan: **Allah Noord Wazir** of the daily *The Nation*, **Amir Nawab Khan** of the daily *The Frontier Post*, **Mujebur Rehman** of the daily *Khabrian*

and a **fourth unidentified reporter**, while they were reportedly trying to reach the Shakai region, where the army is alleged to have launched a large-scale operation against Islamist fighters, some said to be linked to Al-Qaeda. It was also reported that the journalists' cameras and videotapes were seized by the army. It was further reported in relation to this case that Dilawar Wazir, a stringer with BBC World Service, reported this news on air, and was later threatened by a local official from Wana, South Waziristan's capital, who allegedly told him that journalists attempting to go to the Shakai region would face "serious problems." The army reportedly ordered local authorities to prevent the press from reaching the area and officials allegedly refused to give any information about the situation on the ground;

- On 13 June 2004, the political administration of Khyber Agency, in the country's Federally Administered Tribal Areas (FATA), reportedly denied entry to the area to a group of **Peshawar reporters**, who reportedly wanted to cover a Jirga (council of tribal elders) that was protesting the ongoing military operations in the areas bordering on Afghanistan. It was reported that the Islamic political party Jamaat-e-Islami (JI) in Khyber Agency, had organized the Jirga to condemn the military operations and express solidarity with South Waziristan Agency tribesmen, said to be suffering due to the economic sanctions imposed on them by the Government. Reports indicate that, with the help of a contingent of paramilitary Khasadar forces, Roshan Mehsud, a local representative of the administration, stopped media personnel from entering the territorial limits of the tribal area, claiming that the governor had imposed a ban on the entry of reporters to cover any event inside the tribal area and threatening to use force against reporters who tried to enter the tribal area;
- On 10 July 2004, a senior government officer, the Deputy Secretary of the Environment Ministry, reportedly assaulted **Saima Zahoor**, a reporter with the Urdu-language daily *Express*, while she was interviewing him in his office. According to information received, Mr. Rahim got upset with Ms. Zahoor's questions and asked a security guard to throw her out of his office. The journalist apparently protested, Mr. Rahim slapped her and locked her in a room, from where she called the police and her colleagues with her mobile phone. It is reported that Ms. Zahoor was released by the Deputy Secretary's staff only when they saw the police and other journalists arrive in the office.

701. On 9 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Saima Zahoor**, a reporter with the Urdu-language daily *Express*. On 10 July 2004, she went to meet with the deputy secretary of the Environment Ministry to seek his comments on the issue of pollution in Rawal Lake. The official became angered by her questions, called in a security guard and ordered him to throw her out of the office. When the journalist protested against the official's behaviour, he slapped her, dragged her and locked her in a room. She was released when the police arrived.

702. On 22 November 2004, the Special Rapporteur sent a letter of allegation concerning **Farhat Abbas Shah** and **Afaq Shah**, Administration and Programme Manager for privately-run FM Radio 103 Lahore, who, on 10 November 2004, were allegedly arrested in the Province of Punjab by the police for having joined a protest concerning the Punjab Institute of Cardiology, in

relation to which the two journalists had broadcasted a critical programme. The police had reportedly registered a case against both Farhat Abbas Shah and Afaq Shah. The two journalists were released on bail the following day. Moreover, according to information received, on 12 November 2004 police officers raided FM Radio 103 Lahore and confiscated most of the radio equipment rendering transmission impossible. Three journalists were also arrested, namely **Arshad, Abdul Ghafoor and Nauman**. Arshad was later released.

Observations

703. The Special Rapporteur thanks the Government for its replies to his communications of 20 and 28 January, 24 and 31 March, 22 and 28 April, 2 and 4 June and 14 September 2004. He regrets, however, not having received any replies to his communications of 28 April, 21 July, 5 October, 9 November and 22 November 2004.

Panama

704. El 30 de marzo de 2004, el Relator Especial envió un llamamiento urgente en relación con **Roberto Eisenmann Jr.**, fundador del diario *La Prensa*, quien habría sido acusado de calumnia e injuria por el procurador general de la Nación (cuyo nombre es conocido por el Relator Especial). Según la información recibida, el 24 de marzo de 2004, unos agentes de la Policía Técnica Judicial, supuestamente provistos de una orden de conducción, se habrían presentado en las oficinas de Roberto Eisenmann Jr., para llevarle al despacho del fiscal que habría instruido una querrela por calumnia e injuria contra él. Según los informes, Roberto Eisenmann Jr. estaría perseguido por un artículo publicado el 30 de enero de 2004, en el que habría denunciado la actitud adoptada en los casos de corrupción por el procurador. Inmediatamente después de la publicación de este artículo, el procurador general de la Nación habría interpuesto una demanda contra Roberto Eisenmann Jr. Según las informaciones recibidas, el 15 de febrero de 2004, la justicia panameña le habría prohibido a Roberto Eisenmann Jr. salir del país. Citado en tres ocasiones, el fundador de *La Prensa* se habría negado a presentarse alegando que el funcionario no tenía ninguna autoridad moral para denunciarle. Tras su comparecencia forzosa del 24 de marzo de 2004, seguiría prohibida su salida del territorio. Según los informes, Roberto Eisenmann Jr. podría ser condenado a dos años de cárcel.

705. El 21 de septiembre de 2004, el Relator Especial envió un comunicación en relación con el 28 de octubre de 2003 cuando un juez habría dictado una orden que prohíbe la salida del país del periodista peruano **Gustavo Gorriti** hasta el 1.º de diciembre de 2003, fecha a la cual se iba a reiniciar el proceso judicial sobre la denuncia por los delitos de calumnia e injuria presentada en su contra en 1996 por el procurador general de la Nación, (cuyo nombre es conocido por el Relator Especial). La orden estaría relacionada con una noticia publicada el 7 de julio de 1996 por el diario panameño *La Prensa*, donde Gustavo Gorriti se desempeñaba como director asociado. En 1997, las autoridades habrían intentado expulsar al periodista peruano por sus reportajes sobre la presunta corrupción del gobierno. En 2001, Gustavo Gorriti habría sido separado de su posición en *La Prensa* y se habría ido del país. El 28 de octubre de 2003, horas después de su llegada a Panamá para participar como ponente en un foro sobre la corrupción, Gustavo Gorriti habría sido avisado de la orden girada.

Observaciones

706. El Relator Especial lamenta que a la conclusión del informe no había recibido respuestas a sus comunicaciones con fechas 30 de marzo de 2004 y 21 de septiembre de 2004.

Papua New Guinea

707. On 11 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Ekar Keapu**, a reporter for *The National* newspaper. On 28 November 2003 at 10:30 a.m. he was covering a confrontation between the police and a group of vendors outside the Gordon Market in Port Moresby. Ekar Keapu was confronted by a policeman and ordered not to take any photographs. They later smashed the reporter's camera on the ground. Another policeman approached from behind and punched him on the side of the face. A third policeman threatened him with a steel rod.

Observations

708. The Special Rapporteur regrets that no reply to his communication of 11 August 2004 was received at the date this report was finalized.

Paraguay

709. El 17 de septiembre de 2004, el Relator Especial envió una comunicación en relación con el 20 de abril de 2004 cuando el Sr. **Samuel Román**, periodista de radio Ñu Verá de la municipalidad de Capitán Bado, habría sido asesinado por dos hombres en motocicleta cuando se dirigía a su vivienda en la ciudad brasileña de Coronel Sapucaia, separada de Capitán Bado por una carretera. Samuel Román conducía el programa "La Voz del Pueblo", en el que cuestionaba la gestión pública de Coronel Sapucaia.

710. Por carta con fecha 23 de noviembre de 2004 la Misión permanente de Paraguay ante la Oficina de las Naciones Unidas en Ginebra transmitió la siguiente información en relación con la comunicación del 17 de septiembre de 2004: La Fiscalía Penal de Capitán Bado informó que revisados los archivos de la Fiscalía no existe ningún caso registrado por la muerte del Sr. Samuel Román debido a la falta de competencia de la Fiscalía toda vez que el homicidio ocurrió en la ciudad de Coronel Sapucaia -MS-Brasil. Sin embargo de lo anterior, la Fiscalía ha realizado tres allanamientos en territorio de Paraguay en busca de ciudadanos brasileños sospechosos de ser autores del homicidio, en los que se detuvo a tres individuos (cuyos nombres son conocidos por el Relator Especial), todos ciudadanos brasileños quienes por estar en situación irregular fueron expulsados y entregados a la delegación de la policía de la Ciudad de Campo Grande, Brasil.

Observaciones

711. El Relator Especial da las gracias al Gobierno por su respuesta a la comunicación del 17 de septiembre de 2004.

Peru

712. El 28 de abril de 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con la periodista **Rocío Vásquez Goicochea** de Chimbote. Según los informes, Rocío Vásquez Goicochea de Chimbote habría sido amenazada de muerte tras denunciar la situación del empresario pesquero Samuel Dyer. Según la información recibida, la periodista habría sido amenazada de muerte por teléfono el 20 y 21 de abril de 2004. Los informes indican que la periodista habría hecho de conocimiento público que tenía en su poder documentos y un video “donde se comprueban descargas ilegales de pesca negra en la empresa Copeinca, propiedad de Samuel Dyer”. Según las informaciones recibidas, el dueño del periódico *Últimas Noticias* le habría ordenado frenar sus investigaciones sobre Samuel Dyer y la periodista habría tenido que renunciar a su trabajo. Además, los informes indican que Rocío Vásquez Goicochea de Chimbote, en comunicación con la Oficina de los Derechos Humanos de la Asociación Nacional de Periodistas del Perú, habría asegurado que en los tiempos en que Javier Reátegui estaba al frente del Ministerio de Pesquería, su asesor (cuyo nombre es conocido por el Relator Especial) habría hecho una llamada a su domicilio. No la habría encontrado pero, tras identificarse con nombre completo, habría dejado un mensaje a su madre: “Aconséjele a su hija para que no se meta con el gobierno. Se va a fregar la vida”.

713. Por carta con fecha 14 de octubre de 2004 el Gobierno transmitió una nota proporcionada por el Consejo Nacional de Derechos Humanos en relación con la comunicación del 28 de abril de 2004 sobre el caso de la periodista **Rocío Vásquez Goicochea**. Según un oficio transmitido por el Fiscal Superior Decano del Distrito Judicial del Santa, en todas las fiscalías penales de dicha sede no existía denuncia alguna interpuesta por la periodista Rocío Vásquez Goicochea contra el empresario pesquero Samuel Dyer.

714. El 7 de mayo de 2004, el Relator Especial envió un llamamiento urgente en relación con el periodista **Miguel Ramírez**, de la unidad de investigación del diario *El Comercio* de Lima y **Fernando Ampuero**, jefe de dicha unidad. Según la información recibida, en las últimas tres semanas de abril de 2004, el periodista habría recibido varias llamadas amenazadoras en su teléfono celular y en el teléfono de la casa de sus padres. Las amenazas habrían consistido en insultos contra el periodista y también en grabaciones donde se podía escuchar rezos de misa grabados. Según indican los informes, Miguel Ramírez habría sido objeto de un permanente seguimiento. El periodista sospecharía que quienes lo siguen estarían intentando conseguir la identidad de las fuentes que le proporcionan información. Según los informes, Miguel Ramírez estaría investigando desde 1995 el caso de un empresario aerocomercial, asesor corporativo y fundador de la aerolínea Aerocontinente, a quien se le vincularía con el narcotráfico. Las investigaciones sobre el caso habrían sido retomadas en abril de 2004 y publicadas en *El Comercio* a raíz de la aparición de nuevas pruebas que comprobarían la relación del empresario con estos actos ilícitos. Según los informes, cuando Miguel Ramírez se encontraba recopilando información sobre el empresario y estaba de viaje en el interior del país, un grupo de delincuentes habrían entrado en su vivienda en el distrito de Jesús María. Se habrían llevado el disco duro de la computadora donde el periodista almacenaba información sobre este caso, dejando intactos otros artefactos y tarjetas de crédito. Según la información recibida, el 28 de abril de 2004, el empresario habría demandado a Fernando Ampuero, por el presunto delito de difamación, solicitando una reparación civil de 5 millones de dólares de los Estados Unidos. Según indican los informes, el caso contra Fernando Ampuero se ventilaría en el juzgado de

instrucción 35, según la investigación sumaria abierta por una jueza. El empresario habría demandado a Fernando Ampuero alegando que éste habría “vulnerado su honor y buena reputación” a raíz de las declaraciones que el periodista habría dado sobre el empresario en un programa de televisión el 7 de abril de 2004. Fernando Ampuero habría declarado que todo lo que dijo, incluyendo opiniones, se estarían basados en hechos ventilados a nivel policial y judicial, así como en documentos manejados por organismos nacionales y extranjeros dedicados a la investigación del narcotráfico, como la Drug Enforcement Administration (DEA), el organismo de los Estados Unidos de lucha contra la droga. Ante estos hechos, el diario *El Comercio* habría visto conveniente dotar de seguridad personal a ambos periodistas con el fin de evitar algún posible atentado en su contra.

715. El 10 de mayo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un comunicación en relación con **150 niños y adolescentes** que viven o trabajan en la calle en Lima, así como algunos adultos que los acompañaban, habrían sido víctimas de un uso excesivo de la fuerza por parte de la policía el 20 de noviembre de 2003, durante la represión de una manifestación convocada por asociaciones comprometidas con niños que viven o trabajan en la calle: el Movimiento Nacional de Niños y Adolescentes Trabajadores organizados del Perú (MNNATSOP), el Movimiento de Niños y Adolescentes Trabajadores Hijos de Obreros Cristianos (MANTHOC), el Instituto de Formación para Educadores de Jóvenes Adolescentes y Niños Trabajadores de América Latina y el Caribe (IFEJANT) y Generación. La manifestación se habría organizado para conmemorar el aniversario de la Convención sobre los Derechos del Niño y para pedir pacíficamente una mejor protección de los derechos del niño. De acuerdo con la información recibida, la manifestación se desarrollaba pacíficamente hasta que la policía intervino para disolverla a la fuerza en la Plaza Mayor. Los agentes de policía habrían utilizado gases lacrimógenos y golpeado con porras a los manifestantes, a quines también habrían dado patadas. Bebés que se encontraban en los brazos de sus madres también habrían sido golpeados. Algunas personas habrían perdido la conciencia y otras habrían sufrido contusiones. A modo de justificación de su actuación, la policía habría alegado que la manifestación era ilegal por no respetar el decreto de la Alcaldía mediante el cual se prohibiría toda manifestación pública en el centro de Lima. Se alega que para no infringir este decreto, las organizaciones de niños trabajadores habrían adelantado una protesta no violenta con pequeños grupos que ingresaban a la plaza por turnos, exigiendo el respeto a los niños y el reconocimiento y plena ciudadanía de la niñez como un sujeto de derecho, como actores protagonistas de la sociedad. Se alega igualmente que 13 manifestantes habrían sido detenidas por las fuerzas policiales pertenecientes a la Unidad de Servicios de Control de Disturbios de la Policía. Entre ellas, **Enrique Jaramillo**, coordinador de Generación, habría sido golpeado e insultado cuando se encontraba bajo custodia policial. Tres menores, una joven de 14 años de edad y dos varones de 10 y 12 años, todos ellos niños de la calle, habrían sido trasladados a un centro de detención preventiva y liberados el 22 de noviembre de 2003.

716. Por carta con fecha de 8 de julio de 2004, el gobierno transmitió una nota de información preparada por el Consejo Nacional de Derechos Humanos en relación con la comunicación del 10 de mayo sobre la intervención que realizó la policía nacional del Perú contra una **manifestación de menores de edad en noviembre de 2003**. El 13 de febrero de 2004 se formalizó la denuncia penal contra **Enrique Marino Jaramillo García** junto con 15 otros individuos como presuntos autores del delito contra la paz pública y disturbios;

archivándose definitivamente los actuados en cuanto al extremo de fiolencia y resistencia a la autoridad; y archivándose la denuncia en el extremo de delito contra la administración pública, violencia y resistencia a la autoridad y contra la tranquilidad pública (disturbios). Se ha establecido que los intervenidos y otras ochenta personas aproximadamente, en proceso de identificación, se reunieron en la Plaza Mayor donde se concentraron para realizar una manifestación con ocasión de celebrarse el aniversario de la Convención de los Derechos del Niño, propiciando actos violentos con su intento de ingresar al centro de Lima, zona declarada restringida por un mandato municipal. Por tal razón, efectivos policiales los conminaron a que depusieran su actitud de fuerza ya que venían alterando en forma tumultuaria el orden público e infringiendo una resolución que declara zona rígida y prohíbe todo tipo de manifestación en la Plaza de Armas y Lima Cuadrada. No obstante, éstos atacaron a los custodios del orden quienes se vieron obligados a lanzar gases lacrimógenos; en tales circunstancias intervino un mayor contingente policial, siendo también atacados con objetos contundentes y herido un mayor de la policía. Según el Ministerio del Interior la policía, para restablecer el orden público, capturó *in fraganti* a 13 personas. El estado del proceso correspondía a la etapa inicial de la investigación. Habían sido desvirtuados los cargos que ameritaban promover acción penal contra los involucrados por delito contra la administración pública, violencia o resistencia a la autoridad, en agravio del Estado, disponiéndose el archivamiento definitivo de los actuados en este extremo.

717. El 27 de mayo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, envió una comunicación en relación con **Renato Fernández**, camarógrafo, y **Andy Ortiz**, reportero. Según las informaciones recibidas, Renato Fernández y Andy Ortiz habrían sido agredidos por un efectivo de la Policía Nacional (PNP) el 24 de septiembre de 2003 en la ciudad de La Oroya, provincia de Yauli, región de Junín. Renato Fernández habría sido golpeado por una agente que lo habría dejado tendido en el suelo. Los periodistas habrían interpuesto una denuncia ante las autoridades policiales de la región y el jefe de la VIII Región Policial se habría comprometido a investigar y sancionar al responsable del incidente. Los hechos habrían ocurrido cuando los dos periodistas cubrían una manifestación de protesta contra el despido de 354 trabajadores de una empresa minera. Esta manifestación se habría realizado en el marco de un paro provincial de 48 horas convocado por la Municipalidad de Yauli y diversas organizaciones civiles. Los manifestantes habrían bloqueado la carretera central, interrumpiendo el tráfico durante varias horas. En un intento de despejar la carretera, la policía habría intervenido con el uso de bombas lacrimógenas, lo que habría provocado un enfrentamiento con los manifestantes. Algunos de ellos habrían sido golpeados por los agentes y otros habrían sido detenidos.

718. Por carta con fecha 14 de octubre de 2004, el Gobierno transmitió la siguiente información en relación con la comunicación del 27 de mayo de 2004 sobre la situación de los periodistas **Renato Fernández** y **Andy Ortiz**. Según informaron las autoridades competentes en la Fiscalía Provincial Mixta de Jaula no se había registrado denuncia alguna contra la Policía Nacional de Yauli- La Oroya en agravio de los periodistas Renato Fernández y Andy Ortiz.

719. El 27 de julio de 2004, el Relator Especial envió un llamamiento urgente en relación con el periodista **Henry Pinedo Rojas**, director del programa radiofónico "La Verdad". De acuerdo con las informaciones recibidas: Henry Pinedo Rojas habría sido agredido física y verbalmente el 5 de julio de 2004 por el magistrado titular del Juzgado Mixto Provincial de Nauta (cuyo nombre es conocido por el Relator Especial) por haber emitido en su programa una denuncia donde se acusaba al juez de condicionar una sentencia a cambio de dinero. El hecho habría ocurrido en la ciudad de Nauta, en Iquitos. El día de la agresión, el periodista se

encontraba almorzando en un restaurante de la ciudad. El juez habría ingresado abruptamente al establecimiento y empezado a insultar al periodista, acusándole de emitir información falsa que atentaba contra su honorabilidad. El magistrado le habría cogido violentamente de la camisa y le habría obligado a ponerse en pie. El juez habría seguido increpando al periodista por la denuncia que habría presentado el día anterior en su programa y le habría advertido que si seguía involucrándole en esas acusaciones tendría que atenerse a las consecuencias. El 4 de julio de 2004, en su programa “Nauta FM”, Henry Pinedo Rojas habría retransmitido una denuncia hecha por Mariano Chávez, en la cual este último habría asegurado que algunos miembros del Poder Judicial de la ciudad, entre los que estaría el juez pretendían cobrarle 3.000 soles (aproximadamente 875 dólares de los Estados Unidos) para favorecerlo en un juicio que tenía pendiente contra un familiar. El periodista habría denunciado al juez ante el comisario de la ciudad, Capitán Enrique Grados Padillo de la Policía Nacional del Perú.

720. El 11 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, envió un llamamiento urgente en relación con el 13 de julio de 2004, cuando se habría ordenado la apertura y registro domiciliario del diario *El Tiempo* de Andahuaylas, región Apurímac. La medida habría sido dictaminada por el juez de lo penal debido a la acusación por supuesta difusión de pornografía infantil que pesa sobre el director del medio. La acusación presentada a la fiscalía de la zona habría sido hecha por el director del diario *Opinión*, competencia del diario *El Tiempo* en la región. Según la orden judicial, el allanamiento domiciliario, apertura e incautación de bienes involucrados en la denuncia habrían sido solicitados por dos fiscales provinciales. Uno de ellos sería pareja de un individuo, que habría estado preso por sus vínculos con el narcotráfico descubiertos tras las denuncias del diario *El Tiempo*. Las autoridades habrían incautado todo el archivo fotográfico compuesto por cerca de 10.000 imágenes. La denuncia de la fiscalía habría sido sustentada con la presentación de una fotografía y el testimonio de una de las supuestas víctimas. Sin embargo, las fotografías supuestamente pornográficas, que han sido mostradas a la prensa, no reflejarían tal delito. Se teme que el medio podría estar siendo presionado para no publicar algunas investigaciones.

721. El 7 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, Relator Especial sobre la tortura, el Relator Especial sobre la independencia de magistrados y abogados y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Luis Alberto Ramírez Hinostroza**, quien fue víctima de tortura durante la dictadura militar y quien es ahora uno de los testigos principales ante la Comisión de la Verdad y Reconciliación del Perú y en el proceso judicial contra un general retirado acusado de la desaparición forzada de nueve personas en 1991. De acuerdo con la información recibida: Luis Alberto Ramírez Hinostroza habría recibido amenazas de muerte y ataques contra su persona en varias ocasiones durante los últimos meses. El 13 de marzo de 2004, cuatro individuos habrían disparado contra él llamándole “bocón” mientras le perseguían. El 6 de mayo habría recibido una carta con amenazas junto con dos fotografías de su hija y su esposa. En julio del mismo año, habría recibido otras amenazas de muerte en su casa. En otra ocasión, cuando visitó el lugar donde habría sido torturado años atrás, unos soldados lo habrían fotografiado y habrían amenazado con detenerle. A finales de agosto de 2004, Luis Alberto Ramírez Hinostroza habría notado que alguien le estaba siguiendo. Seguidamente habría solicitado ayuda ante la procuraduría de Huancayo. Sin embargo le habrían informado de que el funcionario solicitado no se encontraba y habría tenido que irse sin protección policial. Dos días más tarde, el 30 de

agosto, un hombre y una mujer le habrían disparado desde un vehículo negro cerca de su casa, en El Tambo, Huancayo. Luis Alberto Ramírez Hinostriza habría resultado herido en el estómago y habría sido conducido al Hospital El Carmen, donde habría sido operado. Se alega que la Comisión Interamericana de Derechos Humanos pidió al Gobierno peruano, el 2 de agosto de 2004, que tomara las medidas necesarias para garantizar su seguridad. Antes del último ataque, habría recibido una carta oficial en la que se le indicaba que se le otorgaban garantías personales, pero no se le habría proporcionado asistencia física. Actualmente, dos agentes de policía estarían encargados de su seguridad en el hospital. Sin embargo las autoridades todavía no le habrían garantizado la asistencia de guardaespaldas para más adelante. A la luz de estas alegaciones, se han expresado temores por la seguridad de Luis Alberto Ramírez Hinostriza y la de su familia.

722. Por carta con fecha de 17 de septiembre de 2004, el gobierno transmitió la siguiente información en relación con la comunicación del 7 de septiembre de 2004 sobre el caso del Sr. **Luis Alberto Ramírez Hinostriza**. El Sr. Ramírez Hinostriza había sido víctima de un atentado el día 30 de agosto de 2004. El día 31 de agosto el Ministro de justicia a través de un oficio deploró el atentado en contra del señor Ramírez Hinostriza y dispuso que se dispusieran las medidas necesarias para garantizar su seguridad personal. El día 31 de agosto a través de un memorando el Director General de la Policía del Perú dispuso al Director de la VII-DITEROPOL de Huancayo que se procediera de inmediato a instalar servicio de seguridad personal al agraviado con dos efectivos policiales durante las 24 horas del día hasta nueva orden; que personal especializado se abocara a las investigaciones y que se informara diariamente por escrito sobre el estado de salud del agraviado. El día 31 de agosto el Director General de la Policía del Perú transmitió una nota informativa al Viceministro del Interior por medio de la cual se informaba que el día del atentado contra la vida del señor Ramírez Hinostriza personal de la policía se entrevistó con él en el hospital. El herido venía teniendo un proceso judicial por tortura contra el General EP (cuyo nombre es conocido por el Relator Especial) ante el juzgado penal de Huancayo y poco días antes había recibido amenazas contra su vida y la de sus familiares. Por esta razón su esposa y sus hijos se habían trasladado a Lima y se había dispuesto el servicio de seguridad física del herido. El Prefecto Regional de Junín el 4 de agosto de 2004 señaló que el juez penal había pedido a la prefectura el día 22 de marzo de 2004 que se brindaran garantías personales al agraviado y que el 15 de abril se había resuelto otorgar dichas garantías a favor del señor Ramírez Hinostriza y sus familiares. El Consejo Nacional de Derechos Humanos no recibió información relacionada a medidas concretas adoptadas con la finalidad de protección del señor Ramírez Hinostriza entre los días que van de su solicitud hasta el día 30 de agosto. El caso estaba siendo objeto de análisis por parte de la Comisión Interamericana de Derechos Humanos.

723. El 8 de septiembre de 2004, el Relator Especial envió un llamamiento urgente en relación con el 2 de septiembre de 2004 cuando tres periodistas, **Maritza Roncal Rodríguez** corresponsal del Instituto de Defensa Legal, de Televisión Panamericana y del periódico La República, **José Luis González Mayqui**, de Radio Cajamarca y del sitio web Cajamarca Perú, y **Daniel Linayd Campos**, del periódico de Cajamarca *El Clarín*, fueron atacados mientras cubrían una protesta contra la empresa minera Yanacocha. El incidente ocurrió en la granja Quilish, situada en la región de Cajamarca, al norte de Perú. Aproximadamente unos 2.000 lugareños y miembros de comités de defensa civil, armados con piedras y palos, penetraron en las instalaciones de la compañía minera en protesta contra una decisión del Ministerio de Energía y Minas relativa a las concesiones de exploración y explotación de oro en la región. Cuando los manifestantes se dieron cuenta de que los periodistas estaban filmando su violenta actitud,

empezaron a atacarles. Maritza Roncal Rodríguez fue llevada inconsciente al hospital más cercano, mientras que José Luís González Mayquí presentaba hematomas y una fractura nasal. El mismo día, con anterioridad y en un incidente distinto, el periodista **César Castro Cano**, de la emisora Radio Líder fue apuñalado por dos veces en la pierna por un agresor desconocido. Dicho incidente aconteció en la ciudad de Cusco, capital de la región de Cusco, al sureste de Perú, mientras Castro se dirigía a la emisora de radio. Dicho periodista fue capaz de llegar al hospital más cercano, donde recibió tratamiento y actualmente está recuperándose. Presuntamente, el apuñalamiento de Castro estaría relacionado con su investigación acerca de la mala administración de los asuntos municipales.

724. El 17 de septiembre de 2004, el Relator Especial envió una comunicación en relación con el 22 de noviembre de 2003, cuando el periodista y director del diario *Correo*, **Juan Carlos Tafur Rivera**, habría sido impedido de salir del país cuando se disponía a viajar rumbo a Miami, donde participaría en un evento de la Federación Latinoamericana de Bancos a realizarse entre los días 23 y 25 de noviembre de 2003. El periodista habría sido sorprendido por el controlador de migraciones del Aeropuerto Internacional Jorge Chávez de Lima, quien le habría informado de la notificación de impedimento de salida del país dictado por el 20.º Juzgado Penal de Lima, a cargo de una jueza provincial.

- El 31 de diciembre de 2003, **Joel Valencia Palomino**, periodista y director de la revista *El Eco Picotino* y redactor del semanario *El Sol de Huallaga* de la ciudad de Picota, provincia de la región San Martín, habría sido agredido por el regidor de la Municipalidad Provincial de Picota. El periodista también habría recibido amenazas por parte del hermano de la referida autoridad. Los informes indican que Joel Valencia Palomina habría denunciado actos de corrupción en la municipalidad;
- El 25 de enero de 2004, los periodistas **Javier Tuanama Valera** y **Arturo Villar Tineo**, de Tarapoto y Ayacucho respectivamente, habrían sido detenidos durante algunas horas en el Aeropuerto Internacional Jorge Chávez de Lima, por supuestas requisitorias que aparecían en las pantallas de los controles de la Policía Nacional. Ambos formaban parte de un grupo de periodistas que se aprestaban a embarcar en un avión para trasladarse a la ciudad de Pucallpa, donde participarían en el Primer Encuentro Regional de la Red de Comunicadores por el Desarrollo de la Amazonía;
- El 14 de febrero de 2004, **Antonio De La Torre Echeandía**, 43 años, periodista de Radio Orbita de la ciudad de Yungay, región Ancash, habría sido asesinado cuando se dirigía a su domicilio. El periodista habría sido apuñalado por dos personas que lo habrían interceptado en un barrio denominado Pampac, a 800 metros de la Plaza de Armas de Yungay. Gravemente herido, el periodista habría podido identificar a uno de sus victimarios. Luego habría fallecido en el trayecto hasta un hospital local. Los informes indican que el periodista habría incluido en el espacio noticioso de Radio Orbita una sección llamada “Con verdad y justicia”, la cual habría generado gran polémica. En esta sección habría recogido denuncias de la comunidad y seguimientos sobre la gestión de entidades públicas, utilizando lenguaje popular;
- El 25 de febrero de 2004, los integrantes del equipo periodístico nocturno de Frecuencia Latina Canal 2, **Jaime Díaz**, **Jaime Vidal Torres** y **Segundo Rivas**,

habrían sido agredidos por un grupo de desconocidos, quienes habrían tratado de impedir la cobertura de una emergencia ocurrida en el distrito limeño de San Borja;

- El 20 de abril de 2004, **David Mejía Huamán**, director del quincenario *La Selva*, de la ciudad de Puerto Maldonado, habría sido amenazado por el Presidente del Gobierno Regional de Madre de Dios. *La Selva* habría denunciado en su última edición las supuestas irregularidades cometidas tanto en la Municipalidad de Tambopata como en el Gobierno Regional y en el Poder Judicial de Madre de Dios. Debido a esto, el periodista habría sido denunciado penalmente por el Presidente del Gobierno Regional de Madre de Dios;
- El 21 de abril de 2004, **Alberto Rivera Fernández**, periodista de Radio Frecuencia Oriental en Pucallpa, habría sido asesinado por dos personas que le habrían disparado dos veces a quemarropa. El periodista conducía el programa “Transparencia”, en el que criticaba el desempeño de las autoridades locales;
- El 27 de abril de 2004, el periodista **Otilio Norberto Ríos Valdivieso**, director del noticiero *El Equipo de la Noticia*, de Radio Televisión Municipal en Pomabamba, habría recibido llamadas telefónicas en las que una voz anónima le amenazaba de muerte. El hostigamiento se habría producido después de una entrevista realizada con el alcalde de Pomabamba, acusado de supuestos actos de corrupción y nepotismo;
- El 20 de mayo de 2004, la sala 11.^a de lo penal de Lima habría dictado una orden de comparecencia “restringida” para **Sally Bowen**, ex corresponsal en Perú del diario británico *Financial Times* y co-autora del libro “El espía imperfecto”. Entre las restricciones impuestas a la periodista figurarían la prohibición de abandonar el territorio, la obligación de pedir autorización cada vez que quisiese salir de Lima, y la de firmar todos los meses en un registro judicial, para atestiguar su presencia en Perú. Esta decisión se habría adoptado en el marco de una querrela por difamación presentada contra Sally Bowen por el fundador de la compañía aérea Aerocontinente. En su libro, la periodista habría citado a Oscar Benites Linares, un ex miembro de la DEA que acusaba al empresario de haber participado en la presunta reorganización del tráfico de droga efectuada por el ex jefe de los servicios de inteligencia. Según indican los informes, el empresario habría pedido 10 millones de dólares a la periodista, en concepto de daños y perjuicios;
- El 20 de mayo de 2004, en el aeropuerto de Tingo María, provincia de la región Huánuco, el material audiovisual de varios corresponsales de televisión habría sido retenido cuando se les sometía a las revisiones de rigor antes de subir a un avión de la Policía Nacional. Los corresponsales tenían que desplazarse en la aeronave debido a que el bloqueo de las carreteras por las protestas de los campesinos coccaleros mantenía aislada la ciudad del resto del país. Los informes indican que poco antes de efectuar la inspección, un efectivo de la Policía Nacional habría advertido a los pasajeros que si alguien llevaba un casete de vídeo éste sería requisado, lo cual ocurrió con el material registrado por los corresponsales de Panamericana Televisión, América Televisión y Televisión Nacional del Perú;

- El 21 de mayo de 2004, los periodistas **Eduardo Ramos Velarde**, **Aníbal Ruiz**, **Edgar Sánchez Barrientos** y **Richard Villagaray Hernández** de la ciudad de Pisco, habrían sido agredidos y amenazados por cuatro desconocidos, presuntamente enviados por dos regidores municipales (cuyos nombres son conocidos por el Relator Especial), debido a las informaciones dadas sobre ciertas irregularidades en la gestión municipal. Durante la emisión del programa “La gran sala de prensa” de Radio Televisión Paracas, cuatro desconocidos habrían entrado en la cabina y agredido física y verbalmente a los conductores **Eduardo Ramos Velarde** y **Aníbal Ruiz**, quienes se encontraban realizando una entrevista a dirigentes de la ciudad. Antes de retirarse, los sujetos habrían amenazado a los periodistas con volver a agredirlos si no dejaban de cuestionar la labor de los dos regidores arriba mencionados. El programa habría sido interrumpido durante unos minutos. Los mismos sujetos se habrían dirigido a la cabina de Radio Inca Sur y habrían interrumpido la transmisión del programa “La hora clave”, conducido por los periodistas Edgar Sánchez Barrientos, camarógrafo de Panamericana Televisión y Richard Villagaray Hernández, corresponsal de CPN Radio. Los desconocidos habrían amenazado a los colegas con agredirlos físicamente y habrían mencionado que habrían sido enviados por los dos regidores;
- El 23 de mayo de 2004, durante varias horas en la tarde, una enardecida turba habría atacado a un grupo de periodistas en el distrito de Ilave, en la región de Puno. Los periodistas habrían sido citados por los dirigentes de dicho poblado para realizar una conferencia de prensa. Sin embargo, la violencia habría estallado cuando la policía habría retirado el montículo de piedras que los habitantes del distrito habían colocado en el puente de esta localidad durante una huelga el 21 de mayo de 2004;
- El 23 de mayo de 2004, cerca de 2.000 personas dirigidas por Edgar Larijo habrían llegado a la plaza de Armas de Ilave. En este momento, algunos sujetos habrían empezado a insultar a los periodistas que cubrían el evento, entre ellos reporteros de la empresa televisiva Frecuencia Latina, y de los periódicos *El Comercio* y *La Razón*. Se informa además que un contingente policial habría cruzado la Plaza de Armas con dirección al puente Ilave para retirar los desmontes de esa vía de acceso, lo cual habría motivado que algunos manifestantes incitaran a la población para enfrenar a las fuerzas del orden. Los periodistas **Juan Rizo Patrón** y **Dante Piaggio** de *El Comercio*, **Elena Cano** y **Daniel Contreras** del diario *La Razón* y **Mónica Cépeda** y **Óscar Echevarría** de Frecuencia Latina habrían sido atacados con piedras y hondas;
- El 26 de mayo de 2004, el periodista **Ángel Rojas**, de Radio Televisión Orión de la ciudad de Pisco, habría sido agredido por un desconocido, presuntamente enviado por los dos regidores municipales arriba mencionados, después de que el periodista habría denunciado diversas irregularidades cometidas en la gestión municipal. Mientras se encontraba en su vehículo, Ángel Rojas habría sido interceptado por un sujeto, quien le habría golpeado en el rostro y le habría amenazado si no dejaba de hacer denuncias contra el municipio;
- El 27 de mayo de 2004, Ángel Rojas habría vuelto a recibir amenazas contra su integridad. El 2 de junio de 2004, el periodista **Luis Madani Huillca**, de Radio Sicuani, habría sido agredido por cuatro sujetos dentro de las instalaciones de la

Municipalidad Provincial de Sicuani, departamento del Cuzco, cuando se encontraba cubriendo, junto a otros periodistas, dos eventos simultáneos en el local municipal.

725. El 22 de noviembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la independencia de magistrados y abogados y la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Gloria Cano**, abogada y defensora de los derechos humanos de la organización no gubernamental Asociación Pro Derechos Humanos (APRODEH), quien habría recibido recientemente amenazas de muerte. De acuerdo con las informaciones recibidas, el 20 de octubre de 2004 Gloria Cano se encontraba en las oficinas de APRODEH en Lima cuando recibió el mensaje de texto siguiente en su teléfono móvil: “Hola perra, nos estamos en la cárcel, cuídate hasta de tu sombra, te vas a reunir con el terruco en el infierno yelmo”. Gloria Cano habría sido ya previamente víctima de un acto de intimidación en enero de 2003, cuando habría sido rodeada, insultada y golpeada por un grupo de individuos no identificados delante de las oficinas de APRODEH. Gloria Cano denunció la amenaza de muerte ante la Fiscalía de la Nación, el 25 de octubre. La Comisión Interamericana de Derechos Humanos (CIDH) ha pedido al Estado peruano que les informe sobre cuáles medidas está tomando para investigar esta denuncia. Según se informa, Gloria Cano recibió la amenaza al día siguiente de la publicación de un comunicado de prensa de APRODEH que mostraba su preocupación por la excarcelación del ex asesor presidencial sobre inteligencia, el ex comandante en jefe de las fuerzas armadas y el ex director del Servicio de Inteligencia Militar-SIE, que habían permanecido detenidos los últimos 18 meses por su presunta implicación en el homicidio de tres miembros del grupo armado de oposición Movimiento Revolucionario Túpac Amaru (MRTA) durante una operación militar de 1997. Los acusados habrían sido excarcelados porque, a causa de las demoras en el juicio, habían excedido el plazo máximo de detención preventiva permitido por la ley. Gloria Cano es el abogado de las familias de las víctimas desde 2001 y se supone que las amenazas recibidas estén relacionadas con su trabajo de abogado y defensor de los derechos humanos en relación con este caso.

726. Por carta con fecha de 23 de diciembre de 2004 el gobierno transmitió la siguiente información en relación con la comunicación del 22 de noviembre de 2004 sobre el caso de **Gloria Cano Legua**. Mediante nota de fecha 28 de octubre de 2004, la CIDH informó que la Coordinadora Nacional de Derechos Humanos del Perú y el Centro por la Justicia y el Derecho Internacional (CEJIL) se habían dirigido a la CIDH con el fin que el Estado Peruano adoptara medidas cautelares a favor de Gloria Cano Legua, responsable del área legal de la APRODEH para garantizarle el derecho a la vida y a la integridad personal. En la petición se señalaba que la señora Cano había recibido una serie de amenazas. La Fiscalía Penal competente informó que con fecha 26 de octubre de 2004 ingresó la denuncia presentada por la señora Cano por delito contra la libertad. En un informe de fecha 10 de noviembre de 2004, la Policía Nacional informó que se venía brindando servicio de seguridad y vigilancia del local de APRODEH. Se dispuso también que se brindaran medidas de protección personal a la señora Cano y que se efectuaran investigaciones sobre la denuncia interpuesta por la misma.

727. El 3 de diciembre de 2004, el Relator Especial envió un llamamiento urgente sobre el caso de **Renán Palacios**, un periodista de Radio Constelación. Según la información recibida Renan Palacios habría recibido amenazas de muerte a través de mensajes de texto enviados a su teléfono móvil. Las amenazas se volvieron más graves el 26 de noviembre cuando recibió unos mensajes que decían que sería asesinado esa misma noche y lo sería también si salía de su casa a

cualquier hora. El amenazado tuvo que abandonar la ciudad de Ica, donde residía. Los perpetradores estarían vinculados al Instituto Nacional de Cultura. Se piensa que las amenazas serían a causa de las investigaciones periodísticas de Renán Palacios referentes a posibles irregularidades administrativas en dicho Instituto.

728. El 17 de diciembre de 2004, el Relator Especial envió una comunicación en relación con el periodista **Oswaldo Condori**, propietario de Radio Oriental de Huancané, quien fue agredido por desconocidos mientras presentaba su noticiero. Según las declaraciones de la víctima, los agresores le exigieron que dejara de denunciar presuntos actos de corrupción en la municipalidad de Huancané. Según las informaciones recibidas, magistrados de la Corte Superior de Justicia de la región de Puno han amenazado con denunciar penalmente a un grupo de periodistas en caso de no matizar o probar fehacientemente la información divulgada por los mismos. Dicha información concierne al supuesto vínculo entre la presencia de prostíbulos en la región y miembros del poder judicial. Dichas informaciones fueron vertidas tras acontecer violentos eventos relacionados con los mencionados prostíbulos. Así, el día 31 de octubre fue asesinado un ciudadano tras salir de uno de dichos locales y, el mismo día, un grupo de pobladores incendió nueve prostíbulos. De acuerdo con el comunicado leído en conferencia de prensa por el Presidente de la Corte Superior de Justicia de Puno el pasado 4 de noviembre, la demanda afectaría a periodistas de Panamericana Televisión, Radio Perú, Canal 15 y a los periodistas **César Hildebrandt, José Figueroa Ardiles, David Sucacahua Yucra y César Huasaca**.

Observaciones

729. El Relator Especial da las gracias al Gobierno por sus respuestas a las comunicaciones fechadas 28 de abril, 10 y 27 de mayo, 7 de septiembre y 22 de noviembre de 2004, si bien espera otras respuestas a las comunicaciones con fechas 7 de mayo, 27 de julio, 11 de agosto, 8 y 17 de septiembre, 3 de diciembre y 17 de diciembre 2004.

Philippines

730. On 21 January 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Jose Suplaag**, the Spokesperson of the Union of Farmers in Danao City (PAMADA) who was allegedly arrested and tortured by members of 78th Infantry Batallion in Brgy Damalog, Sogod, Cebu. According to the information received, on 2 December 2003, a group of armed soldiers reportedly arrived at the farm of Jose Suplaag in Pili and, claiming that subversive documents had been found in his possession, proceeded to arrest him by force. It was reported that he was then taken to the headquarters of the 78th Infantry Batallion where he was allegedly accused of being a member of the New People's Army (NPA), which Jose Suplaag reportedly denied. He was then allegedly tortured for two days. His captors reportedly wrapped his head with a plastic bag full of crushed pepper until he was at the point of fainting, allegedly punched him in the back with their elbows and threatened him with summary execution if he did not admit to his membership in NPA. Jose Suplaag, reportedly illiterate, was allegedly made to sign a document without being informed of its contents. On 4 December, Jose Suplaag was allegedly taken to Danao City Jail and charged with illegal possession of firearms in a case reportedly filed by his captors at the Regional Trial Court, Branch 25. Fear had been expressed that the alleged arrest and torture of Jose Suplaag might represent a form of reprisal for his work with PAMADA in the

defence of human rights, in particular, the denouncing the alleged human rights violations committed by the 78th Infantry Battalion.

731. On 17 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegation concerning reports that there had been a series of executions, allegedly in the context of military anti-insurgency operations against NPA, the armed wing of the Philippine Communist Party (CPP) and of the pre-election period. It was believed that these executions might be attributable to members of, or people with links to the Armed Forces of the Philippines (AFP). In particular, violent attacks on Bayan Muna and Anak Pawis party members were reported to be part of a wider pattern of killings and “disappearances” of left-wing opposition activists and human rights defenders, members of lawful political parties that had allegedly been publicly labelled by some senior military officials as “front organizations” for NPA. Concerns were expressed that such attacks might increase in the context of the national elections on 10 May 2004. In this connection, it was reported that, on 28 April 2004, **Isais Drummond Manamo**, the Secretary General of the political party Anak Pawis in Mindoro Oriental province, was killed by an unidentified armed man. The following day, both **Rogelio Perez**, a Bayan Muna party official in Quezon, and his wife, **Cristina Perez**, a Bayan Muna party member, were reportedly shot at. It was reported that Rogelia Perez died as a result of the attack while his wife was severely wounded. Similarly, it was reported that, on 13 February 2004, **Juvy Magsino**, a human rights lawyer running for mayor in the May elections, and **Leyma Fortu**, a worker for the human rights organization Karapatan, both members of the Bayan Muna political party, were shot dead by two men while they were driving to a friend’s house. It was believed that these executions might have been related to the pre-election tensions and to the actions of a vigilante group linked to a local brigade of AFP.

732. On 4 August 2004, the Government of the Philippines sent a response to the Special Rapporteur’s communication of 17 May 2004 concerning reports of the alleged executions of **Isais Caraig Manamo, Rogelio Perez, Cristina Perez, Juvy Magsino and Leyma Fortu**. Concerning Isais Carag Manano, the Government states that, on 28 April 2004, Mr. Manano was shot dead by a lone gunman while walking with a companion in Barangay Pachoca, Calapan City, province of Mindoro. A follow-up investigation was being conducted, at the time this reply was sent, on the alleged companion of the victim who may be able to provide leads regarding the identity of the killer. No evidence had, at the time this reply was sent, been linked to any member of the military or police. Regarding the Perez couple, police reports stated that unidentified suspects shot them on 29 April 2004 while they were about to enter their house in Barangay Silangan Malioboy Pagbilao, Quezon, after attending a political meeting. Cristina Perez survived the attack, while her husband died on the spot. The case was still under investigation, at the time this reply was sent, and no evidence has yet been gathered which points at any member of the police or military. Concerning attorney Juvy Magsino and Ms. Leyma Fortu, police records show that they were both shot on 13 February 2004 in Sitio Amugis, Barangay Barcenaga in Naujan town. Police authorities identified the suspects who were charged on 26 February 2004 with two counts of murder before the Provincial Prosecutor’s Office in Calapan City, Mindoro. The Government of the Philippines strongly denied the allegations that the above incidents happened during or within the context of counter-insurgency operations undertaken by the Armed Forces of the Philippines against the Communist Party of the Philippines and the New People’s Army. Moreover, the allegation that violent attacks on Bayan Muna and Anak Pawis party members

were part of a widespread pattern of killings and disappearances of left-wing opposition activists and human rights defenders had no basis in truth and fact.

733. On 3 September 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mario Detroz**, aged 41, **Joseph Gonzales**, 23, **Ronaldo Comiso** residents of Sampaloc district, Manila. According to the allegations received, on 18 August 2004, they were reportedly arrested by men believed to be members of the Intelligence Service of the Armed Forces of the Philippines (ISAFP). As the men drove through Sampaloc at around 5 p.m., their car was blocked by a waiting vehicle. About 10 unidentified men surrounded the car, fired a warning shot and forced Joseph Gonzales to go to the other vehicle. Both vehicles were then driven off in a convoy of several other cars. A local district official took the licence number of the assailant's vehicle and recorded the incident in a logbook. Bystanders were reportedly informed that the incident was related to an operation against suspected bank robbers. No record of the arrest had been made. However, a police officer, while denying knowledge of an arrest, reportedly confirmed that he had been informed by ISAFP personnel that an "operation" was under way in the area. The officer gave the name of an ISAFP Staff Sergeant reportedly involved in the operation, but continuing inquiries about the whereabouts of the three men had been unsuccessful. Mario Detroz, Joseph Gonzales and Ronaldo Comiso were affiliated with the left-wing political party Bayan Muna (People First) and had all worked as party organizers during the May 2004 national elections, during which Bayan Muna won three congressional seats. Joseph Gonzales and Ronaldo Comiso were also members of the Manila branch of BAYAN (New Patriotic Alliance), a coalition of non-governmental organizations (NGOs). In view of their alleged detention in an undisclosed location, concern was expressed that the three men might have been at risk of torture or other forms of ill-treatment.

734. On 9 December 2004, the Government sent a response to the communication of 3 September 2004 concerning **Mario Detroz**, **Joseph Gonzales** and **Ronaldo Comiso**, residents of Sampaloc district, Manila. The allegations were that they were abducted on 18 August 2004 by personnel of the Intelligence Service of the Armed Forces of the Philippines and detained in an undisclosed location. However, according to the Department of National Defence, these allegations are unfounded. According to the Department of National Defence, ISAFP was informed of the alleged incident on 24 August 2004 through letters from KARAPATAN and Bayan Muna representatives. The letters based their complaint on information alleging that, on 18 August 2004, personnel from ISAFP, a sergeant made prior coordination with the Philippine National Police Station 4 in Sampaloc regarding an alleged ISAFP operation. After verifying its records and its personnel file, ISAFP informed KARAPATAN and Bayan Muna that ISAFP had no personnel/agent by this name and that it had no operation on 18 August 2004 within the National Capital Region. ISAFP also allowed Antonio Gonzales (father of Joseph Gonzales) and Estelito Piamonte (representative of Isidro Detroz, father of Mario Detroz) to personally visit the premises of ISAFP and its detention cubicle to verify for themselves whether the three above persons were being detained there. Mr. Gonzales and Piamonte were unsatisfied with the outcome of their verification and filed a petition for a writ of habeas corpus before the Court of Appeals against the Chief of ISAFP. This complaint had received and continued to receive, at the time this reply was sent, prompt and appropriate action by the Philippine authorities. The Special Rapporteur will be informed of any further developments on this case.

735. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning:

- The 22 August 2002 events, when the TV presenter and magazine editor **Sonny Alcantara** was reportedly killed by a bullet to the head in San Pablo City (80 kilometres south of Manila). It was reported that he felt under threat because of articles criticizing the city's former mayor. Alcantara was the editor of the local bimonthly newspaper *Kokus* and presented a political affairs programme called "Quo Vadis San Pablo" on the private cable TV channel Celestron Cable. He was reportedly killed as he was leaving his home in the morning of 22 August. According to information received, an unidentified person called out to Alcantara as he was leaving his home, then pulled out a pistol and shot him in the head at point-blank range. Alcantara died on the spot, while the assailant made off. The shooting was allegedly witnessed by several persons who had, at the time this communication was sent, refused to testify publicly for fear of reprisals. The police opened an enquiry under the authority of the San Pablo City chief of police. It is reported that Alcantara had been receiving threats by telephone and letter for several weeks. In both his magazine and his TV programme, he had regularly criticized the municipal opposition, especially the former mayor, a very influential businessman in the region, who was allegedly close to certain criminal organizations;
- On 23 October 2002, journalist **Edmund Sestoso** was allegedly abducted by local officials in Canlaon City, Negros Oriental, and a group of military officers. Sestoso is *The Visayas Daily Courier's* news bureau chief in Bacolod City, Negros Oriental, and a commentator on local radio station DYSR. His abduction allegedly occurred 10 days after a correspondent of the same newspaper, Carl Vanzales, had allegedly been harassed by military men and a rebel returnee on 13 October. According to reports, the rebel returnee concerned and three armed companions went to pick up Sestoso at his house in Dumaguete City, Negros Occidental, on the pretense that rebel returnee concerned was going to hold a press conference in nearby Sibuyan village. However, instead of going to a press conference in Sibuyan, Sestoso was reportedly brought to see the Mayor in Canlaon City, about 100 kilometres from Dumaguete. The Mayor apparently did not appreciate the negative reports in Sestoso's newspaper about the case the Mayor had filed against the alleged killers of one of his relatives. It is alleged that the fact that the rebel returnee named several personalities as being behind the killing of the former mayor was politically motivated, since some of those personalities were political opponents. After meeting the mayor, Sestoso was reportedly brought to a government-owned pension house, where he spent the night of 23 October. He was released a day later;
- On 1 November 2002, **Lloyd Wilson Sato**, a student at the South Western University and Vice-President of the College Editors' Guild of the Philippines (CEGP)-Visayas, was reportedly forced into a car in Osmeña Blvd., Cebu City. One of the passengers of a white-tinted Toyota Corolla that had drawn up alongside him allegedly drew a gun and ordered him to board the vehicle. According to reports, Wilson Sato tried to run away but, under threat of being shot, he was forced to board the car and was taken to the North Reclamation Area in Mandaue City. There, his captors reportedly asked him about the whereabouts of student leaders **Roxanne Doron** (the former Anakbayan-Cebu Chairperson),

Reiner Joseph (former Anakbayan-Cebu, Secretary General), **Mary Francis Veloso** (the present Anakbayan-Cebu Chairperson) and **Yancy Gandionko** (the present CEGP-Cebu President). The College Editors' Guild of the Philippines (CEGP) and the Anakbayan are student organizations that actively campaign for student's rights and other human rights-related issues. Wilson Sato was also asked about the whereabouts of **Nestor Lumbab**, who had been released as a result of a court order after being detained for two months at the headquarters of the 78th IB PA. Wilson Sato's captors reportedly warned him not to join the upcoming rallies of the militant groups. It was believed that the perpetrators are members of the Military Intelligence Group because two of them were seen acting suspiciously during a rally conducted by their organization. In addition, it was reported that Wilson Sato lost Php. 9,000 when the alleged that perpetrators took his bag and books. After his interrogation, he was brought to Brgy. Guadalupe and was ordered to get out of the car. As he stepped out of the car, one of the captors allegedly pulled him and slashed his left arm with a knife and said, "That is a warning!";

- On 9 January 2003, around **400 members of the Naphil Arrastre & Stevedoring Services, Inc. Employees Independent Union** were reportedly occupying the premises (a port) of the Apo Cement Company in Tinaan Naga (Cebu), in protest of the termination of work by the said company. According to reports, at around 1:30 p.m. a security officer, (whose name is known to the Special Rapporteur), approached **Tomas Alferez**, a leader of the said union, and ordered the group to vacate the premises. When Tomas Alferez demanded if the security guard could support his demand with a court order, the said officer reportedly grabbed him and put a 9mm pistol to his head. It is reported that following this incident, policemen officials aimed their guns at the protesting workers, and pushed them towards a tugboat. It is also reported that another worker, **Lucio Panasacala, and his companions**, were denied access to the docks when they tried to bring food to the workers occupying the premises. Maritime Patrol Craft No. 9 reportedly ran into their boat in order to prevent them from docking, causing damage to the boat. The police reportedly threatened to shoot the occupants of the boat if they brought food to the workers occupying the premises. Reports included the presence of two helicopters, which were seen hovering above the company's premises. Moreover, according to the information received, **about 80 workers** were forced to board a police tugboat at gunpoint and were brought to the Naga Philippine police (NPC) wharf, located about two kilometres away from the said corporation;
- On 17 May 2003, radio announcer **Apolinario "Polly" Pobeda**, was reportedly shot dead in Lucena City, Quezon Province. According to reports, Pobeda was gunned down on the way to the studios of radio TI-AM by two unidentified men on a motorcycle, who fired seven shots at close range, hitting him in the face, head, neck, back and hands. He was taken to Quezon hospital where a forensic doctor declared him dead on arrival. Pobeda was known for criticising both national and municipal authorities in his programme called 'Nosi ba Lasi' ('who are they?') in which he blamed the mayor of Lucena for the spread of drugs and

gambling in the town. The mayor allegedly reacted by closing down the radio station in 2002, forcing it to move outside the city limits;

- According to reports, **Bonifacio Gregorio**, who worked for the local weekly *Dyaryo Banat* newspaper, was shot to death on 8 July 2003 by an unidentified assailant in front of his house in La Paz, Tarlac. The 55-year-old journalist was reportedly talking on his mobile phone when the assailant gunned him down at around 7:30 p.m. According to information received, the reporter-columnist sustained three gunshot wounds in the head and was rushed to the La Paz District Hospital. According to reports, Gregorio was shot at close range. The journalist was later transferred to Ramos General Hospital, where he was declared dead on arrival. The victim was known for his criticism of La Paz Mayor. He reportedly wrote several articles assailing the Mayor for his allegedly illegal activities, among them the conversion of a former rice field in La Paz into a memorial park;
- On 19 August 2003, journalist **Noel Villarante** was reportedly murdered in Santa Cruz, a town in the Philippine's central Laguna Province. According to information received, at about 6:30 p.m., an unidentified gunman shot Villarante as he was standing in front of his house. After being shot, Villarante was able to run inside the house. As Villarante and his relatives left the house en route to the hospital, the gunman shot him twice in the head, killing him instantly. The motive behind Villarante's killing is unclear. As a reporter for radio station DZJV and a columnist for the local *Laguna Score* newspaper, Villarante was known for his reports on corruption and criminal behavior by the police and local officials;
- On 20 August 2003, radio journalist **Rico Ramirez** was reportedly killed in the town of San Francisco, province of Agusan del Sur (northern Mindanao island) by members of the drug underworld he had criticized. Ramirez's death was only reported on 2 September. Ramirez, who worked for dzSF radio station, was killed by two gunmen who shot him in the back. Ramirez's recent criticism of local organised crime and drug traffickers suggests these circles may be behind the murder;
- On 6 September 2003, radio commentator **Juan "Jun" Porras Pala** of DXGO in Davao City was reportedly shot and killed after surviving two earlier attempts on his life on 14 June 2001 and 29 April 2003. According to reports, at around 7 p.m., Pala was walking home with his bodyguard, cousin and friend when he was attacked by unknown gunmen on board a motorcycle. They were some 300 metres from his house in Davao Empress Subdivision. The three men were returning from the adjacent Vista Verde Subdivision, where Pala had been visiting a friend. Pala, who sustained nine gunshot wounds to various parts of the body, particularly the chest and arms, was pronounced dead on arrival at San Pedro Hospital. His companions were slightly injured and treated at the same hospital. According to reports, the police had no leads, at the time this communication was sent, regarding the motive and identities of the attackers. However, it is believed that Pala could have been killed for commentaries about his political opponents or over a personal grudge. Pala had been broadcasting his morning show "Isumbong Mo Kay Pala" ("Tell Pala") from his house since the 29 April attack. Pala reportedly aired critical commentaries against various Government officials,

including a Mayor and the President. He had also exposed graft and corruption in the city involving some politicians;

- On 23 November 2003, armed men stormed Radyo Natin (RN) radio station in Lupon town, Davao Oriental (123 kilometres from Davao City, southern Philippines). The men beat up **Jun Castro**, a staff member, after he refused to reveal the whereabouts of his boss and anchor **Marlo Lim Roman**. According to reports, the suspects were all armed with M-16 rifles and wore ski masks. As soon as they arrived, the suspects allegedly aimed their guns at him while asking for **Romeo Bote Jr.**, the franchise owner of the station, and anchor Marlo Lim Roman. It was reported that they took turns beating him, using the butts of their firearms, when he refused to tell them where Bote and Roman were. The incident took place at approximately 9:45 p.m. It was believed the attack might have been politically motivated. Bote said that the incident might also be connected with the fact that he was expecting to run as a councillor in the 2004 elections. It was also reported that Roman had received threats a few days before the attack on the station;
- According to information received, on 11 February 2004, **Ruel Endrinal** was reportedly shot dead by two unidentified gunmen as he was leaving his house for the DZRC-AM radio station in the city of Legazpi. Ruel Endrinal was an employee at the station and hosted a daily political commentary morning programme. He was also head of the local press club and was allegedly well-known for criticizing corruption in the elite. Ruel Endrinal had reportedly received death threats from businessmen and politicians. It was believed that he may have been targeted because of his commentaries in his radio programme;
- According to the information received, on 13 March 2004, at about 1 p.m. at the Manila North Harbour, a group of about 400 officers and guards, consisting of Western Police officers, Special Weapons and Tactics teams and security guards reportedly stormed the vessels of **striking seafarers employed by the Sulpicio Lines Inc.** The seafarers reportedly participated in a nationwide strike that was launched by the Unyon ng Mandaaragat sa Sulpicio Lines Inc./Solid towage and Lighterage Inc. (UMSS-Anglo-KMU) on 9 March 2004 to protest against alleged poor working conditions, the use of unfair labour practices and violations of the Memorandum of Agreement that the company had signed with the workers' representatives (UMSS-Anglo-KMU). An assumption of jurisdiction order was reportedly issued by the Department of Labour and Employment on 10 March 2004 allowing the police to break the strike. According to reports, snipers of the special weapons and tactics (SWAT) teams pointed their rifles at the striking seafarers from the rooftop of a building and a warehouse, and officers boarded the vessels and forced the striking seafarers to disembark. The police and SWAT team officers also reportedly arbitrarily detained around 200 of the striking seafarers at the passenger terminal, which can only accommodate 100 persons and only has one lavatory. The seafarers were detained there under heavy guard, without any food, until the following day, 14 March 2004, when they were released at 4 p.m. According to the information received, one seafarer was handcuffed and many others were hit, kicked, and threatened with cocked rifles by the Police and SWAT team officers. It was also alleged that police and SWAT

team officers took valuables like watches, bracelets and money belonging to the striking seafarers;

- On 10 June 2004, two provincial radio stations run by the private network **Bombo Radyo** were reportedly ordered closed by the local mayor's office because of alleged permit violations. According to reports, the mayor ordered the police to close the stations **DZNC** and **DWIT**, located in Cauayan City, Isabela Province, on the northern island of Luzon, because they had allegedly failed to submit the required documents for renewing their business license and commercial zoning clearance. However, it was said that the stations had submitted the proper documentation on time. Local authorities had shuttered the stations several times in 2004. DZNC and DWIT were closed on 9 May, on the eve of the Philippines elections by the national Commission on Elections, known as Comelec. After protests from Bombo Radyo directors, Comelec reportedly reversed its order, and the stations reopened on 17 May. On 17 February, the Cauayan City government, led by the Mayor, had ordered the police to close the stations. On 23 March, Comelec authorized the stations to reopen. However, the police closed the stations again hours later. The stations were reopened on 30 March. Bombo Radyo is known for its pointed political coverage and has been critical of the Mayor and other members of the Dy family, allegedly a powerful political dynasty in Isabela Province. According to information received, Bombo Radyo officials had applied in May for a court injunction blocking the mayor's office from issuing another closure order. The petition was said to be still pending in the local Appeals Court at the time this communication was sent.

736. On 7 December 2004, the Special Rapporteur sent a letter of allegation concerning **Allan Dizon**, photojournalist for the daily *Freeman* and tabloid *Banat News*, who was murdered by an unidentified gunman on 27 November 2004, in the city of Cebu. Dizon had recently written a paper on drug-trafficking concerning one of the neighbourhoods of Cebu. The police reportedly have opened an investigation into the case. Moreover, it was reported that staff writer for the bimonthly community paper *Guru Press*, **Stephen Omais**, was killed in Tabuk, Kalinga. He was found in a garbage bin with signs of torture on his body on 1 December 2004. The police believe that he was killed on 26 November 2004. Staff members of the *Guru Press* had allegedly received death threats following investigations carried out by the paper concerning a 9-million peso public works project in Pinukpuk. The death of Dizon and Omais brings the number of journalists murdered in the Philippines this year to 13.

Observations

737. The Special Rapporteur thanks the Government for its replies to his communications of 17 May and 3 September 2004, but regrets not having received any replies to his communications of 21 January, 14 October and 7 December 2004.

Poland

738. On 13 February 2004, the Special Rapporteur sent an urgent appeal concerning **Andrzej Marek**, editor-in-chief of the weekly *Więści Polickie (Police News)* in the western Polish town of Police, who was reportedly sentenced to three months in prison for defamation.

According to information received, the charges stemmed from two articles that appeared in *Wiesci Polickie* in February 2001. The first article reportedly accused the then spokesman of the Promotion and Information Unit of the Police City Council of obtaining his post through blackmail, and the second article criticized him for using his public post to promote his private advertising business. On 6 February 2004, the Szczecin District Court upheld its 8 November 2003 verdict sentencing Marek to three months in prison, ruling, however, that it would suspend the sentence if Marek published an apology to the then spokesman of the Promotion and Information Unit of the Police City Council in his newspaper, which apparently he refused to do.

739. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning **Andrzej Marek**, editor-in-chief of the weekly *Wiesci Polickie*, in the town of Police, who, in November 2003, was convicted of libelling the then spokesman of the Promotion and Information Unit of the Police City Council, in two articles that were published in *Wiesci Polickie* in February 2001. The articles accused him of obtaining his post through blackmail and using his public post to promote his private advertising business. On 2 March 2004, the Szczecin District Court ordered the journalist to appear at Szczecin Municipal Prison on 26 March 2004 to begin serving his sentence. In protest, a group of prominent Polish journalists, including popular television anchors and editors, gathered outside the Polish Parliament on 25 March 2004, to demonstrate their solidarity with Andrzej Marek. Following the protest, the Szczecin District Court postponed the sentence for six months. In May 2004, **Beata Korzeniewska**, a journalist for the daily *Gazeta Pomorska*, was sentenced to one-month prison. The libel charges against her stemmed from an article published in *Gazeta Pomorska* concerning a judge from the city of Torun. In an article published on 19 May 2001, the journalist stated that there had been rumours in circles close to the court that the judge was the author of anonymous letters revealing corrupt practices among Torun lawyers. The journalist also quoted the judge's authorized statement as denying any connection to the letters. However, the judge decided to file criminal libel charges against the journalist and demanded 50,000 PLN (approximately US\$ 12,700) in damages. Although the judge was declared innocent by the Court of First Instance in Plock, he appealed and the case was sent back to the court, which found the journalist guilty of libel and handed down a sentence of one month's imprisonment with a two-year suspension.

Observations

740. The Special Rapporteur thanks the Government for its reply to his communication of 30 September 2004, the translation of which was not yet completed at the time this report was finalized. He regrets, however, not having received any reply to his communication of 13 February 2004 at the date this report was finalized.

Republic of Korea

741. On 16 January 2004, the Special Rapporteur sent an urgent appeal concerning **Song Du yul**, a German-Korean scholar, who was reportedly arrested on 22 October 2003 indicted on 19 November on charges of violating the National Security Law. It was reported that Mr. Song had been denied access to his lawyer when summoned for interrogation, and that he only had limited access to his lawyer during the month before his indictment, when he was allegedly submitted to repeated sessions of interrogation, during which he was tied up and handcuffed. It was believed that the prosecutors arrested Song Du-yul to pressure him to change his ideology, as they had allegedly demanded him to make a formal pledge of conversion and to

submit a letter to this effect as a condition for suspending the indictment, under the "oath of law-abidance", which succeeded the "ideology conversion system". Mr. Song had reportedly been under investigation for his alleged pro-Democratic People's Republic of Korea activities since his return from a 37-year exile. After his arrest, he was reportedly accused by the prosecutor of joining the Workers' Party of the Democratic People's Republic in 1973, acting as a member of its Politburo in the 1990s, visiting Pyongyang 20 times and receiving money from its Government while he was in exile. It is reported that the prosecutor has not been able to prove the last three accusations.

742. On 18 February 2004, the Government of the Republic of Korea sent a response to the Special Rapporteur's communication of 16 January 2004 concerning **Song Du-Yul**. The Government stated that Song Du-Yul was initially permitted contact with his lawyers without any restrictions, even during interrogations carried out by the National Intelligence Service and the Public Prosecutor's Office. However, against the operative guidelines of the Ministry of Justice concerning the presence of lawyers during interrogations, Song Du-Yul's lawyer leaked classified information about the interrogation of his client by having several press interviews. As a result of this, the Public Prosecutor's Office refused his lawyer's requests for presence during the interrogation process. Moreover, the Government stated that Song Du-Yul was in fact handcuffed and tied with ropes since, according to the law, there being a risk that he might cause himself self-injury, commit suicide or escape while being escorted outside detention facilities, this measure was deemed to be necessary. The Government, furthermore, stated that the allegation that there was a demand by the prosecutors for Song Du-Yul to submit a letter of swearing, an oath of law-abidance or pledging ideology conversion in exchange for a suspension of indictment was false. The regulation to force suspects to submit a letter of oath was succeeded by the ideology-conversion system three months before the arrest of Song Du-Yul. However, an investigation officer stated, during an interview with journalists, that if Song Du-Yul showed signs of remorse for his actions, this would influence the prosecutor's indictment and the court's ruling on him in the future. This was made in reference to article 51 of the Penal Code, which stipulated that circumstances after the commission of a crime will be taken into consideration in determining punishment. He did not, however, state that they intended to force Song Du-Yul to take an oath of law abidance as alleged. Finally, the Government stated that the Public Prosecutor's Office indicted Song Du-Yul for his activities as a candidate member of the Politburo of the Worker's Party of the Democratic People's Republic of Korea and for his 19 trips to Pyongyang, capital of the Democratic People's Republic, from May 1991 to March 2003. According to investigations carried out, Song Du-Yul met with Kim II-Sung, then leader of the Democratic People's Republic of Korea, and was elected as a candidate member of the Politburo in 1991. He was also accused of contacting agents of the Democratic People's Republic three times during the period December 1996 to April 1997, and of having even sent a congratulatory letter to celebrate Mr. Kim's birthday. The Government stated that no action was taken regarding the accusation that Song Du-Yul had received money from the Democratic People's Republic, due to the lapse of the defined length of time contained in the statute of limitations. Moreover, Song Du-Yul's indictment was based on strong evidence. Finally, a lawsuit against him was under way at the time this reply was sent, and the court would rule on this issue in the near future.

743. On 5 October 2004, the Special Rapporteur sent a letter of allegation concerning the arrest by the police of **a 21-year-old student** on 23 March 2004, known as Kwon, for posting

more than 70 pictures of politicians on 15 different sites during an election campaign. The student was subsequently charged with disseminating false information as he allegedly violated the electoral law by posting pictures on websites other than his personal page, and by letting other Internet users download them. The posted files included satirical parodies of politicians and other comedy situations concerning the political situation in the country.

Observations

744. The Special Rapporteur thanks the Government for its response to his communication of 16 January 2004, but regrets that no reply to his communication of 5 October 2004 was received at the time this report was finalized.

Republic of Moldova

745. On 28 June 2004, the Special Rapporteur sent an urgent appeal regarding **Alina Anghel**, journalist of the investigative weekly *Timpul*. According to information received, on 23 June 2004, Alina Anghel was attacked in front of her home in Chisinau by two unknown men, who beat her with an iron bar, leaving her with head injuries and a broken arm. Following the attack, she was taken to hospital in a serious condition. It was also reported that the alleged assault was connected with Alina Anghel's investigative reports into the case of a luxury car given to the Interior Minister and to the related defamation case brought against the weekly by a luxury car dealer. Reports indicated that the journalist had received a number of telephone threats since the publication, in January 2004, of an article entitled "Luxury in the land of poverty", in which she revealed the existence of an agreement between the State Chancellery and a luxury car dealer. The reported assault came on the eve of the Appeal Court hearing of the libel action against *Timpul* and, according to information received, the journalist was thus unable to attend it.

746. On 6 August 2004, the Special Rapporteur sent an urgent appeal regarding **Alina Anghel**, journalist, and *Timpul*, which was said to be an opposition newspaper. According to the information received, on 23 June, Alina Anghel, was brutally attacked by unknown assailants and received numerous phone threats in connection with an article entitled "Luxury in a land of poverty", which she published on 16 January in *Timpul*. This article reportedly revealed the existence of a case of corruption involving the State Chancellery and a firm in connection with the sale of luxury cars. It was furthermore reported that, on 28 April, the Buiucani District Court in Chisinau sentenced *Timpul* for defamation in connection with this same article. The sentence was reportedly confirmed on 22 July 2004 by the Chisinau Appeals Court, which ordered the paper to pay damages of about 130,000 euros for defamation to the firm concerned. It was alleged that the payment of such an important sum could bankrupt the newspaper.

747. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning:

- On 25 January 2004, when cameraman **Valeriu Timus**, while filming a protest meeting of an opposition party in downtown Chisinau, was attacked by unidentified individuals who violently blocked his camera and, without identifying themselves, tried to force him to go with them to provide "a clarification". A prompt response by other journalists forced the attackers, who pretended to represent the authorities, to back down. The police, who happened to be nearby, watched the incident without intervening;

- At the same meeting, **Valeriu Saharneanu**, President of the Moldovan Journalists' Union, was summoned by the police and charged with disturbing the public order;
- On 3 February 2004, the Broadcasting Coordinating Council (CCA) decided to suspend broadcasting of two critical media, the municipal station **Radio Antena C** and the TV station **Euro TV Chisinau**, on the grounds that they had no legal status;
- On 6 February 2004, journalists at *Timpul* learned that they were being sued for "defamation" by a car company, over the 16 January 2004 article by Alina Anghel suggesting that the company may have bribed officials. Shortly thereafter, the newspaper's accounts were frozen pending the start of the trial on 18 February 2004.

748. On 1 December 2004, the Government replied to the communication of 30 September 2004 concerning:

- On 25 January 2004, where between 11:50 a.m. and 2:25 p.m., in the public garden Stefanb del Mare, a meeting was organized by the parliamentary group Partit Populaire Crestin Democrat. This meeting had not been authorized by the Mayor of Chisinau municipality, as a result of which Law No. 560 of 21 July 1995 of the Republic of Moldova concerning the organizing of meetings had been violated. **Valerie Sahameanu** was at that meeting. An administrative summons was addressed in his regard on 28 January 2004 based on article 4 of article 174/1 of the Code concerning Administrative Contraventions of the Republic of Moldova (CCA RM) and transmitted for examination to the court of first instance in Buiucani sector. The court session was set for 10 May 2004. In effect, due to the expiration of the three-month delay within which it was possible to implement the sanction concerning the alleged contravention, the procedure was halted. This decision was not contested and no complaint was lodged at the court concerning violations of the Constitution;
- Concerning cCameraman **Valeriu Timus**, the Government stated that no complaints were registered with the police and no investigations were undertaken concerning Mr. Timus. The police did not witness any attack or inhibition on Valeriu Timus in carrying out his activities as a cameraman;
- The prosecutor of Chisinau municipality on 18 July 2003 requested the Coordinating Council on Audiovisuals (CCA) to examine the legality of the activities undertaken by radio station **Radio C** and **Euro TV Chisinau**, in particular, the conformity of the statutes of establishments with current legislation. CCA recommended to the municipal Council to have the statutes brought into conformity with the Council of Europe's legislative recommendations and with the current legislation on the matter, within three months. The municipal council did not implement the necessary changes within the required time. Consequently, by a decision of the CCA, No. 6 of 3 February 2004, licence numbers 186 and 18 and the authorization decision for Radio Antena C and Euro TV Chisinau were suspended until the required modifications were carried out. On 7 April 2004, the Municipal Council informed CCA that the

modifications were carried out for both radios, as a result of which, on 8 April 2004, CCA decided to return both licences as well as the authorizations;

- The civil case lodged by the car company against *Timpul* newspaper had already been examined before the first instance court of Buiucani Mun, Chisinau, at the time this reply was sent. The decision taken on 28 April 2004 has partially satisfied the requests of the plaintiff. The decision was appealed. The case was, at the time this reply was sent, pending before the Supreme Court of Justice. No date had until then been fixed for the said hearing.

Observations

749. The Special Rapporteur thanks the Government for its response to his communication of 30 September 2004, but regrets that no reply to his communications of 28 June 2004 and 6 August 2004 were received at the time this report was finalized.

Romania

750. Le 6 janvier 2004, le Rapporteur spécial a adressé une communication concernant **Csondy Szoltan**, journaliste pour le magazine *Hargita Nepe* à Miercurea-Ciuc (Csíkszereda), qui aurait été attaqué le 26 décembre 2003 par une personne qu'il n'aurait pu identifier. D'après les informations reçues, l'agression dont il aurait été victime dans la cage d'escalier de son immeuble situé à Miercurea-Ciuc lui aurait causé de sérieuses blessures. L'assaillant aurait fui suite à l'intervention de voisins. Ce journaliste aurait déjà fait l'objet d'une agression en septembre 2003. Il a également été rapporté que les agressions de journalistes sont en augmentation en Roumanie et qu'elles seraient en rapport avec des reportages effectués par ces journalistes au sujet d'activités illégales, de meurtres non résolus et de la persistante influence de cadres de l'ancien régime dans les affaires publiques.

751. Le 26 avril 2004, le Gouvernement a adressé une réponse à la communication envoyée par le Rapporteur spécial le 6 janvier 2004 concernant Csondy Szoltan, journaliste pour le magazine *Hargita Nepe*. Le Gouvernement a indiqué que des investigations avaient été conduites en vue d'arrêter les agresseurs de M. Szoltan. Plusieurs suspects auraient été interrogés, mais les résultats de ces interrogatoires ne permettraient pas de tirer de conclusions pour le moment. Il n'a de même pas encore été permis de savoir si cette attaque est en relation directe avec le travail de journaliste de M. Szoltan, avec son poste de conseiller municipal, ou si elle a été motivée par des raisons personnelles. Les investigations seront poursuivies jusqu'à ce que lumière soit faite sur les circonstances de cette agression, les agresseurs identifiés et traduits devant la justice. En outre, le Premier Ministre a demandé au Ministre de l'intérieur que des investigations soient menées et rappelé l'engagement indéfectible de la Roumanie à respecter le droit à la liberté d'opinion et d'expression.

752. Par une communication du 10 novembre 2004, le Gouvernement a indiqué que les investigations du cas de Csondy Szoltan ont abouti. Pour l'agression contre le journaliste qui a eu lieu le 27 septembre 2003, les auteurs et l'instigateur avaient été identifiés, et leurs noms transmis au Rapporteur spécial. Quant à l'agression de 26 décembre 2004, l'auteur a également été identifié, et son nom transmis au Rapporteur spécial. Les coupables ainsi que l'instigateur font l'objet de procédures pénales au parquet de Targu Mures.

753. Le 1^{er} octobre 2004, le Rapporteur spécial a envoyé une communication concernant **Ino Ardelean**, correspondant de l'*Evenimentul Zilei* à Timisoara, qui aurait été battu jusqu'à en perdre conscience par des individus non identifiés alors qu'il rentrait chez lui, le 3 décembre 2003. Le journaliste aurait été hospitalisé avec des blessures à la tête et à la mâchoire. Il est rapporté qu'Ino Ardelean aurait régulièrement critiqué l'implication de personnalités politiques locales, en particulier des membres du Parti social-démocrate (PSD), dans des affaires illégales. Quelques jours avant l'attaque, il aurait publié un article au sujet d'un membre du PSD et directeur d'école qui aurait forcé ses élèves à travailler pour lui gratuitement.

754. Le 10 novembre 2004, le Gouvernement a répondu à la communication du 1^{er} octobre 2004 concernant le journaliste Ino Ardelean, indiquant que l'inspecteur de la police de Timis a identifié, au début des investigations, sept personnes suspectes. Plus de 600 personnes ont été interpellées et interrogées et trois témoins ont été trouvés. Les investigations ont finalement abouti à l'identification de deux personnes, qui ont instigué un tiers à agresser le journaliste, moyennant une certaine somme d'argent. Bien que ce dernier n'ait pas exécuté la commande, les deux instigateurs font l'objet de procédures pénales. Un nouveau suspect était interrogé, et la police s'était mise à la recherche de deux témoins, qui pouvaient offrir de nouveaux éléments concernant l'agression. Le dossier d'enquête a été classé dans la catégorie crime organisé.

Observations

755. Le Rapporteur spécial remercie le Gouvernement pour ses réponses à ses communications.

Russian Federation

756. On 28 January 2004, the Special Rapporteur, 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 the situation of human rights defenders, sent a letter of allegation concerning **Aslan Davletukaev**, a human rights defender who had been working as a volunteer with the Society of Russian-Chechen Friendship (SRCF) since 2000, in particular gathering information on the situation of human rights in Chechnya for the SRCF Information Centre. According to information received, on 10 January 2004 at 10:15 p.m., approximately 50 armed men in three military and two civilian vehicles, arrived at his home in Avtury, where they reportedly beat him and forced him at gunpoint into one of their cars. It was reported that, on 16 January, the body of Aslan Davletukaev, apparently showing signs of torture and mutilation, was found by reconnaissance units of the Russian army near a highway at the entrance to Gudermes. His death was reportedly the result of a bullet wound to the back of the head.

757. By letter dated 13 April 2004, the Government replied to the letter of allegation sent on 28 January 2004. The Government confirmed that **Aslan Davletukaev** was taken away on 10 January 2004 and reported that, on 18 January 2004, the Shalin district's procurator's office initiated criminal case No. 36011 on the basis of evidence of abduction of a person under article 126.2 of the Criminal Code. The Government confirmed the finding of his body, and stated that, on 20 January 2004, the Gudermes district procurator's office initiated criminal case No. 35002 on the basis of evidence of homicide under article 105.1 of the Criminal Code. The examination

of this case was ongoing at the time this reply was sent, and the procurator's office of the Chechen Republic was monitoring the course of the preliminary investigation procedure.

758. On 24 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning reports that, on 23 February 2004, a peaceful meeting was held in central Moscow to oppose the ongoing armed conflict in Chechnya and to commemorate the sixtieth anniversary of the mass deportation of the Chechen people from Chechnya to Kazakhstan, but this demonstration was broken up by the police. It was reported that, as the demonstrators commenced a minute of silence to commemorate the victims of the Chechnya conflict, the police moved in and reportedly detained the demonstration organizers, **Lev Ponomarev**, Executive Director of the Movement for Human Rights, **Nikolai Khramov**, of the Transnational Radical Party, as well as approximately **11 other persons** believed to be members of that party. These persons were allegedly, at the time this communication was sent, still detained in two separate police stations in Moscow. Moscow city authorities had reportedly denied the demonstrators permission to hold the meeting, stating that the day was an official holiday (23 February is reportedly Defence of the Fatherland day, to celebrate Russian armed forces and their contribution to defending the country), but according to information received, there were no other activities or gatherings taking place in the area at that time.

759. By letter dated 13 May 2004, the Government replied to the urgent appeal sent on 24 February 2004. The Government reported that, on 18 February 2004, the deputy prefect of Moscow's Central Administrative District rejected a notification to hold the peaceful meeting referred to in the communication sent by the Special Rapporteur. The decision was based on paragraph 4 of the Provisional Regulations on the procedure for notifying the Moscow city executive authorities of the holding of rallies, street processions, demonstrations and pickets on streets and squares and in other public places of the city, approved by Russian Presidential Decree No. 765 of 24 May 1993. According to the reply, the approximately 30 demonstrators were warned several times that their action had not been authorized by the executive authorities. The Government confirmed that **Lev Ponomarev**, **Nikolai Khramov** and **11 other demonstrators** were arrested, and reported that the arrests were based on article 20.2, paragraphs 1 and 2, of the Russian Federation Code of Administrative Offences of 30 December 2001. Later, the Meshchansky and Basmanny district courts heard administrative charges against these people in judicial proceedings. The Government stated that they were subject to administrative penalties consisting of a fine in the amount of 15 times the minimum wage (1,500 rubles) for Mr. Khramov, a fine of 1,000 rubles for Mr. Ponomarev, and fines from 500 to 700 rubles for the remaining participants. According to the Government, these 13 persons were not detained beyond the statutory limit.

760. On 14 April 2004, the Special Rapporteur, jointly with the Chair of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Rashid Borisovich Ozdov**, deputy procurator of the Republic of Ingushetia. He was reportedly stopped near a petrol station in Verkhnye Achaluki by three cars on 11 March 2004, after returning to Magas from Nalchik, Republic of Kabardino-Balkaria. One of the cars that stopped and hit Rashid Ozdov's car was allegedly identified as belonging to the Ingush Department of the Federal Security Service (FSB). Rashid Ozdov was allegedly arrested, and his car was reportedly seen in an FSB car park in Magas. It was alleged

that Rashid Ozdoev was taken to Vladikavkaz, Republic of North Ossetia, and later to the main headquarter of the Russian Federal Forces in the North Caucasus, Khankala, Chechen Republic. A criminal case was reportedly opened on 15 March 2004 under article 126 of the Russian Criminal Code for abduction of a person. However, his family had not been informed about his situation or whereabouts at the time this communication was sent. The Special Rapporteur was informed that Rashid Ozdoev's duties as deputy procurator include the supervision of the Ingush department of tFSB and that he had recently raised with the Ingush authorities, the General Procuracy and the head of the FSB of the Russian Federation, his concerns about a number of unlawful actions reportedly committed by members of FSB. It was reported that Rashid Ozdoev had received warnings that he would put his life in danger by reporting about these issues. In view of his alleged detention in Khankala at an undisclosed place, concern was expressed that he could be at risk of torture or other forms of ill-treatment, particularly in the light of previous allegations that a number of detainees had been subjected to torture and extrajudicial executions.

761. On 30 June 2004 the Government sent a response to the Special Rapporteur's communication of 14 April 2004 stating that, on 11 March 2004, **Rashid Borisovich Ozdoev** was reported missing. Accordingly, on 14 March 2004 the procurator's office of the Republic of Ingushetia initiated criminal proceedings under article 126 of the Criminal Code, concerning abduction, and an investigative team was set up to handle the case. The investigation found that on the morning of 11 March 2004, on the instructions of the Ingushetia procurator's office, R.B. Ozdoev travelled to the town of Nalchik as a member of an Ingushetia government commission, and at around 5:10 p.m. on the same day returned to the town of Magas, where the members of the commission parted on the square in front of the Government building. R.B. Ozdoev was not seen again. During the investigation, relatives of the victim as well as members of the commission who had travelled to Nalchik with R.B. Ozdoev were questioned, issues related to R.B. Ozdoev's official duties were examined, and requests and instructions were addressed to the law enforcement agencies of the republic and neighbouring areas. All necessary investigations and inquiries were being carried out, at the time this reply was sent, in this case in order to establish the whereabouts of R.B. Ozdoev and the persons who carried out this abduction.

762. On 23 April 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Lybkan Bazayeva**, a human rights defender and member of the Memorial Human Rights Centre in Chechnya. According to information received, Lybkan Bazayeva had been working for the Memorial Human Rights Centre since January 2000. She had been actively involved in advocating against human rights violations in Chechnya and in the refugee camps in the territory of Ingushetia. It was reported that, in May 2000, Lybkan Bazayeva filed a complaint against Russia concerning events in Chechnya to the European Court of Human Rights in Strasbourg, which was reportedly declared admissible by the Court on 16 January 2003. Her application reportedly concerned allegations of indiscriminate bombing by Russian military planes of civilians (including Lybkan Bazayeva and her family) leaving Grozny on 29 October 1999. According to information received, on 19 October 2003, a group of 20 to 25 armed men wearing camouflaged uniforms were reported to have broken into her house in Grozny. Allegedly, the men failed to present any documentation regarding their identity or permission to search the house. It was also reported that they intimidated the neighbours, beat members of the family who were reportedly living as tenants in Lybkan Bazayeva's apartment and only left after

they were convinced that she was not currently living there. At that time, she was reportedly living elsewhere with acquaintances. Reportedly, the Memorial Centre had made repeated inquiries to the Ministry of Internal Affairs of Chechnya with regard to the attack of 19 October 2003. It was reported that a reply by the Deputy Minister of Internal Affairs of Chechnya to the Memorial Centre on January 2004 stated that Lybkan Bazayeva was an active supporter of Dudayev and Maskhadov. According to information received, following concern for her safety, she had reportedly been forced to temporarily leave the region. Concerns were expressed that this attack might be connected with Lybkan Bazayeva's human rights activities, in particular with regard to the complaint filed against the Russian Federation at the European Court in Strasbourg.

763. By letter dated 15 July 2004, the Government replied to the urgent appeal sent on 23 April 2004. The Government reported that the incident relating to **Lybkan Bazayeva** was being investigated at the time this communication was sent. In a witness statement, Mrs. Bazayeva stated that, on 19 October 2003, armed men in camouflage uniforms burst into the house belonging to her mother-in-law in Grozny. She stated that they were looking for her and her two sons and that they had beaten tenants living in the house. According to the Government, her statement had been refuted by the testimony of eyewitnesses: These armed men did check the documents of some of the persons living in this house or in its neighbourhood, but, according to the witness, they did not conduct any search or used physical force. The Government stated that investigations were still ongoing and therefore a procedural decision had not yet been taken.

764. On 4 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Stanislav Markelov**, a human rights lawyer who had worked on behalf of victims of alleged human rights violations in Chechnya, and who represented the family of Zelimkhan Muralov, a Chechynan student. According to the information received, on 16 April 2004 Stanislav Markelov was travelling home on the Moscow metro when he was reportedly attacked by five men dressed in civilian clothing who reportedly surrounded him and shouted: "You got what you're asking for. No more speeches from you in court". They allegedly hit him on the head with a heavy object, causing him to lose consciousness. He reportedly regained consciousness a few hours later and discovered that his lawyer's licence card, his passport and his entry card for the state dumas as well as various other documents related to his cases, including those related to the trial of Sergi Lapin, had been stolen. According to information received, Stanislav Markelov was taken to City Hospital No. 68, where he was diagnosed as suffering from concussion. On 19 April he reportedly presented a medical certificate of his injuries to the Subway Security Section of Moscow Department of Internal Affairs No. 8, but the police officer on duty reportedly claimed that the certificate was fake and stated that he could only file a lost-property complaint. On 21 April he also reportedly filed a complaint about the attack with the Moscow City Department of Internal Affairs. It was reported that a criminal investigation had not yet been opened at the time this communication was sent. It was reported that Stanislav Markelov represented the family of a victim who disappeared and was allegedly tortured to death by a member of the Russian special police force, OMON, in Grozny. It was reported that he also represented a journalist who had allegedly received death threats for publishing an article in relation to the same torture case. A criminal investigation into the attacks against Stanislav Markelov had reportedly not been opened yet at the time this communication was sent. Concern was expressed that Stanislav Markelov was

targeted for his human rights activities and, in particular, his work to defend victims of human rights violations in Chechnya.

765. On 9 June 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning recent declarations made by high government officials aiming at discrediting the work of non-governmental organizations defending human rights. According to the information received, during a press conference held on 7 May 2004 on the situation of Russian prisons, the Head of the General Direction of Sentence Enforcement of the Ministry of Justice of the Russian Federation (GUIN) reportedly accused human rights organizations of being financed by criminal networks and of disseminating false information in the media. He allegedly declared that there were 163 human rights organizations financed by oligarchs and stated some names, while allegedly also acknowledging that there are more than 360 other cooperative human rights organizations with whom it was possible to create a civil society. It was believed that this declaration came in response to the then recent activities and protests of a number of human rights NGOs against the reportedly deplorable conditions of detainees in Russia. It was reported that human rights organizations had played a significant role in bringing to justice those responsible for torture and ill-treatment of inmates and that, in 2003, as a result of their activities, three prison employees accused of beating inmates, were brought to justice. It was further reported that several fact-finding commissions sent by the Ministry of Justice as a result of protests and hunger-strikes allegedly concluded that "criminal leaders led these protests and hunger strikes in order to establish their influence zones". According to information received, during his state of the nation address of 26 May 2004, the President of the Russian Federation allegedly denounced human rights groups as being critical of his record in front of the Federation Council and accused some of serving the interests of dubious organizations. It was believed that these statements partly came in response to the denunciation in the past year by human rights non-governmental organizations of the curtailing of media freedom, especially in relation to limiting the access to State-run television in March's presidential elections as well as of reported human rights violations by state authorities in Chechnya. Fear was expressed that, in the prevailing context, such accusations and reports portraying of NGO members as criminals and representatives of foreign enemies of Russia by senior State officials might increase the vulnerability of human rights defenders within the Federation. Fear had also been expressed that such statements might contribute to directly or indirectly endangering the activities and lives of human rights defenders by legitimating their targeting. The Special Rapporteur called on the Government of the Russian Federation to ensure that all necessary measures are taken to ensure the full protection of the rights guaranteed by the Declaration on Human Rights Defenders.

766. On 21 June 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the **Kazan Human Rights Center (KHRC)**, based in Kazan, Tatarstan. According to information received, on 5 May 2004, members of the Security Direction of the Ministry of Internal Affairs required that a draft of KHRC's forthcoming book, *Tortures in Tatarstan, Proportion, Facts*, be submitted to the Ministry for review. This book was allegedly being published in conjunction with the publishing house Kheter. On 6 May, during a press conference, KHRC announced the release of a new compilation of published articles concerning human rights violations by the Tatarstan Police entitled *The Law and its Victims: Tortures in Tatarstan*. The previously planned repeat of the press conference was allegedly cancelled by the direction

of Variant T, a TV channel which allegedly challenged the objectivity of the correspondent and the editor. On 7 May, members of the Office of the Fight Against Economic Crimes of the Ministry of Internal Affairs (OFEC) accused KHRC of illegal publication of the second book and claimed that KHRC had used the Kheter publishing house logo, despite in-house publication by KHRC. On 14 May, the OFEC reportedly initiated an audit of KHRC accounts. It was furthermore reported that a grenade was found near the door of **Vladimir Chikov**, father of Pavel Chikov, the project director and former chair of KHRC. Mr. V. Chikov had allegedly previously been contacted by OFEC for an interview concerning the KHRC audit. On 27 May, following a joint press conference held that day by KHRC and two other human rights organizations concerning the alleged acts of harassment against them, it was reported that, the KHRC headquarters were forcibly entered and ransacked the same day. Two masked men wearing gloves reportedly broke into the premises, destroyed equipment and then disappeared. An official investigation was reportedly opened. It was alleged that the acts mentioned above could be linked to KHRC's publications on human rights and were intended to intimidate their members. Concern was expressed that the physical integrity of members of KHRC may be at risk.

767. By letter dated 16 September 2004, the Government replied to the urgent appeal sent on 21 June 2004. The Government reported that OFEC investigated the alleged illegal use of the name of the Kheter publishing house. In the course of the investigation, the **Kazan Human Rights Centre (KHRC)** stated that the book entitled *The Law and its Victims: Tortures in Tatarstan* was issued with the assistance of the Yalkin limited liability company. KHRC also stated that the person who used the details of the Kheter publishing house in printing the book could not be identified. According to the Government, on 5 June 2004, OFEC decide not to initiate a criminal case due to lack of evidence pursuant to article 24.1.2 of the Code of Criminal Procedure. The Procurator's Office of the Republic of Tatarstan has recognized this decision as justified. As far as the discovery on 25 May 2004 of the hand grenade is concerned, the Government reported that the Privolzhsky district internal affairs authority of the city of Kazan on 1 June 2004 initiated a criminal case on the basis of evidence of an offence under article 167.1 of the Criminal Code. This provision relates to unlawful acquisition, transfer, supply, storage, carriage or bearing of firearms, basic parts thereof, munitions, explosive substances or explosive devices. According to the Government, on 1 June 2004, the Vakhitovsky district internal affairs authority of Kazan initiated a criminal case relating to an attack on the office of KHRC and the intentional destruction of office equipment on the basis of evidence of an offence under article 167.1 of the Criminal Code. The Government indicated that the persons who committed these offences had not yet been identified, and that the Office of the Procurator-General of the Russian Federation monitored the investigation. At the time no definitive decision on these criminal cases had been taken.

768. On 8 July 2004, the Special Rapporteur sent an urgent appeal concerning the 2 July 2004 when **Farid Omar**, correspondent of Radio Free Europe/Radio Liberty (RFE) in Moscow was reportedly left in a critical condition after being stabbed at the entrance to his apartment block. Omar had been reporting on clan rivalries in Afghanistan and within the diaspora, as well as political events in Russia. The journalist was often critical of the Government of the Russian Federation's attitude towards civil society, the independent press and the lack of democratic progress. This was the second attack against an RFE journalist in recent times: on 30 April 2004, **Mukhamed Berdiev**, correspondent in Moscow for the Turkmen service of the same station was beaten up by thugs at his home.

769. The Government of the Russian Federation sent a response to the Special Rapporteur's communication of 8 July 2004 concerning an assault on **F. Omar**, a Moscow correspondent of Radio Free Europe/Radio Liberty (RFE), and a correspondent of the Turkmen service of the same radio station. The Government claims that, on 17 May 2004, the Kuzminki inter-district procurator's office of Moscow opened criminal case No. 309349 on the basis of indications of an offence under article 115.2 of the Criminal Code of the Russian Federation (international causing of light harm to health for mischievous reasons) on account of the beating by unidentified persons of Turkmen journalist **M. S. Berdiev**. The journalist linked this attack to his professional activities since the assailants had uttered threats in connection with the publication of an article concerning the President of Turkmenistan. On 17 July 2004, the investigative section of the Kuzminki internal affairs office suspended the preliminary investigation into this criminal case on the basis of article 208.1.1 of the Code of Criminal Procedure of the Russian Federation (person liable to be charged not identified). On 22 July 2004 the Kuzminki inter-district procurator's office overturned this decision. The criminal case was passed on for further investigation. According to information from Moscow's Central Internal Affairs Department, no offences against the journalist Farid Omar were registered.

770. On 28 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Dmitri Kraiukhin**, director of United Europe, a non-governmental organization that works to combat racism in Orel, western Russia. According to the information received, in June 2003 Dmitri Kraiukhin reportedly informed the Prosecutor's Office in Zavodskii district of Orel about alleged acts of vandalism and anti-Semitic activities carried out by a neo-Nazi organization called Russian National Unity (RNU). It was reported that, as a result of this complaint, a criminal case was opened which led to two members of RNU being charged with offences under article 282 of the Russian Criminal Code on "incitement of national, racial or religious enmity". The court case was reportedly due to commence in September 2004 with Dmitri Kraiukhin as the principal witness. In February 2004, upon conclusion of the criminal investigation, the Zavodskii district prosecutor allegedly gave RNU all the case material, including the contact information for all the case experts and witnesses. It was alleged that RNU activists then began to distribute leaflets in Orel and other cities across central Russia accusing Dmitri Kraiukhin of "heresy" and publicizing his home telephone number and address. Consequently, it was reported that Dmitri Kraiukhin had been the subject of numerous threats. According to the information received, Dmitri Kraiukhin requested that the Zavodskii authorities provide him with witness protection, which request was allegedly denied. In early July 2004, Dmitri Kraiukhin reportedly received a death threat through the post which included a photocopy of an article from the Russian daily newspaper *Izvestiya* concerning the murder of human rights defender Nikolai Girenko. Reports indicated that a section of the article regarding Nikolai Girenko's planned participation in a trial against RNU activists was highlighted. Reportedly, the same threat was sent to a local police official and editors of three newspapers in the region which had been critical of extreme nationalist organizations. Concern was expressed for the safety of Dmitri Kraiukhin as these death threats and acts of intimidation might have been directly linked to his anti-racism activities as a human rights defender and more specifically to his participation in the trial of a neo-Nazi organization.

771. On 20 September 2004 the Government of the Russian Federation replied to the communication of 28 July 2004 concerning the case against two members of the Russian National Unity. The Government claimed that the case was still pending, at the time this reply was sent, before the Zavodsky district court of the city of Orel, the question not yet having been examined. The next judicial sitting at the time of this communication was for 31 August 2004. The Government of the Russian Federation further stated that **Mr. Kraiukhin** gave his personal details in court but did not request that the hearing be held behind closed doors. Moreover, all the witnesses' personal details were annexed to the bill of indictment in line with the law in force (arts. 217, 220 and 222). The Government had no information that it was in fact the District Procurator who had distributed such information to the public. The Government further claimed that, despite the fact that leaflets containing information concerning Mr. Kraiukhin were distributed in the city of Orel, Bryansk and some other oblasts, there was nothing in such leaflets requesting Mr. Kraiukhin to refuse to testify or to give false testimony. Mr. Kraiukhin was nonetheless offered protection by special-reaction detachment officers as well as by having his phone conversations monitored. He refused such protection. The investigation section of the Sovetsky district internal affairs office investigated threats received by Mr. Kraiukhin relating to his participation in the trial against RNU.

772. On 11 August 2004, the Special Rapporteur sent an urgent appeal concerning the *Chechenskoye Obshchestvo*, a weekly based in Nazran (Ingushetia). According to information received, on 2 and 3 August 2004, the paper's website was down, and some e-mails and phone calls were allegedly not coming through. It was reported that these technical problems abruptly stopped after the publication on 4 August of an article about similar difficulties suffered by the website of the Moscow-based Center for Journalism in Extreme Situations. It was alleged that the technical difficulties were generated by the Russian security services in retaliation for the newspaper's reporting. It was also reported that the Government printing house in Nazran was refusing to print the *Chechenskoye Obshchestvo* newspaper, citing unspecified orders from "the leadership".

773. The Government of the Russian Federation sent a reply to the Special Rapporteur's communication of 11 August 2004 concerning the weekly *Chechenskoe Obshchestvo* (*Chechen Society*), which the Government stated was founded by an interregional voluntary organization, the Timur Aliev Institute for Social Development, based in Nazran, Republic of Ingushetia. The Government stated that, acting upon information that the newspaper concerned was funded by members of illegal armed formations that disseminated extremist material, officials of the Ministry of the Interior of the Republic of Ingushetia carried out an investigation, during which militia officers neither obstructed the activities of the editorial staff nor committed any illegal acts. However, according to the Government, based on information transmitted by the South Federal headquarters of the Ministry of the Interior, the printing of the newspaper was temporarily halted as of 12 June 2004 on the instructions of the Director General of the Ingushetia printing house, a State enterprise. The Director explained that the printing house refused to print the paper's regular issues on the grounds that it contained an offensive caricature of the President of the Russian Federation, in violation of article 319 of the Criminal Code. Two subsequent issues of the same newspapers also contained articles which, according to the editorial staff, were aiming at provoking inter-ethnic hostility, also an offence under article 280 of the Criminal Code and prohibited in legislation on mass media. They therefore refused to print these two issues and informed the newspaper of such a decision, to which, the Government claimed, the newspaper did not object. The paper's next issue, which the printing house received

on 10 August, was printed and the copies were transmitted to the paper. There was, at the time this reply was sent, no disagreement of any kind with the printing house. The paper's editorial staff and the paper's chief editor said that the law-enforcement officials did not commit any illegal acts against the editorial staff in carrying out their investigations, and furthermore had made no claims against the printing house's management. Finally, during the investigations, no grounds were found which necessitated action by the procuratorial authorities.

774. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning the following situations:

- On 9 October 2003, **Alexei Sidorov**, aged 31, editor of the regional newspaper *Toliattinskoye Obosrenie*, was stabbed by two men in his apartment building's parking lot in Togliatti. The journalist died a few minutes later in his wife's arms. The murder weapon was a *zatochka*, a home-made knife of the kind used in prisons, made from a piece of metal. Alexei Sidorov's predecessor as editor, Valery Ivanov, died in similar circumstances on 29 April 2002. Before becoming editor, Alexei Sidorov had been an investigative journalist with the newspaper. He had resumed his investigations into the criminal world a few weeks before his death. It was believed that Alexei Sidorov was killed because of his work and the newspaper's commitment to investigative reporting;
- On 29 December 2003, the Federal Security Service (FSB) intercepted a truck delivering 4,400 copies of a book titled *The FSB Blows Up Russia* from a printer in neighboring Latvia to the independent Moscow news agency **Prima**. Police officers pulled the truck over in the outskirts of the capital. The FSB confiscated all 4,400 books, claiming they contained "anti-State propaganda";
- On 2 February 2004, an explosion shook the downtown Moscow apartment of **Yelena Tregubova**, an independent journalist. A package was left outside the door to the journalist's apartment and exploded as she was leaving to meet a friend. The door was damaged, but neither Yelena Tregubova nor anybody else was injured. Yelena Tregubova's political best-seller, *Tales of a Kremlin Digger*, was published in late October 2003; it criticized the President's Administration for muzzling the press in Russia;
- On 5 February 2004, servicemen of the security bodyguard of the President of the Chechen Republic carried out an unsanctioned search of many households in Samashki village, Achkhoy district, Chechen Republic. Some 30-40 people participated in the operation. They burst into local people's houses searching for weapons. Feeling indignant about the servicemen's arbitrariness, residents of Samashki gathered in the centre of the village and a spontaneous demonstration started. The head of the village administration, **Sultan Sulimanovich Sugaypov**, participated in it. He stated in front of the villagers that he hadn't been informed about the operation and accused the servicemen of the security bodyguard of the president of the Chechen Republic of committing crimes against civilians. The servicemen wounded Sulimanovich Sugaypov in his leg. His bodyguard was wounded too. The servicemen fired several shots into the air and then drove away in an unknown direction;

- On 11 March 2004, representatives of the department investigating financial crimes at Nizhny Novgorod Region police office (OBEP) seized the five-thousand copies of the *Pravozaschita* newspaper in the printing-house Riyad-Balakhna. It was believed that this seizure was caused by articles criticizing the Russian authorities;
- On 30 April 2004, **Mukhamed Berdiyev**, Moscow correspondent for Radio Free Europe/Radio Liberty's (RFE/RL) Turkmen service, was beaten up by three unidentified men in his apartment. The journalist lay badly injured for three days without being able to call for help. He suffered injuries to his head, eyes and ribs. The three men destroyed the journalist's computer and damaged the telephone and electricity services in his home;
- On 30 May 2004, the popular news programme **Namedni** on the television channel NTV was cancelled. Leonid Parfyonov, anchor of the show, was scheduled to air an interview with the widow of slain Chechen separatist leader Zelimkhan Yandarbiyev, who was killed by a car-bomb explosion in Qatar in February 2004. The interview was cut at the last minute from the Sunday evening broadcast of "Namedni" in the European part of Russia. It was believed that NTV made the cut at the request of the Russian intelligence services. On 31 May 2004, **Leonid Parfyonov** was fired. NTV officials said that the journalist was dismissed for breaching his contract and violating corporate policy;
- On 18 June 2004, **Tagib Abdusalamov**, 34, director of the Dagestani bureau of the Russian State radio and television company "GTRK Dagestan", was shot and wounded by unknown assailants when he was leaving a downtown café in Makhachkala. The bullet penetrated the journalist's diaphragm;
- On 7 July 2004, **Savik Shuster**, host of the "Svoboda Slova" (Free Speech) television programme on channel NTV, was relieved of his duties less than a week after criticizing politicians for refusing to debate new legislation that replaced social benefits for veterans and the poor with cash;
- On 9 July 2004, **Paul Khlebnikov**, 41, an American of Russian descent, editor-in-chief of the Russian edition of *Forbes* magazine, was shot and killed outside his office in northern Moscow. He was hit four times and died in hospital. Formerly a senior editor with *Forbes* magazine in the United States of America, Paul Khlebnikov had reported extensively about Russian political developments, corruption and organized crimes. The first issue of the Russian edition of *Forbes* was published in April 2004. In May 2004, the magazine published a list of Russia's 100 richest people, some of whom later protested that their fortunes were greatly exaggerated;
- On 12 July 2004, police officers entered the Ingush regional office of the **Society of Russian-Chechen Friendship (SRCF)**, located in the village of Karabulak, and began to search the premises without an official warrant. At the time, Khamzat Kuchiyev, his wife Raisa and the organization's driver, Zaur Kharipov, were present in the office. Khamzat Kuchiyev phoned Imran Ezhiyev, the director of the office, to inform him of the events. When the director arrived, there were at least 20 men armed with machine guns searching the third floor of the office, as well as several armed officers at the entrance. The police confiscated computers,

office equipment and printed material, including statements from individuals addressed to SRCF. A jar of black powder, similar to magnesium, was “found” by the police in the computer room. There were no witnesses to this discovery and it is feared that the potentially explosive substance may have been planted by the police. Individuals were brought in to sign blank documents, which was apparently the certificate for the search. When Imran Ezhiyev advised them not to sign the blank documents, the police pushed him to the door and threatened, “You should not have complained about us”. At 7:30 p.m., Khamzat Kuchiyev was taken into custody and removed from the office. He was released from the police station four hours later.

775. On 6 December 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Ruslan Susaev**, the head of the organization’s Civilian Protest, who also assists the Information Centre of the Russian-Chechen Friendship Society in Chechnya, his wife, **Susanna Susaeva**, and **his children**. On 4 November 2004, Ruslan Susaev and Susanna Susaeva were stopped at a police roadblock near Achkoi Martan. The police ordered them out of the car, threw Mr. Susaev to the ground and searched him. They were taken to the police station in Achkoi Martan, and later to the Sunzhenskii Regional Department of Internal Affairs (ROVD). The police tried to make Mr. Susaev confess to a crime, and told him that his family would suffer unless he signed a confession. He refused to sign and, on the morning of 5 November 2004, they were released. Mr. Susaev had reportedly been the subject of recent harassment and threats by the security forces in connection with his work. He collected information about a house raid on 27 August 2004 in the town of Sernovodsk, allegedly carried out by the so-called *Kadyrovtsy*, members of the Chechen Ministry of Interior security forces. During this raid several people were beaten, one person was killed, and another person was taken away. Mr. Susaev took part in a demonstration calling for the release of this person. On 28 August 2004, several masked men wearing uniforms of the security forces raided Mr. Susaev’s home. They asked for Mr. Susaev, searched the house, fired in the air, hit Mr. Susaev’s mother in the face, and forced two of the children to lie on the floor. On 29 August 2004, several men again came looking for him at his home, took two of his sons to a police station in Grozny, and released them a few hours later. That evening, a car without licence plates stopped in front of the house, and three men in camouflage uniforms entered and threatened to torture Mr. Susaev unless he stopped his human rights work. Mr. Susaev and his family have since been moving from place to place in Chechnya and Ingushetia. Concern was expressed that the allegations of ill-treatment, intimidation and harassment of Mr. Ruslan Susaev and his family might have been a result of his activities as a human rights defender, and aimed at preventing him from further pursuing his human rights work. Concern was expressed that he and his family might have been at risk of torture or other forms of ill-treatment.

Observations

776. The Special Rapporteur thanks the Government for its replies to his communications of 28 January, 24 February, 14 and 23 April, 21 June, 8 and 28 July and 11 August 2004. He regrets, however, that no replies to his communications of 4 May, 9 June, and 6 December 2004 were received at the time this report was finalized. The Government’s reply to the Special Rapporteur’s communication of 30 September 2004 was still being translated at the time this report was finalized.

Rwanda

777. Le 19 février 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant les personnes suivantes: **major Félicien Ngirabatware, Augustin Cyiza et Elizier Runyaruka**, qui auraient disparu depuis avril 2003. Selon les informations reçues, Félicien Ngirabatware, pour qui une communication avait été envoyée au nom du Rapporteur spécial sur la question de la torture le 22 avril 2003 (E/CN.4/2004/56/Add.1, par. 1404), qui aurait été arrêté le 1^{er} avril 2003, serait toujours détenu au secret au camp militaire Kami à Kigali, bien que les seules indications officielles le concernant seraient des déclarations de la police et des militaires indiquant qu'il était toujours en vie sans donner d'autres détails. Il semblerait qu'il n'ait pas été inculpé et n'aurait pas été présenté devant un juge depuis son arrestation, et que ses proches n'auraient pas été autorisés à le voir. Il semblerait également qu'Augustin Cyiza, un ancien militaire, Vice-Président de la Cour suprême, Président de la Cour de cassation et membre fondateur de deux organisations de droits de l'homme, aurait disparu le 23 avril 2003. Il aurait été accusé d'être allié à l'ancien Président, pasteur Bizimungu, détenu à la prison centrale de Kigali depuis le mois de mai 2002. Le 23 avril 2003, M. Cyiza rentrait de l'Université libre de Kigali, où il donne des cours, avec l'un de ses étudiants, Elizier Runyaruka, quand les deux ont disparu. La police a indiqué avoir retrouvé la voiture de M. Cyiza près de la frontière soudanaise, alors que des témoins affirment avoir vu cette voiture le soir du 23 avril 2003 au camp militaire de Kanombe. Selon les informations communiquées, ces personnes auraient été visées à cause de leur soutien à des figures de l'opposition au cours de la campagne électorale des élections présidentielles d'août 2003.

778. Le 15 juillet 2004, 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 au sujet d'informations reçues relatives à la Commission parlementaire établie fin 2003 afin de mener des enquêtes sur l'éventuelle propagation de l'idéologie génocidaire au Rwanda, et qui aurait rendu ses conclusions le 27 juin 2004. Les recommandations de la Commission auraient été adoptées par le Parlement et le rapport devrait être transmis au Sénat prochainement. Selon les informations communiquées, il semblerait que l'interprétation faite par la Commission de la loi contre l'idéologie génocidaire serait de nature à limiter toute opposition, même modérée, au gouvernement et à restreindre la pleine jouissance du droit à la liberté d'opinion et d'expression au Rwanda, en particulier à l'égard des défenseurs des droits de l'homme. Ainsi, il a été rapporté que, suite aux recommandations de la Commission, le Parlement aurait demandé au Gouvernement de dissoudre la Ligue rwandaise pour la promotion et la défense des droits de l'homme (LIPRODHOR) ainsi que quatre autres organisations de la société civile au motif qu'elles propageraient des idées génocidaires. Par ailleurs, au cours de débats parlementaires, la Commission aurait également demandé au Gouvernement de prendre des mesures à l'encontre de plusieurs ONG internationales présentes dans le pays, en particulier Care international, TRocaire, 11.11.11 et Norwegian's People's Aid, comme ayant des idéologies génocidaires. Plusieurs Églises ainsi que des dirigeants religieux auraient également été mis à l'index. Des craintes ont été en outre exprimées pour la sécurité personnelle de plusieurs responsables de la LIPRODHOR du fait qu'une dizaine d'entre eux auraient été nommément cités dans le rapport de la Commission. Suite à ces événements, les 2 et 4 juillet, six défenseurs des droits de l'homme membres actifs de la LIPRODHOR, dont **Aloys Habimana, Ruben Niyibizi Félicien Dufitumukiza, Ndagijimana Balthazar, Bakizanye Fabien et Jean Damascène Ntaganzwa**, auraient quitté le Rwanda.

779. Le 16 juillet 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant **César Balume Wetemwami**, reporter photographe et président de l'Association des photographes du Nord-Kivu (APHONOKI), en République démocratique du Congo. D'après les renseignements reçus, il aurait été arrêté, le 5 juillet 2004 vers 15 heures, alors qu'il se rendait à Gisenyi, par des agents du service d'immigration. Il aurait été emmené dans leurs bureaux où il aurait été interrogé pendant deux heures. À l'issue de l'interrogatoire, il aurait été remis entre les mains des militaires rwandais qui le détiendraient depuis lors dans un lieu tenu secret. Le motif officiel de son arrestation ne serait pas connu. En raison des allégations selon lesquelles il serait détenu au secret, des craintes ont été exprimées quant au fait que César Balume Wetemwami courrait le risque d'être soumis à des actes de torture ou autres formes de mauvais traitements.

780. Le 11 août 2004, le Gouvernement a répondu à la communication du 16 juillet 2004 concernant César Balume Wetemwami, indiquant que ce dernier fut arrêté par les services rwandais de l'immigration parce qu'il était entré au Rwanda illégalement, sans les papiers requis. Après que ces services eurent examiné son cas, il a été relâché et est rentré chez lui.

Observations

781. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à sa communication du 16 juillet 2004, mais il regrette de n'avoir pas reçu, au 31 décembre 2004, de réponse à ses communications des 19 février et 15 juillet 2004.

Saudia Arabia

782. On 12 February 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Prince Sultan bin Turki**, a member of the ruling family, who had reportedly been calling for peaceful political, economic and judicial reforms in the country since January 2003 and advocated in the world media for transparency, accountability, and an overhaul of the Saudi judicial system. According to information received, Sultan Bin Turki, who had been living abroad, was abducted on 12 June 2003 in Collonges-Bellerive, Switzerland by five masked men who struck him unconscious and drugged him. He was reportedly transported against his will to Riyadh, where he remained in the hospital for two months due to the effects of the drug he was given, which reportedly resulted in his losing two-thirds of the use of his lungs. It was reported that he was then put under house arrest in his villa of the Al-Morooj neighborhood of Riyadh. By the end of January 2004, he reportedly gave interviews to the BBC English and Arabic services and Al-Jazeera TV channel, during which he revealed his kidnapping and arrest. On 26 January 2004, following his public statements, he was reportedly arrested and moved to the Al-Hair prison, where he was believed to still be detained at the time this communication was sent. It was not clear whether charges have been brought against him.

783. On 1 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning information alleging that **Hussain Ali Rdaish Aldwaice**, a 38-year old employee of the Saudi Telecommunication Company in Najran, was arrested on 23 December 2003. According to information received, Mr. Aldwaice was called to his

supervisor's office at 10 a.m. on 23 December 2003 and, when he arrived, he found the office full of secret police officers. The latter reportedly took him back to his office, where they took his computer and files, and then took him to his house. They reportedly searched his home, and took all folders and electronic devices they could find, including his personal computer. It was reported that they then drove him to their headquarters, where they interrogated him. Mr. Aldwaice was allegedly tortured by being hung from posts and ceilings with steel wires, not allowed to sleep for three to four days in a row. It was also reported that he suffered from liver disease, virus C, and that he was deprived of his medicine. It was reported that this arrest was motivated by the fact that the secret police discovered that Mr. Aldwaice was using an electronic chat-room regularly. They suspected that he was among the people who provided human rights groups abroad with information about the Ismaili prisoners in Najran. According to more recent information, the police then discovered that Mr. Aldwaice was not the person they were looking for, but nevertheless he was kept in detention. Finally, reports indicated that no formal charges had been brought against Mr. Aldwaice at the time this communication was sent, and that he had no access to a lawyer since his arrest.

784. On 19 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the reported arrest of the following 11 pro-democracy activists: **Dr. Matrouk al-Falih**, professor of political science at King Sa'ud University, Riyadh, **Dr. Abdullah al-Hamid**, former professor of contemporary literature at Imam Muhammad bin Sa'ud University, Riyadh, **Muhammad Sa'id Tayyab**, retired journalist from Jeddah, **Dr. Tawfiq al-Qussayyir**, professor of electronics at King Sa'ud University in Riyadh, **Suleyman al-Rashudi**, retired lawyer in Riyadh, **Najib Al Khunaizi**, from Qateef, **Khalid Al-Hameed**, from Riyadh, **Amir Abu Khamsin**, from Al Hasa, **Ali Al Dumaini**, **Adnan Al Shikes** and **Abdulkarim Al Juhaiman**, from Riyadh. According to information received, these persons were arrested on 15 March 2004 by the Mabahith (secret police), apparently for criticizing the Government-appointed National Commission on Human Rights (NCHR), which was established by the Government over a week before this communication was sent, and for planning to set up their own "Saudi Independent Human Rights Committee", in a petition delivered to the Government and signed by 53 intellectuals. It was reported that they had criticized NCHR for its lack of independence from the Government; in turn, the intellectuals were criticized for being suspected of issuing "statements which do not serve the unity of the country and the cohesion of society". These persons were reportedly held incommunicado at the General Intelligence (al-Mabahith al-'Amma) in 'Ulaysha at the time this communication was sent, in the capital, Riyadh. It was believed that three detainees were released on 16 March, although their names were not known.

785. On 26 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the case of **Dr. Matrouk al-Falih**, **Dr. Abdullah al-Hamid**, **Muhammad Sa'id Tayyab**, **Dr. Tawfiq al-Qussayyir**, **Suleyman al-Rashudi**, **Najib Al Khunaizi**, **Khalid Al-Hameed**, **Amir Abu Khamsin**, **Ali Al Dumaini**, and **Adnan Al Shikes**, for whom an urgent appeal was sent jointly by the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative

of the Secretary-General on human rights defenders on 19 March 2004, and **Hamad Al-Kanhel** and **Abdul-Rahman Alahim**. These persons were reportedly arrested on 15 March 2004 by the Mabahith (secret police), apparently for criticizing the Government-appointed National Commission on Human Rights (NCHR), and for planning to set up their own "Saudi Independent Human Rights Committee", in a petition delivered to the Government and signed by 116 intellectuals. They were reportedly held incommunicado at the General Intelligence (al-Mabahith al-'Ammah) in 'Ulaysha, Riyadh. According to more recent information received at the time this communication was sent, nine of the 12 people listed above were released between 17 and 29 March 2004, after they were allegedly forced to sign a pledge to end their participation in any political or human rights activities and to stop calling for reforms in the Kingdom. Dr. Matrouk al-Falih, Dr. Abdullah al-Hamid and Ali Al Dumaini were, at the time this communication was sent, believed to remain in incommunicado detention because of their refusal to sign this pledge. It was reported that, until the date when this communication was sent, no charges had been filed against them and they have been denied access to their lawyers since their arrest.

786. By letter dated 12 August 2004, the Government replied to the communication sent by the Special Rapporteur on 26 April 2004 with reference to **Dr. Matrouk al-Falih, Dr. Abdullah al-Hamid, Muhammad Sa'id Tayyab, Dr. Tawfiq al-Qussayyir, Suleyman al-Rashudi, Najib Al Khunaizi, Khalid Al-Hameed, Amir Abu Khamsin, Ali Al Dumaini, and Adnan Al Shikes**. According to the Government, the aforementioned were arrested after they held several meetings. Following an investigation, they were charged with engaging in acts which justified terrorism, encouraged violence and incited civil disturbance. The Government stated that after they admitted to their involvement, they apologized and requested that all criminal proceedings against them be dropped, Dr. Tawfiq al-Qussayyir was released on 27 March, and Muhammad Sa'id Tayyab and Suleyman al-Rashudi on 28-29 April. Dr. Matrouk al-Falih, Dr. Abdullah al-Hamid and Ali Al Dumaini were charged with organizing the meetings and their cases have been referred to the courts for judgement. The Government informed the Special Rapporteur that the accused enjoyed full access to their rights at all times. The first hearing began on 9 August and the second was due to begin on 23 August 2004.

787. On 12 May 2004, the Special Rapporteur sent an urgent appeal concerning **Faris Hizam Al-Harbi**, a journalist, who was reportedly arrested in Al-Khober city, Eastern Province, at his home on 21 April 2004, and released in early May. Although the reasons for his arrest were not clear, it was believed that it might have been linked to his work as a journalist. Reports indicated that despite his release, on 9 May 2004 the Ministry of Information reportedly executed an 8 March order by Crown Prince Abdallah, reportedly permanently banning Mr. Al-Harbi from working as a journalist in the Kingdom. According to information received, Hizam Al-Harbi, aged 27, had contributed to the London-based Saudi daily *Al-Sharq Al-Awsat* since May 2003, and was reportedly known for his coverage of terrorism following the bomb attacks in the capital, Riyadh. Allegedly, Hizam Al-Harbi was reportedly previously detained on 7 April 2002 and allegedly held for three weeks in solitary confinement on charges of stealing official documents following a report in *Al-Watan* alleging that the Kingdom was considering stopping its financial support for the Arab League. During his time at *Al-Watan*, Al-Harbi was reportedly known for his coverage of official corruption. It is alleged that Mr. Hizam Al-Harbi had been fired in the past from several newspapers under the pressure of the authorities.

788. On 31 August 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Mazen Saleh bin Mohammed al-Hussein al-Tammimi**, human rights defender and founding member of Al-Karama human rights organization in Saudi Arabia. According to information received, on 31 May 2004, Mazen Saleh bin Mohammed al-Hussein al-Tammimi was reportedly arrested at his family home in Damman, along with **his wife and four children**, all below the age of six. His arrest was allegedly connected to his participation in a meeting on the issues of detainees in the Gulf, Guantánamo Bay and Iraq which took place on 27 May in Qatar. Although his family was reportedly released the following day, sources indicate that Mazen Saleh bin Mohammed al-Hussein al-Tammimi was, at the time this communication was sent, still being held in incommunicado detention in the offices of Saudi Arabia's General Intelligence service (al-Mabahith al-'amma) in Damman. It was further alleged that Mazen Saleh bin Mohammed al-Hussein al-Tammimi was subjected to ill treatment at the time of his arrest. Concern was expressed that Mazen Saleh bin Mohammed al-Hussein al-Tammimi might have been arrested and detained as a direct result of his human rights activities. It was reported that in 2004 he was appointed Al-Karama representative for the Khobar region for which he was responsible for reporting on all cases of human rights violations, particularly those relating to arbitrary detention. It was alleged that his work was under close scrutiny of the Saudi security forces. Fear had also been expressed for the physical and psychological integrity of Mazen Saleh bin Mohammed al-Hussein al-Tammimi, as he was physically handicapped and might have been at risk of torture and other forms of ill treatment while in custody.

789. On 13 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Muhanna bin Abdul 'Aziz al-Hubail**, aged 41. According to allegations received, on the evening of 6 October 2004, he was arrested by members of the General Investigation Directorate in al-Ihsa. He was, at the time this communication was sent, detained incommunicado. Reportedly a well-known critic of the Government, his arrest is believed to be connected with the establishment at the beginning of October of a political group called the National Islamic Gathering of al-Ihsa, for which he was reportedly chosen as the Secretary-General. In view of the alleged detention incommunicado, concern was expressed that Muhanna bin Abdul 'Aziz al-Hubail was at risk of being tortured or of being subjected to other forms of ill-treatment.

790. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning the events of 14 October 2003 when Saudi security forces reportedly arrested **hundreds of allegedly peaceful protesters** in Riyadh, during the opening day of a human rights conference organized by the Saudi Red Crescent Society under the patronage of the Minister of Interior, Prince Nayef. The Movement for Islamic Reform in Arabia (MIRA), a London-based political opposition group, called for the demonstration. According to information received, police forcibly dispersed the demonstrators, who were advocating political reform and the release of political prisoners, and arrested 271 persons. The Government announced that 83 of those arrested would face trial. On 21 October 2003, MIRA called for demonstrations two days later in Riyadh, Jeddah and seven other Saudi cities "to denounce the injustice and the corruption in the Kingdom". A massive and well-organized deployment of security forces on 23 October reportedly kept protesters away in each city. According to information received, police filmed pedestrians near a mosque in Jeddah that was designated as the gathering place for demonstrators, and security officials in plainclothes recorded license plate numbers. In Riyadh, police vehicles allegedly

blocked access to side streets leading to the mosque, and pedestrians were turned away from the immediate vicinity of several of the mosque entrances. Checkpoints were set up on a main road leading to the neighborhood, and the police stopped some cars. One government official reported that 30 people were arrested in Jeddah, 31 in Dammam, and 13 in Ha'il. Moreover, since early March 2004, Saudi authorities reportedly blocked access to the website

www.gaymiddleeast.com, a news site for the Middle East's homosexual community. The site was also blocked in June 2003, but the Government lifted the ban one month later. According to information received, this website focuses mainly on issues dealing with homosexual rights, and does not post any information of a pornographic nature. The United States-based website **www.365gay.com**, with which **gaymiddleeast.com** is affiliated, had also reportedly been censored. On 6 June 2004, unidentified men reportedly opened fire on BBC reporter **Frank Gardner** and cameraman **Simon Cumbers** near Riyadh. Cumbers died instantly. Gardner survived the attack but suffered serious wounds. The journalists were allegedly filming a house belonging to an Al-Qaeda militant killed last year by Saudi police. They were accompanied by a Saudi government minder. Authorities were, at the time this communication was sent, questioning the Saudi official. The shooting occurred in the suburb of Al-Suwadi. Gardner and Cumbers had been covering the recent terrorist attacks in the country, including in the city of Khobar, where 22 people were reportedly killed by Al Qaeda militants.

791. On 17 November 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Abdul Rahman Al-Lahem**, a lawyer and member of the Arab Commission on Human Rights. Abdul Rahman Al-Lahem is part of the legal team defending three reform activists, Abdullah Al-Hamed, Ali Al-Demaini and Matruk Al-Faleh who were arrested in March 2004 and who were, at the time this communication was sent, on trial in Riyadh for petitioning and issuing statements demanding political reforms and an end to institutional repression of civil rights due to the war on terrorism. According to the allegations received, Mr. Al-Lahem was arrested by the Saudi intelligence forces on 6 November 2004 following a letter he sent to Crown Prince Abdullah, on behalf of the defendants, which accused the trial judges of denying the three men a fair trial due to delay tactics, judicial bias and the denial of the right to a public trial, including the right of international and national media to attend the trial. Concern was expressed that his arrest might have been linked to his work as legal counsel to the imprisoned reform activists. Concern was heightened by the fact that on 17 March 2004, Mr. Al-Lahem had reportedly already been arrested and detained for 8 days in connection with his active defense and support of the three accused.

Observations

792. The Special Rapporteur thanks the Government for its reply to his communication of 26 April 2004, but regrets not having received any replies to his communications of 12 February, 1 and 19 March, 12 May, 31 August, 13 and 14 October and 17 November 2004 at the time this report was finalized.

Senegal

793. Le 15 janvier 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant l'**Organisation nationale des droits de l'homme** (ONDH). Selon les informations reçues, le 9 décembre 2003, des menaces de mort auraient été adressées par courrier à **Mgr Sarr**, Archevêque de Dakar, ainsi qu'à l'ensemble des évêques sénégalais, vraisemblablement en réaction à une déclaration faite par des évêques lors de la conférence épiscopale de Tambacounda en novembre 2003, durant laquelle ils auraient exprimé leur préoccupation au sujet de la situation politique et sociale du pays. Le 5 janvier 2004, l'ONDH avait publié un communiqué de presse dénonçant ces menaces de mort, demandant que la lumière soit faite à ce sujet et appelant à leur condamnation. Le 6 janvier 2004, un mouvement inconnu jusqu'alors aurait diffusé un communiqué de presse dans lequel il aurait exigé que les membres de l'ONDH soient poursuivis pour avoir divulgué l'existence de cette lettre et risqué de «jeter le Sénégal dans une période de turbulence».

794. Le 14 juillet 2004, le Rapporteur spécial, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé une communication au sujet de **Madiambal Diagne**, éditeur au journal *Le Quotidien*, qui aurait été arrêté le 9 juillet 2004 et emprisonné pour «publication de documents confidentiels», «dissémination de fausses nouvelles» et «initiation d'actes susceptibles de compromettre l'ordre public», en relation avec la parution d'un article relatif à des allégations de pression sur les juges de la Haute Cour de justice par les autorités politiques. Il serait détenu à la prison de Dakar sur ordre du procureur de la République.

795. Le 4 août 2004, le Gouvernement a envoyé une réponse à la communication du 14 juillet 2004, indiquant que M. Diagne a publié deux articles différents dans deux éditions de son journal *Le Quotidien*, respectivement les 25 juin et 5 juillet 2004. Dans la première, M. Diagne a reproduit un fac-similé d'une correspondance marquée «secret» et signée du Ministre de l'économie et des finances, correspondance faisant partie des pièces d'une procédure pénale devant un juge d'instruction du tribunal régional hors classe de Dakar. Dans la seconde parution, M. Diagne signe un article intitulé «Des remous dans la magistrature», dans lequel il affirme que l'assemblée générale de l'Union des magistrats sénégalais (UMS) «sera l'occasion pour la communauté des magistrats de se déterminer à riposter pour préserver les droits professionnels de la corporation», parce que, soutient-il, les décisions prises le 4 juillet 2004 par le Conseil supérieur de la magistrature n'étaient que la manifestation «de la velléité de plus en plus affirmée du Président de la République de mettre à des postes stratégiques des magistrats sous ordre». Dans le même article, il avance que certaines nominations issues de la réunion du Conseil supérieur de la magistrature généreront des conflits, surtout devant la cour de cassation. De plus, il continue son argumentation en donnant en guise de précisions de fausses informations. Tels sont les faits qui ont valu à M. Diagne, sur décision du procureur de la République, d'être entendu en enquête préliminaire, à deux reprises, les 7 et 8 juillet 2004, par une brigade de gendarmerie. Il devait par la suite être déféré au parquet et placé sous mandat de dépôt le vendredi 9 juillet 2004 par le juge d'instruction saisi de la procédure. Les poursuites judiciaires idoines ont été déclenchées à l'encontre de M. Diagne sur le fondement d'une législation en parfaite conformité avec les normes démocratiques internationalement reconnues. M. Diagne n'a pas été en effet l'objet d'une arrestation et d'une détention arbitraires. C'est, ni plus ni moins, la loi sénégalaise qui lui a été appliquée, comme il en aurait été de tout autre

justiciable ayant commis un délit de la même nature. Du reste, en conformité avec les termes de l'article 129 du Code de procédure pénale sénégalais, M. Diagne a bénéficié depuis le 27 juillet 2004 d'une liberté provisoire. En conclusion, M. Diagne dispose de voies de recours pour assurer en toute équité ses droits de défense, conformément aux lois pénales nationales et aux engagements internationaux souscrits par le Sénégal.

Observations

796. Le Rapporteur spécial remercie le Gouvernement pour sa lettre datée du 4 août 2004 en réponse à sa communication du 14 juillet. Il regrette toutefois de ne pas avoir reçu, au 31 décembre 2004, de réponse à sa communication du 15 janvier 2004.

Serbia and Montenegro

797. On 9 February 2004, the Special Rapporteur sent an urgent appeal concerning **Dominic Hipkins**, a British journalist, **Jovo Martinovic**, **Sinisa Nadazdin**, **Dragan Radevic** and **Nenad Zevenic**. It was reported that criminal charges were brought against Mr. Hipkins, and the other four people were arrested, after being accused of "harming the image of Montenegro" with a "fabricated report" on child trafficking in the region. Reports indicated that, if found guilty, they could have faced up to three years in prison. According to information received, on 4 February 2004, the police pressed charges against Hipkins for "harming the image of Montenegro" over an article that appeared in the British weekly *Sunday Mirror* on 25 January, which was picked up by local newspapers. In the article, Hipkins reportedly described how he posed as someone wanting to purchase children and was offered three young children for sale. Reports indicated that the police also arrested Jovo Martinovic, Sinisa Nadazdin, Dragan Radevic and Nenad Zevenic, for allegedly helping the journalist to fabricate the story and paying women in Podgorica to make up their accounts. The four were, at the time this communication was sent, still reportedly being held in custody and Mr. Hipkins was reportedly sought by the police.

798. On 31 March 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of the office of the **Helsinki Committee for Human Rights in Serbia**. According to information received, on 18 March 2004, following the publication by the Helsinki Committee of *Military Secret*, a book which reportedly documented the political activities of the military during the rule of President Milosevic, its author, **Vladan Vljakovic**, was allegedly arrested and placed in custody. He was allegedly under investigation for crimes related to the disclosure of military secrets. On 26 March 2004, a search warrant was reportedly issued against the Helsinki Committee offices in Belgrade and their offices reportedly raided by military police. It is reported that all 251 copies of *Military Secrets* were temporarily confiscated. On 29 March 2004 the chair of the Helsinki Committee, Sonja Biserko, was reportedly summoned to give testimony to a military court. Concern had been expressed that the raid against the Helsinki Committee's offices and confiscation of the book *Military Secrets* and arrest of his author might have represented an attempt to obstruct the legitimate efforts of the Helsinki Committee to monitor and help understand how the armed forces of FRY functioned during the Milosevic era.

799. On 17 May 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation

concerning reports that there had recently been attacks against journalists, who were believed to have been targeted for their reporting on human rights abuses, in particular during the Milosevic era. In particular, reports were received indicating that, on 28 March 2004, a bomb was found under a vehicle of the independent television program **B92 TV**, while the journalists were in Mitrovica to report on the upsurge of violence in Kosovo. On 3 May, **Masan Lekic**, a B92 reporter, was reportedly attacked as he was conducting an investigation on the main suspect in the assassination of former Prime Minister Zoran Djindjic. It was reported that his attackers first asked him which television company he was working for and when he answered B92, they allegedly threw his camera to the ground and seized the tape.

800. On 29 September 2004, the Special Rapporteur sent a letter of allegation concerning a team of **Radio-Television B92** which, upon returning on 27 March 2004 from Kosovo, found a bomb underneath their car in a park in Raska. The bomb was removed and the explosion averted. On 19 April 2004, **Radisav Rodic**, the owner of Belgrade dailies *Glas Javnosti* and *Kurier*, was physically attacked by the security chief of the Serbian Minister of Capital Investment, in a parking lot in Belgrade. The security chief made death threats against Radisav Rodic. In May 2004, a Serbian radical party official issued a statement in which he described the Novi Sad daily *Gradjanski List* as *Ustasha*, and its journalists as “filthy traitors.” His statement followed an interview published in the daily with the Radical Party deputy leader. On 28 May 2004, **Dusko Jovanovic**, publisher and editor of the daily *Dan*, was gunned down in the street outside his newspaper’s headquarters in Podgorica, shortly after midnight. Dusko Jovanovic was getting into his car when he was hit in the head and shoulder by shots fired from a sub-machine gun. His assailants fled in a black vehicle. The journalist died shortly after being rushed to the hospital. Dusko Jovanovic had often criticized the ruling coalition led by the Prime Minister of Montenegro.

Observations

801. The Special Rapporteur regrets that no replies to his communications were received at the date this report was finalized.

Seychelles

802. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning the Minister of Tourism and Transport who, on November 2003, reportedly sued the weekly newspaper *Regar* for defamation for a total of 1 million rupees in relation to comments made in the satirical column “Thoughts of Leo the Turtle” on 21 March 2003. Ms. de Commarmond claimed that she was portrayed as an unpatriotic person who invests money in Germany by buying apartments. It was alleged that the sum asked in damages will have for effect to close down the publication.

Observations

803. The Special Rapporteur regrets not having received any response to his communication at the time this report was finalized.

Somalia

804. On 17 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding **Mr. Abdishakur Yusuf Ali**, editor in chief of the weekly newspaper *War-Ogaal*. According to information received, he was arrested on 21 April 2004 in connection with an article claiming that a State Minister sold food donated by the international community for distribution in Somalia. Abdishakur Yusuf Ali was, at the time this communication was sent, reportedly held in a prison near the city of Bossasso. He was allegedly being pressured to make formal declarations that his article was based on false information. It was also alleged that the authorities harassed journalists who reported on his detention or on the possible corruption of the Minister.

Observations

805. The Special Rapporteur regrets that no replies to his communications were received at the date this report was finalized.

Spain

806. El 30 de septiembre de 2004, el Relator Especial envió una comunicación en relación con el 20 de febrero de 2003 cuando la Guardia Civil, habilitada por un juez de la Audiencia Nacional, habría procedido al cierre cautelar del diario vasco **Euskaldunon Egunkaria** y a la detención de diez personas relacionadas con él: **Iñigo Uría, Martxelo Otamendi, Juan Mari Torrealdai, Pello Zubiría, Luis Goia, Fermín Lazkano, Inma Gomila, Xabier Alegría, Xabier Oleada y Txema Auzmendi**. Todos los detenidos habrían sido puestos en régimen de incomunicación en virtud de la legislación antiterrorista y llevados a la Audiencia Nacional en Madrid. Xabier Alegría e Iñigo Uría permanecerían en prisión y los ocho otros detenidos habrían sido liberados bajo fianza. El ex director del periódico, Martxelo Otamendi, habría interpuesto una demanda en junio de 2003 por torturas y malos tratos como consecuencia de su detención e incomunicación tras el cierre del diario. Las razones que habrían motivado el cierre del diario habrían sido la presunta vinculación con banda armada de las personas detenidas así como la supuesta relación estructural y de connivencia de las mercantiles y empresas encargadas de la publicación del diario con el grupo armado Euskadi Ta Askatasuna (ETA). Además, se habría procedido a establecer una serie de medidas cautelares sistemáticamente prorrogadas, como el cierre y congelación absoluta de todas las actividades profesionales, mercantiles y laborales del diario.

Observaciones

807. El Relator Especial lamenta que a la conclusión del informe no había recibido respuesta a su comunicación con fecha 30 de septiembre de 2004.

Sri Lanka

808. On 16 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal concerning **Michael Anthony Emanuel Fernando** who was reportedly admitted unconscious to the Kalubowila Hospital on 2 February 2004 after he was

sprayed in the face with chloroform. Mr. Fernando's case had already been the object of previous communications by the Special Rapporteur on torture on 25 September 2003 (E/CN.4/2004/62/Add.1) as well as by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 23 December 2003 (E/CN.4/2004/62/Add.1). According to information received, Mr. Fernando had complained on several occasions about serious threats to his life in reprisals to the complaints of human rights violations he had made to Sri Lankan courts as well as to the United Nations Human Rights Committee. Indeed, on 9 January 2004, the Committee had issued interim measures requesting the State party, while the communication was under consideration by the Committee, "to adopt all measures necessary to protect the life, safety and personal integrity" of Mr. Fernando and his family members "so as to avoid irreparable damage to them". According to information received, Mr. Fernando was discharged from the hospital on 7 February 2004. He was reportedly accompanied home by the same two armed policemen who were guarding him at the hospital under the orders of the Sri Lankan Ministry of Defense. However, a request for further protection made on his behalf to the President had reportedly yielded no outcome. As a result of the reported failure of the relevant authorities to provide him with adequate protection, he was reportedly forced into hiding. In view of the alleged recent attack on Michael Anthony Emanuel Fernando and the death threats he has been receiving, fears have been expressed for his safety and physical integrity.

809. On 2 and 3 December 2004, the Government sent a response to the Special Rapporteur's communication of 16 February 2004 stating that a police investigation was in progress, at the time this reply was sent, concerning **Anthony Michael Emanuel Fernando**. On 2 February 2004 a statement was recorded from him. He was unable to name the suspects or provide the police with the license number of the vehicle that the perpetrators came in. Action was to be taken on the basis of any credible evidence into the alleged threats. His residence was placed under police surveillance. He was, at the time this reply was sent, residing in Hong Kong.

810. On 21 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegation concerning:

- **Aiyathurai Nadesan**, a journalist who had been reporting for the Tamil daily *Virakesari*, the International Broadcasting Corporation (IBC) and other daily electronic media, was reportedly shot dead on 24 May 2004, by unidentified gunmen believed to be members of the Sri Lankan intelligence service in Batticaloa, while he was going to work on his motorbike. Mr. Nadesan won the North-East Sahithya Academy award for his Tamil-language book *History of Ethnic Strife*. He also won the best Tamil journalist award in year 2000. He was one of the founding members of Sri Lanka Tamil Media Alliance (SLTMA) and held the post of vice-president of this association. On 17 July 2001, Mr. Nadesan was interrogated by a military officer of the city of Batticaloa. The officer reminded him that he had to obey them and that he would be arrested if he continued to write articles critical of the military. No investigation had been conducted into his death at the time of writing this communication;
- **Kumaravel Thambaiah**, a senior lecturer at the Eastern University, was reportedly shot dead by members of the Sri Lanka intelligence agency while at home in Batticaloa on 24 May 2004. No investigation had been conducted into his death, at the time this communication was sent.

811. On 29 November 2004, the Government sent a response to the communication of 21 July 2004 concerning **Aiyathurai Nadesan** and **Kumaravel Thambaiiah**. Concerning both Aiyathurai Nadesan and Kumaravel Thambaiiah, the Government stated that the Criminal Investigations Department (CID) of Sri Lanka Police had commenced an investigation into this complaint under the orders received from the Inspector General of Police. Investigations were in progress, at the time this reply was sent.

812. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning the United National Front (UNF) Government's cabinet which, in December 2003, took the decision to ban the allocation of State sector advertising in State media under the President. It was believed that the reason for such a ban could have been that the State media's coverage under the President had become disadvantageous to the UNF Government and advantageous to the President's party and parties favourable to him. On 16 February 2004, the Sri Lankan Information and Communications Minister decided to cancel the television broadcast licence that was granted to the **Asian Broadcasting Corporation (ABC)** in 1995. According to information received, this decision might have been politically motivated because of the course of Parliamentary elections. On 10 March 2004, **Siri Ranasingha**, chief editor of *Lankadeepa* newspaper, reportedly received a threatening phone call made by the propaganda secretary of the People's Liberation Front (JVP). The threatening call was allegedly made on the grounds that a political advertisement that was due to appear in *Lankadeepa* newspaper the following day was damaging to him. On the night of 3 May 2004, around 40 Colombo police officers reportedly raided the house of the Tamil journalist **Dhamaratnam Sivaram**, editor of the online news service Tamilnet (www.tamilnet.com), looking for weapons. The police then proceeded to search Sivaram's office. Sivaram also received threats from unknown sources. It is thought that Tamilnet might be targeted for its coverage of a recent split within the Tamil Tigers.

813. On 22 November 2004, the Special Rapporteur sent a letter of allegation concerning three journalists, namely **K. Kajidaran**, **M. Anchelian** and **S. Sivaruban**, working for *Udyan*, *Eelanadu* and *Eelanathan* newspapers, who, on 15 November 2004, were assaulted and had their cameras confiscated temporarily by the military. This took place in Kodikaman, Jaffna, where the journalists were covering a demonstration protesting the death of a Hindu priest who had died in a traffic accident involving a military vehicle.

814. On 3 December 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Uswatta Liyanage Anthony Joseph Perera**, a member of a human rights organization active in combating torture and child abuse, and which provided assistance to the victims in obtaining legal advice and medical attention. According to allegations received, he had been the subject of telephone death threats. He brought these threats to the attention of the National Human Rights Commission (NHRC) in a letter dated 25 November 2004. Concern was expressed that the threats against Mr. U.L.A. Joseph Perera might have been aimed at preventing him from further assisting an alleged torture victim who was the subject of an urgent appeal by the Special Rapporteur on torture (E/CN.4/2004/56, Add. 1). U.L.A. Joseph Perera filed a fundamental rights application and is a complainant in a torture case against police officers, which was, at the time this communication was sent, pending before the Negombo High Court. These concerns were reinforced by the death of a torture victim who was also the subject of an urgent appeal of the Special Rapporteur on torture, dated 22 November 2004 (see also E/CN.4/2003/68/Add.1 and E/CN.4/2004/56/Add.1). U.L.A.

Joseph Perera was due to testify on 2 December 2004 in the criminal case against the policemen who tortured him, but was shot on 21 November and died of the wounds on 24 November.

Follow up to previously transmitted communications

815. On 23 March 2004, the Government of the Democratic Socialist Republic of Sri Lanka sent a response to the Special Rapporteur's communication of 31 October 2003 concerning five journalists, including **Vijitha Ranaweera**, **Rohana Gurusinghe** and **Jagath Kalansuriy**. The Government stated that, on 3 December 2002, they were reportedly assaulted by thugs in Wallawaya. The Special Investigations Unit established to investigate alleged incidents of torture, commenced an investigation into this allegation. Investigations were still in progress, at the time this communication was sent. Concerning **Uvindu Kurukulasooriya**, the Government stated that investigations into Kurukulasooriya's assault have been terminated and the Sri Lanka police have forwarded extracts of their investigations to the Attorney General for advice. After examining the material, the Attorney General decided that there was enough material to institute criminal proceedings against any person. He however, advised the Crimes Directorate on 23 April 2003 to consider taking disciplinary action against three suspected police officers. Police Departmental inquiries were in progress, at the time this reply was sent, against the three police officers. Finally, regarding **Nishantha Kumara**, investigations into the alleged threats and harassment of Kumara were also, at the time this reply was sent, being carried out by the Criminal Investigations Department of the Sri Lanka Police.

Observations

816. The Special Rapporteur thanks the Government for its replies of 31 October 2003, 16 February and 21 July 2004, but regrets that no replies to his communications of 14 October, 22 November and 3 December 2004 were received at the time this report was finalized.

Sudan

817. On 8 January 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on human rights defenders, sent an urgent appeal concerning **Waiel Taha**, a 23-year-old student and member of the Sudan Organization against Torture (SOAT) student network in Sudan, who was reportedly arrested by members of the National Security Agency (NSA) outside Khartoum University Student Union building on Nile Street on 5 January 2004. It is reported that he was subsequently taken to an undisclosed location and that his whereabouts were unknown after that, at the time this communication was sent. A delegation from the Khartoum Student Union reportedly went to the NSA office and requested information on his whereabouts. However, the NSA allegedly denied that he had been arrested. According to the information received, another student, **Yousif Fat'h Al Rahman**, was reportedly arrested with Waiel Taha. He reportedly confirmed that they were both taken by force by nine individuals on a 2002 model Toyota pickup truck, and that they were subsequently separated. Yousif Fat'h Al Rahman was reportedly taken to the NSA building near Old Khartoum High School, where he was allegedly punched on the face, beaten on the sole of the feet and back, kicked, pressed hard on the stomach, forced to drink three litres of water with a bottle inserted to the throat, strangled and subjected to death threats by five security officers. He was reportedly hurled, blindfolded and handcuffed, on to a road near Mahmood Sharief Station in Buri on 6 January 2004. Concern had been expressed that Waiel

Taha's arrest might have been linked to his participation, together with the Khartoum University Student Union, in the organization of a series of briefing and public talks regarding disturbances which allegedly occurred on 3 and 4 January 2004 at Khartoum University between female students and guards. It was alleged that, during the disturbances, students were beaten by the guards with metal wires and water hoses. Some of the injured students allegedly pressed charges against the university guards. In view of the reported incommunicado detention of Waiel Taha at an undisclosed location and allegations concerning the torture and other forms of ill-treatment of Yousif Fat'h Al Rahman while in custody, fears had been expressed that Waiel Taha might also be at risk of torture and other forms of ill-treatment.

818. On 5 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Salih Mahmoud Osman**, a human rights defender and member of the Sudan Organization Against Torture (SOAT)'s lawyer's network, who was reportedly arrested at his home in Wad-Madani, capital of the Central Region in Sudan, at 11 p.m. on 1 February 2004. Reports indicate that he was, at the time this communication was sent, being held at the National Security Agency (NSA) offices in Wad Madani, where he was reportedly being interrogated. Although Mr. Salih had not been formally charged with any offence, it was believed that he might have been arrested in connection with his activities in defence of human rights, in particular the fact that he provides free legal aid and legal representation to victims of human rights abuses and to those who face capital punishment or severe punishments (amputation and cross amputation) in Darfur region, and to the fact that he has written articles and researches on the current conflict in Darfur. Information received also indicated that Mr. Salih was suffering from jaundice at the time of his arrest and had not recovered at the time this communication was sent. It was mentioned that his wife had reportedly not been allowed to see him, but she was allowed to bring him food as his ill health needs a special diet.

819. On 23 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Dr. Mudawi Ibrahim Adam**, director of the Sudan Social Development Organization (SUDO), an organization promoting sustainable development and human rights through workshops on human rights-related issues and engagement in humanitarian work, for whom an urgent appeal was sent on behalf of 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 human rights defenders, on 6 January 2004. According to more recent information received, on 8 February 2004, Mr. Adam was brought before the Attorney-General and was charged with crimes against the State under articles 50, 51, 56, 63 and 64 of the Penal Code. It was reported that article 50 relates to undermining the constitutional system or the unity of the country and 51 relates to waging war against the State, or supporting those who do so. Both articles were allegedly punishable by death and did not allow release on bail. Mr. Adam was reportedly being held, at the time this communication was sent, in police custody and had been allowed to see his wife and lawyer only in the presence of police. He was apparently not allowed books or newspapers, but was allowed to watch TV. Dr. Mudawi, who was reportedly

arrested at his home in Khartoum on 28 December 2003 after visiting the area of Darfur, was first held under article 31 of the National Security Forces Act in the National Security Centre and in the political section of Kober prison. He went on hunger strike, demanding to be released or charged. He ended the hunger strike after two days, when he was brought before the Attorney-General.

820. On 19 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Dr. Ali Ahmed Daoud**, a veterinary doctor, and **Ali Hussain Dossa**, a Member of Parliament for North Nyala. The men were reportedly arrested on 15 March and were held in Nyala security centre, South Darfur at the time this communication was sent. It was reported that Dr. Ali Ahmed Daoud was attending a meeting in Ali Hussain Dossa's house with about 20 other people, all believed to be members of the Fur ethnic group. They were reportedly discussing ways of lobbying the Government to end attacks against villages in the region under the Government-backed Janjawid militia. Members of the Sudanese security forces were said to have stopped the meeting and detained the participants. It was reported that all but the two men concerned were released at the time this communication was sent. Dr. Ali Ahmed Daoud and Ali Hussain Dossa were reported to have been severely tortured, and did not have access to a lawyer. It was reported that they had been charged with spying for the Sudan Liberation Army, a charge which carries the death penalty.

821. On 5 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Baroud Sandal Ragab, Ismail Oman, Mohamed Haroun, Mohamed Sharief Ali and Abdalla Aldoma**, all lawyers. It was alleged that they were arrested on 19 March in Khartoum, and were being held incommunicado in a special section of Kober prison at the time this communication was sent. Abdalla Aldoma, a prominent member of the opposition Umma party, presided over a delegation of that party to the National Committee for the Development and Restoration of Social Infrastructure in Darfur. It was alleged that his arrest was linked to the delegation's withdrawal from that Committee. The other four lawyers were members of the Popular Congress, another opposition party. Their arrest was allegedly related to their participation in a number of demonstrations with displaced persons from Darfur, denouncing the lack of shelter and food.

822. On 20 April 2004, the Special Rapporteur sent an urgent appeal concerning the reported arrest of **Islam Salih**, the Khartoum bureau chief of the television news network Al-Jazeera, after he was allegedly convicted on 10 April 2004 of "disseminating false news" under articles 66 of the Criminal Code and 199 of the Customs Authority Act, and sentenced to one month in prison and a one million Sudanese pounds (approximately €3,200) fine, with a provision for another month in prison if he did not pay the fine. It was further reported that, although Mr. Salih appealed the sentence, he was taken to Omdurman prison immediately. It was reported that Mr. Salih and an Al-Jazeera cameraman were previously detained on 18 December 2003 and that a day earlier, the television station's Khartoum offices were searched by the security services, who reportedly did not have a warrant. The authorities reportedly claimed that customs duties had not been paid on material brought into the country, although evidence to the contrary was reportedly produced. It was reported that, nevertheless, Al-Jazeera's bureau was closed. This

apparently followed an Al-Jazeera report about events in the Darfur region. It was reported that this sentence was placed in the context of a news blackout imposed by the authorities on the situation in the Darfur region. Newspapers had allegedly been suspended or closed down and journalists detained over the past year for reporting on the situation in the Darfur region in violation of the blackout.

823. On 12 May 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Nureddin Mohammad Abdel Rahim**, *omda*, or mayor, of Shoba, and **Bahr al-Din Abdullah Rifah**, *omda* of Jabalsi. On 9 May 2004 the two men allegedly were arrested on the street in Kabkabiya, North Darfur state, after a meeting was called by the International Committee of the Red Cross. It was reported that they had provided information on human rights violations by Government-supported militia in the region, including information on burnt villages, killings and mass graves. The men were allegedly being held incommunicado at the time this communication was sent. In view of their alleged detention incommunicado, concern was expressed that Nureddin Mohammad Abdel Rahim and Bahr al-Din Abdullah Rifah could have been at risk of torture or other forms of ill-treatment.

824. On 12 May 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the situation of **Osman Adam Abdel Mawla**, a human rights defender and member of the Nyala branch of the Sudan Social Development Organisation (SUDO), an organization promoting sustainable development and human rights through workshops on human rights-related issues and engagement in humanitarian work. According to the information received, on 5 May 2004, Osman Adam Abdel Mawla was arrested by security forces in Zalingy. He was, at the time this communication was sent, reportedly being held at the security offices in Zalingy and had allegedly no charges brought against him. It should be noted in this respect that the Director of SUDO, **Dr. Mudawi Ibrahim Adam**, was the subject of two urgent appeals by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and the Special Representative to the Secretary General on human rights defenders on 23 February 2004 and 6 January 2004, in relation to his reported involvement in humanitarian work in Darfur and his reporting on the human rights situation in the area. In this context, concern has been expressed that Osman Adam Abdel Mawla might have been targeted for his human rights work and in particular his work with SUDO, which had recently provided assistance to internally displaced people (IDPs) in the Darfur region.

825. On 3 June 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the situation of **Osman Adam Abdel Mawla**, a member of the Sudan Social Development Organization (SUDO) who was the subject of an urgent action by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders on 12 May 2004. According to the information received, Osman Abdel Mawla was reportedly arrested on 5 May 2004 and held at the security offices in Zalingy, during which time he was reportedly neither interrogated nor informed of the

reason for his detention. He was reportedly released on 18 May. The Special Rapporteur welcomed the release of Osman Abdel Mawla but remained concerned at information received that, since his release, he had been denied the necessary permit to travel outside Nyala. Concern had been expressed that this alleged restriction on his freedom of movement might have represented an attempt at preventing him from carrying out his human rights activities and in particular from reporting on the human rights situation on Darfur.

826. On 25 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning regarding the situation of **Dr. Ashaq Hussein Jammih, Mohamed Ishaq Adam** and **Adam Badawi Youseif**. According to information received, Ashaq Hussein Jammih was arrested on 15 June 2004 at his house in Al Fashir, for his alleged membership at the Popular National Congress (PNC). Mohamed Ishaq Adam, a taxi driver, was reportedly arrested on 19 June 2004 in Al Fashir for his alleged support to the rebellion in Darfur. On the same day, Adam Badawi Youseif, a trader in Al Fahir market, was reportedly arrested while at work for his alleged support for the rebellion in Darfur. It was reported that all three men were, at the time this communication was sent, detained in the security forces offices in Al Fashir and no official charges were brought against them. It was furthermore reported that, on 18 June 2004, in Nyala, Abdel Rahman Adam Abbow and Dr. Ishag Sabeel were arrested by the security forces for their alleged support of the armed opposition and transferred to the security forces offices. According to reports, no official charges were brought against them at the time this communication was sent, and they have been refused visits. Fears have been expressed for their physical integrity.

827. On 30 June 2004, the Special Rapporteur sent an urgent appeal concerning the 27 June 2004, when Khartoum University Student Union (KUSU) was attacked by 60 students armed with iron bars and Molotov cocktails. All the attackers were reportedly members of the Student Branch of the National Congress Party and were allegedly aided by members of the security forces. During the attacks, four students, **Adel Abd Al Rahim Aowshi**, fourth year, Faculty of Education, **Nasir El Din Musa**, fifth year, Faculty of Education, **Muntsar Ayoub**, second year, Administration and **Abd Al Nasir Ali**, second year, Economics, were critically injured. The attack followed a Nuba Mountains cultural exhibition held at KUSU in June 2004 organized by the Student Association of the Nuba Mountains at Khartoum University, an official society affiliated to KUSU. Among the exhibited items were traditional equipments used by the Nuba people for brewing a traditional alcoholic drink. On 25 June 2004, at the University's mosque, the imam stated that the presence of equipment for brewing alcohol in the Union building was against Islam and in breach of the Shariah laws. He allegedly promised punishment for the people involved.

828. On 3 August 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Aba Zer Ahmed Abu Al Bashir**, a lawyer, member of the Berti Tribe and human rights defender in Nyala, Sudan. According to information received, on 24 July 2004, Aba Zer Ahmed Abu Al Bashir was reportedly arrested by the security forces at his office in Nyala and taken to the security forces' offices in Nyala, where he was still in detention at the time this communication was sent. He had reportedly not been formerly charged and had been denied visits by his family or lawyers. Concern was

expressed that Zer Ahmed Abu Al Bashir's arrest might have been related to his human rights activities and, in particular, to a written request which he sent to the state governor of Southern Darfur on 16 July 2004, together with 10 other peace activists, requesting that the conflict in the area come to an end. Concern was heightened by reports that 10 peace activists and tribal leaders who were party to the request were also arrested.

829. On 6 September 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning the arrest of some **45 students** at the University of Bkhat al Rodah, Al Duwain, on 17 March 2003 after protesting against a decision by the dean to reject the establishment of a student union. It was reported that the police used rocks, pebbles, electric batons and tear gas, injuring many students, including **Imjad Taha Hussain, Faiza Al taieb Omer and Limia Osman**. The students were reportedly taken to the security office and detained in the same room for three hours without access to any open windows or fan. Upon their release, they were reportedly ordered to clear out their university rooms.

830. On 6 September 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Faisal El Bagir**, a freelance journalist, correspondent of RSF in Sudan and member of SOAT, who had allegedly been repeatedly detained in connection to his work as a journalist and human rights defender. In particular, he was detained on 8 June 2003 at the Khartoum airport by the security forces as he was returning from Athens after attending a conference on Designs for Democratic Media in Iraq. It was reported that his luggage was searched, his passport confiscated and he was interrogated about his journalistic activities. On 26 July 2003, he was detained again as he was returning from Dhaka, where he had attended a meeting on children's rights and, on 16 August, he was reportedly summoned by the political section of the security forces and interrogated about his activities and links with SOAT. It was reported that he was summoned again by the press section of the security forces on 11 October following a press release defending freedom of expression signed by over 250 journalists and then detained again on 10 January 2004. Moreover, **Gasim Taha**, a journalist working for *Al Sahafa* and **Muhamad Husain**, working for *Akhbar Al Youm*, were detained by the security forces in Myala on 15 November 2003, released the same day and ordered to report weekly to the security office. Their arrest followed a visit on 13 November 2003 to the villages of Singita and Oda in Southern Darfur after an attack of the two villages by the Arab militia, during which they filmed and photographed the village and the destruction of houses and farms. It was believed that their arrests were related to their reporting activities on the human rights situation in the Darfur region.

831. On 17 September 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Waiel Taha**, a student and member of the Sudan Organization against Torture (SOAT) student network in Sudan. His case was included in a joint urgent appeal sent by the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 8 January 2004. According to new information received, he was released on bail on 7 January 2004. It was alleged that, while in custody, he was tied to a chair, blindfolded with a shirt and beaten on his genitals and other parts of his body with a water hose, as well as being

threatened with rape. He was reportedly charged by the Chief Persecutor with a crime against the State for instigating students, illegal occupation of a room used by a guard and the destruction of a Student Support Fund banner, under articles 144 (Intimidation) and 182 (Criminal Mischief) of the Penal Code of 1991. Although he was released on bail, it was reported that he was ordered to report back to the Crime Against the State Office on 8 and 11 January 2004.

832. On 6 October 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Faisal Dawood Abd Alrahman**, 26, a fourth-year Economics student and Secretary-General of the Darfur Student Association at the University of Khartoum. According to the information received, on 23 September 2004 at 11 a.m., eight officers from National Security Agency (NSA) arrested Faisal Dawood Abd Alrahman and **Abd Alrahman Mohamed Abd Alrahman** (27, second year Arts Faculty student, Chairperson of the Darfur Student Association at the University of Khartoum) on the University of Khartoum premises. Faisal Dawood Abd Alrahman and Abd Alrahman Mohamed Abd Alrahman were taken to the NSA political section offices at Khartoum North. While detained there, they were allegedly beaten and punched all over their bodies for an hour. They were questioned about the activities of the Darfur Student Organization. Abd Alrahman Mohamed Abd Alrahman was released on 24 September 2004 at 4 p.m. Faisal Dawood Abd Alrahman was still in detention and his whereabouts remained undisclosed at the time this communication was sent. Their detention at an undisclosed location and the treatment they were allegedly subjected to upon their arrest gave rise to fears about their being subjected to further ill-treatment.

833. On 1 December 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning **Hussein Khogali**, editor-in-chief of the independent Arabic-language daily *Alwan*, who had been arrested and held without charge by police in an undisclosed location since 22 November 2004. According to information received, Hussein Khogali was, at the time this communication was sent, believed to be in Kober prison, but neither his family nor his lawyer had been allowed to contact him. Police also confiscated the entire print run of his newspaper's 23 November 2004 issue. Khogali had been previously imprisoned for 17 days in September 2004, and was only released on condition that he cease writing in his own newspaper. He was told this verbally by members of the National Security Agency (NSA) who, according to a local source, suspected him of continuing to write occasional articles.

Follow-up to previously transmitted communications

834. On 19 March 2004, the Government of Sudan sent a response to the Special Rapporteur's communication of 23 October 2003 concerning the suspension of newspapers. The Government stated that the Justice Minister of the Sudan ordered prosecutors to bring an end to the suspension of newspapers since they only had the power to ban newspapers for the purposes of investigations and provided the suspension did not last longer than 24 hours, within which time the case must be brought before a court. Newspapers had until then been suspended for different interpretations of an article in Sudan's Criminal Procedures Law. This ban by the Minister was to last until the concerned authorities issued a specific explanation to article 130 of the law concerned. Moreover, the Minister of Justice informed the Special Rapporteur of the

release of 50 prisoners in connection with the recent developments in Darfur, western Sudan. The remaining prisoners were to be released soon after this reply was sent. Finally, the ban regarding the **Sudanese English daily *Khartoum Monitor*** had been lifted and it was to resume publishing in the few days following this reply. The competent authorities had also withdrawn the case against the paper. The same applies to the **Arabic daily *Al Ayam***, which resumed publishing the previous month before this reply was sent.

835. On 23 March 2004 the Government sent a response to the Special Rapporteur's communication of 23 December 2003 stating that **Islam Salih Adam Belo** broadcast a false news report about the national security authorities on Al-Jazeera television. He was arrested for that news report. A criminal case was filed against him with the Office of the Public Prosecutor for crimes against the State. He was then handed over to the Office, which completed the legal formalities and he was released on personal recognizance that same day. The criminal case was sent for trial and was, at the time this reply was sent, being heard by the North Khartoum Criminal Court. Several sessions had already been held. Throughout the time that he was under arrest, Islam Salih Adam Belo was treated in a manner consistent with the preservation of his dignity and in accordance with the law, the Constitution, international standards and the established practice of States vis-à-vis the bringing to account and prosecution of any public official, including members of the security forces, who commit an abuse of office or flout the law. Islam Salih Adam Belo did not exhaust domestic remedies available to him under Sudanese law; he still had the option of doing so.

Observations

836. The Special Rapporteur thanks the Government for its replies to his communications of 23 October and 23 December 2003. He regrets, however, that no replies to his communications of 8 January, 5 and 23 February, 19 March, 5 and 20 April 2004, 12 May, 3, 25 and 30 June, 3 August, 6 and 17 September, 6 October and 1 December 2004 were received at the time this report was finalized.

Sweden

837. On 25 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Parvin Solaimanpoor** (f), aged 54, a citizen of Kurdish origin of the Islamic Republic of Iran. According to allegations received, she was, at the time this communication was sent, at imminent risk of forcible return to Iran, following the rejection of her asylum request. She was reportedly a Komala party activist, who carried out propaganda against the Government of the Islamic Republic of Iran. Her husband, who was also politically active, was murdered. One of her sons was detained in Iran at the time this communication was sent, while another was detained in Greece. It was reported that Parvin Solaimanpoor continued her political activism against the Government of Iran in Sweden, including by statements in the press and radio. Concern was expressed that she could be at risk of torture or other forms of ill-treatment, should she be returned.

838. On 2 December 2004, the Government of Sweden sent a response to the Special Rapporteur's communication of 25 November 2004 concerning **Parvin Solaimanpoor**, a citizen of Kurdish origin of the Islamic Republic of Iran. Upon receipt of the Special Rapporteur's letter, the Migration Board and the Aliens Appeals Board, the competent authorities to the case, were

immediately requested to review the issues raised in the case in question. A copy was also sent to the Stockholm Country Police Authority, the authority in charge of the enforcement of the decision of expulsion. Parvin Solaimanpoor entered Sweden with a Swedish visa on 2 June 2001 and subsequently applied for asylum on 20 July 2001 in Norway. Her case was referred to Sweden in accordance with the 1990 Dublin Convention Determining the State Responsible for Examining Applications for Asylum Lodged in One of the Member States of the European Communities, where she applied for asylum on 19 February 2002. The Migration Board decided not to grant her residence in Sweden and ordered her expulsion. The Aliens Appeals Board rejected her appeal. She then filed a new application with the Aliens Appeals Board based on new circumstances regarding her case. This was also rejected. The Government claimed that the Aliens Appeals Board rejected her applications because they did not feel that she was not in need of protection in Sweden and that her expulsion could take place without risk as there were no substantial grounds for believing that she would be exposed to torture or other forms of ill-treatment if she returned to Iran. The Government had no competence to overturn that decision. Ms. Solaimanpoor was, at the time this reply was sent, kept in detention pending the enforcement of the decision of expulsion which was planned to take place shortly.

Observations

839. The Special Rapporteur thanks the Government for its reply to his communication of 25 November 2004.

Syrian Arab Republic

840. On 15 January 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mohammad Mustafa, Khaled Ahmed 'Ali, Sherif Ramadhan, 'Amr Mourad, Salar Saleh, Hosam Mohammad Amin, Husayn Ramadhan and Mas'ud Hamid**. These people were also subject of an urgent appeal sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention dated 30 June 2003 (E/CN.4/2004/62/Add), to which the Government replied by letter dated 12 August 2003, and of another urgent appeal sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression, Special Rapporteur on torture on 23 September 2003 (E/CN.4/2004/62/Add.1). They were arrested for participating in a peaceful demonstration on 25 June 2003, outside the UNICEF headquarters in Damascus. Reports alleged that the eight men were beaten up and ill-treated in detention at the 'Adra prison outside Damascus, and that seven of them were held in cells of 1 metre by 1.5 m, while Mohammad Mustafa, a lawyer, was being held in a cell said to be a toilet of 80 centimeters by 80 cm. These persons were reportedly scheduled to appear before the Supreme State Security Court (SSSC), on 11 January 2004 and, although it was not clear on which charges they would be tried, fears had been expressed that they might have been sentenced to extremely heavy prison terms. Reports also indicated that two other Syrian Kurds, **Hassan Saleh**, 61, and **Marwan 'Uthman** had been held incommunicado at the 'Adra prison since 15 December 2002, five days after participating in a peaceful demonstration in Damascus that called for greater protection for the rights of Syrian Kurds. They had allegedly been denied visits by lawyers, relatives and doctors. Both men were reportedly first charged with "membership of an unauthorized organization" and "inciting sectarian strife", and then SSSC reportedly added a further charge of "attempting to

sever a part of the Syrian territories”. If convicted, they could have been jailed for life. Further reports indicated that **Fateh Jamus** and **Safwan ‘Akkash**, both members of the Party for Communist Action, **‘Abd al-Ghani Bakri**, **Hazim ‘Ajaj al-Aghra’i**, **Muhammad Deeb Kor**, **‘Abd al-Jawwad al-Saleh**, **Hashem al-Hashem**, **Yassar Qaddur**, **Zaradesht Muhammad**, **Rashid Sha’ban**, **Fuad Bawadqji**, **Ghazi Mustafa**, **Najib Dedem** and **Samir ‘Abd al-Karim Nashar**, who were arrested by the police on 23 August 2003 as they were heading for a lecture on the state of emergency imposed by the authorities in the Syrian Arab Republic since 1963, were scheduled to be tried on 20 December 2003. The 14 men were reportedly charged with “affiliation to a secret organization and carrying out acts that could incite factional conflict within the nation”. Fears were expressed that they might be sentenced to extremely heavy prison terms. Finally, reports indicated that another Syrian Kurd, **Idris ‘Abdel Hamid**, was arrested on 21 December 2003 for participating in a demonstration outside the Aleppo Military Court, in support of the 14 men mentioned above. Idris ‘Abdel Hamid was reportedly being held in incommunicado detention at an unknown location at the time this communication was sent.

841. On 12 July 2004, the Government sent a response to the Special Rapporteur’s communication of 15 January 2004, concerning **Hassan Saleh** and **Marwan ‘Uthman**, stating that both persons were released by a court of law on 24 February 2004. Moreover, the detainees are subject to prevailing prison regulations and are provided with food and health care. They also received regular family visits.

842. On 12 July 2004, the Government sent a response to the Special Rapporteur’s communication of 15 January 2004, indicating that **Mohammad Mustafa**, **Khaled Ahmed ‘Ali**, **Sherif Ramadhan**, **‘Amr Mourad**, **Salar Saleh**, **Hosam Mohammad Amin**, **Husayn Ramadhan** and **Mas’ud Hamid**, were arrested for taking part in an unlawful demonstration in the city of Damascus and were referred for trial. As for Hassan Saleh and Marwan ‘Uthman, they were released by the courts on 24 February 2004. With regard to Fateh Jamus, Safwan ‘Akkash, ‘Abd al-Ghani Bakri, Hazim ‘Ajaj al-Aghra’i, Mohammed Deeb Kor, ‘Abd al-Jawwad Saleh, Hashem al-Hasem, Yassar Qaddur, Zaradesht Muhammad, Rashid Sha’ban, Fuad Bawadqji, Ghazi Mustafa, Najib Dedem and Samir ‘Abd al-Karim Nashar, none of these persons were in detention at the time this reply was sent. Moreover, the detainees were subject to prevailing prison regulations and provided with food and health care. They also received regular family visits.

843. On 16 February 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Akhtam Naisse**, the President of the Committees for the Defense of Democratic Liberties and Human Rights in Syria (CDF), for whom an urgent appeal was sent by the Special Representative of the Secretary-General on human rights defenders on 15 November 2001 (E/CN.4/2002/106). According to information received, in the late afternoon of February 11, Akhtam Naisse, was reportedly summoned to report to the “al-Mintaqa” offices of the military secret service in Damascus. He was then allegedly detained and interrogated by two high-ranking military officers until after midnight and reportedly released on 12 February 12 in the early afternoon. It was reported that, during his detention, military officers verbally harassed Akhtam Naisse, who was scheduled to travel abroad shortly, threatening him that he would not be allowed to leave the Syrian Arab Republic or that he would not be allowed to return, and reportedly suggesting that other accidents “might happen”. The military secret services allegedly accused Mr. Naisse and CDF of having illegal contacts, and of being “the workers of Europe,

U.S.A. and Israel”, reportedly on the basis of conversations tapped from Mr. Naisse’s telephone allegedly under surveillance by Syrian authorities. Concern had been expressed that his detention might have been linked to Akhtam Naisse’s work in the defense of human rights, in particular with an online petition, “To end the state of emergency in Syria”, reportedly launched by CDF at the end of January 2004. It was reported that the military secret service officers said that the number of signatories, amounting to more than 3,500, was a sign that CDF had illegal international contacts. Concerns were heightened by reports of prior surveillance and by the fact that CDF had not yet been recognized by the authorities at the time this communication was sent.

844. On 17 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Massud Hamid**, a journalism student and photographer, for whom an urgent appeal was sent on 23 September 2003 on behalf of the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2004/62/Add.1). According to more recent information received, Mr. Hamid had reportedly been held in incommunicado detention since 24 July 2003 in Adra prison, near Damascus, after the police arrested him on 24 July while he was writing an exam at Damascus University. This was one month after photographs that he had taken on 25 June, during a peaceful Kurdish protest in front of UNICEF’s Damascus offices, were posted on a Kurdish-language website (www.amude.com). Mr. Hamid had reportedly been accused of “membership in an illegal organisation”, and he was reportedly expected to appear before the State Security Court, a military tribunal which allegedly has proven in the past to fall short of the international guarantees for a fair and equitable trial. It was finally reported that since his arrest, Mr. Hamid had not been allowed any visits in detention, apart from a 10-minute meeting with a member of his family, and reports suggested that he had been tortured in detention.

845. On 10 May 2004, the Government sent a response to the Special Rapporteur’s communication of 17 February 2004 indicating that **Mas’oud Hamid** was arrested for committing an unlawful offence, for belonging to “Yakiti”, a proscribed Kurdish party, for incitement, and for publishing articles in an unauthorized magazine called *DEM* under the name of Wahami. The magazine, which Mr. Hamid distributed within the university grounds, promoted racist ideas. Mr. Hamid also printed 1,000 almanacs, containing a map of what is purported to be Kurdistan, with a view to distributing them among Kurdish students at Damascus University. By his actions, he sought to stir up racial hatred and to jeopardize national unity, also challenging the authority of the State by taking part in demonstrations without the permission of the authorities. It was for these reasons that he was brought to justice and was awaiting trial at the time this reply was sent.

846. On 23 February 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Haytham Al-Maleh**, director of the Human Rights Association in the Syrian Arab Republic, who had reportedly been prevented from travelling abroad. According to information received, on 11 February 2004 Haytham Al-Maleh was due to travel to United Arab Emirates on a family visit when he was stopped by Syrian security authorities at the International Airport of Damascus and was not permitted to leave the country. It was believed that this prohibition to travel followed a speech that Mr. Al-Maleh made in front of the Human Rights Committee of the German Parliament on the International Day of Human Rights, concerning the human rights conditions under the law of emergency in the Syrian Arab Republic. It seems that Mr. Haytham Al-Maleh had not been allowed to leave Syria for several months until he received an official

invitation from the German Parliament and that, at that point, the Syrian Ministry of the Republic for Presidential Affairs asserted that Mr. Haytham was not banned from leaving the country. Concern had been expressed that this restriction on the movement of Mr Haytham Al-Maleh might have been linked to his work in defence of human rights.

847. On 27 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Abdel Rahman al-Shaghouri**, who was reportedly arrested at a checkpoint between Qunaytra and Damascus on 23 February 2003, for his use of the Internet to send articles to his friends. He was allegedly beaten in custody, before being transferred to Sednaya prison, where he was said to be held incommunicado. It was reported that, on 14 December 2003, he appeared before a State security court which set the next court session for March 2004.

848. On 15 September 2003, the Government responded to the joint urgent appeal that the Special Rapporteur sent concerning **Abdel Rahman al-Shaghouri**. According to the Government of the Syrian Arab Republic, Mr. Shaghouri was detained because of the articles he was distributing via Internet to persons outside the country, breaching State security by the content of those articles.

849. On 1 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning reports that **Muhannad Koutaish**, an actor, **Haytham Koutash**, his brother, and **Yahia Alous**, were arrested on 10 October and 12 September 2002. The three were reportedly accused of sending articles to an electronic newspaper in the United Arab Emirates, and were taken to a State security court, where they were reportedly charged with “publishing and disseminating false reports”. It was further reported that, under such charges, people could be temporarily detained from three months to three years. The three concerned were reportedly to be presented to a court on 15 March 2004.

850. On 9 March 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Aktahm Naisse**, **Daniel Sauod** and **Nadal Darwish** and other members of the Committee for the Defence of Democratic Liberties and Human Rights, who were allegedly arrested following a peaceful demonstration to demand more political freedom and an end to the state of emergency. According to the information received, on 8 March 2004 the Committee organized a sit-in in front of the Syrian Parliament in Damascus to protest against the emergency laws and to call for the release of political prisoners as well as for democratic reforms. It was reported that, in the days preceding the demonstration, members of the Committee for the Defence of Democratic Liberties and Human Rights were summoned by State security officers for questioning and a number of members did not participate in the sit-in, reportedly due to intimidation. According to the information received, 20 minutes after the demonstration began, the security forces allegedly intervened, removing all the banners and arresting a number of demonstrators, including Aktahm Naisse, head of the Committee for the Defence of Democratic Liberties and Human Rights and two members of its council of trustees, Daniel Sauod and Nadal Darwish. Concern was expressed that members of the Committee for the Defence of Democratic Liberties and Human Rights had been targeted for their human rights work and, in particular, for having exercised their right to freedom of expression in demanding political reform.

851. On 16 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Fahim Hassan Yusuf**, his son **Jomard Fahim Yusuf**, **Hussain Muhammad Murad**, **Akram Muhammad Murad**, **Hassan Muhammad Murad**, **Khader Nawar Manja**, and **Zeres Nawar Manja**. These Syrian Kurdish men were reportedly arrested at their homes on the morning of 9 March 2004. It was reported that the arrests followed Kurdish demonstrations in the northern cities of Qamishli and al-Hassaka on 8 March to mark International Women's Day. The activities included the playing of Kurdish folk music. Their whereabouts were unknown, at the time this communication was sent, but it was believed they might have been held in the custody of Political Security in the northern city of al-Hassaka.

852. On 18 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on torture, sent an urgent appeal concerning **mass arrests of Syrian Kurds**. It was reported that the arrests followed clashes between rival Kurdish and Arab fans at a football match in Qamishli. The security forces reportedly opened fire into the crowd, killing between 19 and 22 Kurds, and three children were trampled to death as the crowds tried to escape. According to reports, following this incident clashes between Syrian Kurds and Syrian security forces broke out in Qamishli, Aleppo, al-Hassaka and Damascus. It was reported that hundreds of Kurdish men, and boys as young as 14, were arrested at their homes. A number of those detained are reported to be Kurdish students at the university of Damascus, including: **Fahima Asko** (f); **Sourya Amko** (f); **'Ali Huseini** (f); **Mizgin Huseini** (f); **Nasiba Huseini** (f); **Nizar Kousa**; **Jawdan Huseini**; **Jawan Hasse**; **Nawras Moura'i**; **Sipan Sayda**; **Sarteep Youssef**; and **Darchin Huchik**.

853. On 16 September 2004, the Government sent a response to the Special Rapporteur's communication of 18 March 2004 stating that the arrests were made following disturbances that broke out in the governorate of Hassakah. The vast majority of those arrested were released after questioning, while the remainder were referred to the competent court, under the laws on riotous assembly, sabotage and causing damage to public property, and were tried for committing acts of sabotage against public institutions and installations. None of the arrested persons was subjected to torture or ill-treatment, and they were all arrested, detained and tried in accordance with laws and regulations which do not conflict with human rights.

854. On 1 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mohammed Ghanem**, a writer and journalist, who had reportedly been arrested, following the publication of an article he wrote on recent violent clashes between Kurds, Arab tribes and security forces in the Qamichli region in the North-East of the country. It is reported that the article was seen by the authorities as "incitement to *fitna*" (disunity). No other details on Mr. Ghanem's whereabouts were known at the time this communication was sent.

855. On 1 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture, and the Special Representative of the Secretary-General on the situation of human rights defenders, concerning **Hassan Watfi**, 39, a human rights defender and an active member of the Syrian-based Arab Organization for Human Rights (AOHR). According to the information received, Watfi was reportedly arrested by political security officers on 16 March 2004 at his home in the area of Masiyf on the outskirts of Hama, in central Syria. He was allegedly held incommunicado

at the Military Intelligence Centre in Damascus at the time this communication was sent. Concern had been expressed that he might have been at risk of torture and that his arrest might have been a way to hinder his work in the defense of human rights in particular his work with the AOHR.

856. On 13 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning reports received that at least **40 Syrian Kurds**, including children, had allegedly been killed, most of them by the security forces, during violent clashes at a 12 March football match. It is reported that on 13 March, police apparently attacked mourners attending the funerals of those killed during the 12 March clashes. This reportedly led to two days of protests in various towns in north-eastern Syria, including al-Malikiya, al-Qahtaniya and 'Amouda. In al-Malikiya the security forces reportedly fired at protesters who were throwing stones at the Military Intelligence and State Security buildings: **16-year-old H.N.** and **6-year-old B.S.** were allegedly shot dead. Protesters were also reportedly shot at and injured in al-Qahtaniya. It is also reported that around 13 March, protesters beat up the head of the 'Amouda police station, who reportedly later died of his injuries. It was also reported that up to **2,500 Syrian Kurds, including M.J., a 16-year-old youth** from al-Qahtaniya, and other minors, remained in detention since their arrest on 12 March 2004. It seemed that although some 500 to 600 people were reportedly released around 19 March, the whereabouts of the rest of the detainees remained unknown at the time this communication was sent, and it was believed that they were being held incommunicado. It was further reported that some, including children, had reportedly been tortured. **K.M.R., a 17-year-old youth** who was reportedly arrested at the football match and held for nine days, was allegedly subjected to electric shocks until he lost consciousness. **Moussa 'Abdel Fatah Shaheen**, who was reportedly arrested at a protest in al-Qahtaniya, allegedly had to be hospitalized after he was tortured in custody. Reports suggested that many of the injured were being held in detention in government hospitals. In view of these allegations, concern had been expressed that those reportedly held incommunicado at unknown places of detention might have been at risk of torture or other forms of ill-treatment.

857. By letter dated 15 September 2004, the Government of the Syrian Arab Republic reported that the persons were arrested following disturbances that took place in the governorate of Hassakah. The vast majority of those arrested were released after questioning, while the remainder were referred to the competent court, pursuant to the laws on riotous assembly, sabotage and damage to public property, and were tried for committing acts of sabotage against public institutions and installations. None of these persons was subjected to torture or ill-treatment and all the arrests, detention and trial procedures were carried out in accordance with due process of law, as defined in laws and regulations that do not conflict with human rights.

858. On 15 April 2004, the Special Rapporteur sent an urgent appeal concerning the reported sentencing of **Fateh Jamus, Safwan 'Akkash, 'Abd al-Ghani Bakri, Hazim 'Ajaj al-Aghra'i, Muhammad Deeb Kor, 'Abd al-Jawwad al-Saleh, Hashem al-Hashem, Yassar Qaddur, Zaradesht Muhammad, Rashid Sha'ban, Fuad Bawadqji, Ghazi Mustafa, Najib Dedem and Samir 'Abd al-Karim Nashar**, to up to one year in prison following a trial before the Military Court in Aleppo, which allegedly fell short of international norms and standards of due process. According to information received, the 14 men, who were reportedly members of unauthorized political parties, were initially detained for several hours in August 2003 as they

were waiting to attend a seminar in Aleppo focusing on the state of emergency in the Syrian Arab Republic. They were reportedly subsequently referred to the military court, which reportedly convicted them of “affiliation to a secret organization and carrying out acts that could incite factional conflict within the nation” and sentenced them to prison terms ranging from three months to one year. The sentences were reportedly passed in accordance with the 1963 state of emergency law and were reportedly subject to appeal before the Military Court of Appeal. It was also reported that Fateh Jamus and Safwan ‘Akkash are members of the unauthorized Party for Communist Action (PCA) and were reportedly sentenced to 15 years in prison after alleged unfair trials. They were allegedly tortured and ill-treated during their detention. It was further reported that, as a leading member of the PCA, Fateh Jamus had in recent years been actively involved with emerging civil society groups in Syria, and he was a signatory of a memo presented to the President in 2002 calling for the restrictions imposed on a number of people who had been detained for their political activity to be lifted and for their civil rights to be restored.

859. On 16 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning reports that **Aktham Nu’aysa**, a prominent human rights defender, for whom urgent appeals were sent on 15 November 2001 (E/CN.4/2002/106) by the Special Representative on human rights defenders, and on 16 February and 9 March 2004 by the Special Representative on human rights defenders and the Special Rapporteur on the right to freedom of opinion and expression, was arrested on 13 April 2004, reportedly when he presented himself, as summoned, at the department of military security in the city of Latakia, in the west of the country. It was believed that he was being held incommunicado at the time this communication was sent, although the department of military security in the city of Latakia denied having him in custody. Aktham Nu’aysa is the head of the Committees for the Defence of Democratic Liberties and Human Rights (CDDLHR), which had been spearheading a nationwide campaign for political reform and respect for human rights, and for an end to the state of emergency in force in Syria since 1963. In particular, it was reported that in March 2004, they organized a sit-down protest in front of the Parliament attended by around 100 human rights activists, to mark the 41st anniversary of the declaration of the state of emergency. On that occasion, dozens of activists, including Aktham Nu’aysa, were reportedly arrested but released without charge a few hours later. According to information received, Aktham Nu’aysa was arrested shortly after CDDLHR issued its annual report for 2003, which detailed serious human rights violations in the Syrian Arab Republic. Further reports indicated that he had recently said that CDDLHR was preparing a petition to be presented to the President, calling for the lifting of the state of emergency and respect for human rights. As a founding member of CDDLHR, Aktham Nu’aysa had reportedly previously been detained from 1991 to 1998, because of his human rights work. In 1992 he was reportedly sentenced to nine years in prison by the Supreme State Security Court after an allegedly unfair trial. He was allegedly tortured and ill-treated in custody. Finally, it is reported that he suffers from an irregular heartbeat and a kidney complaint, both of which require medication.

860. On 27 April 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Muhannad al-Dabas, Wa’il ‘Azzuz, Shadi Abu-Fakhr,**

Dhahayr Abu-Latif, ‘Umar ‘Abdalla, Khaled al-’Asrawi, Muhammad ‘Arab, Basil Dayyub, Mihyar Khashrum, Naser Babesni, Mustafa al-Yusuf, Moris ‘Ayiqq, all students from the University of Damascus and University of Aleppo. It is alleged that on 24 April the 12 students were arrested by the security forces in Damascus, and were held incommunicado at the Department of Political Security. Their arrest was allegedly related to a 25 February protest organized by students at the University of Damascus against new Government policies ending employment of engineering graduates by the State, as well as to another student protest at the University of Damascus following the brutal suppression of Kurds by the Government following clashes between Arab and Kurdish football fans in March. It was reported that, after the protest, several students, including some of the above, were dismissed from the university and their names were struck off the register of the National Students’ Union. In view of their alleged detention incommunicado, concern was expressed that the students might have been at risk of torture or other forms of ill-treatment.

861. On 11 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the situation of **Aktham Naisse**, President of the Committee for the Defense of Democratic Liberties and Human Rights in Syria (CDF). According to the information received, in January 2004 CDF launched an online petition “To end the state of emergency in Syria”, which was reportedly signed by over 7,000 people. On 16 February 2004, Aktham Naisse was reportedly summoned by the military secret services and interrogated about his human rights activities. On 8 March 2004 he and other members of CDF were reportedly arrested during a peaceful sit-in demonstration in front of the Syrian Parliament and were reportedly released five hours later. On 16 April, following the launch of the CDF 2003 annual report on human rights in the Syrian Arab Republic, Aktham Naisse was reportedly arrested. There was allegedly no official statement confirming his arrest and his whereabouts were unknown. In this context, and according to new information received on 22 April, Aktham Naisse was reportedly charged with “carrying out activities contrary to the socialist system of the State” and “opposing the objectives of the revolution”. However, it was reported that no official statement regarding the charges had been issued. On 26 April, Aktham Naisse appeared before the Supreme State Security Court (SSSC) in Damascus where he was reportedly interrogated for two days regarding his human rights activities. It was reported that he had been subjected to mistreatment in prison and, as a result, suffered a stroke which left him partly paralysed and unable to speak clearly. He had reportedly been denied medical care. A lawyer was reportedly present at the hearing to assist with the questioning. However, on seeing the health condition of Aktham Naisse, he reportedly refused to do so. He was then allegedly threatened that “he would be in Mr Naisse’s place” if he did not cooperate. According to the information received, there had been no report on the outcome of the SSSC hearing and Aktham Naisse continued to be denied legal representation as well as visits from his family. Concern was expressed that Aktham Naisse had been targeted for his human rights work, particularly in light of CDF’s online petition calling for democratic reform and the publication of its annual report on human rights in Syria.

862. On 20 September 2004, the Government sent a response to the Special Rapporteur’s communication of 11 June 2004 stating that **Aktham Naisse** was arrested on 13 April 2004. He was sent for trial before the Higher State Security Court for disseminating false and exaggerated reports likely to harm Syria’s relations with neighbouring States, for circulating a petition calling for political reform in which fictitious names appeared or the names of well-known persons were

used without their knowledge, and for founding an unauthorized secret association. The State Security Court held two sessions, the first on 26 July 2004 and the second on 16 August 2004, attended by a number of Syrian and Arab lawyers and representatives from the European Union and the United States of America embassy. At the second session, Akhtam Naisse was released on bail pending his trial, which was postponed until 24 October 2004. He confessed to the charges against him and made an apology.

863. On 15 July 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning **Abdel Rahman al-Shaghouri**, who was reportedly arrested at a checkpoint between Qunaytra and Damascus on 23 February 2003, for his use of the Internet to send articles to his friends. He was allegedly beaten in custody, before being transferred to Sednaya prison, where he was said to have been held incommunicado. The Special Rapporteur on torture, the Special Rapporteur on the independence of judges and lawyers and the Working Group on Arbitrary Detention had sent a joint urgent appeal in connection with this case on 26 June 2003 (E/CN.4/2004/56/Add.1). The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a second urgent appeal on 24 July 2003 (E/CN.4/2004/62/Add.1). By letter dated 15 September 2003, the Government replied, stating that he was arrested on 23 March 2003 for breaching State security regulations and that he was therefore arraigned by the Supreme State Security Court (SSSC). An urgent appeal had also been sent by the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 27 February 2004. According to new information received, on 14 December 2003 Abdel Rahman al-Shaghouri appeared before a State security court, which set the next court session for March 2004. He was sentenced to three years' imprisonment by the Supreme State Security Court (SSSC) on 20 June 2004, on charges of "disseminating false information. The charges relate to his e-mailing articles which were mainly from the Akhbar al-Sharq internet site, www.thisissyria.net. The prosecution charge sheet noted that material on the site was considered "detrimental to the reputation and security of the nation" and "full of ideas and views opposed to the system of Government in Syria". The sentence was immediately reduced to two and a half years. It is reported that trials before the SSSC invariably fell short of international standards for fair trial. SSSC allegedly placed severe restrictions on the defendant's right to obtain effective legal representation and its verdicts were not subject to appeal before a higher tribunal. In the past, concerns had been made that SSSC appeared to be neither independent nor impartial. During his trial 'Abdel Rahman al-Shaghouri's lawyers were allegedly not allowed to see all the court documents relating to the case, although they made repeated requests.

864. On 15 September 2003 the Government responded to the joint urgent appeal of 15 July 2004 that the Special Rapporteur sent concerning **Abdel Rahman al-Shaghouri**. Mr. al-Shaghouri, according to the Government of the Syrian Arab Republic, was detained because of the articles he was distributing via Internet to persons outside the country, breaching State Security due to the content of those articles.

865. On 6 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning regarding **Akhtam Naisse**, a human rights lawyer and President of the Committees for the Defense of Democratic Freedoms

and Human Rights in Syria (CDF). Mr. Naisse was the subject of an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 15 November 2001 (E/CN.4/2002/106), two urgent appeals sent by the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 16 February 2004 and 9 March 2004, an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur on the Working Group on Arbitrary Detention on 16 April 2004 and an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 11 June 2004. According to the information received, Akhtam Naisse was tried on 26 July 2004 at the Supreme State Security Council Court and the verdict was pending at the time this communication was sent. He had been charged with “opposing the objectives of the revolution” and “disseminating information aimed at weakening the State”. A very limited number of international observers were allowed in the courtroom, where he was tried on the grounds of the publication of the CDF annual report denouncing human rights violations in the Syrian Arab Republic and a number of press statements made by CDF members denouncing human rights violations against Kurdish citizens. Mr. Naisse, who needs daily medical treatment and had been kept in solitary confinement since 13 April, had allegedly been denied access to consult a lawyer in private and was not allowed to communicate with his family. Of particular concern was that the Supreme State Security Court is outside the ordinary criminal justice system, is accountable only to the Minister of Interior, is not bound by the rules of the Code of Criminal Procedures and its verdicts are not subject to appeal. Our information suggests that Aktham Naisse’s prosecution had been motivated by his human rights activities, particularly the publications and dissemination of information on respect for human rights in Syria, activities which were legally provided for by numerous international human rights instruments.

866. By letter dated 20 September 2004, the Government replied to the urgent appeal sent on 6 August 2004 concerning **Aktham Naisse**. The content of the letter is identical to the reply dated 20 September 2004 to the 11 June 2004 communication.

867. On 29 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Ayman Ardeli**, a 44-year-old Australian/Syrian dual national, who reportedly left Syria when he was a teenager. According to allegations received, he was arrested at Damascus airport in August 2003. He was initially detained at the Aleppo Branch of Military Intelligence, where it is alleged that he was subjected to torture and other forms of ill-treatment. He was subsequently transferred to Far’Filisteen (Palestine Branch), where he was reportedly held in overcrowded cells known as “tomb” cells. These cells are reported to measure 475 cm by 475 cm and to house between 20 and 60 people. It was further reported that Ayman Ardeli had been held incommunicado for more than one year without access to his family, a lawyer, or Consular officials. He suffered from severe migraines, heart problems and high blood pressure. He was deprived from his own and usual medication and was given local Syrian medicine, which was said to be inadequate for his condition. It was

thought that his detention could have been related to his father's links with the Muslim Brotherhood, an outlawed organization. However, he had allegedly not been charged with any offence at the time this communication was sent. In view of his prolonged incommunicado detention, concern was expressed that he might have been at risk of further torture and other forms of ill-treatment. Concern was also expressed for his physical and mental integrity if he did not receive prompt and adequate medical care. Concern was heightened by the conditions of detention in which he was reportedly held.

868. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning **Muhannad Qutaysh**, his brother **Haytham**, and **Yahia al-Aws** who in January 2003 were held in Sednaya prison on similar grounds. They were reportedly arrested for sending articles to an electronic newspaper in the United Arab Emirates. Muhannad Qutaysh and Yahia al-Aws were charged with "receiving secret information on behalf of a foreign state which threatens the security of Syria", and "publishing false news outside of Syria". They had reportedly been writing articles, under pseudonyms, about government corruption, politics, economics and human rights issues in Syria. Haytham Qutaysh and Muhannad Qutaysh were both charged with "encouraging the transfer of secret information"; and Haythem Qutaysh was also charged with "writing which threatens the security of Syria and her relations with foreign States". **Mas'oud Hamid** was reportedly arrested on 24 July 2003 while sitting for an exam at Damascus University, and imprisoned for reporting "unlawful" use of the Internet. It was believed that he was being held incommunicado in solitary confinement at Adra Prison, near Damascus. He had apparently been detained because he allegedly posted photos of a peaceful Kurdish demonstration in Damascus, during which seven Kurds were arrested, on the Internet site www.amude.com. Fourteen men were reportedly arrested by the police on 23 August 2003 when they were attending a lecture marking the 40th anniversary of the declaration of the state of emergency in Syria. The meeting was due to have taken place at the temporary forum headquarters of the "Abd el-Rahman al-Kowakbi for Democratic Dialogue". They were reportedly charged with "affiliation to a secret organization and carrying out acts which could incite factional conflict within the nation". The men include **Fateh Jamus** and **Safwan 'Akkash**, both members of the Party for Communist Action, who in 1983 were sentenced to 15 years in prison after allegedly unfair trials. The other 12 were 'Abd al-Ghani Bakri, **Hazim 'Ajaj al-Aghra'i**, **Muhammad Deeb Kor**, 'Abd al-Jawwad al-Saleh, **Hashem al-Hashem**, **Yassar Qaddur**, **Zaradesht Muhammad**, **Rashid Sha'ban**, **Fuad Bawadqji**, **Ghazi Mustafa**, **Najib Dedem** and **Samir 'Abd al-Karim Nashar**. According to the information received, they were all tried before a military court on 22 October 2003. Moreover, according to reports, two Kurdish-language websites, www.amude.com and www.qamislo.com, were blocked for Syrian Internet users in mid-March 2004. Both websites were allegedly a major source of information for Kurds abroad and for foreign media outlets, which regularly used their photos and videos. At first, the content of amude.com remained available at another address, www.amude.net, but that site was also blocked. On 20 June 2004, **Abdel Rahman al-Shaghouri** was reportedly sentenced to three years' imprisonment by the Supreme State Security Court (SSSC) on charges of "disseminating false information". The sentence was immediately reduced to two and a half years. The charges related to his e-mailing articles which were mainly from the Akhbar al-Sharq Internet site, www.thisissyria.net. The Syrian authorities considered material on the site to be "detrimental to the reputation and security of the nation" and "full of ideas and views opposed to the system of government in Syria". Abdel Rahman al-Shaghouri was arrested on 23 February. Since then, he had apparently been held incommunicado. He was reportedly beaten in custody

before he was moved to Sednaya prison on the outskirts of Damascus, where he was being held at the time this communication was sent. His lawyers were not allowed to see all the court documents relating to the case, although they made repeated requests.

869. On 15 September 2003 the Government responded to the joint urgent appeal that the Special Rapporteur sent concerning **Abdel Rahman al-Shaghouri**. According to the Syrian Government Mr. Shaghouri was detained because of the articles he was distributing via Internet to persons outside the country, breaching State Security due to the content of those articles.

870. On 27 October 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning the **Syrian Organization for Human Rights**, which published a report February 2004 on alleged use of torture in Syrian prisons and detention centres. The organization called for the establishment of a committee of lawyers and judges to carry out regular inspections of prisons and detention centres. According to the information received, on 11 December 2001, the Syrian Organization for Human Rights applied for registration. In a letter dated 10 February 2002, the Ministry of Social Affairs rejected the application. Allegedly, in June 2002, the organization filed a suit in the Administrative Court against the rejection of their application, and the case was still pending in court when this communication was sent. Concern was expressed over the refusal by the Ministry of Social Affairs to register the Syrian Organization for Human Rights and the delay in the court proceedings against this decision, which had been pending for more than two years, and that it might have been motivated by a wish to obstruct their human rights defence activities.

Observations

871. The Special Rapporteur thanks the Government for its replies to his communications of 15 January, 17 and 27 February, 18 March, 13 April, 11 June, 15 July, 6 August and 14 October 2004. He regrets, however, not having received any replies to his communications of 16 and 23 February, 1, 9 and 16 March, 1, 15, 16 and 27 April and 29 September 2004. The Government reply to the Special Rapporteur's communication of 27 October 2004 was still pending translation at the time this report was finalised.

Thailand

872. On 17 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Somchai Neelahphajit**, Chairman of the Muslim Lawyers Association and a human rights defender, who had reportedly been missing since 11 March 2004. According to information received, Somchai Neelahphajit left his home in Bangkok on 11 March and had reportedly not returned. He was allegedly due to attend a meeting at 9 p.m. on 12 March at the Chalina Hotel in Bang Kapi district and was also due to appear in court for a case in Narathiwat province on 15 March. He allegedly did not attend either of these events and his family had reportedly not had any contact with him. On 16 March his wife reportedly filed a complaint with Bang Yikhan police. According to information received, prior to his alleged disappearance, Somchai Neelahphajit had reportedly received anonymous threatening phone calls, including

one call from a senior member of the authorities informing him that he was on the top of the military blacklist. Fear had been expressed for the safety of Somchai Neelaphaijit and, in particular, concern had been expressed that he might have been targeted for his human rights work, including his involvement in petitioning 50,000 signatures nationwide to call for an end to martial law in Southern Thailand, as well as for his work to defend Muslim suspects against terrorist and treason charges.

873. By letter dated 30 March 2004, the Government replied to the urgent appeal sent on 17 March 2004. The Government stated that it shared the concern over the disappearance and safety of **Somchai Neelaphaijit**. The Royal Thai Police had utilized all of its available means to search for Mr. Neelaphaijit's whereabouts. The Prime Minister had made it clear to all Thai agencies concerned that every necessary measure must be taken to resolve this case as soon as possible, and those who were responsible for the disappearance would have to be brought to justice without exception and delay. The Government stated that, on 18 March 2004, the President established an independent committee with three subcommittees to investigate the alleged disappearance, under the Chairmanship of the Director-General of the Department of Special Investigation, Ministry of Justice. The Government further stated that further developments on Mr. Neelaphaijit would be provided upon its availability.

874. On 14 May 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning alleged death threats against members of the National Commission on Human Rights, including **Wasant Panich** and **Jaran Dittha-apichai**. According to the information received, human rights commissioner Wasant Panich allegedly received a death threat by a letter posted to him reportedly on 8 May 2004 in a brown envelope marked by a Garuda, the official logo of Thailand. The content of the letter allegedly blamed him for creating religious division among people and reportedly cited a speech he gave while visiting Yala and Pattani together with six other commissioners a week earlier. The letter also reportedly warned Wasant Panich to remain "quiet", otherwise his life, and possibly the lives of his family members, would be in danger. These threats were reportedly in relation to comments made by Wasant Panich during his speech regarding the violence that reportedly took place on 28 April 2004 in southern Thailand and during which 108 suspected Islamic militants and five members of the security forces were reportedly killed and which was the subject of a letter of allegations by the Special Rapporteur on extrajudicial, summary or arbitrary executions on 5 May 2004. It was reported that Mr. Wasant's comments stressed that religious diversity was acceptable in a democratic society. He also reportedly said that, having documented many accounts from witnesses, police had killed suspected militants who were incapable of fighting back. He allegedly declared that "[t]here were many options open to the soldiers allowing them to use more a lenient approach with the assailants". Another human rights commissioner, Jaran Dittha-apichai, also reportedly received death threats after he told local media on 28 April 2004 that a fact-finding mission was needed in the South. Mr. Jaran allegedly received more than 500 hate e-mails attacking him on the website of a local newspaper after he made the remark. Jaran Dittha-apichai was also threatened by a telephone call on 1 May 2004 that he would end up like the disappeared human rights lawyer Somchai Neelaphaijit.

875. By letter dated 17 May 2004, the Government replied to the urgent appeal sent on 14 May 2004. The Government reported that **Wasant Panich** or **Jaran Dittha-Apichai**—or any other human rights commissioners, including **Chaiwat Satha-anant**—can make a request for

protection of their lives to the authorities concerned, should they feel that such special protection is needed. Appropriate action will be promptly provided. It stated that the freedom of expression and opinion is a fundamental right guaranteed by the Constitution. The Government expressed its commitment to the promotion of the role of human rights defenders as laid down in the Declaration on Human Rights Defenders.

876. On 27 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on the human rights of migrants and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the situation of members of the **Yaung Chi Oo Workers Association (YCOWA)**, a non-governmental organization that had been promoting the human rights and labour rights of Burmese workers in Mae Sot over the past several years. According to the information received, members of the YCOWA were victims of a number of acts of intimidation and violence. In particular, it was reported that at around 11 p.m. on 11 May 2004, two YCOWA members, **Kyaw Htay** and **Zaw Win**, were reportedly surrounded and stopped near the Mae Sot Hospital by six men on motorcycles allegedly carrying knives and sticks. The six men allegedly beat the two YCOWA members. Concerns had been expressed that YCOWA members might have been targeted in retaliation for their actions in favour of Burmese workers' rights. It was further reported that, in December 2003, two leaders of YCOWA, **Moe Swe** and **Ko Phyo**, had reportedly gone into hiding after local business owners carrying their photos allegedly searched for them in Mae Sot factories and streets.

877. On 25 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the situation of **Somchai Neelapaijit**, Chairman of the Muslim Lawyers' Association and a human rights defender, who had reportedly been missing since 11 March 2004 and for whom an urgent appeal was sent on 17 March 2004, to which the Government replied on 30 March 2004. The Special Rapporteur welcomed the establishment of an independent committee and three subcommittees to investigate his alleged disappearance. According to the information received however, despite the arrest of five police suspected of involvement in the abduction as well as the fact that Somchai Neelapaijit had reportedly been missing for over 100 days, little progress had been made by the Committee in locating his whereabouts. One member of the Committee had reportedly stated that they had not been receiving adequate cooperation from the police regarding the case. Given the lengthy period of time since the disappearance of Somchai Neelapaijit, serious concern was expressed for his safety and for the apparent lack of progress in bringing to justice those persons responsible for his disappearance.

878. On 30 March 2004, the Government sent a response to the Special Rapporteur's communication of 25 June 2004 stating that it shared the concern over the disappearance and safety of **Somchai Neelaphaijit**. Like all other cases of involuntary disappearance, the police has utilized all of its available means to search for his whereabouts. In recognizing Somchai Neelaphaijit's lifelong dedication to the defense of human rights, the Prime Minister has made it very clear to all Government agencies concerned that all necessary measures must be taken to resolve this case as soon as possible, and those who are responsible for his disappearance would have to be brought to justice without exception and delay. On 18 March 2004, an independent Committee under the chairmanship of the Director-General of the Department of Special Investigation, Ministry of Justice, was established by the Prime Minister to ensure that full redress is given to Somchai Neelaphaijit. The subcommittees on information analysis, forensic

evidence and investigation were also set up to assist the committee. The Government stands ready to receive any information pertinent to this case from all sides, be it the public or various human rights NGOs, and even to engage them in a consultation with the above-mentioned independent committee.

879. On 28 June 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning the alleged assassination of **Charoen Wataksorn**, human rights defender and prominent environmentalist in Prachuab Khiri Kan Province, who was the former leader of a successful campaign against the construction of a coal-fired power plant in the district of Bo Nok in 2002. According to the information received, on 21 June 2004 Charoen Wataksorn travelled to Bangkok to present a petition to the House Committee on Corruption Investigation regarding the alleged issuing of land title deeds for public land in Prachuab Khiri Kan Province. It was reported that, on his return to Bo Nok that evening, he was shot and killed by two gunmen who had reportedly been waiting for him at the bus station. Concern was expressed that Charoen Wataksorn had been targeted for his human rights activities and in particular his work on behalf of the rights of the residents of Bo Nok.

880. On 15 July 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Supinya Klangnarong**, secretary-general of the nongovernmental organization Campaign for Popular Media Reform, a voluntary organization which monitors and reports on the right to freedom of information and expression in Thailand, and three editors of the *Thai Post*, namely **Thaweessin Sathitrattanacheewin**, **Roj Ngammaen** and **Kannikar Wiriyakul**. According to information received, on 15 July 2003, CPMR issued a report entitled "The comprehensive telecommunications system under Shin Corp's empire: the undeniable conflict of interests", which alleged that the economic growth of the country's largest telecommunications and media company had been facilitated by its political connections with the Royal Thai Government. The report also alleged that the growth of this private telecommunications company limited public access to telecommunication services as well as public participation in the media and communications system. An article based on a report by CPMR and containing quotes by Supinya Klangnarong was published in a national newspaper the following day. In November 2003, the concerned company reportedly filed a libel case against Supinya Klangnarong and the three editors. On 23 June 2004, the Criminal Court decided that the case could proceed. It was to commence on 6 September 2004. It was reported that they could face up to two years imprisonment if found guilty and 200,000 baht fine. Concern was expressed that Supinya Klangnarong had been targeted for her human rights activities and that the charge of libel might have been brought against her in an attempt to hinder her work to promote the right to freedom of expression and information in Thailand.

881. On 20 July 2004, the Government responded to the communication of 15 July 2004 concerning **Supinya Klangnarong**. The Government indicated that the case concerning Ms. Klangnarong and the three editors for the *Thai Post* was clearly a civil case under the due process of law and could not be construed as a human rights violation. The final decision on this case would be made by the relevant courts on the basis of the evidence presented by both parties, which the Government has no right to interfere with. Moreover, the company concerned is a juridical person in its own right and there are no members of the government sitting on its board. Nevertheless, if Supinya Klangnarong and the three editors in questions felt that their human

rights were violated, then they can proceed to making a complaint and seeking domestic remedies.

882. On 16 July 2004, the Special Rapporteur sent an urgent appeal regarding **Andrew Drummond**, a journalist. According to information received, on 5 June 2004, Mr. Drummond was convicted and sentenced to a six-month suspended prison sentence and a 60,000 baht fine by a court in Pattaya for allegedly libelling the owner of a gay nightclub, Boyz Boyz Boyz, in an article published in the *Bangkok Post* in 2001. In this article Andrew Drummond reportedly accused the owner of the nightclub of defrauding two business partners. It was furthermore alleged that the prosecutor in this case, Prempreecha Dibbayawan, was also a director of the holding company that runs the club.

883. On 21 July 2004, the Government sent a response to the communication of 16 July 2004 concerning **Andrew Drummond**. The Government indicated that the Permanent Mission conveyed the information requested and shall inform the Special Rapporteur of any further developments accordingly. Meanwhile, the Government pointed out that Mr. Drummond had the right to appeal the decision of the court. Moreover, that the Government of Thailand attached great importance to the right to freedom of opinion and expression, in accordance with its international human rights obligations.

884. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning **Veera Prateepchaikul**, editor of the daily *Bangkok Post*, who was relieved of his post on 22 February 2004, purportedly as part of the newspaper's business expansion, and was appointed deputy editor-in-chief of Post Publishing to help oversee editorial direction, administration and business development. It was believed that his removal was a result of the newspaper's frequent negative reports and harsh criticisms of the Government. Reports also indicate that **Rungruang Preechakul**, editor of the *Siamrath Weekly News* magazine, resigned in mid-February 2004. According to information received, on 24 February 2004, following the removal of Veera Prateepchaikul, this resignation had been motivated by political pressure, claiming that *Siamrath Weekly News* had been subjected to censorship since the beginning of February 2004.

885. On 11 January 2005, the Government of Thailand sent a response to the Special Rapporteur's communication of 14 October 2004 concerning **Veera Prateepchaikul**, editor of the daily *Bangkok Post*, and **Rungruang Preechakul**, editor of the *Siamrath Weekly News*. The Government stated that no complaint was ever made by them or on their behalf against the Thai authorities on the alleged violations of their rights. Moreover, that the Government of Thailand stressed the importance that it attached to the right to freedom of opinion and expression as provided by article 39 of its 1997 Constitution, which is in accordance with article 19 of the Universal Declaration of Human Rights and ICCPR.

886. On 1 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the question of torture, sent a letter of allegation concerning **the deaths of 87 persons**, following actions taken by Thai security forces on 25 October 2004 in Takbai, province of Narathiwat. According to the allegations received, on the morning of 25 October 2004, during a clash between 2,000 Muslim protesters and security forces in Narathiwat province's Takbai district, nine people were killed by police officers. The protest occurred to demand the release of six detained Muslim security guards. Demonstrators allegedly threw

stones at security forces and attempted to storm a police station. It was reported that police officers, after using water cannons and tear gas, fired among the protesters, killing six of them. Authorities claimed that the protesters were armed and that orders were given to fire in the air but were not respected. It was further alleged that three other protesters died during these events. Moreover, according to information received, 1,300 people were arrested following the protest and put into military trucks to be transferred to detention centres. Among those, 78 prisoners died, most of them of suffocation or dehydration during transportation that allegedly lasted five hours.

887. On 4 November 2004, the Permanent Mission of Thailand in Geneva sent a response to the Special Rapporteur's communication dated 1 November 2004 regarding the incident of 25 October 2004 in Takbai district, Narathiwat. The Permanent Mission provided the Special Rapporteur with the following preliminary information:

- The unfortunate incident of 25 October 2004 was not a result of deliberate action and the Government regrets that errors and misjudgments were made;
- An independent commission was created by Prime Minister Thaksin Shikawatra on 2 November 2004 to investigate the incident and to report its results within 30 days of its creation. Investigations are ongoing;
- The incident should be viewed in a broader context of the developments in the southern provinces of Thailand since January 2004. From then until 21 October, over 264 lives, both Muslim and Buddhist, had been lost, while 397 people were injured. The Government had exercised its relentless efforts to restore peace and order to the provinces;
- The Government was committed to resolving the situation in a peaceful manner, while steadfastly adhering to the principle of human rights as enshrined in the Constitution and in accordance with its international obligations. The Government would do its utmost to prevent the recurrence of such unfortunate incidents;
- As of 30 October 2004, 1,109 detainees had been released, while 189 were still detained for further investigation;
- It should also be clearly noted that the incident of 25 October 2004 was Not a matter involving religion. Thailand had always been a peace-loving society. The Government was scrutinized by the public. The Government came to power through a democratic process and had the interests of our people at heart, regardless of their ethnicity or religion.

888. On 10 November 2004, the Special Rapporteur sent a letter of allegation concerning the events of 4 November 2004, when the Criminal Suppression Division of the police in Thailand invited **members of the media** for a press conference at their provincial headquarters in Narathiwat. Once there, however, the police reportedly issued them with summonses to hand over any footage they had of the demonstration in Tak Bai on 25 October 2004. The journalists were allegedly kept for questioning for four hours. In this connection, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on the question of torture jointly sent a letter of allegation on 1 November 2004.

889. On 23 December 2004, the Special Rapporteur sent an urgent appeal concerning the Government's **prohibition of the circulation of video compact discs (VCDs)** showing footage relating to the Tak Bai protest of 25 October 2004, when six of the protesters were reportedly killed and another 79 died later, while being detained in military custody. This incident was already the subject of two letters of allegations of the Special Rapporteurs on summary executions, torture, freedom of opinion and expression and religion. According to information received, the VCDs might show security forces attacking crowds of unarmed civilians. There have allegedly been at least three incidents where actions of Government and military officials made clear that distribution of these VCDs would not be allowed, on the basis of section 116 of the Penal Code concerning the distribution of materials found to compromise national security, on the grounds of which legal action would be taken against anyone found distributing any such footage. The penalty for such action could be up to seven years' imprisonment. The Government pledged to carry out investigations into the killings. It remained, however, unclear if the conclusions of these investigations should be released in their entirety to the public. The Special Rapporteur would like to call the attention of the Government to the principle that the restrictions on the right to freedom of expression applied for the protection of national security or public order must not put in jeopardy the right itself. The restrictions must be provided by law and be justified as being necessary for those purposes. To this effect, concern is being expressed that the unofficial but nevertheless implemented ban to distribute the VCDs, runs contrary to the people's right to information, and therefore to their right to freedom of expression.

Observations

890. The Special Rapporteur thanks the Government for its replies to his communications of 17 March, 14 May, 25 June, 15 and 16 July 2004, 14 October and 1 November 2004. He regrets, however, not having received any replies to his communications of 27 May, 28 June, 10 November and 23 December 2004.

The former Yugoslav Republic of Macedonia

891. On 4 May 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Zoran Bozinovski**, a journalist known for his reports on corruption and human rights violations, who was the subject of an urgent appeal by the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on human rights defenders on 19 December 2003. (see E/CN.4/2004/62/Add.1). According to recent information received, Mr. Bozinovski reportedly published an article in the newspapers *Kumanovo Boulevard* and *Start*, allegedly denouncing impunity for criminals. On 7 April, Mr. Bozinovski reportedly received a phone call from one of the people quoted in his article, who reportedly threatened to kill him. It was reported that Mr. Bozinovski immediately went to the police to report the incident and that, upon his arrival, he was reportedly arrested on the basis of a warrant. This was allegedly for having failed to appear at a court hearing in a defamation suit against him on 6 April 2004, and in order to ensure his presence at the next hearing on 19 April 2004. Mr. Bozinovski was reportedly detained at the investigative prison ("Shutka") in Skopje, until 13 April when he was reportedly released. Concern had been expressed that, under the newly amended article 172 of the Criminal Code on defamation, Mr. Bozinovski, who faces a number

of defamation suits for articles he has published, in particular on corruption of officials, might face a prison term of up to three years if found guilty.

Observations

892. The Special Rapporteur regrets that he received no reply to his communication at the date this report was finalized.

893. The Special Rapporteur wishes to thank the Government for inviting him to carry out a visit in the country.

Timor-Leste

894. On 17 May 2004, the Special Rapporteur sent an urgent appeal concerning reports that **Julian King**, an investigative journalist of Australian origin, was arrested in Dili on 6 May 2004 and reportedly threatened with legal action and expulsion. According to information received, police arrested Mr. King at his home in the capital, and held him for two days in the central police station. It is reported that during a home search, they seized files, including a United Nations report on corruption in Timor-Leste. Reports further indicate that Mr. King was at first told his residency papers were not in order, and he was then threatened with legal action for “subversion” and “possessing weapons”, which the journalist denied. Concern has been expressed that such accusations might be linked to his investigations into negotiations with Australia on sharing Timor-Leste’s territorial waters, which are widely believed to have been tainted by corruption.

895. On 17 June 2004, the Government sent a response to the Special Rapporteur’s communication of 17 May 2004 concerning **Julian King**, an Australian citizen resident in Timor-Leste. The Government states that Mr. King’s rights in detention are being respected pending the outcome of the investigating judge’s decision regarding the criminal case against him. Julian King also gave media interviews from his place of detention and his lawyer has spoken to the media about his case. Before this, Mr. King has always spoken freely on whatever issue he pleased. Since January 2004, the immigration authorities have started a process aimed at regularizing the many people whose visa status is not regular, such as Mr. King’s. In 2001 he was provided with a letter from the Minister of Foreign Affairs and Cooperation allowing him to reside in Timor-Leste whilst he carried out research for his thesis. However, he stayed for a much longer period than a tourist visa allowed and he did not regularize his papers as he was supposed to do. He is, moreover, not known to be a journalist, but an activist. He has also failed to observe the code of ethics. UNTAET in fact removed his press card. Concerning his case, Mr. King’s house was searched on 6 May 2004 by the police, who found live ammunition, bullets, a bomb detector and certain documents. He was arrested that same day and notified that the offence he was being accused of fell under UNTAET Regulation 2001/5, section 4, subsection 4.1. The seized documents were to be investigated to see whether they were unauthorized documents as defined by the Indonesian Penal Code. Mr. King was brought before the investigating judge on 7, 8 and 9 May 2004, and then again on 14 May, where his conditional release was ordered. Upon appeal, the judge made his release non-conditional and gave him back his passport. He also stated that the seized documents had no bearing on his case.

Observations

896. The Special Rapporteur thanks the Government for its reply to his communication of 17 May 2004.

Togo

897. Le 5 avril 2004, le Rapporteur spécial a envoyé une communication concernant **Guy Mario Abalo**, correspondant de Radio France Internationale (RFI) au Togo, qui aurait reçu des menaces de mort par téléphone suite à la diffusion, le 25 mars 2004, d'un reportage portant sur une affaire de corruption et de détournements de fonds impliquant deux anciens membres du gouvernement. Selon les informations reçues, le soir même de la diffusion du reportage, des messages auraient été laissés sur le répondeur de Guy Mario Abalo, le prévenant notamment que son reportage «ne restera pas impuni» et que sa «vie est en danger». Il semblerait que ces messages proviendraient de jeunes partisans des anciens responsables politiques dénoncés par le journaliste.

898. En réponse à la communication adressée par le Rapporteur spécial le 5 avril 2004, le Gouvernement, par lettre datée du 20 décembre 2004, a indiqué que l'affaire mentionnée par **Guy Mario Abalo** dans son émission du 25 mars 2004 est une affaire qui a pour origine un rapport public de l'enquête menée par la Commission nationale de lutte contre la corruption et le sabotage économique sur le projet de développement socioéconomique «Cité OUA 2000», rapport qui avait mis en cause les deux anciens membres du gouvernement mentionnés dans la communication du Rapporteur spécial. Le rapport de la Commission nationale de lutte contre la corruption et le sabotage économique a été cité par de nombreux médias nationaux et internationaux, publics et privés. Sur cette base, il paraît difficilement compréhensible que des menaces émanent de «partisans des anciens responsables politiques dénoncés» et soient adressées à l'un quelconque des journalistes qui ont effectué leur travail sur la base d'informations fournies par la Commission nationale de lutte contre la corruption et le sabotage économique. Par ailleurs, des mesures de protection de Guy Mario Abalo mises en place par les autorités n'ont pas fourni d'indices concrets révélateurs de menaces contre l'intégrité de ce dernier, qui continue d'exercer librement sa profession.

899. Le 22 juin 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant 22 militaires et agents des forces de sécurité, qui auraient été arrêtés juste avant l'élection présidentielle du 1^{er} juin 2003 pour leur supposé soutien à Kuma Bitenewe, un colonel de l'armée qui serait entré en dissidence après avoir dénoncé certaines pratiques au sein de l'armée. Au moment de l'envoi de la communication, ces militaires et agents des forces de sécurité suivants étaient semble-t-il toujours détenus au secret: **lieutenants Kpandang et Gnadakpo, capitaines Gnalo, Gnadakpan et Adjimon** (camp de Lomé), **sergents-chefs Gnalo, Boboli et Baka, caporaux-chefs Gnamnian, Ouro et Bassiya Yanti Alfa, Malou Karuwe Kossi, soldats Mensah Yao, Bonfo, Dena Ouhundowa et Kao Kpatolozim, adjudant Bonfo** (camp de Lomé), **policier officier Karwe A, sergent Gnaglo, Kako Yao, Odin Komlan et Moussa Ganiou**

900. Le 11 octobre 2004, le Gouvernement a répondu à la communication du 22 juin 2004, indiquant que le cas des 22 militaires et agents des forces de sécurité relève du secret-défense.

901. Le 5 octobre 2004, le Rapporteur spécial a envoyé une communication concernant **Jean-Baptiste Dzilan**, directeur de publication au journal *Forum de la semaine*, qui aurait reçu à plusieurs reprises des menaces de mort suite à la publication, le 30 septembre 2004, de la déclaration du «Mouvement patriotique du 5 octobre» (MO5). Le même jour, il aurait en particulier reçu l'appel téléphonique d'une femme disant notamment: «C'est vous Jean-Baptiste Dzilan, vous avez signé votre arrêt de mort avec l'article que vous avez écrit sur le MO5 touchant les enfants du président. Sachez que vous serez éliminé et ce n'est qu'une question de temps. C'est décidé et arrêté. Quand on pose un acte, il faut être prêt à l'assumer». Il est rapporté que le Ministre de la communication et de la formation civique, le Secrétaire général du Ministre de l'intérieur et de la sécurité, le Directeur central de la police judiciaire ainsi que le Directeur du service des renseignements généraux auraient été mis au courant de ces menaces.

902. Le 11 octobre 2004, le Rapporteur spécial a envoyé une communication concernant les journalistes **Yves Kpéto** de la station de radio Nana et **K. Amouzouvi** du journal hebdomadaire *Le Combat du Peuple*, qui auraient été roués de coups par les forces de sécurité sur le campus de l'Université de Lomé le 30 avril 2004. Les deux journalistes couvraient une manifestation organisée par des étudiants qui revendiquaient de meilleures conditions de travail. Selon les informations reçues, les deux journalistes présenteraient de nombreux hématomes sur tout le corps.

Observations

903. Le Rapporteur spécial remercie le Gouvernement pour ses réponses à ses communications des 5 avril et 22 juin 2004. Il regrette toutefois de ne pas avoir reçu, au 31 décembre 2004, de réponse à ses communications des 5 et 11 octobre 2004.

Tonga

904. On 18 February 2004, the Special Rapporteur sent an urgent appeal concerning reports that **newspapers** had been confiscated and licences were refused, in application of a recent amendment to the Constitution and of two new pieces of legislation—the Newspapers Act 2003 and the Media Operators Act 2003. It was reported that there had been opposition against the two draft bills before they were passed by the Government-controlled Parliament and signed by the King, in particular with respect to extensive powers granted to the Government over the functioning of the media, in particular the power to deliver publication and import licences to newspapers. Regarding the constitutional amendment, it allowed the Government to ban a news media if it violated “cultural traditions or the right to private life”. It was reported that this amendment was adopted in order to retroactively validate the February 2003 ban of the newspaper *Taimi o’Tonga* (*Time of Tonga*, a bi-weekly published in New Zealand) for an article on government corruption, which the Supreme Court had ruled unconstitutional in May. It was further reported that, since the beginning of 2004, newspapers had not appeared on newsstands, reportedly because of warnings of severe penalties for unlicensed publishers, booksellers and importers, along with alleged police raids on shops, in particular to confiscate copies of the *Taimi o’Tonga* newspaper. The deadline for application for licences to the Government-appointed Registrar of Newspapers was extended to 31 January 2004 and it was reported that, on 2 February, the Registrar of Newspapers sent a letter indicating that failure to abide by the 2003 Newspaper Act would carry a US\$ 10,000 fine and/or imprisonment not exceeding one year. Recent information received by the Special Rapporteur indicated that three existing news

publications were denied licences and would have to cease printing, and a fourth newspaper which was about to start up was stopped before it began by being denied a licence. These were reportedly as follows:

- “Vula News Co Ltd.”—a newly established company owned by a former office manager of *Taimi o’Tonga*;
- *Kelea*, owned by a Member of Parliament and leader of Tonga’s pro-democracy movement;
- Lali Media Limited, publisher of the *Taimi O’ Tonga*;
- “Vavau Press Ltd”, which published *Matangi Tonga* and reportedly did not qualify under the restriction of a maximum 20 per cent foreign ownership;
- Of the six licences granted so far, three reportedly went to Church-owned publications and one to a Government-run newspaper. It seemed that several applications were still in the process of ensuring their compliance with the law, and these together with late applications, are reportedly being processed.

905. On 23 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning reports that on 18 February 2004, **Alani Taione**, a pro-democracy activist, was arrested for distributing about 20 copies of the banned news weekly *Taimi ‘o Tonga (Times of Tonga)* upon his arrival in Tonga from New Zealand, where he resides. It was reported that Mr. Taione brandished a copy of the newsweekly in front of customs officials when he arrived at Tongatapu airport on 18 February and then handed out his remaining copies inside the airport. No one intervened at the time, but police reportedly arrested him a few hours later as he left his father’s funeral, which was the principal reason for his visit to the country. Mr. Taione is said to have appeared before a judge on 19 February, and it was reported that, if found guilty, he would face a prison sentence for “importing and circulating a banned publication”. According to information received, *Taimi ‘o Tonga* criticized the Government and often published reports about alleged corruption by the King and his close associates. The Government reportedly banned *Taimi ‘o Tonga* on 26 February 2003, accusing it of having a “political agenda” and “unacceptable journalistic standards”. It was further alleged that the Constitution had been amended to institute a permanent ban. Reports indicated that Mr. Taione was still being detained at the time this communication was sent.

906. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning the events of 5 December 2003, when Tongan King Taufaahau Tupou IV reportedly signed constitutional amendments and reintroduced press laws that allow his Government to maintain a ban on the newspaper *Taimi o’ Tonga*. The amendments signed by the King allegedly served to retroactively validate a February ban on *Taimi o’ Tonga*, which the Supreme Court had ruled unconstitutional in May 2003.

Observations

907. The Special Rapporteur regrets not having received any replies to his communications at the date this report was finalized.

Tunisia

908. Le 5 mars 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant **Abdellatif Makki** et **Jalel Ayyed**, qui se verraient refuser leur réintégration à l'Université de Tunis en raison des peines de prison qu'ils auraient effectuées du fait, semble-t-il, de leurs activités passées au sein de l'Union générale tunisienne des étudiants (UGTE). Selon les informations reçues, Abdellatif Makki, 41 ans, ancien secrétaire général de l'UGTE et interne aux hôpitaux de Tunis, aurait été arrêté en 1991 et condamné à une peine de 10 ans de prison par le tribunal militaire de Tunis en raison de ses activités syndicales au sein de l'UGTE. Libéré le 10 juillet 2001 après avoir purgé l'intégralité de sa peine, Abdellatif Makki aurait demandé, le 26 septembre 2001, sa réinscription en première année d'internat. Selon les informations reçues, sa demande aurait été rejetée par le secrétariat général de la faculté de médecine de Tunis. Abdellatif Makki aurait alors pris contact avec les Ministères de l'enseignement supérieur et de la santé publique, ainsi qu'avec le Haut Comité des droits de l'homme, semble-t-il sans aucun résultat. Le 19 mars 2002, la Direction des affaires juridiques et du contentieux du Ministère de l'enseignement supérieur aurait notifié à Abdellatif Makki sa décision de refuser son inscription au motif que son affaire toucherait à la sécurité et la stabilité de l'institution universitaire concernée. S'agissant de Jalel Ayyed, 39 ans, celui-ci aurait été arrêté en 1991 et condamné à 8 ans d'emprisonnement pour ses activités syndicales au sein de l'UGTE. Au moment de son arrestation, Jalel Ayyed venait de terminer cinq années de formation théorique et une année de pratique en médecine. Depuis sa libération, Jalel Ayyed se serait vu lui aussi refuser le droit de poursuivre ses études. Abdellatif Makki et Jalel Ayyed auraient contesté les décisions prises à leur encontre auprès du tribunal administratif de Tunis. Cependant, en raison des délais de traitement parfois longs de pareilles requêtes, tous deux pourraient voir leurs chances de reprendre leurs études définitivement compromises. Le 7 février 2004, ils auraient entamé une grève de la faim qu'ils poursuivraient au moment de l'envoi de la communication.

909. Le 1^{er} avril 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant la persistance de la situation d'**Abdellatif Makki** et de **Jalel Ayyed**. Selon les nouvelles informations reçues, après avoir vu leur demande de poursuivre leur internat en médecine rejetée par la faculté de médecine, Abdellatif Makki et Jalel Ayyed auraient été autorisés à s'inscrire en DEA de biochimie au sein de la faculté de sciences. Toutefois, il semblerait qu'ils se seraient vu refuser l'accès aux laboratoires d'accueil qui se trouveraient dans la faculté de médecine, ce qui les empêcherait de valider leur formation et d'obtenir leur diplôme de troisième cycle au sein de la faculté de sciences. Selon les informations reçues, Abdellatif Makki et Jalel Ayyed poursuivraient une grève de la faim depuis 54 jours pour réclamer le droit à poursuivre leurs études. Les rapports indiquent qu'Abdellatif Makki aurait déjà perdu plus de 20 kilos et qu'il aurait été transporté d'urgence à l'hôpital Rabta à Tunis le 27 mars 2004. Malgré son état de santé inquiétant, il aurait refusé de suspendre sa grève de la faim. L'état de santé de Jalel Ayyed serait également très inquiétant.

910. Par lettre datée du 6 janvier 2005, le Gouvernement a répondu aux appels urgents envoyés le 5 mars et le 1^{er} avril 2004 concernant la situation de MM. **Abdellatif Makki** et **Jalel Ayyed**. Le Gouvernement a indiqué que le 29 juin 2004 le conseil scientifique de la faculté de médecine de Tunis se serait prononcé en faveur de la réintégration des intéressés. La décision serait assortie de deux mesures d'ordre pédagogique: la reprise de certains stages pendant une

période de trois mois chacun, au cours desquels ils seront encadrés et évalués, et la réussite aux examens des épreuves du certificat de la session principale de juin 2005 ou celle de rattrapage de juillet 2005. En ce qui concerne l'interruption initiale des études, le Gouvernement a précisé que les intéressés n'auraient jamais été condamnés pour leurs activités syndicales, ou pour leurs opinions politiques, mais pour des infractions de droit commun, à savoir avoir perpétré un attentat dans le but de changer la forme du gouvernement. Par conséquent, ils auraient été emprisonnés, respectivement pour une période de 10 et 8 ans, ainsi que condamnés à une peine complémentaire de 5 ans de contrôle administratif. En première instance, la demande de réinscription et de réintégration à la faculté de médecine à leur sortie de prison aurait été rejetée, le conseil scientifique ayant estimé que leur formation n'était plus à jour du fait de leur interruption prolongée d'études et que des risques sérieux pouvaient en résulter pour les patients. Néanmoins, suite aux délibérations, le conseil aurait décidé d'autoriser leur réintégration, à condition que leurs connaissances médicales et professionnelles soient mises à niveau. En conclusion, le Gouvernement a souligné que le Ministère de l'enseignement supérieur, de la recherche scientifique et de la technologie ne disposait que d'un simple pouvoir de tutelle sur les décisions prises par les institutions universitaires, y compris celles relatives aux inscriptions des étudiants, afin que ces décisions soient exclusivement guidées par des considérations d'ordre scientifique ou pédagogique.

911. Le 12 mars 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant les cas suivants de membres de l'Union générale des étudiants de Tunisie (UGET): d'après les informations reçues, le 28 juin 2003, **Zied Kacem**, étudiant à la faculté de lettres de l'Université de Sousse et membre du bureau fédéral de l'UGET de Sousse, aurait été renvoyé par décision du conseil de discipline pour «propos diffamatoires et appel à la grève». Il semblerait qu'après avoir été débouté dans ses démarches pour être réintégré dans les facultés de lettres de Tunis, Sfax et la Mannouba, M. Kacem ait entamé une grève de la faim le 26 février 2004. Le 28 février 2004, les responsables locaux de l'UGET auraient adressé une pétition au Ministre de l'enseignement supérieur lors de sa visite à la faculté de droit de Sousse lui demandant la réintégration de Zied Kacem et revendiquant la liberté d'expression et le droit syndical pour les étudiants. La police aurait reçu l'ordre d'intervenir pour disperser les étudiants rassemblés, et les auraient poursuivis dans les toilettes de la faculté et dans les amphithéâtres. Plusieurs étudiants, y compris des militants de l'UGET, auraient été blessés, notamment **Ayech Amami**, **Hatem Mabrouki** (qui aurait souffert d'un double fracture au bras gauche), **Atef Ben Salem** et **Chaker Sayari**.

- À la suite de ces événements, les étudiants **Kamel Amorossia**, **Atef Ben Salem** et **Nizar Othmani** se seraient vu interdire l'accès à l'université le 3 mars 2004. Ils auraient été chassés des locaux sur ordre du secrétaire général de l'université après avoir demandé les raisons de cette décision. Le même jour, **Anis Ben Fraj**, qui selon les informations reçues avait été réinscrit à l'Université de Sousse à la suite d'une grève de la faim entamée pour protester contre sa révocation de la faculté de lettres de l'Université de Sfax, qu'il jugeait illégale, aurait été empêché d'accéder à l'enceinte de l'université par la police. Il aurait été agressé et sa carte d'étudiant aurait été confisquée, selon les forces de l'ordre suite à une décision du recteur de l'Université du Centre annulant son inscription. Selon les informations reçues, les policiers auraient refusé de lui donner une copie de cette décision. Anis Ben Fraj ferait depuis l'objet d'une filature policière constante. Par ailleurs,

d'autres militants de l'UGET, **Wissam Essâïdi** et **Samir Enefzi**, de la faculté de droit de Tunis, et **Badr Essalem**, de la faculté de journalisme, risqueraient également d'être renvoyés de l'université pour leur engagement syndical, à la suite de leur prochaine comparution devant des conseils de discipline.

912. Par lettre datée du 30 décembre 2004, le Gouvernement a répondu à la communication du 12 mars 2004 concernant des **universitaires tunisiens**. Il a indiqué que les étudiants en question auraient fait l'objet de décisions disciplinaires émanant de leurs institutions respectives suite aux infractions aux règlements intérieurs de ces institutions. Il a affirmé que ces décisions n'auraient aucun rapport avec les activités syndicales garanties par la Constitution tunisienne. Concernant Zied Kacem, le Gouvernement a signalé qu'il aurait continué à enfreindre le règlement intérieur de la faculté de Sousse en organisant des assemblées générales non autorisées et incitant les étudiants à entrer en grève, perturbant le cours normal des études. En conséquence, le conseil disciplinaire aurait décidé de son renvoi. Le Gouvernement a également souligné que des étudiants, dont Ayech Amami, Hatem Mabrouki, Atef Ben Salem et Chaker Sayari, s'étaient réunis le 28 février 2004, lors de la visite du Ministre de l'enseignement supérieur, de la recherche scientifique et technologique. Après que l'accès à la salle de réunion leur aurait été interdit, des étudiants auraient jeté des pierres contre les forces de l'ordre, qui seraient intervenues pour disperser la foule. Concernant l'interdiction d'accès à la faculté aux étudiants Kamel Amorossia, Atef Ben Salem et Nizar Othmani, le Gouvernement a précisé que la mesure faisait partie de dispositions préventives prises par la faculté pour garantir l'ordre. Quant aux allégations concernant Anis Ben Fraj, le Gouvernement a signalé que l'intéressé se serait vu retirer sa carte d'étudiant suite aux perturbations auxquelles il aurait participé. Il aurait été renvoyé car ne s'intéressant pas à ses études. Les allégations d'agressions à son égard seraient sans fondements. Concernant Wissem Said et Samir Nefzi, le Gouvernement a précisé qu'ils auraient été déférés devant le conseil de discipline de la faculté de droit de Tunis en mars 2004 pour avoir détruit des urnes durant les élections des conseils scientifiques en 2003 et avoir agressé le secrétaire général de la faculté des sciences économiques et de gestion de Tunis. Le dossier de Wissem Said aurait été classé et l'examen de celui de Samir Nefzi reporté. Concernant l'étudiant Badr Essalem Trabelsi, il aurait été question qu'il soit déféré devant le conseil de discipline de l'Institution de presse et de sciences de l'information de Manouba en mars 2004 pour avoir porté atteinte à la personne du Ministre mais l'administration serait revenue sur sa décision.

913. Le 22 avril 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant **Hamza Mahrouk** (21 ans), **Amor Farouk Chelandi** (21 ans), **Amor Rached** (21 ans), **Abdel-Ghaffar Guiza** (21 ans), **Aymen Mecharek** (22 ans), **Ridha Hadj Brahim** (38 ans), **Ayoub Sfaxi**, **Tahar Guémir** (19 ans) et **Abderrazak Bourguiba** (18 ans), neuf internautes qui auraient été accusés d'avoir fomenté des attentats terroristes et auraient été condamnés à de lourdes peines de prison pour avoir consulté et téléchargé des documents sur Internet. Selon les informations reçues, le 6 avril 2004, la troisième chambre criminelle du tribunal de Tunis aurait condamné en première instance Hamza Mahrouk, Amor Farouk Chelandi, Amor Rached, Abdel-Ghaffar Guiza, Aymen Mecharek et Ridha Hadj Brahim à 19 ans et trois mois de prison ferme et cinq ans de contrôle administratif chacun. Ayoub Sfaxi, résidant à l'étranger, aurait été condamné par contumace à la même peine. Tahar Guémir, résidant également à l'étranger et considéré par l'accusation comme le chef du groupe, aurait été condamné par contumace à 26 ans de prison. Selon les rapports, Abderrazak Bourguiba aurait quant à lui été condamné, le 16 avril 2004, à 25 mois de prison par

la chambre criminelle pour mineurs du tribunal de première instance de Tunis. Selon les faits rapportés, l'accusation n'aurait produit aucune preuve sérieuse à l'encontre des neuf accusés. Lors des interpellations, la police n'aurait saisi qu'un tube de colle et quelques cédéroms. Les rapports indiquent également que les accusés, arrêtés entre le 5 et le 10 février 2003, auraient été interrogés à Tunis au siège du Ministère de l'intérieur (sûreté de l'État), où ils auraient été soumis à des coups de bâton, coups de poing et coups de pied sur tout le corps et morsures des oreilles. Hamza Mahrouk et Amor Rached auraient été suspendus au plafond par les mains. Suite aux interrogatoires, ils auraient été enfermés dans des cellules individuelles durant une semaine, vraisemblablement pour que toutes traces apparentes de torture disparaissent. Aux alentours du 25 février 2003, ils auraient été transférés à la caserne de Bouchoucha. De plus, il a été rapporté que, le 19 février 2003, des avocats de ces personnes auraient saisi le procureur de la République près le tribunal de première instance de Zarzis pour l'informer de la violation, par la police, des délais de garde à vue de leurs clients, ainsi que de leur maintien en détention dans un endroit secret. Par ailleurs, les autorités judiciaires auraient refusé toute expertise médicale suite à une plainte déposée par cinq des inculpés.

914. Le 27 avril 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une communication concernant **M^e Patrick Baudoin**, président d'honneur de la Fédération internationale des ligues des droits de l'homme (FIDH), qui se serait vu interdire l'accès au territoire tunisien à l'aéroport Tunis-Carthage par la police politique le 13 avril 2004, sans qu'aucun motif ne lui soit signifié. M^e Baudoin se rendait en Tunisie pour participer à une conférence de presse le 14 avril 2004 afin de présenter le rapport annuel 2003 de l'Observatoire pour la protection des défenseurs des droits de l'homme, organisée en partenariat avec la Ligue tunisienne des droits de l'homme. Ce rapport, intitulé «Les défenseurs à l'épreuve du tout sécuritaire», dresse un état des violations commises à l'encontre des défenseurs des droits de l'homme dans plus de 80 pays, dont la Tunisie. Des craintes ont été exprimées que le refoulement de M^e Baudoin par les autorités tunisiennes ne vise à faire obstacle à ses activités en faveur de la défense des droits de l'homme ainsi qu'à la publicisation du rapport annuel de l'Observatoire. Selon les informations reçues, ce serait la troisième fois que M^e Patrick Baudoin se verrait interdire l'accès au territoire tunisien dans le cadre de ses fonctions au sein de la FIDH.

915. Le 11 juin 2004, le Rapporteur spécial, 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, a envoyé une communication au sujet de trois membres de l'Association de lutte contre la torture en Tunisie (ALTT), **Radhia Nasraoui** (présidente), **Ali Ben Salem** (vice-président) et **Ridha Barakati** (trésorier), qui, le 8 juin 2004, auraient été agressés verbalement et auraient reçu des coups de la part de policiers appartenant à la Brigade de sûreté de l'État alors qu'ils essayaient d'entrer dans les locaux du siège du gouvernorat de Tunis pour y déposer, conformément à la loi tunisienne, les documents requis pour l'enregistrement de leur association. Les membres de l'ALTT, qui se verraient constamment refuser l'accès aux locaux du gouvernorat de Tunis, auraient alors décidé de faire un sit-in devant le siège du gouvernorat. Radhia Nasraoui aurait alors été emmenée par plusieurs policiers jusqu'à une rue isolée où elle aurait été séquestrée pendant environ une heure et demie. Ali Ben Salem aurait quant à lui été conduit dans une rame de métro. Ridha Barakati aurait quant à lui été placé dans un taxi, dont le chauffeur aurait reçu l'instruction de l'éloigner le plus possible du gouvernorat. L'ALTT, dont la création aurait été annoncée le 26 juin 2003, Journée

internationale des Nations Unies pour le soutien aux victimes de la torture, a pour mandat de promouvoir les législations locales de protection contre la torture, recenser et faire le suivi des cas de torture, et fournir une assistance aux victimes sur le plan médical, ainsi que sur le plan judiciaire en vue du dépôt de plaintes auprès des instances nationales et internationales. Dès le jour de sa création, les membres fondateurs de l'ALTT se seraient rendus au siège du gouvernorat de Tunis afin de déposer les documents requis mais auraient été refoulés. D'après les informations reçues, Ali Ben Salem, âgé de 74 ans et dont la santé serait déjà fragile, aurait été très affecté par les violences qu'il aurait subies et serait dans un grand état de faiblesse. Quant à Radhia Nasraoui, celle-ci aurait des bleus sur les bras et sur une jambe, et serait provisoirement dans l'impossibilité de reprendre normalement ses activités d'avocate.

916. Le 22 novembre 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une nouvelle communication concernant **Radhia Nasraoui**, avocate tunisienne et présidente de l'Association de lutte contre la torture en Tunisie. Selon les informations reçues, le 17 novembre 2004, des dizaines d'agents de police auraient encerclé le quartier del Manar où Mme Nasraoui habite et auraient de ce fait interdit l'accès des militants devant se rendre chez elle à l'occasion de la grève de la faim organisée par le comité de soutien à Jalel Zoghلامي, Nejib Zoghلامي et Loumamba Moshi. Elle aurait elle-même été bloquée à l'entrée de la ville pendant une demi-heure par les agents qui auraient tenté d'ouvrir les portes de son véhicule pour obliger un de ses amis à en descendre. Des craintes ont été exprimées que ces actions ne visent à faire obstacle au travail de défenseur des droits de l'homme que conduit M^e Nasraoui. Ces craintes sont d'autant plus vives que, depuis son retour de Côte d'Ivoire, Radhia Nasraoui aurait été victime de multiples actions à son encontre. Son domicile et son cabinet seraient surveillés, de même que celui de sa mère. Son mari aurait également été suivi et des agents de la police politique auraient posé des questions à ses médecins concernant son état de santé. Par ailleurs, le 25 octobre 2004, au lendemain des élections présidentielles, alors qu'elle accordait une interview à une radio étrangère, un individu non identifié lui aurait arraché son portable. Le chef du poste de police du boulevard Bab Benet aurait refusé d'enregistrer la plainte.

Suivi des communications précédemment envoyées

917. Le 11 juin 2004, le Gouvernement a répondu à la communication envoyée par le Rapporteur spécial le 22 juillet 2003, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme (E/CN.4/2004/62/Add.1, par. 758), au sujet des 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 la lutte contre la torture en Tunisie. Le Gouvernement a indiqué que, concernant la supposée agression dont il est question, le 16 juillet 2003 M^e Nasraoui a déposé une plainte contre inconnu pour agression et violence physique perpétrée sur sa personne. Saisi de l'affaire, le parquet, en vertu de l'article 30 du Code de procédure pénale, apprécie la suite à donner aux plaintes et dénonciations qu'il reçoit ou qui lui sont transmises. Il a ordonné le 22 juillet 2003 une commission rogatoire à la direction de la sûreté au district de Tunis pour instruction et information. L'affaire suit normalement son cours.

Observations

918. Le Rapporteur spécial remercie le Gouvernement de la Tunisie pour ses réponses à ses communications des 22 juillet 2003, 5 mars 2004, 12 mars 2004 et 1^{er} avril 2004. Il regrette de ne pas avoir reçu, au 31 décembre 2004, de réponses à ses autres communications.

Turkey

919. On 14 January 2004, the Special Rapporteur sent an urgent appeal concerning reports that the Adana Correctional Tribunal sentenced on 30 December 2003 **Sabri Ejder Öziç**, former director of Radyo Dünya in Adana and activist from the pro-Kurdish party Ozgur Toplum, to a one-year jail sentence for “insulting and mocking Parliament”. It was reported that he appealed the sentence and had not been imprisoned yet. Reports indicated that Mr. Öziç was accused over remarks he made on the air on 24 February 2003 during his radio programme “Captain’s Log”, in which he criticized the Government’s decision to allow foreign troops on Turkish soil and also to send troops to Iraq. The court apparently acted over the following statement from Mr. Öziç’s broadcast: “Our Council of Ministers allows American soldiers onto our soil; our soldiers will be able to enter Iraqi territory ... A war has been declared against terrorism in the world, but it is an illegitimate war. If illegitimate wars are terrorist acts, then this [decision is] also a terrorist act. If permission to send troops to commit terrorist acts were to be approved by Parliament, then this Parliament would also be a terrorist entity”. It was reported that this statement did not constitute legitimate criticism, but rather an “insult to a State institution”, an offence that carries a minimum penalty of six months in prison under article 159 of the Criminal Code.

920. On 21 January 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Sefika Gürbüz**, President of “GÖC-DER”, a Turkish NGO established in 1997 which conducts research and reports on forced displacement issues. According to the information received, on 19 January 2004, the Istanbul State Security Court No. 4 reportedly sentenced Sefika Gürbüz to pay a fine of TL 2,180 on the basis of article 312/2 of the Penal Code, which prohibited “incit[ing] people to enmity and hatred because of class, racial, religious, confessional, or regional differences”, reportedly in connection to a press conference that GÖC-DER held on April 2002 to present the publication of a report concerning forced displacement of Kurdish people in Turkey. It was reported that, on 3 August 2002, article 312/2 was amended, allegedly in order to narrow its use by requiring “that the incitement endangers public order”. It was reported that this amendment aimed in part at avoiding the use of this provision against human rights defenders. However, reports indicated that this requirement was on the contrary reportedly used to increase Mr. Gürbüz’ sentence. Concern had been expressed that this court sentence might be contrary to the aims of the amendment adopted in 2002. Concern was further expressed that the court decision may represent a form of reprisal for the human rights reporting activities of GÖC-DER.

921. By letter dated 12 May 2004, the Government replied to the urgent appeal sent on 21 January 2004. The Government confirmed that, on 19 January 2004, the Istanbul State Security Court No. 4 sentenced **Sefika Gürbüz** in line with article 312/2 of the Penal Code. She was found guilty of the alleged crime of “inciting hatred and enmity among people because of racial and regional differences in a way that is likely to endanger the public order”. The

conviction related to her reading a document titled “Report on the involuntary immigration report, 1996-2001” and its annexes, during a press conference held in Istanbul on 17 April 2002. The Government stated that she was sentenced to one year’s imprisonment. This penalty should be converted to a fine of 2,180,700,000 Turkish Liras (approximately US\$ 2,112), based on her good conduct during the proceedings and in line with article 59/2 of the Penal Code (and the execution of the punishment would not be suspended). According to the Government, both Sefika Gürbüz and the Public Prosecutor appealed the decision.

922. On 17 February 2004, the Special Rapporteur, jointly with the Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Alp Ayan, Günseli Kaya and Adnan Akin**, staff members of the Human Rights Foundation of Turkey, whose case was the subject of an urgent action by the Special Representative on 22 October 2003 (E/CN.4/2004/62/Add.1) to which the Government responded on 7 January 2004. According to the information received, on 30 September 1999, Alp Ayan, Günseli Kaya and Adnan Akin were arrested in Izmir while on their way to attend the funeral of a prisoner allegedly killed in Ankara Central Prison on 26 September 1999. On 3 October 1999, after a preliminary hearing before the Criminal Court of Izmir, they were reportedly charged with coercion, violence, threats, assault or resistance to a police decision forbidding a meeting, and with helping the members of a terrorist organization and disseminating propaganda on its behalf. Their trial had reportedly been continuing for four years with repeated adjournments. According to new information, on 16 February 2004, Alp Ayan was reportedly sentenced to 18 months and one day in prison, Günseli Kaya to 18 months in prison and Adnan Akin to three years in prison by the Aliaga first instance Penal Court. It was reported that the defendants intended to appeal their convictions. It was further reported that the other 37 defendants had been acquitted. Concern had been expressed that the reported sentencing to imprisonment of Alp Ayan, Günseli Kaya and Adnan Akin might have been an attempt at preventing them from carrying out their human rights activities.

923. By letter dated 12 March 2004, the Government replied to the urgent appeal sent on 17 February 2004, and to the urgent appeal sent on 22 October 2003, both concerning **Alp Ayan and Günseli Kaya**. The Government reported that, on 13 February 2004, the Aliaga first-instance Penal Court convicted Alp Ayan and Günseli Kaya and sentenced them to minimum penalties set forth in article 32/1 of the Law no. 2911 on Meetings and Demonstration Marches. Alp Ayan was sentenced to 18 months and one day imprisonment and a pecuniary fine of 60,750,000 Turkish Liras (approximately US\$ 50), while Günseli Kaya was sentenced to 18 months’ imprisonment and a monetary fine of 60 million Turkish Liras (approximately US\$ 50). The verdict was not final at the time and could be appealed before the Court of Cassation. The Government stated that Alp Ayan was acquitted from 13 cases out of a total of 16.

924. On 3 March 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Hüseyin Cangir, Vedha Aydin and other members of the Human Rights Association (IHD)**. According to the information received, in December 2003 members of the IHD distributed posters throughout Turkey with statements in both Turkish and Kurdish to commemorate Human Rights Day on 10 December. The posters were reportedly confiscated on the order of the Public Prosecutors in Van, Hakkari, Adiyaman and Mardin. Posters in Kurdish were reportedly also confiscated from IHD headquarters in Ankara. According to the information received, Hüseyin Cangir, head of the Mardin Branch of IHD, had allegedly been charged under

article 536 of the Turkish Penal Code for “hanging posters on billboards belonging to the municipality without the permission of the governor”, in connection with the hanging of posters carrying statements saying, “Peace will win, all equal, all different” in Turkish and Kurdish. It was reported that Mardin Penal Court began to hear his case on 11 February 2004 and that the hearing had been adjourned until 17 March 2004. Similar proceedings against the heads of the Van Branch of IHD were pending before the Van Penal Court and a hearing of the case against Vedha Aydin of the Sirrt Branch of IHD was scheduled for 24 March 2004. Concern had been expressed that these judicial proceedings might constitute means of harassment against human rights defenders. Concern had also been expressed that these proceedings might represent a form of resistance by the judiciary to the implementation of the fourth harmonization package (Law 4778), which was adopted on 2 January 2003 and reportedly amended article 4 of Law No. 2908 on associations, reportedly removing limitations upon the promotion or use of non-Turkish languages and cultures as well as article 6 of the same law allowing the use of “illegal languages” in the various activities of an association including publications, conferences and posters.

925. By letter dated 25 May 2004, the Government replied to the urgent appeal sent on 3 March 2004. The Government informed that, on 10 December 2003, the Van Penal Court decided that the hanging of posters, prepared and printed by the **Human Rights Association (IHD)**, to public places was illegal. The decision was based on articles 310 and 311 of the Penal Code. Hence, the Public Prosecutor’s Office at the Van Security State Court ordered the collection of these posters, in line with Article “Add. 1” of the Press Law No. 5860. According to the response, on 9 December 2003, the Public Prosecutor’s Office in Derik, a town of Mardin, filed a lawsuit against **Hüseyin Cangir** with the Derik Penal Court, in line with the article 536/1 of the Penal Code. This related to the hanging of posters in two different places without the permission of the Kaymakam, the official in charge of governing a provincial district. The case was pending at the time this reply was sent. The Government stated that, on 23 December 2004, the Van Penal Court found that the statements on the posters did not constitute a crime, and adopted a decision of non-prosecution of the head of the Van Branch of IHD.

926. On 10 March 2004, the Special Rapporteur sent an urgent appeal concerning **Dogan Özgüden**, editor-in-chief of the Info-Turk news agency, **Emin Karaca**, a freelance journalist and writer, and **Mehmet Emin Sert**, editor of the magazine *Türkiye’de ve Avrupa’da Yazın*, for whom an urgent appeal was sent on 28 October 2003 on behalf of the Special Rapporteur (E/CN.4/2003/67/Add.1). According to information received, their trial for “insulting the Turkish Army” under article 159 of the Penal Code continued on 18 February 2004 at the Penal Court of First Instance No. 1 in Istanbul. It was reported that, despite the Government’s claims that journalists could not be indicted for “opinion crime” any more, the court reportedly renewed for the fifth time the arrest warrant against Mr. Özgüden. It was reported that the public prosecutor claimed a prison term of up to six years against Dogan Özgüden and Emin Karaca, for the articles that they had written for the review *Türkiye’de ve Avrupa’da Yazın (Literature in Turkey and Europe)* at the 30th anniversary of the execution of three leaders of the far-left movement Progressive Youth by the military, and that Mehmet Emin Sert risked a heavy fine for having published these articles. It was reported that the trial would continue on 17 May 2004.

927. On 20 October 2004, the Government of Turkey sent a response to the Special Rapporteur’s communication of 10 March 2004 concerning **Dogan Özgüden**, **Emin Karaca** and **Mehmet Emin Sert**. The Government stated that further to its letter of 3 February 2003, in

accordance with article 159/1 of the Turkish Penal Code, a lawsuit was filed against Dogan Özgüden, Emin Karaca and Mehmet Emin Sertat before the Istanbul First Instance Penal Court No. 2 on grounds of insulting the Turkish Armed Forces. Since Dogan Özgüden, whose name had been found to be Dogangün Özgüden, lives in Belgium and did not appear before the Court, his defence had yet to be heard. The trial was adjourned until 22 December 2004.

928. On 17 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning three Iranian nationals, **Farideh Asadi** (f), **Nazila Mohamad Hasani Zamani** (f) and **Soheila Pordel** (f), who had been seeking asylum in Ankara, and were due to be deported to Iran with their children in four days. All three women were said to be women's rights activists, and members of the International Federation of Iranian Refugees (IFIR)-Turkey who, while in Turkey, participated in public conferences and meetings in the defence of women's human rights in the Islamic Republic of Iran, during which they had expressed criticisms of the Iranian regime. They called in radio interviews for strikes against the Government of Iran. Concerns had therefore been expressed that their right to life and security of the person could be at risk if they were returned.

929. On 29 March and 20 April 2004, the Government sent a response to the Special Rapporteur's communication of 17 March 2004 stating that the request for asylum of the above-mentioned persons was refused by the UNHCR Office in Ankara, but a reassessment of **Soheila Pordel's** application was granted. All have applied for permission to stay in Turkey with "ordinary alien" status, and this was being considered by the Ministry of the Interior at the time the reply was sent.

930. On 25 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **B.P., aged 12, and members of her family** who had reportedly been receiving threats since she lodged a complaint that she had been severely beaten by police officers in Diyarbakir, south-eastern Turkey. Concerns had been expressed for their safety. According to the information received, B.P. was reportedly abducted from the street in Diyarbakir on 19 February 2004 by people carrying walkie-talkies, who blindfolded her and took her away in a car. They asked her where her sister was, and when she did not reply they reportedly punched her repeatedly in her mouth and knees, so that her mouth began to bleed heavily. She was then reportedly taken to a place believed to be the Anti-Terror Branch of Police Headquarters in Diyarbakir, where she was given treatment for her mouth but then beaten again and threatened. She was released later that day. It had been brought to the Special Rapporteur's attention that, when Berfin Peyam applied to the local branch of the Human Rights Association (Insan Haklari Dernegi, IHD), she was unable to speak and had to write her complaint. Medical reports confirmed these injuries. After IHD lodged a complaint on her behalf about the incident with the State Prosecutor, B.P. and her family, who were staying outside Diyarbakir city, reportedly received five or six phone calls from people who falsely identified themselves as IHD members, asking them to come to Diyarbakir. On 19 May, Berfin Peyam and her mother visited the office of the IHD to seek advice. IHD reportedly sent a fax notifying a major human rights NGO about its concerns for the safety of BP and her family. Shortly after, BP reportedly received an anonymous call asking her why she applied to this NGO and telling her that it would be very bad for her now.

931. By letter dated 14 July 2004, the Government replied to the urgent appeal sent on 25 May 2004. The Government reported that **B.P.**'s mother had lodged a complaint to the Public Prosecutor's Office in Diyarbakir concerning the alleged ill-treatment of B.P. Upon receiving the complaint, the Public Prosecutor's Office initiated an investigation, and several testimonies were heard. The Government argued that these testimonies established that B.P. was with the family of a schoolmate the day under question. It also stated that a medical report submitted by her mother indicated that B.P. and the report of the Forensic Medicine Institute did not indicate any traces of ill-treatment or physical violence directed towards her. The Public Prosecutor's Office decided that the allegations of the complainant were unfounded, and reached a decision of non-prosecution. Moreover, the Government stated that the Prosecutor's Office decided that legal proceeding should be initiated against B.P. on grounds of "simulation of infringement", as the complainant incriminated public officials, based on the statements of B.P. In line with article 164 and successive provision of the Penal Code, the decision could be appealed at the Siverek Penal Court in 15 days after the communication of this decision. The Government further stated that the decision was communicated on 7 June 2004.

932. On 8 June 2004, the Special Rapporteur sent an urgent appeal concerning reports that on 20 May 2004, **Nuri Aykon**, owner of the daily *Vakit*, along with the paper's editor-in-chief, **Harun Aksoy**, and journalist **Mehmet Doganthe** were ordered to pay the equivalent of 500,000 euros in damages for defamation of 312 Turkish Army generals. It was reported that Mr. Dogan was the author of an article in the 25 August 2003 edition of the paper, entitled, "The country where a soldier who does not deserve to be sergeant becomes a general", which reportedly denounced the incompetence of top-ranking army officers, without naming any. It was reported that all the generals who filed defamation suits were awarded damages. Reports further indicated that the paper planned to appeal the sentence.

933. On 8 June 2004, the Special Rapporteur sent an urgent appeal concerning reports that, on 20 May 2004, former *Milli Gazete* editorialist **Hakan Albayrak** was sentenced to 15 months in prison without bail for "insulting the memory of Ataturk", founder of the Turkish Republic. It was reported that Mr. Albayrak was sent to Ankara's Kalecik prison, after being found guilty of "insulting Ataturk's memory", under the 1951 "Law on Crimes against Ataturk", article 1 of which set a one to three-year prison term for such "insults", and article 2 of which allowed for the doubling of this term if the "insult" was published in the press. It was reported that the article in question, published in 2000, criticized the reciting of prayers at the funeral of atheist writer Mina Urgan, comparing it to the burial of Ataturk.

934. On 2 July 2004, the Government of Turkey sent a response to the Special Rapporteur's communication of 8 June 2004 concerning *Vakit* and *Milli Gazete* newspapers. The Government stated that the verdicts in both cases were given by independent courts in line with the national laws and in full respect of international norms. The verdicts were given to punish acts of defamation and not to limit the freedom of opinion and expression. It was up to the courts to decide on whether the fines were proportionate to the harm caused.

935. On 11 June 2004, the Special Rapporteur sent an urgent appeal regarding reports that on 8 June 2004, **25 people**, among which a majority of journalists, were arrested during an operation by anti-terrorist police on two pro-Kurdish publications—**Özgür Halk** and **Genc Bakis**—and the **Dicle news agency** in Istanbul. According to information received, this operation was organized on the orders of the State Security Court of Istanbul in preparation for

the upcoming NATO summit and, during each search, the police reportedly seized journalist's files, books and computer disks. The police allegedly suspected the journalists arrested of having links with the Kurdistan Workers' Party (PKK). It was furthermore reported that **Hüsniye Tekin, Deniz Boyraz** and **Baki Gül**, three journalists of the daily *Ülkede Özgür Gündem*, who arrived to cover the police raid on Dicle, were also taken into custody.

936. On 8 September 2004, the Government sent a reply to the Special Rapporteur's communication of 11 June 2004 concerning Turkish media institutions **Özgür Halk, Genç Bakis** and **Ülkede Özgür Gündem**. The Government stressed that PKK was a terrorist organization and recognized as such internationally, including by the European Court of Human Rights, and should therefore be referred to in this manner. Concerning the allegations in question, the Government stated that the security forces received information that two persons who were wanted by the police might be found in the Istanbul offices of *Özgür Halk* Magazin, inter alia, institutions already suspected of having links with PKK and its successor organizations KONGRA-GEL. In order to apprehend the wanted persons and to confirm the links of these institutions with the PKK KONGRA-GEL, the Istanbul Directorate of Security asked for a warrant to search their Istanbul premises, which was issued on 7 June 2004. The police searched the offices on 8 June 2004, seizing certain materials. They took 26 people into custody, including Hüsniye Tekin, Deniz Boyraz and Baki Gül. The materials showed that seven out of the 26 detainees might have links with the terrorist organization; they were referred to the Public Prosecutor's Office. Two of them were subsequently arrested and the other five released pending trial. The remaining 19 detainees were released, including Hüsniye Tekin, Deniz Boyraz and Baki Gül, since no concrete evidence was present to indicate a possible link of these persons with the terrorist organization. However, Baki Gül was sought for avoiding the draft and, together with two others, was referred to the relevant authorities. The remaining 16, together with Hüsniye Tekin and Deniz Boyraz, were released on 9 June 2004. The Government further stated that, during the detention of the said persons, they received proper treatment in accordance with the law. No traces of ill-treatment resulted from the medical reports before their release. The detainees had access to their lawyers and the next of kin of Baki Gül and Deniz Boyraz were immediately informed of their detention. Mr. Tekin did not demand such notification. Moreover, during the searches carried out at the media institutions, material related to the terrorist organization PKK KONGRA-GEL were also found, a list of which is found in the Government's reply. The Government finally stated that the searches conducted at the premises of the said institutions did not have any link with the preparations to the June NATO Summit, but were legitimate actions taken within the limits of the relevant legislation.

937. On 1 July 2004, the Special Rapportuer, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning **Hakim Cetiner, Besir Ariz, Faysal Karadeniz, Saban Boz, Ahmet Bulut, Bayram Bulut, Mehmet Sirin Hatman, Bahire Karatas, Firat Duzgun** and **Iclal Guclu**, journalists, correspondents and cameramen for DYHA, Gün TV, Söz TV, SHOW TV and Kanal 21. They were allegedly assaulted by police officers in Diyarbakir on 28 March 2004, while they were covering the dispersion of a demonstration against alleged electoral fraud that followed the local elections in the city that day. It was alleged that the above-named journalists were beaten with clubs and chains. Mehmet Sirin Hatman, Saban Boz and Bahire Karatas were reportedly hospitalized. Mehmet Sirin Hatman and Bayram Bulut had their arms broken. It was alleged that, during the incident, the police officers damaged their cameras and tried to seize films from the journalists. A number of demonstrators, including Hasan Orak, Ilknur Ozlem, Hida Gulaydin, Vedat Tanriverdi, Muhslis Abik, Bilal Senturk,

Veysi Durudemir and Mustafa Polat, were allegedly beaten with batons and chains by police officers. Some of them were reportedly seriously injured. It was also reported that Zeynep Katar, Seyro Ece and Mehmet Ayata, a lawyer, were wounded during the dispersion of the demonstration and subsequently arrested.

938. On 30 August 2004, the Government of Turkey sent a response to the Special Rapporteur's communication of 1 July 2004 concerning events which allegedly took place on 28 March 2004 in Diyarbakir, Turkey. On 28 March 2004, local elections were held in Turkey. After the preliminary results of the elections were publicized, a group of demonstrators gathered in front of the courthouse Diyarbakir at around 10:30 p.m. and started chanting slogans such as "Long live Chief Apo!" (the convicted leader of the terrorist organization PKK) and "Votes are our honour", and blocked traffic on Elazig Street. The security officers only intervened when an election officer and an accompanying policeman carrying a ballot bag into the same courthouse were assaulted by the demonstrators. One of the demonstrators, Seyro Ece, was taken into custody for having violently resisted the officers and taking part in the incident. Despite being warned, the group did not disperse but went into the nearby Büyükalp Street, still chanting the same slogans. They then marched towards Ekinciler Street continuing their chant and slogans, at which point the police were obliged to intervene. **Mehmet Ayata, Mustafa Polat and Zeynep Katar** (f) violently resisted the police and were also taken into custody. It was then established that Mehmet Ayata was a lawyer registered with the Diyarbakir Bar Association; the Press Prosecutor was immediately informed of his arrest and ordered his release. He asked him to appear before him the following day, together with Mustafa Polat and Ms. Zeynep. The Office filed a lawsuit against the accused on the basis of Law No. 3005 (Procedural code on crimes committed in the presence of witnesses/ flagrante delicto) and on the grounds of having violated Law 2911 (Law on the meetings and demonstration marches). They were released pending trial and their cases were under way at the time this reply was sent. Meanwhile, they all received medical examinations before and after being in custody. According to the examinations carried out before custody, the three accused were suffering from oedema and hyperaemic areas. The medical examination carried out after custody did not show that there were any additional marks, so the conclusions were that their bruises were a result of the forceful arrest during the unauthorized marches in question. In the meantime, seven journalists (Faysal Karadeniz, Mehmet Sirin Hatman, Firat Düzgün, Bayram Bulut, Basiye Karatas, Ahmet Bulut and Besir Ariz) filed a joint complaint at the Yenishir Police station, attaching medical reports from the Diyarbakir State Hospital regarding their physical health. They claimed that they were present when the police intervened in Büyükalp Street and that, afterwards, some 10 to 15 plainclothes policemen attacked the demonstrators and then assaulted the journalists, smashing their cameras and seizing the camera of Basiye Karatas. An investigation into this complaint was underway at the time this reply was sent. Mehmet Hıde Gülaydun and Iclal Güçlü also filed a complaint against the plainclothes policemen. Meanwhile, upon the request of the Minister of the Interior, two Chief Inspectors of the police were assigned to investigate all the above-mentioned cases. These investigations were also under way at the time this reply was sent.

939. On 6 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Abdulhekim Gider**, a lawyer, **Abdullah Gündoğdu**, **Tahsin Atak**, and **Ihsan Gülmek**. According to allegations received, on 30 July 2004, police detained

Abdullah Gündogdu, Tahsin Atak and Ihsan Gülmek in the Pervari district of Siirt Province, on suspicion of aiding and abetting an armed organization, the Kurdistan People's Congress (KONGRA-GEL), formerly known as the Kurdistan Workers' Party (PKK). Their lawyer, Abdulhekim Gider, came to meet with them at the police station in Pervari on 1 August. While he was waiting, a police officer asked him, "How can you defend traitors? This lot are terrorists ... haven't you got a conscience?" When Abdulhekim Gider saw him, Abdullah Gündogdu appeared exhausted and scared and could not stand upright. He said that he had not been given any food since the day he was detained, and that he had been stripped naked and sprayed with cold pressurized water for two-and-a-half hours, especially at his kidney area. He said that he had also had his testicles squeezed and had been beaten on the head. Tahsin Atak and Ihsan Gülmek said that they had not been given food, and both appeared tired and frightened. Tahsin Atak later complained that he had been severely beaten on his body and legs. When his lawyer met with him in prison, there was still blood on his legs and socks. That day, Abdulhekim Gider tried to lodge a complaint that Abdullah Gündogdu had been tortured, but the Pervari prosecutor was reluctant and allegedly tried to persuade him not to do so. When he returned to the prosecutor's office on 2 August, a police officer reportedly pointed his rifle at the lawyer and said to another officer, "I might accidentally pull the trigger". When Abdulhekim Gider went back to the police station to meet with his clients the same day, he was prevented from entering by seven or eight police officers, including the local police chief, who surrounded him and apparently insulted and threatened him, because he had lodged a complaint of torture against them. After he appealed to a senior police officer who came to the station, Abdulhekim Gider was allowed to meet with his clients. As the lawyer left the police station, one of the police officers who had earlier threatened him told him, "Your job is not going to be easy any more". When Abdulhekim Gider asked what this meant, the police officer told him, "Go away! I don't want to see you again. Bad things happen, and they are going to happen". Police have pressured the detained men's relatives to change their lawyer, and police officers in Pervari were reported to have threatened Abdulhekim Gider since then. Groups of police have followed him in the street, and police vehicles have patrolled conspicuously outside buildings where he was conducting meetings with the families of his clients. Abdullah Gündogdu, Tahsin Atak and Ihsan Gülmek were all remanded to Siirt prison at 11 p.m. on 3 August.

940. On 14 October 2004, the Government sent a response to the communication of 6 August 2004 concerning **Abdulhekim Gider, Abdullah Gündogdu, Tahsin Atak, and Ihsan Gülmek**. The Government stated that the three men were suspected of committing crimes of aiding and abetting the KONGRA-GEL/PKK terrorist organization, recruiting new members for it and arranging travel to join its rural cadre. They were detained in respect of this on 30 July 2004 at around 12 noon in Pervari, Siirt. During the search carried out at Mr. Gündogdu's house, the police found clothing and money in local and foreign currencies, which were understood to be transferred to the terrorist organization, along with other logistical supplies and an unlicensed hunting rifle. On the same day, under the authorization and instruction of the Public Prosecutor, they were put into the detention centre at the Pervari Police Station. They were informed of their legal rights and relevant documents were prepared accordingly. They underwent medical examinations the same day. On 3 August 2004, the suspects were taken to the Office of the Prosecutor, and on their way they underwent another medical examination at the Pervari State Hospital. Following their interrogation with the Public Prosecutor, they were referred to the Criminal Court of Peace in Pervari where the court decided to arrest them on the grounds of aiding and abetting the terrorist organization. They were then committed to the prison in Siirt.

Legal proceedings against the three suspects were under way at the time this reply was sent. The Government further stated that Abdulhekim Gider, the lawyer for the detainees, filed a complaint with the Public Prosecutor's Office on 1 August 2004 on the grounds that his clients were subjected to ill-treatment. Since the medical examinations carried out before and after the detention periods concerned showed that there were no signs of ill-treatment, the investigation initiated in this regard was concluded with a decision of non-prosecution. Mr. Gündoğdu appealed against this decision and the appeal was being considered by the Batman Penal Court at the time this reply was sent. On 1 and 2 August 2004, Mr. Gider visited his clients, but he did not appear during the interrogation of the suspects despite having been informed of the time and venue of the interrogation. Moreover, before his second visit, when entering the police station and carrying two black plastic bags, but refusing to present his ID, an argument broke out between him and the security officers during which he threatened the officers.

941. On 7 September 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning:

- **Mahir Mansuroglu, Dilsat Aktas and Ibrahim Karabagli**, three university students, who were severely beaten when they peacefully demonstrated on 2 April 2003 against the visit to Ankara of the Secretary of State of the United States of America;
- **Mesut Kiliç**, a student, who suffered a broken leg as a result of the police's use of force during a demonstration held on 11 April 2003 in Izmir to protest against the war in Iraq. In scenes that were broadcast on national and local television news broadcasts, police were seen dispersing student protesters by beating and kicking them.

942. On 25 November 2004, the Government sent a response to the communication of 7 September 2004 concerning **Mesut Kiliç, Mahir Mansuroglu, Dilsat Aktas and Ibrahim Karabagli**. Concerning Mr. Mansuroglu, Ms. Aktas and Mr. Karabagli, on 2 April 2003 at around 9:15 a.m., they were among a group of 20 people gathered outside the Ministry of Foreign Affairs in Ankara. They blocked the road in protest of the visit to Turkey of Colin Powell, Secretary of State of the United States of America. The police warned them that they were infringing the Law on Meeting and Demonstration Marches, No. 2911, in that they were blocking the road. The police asked them to bring an end to the unlawful gathering and warned them that they would be otherwise detained. The warning was ignored and the group of people continued to march towards the entrance of the building and even threw eggs at the police. The police tried to block their way. Facing resistance, the police were forced to use force in order to disperse them. Ten of them who insisted on forcible resistance to these orders were arrested and detained and legal procedures were lodged against them. Among them were Mahir Mansuroglu, Dilsat Aktas and Ibrahim Karabagli. Moreover, it was stated that their medical reports record symptoms of injuries sustained as a result of having been apprehended by force, but this was a result of having forcefully resisted the police.

Follow-up to previously transmitted communications

943. On 12 March 2004, the Government of Turkey sent a response to the Special Rapporteur's communication of 29 October 2003 concerning the **Human Rights Foundation of Turkey**. The Government stated that the third and last hearing concerning the case of the

Directorate General of Foundations versus the Human Rights Foundation of Turkey was held on 9 March 2004. The legal representatives for the Directorate did not present themselves for the case, showing that they no longer wished to proceed with the case. This case has therefore been taken off the agenda.

944. By letter dated 20 January 2004, the Government replied to the urgent action sent by the Special Rapporteur on 19 December 2003 concerning the situation of **Sezgin Tanrikulu, Sabahattin Korkmaz, Burhan Deyar** and **Habibe Deyar**. The Government reported to the Special Rapporteur that the aforementioned persons had been acquitted on 24 December 2003. He also stated that the Government of Turkey attached great importance to the successful return of displaced citizens and in this respect had launched the "Back to Village and Rehabilitation Project" to enable the return and resettlement of displaced persons, as well as the establishment of the social and economic infrastructure and sustainable living standards for them. The Government stated that it would continue to take all feasible measures for the success of the voluntary return processes and stood ready to cooperate with the relevant international organizations.

Observations

945. The Special Rapporteur thanks the Government for its replies to his communications of 29 October and 19 December 2003, 21 January, 17 February, 3, 10 and 17 March, 25 May, 8 and 11 June, 1 July, 6 August and 7 September 2004. He regrets, however, that he received no replies to his communications of 14 January 2004 and 8 June 2004.

Turkmenistan

946. On 16 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning the 10 February 2004, when **Gurbandurdy Durdykuliev**, a critic of the Government's policies, was forcibly confined to a psychiatric hospital in the town of Nebitdag, in the Balkan region. It was alleged that he was confined solely for the non-violent expression of his political views. Serious concern had been expressed for his safety, in particular about the possibility that inappropriate treatment or psychotropic drugs were administered to him. All access to him was reportedly denied. It was further reported that, on 3 January 2004, Mr. Durdykuliev sent a letter to the President of the Republic and the Governor of the Balkan region urging them to authorize a two-day-long demonstration on the main square of Nebitdag to express disagreement with the policies of the Government. He had also spoken about the necessity of forming an opposition political party.

947. On 4 March 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the question of torture, sent an urgent appeal concerning **Rakhim Esenoy**, a 78-year-old journalist, **Igor Kaprielov**, his son-in-law, and **Ashirkuli Bayriyev**, also a journalist. Rakhim Esenoy was reportedly summoned to the Ministry of National Security (MNB) on 23 February 2004, accused of smuggling 800 copies of his banned novel *Ventsenosny Skitalets (The Crowned Wanderer)* into Turkmenistan. During questioning, Rakhim Esenoy reportedly suffered a stroke and was taken to hospital. He was already in poor health before his detention, having already suffered a heart attack. Two days after his stroke he was reportedly interrogated again and placed in an intensive-

care unit in hospital, where he was under the strict control of the Security Service. The following day at approximately 1 p.m. Security Service officers reportedly took him away from the hospital and the investigator told his daughter that he had been arrested and put into the MNB's investigation-isolation prison. On 23 or 24 February Igor Kaprielov was reportedly taken to MNB and accused of conspiring with Rakhim Esenov in the smuggling of the books. His whereabouts were now unknown at the time this communication was sent. Ashirkuli Bayriyev was reportedly summoned to MNB in the evening of 1 March, possibly because of his close relationship with Rakhim Esenov. It is reported that almost four hours later an MNB officer called his wife to inform her that her husband had been arrested. Concern was expressed that the above-named individuals might have been at risk of being tortured or ill-treated. Moreover, concern was expressed for the health and physical integrity of Rakhim Esenov if he did not receive prompt and adequate medical treatment.

948. On 28 June 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Khalmurat Gylychdurdyev**, a radio correspondent and interviewer for Radio Liberty, an independent radio station, who was reportedly detained by officers of the Ministry of National Security (MNS) on 23 June 2004 and was then believed to be held in incommunicado detention. Khalmurat Gylychdurdyev's was seen for the last time early in the morning of 23 June 2004 when he went to the eye hospital in the capital, Ashgabat, for a checkup following an eye operation. Hospital staff reportedly later told his daughter that when he left the hospital he was taken away by three men in a car. According to his family, MNS officers had come to Khalmurat Gylychdurdyev's house on 22 June when he was recovering from the eye surgery. His relatives reportedly went to the MNS building on 23 June to search for him. However, although they waited until late at night they were not given any information. When they called the officer on duty that evening, they were told that he was talking to "the boss". Since Khalmurat Gylychdurdyev started to give interviews to Radio Liberty several months before, he had reportedly been summoned to MNS several times. An MNS official allegedly urged him to praise President Niyazov in his interviews and he was told to stop being in contact with the radio station if he wanted to avoid any repercussions. Concerns had been expressed that he was at risk of torture and ill-treatment. Khalmurat Gylychdurdyev might have been arrested and detained in order to punish him for giving interviews to Radio Liberty, of the United States of America, that frequently broadcast programmes critical of Turkmenistan's government policies.

949. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning the new religion law that came into force on 10 November 2003, which stipulated the criminalization of unregistered religious activity. The new law also reportedly required religious groups to "coordinate" contacts of foreigners with the Government, and to gain permission before receiving foreign support, such as for funding and religious literature. Recent issues have included:

- On 30 November 2003, the police reportedly raided a Baptist service in Balkanabad (formerly Nebitdag) and took everyone present to a police station. The members of the congregation were accused of breaking the new religion law by worshipping without State registration, and 12 members were subsequently given fines of US\$ 75 each. One woman was reportedly threatened that her children would be taken from her and put in a children's home. The persons

summoned and fined on 23 December 2003 were **Boris Grishin, Olga Vasilieva, Marina Chukileva** and **Lyudmila Tabalenkova**. On 2 January 2004, it was the turn of **Tatyana Kosenchuk, Mariya Vilkova, Maksim Grishin, Yury Kippa** and **Vitaly Konovalov**. A final group was fined on 4 January 2004: **Tariel Ramazanov, Nikolai Matsenko** and **Albina Matsenko**;

- It was reported that the State Security Ministry (MSS) closed down a **Sunni mosque** for not putting the *Ruhnama (Book of the Soul)*, President Saparmurat Niyazov's spiritual writings, on the same stand as the Koran during Friday prayers to be filmed for TV. Mosque leaders allegedly refused to do this, saying it would contradict Islamic teachings to use books other than the Koran in prayers. The MSS reportedly interrogated the mosque leader, banned him from attending the mosque or to hold a position at another mosque, and closed the mosque with locks on the doors;
- On 21 December 2003, Turkmen secret police allegedly raided a **Shia Muslim mosque** in the city of Türkmenbashy (formerly Krasnovodsk) to break up a memorial service for the former Azerbaijani president, Heidar Aliev. It had been reported that the Government has de facto banned Shiah Islamic practice. Hundreds of Muslims, who were from Turkmenistan's ethnic Azeri minority, had reportedly gathered at the mosque at lunchtime intending to share the *sadak*, traditional prayers and a communal meal led by the imam, in order to mark seven days after the death of Aliev, who died in the United States on 12 December.

950. On 20 December 2004, the Permanent Mission of Turkmenistan to the United Nations sent a response to the Special Rapporteur's communication of 14 October 2004 concerning the new religion law that came into force on 10 November 2003. The Government stated that the facts as alleged in the Special Rapporteur's communication did not correspond to the reality. Mention was made to article 11 of the Constitution, which stated that the State guaranteed freedom of religions and beliefs and their equality before the law. Moreover, religious organizations were separated from the State; they may not interfere in affairs of the State or carry out State functions. Furthermore, that everyone has the right to independently determine his/her relation to the religion, to adopt or not any religion individually or jointly, to express and spread beliefs related to religion, to take part in the practice of religious cults, rituals and ceremonies. Moreover, on 21 October 2003, Parliament adopted the Law of Turkmenistan on Freedom of Conscience and Religious Organizations, which ensured the rights of every person to freedom of religious belief, as well as the right to equality before the law irrespective of his/her relation to the religion and belief. On March 10 2004, the President of Turkmenistan signed Decree No. 6627 on Ensuring Religious Freedoms of Citizens in Turkmenistan, whereby registration of religious organizations and groups throughout the territory of Turkmenistan was carried out in accordance with international norms, irrespective of the number of followers, beliefs and religion. Moreover, in May 2004, the Law of Turkmenistan was adopted which abolished criminal liability for activities of religious organizations that were not registered in accordance with the necessary requirements. Finally, the Permanent Mission stated that the Government of Turkmenistan implemented international norms aimed at the observance of religious rights and freedoms of citizens and that there were currently organizations and groups of Muslim, Orthodox Christians, the Church of Seventh-Day Adventists, Bahai, Evangelic Christian Baptists and Krishna groups officially registered in Turkmenistan.

Observations

951. The Special Rapporteur thanks the Government for its reply to his communication of 14 October 2004. He regrets, however, not having received any reply to his communications of 16 February, 4 March and 28 June 2004.

Uganda

952. On 16 February 2004, the Special Rapporteur sent an urgent appeal concerning reports that, in parallel to the welcome ruling of the Supreme Court on 11 February 2004 declaring unconstitutional the provision in section 50 of the Penal Code making it a criminal offence to publish “a false statement, rumor or report which is likely to cause fear or alarm to the public” as a result of a petition filed in 1997 by the managing editor of the newspaper *The Monitor* and one of its reporters, there were reports of harassment of the media, in particular of *The Monitor*, which was often critical of the Government’s policies. There was also harassment of its journalists by the authorities, using other legal means. It was reported that, on 5 February 2004, *The Monitor* published an article about an ongoing inquiry into so-called ghost soldiers in the national army, referring to names on the army’s personnel lists that did not correspond to real soldiers, even though salaries were being drawn for them. The Government reportedly obtained a High Court injunction stopping the newspaper from publishing any other details about the investigation, on the basis of the authorities’ claims that the details of the inquiry were “of a highly sensitive and classified security nature”. Reports also indicated that in January 2004, army spokesman several times accused **Andrew Mwenda**, who now directs *The Monitor*’s radio station, “Monitor FM”, and former *Monitor* editor **Wanyama Wangah** of collaborating with rebels of the Lord’s Resistance Army (LRA) after the army said it found the journalists’ phone numbers on the body of a slain LRA commander. The journalists had denied such links. It was believed that, at the time this communication was sent, the journalists had not yet been formally charged of any crime, but accusations were said to have been made in the context of the 2002 Anti-Terrorism Act, which stated that anyone found to have any dealings with anyone the Government considers a “terrorist” faces punishment ranging from lengthy prison sentences to the death penalty. In December 2003, reports indicated that the Government was granted another High Court injunction, after *The Monitor* reported that the Constitutional Review Commission had rejected a Cabinet proposal to lift the two-term limit on the presidency, which would allow President Yoweri Museveni to run again in the next presidential elections. It was alleged that, in the incriminated article, the newspaper promised to release further details, but that the injunction prevented it.

953. On 28 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning:

- **Mugisha Kafureeka**, a lawyer and a PhD candidate. He was allegedly arrested as he was leaving Makerere University on 19 April 2002 and taken to his residence by the police, accompanied by 15 other vehicles full of agents belonging to the Chieftaincy of Military Intelligence (CMI), the Internal Security Organization (ISO) and members of the Criminal Investigation Division (CID). His house was allegedly searched without a warrant and some of his young cousins were arrested as well. It was reported that he was officially held at the central police station in Kampala, but taken out on a daily basis to the headquarters of CMI to be

questioned about his alleged activities with the Reform Agenda and with rebels believed to be associated with them, which he denied. On the second day of his interrogation he was allegedly whipped with a long cable made of rubber and wire, hit on the buttocks, the bottoms of his feet, and kicked in the back. It was alleged that he was returned to the police nightly and subjected to a similar treatment on following days. After four days in detention, his family reportedly took legal action, and his friends alerted the press. He was reportedly then taken to CID to make a statement to the police, where he again denied everything. On the seventh day of captivity, he was reportedly taken to the Magistrates' Court and charged with treason. He was reportedly transferred to Kigo Prison, and allegedly brought back to the Magistrates' Court every two weeks, at which time the magistrate would grant a request for another two-week postponement. On this basis, he was reportedly kept in Kigo Prison for a year. It was alleged, that on the day he was released on bail in May 2003, he was rearrested outside the court building by CMI for further questioning and released a few days later after being kept in a garage at the Joint Anti-Terrorism Task Force (JATF), with several beaten prisoners. The prisoners were reportedly all released after an admonishment by the head of JAFT and after CMI warned him not to try to take revenge;

- **Charles Ekemu** was allegedly arrested at his home in Soroti in early January 2003 by plainclothes men, then handcuffed, blindfolded and driven to a building in Kampala. He reportedly sat alone for three days blindfolded, and was allegedly warned not to move or he would fall into a pit. He was reportedly forced to write an incriminating statement. It was alleged that, eight days after his arrest, he and others were taken to CID headquarters, where they found nine Members of Parliament (MP) waiting for them in the office of the Minister of State Security. He was reportedly charged on 17 January 2003 with treason for allegedly plotting between 2001 and January 2003 to overthrow the Government and of establishing with others the People's Redemption Army.

954. On 11 October 2004, the Special Rapporteur sent a letter of allegation concerning the 8 January 2004 events, when the Broadcasting Council, which regulated television and radio stations in the country, reportedly seized the transmitters of four radio stations in Kampala. The targeted stations were **Kampala African Radio, Mama FM, Kampala FM** and **Top Radio**. The transmitter of Top TV television station was also confiscated. According to the information received, the media outlets had not paid their operating permits of 3 million shillings. Apparently, almost half of the approximate 100 radio stations and three television stations operating in the country were in the same situation. These radio and TV stations reportedly do not broadcast advertisements and therefore do not have resources on their own, unlike commercial stations.

955. On 26 November 2004, the Government of Uganda sent a response to the Special Rapporteur's communication of 11 October 2004 concerning the alleged closure of **radio stations** in Uganda. The Government stated that the radio stations in question failed to pay their licence fees from 1998 to 2003 and, for this reason, they were closed down as provided by law. This was part of a country-wide policy to collect arrears. There was no intended or malicious intent to infringe on their rights to freedom of opinion and expression. It was a mere

routine operational exercise that covered the whole country. All the said stations had since come into conformity with the rules and regulations. At the time this reply was sent, they were registered as commercial stations. However, their status could be changed once they have paid their new licences to benefit from the new policy and have the station recognized as being public or community.

Observations

956. The Special Rapporteur thanks the Government for its reply to his communication of 11 October 2004. He regrets, however, not having received any replies to his communications of 16 February 2004 and 28 June 2004.

Ukraine

957. On 5 February 2004, the Special Rapporteur sent an urgent appeal concerning **Volodymyr Boyko**, journalist with the weekly *Ostrov*. According to information received, in November 2003, when the current General Prosecutor was Vice Speaker of the Parliament and a candidate for the position of general prosecutor, allegations were made in an article by Mr. Boyko published in *Ostrov* concerning the General Prosecutor's involvement in corruption and abuse of power in Donetsk, where he had been prosecutor between 1992 and 1996. In the parliamentary session during which the General Prosecutor was so appointed, he reportedly noted that a legal case had been initiated as a result of the article and that he would do everything in his power to see it brought forward. Subsequently, at a press conference held on 18 December 2003, the General Prosecutor reportedly publicly stated that a court decision against Mr. Boyko had already been taken, although it seemed that the journalist, who was at the audience, had not heard of the decision. He requested the relevant documents from General Prosecutor, who allegedly assured him that the court documents would be provided following the press conference, which reportedly did not happen. It was reported that, on the same day, the flat in Donetsk where Mr. Boyko's 75-year-old mother lived was searched by State officials from the General Prosecutor's Office, who allegedly referred to the same court decision to justify the search, although they did not provide Mr. Boyko's mother with any supporting documents. It was reported that they took the flat's ownership documents from her. It was further reported that the bank account of the newspaper *Ostrov* was frozen, as is the procedure when a court case is initiated against a newspaper. Yet it reportedly received no information on the case's details and it was reported that neither Mr. Boyko nor the agency Fortuna, which publishes *Ostrov*, were summoned to court. Reports also indicated that, in June 2002, Mr. Boyko was arrested by the tax police allegedly for tax evasion after he published a series of articles on the General Prosecutor's alleged corruption and the work of the Donetsk region tax police, and detained for a week. In February 2003, Mr. Boyko reportedly sued the Donetsk Prosecutor's Office and requested compensation for moral damages due to his detention. It was alleged that the case was closed and re-opened several times, and that it was suspended for lack of evidence, as the office of the Donetsk Prosecutor reportedly refused to provide the court with the relevant documentation.

958. On 9 March 2004, the Government of Ukraine sent a response to the Special Rapporteur's communication of 5 February 2004 concerning **Volodymyr Boyko**, a journalist with the weekly *Ostrov*. The Government stated that, on 10 May 2002, the Office of the Kuibyshev district procurator in Donetsk, in accordance with article 212, paragraph 2, of the

Ukrainian Criminal Code, instituted criminal proceedings against Volodymyr Boyko, who at the time was director of the private scientific and industrial enterprise Khemakom for having to file tax declarations. On 5 July 2002, the court decided that Volodymyr Boyko should be released on bail. On 16 August 2002, the Donetsk oblast court of appeal decided that Volodymyr Boyko's detention was unlawful. On 8 September 2002, the investigating officer of the State tax inspectorate's tax militia office in Donetsk filed charges against Volodymyr Boyko under article 212, paragraph 1, and article 364, paragraph 2, of the Criminal Code for deliberate evasion of taxes and abuse of an official position entailing serious consequences. On 23 December 2003, the deputy director of the investigative department of the State tax inspectorate's tax militia office in Lugansk, decided to suspend the criminal proceedings against Volodymyr Boyko on the grounds that no crime had been committed. The Office of the Procurator General agreed with this decision. Volodymyr Boyko then filed a claim for compensation for damages. No decision was taken on this case. Volodymyr Boyko was then involved in the publication of fictitious articles. On 12 November 2003, the Kiev district court in Donetsk decided against him and in favour of the plaintiff who had filed charges against Mr. Boyko for publishing false information. The court's decision, which requested the weekly newspaper concerned for Volodymyr Boyko's article to retract the article publicly and to pay the plaintiff 50,000 hryvniuas. Despite having notified Volodymyr Boyko of the decision many times, he did not appeal. Not having paid the fine ordered by the court, on 19 December 2003 the relevant State authority in Kiev district of Donetsk seized the monetary assets in Mr. Boyko's home and confiscated the title deeds of the apartment, which were then returned to him on 30 January 2004. The Government stated that such an action should not be regarded as a search, since it was carried out lawfully and on the basis of a valid court decision. The procuratorial authorities were not involved in any way. Mr. Volodymyr Boyko also filed a case concerning the way in which State officials had enforced the court's decision. This case was still under way at the time this reply was sent.

959. On 13 February 2004, the Special Rapporteur sent an urgent appeal concerning the **alleged decision by the new management of Radio "Dovira" ("Trust")** to cancel the Ukrainian-language broadcasts by Radio Liberty, the United States-funded international communications service. According to information received, the ban, which reportedly was to take effect from 17 February 2004, had been announced by the new management of Radio Dovira, which for the past five years had been re-transmitting morning and evening broadcasts of Radio Liberty on its FM frequency throughout the country. It was believed that, although the announcement was made in the context of plans to change the concept of the radio station, the new management, which was alleged to be linked to the ruling Social Democratic Party, might have taken this decision in the context of the run-up to national elections next October.

960. On 17 March 2004, the Special Rapporteur sent a letter of allegation concerning reports of recent closures of media outlets and pressures on journalists and media workers in Ukraine, which were believed to have been aimed at limiting access of the public to independent information in the run-up to the Presidential elections in October. According to information received, in January 2004, the Shevchenkivskyy District Court ordered the closure of the opposition daily *Silski Visti*, based in Kiev, allegedly for publishing two advertisements in September 2003 for a book that was widely considered anti-Semitic. However, it was believed that the issue of anti-Semitism was used as a pretext to close *Silski Visti*, which was a widely read newspaper, often critical of the Government and supportive of the opposition Socialist Party of Ukraine (SPU) in an election year. As well, there had reportedly been other instances recently of ethnically sensitive materials in Ukraine media that went unnoticed by the authorities. It was

also reported that **Oleh Eltsov**, editor-in-chief of the online newspaper *Ukraina Kryminalna* (*Criminal Ukraine*), was shot at with rubber bullets near his residence in Kiev on 12 January 2004 by unidentified assailants. It was reported that Mr. Eltsov did not sustain serious injuries. It was alleged that, under Mr. Eltsov's editorship, the newspaper has been very critical of the Government. Reports also indicated that the private radio station Dovira decided to discontinue its rebroadcasts of the Ukraine Service news bulletins of Radio Free Europe/Radio Liberty (RFE/RL) as of 17 February, which it had carried for the past five years. It was alleged that the decision came one month after the appointment of a supporter of the President and a former member of the ruling Social Democratic Party. Further reports indicated that on 27 February, the independent radio station Kontinent added a daily two-hour rebroadcast of RFE/RL's Ukrainian Service programming on its 100.9 FM frequency. However, five days later, Kontinent was reportedly raided by police and taken off the air, allegedly on the orders of the Ukrainian State Center for Radio Frequencies and Supervision for Telecommunication (Ukrchastotnaglyad), the regulatory body responsible for assigning radio frequencies, allegedly because of Kontinent's expired broadcasting license. However, it was believed that Kontinent's broadcasting licence had expired in 2001, and this might have been used as a pretext to close down the radio station, which had reportedly often supported the opposition and aired news bulletins from foreign media. A few days before, Serhiy Sholokh, the director of Radio Kontinent, apparently fled from Ukraine after he received threats, allegedly from representatives of the Social Democratic Party, headed by presidential chief of staff; the station came under pressure when it announced it would start re-broadcasting Radio Liberty programmes. On 3 March, **Heorhiy Chechyk**, the director of the private radio and television company Yuta, which owns FM Radio Poltava Plus, was reportedly killed when his car collided with another vehicle in the Pyryatin District, 344 kilometres east of Kyiv, while he was allegedly driving to a meeting with executives from the Ukrainian service of RFE/RL to discuss rebroadcasting their news bulletin. Although the authorities concluded that the car crash was an accident, some reports have suggested that the circumstances of the crash were suspicious.

961. On 12 May 2004, the Government of Ukraine sent a response to the Special Rapporteur's communication of 17 March 2004 concerning the closure of media outlets and pressure on journalists and media workers in Ukraine. The Government stated that the implementation of the constitutional rights of citizens to freedom of speech and information, the development of a State information resource, information security and protection of national interests are the top-priority issues in Ukraine. The Government also stated that the so-called problematic cases raised were of a commercial or legal character and had no relations to undermining mass-media rights in Ukraine. For example, the decision by the courts to close the newspaper *Silski Visti* on 28 January 2004 was taken on the grounds of violation by the newspaper of paragraph 1, article 3, of the Law on the Press. This was caused by its dissemination of information that unleashes inter-ethnic hostility. The TV programme "Fifth Channel" was involved in a two-year court case, and the case was still pending. Radio Kontinent was shut down after broadcasting without the required licence on the relevant radio frequency. Moreover, the conflict between Radio Dovira and Radio Liberty was purely commercial in nature. The General Prosecutor's Office and the Ministry of Interiors were taking all measures to reveal all the cases concerning allegations of death threats received by journalists. Investigations into the murder of **Mr. Gongadze** was under way, even taking into consideration the possible involvement of law-enforcement officials. The Investigative Operational Group of the General Prosecutor's Office of Ukraine carried out investigations into the assault on **Mr. Alexandrov**,

Director General of the TV Company TOP. Both the organizers and the executors of this crime were identified and the accused was under detention. Investigations into this case and other related cases were under way, pending which the case would not be transmitted to the court. The Public Prosecutor's Office of Melitopol was carrying investigations into the death of **Mr. Karachevtsev**, editor-in-chief of the local newspaper *Right of Choice*. However, preliminary investigations showed that his death was not the result of third-party actions. The death of **Mr. Kolomiets**, chief of the Ukrainian News Agency was found to be one of suicide. The director of the regional TV/radio company YUTA died in a traffic accident. Investigations concerning the editor-in-chief of the online newspaper *Ukraina Kryminalna*, Mr. Eltsov, were under way.

962. On 30 September 2004, the Special Rapporteur sent a letter of allegation concerning:

- On 14 December 2003, **Volodymyr Karachevtsev**, deputy editor-in-chief of the weekly *Kurier*, correspondent for the online newspaper *Vlasti.net* and chair of the regional independent journalists' union in Zaporozhie, was found hanged from the handle of the refrigerator in his Melitopol home. The journalist had been working on investigations into corruption cases involving local politicians;
- On 12 January 2004, **Oleg Eltsov**, editor-in-chief of the online newspaper *Ukraina Kryminalna*, was victim of a shooting attack. One or two unidentified assailants fired rubber bullets at him, close to his Kiev home, before fleeing in a car. The journalist was shot in the leg and torso in the accident, but escaped without serious injuries;
- On 6 April 2004, **Dmitry Pozhydayev**, webmaster of the online publication "Crimean Linia", was attacked by four skinheads. He suffered a concussion and head injuries. The website carried articles criticizing local Communist Party leader Leonid Grach and one of his associates. The website also ran a series of articles about skinheads in Crimea;
- On 22 May 2004, **Kostyantyn Sydorenko**, aged 28, was arrested in Mukashevo while covering the city's mayoral election for the website www.hotline.com.ua, specializing in election monitoring in Ukraine. On 25 May 2004, the journalist was sentenced to five days in detention for "resisting the security forces";
- On 23 May 2004, **Olexandre Pomytkin**, aged 43, journalist for the online newspaper *Ukrayina kriminalna*, was arrested in Kharkiv and charged with theft and fraud. The journalist was known for investigating alleged corruption within the security forces. He published a book entitled, *The Ukrainian Mafia*, which discussed relations between police and the criminal underworld, particularly in relation to drug trafficking;
- On 28 May 2004, **Petro Kobevko**, editor-in-chief of the weekly *Chas* in Chernivtsi, was attacked by three unidentified men. Petro Kobevko was badly bruised on the head and face after an unidentified man came to his office, said he had compromising information about a member of Parliament and asked the journalist to follow him. As Petro Kobevko left his office, the man struck him. Two other unidentified men were waiting outside his office.

Observations

963. The Special Rapporteur thanks the Government for its replies to his communications of 5 February and 17 March 2004. He regrets, however, not having received any reply to his communication of 13 March 2004. Concerning the Government's reply to his communication of 30 September 2004, the Special Rapporteur regrets that, at the time this report was finalized, the translation of this reply was not completed.

United Kingdom of Great Britain and Northern Ireland

964. On 11 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning N.K. (f), a 24-year-old Nepalese citizen from Khotang District, who was reportedly at risk of immediate deportation from the United Kingdom of Great Britain and Northern Ireland to Nepal, where she would be at risk of detention, torture and gender-specific violence on grounds of her political opinion and activities as a human rights defender. It was also alleged that she had been subjected to death threats in Nepal. On 3 March 2001, N.K. reportedly participated in a procession organized by the Maoists from Khotang district, which advocated human rights, against corruption in government and police power, and for land reform. There, N.K. and other members of the procession were arrested; she was reportedly placed in a police van where she was kicked and slapped by officers. At the detention centre at Katamchka police station, N.K. was reportedly beaten badly, sexually assaulted and had her hair pulled. She was released a week after her family managed to pay a bribe at the police station. As a result of the ill-treatment, she was unable to walk for a number of weeks. N.K. belongs to a family of active Maoists; her father was said to be the leader of the Maoists in the Khotang district. Her older brother and four other Maoists were said to have been tortured after having been arrested at a meeting on 16 April 2001 and detained for a week at the police station. Her family subsequently fled to Kathmandu before her father and brother finally decided to flee the country. As a female member of the Maoists, her activities were reportedly considered high-profile and she was at risk of gender-specific violence. The police reportedly suspected her of carrying messages to Maoist rebels. N.K. fled Nepal on 22 June 2001 and reportedly arrived in the United Kingdom on 22 June 2001; she claimed asylum on 11 July 2001. Her asylum claim was reportedly refused by the Home Office by a letter dated 5 October 2001 on the grounds that she had left with a valid passport, and that—if she was a genuine refugee—she would have left Nepal earlier. Her asylum appeal was heard by a special adjudicator on 14 October 2002 and dismissed on asylum and human rights grounds on 13 January 2003. The special adjudicator stated that her political activities were incompatible with the description of the activities of the Communist Party of Nepal, that the evidence concerning the appellant's arrest was not in line with country information, and there was a discrepancy in the date of her first arrest. An application for leave to appeal to the Immigration Appeal Tribunal (IAT) was refused on 21 March 2003, on the basis that the adjudicator was entitled to make her negative-credibility findings regarding N.K. An application to judicially review the decision of the Immigration Appeals Tribunal was made, however, and no permission was granted by the High Court on 4 August 2003. An application f to the Court of Appeal was refused in a decision dated 19 December 2003. An application to the European Court of Human Rights, Strasbourg (Application No. 4346/06), was made on 1 February 2004, and the court stated by letter dated 9 June that they would not seek interim measures. On 10 June, the Government of the United Kingdom reportedly tried to remove N.K., who refused to be deported. At the time this

communication was sent, she was believed to be detained at London Heathrow Terminal 2. The Government was said to be arranging an escort to deport her at the first available opportunity.

965. On 28 July 2004, the Government of the United Kingdom sent a response to the Special Rapporteur's communication of 11 June 2004 concerning **N.K.**, a Nepalese national. The Government stated that the United Kingdom had in place well-established procedures for the assessment of applications involving asylum and human rights issues. The decision to detain N.K. on 8 June 2004 was not arbitrary and was made in the belief that she would be removed on 9 June 2004. These arrangements were cancelled following the Special Rapporteurs' intervention and after she made another application to remain in the United Kingdom. Once it became clear that there was no immediate intention of removing N.K., she was released from detention on 17 June 2004. Since N.K. was refused asylum, she made full use of the avenues available to challenge this decision and had legal representation throughout. Her case was examined by the Immigration Appeal Tribunal, the Administrative Court, the Court of Appeal and the European Court of Human Rights, none of which found it necessary to re-open her case. Her case was carefully examined in line with national and international obligations, including the Convention relating to the Status of Refugees and the European Convention on Human Rights. The Government, however, had concluded that she did not face persecution or a real risk of detention, torture or inhuman and degrading treatment or other forms of mistreatment on account of her political opinion, if she were returned to Nepal. N.K. had made an application to remain in the United Kingdom on the basis of her relationship to a person settled here. No action was to be taken to remove her until this case is resolved.

966. On 2 August 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **El Hebib Degharbi**, a 45-year-old Algerian national, originally from Djelfa, and residing in Nottingham. According to the allegations received, he was at risk of imminent forcible return to Algeria, following the rejection of his application for asylum in the United Kingdom. Originally a music teacher, El Hebib Degharbi, living in the United Kingdom since 1998, was a former member of the banned Islamic Salvation Front. He was a political opposition activist, as well as a member of the human rights organizations Algerian League for the Defense of the Human's Rights and Algeria Watch, a collective of families of missing persons in Algeria, as well as a contributor to the website www.investigaction.com. Prior to his departure from Algeria, he was reportedly arrested for his involvement in student protests in 1978, 1988 and in May 1991, when he was ill-treated in detention. It was reported that 18 members and friends of his family were victims of a massacre in 1997. Concern was expressed that El Hebib Degharbi might have been at risk of torture and other forms of ill-treatment were he to be forcibly returned to Algeria.

Observations

967. The Special Rapporteur thanks the Government for its reply to his communication of 11 June 2004, but regrets not having received any reply to his communication of 2 August 2004 at the time this report was finalized.

United States of America

968. On 3 March 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning

the reported refusal of authorities to allow observers from three human rights groups permission to attend and observe military commission trials of detainees at Guantánamo Bay, Cuba, and the alleged restriction on freedom of expression imposed on lawyers. According to the information received, **Amnesty International**, **Human Rights First** and **Human Rights Watch**, and international non-governmental human rights organizations, reportedly wrote to the United States' Department of Defense in May 2003, requesting permission to observe the military commission trial proceedings, in follow-up to the United States administration's commitment that the commission would be open to the public. It was reported that, in January and February 2004, respectively, Amnesty International and Human Rights Watch received a written response from the Department of Defense reportedly denying them access to the military commissions on the basis of "limited courtroom seating and other logistical issues". The letter also reportedly stated that seating would only be provided to select members of the press and to the International Committee of the Red Cross. Human Rights First had reportedly not yet received a response to its request. According to the information received, on 20 February 2004 the three organizations sent a joint letter to the Secretary of Defense protesting their exclusion from the proceedings. It was further reported that, under the military commission rules, civilian and military lawyers could reportedly only speak to the press once they have received permission from the military officials in charge of the proceedings and that the granting of permission might reportedly be limited to certain topics. Concern had been expressed that the reported denial of access for these independent human rights organizations to trial proceedings in Guantanamo Bay might represent an attempt to limit independent scrutiny of the military commission proceedings and that the denial would weaken the international human rights monitoring activities undertaken by these organizations. Additional concerns were expressed that the restrictions reportedly imposed upon lawyers involved in the proceedings might infringe upon their independence and compromise the obligation to assure a fair trial.

969. On 7 June 2004, the Special Rapporteur sent an urgent appeal concerning reports that on 21 May 2004, a military court sentenced **Staff Sergeant Camilo Mejia Castillo** of the Florida National Guard to the maximum penalty of one year's imprisonment for desertion. According to information received, Mr. Castillo reportedly refused to return to his unit in Iraq, citing moral reasons, the legality of the war and the conduct of American troops towards Iraqi civilians and prisoners. Reports mentioned that Mr. Castillo was deployed to Iraq in April 2003, and when he returned home in October 2003 for two weeks' leave, he failed to return to duty in Iraq and filed for discharge as a conscientious objector on 16 March 2004. He stated that he believed the war and occupation of Iraq to be "illegal and immoral". It was reported that, in his conscientious objector application, Mr. Castillo described the conditions of detention and treatment of Iraqi prisoners and the killing of civilians, including children, which made his beliefs evolve and compelled him to take a stand on the basis of conscience. It was further reported that the sentence was imposed despite the fact that the decision by the army on his application for conscientious-objector status was pending and that, during the trial, his lawyers were not permitted to present arguments relating to his conscientious objection, including describing the abuse he witnessed. Mr. Castillo was reportedly currently detained in a military prison at Fort Sill, Oklahoma, although the sentence was under appeal at the time this communication was sent.

970. On 17 August 2004, the Special Rapporteur sent an urgent appeal regarding **Matthew Cooper**, a reporter for *Time* magazine. According to the information received, on 6 August 2004, a federal judge ordered his "confinement" for contempt of court after he

allegedly refused to testify and reveal his sources before a grand jury investigating the possibly illegal disclosure of the identity of a CIA operative. On 17 July 2003, Matthew Cooper had reportedly wrote in *Time* magazine that government officials had told the media who the CID operative was, information that was already made public in the *Washington Post* three days earlier. It was also reported that the *Time* was ordered to pay US\$ 1,000 for every day Cooper refused to reveal his sources regarding the identity of the CID operative. The two rulings were immediately suspended pending appeal.

Observations

971. The Special Rapporteur regrets not having received any replies to his communications at the time this report was finalized.

Uzbekistan

972. On 19 January 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Ruslan Sharipov**, a 25-year old journalist and human rights defender whose case was already subject of other communications sent on 5 June 2003 (E/CN.4/2004/62/Add.1) by the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on human rights defenders and, on 13 August and 1 October 2003 (E/CN.4/2004/62/Add.1), by the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on human rights defenders. According to information received, Ruslan Sharipov was allegedly excluded from a general amnesty announced in December 2003 by the President, reportedly on the ground that the crime he committed was "too serious". According to previous information, Ruslan Sharipov was arrested on 29 May 2003 and convicted on 13 August by the Tashkent City Court on charges of homosexual conduct, sex with a minor and involving minors in "antisocial behavior" (arts. 120, 128 and 127 of the Criminal Code). He was reportedly first sentenced to five and a half years in prison, a duration which was subsequently reduced to four years following his appeal in September, despite reports indicating that forensic medical tests conducted after his arrest found no evidence of sexual relations with minors and despite reported evidence that his confessions were obtained under duress. Reports also indicated that Mr. Sharipov might have been framed in connection to his human rights activities, including his reporting on police corruption and human rights abuses in the country. Fear was expressed that his exclusion from the presidential general amnesty might have been aimed at further targeting him for his activities in the defense of human rights. It was reported that calls had been made for the presidential general amnesty to extend to his conviction.

973. On 16 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Fatima Mukhadirova**, a 62-year-old woman, who was reportedly sentenced on 12 February 2004 in a closed court hearing to six years in prison with hard labour for possession of unsanctioned religious literature, membership in a prohibited religious organization, and "attempted encroachment on the constitutional order". The authorities alleged that Fatima Mukhadirova was a member of Hizb ut-Tahrir (Party of Liberation), a non-violent Muslim group advocating the peaceful

establishment of an Islamic state in Uzbekistan. It was believed that Ms. Mukhadirova, whose youngest son was reportedly also in prison on charges of Hizb ut-Tahrir membership, might have been arrested for having spoken out against the ongoing arrests of independent Muslims and for having reported on the case of her eldest son, Muzafar Avazov, a religious prisoner who died from torture in prison in August 2002, during the mission of the Special Rapporteur on the question of torture in Uzbekistan (see E/CN.4/2004/62/Add.1, for urgent appeal sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression, 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 on 22 October 2003).

974. On 8 and 27 February 2004, the Government sent a response to the Special Rapporteur's communication of 16 February 2004 stating that on 24 February 2004 the sentence adopted by the Shayhantohur District Court on 12 February 2004 with regard to **Fatima Mukhadirova** was revised. On the basis of articles 57 and 60 of the Criminal Code, the previous ruling of six years' imprisonment was replaced with a fine, and she was released from imprisonment.

975. On 25 February 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Fatima Mukhadirova**, whose case was the subject of a joint urgent appeal by the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 22 October 2003 (E/CN.4/2004/62/Add.1). The Government responded on 28 November 2003, and another urgent appeal was sent by the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on torture on 16 February 2004. According to information received, on 12 February 2004 Fatima Mukhadirova was sentenced in a closed court hearing for possession of unsanctioned religious literature, membership of prohibited religious organizations and unconstitutional activities. It had been alleged that the accusations were unproven and that her arrest might have been linked to her having raised the case of the death of her son, Muzafar Avazov, a religious prisoner who reportedly died from torture in August 2002, with international bodies. In particular she raised the issue in a meeting with the Special Rapporteur on the question of torture. On 24 February 2004, Tashkent city court reportedly decided to release Fatima Mukhadirova, on the grounds of her gender and her old age, and sentenced her to pay a fine of 280,000 sums, which was reportedly equal to two-thirds of the average annual income. The Special Rapporteur welcomed the reported release of Ms. Mukhadirova. He expressed his concern, however, at the fine imposed on her. Fear had been expressed that the heavy fine imposed on Fatima Mukhadirova might represent an attempt to hinder her human rights activities and in particular her efforts to obtain an investigation into the death of her son in custody.

976. By letter dated 1 March 2004, the Government replied to the urgent appeal sent on 25 February 2004. The Government reported that, on 24 February 2004, the court of appeal, second instance, of the Tashkent City Court on criminal cases revised the sentence adopted by the Shayhantohur District Court on 12 February 2004 with regard to **Fatima Mukhadirova**. The court replaced the previous ruling of six years' imprisonment with a fine under articles 57 and 60 of the Criminal Code. According the reply, Ms. Mukhadirova had been released from imprisonment.

977. On 26 February 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Muidinjon Kurbanov**, chairman of a regional branch of the Human Rights Society of Uzbekistan (HRSU) and of a coalition of human rights organizations, as well as chairman of the Jizzakh province branch of Birlik (Unity), an opposition and pro-democracy political movement. According to information received, on 5 January 2004, Muidinjon Kurbanov was reportedly taken to the provincial Department of Internal Affairs by officers from the Jizzakh Province Department for Anti-Terrorism and Narcotics, interrogated for several hours about his human rights and political activities and asked to reappear for further interrogation the following day. On 16 February 2004, he was reportedly arrested on weapons and narcotics charges, after police conducted an allegedly illegal search of his property. According to information received, the police reportedly found weapons and narcotics in a chicken coop close to his home. It was reported that his wife recounted that, on 6 February 2004, an unknown man had entered the courtyard and ran away when she went to investigate. It was further alleged that the following morning, she found that the lock of the chicken coop had been opened, raising suspicions that the evidence might have been planted. Muidinjon Kurbanov was reportedly held incommunicado for three days, during which he was allegedly interrogated, threatened and forced to sign a confession dictated by the police. In particular, it was alleged that the police threatened that if he did not confess to the charges they would bring in his wife and take him to the basement where they would "show him" why he should confess. Muidinjon Kurbanov was reportedly denied access to his lawyer until 20 February 2004, after the latter filed a complaint with the procuracy. Muidinjon Kurbanov was reportedly in custody at the Jizzakh City Department of Internal Affairs at the time this communication was sent. Fears had been expressed that he was at risk of ill-treatment. Concern had also been expressed that his arrest might have been linked to his human rights and political work. Concern was heightened by the fact that Muidinjon Kurbanov had already been arrested in 1998 on trumped-up narcotics charges. On that occasion, he was reportedly threatened with charges of religious extremism, and repeatedly beaten while in custody, which reportedly caused one of his kidneys to burst.

978. By letter dated 22 April 2004, the Government replied to the urgent appeal sent on 26 February 2004. The Government stated that, on 16 February 2004, a search was made in the home and adjacent premises of **Muidinjon Kurbanov**, based on a decision approved by the procurator of Zarbdar district, Djizik oblast. On 19 February 2004, Mr. Kurbanov was charged based on findings of weapons, munitions and narcotics during this search. According to the reply, Mr. Kurbanov was held criminally liable for the commission of offences, unrelated to his human rights protection activities. The Government informed that he was detained in accordance with the Code of Criminal Procedure, and that, on 27 February 2004, this measure was changed to signature of a pledge of good conduct. It stated that three lawyers represented him during the investigation, and that they participated when the basic investigative measures were carried out. According to the reply, the preliminary investigation into the case had ended, and, on 1 March 2004, the case was referred to the court for consideration of the merits.

979. On 6 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning reports of widespread arrests, allegedly targeting **Muslims** who practised their faith outside government religious institutions and their relatives, following the terrorist attacks in Tashkent in the week preceding the time this communication was sent. It was alleged that, immediately after the first incidents of violence,

which reportedly began on 29 March 2004, police initiated a campaign of “preventive” measures, targeting former religious prisoners and their relatives for detention and interrogation. It was alleged that, at 10 p.m. on 29 March, **Dilshod Mamurov** was taken from his home by police to the Sobir Rakhimov police department in Tashkent. The police allegedly denied that they were holding him, refused to say where he had been taken, but reportedly revealed two days later that he was being held in the Tashkent City Police Department, and did not allow any visits. It was not clear whether he was charged with any offence. In 1999, Mr. Mamurov received a three-year suspended sentence for alleged membership in Hizb ut-Tahrir. It was alleged that he was tortured during his detention in 1999. On 29 March the police allegedly arrested **Akiljon Ziahonov**, a former religious prisoner who was accused of “Wahhabism”, and was reportedly held incommunicado at the Tashkent City Department of Internal Affairs. It was alleged that **Bobur Makhmudov** was arrested at his home on the night of 30 March by about nine plainclothes officers, and the authorities refused to disclose his whereabouts. His father, Mamadali Makhmudov, a writer, was reportedly sentenced to 14 years in prison in 1999 on allegedly fabricated charges of participating in a “criminal society” and using the mass media to publicly insult the president of Uzbekistan. In view of their alleged detention incommunicado, concern was expressed that the above-named persons might have been at risk of torture or other forms of ill-treatment.

980. By letter dated 27 May 2004, the Government provided the following information. On 30 March 2004, **Dilshod Mukhtarovich Mamurov** was detained by officers of the Sabir Rakhimov District Internal Affairs Authority of the City of Tashkent on suspicion of anti-constitutional activities as a member of the “Khizb-ut-Takhrir”, a banned religious extremist organization. On 2 April 2004, he was charged under Criminal Code articles 159, concerning infringement of the constitutional order, and 244, concerning preparation or distribution of material containing threats to public security and public order, and formation, leadership or membership of religious extremist, separatist, fundamentalist or other banned organizations. On the same day, with the procurator’s authorization, detention in custody was chosen in his respect as a preventive measure. A decision regarding D. Mamurov was to be taken on the basis of the findings of the preliminary examination into the criminal case. On 30 March 2004 **Akil Khan Musaevich Ziakhanov** was detained by officers of the Tashkent Main Internal Affairs Authority in connection with the discovery of literature issued by the “Khizb-ut-Takhrir”. A criminal case was opened on 1 April 2004, and he was charged with infringement of the constitutional order, and preparation or distribution of material containing threats to public security and public order. On 2 April 2004, with the procurator’s authorization, detention in custody was chosen in his respect as a preventive measure. A preliminary investigation into this case was being conducted and a decision concerning him was to be taken on the basis of its findings. On 30 March 2004, during an inspection made by officers of the Mirzo Ulugbek District Internal Affairs Authority of the City of Tashkent, **Babur Mamadalievich Makhmudov** was found not to have documents confirming his identity and, therefore, by a decision of the district deputy procurator of 31 March 2004, he was placed in the rehabilitation (reception and distribution) centre of the Tashkent Main Internal Affairs Authority to clarify his identity. After his identity was established, he was released on 8 April 2004. He was not held by the law enforcement bodies on suspicion of having committed terrorist acts in Tashkent, and no criminal case was opened against him in that connection. In an explanatory statement written in his own hand during a check carried out on 4 May 2004 by the competent bodies, B. Makhmudov indicated that he was at home and had no

complaints against the law enforcement bodies regarding his detention in the rehabilitation centre.

981. On 14 April 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Ruslan Sharipov**, a journalist and human rights activist, whose case was already the subject of urgent appeals sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture, the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders on 5 June 2003 (E/CN.4/2004/62/Add.1); by the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders on 13 August and 1 October 2003 (E/CN.4/2004/62/Add.1); and by the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders on 19 January 2004. Ruslan Sharipov was reportedly found guilty on 13 August 2003 under articles 120 (homosexuality) and 128 (sexual relations with a minor) of the Criminal Code, despite the lack of forensic medical evidence, and sentenced on appeal to four years in prison. He was reportedly subjected to torture and threats while in detention. It was widely believed that his prosecution was linked to his work as an investigative journalist and a human rights defender, in particular reporting on corruption and human rights abuses. According to information received, Mr. Sharipov, who was reportedly eligible for early release on 11 June 2004, had reportedly been placed since 13 March 2004 under house arrest and was required to report every day to a low-security prison for work. It was reported that such a transfer was automatic once a detainee has completed one quarter of a sentence. In this context, it was alleged that he had been barred from resuming his human rights and journalism activities, under threat of losing the possibility of early release. In particular, it was reported that Mr. Sharipov would not be allowed to travel to Istanbul in late May 2004 to receive an award on the occasion of the world Newspaper Congress and World Editors' Forum.

982. On 19 April 2004, the Special Rapporteur, 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Nilufar Khaidarova**, aged 26. On 5 April 2004 at 5:30 a.m., she was allegedly taken from her home, together with her parents, by a group of 20 uniformed police officers to the Sabir Rakhimov district police station, Tashkent. The officers allegedly claimed to have found Islamic fundamentalist materials in the form of a book, leaflets and a box of videotapes. At the police station they were allegedly interrogated separately and then taken to the Tashkent City Department of Internal Affairs (GUVD). Her parents were reportedly released without charge the following evening. It was alleged that GUVD had refused to acknowledge that Nilufar was in their custody or to provide any information on her whereabouts. It was alleged that Nilufar Khaidarova was detained without charge because her husband and her two brothers, all devout Muslims, were currently serving long prison sentences, convicted of anti-State activities and membership of banned religious organizations. It was reported that Nilufar Khaidarova had not yet recovered from major surgery and chemotherapy. In view of her alleged incommunicado detention, concern was expressed that Nilufar Khaidarova might be at risk of torture or other forms of ill-treatment. Moreover, concern was expressed for her physical and mental integrity if she did not receive prompt and adequate medical treatment.

983. On 27 May 2004, the Government sent a response to the Special Rapporteur's communication of 19 April 2004 stating that, on 7 April 2004, **Ms. Khaidarova** was charged in this case pursuant to article 159, paragraph 1 of the Criminal Code, concerning infringement of the constitutional order. On 8 April, following a decision of the Procurator-General's Office, detention in custody was chosen for her as a preventive measure. She was, at the time this reply was sent, in remand centre No. 1 (SIZO-1) of the Central Penal Correction Department of the Ministry of Internal Affairs. A decision regarding Ms. Khaidarova was to be taken on the basis of the findings of the preliminary investigation into the criminal case. Since her detention Ms. Khaidarova had been allowed access to a lawyer, who visited her regularly. Moreover, Ms. Khaidarova's mother had already come to see her several times. With regard to Ms. Khaidarova's state of health, it was pointed out that medical staff at the remand centre and the local Committee of the Red Crescent's representatives had examined her several times. Her state of health was, at the time this reply was sent, considered to be normal and she had no complaints in respect of the remand centre's medical staff. Allegations that Ms. Khaidarova is being kept in a solitary confinement cell and that relatives were not informed of her whereabouts did not correspond to the real situation. Firstly, she was being held in a common cell at the remand centre. Secondly, after her detention Ms. Khaidarova's relatives were informed of the arrest.

984. On 28 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Makhamadali Karabaev**, aged 57. It was alleged that, in May 2004, Makhamadali Karabaev was beaten by seven individuals of the Pap mayor's office, and later arrested by the Pap district police unit of Namangan region. It was alleged that family members were warned by the police that if Makhamadali Karabaev continued his political activities and prepared for the next elections, his legs would be broken, and he would be beaten to death. It was alleged that his family had been denied access to him since his arrest, and that they continued to receive similar threats. Makhamadali Karabaev is reported to be the chairman of Birlik Party in Namangan region and a human rights campaigner. In view of his alleged detention incommunicado, concern was expressed that he might have been at risk of torture or other forms of ill-treatment.

985. On 6 July 2004, the Government sent a response to the Special Rapporteur's communication of 28 May 2004 that, on 22 January 2004, the President of the Citizen's Council of the town of Khalkabad, Pap district was assaulted by **Makhamadali Karabaev**. Proceedings were initiated on 4 February 2004 by the procurator of Pap district in Namangan oblast. He was invited to report to the Pap district internal affairs office; instead, he reportedly fled. On 21 April 2004 a warrant was issued for his arrest for disorderly conduct under article 277, paragraph 3 (d) of the Criminal Code, which carried a penalty of three to five years' deprivation of liberty. On 1 May, he was charged in absentia. On 5 May 2004 he was arrested by the pre-trial investigation authorities of the Namangan oblast, informed in the presence of his lawyer of the warrant and charge against him, and remanded in custody as a preventive measure because he evaded the pre-trial investigation. He was medically examined for physical injuries that he might have sustained during his arrest. No physical injuries were found. Mr. Karabaev did not lodge a complaint concerning the use of unlawful methods, including torture, in the conduct of the investigation. From 5 to 8 May 2004, Mr. Karabaev was kept in a cell of the Pap district holding facility together with other detainees. On 8 May 2004, he was placed in a common cell of remand centre No. 12 of the Central Penal Correction Department of Uzbekistan in Namangan. His conditions

of detention complied with established norms. Mr. Karabaev was not placed in solitary confinement, either in the holding facility or in remand centre No. 12. During the pre-trial investigation, he refused to testify concerning the charges or to sign the procedural documents. He unsuccessfully challenged the jurisdiction of the investigative bodies of the oblast, and in addition to his lawyer, requested another lawyer and two human rights defenders of the Ezgulik Human Rights Society to serve as his defence lawyers, who had not reported to the authority conducting the pre-trial investigation. With the participation of a lawyer, Mr. Karabaev was confronted with the victims and witnesses of the crime. However, even during the confrontation, Mr. Karabaev refused to give any evidence. Once the investigation was closed, from 8 to 10 May, Mr. Karabaev and his lawyer studied the criminal case file, after which the criminal case, together with the bill of indictment, was transmitted to the court. On 4 June 2004, the existing charges were merged with additional charges related to the misappropriation of stamps and seals of the Committee for the Protection of Human Rights. Mr. Karabaev was being prosecuted only for the commission of acts of a criminal nature; his political and human rights activities were not being investigated. Moreover, the claims that there were threats to end his political activities had not been confirmed. An examination of the aforementioned criminal cases had shown that they were being investigated objectively in accordance with all the provisions of Uzbek procedural law and international standards, and that there had been no infringement of the rights of Mr. Karabaev as an accused person. In accordance with the provisions of articles 46 and 48 of the Code of Criminal Procedure, Mr. Karabaev had been informed of his rights as a suspect and an accused person, his right to a defence had been guaranteed, and conditions had been created for his exercise of all his procedural rights. At present, the case was under investigation. A decision concerning Mr. Karabaev was to be taken on the basis of the investigation.

986. On 30 June 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary General on the situation of human rights defenders, sent an urgent appeal concerning **Bobomurod Abdullayev**, director of Ozod Ovoz, a non-governmental organization that works on freedom of opinion and expression in Uzbekistan. On 12 June 2004, Bobomurod Abdullayev came to Baku as a participant in the eleventh General Meeting of the International Freedom of Expression Exchange (IFEX). On 13 June 2004, police reportedly visited his house in the Kizil-Shark Chilanzarsk region of Uzbekistan. His wife was allegedly questioned by the police about his travel and about the work for the IFEX conference. According to information received, on 14 June, a policeman returned to Abdullayev's home and reportedly told his wife that there was a warrant outstanding for his arrest. Since then, Abdullayev's wife and her two young children left their home out of fear for their safety. Although no charges were apparently specified, it was believed that this police harassment and the threat of arrest might have been connected with Ozod Ovoz's activities on behalf of freedom of expression in Uzbekistan.

987. On 27 October 2004, the Government of Uzbekistan sent a response to the Special Rapporteur's communication of 30 June 2004 regarding the prosecution of **Mr. Bobomurod Abdullayev**, director for a non-governmental organization by the name of Ozod Ovoz. The Government states that, according to the investigations carried out on 14 June 2004, pursuant to the instruction of the Tashkent City Internal Affairs Department, there was a general check-up of passport-regulation implementation by residents of all apartments and houses, including the house where Mr. Bobomurod Abdullayev lives in Qizil Sharq area of the Chilanzar District. This was accomplished by the Chilanzar District department for internal affairs, chairperson for the community of citizens and housing administrators. As a result of the check-up it was found that Mr. Bobomurod Abdullayev had been on a business trip and was not

at home. No illegal action was taken in relation to his family members. Moreover, it was established that there had been no facts showing the existence of a criminal case or pre-investigation documents with regard to Mr. Bobomurod Abdullayev in investigation desks of law-enforcement bodies. Neither has there been any confirmation concerning allegations relating to the possession by officers of law enforcement bodies of an arrest warrant against Mr. Bobomurod Abdullayev. Moreover, there was no registration or information concerning the committal of criminal offences or administrative violations against him in the Department of Internal Affairs. Investigations also confirmed that there had been no appeals/complaints from Mr. Bobomurod Abdullayev or his family to law-enforcement bodies relating to violations of their rights.

988. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning reports stating that the Ministry of Justice reportedly refused to renew the **Open Society Institute (OSI)**'s registration. The institute is based in Tashkent. The decision was reportedly based on a December 2003 decree, in which the Government of Uzbekistan requested international NGOs operating in Uzbekistan to register with the Ministry of Justice and the Ministry of Foreign Affairs before March 1, 2004. The Government extended the deadline to 1 April 2004. The Uzbek authorities argued that OSI materials supplied to universities in Uzbekistan "distort[ed] the essence and the content of socio-economic, public and political reforms conducted in Uzbekistan" and "discredit[ed] Uzbek Government policies". According to reports, OSI's staff in Tashkent received death threats and other intimidations prior to the closure. According to the information received, the decree's adoption might have been linked to the role played by civil society in the Georgian "revolution of the roses" seen as a serious threat to the authorities. It was feared that this new decree might have been part of a process aiming at increasing government pressure on civil society. Indeed, it followed another decree adopted on 30 September 2003, which required media to re-register by the end of 2003. In a second decree, also issued in December, this registration requirement was extended to NGOs' publications and newsletters. Finally, there was strong concern regarding amendments made to article 157 of the Uzbek Criminal Code, in February 2004. This article defined the crime of treason as the "disclosure of secret information to foreign States and organizations", whereas former article 157 limited this crime to the disclosure of secret information to foreign States only. This broader definition was feared to lead to potential abuses.

Follow-up to previously transmitted communications

989. On 6 January 2004, the Government sent a response to the Special Rapporteur's communication of 23 December 2003 and informed the Special Rapporteur that the unregistered non-governmental organization, **Mothers against the Death Penalty and Torture** had not filed an application for official registration of its statutes at the Ministry of Justice, in accordance with the Non-State Non-Profit Organizations Act, and the Voluntary Associations Act. This meant that the organization was not legally registered in the country and any of its activities might have been considered contrary to the national law. This organization was prohibited from holding a conference entitled "Death penalty: analysis, tendencies and realities" in Tashkent on 5 December 2003. The reason for the refusal was non-registration of the organization.

Observations

990. The Special Rapporteur thanks the Government for its replies to his communications of 23 December 2003, 16, 25 and 26 February, 6 and 19 April, 28 May and 30 June 2004. He regrets, however, not having received any replies to his communications of 19 January and 14 April 2004 at the time this report was finalized. The Special Rapporteur thanks the Government for its replies to his communications of 14 October 2004, which replies were, however, not translated at the time this report was finalized.

Venezuela

991. El 18 de marzo de de 2004, el Relator Especial envió una comunicación en relación con informaciones recibidas sobre más de 30 periodistas que habrían resultado heridos o agredidos en Venezuela desde hace algunas semanas, y especialmente desde el 27 de febrero de 2004, cuando el Consejo Nacional Electoral (CNE) cuestionó la validez de más de un millón de firmas que la oposición habría recogido para obtener un referéndum para la dimisión del presidente Hugo Chávez. Las alegaciones de violaciones de derechos humanos se habrían producido durante la supuesta represión de manifestaciones organizadas por la oposición en Caracas y en las provincias. Según las informaciones recibidas, las fuerzas de seguridad habrían hecho uso de fuerza excesiva, y habrían detenido a una gran cantidad de partidarios de la oposición durante las protestas callejeras contra el Gobierno. En particular, el Relator Especial ha recibido información sobre los casos siguientes:

- **Víctor Serra**, periodista del diario *Cambio de Siglo*, habría sido golpeado el 12 de febrero de 2004 por un grupo de ocho policías, durante el desarrollo de una protesta de estudiantes que habría tenido lugar en la ciudad de Mérida. Ese día, los estudiantes habrían manifestado para solicitar al CNE que diese respuesta positiva a la solicitud de referendo revocatorio contra el Presidente Hugo Chávez, realizada por la oposición;
- **Felipe Izquierdo**, camarógrafo de Univisión, habría sido herido de bala el 20 de febrero de 2004, en Caracas. Según las informaciones recibidas, se habrían producido disparos de arma de fuego de procedencia desconocida mientras varios periodistas cubrían los enfrentamientos entre efectivos de la Guardia Nacional (GN) y los manifestantes opositores a Chávez. El 29 de febrero de 2004, Felipe Izquierdo habría sido otra vez herido mientras cubría manifestaciones de la oposición;

- **Luis Wladimir Gallardo**, 40 años, fotógrafo del diario regional *El Impulso*, habría sido herido en la cara el 27 de febrero de 2004, en Caracas. Ese día, efectivos de la GN habrían disparado balas de goma y habrían lanzado gases lacrimógenos para dispersar a cientos de manifestantes. Por otra parte, **Carlos Montenegro**, un camarógrafo de Televén, habría sido herido de bala en una pierna y **Berenice Gómez** del diario *Últimas Noticias*, habría sido golpeada por unos presuntos partidarios del Gobierno. El mismo día, en Caracas, dos integrantes de la emisora comunitaria Radio Perola, así como el coordinador de la emisora, **Carlos Carlez**, habrían sido agredidos. También habrían recibido llamadas telefónicas y correos electrónicos con amenazas de muerte contra los trabajadores de la estación;
- Cuatro reporteros gráficos del diario regional *Avance* habrían sido afectados entre el 28 de febrero y el 1 de marzo de 2004, en la ciudad de San Antonio de los Altos. **Tito Díaz** habría resultado herido al recibir impactos de perdigones por parte de efectivos de la GN; **Juan Calabrés** habría debido esquivar disparos de perdigones supuestamente disparados por la GN; **Antonio González** habría sido encañonado y amenazado de muerte por efectivos militares mientras cubría acciones de protesta y **Jorge Ortuño** habría sido amenazado por efectivos de la GN y habría sido desalojado del lugar donde cumplía con sus labores profesionales;
- **Bernabé Rodríguez**, reportero gráfico del diario *El Tiempo*, habría sido herido mientras cubría el enfrentamiento entre manifestantes de la oposición y las fuerzas del orden el 29 de febrero de 2004, en Caracas. El mismo día, el reportero de la agencia France-Press, **Juan Barreto**, habría resultado herido por bala;
- **Janeth Carrasquilla**, corresponsal del canal Globovisión en Valencia, Estado de Carabobo, habría sido herida el 1 de marzo de 2004, mientras cubría un enfrentamiento entre manifestantes de la oposición y las fuerzas del orden. En Caracas, **Johnny Figarella**, también del canal Globovisión, habría sido herido por una granada lacrimógena. Según los reportes, el mismo día, en Terrazas del Ávila, miembros de la GN habrían golpeado a **Edgar López** y **Henry Delgado**, reportero y fotógrafo del diario *El Nacional*. En el municipio Anaco, **Billy Castro**, reportero del diario *Impacto*, habría sido atacado violentamente por un grupo de personas presuntamente vinculadas al Gobierno; **Bernabé Ruiz**, del diario *El Tiempo*, habría sido herido en la cara; **Willimar Rodríguez**, del diario *Impacto*, **Reyna Díaz**, del diario *El Tiempo* y **Mariela Gabriela Gómez**, reportera de Telecaribe, habrían sido atacados en Lecherías. En Maracaibo, capital del estado de Zulia, los periodistas **Cecilio Acosta**, **Alirio Rodríguez** y **Dainú Acosta** habrían sido detenidos;
- **Juan Carlos Aguirre**, reportero del canal de televisión CMT, habría sido golpeado por la GN el 2 de marzo de 2004, cuando cumplía labores profesionales en Caracas. El mismo día, simpatizantes del Gobierno habrían apuntado a **Paula Andrea Jiménez**, del canal Televén. Según la información recibida, el camarógrafo **Alejandro Marcano**, de la televisora CMT, habría sido despojado de su equipo de trabajo y habría resultado herido en una de sus manos; el camarógrafo **Frank Molina**, del canal Televén, habría sido golpeado y despojado

de su instrumento de trabajo. El mismo día, en Ciudad Ojeda, estado Zulia, los periodistas **Adda Pérez** y Víctor **Yépez**, de la radio comunitaria Máxima FM, habrían sido atacados por un grupo de 30 partidarios de la oposición. En Caracas, manifestantes de la oposición habrían atacado violentamente la sede de la televisión pública **Venezolana de Televisión**. Según las informaciones recibidas, el personal del canal habría sido víctima de repetidas amenazas y agresiones desde el 29 de febrero de 2004;

- **Carlos Colmenares**, camarógrafo del canal privado Radio Caracas Televisión, y la reportera gráfica **Ana Marchese** habrían resultado heridos el 3 de marzo de 2004, mientras cubrían las manifestaciones contra el Gobierno en Caracas. El mismo día, efectivos militares habrían confiscado los rollos de fotos de **Rafael Delgado**, responsable de fotografía del diario El Tiempo;
- Además, el Relator Especial ha recibido información según la cual la GN venezolana y la agencia de seguridad interna habrían hecho uso de fuerza excesiva para controlar los enfrentamientos que habrían tenido lugar en el país desde el 27 de febrero de 2004. Al menos nueve personas habrían muerto y más de 50 habrían sido heridas en dichos enfrentamientos. En la capital, al menos 47 detenidos habrían comparecido ante un juez y habrían sido puestos en detención preventiva por cargos como resistencia a la autoridad e instigación a delinquir;
- El 1.º de marzo de 2004, la GN habría detenido a **23 estudiantes** y dos profesores quienes habrían participado a una marcha de protesta. Según las informaciones recibidas, uno de los profesores y cinco de los estudiantes habrían sido golpeados por efectivos de la GN. Los detenidos habrían sido liberados el 2 de marzo de 2004.

992. Por carta con fecha de 8 de diciembre de 2004, el gobierno proporcionó la siguiente información sobre las manifestaciones públicas violentas durante los días 27 de febrero al 5 de marzo de 2003 efectuados por simpatizantes de la oposición para exigir al CNE la activación de un referendo revocatorio para el mandato del presidente Hugo Chávez. Muchas de estas jornadas de protesta culminaron en hechos violentos que requirieron la intervención de la GN. En este contexto fueron heridos más de 20 periodistas, camarógrafos o reporteros gráficos que dieron cobertura a esos eventos. La Constitución y las leyes de Venezuela establecen que el derecho a manifestar implica un ejercicio pacífico y sin armas. En tal sentido, una manifestación deja de ser pacífica cuando se utilizan objetos contundentes para agredir a otras personas, a funcionarios públicos o a bienes públicos o privados, o cuando en ella participan personas armadas. Según la información proporcionada en los casos mencionados por el Relator Especial, muchos manifestantes ejecutaron actos de violencia que ponían en peligro la integridad personal de otras personas, quemando cauchos, colocando barricadas para obstruir las vías públicas, o atacaron de manera directa a los agentes de seguridad del Estado. En todos esos casos, se estaría en presencia de delitos o faltas que deben ser prevenidos o sancionados por parte de la autoridad pública. La Constitución de Venezuela de 1999 permite a las fuerzas de seguridad responder de manera proporcionada para mantener el orden y la seguridad pública, de acuerdo con los Principios de las Naciones Unidas sobre el Uso de la Fuerza y las Armas de Fuego. Bajo estas circunstancias, algunas personas se vieron afectadas por los gases lacrimógenos y algunos hasta resultaron lesionados por balas de goma o perdigones. Según la información proporcionada por el gobierno,

la Fiscalía General, el Defensor del Pueblo y el sistema de administración de la justicia de Venezuela habrían seguido atentamente todo el proceso relativo a los hechos acontecidos en las fechas mencionadas. Los recursos judiciales serían efectivos y el poder judicial habría actuado con debida diligencia procesal en los lapsos previstos en la ley. El gobierno también transmitió un informe completo, en el cual se detallaban todos los casos de denuncias, la situación actual y las medidas acordadas. Sobre el particular, se informaba acerca del curso de un total de 24 denuncias, que involucran a 16 periodistas y/o reporteros, 10 camarógrafos y/o reporteros gráficos, tres trabajadores de un diario y un canal de televisión del Estado. De todas estas personas, a 19 de ellas se les dictó medidas de protección, así como también para el canal de televisión del Estado. Con estas medidas se garantizaría la seguridad de los periodistas, trabajadores, instalaciones de los medios de comunicación, para que puedan continuar con su labor de información. Seis de las supuestas víctimas no habían todavía comparecido a la Fiscalía General fin de adoptar datos para el seguimiento de sus casos.

993. El 21 de mayo de 2004, el Relator Especial envió un llamamiento urgente en relación con la periodista **Patricia Poleo**, editora del diario *El Nuevo País* de Caracas. Según la información recibida, Patricia Poleo debería enfrentar el 28 de mayo de 2004 una audiencia militar. Se le habría acusado de instigar a la rebelión y ofender a la Fuerza Armada Nacional por difundir en televisión un video en el que habría mostrado la presencia de cubanos en instalaciones militares venezolanas.

994. El 24 de mayo de 2004, el Relator Especial envió un llamamiento urgente en relación con una disposición propuesta por una legisladora oficialista del Congreso de Venezuela, la cual pretende despojar de la nacionalidad venezolana a un empresario periodístico y a cuatro periodistas en represalia por su labor y actuación profesional. Según la información recibida, el pedido del Congreso debería seguirse en la Fiscalía General de la República. La medida afectaría al empresario periodístico **Gustavo Cisneros** y al periodista **Napoleón Bravo** así como a los periodistas nacionalizados venezolanos **Marta Colomina**, **Norberto Mazza** y **Robert Alonso**.

995. Por carta con fecha 15 de noviembre de 2004, la Misión permanente de Venezuela transmitió la siguiente información en relación con la comunicación del 24 de mayo de 2004 sobre el caso del presunto despojo de nacionalidad venezolana de los ciudadanos **Gustavo Cisneros**, **Napoleón Bravo**, **Marta Colomina**, **Norberto Mazza** y **Robert Alonso**: El mencionado caso se refiere a una supuesta propuesta de la Diputada a la Asamblea Nacional, para revocar la nacionalidad venezolana a Gustavo Cisneros, Napoleón Bravo, Marta Colomina, Norberto Mazza y Robert Alonso. Sobre el particular la Dirección de derechos fundamentales de la Fiscalía General de la República indica que la revocatoria de nacionalidad es un procedimiento administrativo por parte del Ministerio de Interior y Justicia. La Fiscalía solo puede intervenir a través de la Dirección en lo Constitucional y Contencioso administrativo por lo cual se ha solicitado que se designe un Fiscal competente para averiguar si existe alguna solicitud de revocatoria interpuesta por la legisladora y en caso de cierto verificar si han respetado los derechos fundamentales de tales personas. Una vez recibida la información la Misión informara oportunamente.

996. El 27 de mayo de 2004, el Relator Especial, juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente con respecto a la agresión que habrían sufrido los periodistas **Félix Carmona**, redactor del diario *El Universal* y **Jorge Santos**, reportero gráfico y delegado de los trabajadores de dicho diario, así como el

conductor **Andrés Cova**. De acuerdo con las informaciones recibidas, habrían sido interceptados durante la noche del 10 de mayo de 2004 en un sector de El Hatillo, Estado Miranda, cuando daban cobertura a allanamientos supuestamente relacionados con las investigaciones sobre la presencia de presuntos grupos paramilitares en una finca de las afueras de Caracas. Se informa de que una veintena de funcionarios de la Dirección de Inteligencia Militar (DIM) habrían golpeados, insultados, y amenazado con una pistola a los tres hombres. Les habrían confiscado también su grabador y su cámara fotográfica, así como su material informativo que habían obtenido mediante su labor reporterial. Además Jorge Santos habría sido despojado de su cédula de identidad y carnet de trabajador. Informes indican que habrían arrancado el equipo de radio al vehículo de la empresa periodística. De acuerdo con las informaciones recibidas, los hechos habrían sido denunciados ante la Fiscalía General. Se teme por la vida de los periodistas arriba mencionados cuyas actividades de periodistas están amenazadas.

997. Por carta con fecha de 16 de noviembre de 2004, el Gobierno proporcionó la siguiente información en relación con la comunicación del 16 de noviembre de 2004 sobre el caso de **Félix Carmona, Jorge Santos y Andrés Cova**. La Dirección General de Derechos Humanos del Ministerio del Interior y Justicia señaló que la causa se encontraba en etapa de investigación y se habían ordenado las diligencias correspondientes para lograr el esclarecimiento de los hechos. El 13 de mayo de 2004, el Ministerio Público solicitó medida de protección de los arriba mencionados, ordenando la supervisión y custodia permanente en la zona donde residen y laboran.

998. El 5 de julio de 2004, el Relator Especial, juntamente con el Relator Especial sobre la tortura, envió una comunicación sobre supuestas detenciones y actos de tortura y tratos crueles, inhumanos o degradantes en el contexto de las manifestaciones que habrían tenido lugar en el país durante los primeros meses de 2004. En este contexto, los Relatores Especiales quisieran referirse a sus respectivas comunicaciones con fechas de 17 de marzo y 27 de mayo de 2004.

- Según las informaciones recientemente recibidas, otras personas habrían sido detenidas el 29 de febrero de 2004 en Caracas, por encontrarse en los lugares donde se habrían realizado manifestaciones, o cerca de estos. Las personas detenidas habrían sido repetidamente golpeadas con puños, patadas y con los cascos de los guardias. Habrían sido conducidas al puesto de la GN en El Paraíso. Los detenidos habrían sido transportados unos encima de otros por lo que a muchos se les dificultaba respirar. Allí, habrían sido nuevamente golpeados y pateados por miembros de la GN en distintas ocasiones. Mientras estaban forzados a mantener las cabezas bajas, los detenidos habrían sido golpeados en la nuca con los nudillos de los dedos. Se alega igualmente que los detenidos fueron mojados con agua fría y luego rociados por todo el cuerpo con polvo extraído de cánculas de gas lacrimógeno. Asimismo, en el comando de la GN, los detenidos habrían sido obligados a sentarse en el suelo con la cabeza hacia abajo. Luego habrían recibido el orden de levantarla y habrían sido apuntados con un rifle de bombas lacrimógenas.
- En relación con estas alegaciones, los Relatores Especiales han recibido información sobre los casos individuales siguientes:
- **Heber Gustavo Parada**, de 21 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas. Habría recibido golpes en la cara, le habrían abierto

el pantalón por la parte de atrás y le habrían introducido una sustancia irritante hasta los glúteos. Presentaría un golpe de porra en la nariz. Un informe médico forense confirmaría que habría sido maltratado y habría descrito al detenido como deprimido y silencioso. Presentaría múltiples excoriaciones de forma alargada (por traumatismo con objeto alargado), hematomas en los párpados inferiores, excoriaciones con tumoración dolorosa en la pierna izquierda e incapacidad de mover la mano derecha, con hinchazón de la misma, además de tumores dolorosos en varias partes del flanco derecho e izquierdo;

- **David Amundaraín**, de 19 años de edad, habría sido detenido el 29 de febrero de 2004 en el barrio de Altamira, Caracas. Durante su estadía en el Comando de la GN habría recibido un golpe contundente a nivel del oído izquierdo, tras el cual habría sangrado profusamente por el oído y habría perdido parcialmente sus capacidades de audición. También habría recibido múltiples patadas y golpes con cascots. Presentaría una quemadura de primer grado en la región interna de los glúteos, supuestamente debida a la aplicación de polvos irritantes. Un informe médico forense habría confirmado que estaba maltratado y deprimido;
- **Rodrigo Alegrett**, de 21 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas. Habría presentado un tumor en el cuero cabelludo, una lesión alargada causada por un corte de porra en el glúteo izquierdo, una lesión excoriada y extensa en el glúteo derecho y en general la piel de los glúteos irritada, supuestamente debido a que habría sido arrastrado por el piso;
- **José Ramón Merlo Rojas**, de 26 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas. Habría recibido múltiples patadas, golpes con casco y puños antes de ser montado en el vehículo de la GN. Habría sido regado con polvo pruriginoso. Además, el 3 de marzo de 2004, en la mañana, habría recibido un golpe de porra en ambos glúteos por parte de la GN por no llegar a tiempo al conteo matutino. La lesión le atravesaría los glúteos en línea diagonal. Presentaría hematomas en el antebrazo izquierdo y en el hombro derecho y una herida causada por machetazo, en el lado izquierdo del cuello. Habría sido trasladado a Bello Monte;
- **José Rafael Peralta Medina**, de 20 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas. Habría presentado gran tumoración dolorosa en el cuero cabelludo, numerosas lesiones dolorosas, pérdida de sensibilidad en el dedo medio de la mano izquierda, supuestamente causada por haber sido pisado con las botas utilizadas por la policía, así como descamación y eritema severos, supuestamente debido al uso de irritantes primarios. Habría sido trasladado a la Plaza Altamira;
- **Angel Daviott**, de 26 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas e introducido en un vehículo de la GN, donde le habrían cubierto la cabeza con una bolsa de plástico. Con la cabeza cubierta con una bolsa, habría sido tumbado en el suelo y pisoteado por unos hombres vestidos como se visten los miembros de la Dirección de Servicios de Inteligencia y Prevención de Venezuela (DISIP). Habría sido sometido a este trato tres veces. Habría presentado múltiples tumoraciones dolorosas, algunas con y otras sin hematomas evidentes, supuestamente producto de golpes contundentes. Habría presentado

también una lesión alargada, supuestamente causada por un golpe de porra en la cara lateral izquierda del abdomen, irritación interglútea e inflamación sin hematoma pero dolorosa de los miembros inferiores. Habría sido trasladado a Altamira;

- **Carlos Eduardo Izcaray**, violonchelista de la Orquesta Sinfónica de Venezuela y profesor de música, habría sido detenido en Caracas el 1 de marzo de 2004, tras presenciar un enfrentamiento violento entre manifestantes de la oposición y la GN en el barrio de Altamira. Carlos Eduardo Izcaray no habría participado en la protesta y cuando la situación fue haciéndose más violenta, intentó abandonar la zona. Sin embargo, habría sido interceptado por miembros de la GN, quienes lo habrían golpeado con sus porras, propinado puñetazos y arrastrado por el pelo. Habría sido obligado a subir a la parte posterior de un furgón policial, donde habría sido golpeado en la cabeza y en la nuca con cascos, conos de balizamiento del tráfico, botes de gas lacrimógeno y otros objetos. Uno de los agentes le habría introducido una pistola en la boca y le habría obligado a repetir frases humillantes. Le habrían restregado polvos de gas lacrimógeno por la cara y el pelo y seguidamente lo habrían rociado con agua para aumentar la capacidad irritante de los polvos. También se habría visto obligado a inhalar gas lacrimógeno. Carlos Eduardo Izcaray y otros dos detenidos habrían sido amenazados de muerte y seguidamente un agente de la GN habría lanzado gas lacrimógeno en el furgón donde estaban encerrados. Cuando habrían intentado sacar la cabeza por el lateral del furgón para respirar, habrían sido golpeados para que volvieran al interior. Cuando los agentes de la GN le permitieron salir del furgón, les habrían golpeado en la espalda, los glúteos y las rodillas. Posteriormente, Carlos Eduardo Izcaray y los otros dos detenidos habrían sido trasladados al Destacamento 51 de la GN, donde habrían sido nuevamente y repetidamente golpeados y donde se les habrían aplicado descargas eléctricas en la nuca y en las manos. Los detenidos habrían permanecido recluidos en un autobús toda la noche, durante la cual habrían sido nuevamente golpeados y obligados a inhalar gas lacrimógeno. Miembros de la GN habrían intentado obligarles a admitir su participación en actos violentos durante la manifestación;
- **Deivis Jordán Meneses de Frietas**, un estudiante de 23 años de edad, habría sido interceptado y agredido por agentes de la GN el 1.º de marzo de 2004, cuando regresaba caminando a su casa procedente de la farmacia donde trabaja en San Antonio de los Altos, una localidad cercana a Caracas, en el estado de Miranda. Junto con otros detenidos, habría sido retenido durante cuatro horas sin ser llevado a un centro pertinente ni sin poder realizar una llamada telefónica a un abogado o a sus familias. También habría sido golpeado por un miembro de la Policía Militar. Se alega que le denegaron la atención médica que solicitó ya que le sangraba una pierna y tenía una mano hinchada. Posteriormente habría sido puesto en libertad. No habría sido formalmente acusado ni interrogado en relación con su participación en la manifestación. Deivis Jordán Meneses de Frietas habría denunciado el trato sufrido a manos de la GN y de la Policía Militar ante la Fiscalía General de la República. Se habría abierto una investigación en la Fiscalía Primera del Ministerio Público del estado de Miranda. El 3 de marzo de 2004 se habría sometido a un examen médico en las instalaciones de la

Medicatura Forense de los Teques, adscrita al Cuerpo de Investigaciones Científicas, Penales y Criminalísticas (CICPC). Los Relatores Especiales agradecerían recibir información detallada sobre el desarrollo de las investigaciones relativas a este caso así como sobre sus resultados.

999. El 8 de septiembre de 2004, el Relator Especial envió una comunicación en relación con información según la cual el locutor social **Mauro Del Valle Ramos**, concejal del estado Monagas, habría sido atado el 1 de septiembre de 2004 cuando habría salido de su casa en la ciudad de Maturín. Según la información recibida el locutor de radio habría sido matado por dos personas no identificadas, que le habrían disparado en el cráneo y en la pierna derecha. Mauro del Valle habría presentado un programa de opinión pública en la emisora Radio 1.080 AM a través del cual habría denunciado temas vinculados al narcotráfico en Monagas en los que habrían implicado a empresarios de la zona. Se teme que la muerte de Mauro del Valle Ramos pueda estar relacionada con las denuncias en contra del narcotráfico que habría hecho a través de su programa de radio.

1000. El 17 de septiembre de 2004, el Relator Especial, envió una comunicación en relación con los casos siguientes:

1001. -El 18 de enero de 2004, un equipo reporteril de la televisora Globovisión habría sido atacado cuando daba cobertura a un acto de celebración por el aniversario del partido opositor Movimiento al Socialismo (MAS) en Caracas. Un grupo de 15 manifestantes encapuchados habría rodeado y golpeado el vehículo en el que se encontraban el camarógrafo **Josué Torres** y el asistente de cámara **Sullivan Peña**.

- El 31 de marzo de 2004, la periodista **Moreyba Castellano**, corresponsal del diario *El Tiempo*, en la zona centro-sur del estado Anzoátegui, habría recibido un fuerte golpe en la espalda con un objeto contundente mientras cubría una manifestación de transportistas en la ciudad de Anaco;
- El 12 de abril de 2004, un grupo de 70 personas supuestamente encabezadas por el alcalde del municipio Pedro Chien, del Estado Bolívar, habrían causado destrozos en la sede de emisora Horizonte 88.5 FM, ubicada en la población de El Palmar. El hecho se habría producido durante la transmisión del programa de opinión "El Pueblo Pregunta" que conduce el locutor Jorge Camacho en la mencionada emisora, en el cual se denuncian las presuntas irregularidades que cometería el gobierno. Las pérdidas alcanzarían los 100.000 dólares de los Estados Unidos;
- El 20 de mayo de 2004, a los periodistas **Augusto Bravo**, **José Umbría** y **Ademar Dona**, del canal Globovisión, les habría sido negado el acceso a la sede del palacio presidencial de Miraflores. Asimismo, los periodistas no habrían podido dar cobertura a una reunión que sostuvo el presidente venezolano con el ex presidente de Costa Rica y candidato a la Secretaría General de la Organización de Estados Americanos, Miguel Ángel Rodríguez;
- El 23 de mayo de 2004, los integrantes de dos equipos reporteriles del diario *La Verdad* y de la televisora Globovisión habrían sido detenidos durante dos horas por efectivos militares, mientras cumplían labores profesionales en el Hospital Universitario de Maracaibo, en el estado Zulia. La periodista **Dariana**

Bracho y el reportero gráfico **Rolando Paz** se encontraban en la sede del centro hospitalario para dar cobertura a la información sobre la presencia de un grupo de presuntos paramilitares colombianos que presuntamente estaban recluidos en el lugar. Los comunicadores habrían sido acompañados de un equipo reporteril de Globovisión, dirigido por la periodista **Heidy Osechas**. Al darse cuenta de la presencia de los periodistas, los uniformados les habrían rodeado y llevado dos casetes de video, los cuales no le habrían sido devueltos;

- El 25 de mayo de 2004, la periodista **Ibéyise Pacheco**, del diario *El Nacional*, habría sido condenada por el tribunal 11.º de Juicio de Caracas a nueve meses de prisión por el delito de difamación agravada continuada. La periodista habría sido acusada por un coronel del ejército tras haber publicado en su columna de opinión “En Privado”, el 15 de junio de 2001, información sobre la presunta adulteración de calificaciones por parte del militar para aprobar una asignatura mientras hacía estudios universitarios de derecho. Según la información recibida, el fallo del tribunal también habría ordenado al diario *El Nacional* la publicación del texto íntegro de la sentencia y habría exigido a la periodista cancelar el costo del juicio. Ibéyise Pacheco permanecería en libertad hasta la confirmación de la sentencia por la Corte de Apelaciones. La periodista habría anunciado que apelaría esta decisión;
- El 29 de mayo de 2004, cuatro periodistas habrían sido agredidos y golpeados mientras cubrían el proceso de observación de las firmas reunidas para solicitar un referendo revocatorio contra el presidente Hugo Chávez. El hecho habría ocurrido en el sector La Lucha de Horizonte de la parroquia Petare, ubicada en el este de Caracas. Los periodistas agredidos por presuntos simpatizantes del jefe de Estado habrían sido **Sandra Sierra Núñez** y **Pedro Rey** del diario *Notitarde* y **Marta Palma Troconis** y el camarógrafo **Josua Torres**, del canal Globovisión;
- El 3 de junio de 2004, la compañía editora de los diarios *El Nacional* y *Así es la Noticia*, en Caracas sufrió un violento ataque por parte de presuntos simpatizantes del gobierno del presidente Hugo Chávez. La fachada de uno de los edificios habría resultado destrozada, así como nueve vehículos. Dos carros de transporte de carga habrían sido quemados frente a las instalaciones;
- El 27 de junio de 2004, la reportera **Romelia Matute**, de la emisora estatal Radio Nacional de Venezuela, habría sido agredida mientras cumplía labores profesionales en el sector Alto Prado en el sureste de Caracas. La periodista cubría el acto que efectuaban integrantes del comando Maisanta, grupo de seguidores del presidente Hugo Chávez constituido para realizar la campaña para el próximo referendo revocatorio.

1002. El 22 de octubre de 2004, el Relator Especial, juntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente con respecto al periodista **Nelson Bocarando de Radio Onda**. De acuerdo con las informaciones recibidas, el 14 de octubre de 2004, un coronel jubilado (cuyo nombre es conocido por el Relator Especial), habría amenazado de muerte a Nelson Bocarando, por haber hecho comentarios durante su programa de radio sobre la gestión del alcalde del municipio El Hatillo y su hijo. Se informa que ese mismo día, el coronel habría acudido con un guardaespaldas a la oficina del Sr. Bocarando, ubicada en el centro empresarial La Lagunita, al este de Caracas. Se alega que el coronel buscaba

al periodista para “darle unos tiros” si no retiraba durante las próximas horas las imputaciones que habría hecho en su programa. Nelson Bocarando no estaba en su oficina al momento. El coronel fue recibido por la secretaria del periodista, a quién le habría advertido que estaba armado y que dispararía al periodista. El Coronel fue grabado por las cámaras de seguridad del edificio. Se teme por la vida de Nelson Bocarando cuyas actividades de periodistas están siendo amenazadas.

1003. Por carta con fecha 21 de diciembre de 2004 el gobierno transmitió información en relación con la comunicación del 22 de octubre de 2004, sobre el caso del periodista **Nelson Bocaranda Sardi**. La Dirección de Coordinación Policial del Ministerio del Interior y Justicia notificó que no existía denuncia alguna por amenazas de muerte así como petición de medidas de protección.

1004. El 10 de diciembre de 2004, el Relator Especial envió una comunicación en relación con un grupo de personas agredieron a un equipo de reporteros de Venezolana de Televisión mientras éstos cubrían el proceso electoral para designar gobernadores y alcaldes el pasado día 31 de octubre de 2004. Según las fuentes, el equipo televisivo fue agredido en la parte externa del centro de votación instalado en el Colegio Champagnat, situado al este de Caracas. Los periodistas afectados tuvieron que ser socorridos y defendidos por otros compañeros de profesión y dispositivos militares.

Observaciones

1005. El Relator Especial da las gracias al Gobierno por sus respuestas a las comunicaciones con fechas 18 de marzo, 24 y 27 de mayo y 22 de octubre de 2004, si bien espera otras respuestas a sus comunicaciones con fechas 21 de mayo, 5 de julio, 8 de septiembre, 17 de septiembre y 10 de diciembre de 2004.

Viet Nam

1006. On 6 January 2004, the Special Rapportuer, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders, sent an urgent appeal concerning **Dr. Nguyen Dan Que**, who was reportedly arrested on 17 March 2003, four days after he allegedly issued a statement alleging the lack of respect for the right to freedom of information in Vietnam. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Working Group on Arbitrary Detention had already sent an urgent appeal related to Dr. Nguyen Dan Que's situation on 12 May 2003 (E/CN.4/2004/62/Add.1). According to new information received, Dr Nguyen Dan Que was accused of espionage but the formal charges against him and the date of a possible trial were not known. He was reported to have been denied access to his legal representatives and relatives since his arrest. He was also reported to be suffering from a blood pressure condition, a bleeding peptic ulcer and kidney stones. Medication which he needed for his serious condition were reportedly provided to the detention centre where he was being held, but it is not known whether this had in fact been given to him. In view of his reported incommunicado detention, fears had been expressed that he might be at risk of torture or other forms of ill-treatment. Concern had also been expressed for his physical integrity if he did not receive prompt and adequate medical treatment.

1007. On 2 April 2004, the Government sent a response to the Special Rapporteur's communication of 6 January 2004 informing the Special Rapporteur that the allegations are totally untrue. **Dr. Nguyen Dan Que** was arrested for having committed acts in violation of article 80 of the Criminal Code, as a result of which he was to be brought to trial when the investigation was completed. The right of the defendant to a fair trial is guaranteed.

1008. On 22 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning the **Degar tribe (Montagnards)** in some areas of the Vietnamese central highlands. According to information received, on 10 and 11 April on the occasion of Easter celebrations, between 10,000 and 30,000 Christian members of the Degar tribe reportedly gathered in the cities of Buon Ma Tuor, Kontum, Dalat, Phuoc Long and Plei Ku as well as in other areas, to protest alleged on-going repression against hill tribes and violations of their human rights, including their right to freedom of religion, by the authorities. The demonstrations were allegedly violently suppressed by the Vietnamese authorities, reportedly causing an undetermined number of casualties. Although it seemed that exact figures of the casualties were difficult to assess, as it was reported that the authorities were still barring access to the area by independent observers at the time this communication was sent, and had imposed a news blackout on hospital personnel, some reports mentioned that at least 10 Montagnards had been killed, including one from a gunshot wound in the head and others from beatings, and hundreds were allegedly wounded. It was alleged that security forces, supported by men in civilian clothes armed with metal bars, shovels, clubs with nails attached to them, machetes and chains, confronted Montagnard protesters in the area around Buon Ma Tuor, the capital of the Dak Lak province, on the morning of 10 April, seeking to prevent them from accessing main cities where protests were to be organized. The protesters, who were reportedly not armed, were said to have attempted to defend themselves by throwing stones at the security forces. Further reports indicated that hundreds of Montagnards fled their villages and went into hiding. The situation of the Montagnard or Degar peoples had already been addressed by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in his communications with the Government in 2002 (E/CN.4/2002/97/Add.1). It was reported that over the last decades, indigenous Montagnards had been facing military operations during which the occurrence of arrests, beatings and extra-judicial executions at the hands of Vietnamese security forces is alleged. The destruction of several churches had also been reported.

1009. On 14 May 2004, the Government sent a response to the Special Rapporteur's communication of 22 April 2004 stating that, on 10 and 11 April 2004, some extremist elements in localities in Dak lak and Gia Lai provinces, with instigation and instructions from outside, especially from the Montagnard Foundation led by Ksor Kok, induced, deceived and forced the local people to carry out demonstrations. The extremists committed acts that caused public disorder. They used dangerous weapons to beat on-duty officers, causing serious injuries. They destroyed public works and property in some communes. More seriously, they even dared to attack some commune headquarters, capture local officials and hang out banners demanding to establish a "Dega state". It was clear that these acts were aimed at causing public disorder, dividing people of the Central Highlands, damaging the national unity and undermining Vietnam's territorial integrity. In the face of such violent acts of the extremists, law enforcement officials and the people had to take defensive measures. The local authorities took measures to

stabilize the situation. Local authorities explained the issue to people who had been deceived to take part in the demonstrations and they were provided with means of transportation to go back home. The local governments held the instigators, leaders and those who committed acts against on-duty public officers in custody. At the time this reply was sent, life in these areas resumed as normal. A United Nations working group, officials from a number of embassies in Ha Noi, Vatican officials and the foreign press had opportunities to visit the Central Highlands.

1010. On 7 May 2004, the Special Rapporteur sent an urgent appeal concerning **Nguyen Vu Binh**, 35, a journalist, for whom urgent appeals were sent on 24 July 2002 on behalf of the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the question of torture; on 2 October 2002 by the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention (E/CN.4/2003/67/Add.1), to which the Government responded by letter dated 13 November 2002; and on 29 September 2003 (E/CN.4/2004/62/Add.1) by the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. It was reported that Nguyen Vu Binh, who was reportedly imprisoned in September 2002 after he published an article on the Internet critical of the China/Viet Nam border agreement, and for signing a petition calling for political reforms, was sentenced on 31 December 2003 by the Hanoi People's Court to seven years' imprisonment and three additional years of house arrest. Recent information indicated that Mr. Binh's appeals court trial on 5 May 2004 upheld the sentence, on charges of espionage under article 80 of the Criminal Law. It was reported that the case against him also included "slandering the Vietnamese State", a charge related to written testimony he provided to the United States Congress in July 2002 regarding alleged human rights abuses in Vietnam. It was also reported that Mr. Binh, who was kept in detention at the New Hoa Lo prison in Hanoi, had started a hunger strike after the decision of the Appeals Court, to protest his detention and sentence.

1011. On 21 May 2004, the Special Rapporteur sent an urgent appeal concerning reports that the Security Police and other authorities harassed **Thich Vien Dinh**, Superior Monk of Giac Hoa Pagoda in Ho Chi Minh City, allegedly after he expressed his support for the illegal Unified Buddhist Church of Vietnam (UBCV), in a letter to the Government in which he reportedly called for the release of UBCV Patriarch Thich Huyen Quang, Thich Quang Do and all other members of the UBCV leadership who were reportedly arrested in October 2003. It was reported that Thich Vien Dinh had been subjected to interrogation sessions by the Security Police during the two weeks before this communication was sent, and that Security Police said they had received orders to expel the 40 monks residing in his pagoda. It was also reported that the Gia Dinh Electricity Company sent him a letter received on 14 May 2004 stating that his electricity contract would be terminated and the electricity to Giac Hoa pagoda cut off unless he could produce a certificate proving that he was the pagoda's Superior Monk, as recognized by the State-sponsored Viet Nam Buddhist Church (VBC), the only legal Buddhist organization in Communist Viet Nam. It was believed that these pressures might have been intended to oblige Thich Vien Dinh to accept to be recognized as a member of the VBC. It was further reported that Thich Vien Dinh had been subjected to harassments and threats since he was appointed Deputy Head of the Institute for the Dissemination of the Faith (Vien Hoa Dao) at the UBCV Assembly in Nguyen Thieu Monastery (Binh Dinh) on 1 October 2003. In particular, it was reported that he had been placed under "administrative detention" by the local authorities on 9 October 2003, and

that he was barred from leaving Ho Chi Minh City, even to fulfill his religious functions at the Thap Thap pagoda in Binh Dinh province, where he was appointed Superior monk in 1995.

1012. On 14 July 2004, the Government of the Socialist Republic of Viet Nam sent a response to the Special Rapporteur's communication of 21 May 2004 concerning **Thich Vien Dinh**, stating that all allegations concerning this case were fabrications. The Government stated that the truth was that Thich Vien Dinh, as the self-claimed representative for the pagoda where he lived, received the visit of a public relations officer from the Gia Dinh Electricity Company, who came to sign an electricity contract. He requested Thich Vien Dinh's residence certificate, as is required by the procedures of the company. They agreed to sign the contract the next day, when he would provide the certificate, but the next day Thich Vien Dinh refused to sign the contract and accused the electricity company representative of intentionally hindering the activities of the pagoda and of taking revenge against those who are not members of the Vietnam Buddhist Church Council. Thich Vien Dinh was, at the time this reply was sent, not subject to any interrogations, harassments, threats, nor was he placed under any kind of administrative detention.

1013. On 21 September 2004, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Pham Hong Son** who was reportedly jailed since March 2002 allegedly for translating an article entitled "What is democracy?", and posting it on the Internet. An urgent appeal was sent on his case by the Special Rapporteur on the right to freedom of opinion and expression and the President of Working Group on Arbitrary Detention on 25 August 2002 (E/CN.4/2003/67/Add.1) and a second urgent appeal by the Special Rapporteur on 25 August 2003 (E/CN.4/2004/62/Add.1). According to information received, his sentence was reduced from 13 years in prison to five years in prison followed by three years of house arrest. It was also reported that Pham Hong Son, who suffered from an inguinal hernia, needed urgent medical attention. It was stated that he required an operation urgently, since he could die as a result of complications from the hernia. Furthermore, his family members were not allowed to see him when they went on 11 September 2004 to the Yen Dinh detention centre.

1014. On 15 October 2004, the Government sent a response to the Special Rapporteur's communication of 21 September 2004, informing him that in Viet Nam no one is arrested for exercising their rights to opinion and expression; fundamental rights are stipulated in the Constitution, in law, and fully guaranteed in practice. The allegations are groundless and may have been based on ill intention. **Pham Hong Son** was arrested for committing illegal acts. On 18 June 2003, the People's Court of Ha Noi brought Pham Hong Son to open trial at the first instance and sentenced him to 13 years' imprisonment for violation of article 80 of the Penal Code. On 26 August 2003, the People's Supreme Court of Appeal decided to reduce Son's sentence down to five years in prison. The trial was conducted in strict compliance with existing legal proceedings. At the time this reply was sent, he was serving his jail term. His health was well taken care of and Pham Hong Son was regularly visited by family members without any hindrance, in conformity with the decree on implementation of imprisonment. However, on 12 September 2004, he did not comply with prison regulations, refusing to wear the prison uniform, so he was not allowed to meet with his family members. Instead, he could receive gifts from his family.

1015. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning:

- The events of 13 November 2003, when the Hanoi People's Court sentenced writer **Tran Dung Tien** to 10 months in prison in a trial lasting two and a half hours. The sentence was retroactive and so Tien, who was arrested on 22 January 2003, was slated for release on November 22. Tien, 74, was convicted on charges including "abusing democratic freedoms" and faced a possible sentence of up to seven years. Tien's wife and daughter attended the trial, but other foreign and domestic observers were barred from the courtroom;
- On 27 April 2004, **Nguyen Manh Tuan**, a webmaster in Vietnam, was reportedly forced to close down his website, called Viet Nam International News 24-Hour, after reprinting a BBC article about riots in the central highlands. Tuan wrote an allegedly forced letter of self-criticism and paid a fine of US\$ 700. All the information contained in the website was erased;
- On 12 July 2004, the Ho Chi Minh City People's Court reportedly sentenced the writer **Tran Khue**, 68, to 19 months in prison on charges of "taking advantage of democratic rights to infringe upon the interests of the State" and of violating a house arrest order, according to international news reports. Khue's sentence accounted for time already served, so he was slated for release on July 29. Khue had been imprisoned since 29 December 2002. Khue was arrested after meeting with Hanoi-based writer and political activist Pham Que Duong, who was also arrested and who still faced trial at the time this communication was sent. In recent years, Khue had written several articles and open letters critical of government policy. He established two online publications, Dialogue 2000 and Dialogue 2001, which included articles he and others wrote advocating political reform. In January 2002, the Government of Viet Nam ordered local officials to confiscate and destroy all printed copies of the publications. At the time of his arrest, Khue was serving a two-year term of administrative detention, or house arrest. Authorities imposed the house arrest order on 9 October 2001, after Khue was involved in a failed attempt to legally register an independent anti-corruption organization. Pham Que Duong was arrested on 28 December 2002, after visiting Khue in Ho Chi Minh City. Duong, in prison since that time, was to be tried in Hanoi on July 14.

1016. On 4 December 2004, the Government of Viet Nam sent a response to the Special Rapporteur's communication of 14 October 2004 concerning **Tran Dung Tien, Tran Khue, Pham Que Duong** and **Nguyen Manh Tuan**. The Government stated that the truth concerning the latter cases was as outlined in the following paragraphs.

1017. **Tran Dung Tien** was arrested on 22 January 2003 for his acts of abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and citizens, specifically in violation of article 258 of the Penal Code. On 12 November 2003, the People's Court of Ha Noi put Tien on trial and sentenced him to 10 months' imprisonment in accordance with point 2, article 258, of the Criminal Code. He was duly released on 22 November 2003 after having served his sentence and was, at the time this reply was sent, living in Ha Noi with his family.

1018. **Pham Que Duong** was arrested on 28 December 2002 for having committed acts of espionage in violation of article 80 of the Penal Code. The defendant was found guilty as

charged by the People's Court of Ha Noi, in accordance with the law. On 14 July 2004, he was sentenced to 19 months' imprisonment on charges of abusing democratic freedoms to infringe upon the interests of the State, violating the legitimate rights and interests of organizations and/or citizens, in violation of article 258 of the Criminal Code. Pham Que Duong admitted to his crime during the trial. He was released on 29 July 2004 after having served his term of imprisonment.

1019. **Tran Van Khue** was placed under 2 years' administrative probation as of September 2001 for his unlawful acts against the community after the People's Committee of Ho Chi Minh City so decided in accordance with law. He refused to execute the decision. He was then arrested in December 2002 and charged with having committed acts of espionage and for refusing to have executed the previous administrative decision. On 9 July 2004, the People's Court of Ho Chi Minh City found him guilty and sentenced him to 19 months in prison for having violated article 258 of the Criminal Code. He was released on 30 July 2004 after completing his jail term.

1020. **Nguyen Manh Tuan**, webmaster of Viet Nam International News 24-Hour and computer manager of Haki Company in Hanoi, was found guilty of acts in violation of article 18 of the Vietnam Press Law, article 41 of Decree No. 55/2001/ND CP of the Government, dated 23 August 2001, on management, supply and use of Internet services and in violation of Rule 27/2002/QD-BVHTT of 10 October 2002 of the Ministry of Culture and Information concerning management and supply of information, and establishment of a website on Internet, since he had not asked permission from the Ministry of Culture and Information. He was, as a result of this, fined Dong 10 million and was requested to register his website as required by law. He was, at the time this reply was sent, living and working, as usual, in Hanoi.

Observations

1021. The Special Rapporteur thanks the Government for its replies to his communications of 6 January, 22 April, 21 May, 21 September and 14 October 2004. He regrets, however, not having received any reply to his communication of 7 May 2004.

Yemen

1022. On 10 March 2004, the Special Rapporteur sent an urgent appeal concerning **Said Thabet Said**, a journalist and correspondent for the London-based Al-Qods Press news agency, who was reportedly arrested on 5 March 2004, less than two weeks after he was elected to the Yemen Journalists' Syndicate (YJS) board. It was alleged that his arrest followed rumours of an assassination attempt against the elder son of the President and the head of the Republican Guard and Special Forces, which were published by many news agencies, including the Al-Qods agency. It was reported that Mr. Thabet was held for 72 hours, when he was reportedly taken before a judge who ordered his release on bail and charged him with "spreading false news damaging to public interest and security", making him liable for a sentence of up to one year in prison. It was reported that Mr. Thabet's trial was scheduled to resume on 10 March 2004.

1023. On 8 September 2004, the Special Rapporteur sent an urgent appeal concerning the events of 5 September 2004, when a Sana'a court sentenced journalist **Abdulkarim Al-Khaiwani**, editor-in-chief of the weekly *Al-Shura*, to one year's detention for, according to the court, giving support through his newspaper to a rebellion against the Sanaa authorities by Shiite leader Badr Eddin al-Hawthi, and for defaming President Saleh. The journalist was

immediately incarcerated after the sentence. The court also suspended his publication for six months. Al-Khaiwani, who was convicted on the basis of a complaint from the Yemeni Information Ministry, often tackled sensitive topics, such as corruption, the use of oil revenues and the issue of the head of State's succession. *Al-Shura* condemned the trial as an attempt to silence the publication and criticized the political manipulation of the judiciary to this end.

1024. On 14 October 2004, the Special Rapporteur sent a letter of allegation concerning the events of 19 February 2004, when unidentified gunmen reportedly burst into the home of **Nasher Sanaa**, managing editor of *Al-Khaleej* newspaper's Sana'a office, threatened his family and destroyed many of his family's personal belongings. The gunmen also warned his children, "If your father continues to investigate the Jarallah case he will come to the same end as him". Nasher was at the Journalists' Union offices at the time of the attack. Jarallah Omar, secretary general of the Yemeni Socialist Party (PSY), had been murdered during a political rally in Sana'a in December 2002. Moreover, according to information received, **Zaid Ali Amer, Hassan Ali Ajlan al-Nu'mi, Majed al-Huthi, Adel Shalli, Muhammad Ali Luqman** were arrested in July 2004 during mass arrests following clashes between the security forces and followers of cleric Hussain Badr al-Din al-Huthi, which began on 21 June. Several hundred people were reportedly detained, and most were said to be held incommunicado, which put them at grave risk of torture and ill-treatment. They and many other detainees might have been prisoners of conscience, held solely for expressing their conscientiously held beliefs. Tension between the Government and Badr al-Din al-Huthi, from the Zaidi community, had been growing since the United States' invasion of Iraq in 2003. According to reports, hundreds of his followers had been detained every week for shouting anti-American and anti-Israeli slogans after Friday prayers. The recent clashes allegedly began after the Government asked Badr al-Din al-Huthi to hand himself to the security forces, and he refused. The five people named above were reportedly held by Political Security, the branch of the security forces that deals with political and security suspects. The first four were said to have been detained in Hajja province, while Muhammad Ali Luqman was said to have been detained in Sana'a. Adel Shalli was reportedly arrested because he circulated a statement opposing the Government's military action against Hussain Badr al-Din al-Huthi's followers. Majed al-Huthi was reportedly arrested because he had the same family name as the cleric. The exact number of people killed by the security forces is not known. On 3 July 2004, the Minister of Interior reportedly told Parliament that 118 people had been killed. Other sources reported that the number of dead, among them women and children, could be as high as 500. Most of the killings were said to have resulted from the security forces' use of heavy weaponry, including helicopter gunships, one of which was reported to have attacked civilian targets, killing a number of people. It was feared that many or most of those killed might have died as a result of extrajudicial executions, or use of excessive force by the security forces.

1025. The Government sent a reply to the Special Rapporteur's communication of 14 October 2004. Concerning the events which took place in the governorate of Sa'dah, the Government stated that, from the very beginning, the authorities sought to contain the crisis provoked by **Hussain Badr al-Din al-Huti** and a band of deluded young men by following the path of peaceful dialogue and the logic of democratic give and take, characterized by a spirit of tolerance and restraint and a desire to avoid violence at all costs. This was not possible, however, reported the Government, which further stated that Mr. Ak-Huti and his men obstinately refused to abandon the path of violence. Force was only resorted to after all legal avenues and domestic

remedies had been exhausted. Mr. al-Huti and his followers were guaranteed the legal safeguards needed to ensure that they received an open and fair hearing in accordance with the Constitution and with international conventions and treaties which the State had ratified. They nevertheless continued, calling on the people to rise up against the Constitution. Moreover, when all the Government's attempts at persuading the persons concerned to surrender to the judicial authorities failed, the armed forces were ordered to lay siege on Mr. Al-Huti and his followers. Mediation was then also attempted, but this was refused by Mr. Al-Huti. After the security forces had exhausted all other options, they warned the population to leave the villages and places in which Mr. Al-Huti and his men were in order to prevent bloodshed and to protect the physical integrity of ordinary citizens. The security forces then attacked the fortified positions of Mr. Al-Huti and his men during which Mr. Al-Huti was killed and a number of men who were with him were captured and sent to trial. The wounded were taken to government hospitals for treatment. Concerning **Mr. Nasher**, the Government stated that Mr. Nasher contacted senior officials at the Ministry of the Interior and told them that on the evening of 19 May 2004 a number of strangers had come to his door while he was at the offices of the Journalists' Union and the men had warned his family that Mr. Nasher would meet the same fate as the late Jarallah Umar, former secretary-general of the Yemeni Socialist Party, if he did not stop writing about the Jarallah murder case. The Ministry of the Interior took precautions to protect Mr. Nasher's family from any potential attack. There was not, according to the Government, evidence that this incident actually took place. Finally, concerning the arrests of five persons in July 2004, the Government stated that **Zaid Ali Amer** and **Hassan Ali Ajlan ak-Nu'mi** were not detained by political security, nor was there any information indicating that they were ever arrested. As for **Majed al-Huthi** and **Adel Shali**, the Government stated that they were detained under the Code of Criminal Procedure No. 13 of 1994, and that the applicable constitutional procedures were being implemented with a view to bringing their case to court and giving the men a fair trial. As for **Muhammad Ali Luqman**, the Government stated that he was tried by a court of law and that he was represented by his defence lawyers during trial. On 2 October 2004, the competent court sentenced him to a term of imprisonment in accordance with the law.

Observations

1026. The Special Rapporteur thanks the Government for its reply to his communication of 14 October 2004, but regrets not having received any replies to his communications of 10 March and 8 September 2004.

Zambia

1027. On 3 February 2004, the Special Rapporteur sent an urgent appeal regarding the case of **Roy Clarke**, a British national and journalist with the newspaper *The Post*, who was reportedly given 24 hours to leave Zambia by the Minister of Home Affairs on 5 January 2004, apparently following the publication of a satirical article in his column in *The Spectator* on 1 January. It was reported that Mr. Clarke used animal figures in a satirical comment on the current social, economic and political situation in Zambia. The Minister of Home Affairs then addressed cadres of the ruling Movement for Multiparty Democracy (MMD) in Lusaka and confirmed having issued the deportation order, reportedly saying that the Government could not allow Zambians to be insulted by foreigners. According to information received, on 26 January 2004, a judge announced that he would communicate his ruling on the deportation after 40 days. It was further

reported that, during the court hearing, cadres of MMD allegedly attacked three women outside the court buildings, because they were wearing T-shirts bearing messages in support of Roy Clarke. The cadres allegedly ripped the T-shirts from the bodies of the women, leaving them exposed from the waist up.

Observations

1028. The Special Rapporteur regrets not having received any reply to his communication of 3 February 2004 at the time this report was finalized.

Zimbabwe

1029. On 12 January 2004, the Special Rapporteur sent an urgent appeal regarding reports that **Iden Wetherell**, editor of the *Zimbabwe Independent*, reporter **Vincent Kahiya** and another journalist, **Muleya**, were arrested on 10 January 2004, after they published an article on 9 January according to which President Mugabe commandeered a Boeing 767-200 Air Zimbabwe aircraft to “ferry him around the Far East”. Reports indicated that the three journalists were being held by police in Harare on charges of criminal defamation, and were due to appear in court the very day this communication was sent. It was also reported that they might also be charged for “publishing falsehoods”.

1030. On 13 January 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on human rights defenders, sent an urgent appeal concerning the situation of **Douglas Togarasei Mwonyora**, a lawyer and human rights defender, and spokesperson for the National Constitutional Assembly (NCA), a network of NGOs that was the subject of an urgent appeal by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders on 27 October 2003 (E/CN.4/2004/62/Add.1). According to information received, the police allegedly arrested Douglas Togarasei Mwonyora in Harare on 15 December 2003, reportedly claiming that Mwonyora had insulted President Mugabe in a radio interview reportedly with regards to statements calling Mugabe’s withdrawal from the Commonwealth “foolish bravery”. Douglas Togarasei Mwonyora had reportedly been charged with contravening section 16 (2) of the Public Order and Security Act (POSA), a piece of legislation that was the subject of an urgent appeal by the Special Representative on human rights defenders on 21 January 2002 (E/CN.4/2003/67/Add.1). It was reported that Mwonyora was remanded to custody until 14 January 2004 and was granted bail in the amount of Z\$ 30,000. Fears had been expressed that Douglas Togarasei Mwonyora might have been targeted in connection with his human rights activities.

1031. On 15 January 2004, the Special Rapporteur sent an urgent appeal concerning reports that, on 19 December 2003, the police sealed and occupied the premises of **Associated Newspapers of Zimbabwe (ANZ)**, the publishing house of the newspaper *Daily News* in Harare and its printing premises in Southerton. It was reported that this action came within hours of a decision of the Bulawayo Administrative Court presided by Judge Selo Nare, which established ANZ’s legal right to publish. *Daily News* staff had reportedly just returned from the court hearing to their offices to produce a special edition of the newspaper when armed police arrived and closed down the offices. The court decision reportedly reaffirmed an earlier court ruling on

the *Daily News* of 24 October 2003 (see E/CN.4/2004/62/Add.1 for earlier communications in this relation from the Special Rapporteur on the right to freedom of opinion and expression dated 18 and 26 September 2003), and from the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention dated 28 October 2003 (E/CN.4/2004/62/Add.1), and made clear that the filing of a notice of appeal against this decision would not in itself be a reason to justify a further closure of the paper. It was alleged that the Information and Publicity Minister described the court order as “academic”, and indicated that the Government would not abide by it. It was also alleged that before rendering his decision, the judge concerned received a threatening letter which warned him against deciding against the Government. Further reports indicated that, on 9 January 2004, the High Court ordered the police to immediately vacate the ANZ premises, after an appeal from the ANZ to allow *Daily News* staff to access their offices and resume the publication of the newspaper. The order reportedly stated that the police should refrain from interfering with the normal business activities of ANZ and its employees. It was not clear whether this judicial decision had yet been complied with by the police at the time this communication was sent.

1032. On 15 January 2004, the Special Rapporteur sent an urgent appeal concerning **Itai Dzamara**, a reporter with the weekly *The Independent*, and the paper’s general manager, **Raphael Khumalo**, who were reportedly arrested on 14 January 2004 after presenting themselves to police at Harare Central Police Station where they were summoned for questioning. It was reported that their arrest followed the publication of a story in the 9 January 2004 edition of *The Independent*. Reports indicated that Mr. Dzamara was charged with criminal defamation before being released, and that Mr. Khumalo was released without charge. Mr. Dzamara was likely to appear with managing editor Iden Wetherell, news editor Vincent Kahiya, and reporter Dumisani Muleya in court on 29 January (regarding whom an urgent appeal was sent on behalf of the Special Rapporteur on 12 January 2004).

1033. On 26 January 2004, the Special Rapporteur sent an urgent appeal concerning the **Associated Newspapers of Zimbabwe (ANZ)**, which publishes the *Daily News*, for which communications were sent on 18 and 26 September 2003 (E/CN.4/2004/62/Add.1) and on 15 January 2004 by the Special Rapporteur on the right to freedom of opinion and expression, and on 28 October 2003 (E/CN.4/2004/62/Add.1) by the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention. According to information received, the police defied a 9 January 2004 High Court order when they emptied the ANZ premises, preventing journalists from reaching the newsroom. The police were reported to have emptied the ANZ premises on 21 January, after the High Court ordered them again to allow the newspaper to resume publishing and the staff to reach the building. These orders reportedly followed a 19 December 2003 ruling by an Administrative Court Judge who granted ANZ the right to resume publishing. However, more recent reports indicated that daily publication was still being hampered because the police had not returned most of the *Daily News*’ seized equipment, including computers.

1034. On 12 February 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegation regarding the resignation of **Judge Michael Majura**, President of the Administrative Court on or about 15 January 2004, after allegedly being subjected to severe pressure and harassment from Government officials following his ruling to lift a ban on the *Daily News*, the country’s only independent daily newspaper. It was alleged that the Government threatened Judge Majura with being investigated,

following claims by the Government that he demonstrated bias towards the Associated Newspapers of Zimbabwe, publishers of the *Daily News*. In October 2003, Judge Majura ruled that the State-run media commission, which issues the licences required by newspapers and journalists in Zimbabwe, was biased; he ordered that the body be replaced by an impartial membership, effectively revoking the Commission's ban on the *Daily News*. The Government reportedly ignored the court ruling, the *Daily News* appealed and, after a protracted legal battle where the case was heard by another Administrative Court Judge, Justice Selo Nare, who on 19 December 2003 upheld Judge Majur's ruling, the *Daily News* resumed printing in January 2004. It was reported that Judge Majura was the seventh judge since 2001 to have either been forced to resign from the bench or targeted by the Government as a result of rendering judgments against the Government.

1035. On 30 April 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of **Roderick Fayayo**, Secretary-General of the University of Zimbabwe Union, **Philani Zamchiya**, president of the Zimbabwe National Students Union (ZINASU) and members of ZINASU **Tafadzwa Mugabe**, **Simbarashe Machiridza**, **Obert Mbuzini** and **Pasttense Tarondwa**. According to information received, members of the Association of University Teachers (AUT) had been involved in a dispute with the Ministry of Education since late 2002, which resulted in ongoing strike action by lecturers and other members of staff at the University of Zimbabwe. It was reported that, as a result of the strike action, students had not been receiving their subsistence grants or loans. On 15 March 2004, in order to protest against the continued deadlock in negotiations between AUT and the Ministry of Education and the effect this had had on their studies, students of the University of Zimbabwe reportedly held a peaceful demonstration, which had reportedly been authorized by the University of Zimbabwe administration. During the demonstration, university security guards reportedly surrounded the student leaders to prevent them from accessing the office of the university vice-chancellor. When the students allegedly refused to comply, security guards reportedly used tear gas to disperse the demonstration and arrested Roderick Fayayo, Philani Zamchiya, Tafadzwa Mugabe, Simbarashe Machiridza, Obert Mbuzini and Pasttense Tarondwa. They were reportedly brought to Avondale police station, where they were allegedly charged with public violence under common law and could face a prison sentence. It was reported that their trial was to be held on 9 June 2004. Concern was expressed that members of ZINASU had been targeted for their participation in a demonstration to protest against the ongoing strike and to defend the rights of the students of the University of Zimbabwe.

1036. By letter dated 21 May 2004, the Government replied to the urgent appeal sent on 30 April 2004. The Government stated that the student demonstration on 15 March 2004, in which more than 800 students participated, had not been sanctioned by the authorities, as required by the Public Order and Security Act and the University of Zimbabwe Ordinance 30. It stated that university guards moved in, dispersed the students, and arrested 10 of them, including **Roderick Fayayo**, **Simbarashe Machiridza**, **Obert Mbuzini** and **Pasttense Tarondwa**. The police were called to the scene, but did not intervene. The Government reported that, in the course of the demonstration, someone threw a tear gas canister at the students, one which was not coming from the police.

1037. On 13 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of

human rights defenders, sent a letter of allegation regarding the situation of **Tinashe Lukas Chimedza**, former Secretary-General of ZINASU, a youth and social rights activist and the Zimbabwe nominee to the International Youth Parliament. According to information received, Tinashe Lukas Chimedza had been invited to speak at an Education Rights Forum at the University of Zimbabwe, which was scheduled for 22 April 2004. It was reported that, before the commencement of the event, heavily armed police surrounded the hall and allegedly arrested Tinashe Chimedza upon his arrival. The police reportedly took him in to a room where they allegedly punched and beat him with sticks before taking him to Marlborough police station. It was reported that, on the insistence of his lawyers, Otto Saki of Zimbabwe Lawyers for Human Rights (ZLHR) and Jacob Mafume of Human Rights Forum, Tinashe Chimedza, who was allegedly unconscious and bleeding heavily from the mouth, was taken from the police station to hospital, where he reportedly remained under police surveillance. According to the information received, Tinashe Chimedza was detained based on an arrest warrant issued against him in 2001 for having committed acts of violence during a student demonstration when he was Secretary-General of ZINASU. He was reportedly granted bail 29 April 2004. Concern was expressed that Tinashe Chimedza was being targeted for his work as a student's rights advocate.

1038. On 5 August 2004, the Government sent a response to the Special Rapporteur's communication of 13 May 2004 stating that, on 22 April 2004, the Police Internal Security Intelligence gathered information from the University of Zimbabwe security personnel that students were preparing to hold an unauthorized meeting at the college at around 6 p.m., and that one of the speakers would be Tinashe Lukas Chimedza. He had been on an outstanding warrant of arrest dating back to 2001, and managed to elude the police. Four policemen were deployed to monitor the situation at the university because, from past experience, destruction of property and general mayhem usually occurred after such meetings. When a policeman approached Tinashe Lukas Chimedza at the event, Mr. Chimedza punched him. The public was not amused when it saw a policeman being assaulted. In a case of meting out instant justice, the public started assaulting Tinashe Lukas Chimedza. Policemen eventually managed to rescue him and took him to a hospital. He received medical attention under police guard. When he was released from hospital on 23 April, he was charged with assaulting a policeman, for which he pleaded guilty and paid a fine. The earlier charges were still pending before the courts at the time this reply was sent.

1039. On 13 May 2004, the Special Rapporteur sent an urgent appeal concerning the alleged threat of closing the independent weekly *The Tribune*. On 3 May 2004, the Media and Information Council (MIC) Chair reportedly declared that the newspaper failed to report changes in its ownership structure and did not comply with "authorization and accreditation procedures" established by the media law passed in March 2002. Allegedly, *The Tribune* was given seven days to reply, after which its operating licence was to be suspended or revoked. However, it was believed that this decision might have been linked to the expulsion the previous week of one of the newspaper's leading shareholders, a member of Parliament from the ruling Zimbabwe African National Unity Patriotic Front (Zanu-PF) party because of critical comments he made on the media law before Parliament in March. The MP concerned reportedly stated that the media law restricted freedom of expression by forcing all Zimbabwean media and journalists to obtain accreditation from MIC. It was also reported that he was accused of colluding with "government enemies", following funding appeals he made to the owners of the *Daily News* and to British investors. It was also reported in a parallel development that, on April 30, during a press conference in Bulawayo, the Information Minister threatened to imprison journalists "caught

dealing with foreign media houses”. The Minister allegedly also stated in the press that “action can and should be taken” against “Zimbabweans, most of them known, who are being paid to rubbish the country through foreign print and electronic media”.

1040. On 24 May 2004, the Special Rapporteur sent an urgent appeal regarding two journalists from the independent weekly *The Standard* who were reportedly arrested on 19 May 2004 and detained for six hours. According to information received, editor **Bornwell Chakaodza** and reporter **Valentine Maponga** were charged with “publishing false statements prejudicial to the State” under section 15 of the Public Order and Security Act (POSA). The reports indicated that at least six police officers raided *The Standard*’s offices on 19 May 2004 looking for Valentine Maponga, who was allegedly out on assignment. When Maponga returned in the early afternoon, he and Bornwell Chakaodza were taken to a police station, where they were reportedly arrested and charged. It was believed that the arrests stemmed from an article Valentine Maponga wrote for the May 16 edition of the paper, alleging that the family of a mining company executive who had been murdered blamed senior Government officials for plotting the man’s assassination. After signing “warned and cautioned” statements, the two journalists were allegedly released in the evening. Bornwell Chakaodza reportedly said that police told them that they would be detained again after police interrogated the family members of the killed mining executive. If convicted under section 15 of POSA, the journalists were facing up to five years in prison, a fine, or both.

1041. On 8 June 2004, the Special Rapporteur sent an urgent appeal concerning reports that the state telecommunications organization TelOne had asked Internet Service Providers (ISPs) to sign commercial contracts that would oblige them to take “all necessary measures” to prevent the transmission of illegal material online. According to information received, the contracts stipulated that ISPs must ensure that “objectionable, obscene, unauthorized” or all other material that infringed on copyright, intellectual property rights or foreign and local Internet laws do not appear on their networks, which meant that ISPs must monitor all traffic, especially e-mail traffic, and judge what is legal and what is not. Further information indicated that ISPs had to disclose to TelOne and to the Government the origin of questionable e-mail messages. Concern had been expressed that such requirements, which were vaguely worded, were being made in the absence of the necessary legal protection for Internet and electronic mail users. In particular, with respect to their right to privacy and the exercise of their right to freedom of opinion and expression, there was no law in the country, at the time this communication was sent, regulating how and when messages could be intercepted, or when information about an Internet user can be handed over to the authorities.

1042. On 29 September 2004, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning 52 women, members of **Women of Zimbabwe Arise (WOZA)**, who were reportedly arrested during a protest march against new legislation which would allegedly ban foreign human rights groups and bar local advocacy groups from campaigning on “issues of governance” and allow restrictions to human rights organizations’ work. The women reportedly walked 250 miles from Bulawayo and were stopped just 19 miles from Harare, their destination. It was reported that the marchers, and four men who volunteered to protect them as they slept by the roadside en route, were taken to Norton police station. The police reportedly accused them of staging an illegal protest and that, although they had claimed initially that the march was

organized to raise funds for their church, they were found carrying placards with political messages.

1043. On 6 October 2004 the Special Rapporteur sent a letter of allegation concerning information that:

- On 10 June 2004, the licence of weekly newspaper *The Tribune* was reportedly ordered suspended for one year by the Government-controlled Media and Information Commission (MIC) for violating section 67 of Zimbabwe's Access to Information and Protection of Privacy Act (AIPPA) by failing to inform MIC of changes in the title, publication frequency, and ownership of the newspaper. Furthermore, the newspaper was accused of employing an accredited journalist, which contravenes AIPPA's provisions. However, it was alleged that the provisions of AIPPA that addressed licensing issues were vague on how to inform the MIC of such changes. It was reported that the newspaper thought it had informed the MIC of the changes through an advertisement that appeared in editions sent to the Commission. As for the unaccredited journalist, he was reportedly employed as a consultant by the previous owners of the newspaper. *The Tribune* was the second newspaper to be shuttered after the *Daily News*, which was forced to close in February 2004 because the MIC refused to license either the publication of its journalists in spite of two court orders directing it to do so;
- On 29 May 2004, armed riot police allegedly stormed the venue of an **MDC meeting** in Gweru Urban and barred **those who were present** from holding the Provincial Assembly meeting for Midlands South at the MDC offices. MDC party leaders from around the country had been invited to the meeting to educate party representatives on the electoral process ahead of the 2005 general elections. The riot police allegedly threatened to fire tear gas at the delegates if they went ahead with their meeting. The police were also said to have barred MDC authorities from paying out bus fares to delegates who had come from other towns to attend the meeting. According to the information received, MDC party officials had sought police clearance to hold a meeting the previous week and that the police had not responded to their request;
- On 16 May 2004, **a man** was reportedly arrested in Mbare East for attending an MDC rally. He was subsequently detained for seven days at Harare central police headquarters. It was reported that he was severely assaulted during his period of detention, and that Constables Chikadza and Njani of Harare Central Police Station stole Z\$ 150 000 from him while he was detained there. On the eighth day of his detention, he was reportedly moved to the Harare Remand Prison and further detained. He was then taken to court where he was charged with public violence and then released on Z\$ 50,000 bail;
- On 15 May 2004, **Lovemore Madhuku**, National Constitutional Assembly (NCA) chairperson, and **79 others** were reportedly arrested in Gweru Urban by the police shortly before a meeting organized by the Civil Alliance for Social and Economic Progress (CASEP) in Gweru. They were reportedly arrested on allegations of holding an NCA meeting without police clearance. However, it was alleged that the meeting was organized under CASEP auspices and that the police

gave CASEP clearance to hold the meeting. Of the 80 who were arrested, 78 were released later that same day;

- On 12 May 2004, **an MDC activist** who was part of the group that joined the NCA demonstration in Harare, was reportedly arrested by police officers in civilian clothing. According to the information received, the police beat him severely on the head, legs and all over the body, forced him into a Police Defender truck and then ordered him to sit on the floor. He was then allegedly taken to Harare Central Police Station in handcuffs. It was reported that he was taken to the Law and Order Maintenance Section where he was further beaten for about two hours while being interrogated about the NCA demonstration. He was fined Z\$ 25,000 and then released;
- On 8 May 2004, at Mufakose, it was reported that while **MDC supporters** were singing political songs at an MDC rally at Rugare Stadium, riot police attacked and assaulted them with baton sticks;
- On 4 May 2004, police officers detained **Desmond Kwande**, a photographer with the *Daily Mirror* newspaper, for one hour after he attempted to photograph a banner at Eaglesvale High School in Harare that was under police guard. The high school was one of the 45 schools closed by the Government over their unauthorized hiking of school fees;
- In May 2004, a truckload of police officers reportedly arrived at a tuck shop where **MDC supporters** were distributing MDC fliers; the police accused them of murdering people in the March 2004 Zengeza parliamentary by-election. The supporters showed the police officers their fliers and explained to them that they were calling people to attend an MDC rally in Mbare, but the officers reportedly went on to arrest them. According to the information received, one of them was kicked in the right side of the chest, right side of the wrist and the right foot;
- On 29 April 2004, the Department of Information reportedly asked a **Sky News television crew** from the United Kingdom of Great Britain and Northern Ireland to leave the country, allegedly because of having entered the country illegally and not observing accreditation laws. According to the information received, Sky News had not tried to enter the country clandestinely, but had clearance to send a two-man crew from Johannesburg, South Africa, to film matters related to cricket;
- On 28 April 2004, **Sheba Phiri**, Deputy National Chairperson of the Zimbabwe Human Rights Association (ZimRights), was reportedly arbitrarily arrested by plainclothes police officers, and detained at Bulawayo Central Police Station. According to the information received, police ransacked and searched Ms. Phiri's apartment without a search warrant: The police took away reports, files and documents concerning ZimRights' activities. Ms. Phiri was also an active member of Amnesty International and NCA. Documents related to the work of these organizations were also confiscated. Ms. Phiri was arrested together with **Felix Mafa**, a member of Post-Independence Survivors' Trust, **Goden Moyo**, an NCA member, **Reggie Moyo**, a member of Bulawayo Agenda, and **two other persons**. All were detained, interrogated, and then released two hours later. The police informed the detainees that they could be summoned in the future. Moreover, ZimRights' Regional Officer in Masvingo, **Mabel Sikhosana**, was arrested on

27 April 2004, and temporarily detained by Masvingo Police officers for allegedly organizing a meeting without informing the authorities responsible. However, according to the information received, Ms. Mabel had not organized any meeting;

- On 28 March 2004, a young activist was reportedly shot dead and 10 were wounded during the parliamentary by-election in Zengeza constituency. According to the information received, **Francis Chinozvinya** from the Movement for Democratic Change (MDC) was declared dead on arrival at hospital after being hit in the chest by a shot reportedly fired from a ruling ZANU party gang at the home of the MDC candidate in Zengeza township. On the same day, **NCA activists** were reportedly attacked during a peaceful demonstration by the Zimbabwe Republic Police with baton sticks and riot gas. It was also reported that **27 NCA activists** from Mutare, who were on their way to the march, were briefly detained on a Harare-bound commuter train, interrogated and later released. No charges were brought against them;
- On 25 and 26 March 2004, five police officers raided the offices of Radio Dialogue in Bulawayo, and arrested several staff members. **Sharon Sithole**, the station's human resources officer, was questioned about ties between Radio Dialogue and Bulawayo Agenda, a local initiative that organized public meetings at which Bulawayo residents discussed issues of concern. The officers then produced a search warrant stating that they had reason to believe that the station manager, **Father Nigel Johnson**, was in possession of "subversive material". The officers proceeded to search the stations offices and studios, and seized documents. They also recorded information about the station's 17 employees. Sithole was later picked up by the police and took to the police station where she was further questioned for nearly two hours before being released. On 26 March, police officers returned to Radio Dialogue's offices, where they arrested Marketing Officer **Koliwe Nyoni**. Nyoni spent the morning and part of the afternoon at the central police station, where he was asked about a Public Order and Security Act public-awareness advertisement that the Media Institute of Southern Africa-Zimbabwe had placed in newspapers in 2003. The same day, Bulawayo Agenda coordinator **Gordon Moyo** also spent the day at the police station. After questioning him, police officers proceeded to search his house. In a separate incident, **Father Nigel Johnson** was arrested on 2 January 2004 in Bulwayo, while filming footage for a music video. Police charged Johnson under the Miscellaneous Offences Act but it was alleged that he was not informed why he was charged;
- On 19 March 2004, Zimbabwean filmmaker **Simon Bright** was arrested and questioned by the police in Harare on allegations of having participated in the production of a BBC documentary entitled "Panorama", which focused on Zimbabwe's controversial national youth training service in special camps, allegedly to torture and intimidate opponents of the Government of President Robert Mugabe. Bright was charged under the Public Order and Security Act for giving "a statement which is wholly or materially false". At the time of his arrest, Bright was taking a tape to clients in London who had commissioned him to make a documentary on a game park in southern Zimbabwe. It was reported that police

were “unable to say what was offensive” about the tape and that various government departments were involved in the making of the documentary;

- On 25 February 2004, three journalists, sports editor **Robson Sharuko** and sports journalists **Tendai Ndemera** and **Rex Mphisa**, were reportedly dismissed from the daily *The Herald* because they had worked with the American public radio station Voice of America (VOA). Their collaboration with VOA was sanctioned as running contrary to “national interests and security”, since the station was “among the media outlets that spread lies about this country, contributing to deterioration in its image”;
- On 30 November 2003, **Bright Chibvuri**, an editor for the *Worker* newspaper, was kidnapped by alleged Zimbabwean National Union Patriotic Front youths and State security agents in Kadoma. The incident occurred while Chibvuri was covering a parliamentary by-election, reportedly in the presence of uniformed police officers. According to the information received, Chibvuri was slapped several times and kicked in the genitals. He was suffering from a persistent earache and sought medial attention. When Chibvuri asked about his equipment, passport and clothing, he was referred to the Kadoma central police station, where the officer in charge told him that his belongings had been confiscated by Central Intelligence operatives;
- On 14 November 2003, the Magistrate’s Court dismissed an application by four Associated Newspapers of Zimbabwe (ANZ) directors, **Samuel Sipepa Nkomo**, **Stuart Mattinson**, **Brian Mutsau** and **Rachel Kupata**, in which they asked the court to drop the charges brought against them. The four directors were arrested in late October 2003 for publishing an edition of the *Daily News* after the Administrative Court ordered that it be granted a licence by 30 November 2003;
- On 18 October 2003, **two employees and an activist of the Movement for Democratic Change (MDC)** were reportedly shot at MDC head office in Harare by a person identified as a lawyer. One of the two wounded, **Wellington Kanyanga**, was said to be in a critical condition, and the other two have been admitted at the hospital for injuries in the arms and legs. While the injured were under police guard, the alleged perpetrator of these acts was apparently not interrogated by the police. On 13 October 2003, **Paul Themba Nyathi**, the MDC Secretary for Information and Publicity, alongside another MDC activist, was reportedly informed by the police that he was going to stand trial on 29 October for “attempting to remove a constitutionally elected” President, Mr. Mugabe, under the provisions of the Public Order and Security Act. However, when he was arrested on April 2003 together with many other MDC activists following a stay-away organized on 18 and 19 March 2003, he was released without charges. On June 2003, **Morgan Tsvangirai**, the MDC President, was arrested in his house after calling for a week-long strike, and was charged with treason for making statements calling for the removal of President Mugabe during protest campaigns in May 2003.

1044. On 11 October 2004 the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation concerning information that:

- On 19 May 2004, **several individuals**, among whom **a security officer** at MDC Headquarters, were reportedly attacked with stones by ZANU-PF supporters at MDC Headquarters at Harvest House in Harare. When the victims sought refuge in the offices, the assailants were said to have broken down the security gate, marched into the offices and further assaulted them. One of them was allegedly hit on the legs and arms. The police then arrested nine others present and detained them at the Harare Central Police Station. According to the information received, one of the alleged victims was detained for three days and was beaten under the feet with *sjamboks*. Two of them were released the following day without a charge being brought against them;
- On the same day, **one individual** was reportedly assaulted by riot police at Midlands Hotel in Gweru Urban, where he was attending a meeting organized by CASEP at around 9 a.m. Riot police reportedly came in and assaulted everyone. One of the riot police officers was said to have tipped the table where the victim was hiding and its edge hit him on the right middle finger. One of the policemen reportedly kicked him on the back and left elbow with boots and then kicked him and hit him with a rifle butt and a baton stick all over the body;
- On the same day, it is reported that **a man** was on his way home from the NCA demonstration with two colleagues when they met a policeman speaking into his communicator radio. Within a short time a Police Defender truck with uniformed police officers and police officers in civilian clothing had arrived. He, as well as his two colleagues, purportedly ran away but one of the officers in plainclothes chased after him and threatened to shoot him if he did not stop. According to the information received, although he stopped immediately, the police officer went on to assault him on the head, chest, and all over the body. When he attempted to escape, another police officer shouted "*rova makumbo!*" ("Beat him on the legs"). He was allegedly beaten on the knee, fell to the ground, and failed to get up and run. He was reportedly beaten for about 30 minutes before the officers threw him into the back of the Police Defender truck. He was driven off and later dumped in the nearby industrial area;
- On the same day, a woman was reportedly assaulted by police officers during a demonstration organized by NCA. Three police officers reportedly hit her on the back, head and right hand with baton sticks;
- On 5 May 2004, **an MDC youth leader for Epworth and his colleagues** were reportedly approached by six police officers at about 6 p.m. at Domboramwari area, who accused them of inciting violence. They were distributing MDC fliers encouraging people to register to vote, but had lost their identity documents. According to the information received, the police officers surrounded them and one officer pointed a gun at **one of the young men**. He was reportedly handcuffed by the police and beaten on the head, the right hand, and in the chest whilst lying on the ground. Nine other youths apparently escaped, but six who failed to escape were handcuffed, forced to lie down and further beaten on their backs with sticks. They were reportedly taken to one of their home and they were only released after the mother paid Z\$ 150,000 to the police;

- On 4 February 2004, the police reportedly arrested **more than 100 people** during an anti-Government protest in Harare. The leader of the protest, **Dr. Lovemore Madhuku**, chairman of political pressure group National Constitutional Assembly (NCA), was assaulted and severely injured. According to the information received, the police beat Madhuku with batons, kicked him all over his body, bundled him into a truck and later dumped him on the outskirts of Harare. Madhuku reportedly suffered head and back injuries, had lacerations all over his body, and was only dumped after he had a gash in the head and was bleeding. Apparently 20 other people were assaulted, and one man had also suffered severe head and body injuries.

1045. On 5 November 2004, the Special Rapporteur sent a letter of allegation concerning the events of 29 April 2003, when **Elias Mudzuri**, Executive Mayor of the Harare City Council, was suspended from duty, without pay and benefits, by the Minister of Local Government, Public Works and National Housing because of alleged mismanagement of the City Affairs. According to information received by the Special Rapporteur, the President of the Republic reiterated the suspension of the Mayor on 8 April 2004, and also directed him to vacate his office and surrender all council properties still in his possession. Reportedly, the legal procedure leading ultimately to the final dismissal of Mr. Mudzuri, did not appear in conformity with international human rights standards. In addition, the former Mayor of Harare had allegedly been the victim of constant harassment, arbitrary arrest and detention. Mr. Mudzuri, a candidate of the Movement for Democratic Change party, had been elected Mayor of Harare in March 2002. Nineteen other members of City Council, elected as candidates of the Movement for Democratic Change party, were also suspended from office.

Observations

1046. The Special Rapporteur thanks the Government for its replies to his communications of 30 April and 13 May 2004. He, however, regrets not having received any replies to his communications of 12, 13, 15 and 26 January, 12 February, 13 and 24 May, 8 June, 29 September, 6 and 11 October, and 5 November 2004.

Communications sent to the Palestinian Authority

1047. On 28 July 2004, the Special Rapporteur sent an urgent appeal concerning the situation of **several journalists** in the Gaza Strip. According to information received, several journalists of the satellite channels Al-Jazeera and Al-Arabiyya received telephone threats from men identifying themselves as Palestinian Authority security personnel or dissident members of the Fatah organization. The threats reportedly centred on the stations' coverage of fighting in the Gaza Strip that followed the recent appointment of Musa Arafat as head of security for the Palestinian territories. Reports indicate that a caller who identified himself as a representative of a dissident wing of Fatah told a journalist from Al-Jazeera that the station would bear responsibility for the information they release. In a similar incident, a person claiming to represent the Palestinian Authority security forces threatened to burn Al-Arabiyya's office if the station was not more careful about what it reported. It was further reported that, on 20 July 2004, the Palestinian Journalists' Association, which allegedly supported the Palestinian Authority, announced a ban on statements that touched on internal events.

Observations

1048. The Special Rapporteur regrets that no reply to his communication of 28 July 2004 was received at the date this report was finalized.
