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**Promotion and protection of all human rights, civil,
political, economic, social and cultural,
including the right to development**

Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*

Addendum

Communications to and from Governments *****

* The report was submitted late in order to reflect the most recent information.

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

*** This report includes summaries of the communications sent from 1 March 2009 to 20 March 2010 (with respect to allegation letters) and from 3 April 2009 to 15 April 2010 (with respect to urgent appeals). The report also contains summaries of government replies received until 17 May 2010.

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I. Introduction

1. The Human Rights Council, in its resolution 7/24 entitled “Elimination of violence against women”, mandated the Special Rapporteur on Violence against Women, its causes and consequences (hereinafter “the Special Rapporteur”) to respond effectively to reliable information on alleged human rights violations pertaining to violence against women, its causes and consequences. The resolution also requested all Governments to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties, to supply all information requested, including with regard to implementation of her recommendations, and to give serious consideration to her requests for visits and communications.

2. This addendum to the Special Rapporteur’s annual report contains, on a country by country basis, summaries of communications (allegations letters and urgent appeals) sent to Governments on individual cases and general situations of concern to her mandate. This report includes summaries of the communications sent from 1 March 2009 to 20 March 2010 (with respect to allegation letters), and from 3 April 2009 to 15 April 2010 (with respect to urgent appeals). The report also contains summaries of government replies received until 17 May 2010.

3. The Special Rapporteur recalls that in issuing urgent appeals and transmitting allegations, she does not make any judgment concerning the merits of the respective cases, nor does she necessarily support the opinions and activities of the persons on behalf of whom she intervenes. For reasons of confidentiality, privacy and protection, the names of victims appear only in initials in this report. The Special Rapporteur has also used initials for certain other persons concerned, other than the alleged victims, in order to minimise the risk of possible further victimization. Moreover, with a view to preserve the presumption of innocence, only initials are used for the names of alleged perpetrators. In the original communications, the full names of victims were provided to the Governments concerned.

II. Overview of communications

A. Communications sent

4. During the reporting cycle, the Special Rapporteur sent 38 communications to the following 28 Member States: Afghanistan, Angola, Central African Republic, Côte d’Ivoire, Democratic Republic of the Congo, Ecuador, Guatemala, Guinea, India, Indonesia, Iran, Kuwait, Malaysia, Namibia, Nepal, Nicaragua, Nigeria, Philippines, Republic of Moldova, Russian Federation, Somalia, Sudan, Turkey, Uganda, United Arab Emirates, United States of America, Uzbekistan, and Yemen.

5. A total of 15 communications were letters pertaining to allegations of human rights violations that had already occurred or reflected longstanding concerns. The other 23 cases were urgent appeals arising from an ongoing or imminent human rights violation where there was a need to inform the government authorities about the allegations received without delay.

6. 34 of the 38 communications were sent jointly with other mandate holders of the Human Rights Council, these include the following:

The Special Rapporteur on the situation of human rights defenders (19)

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (15)

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (13)

The Special Rapporteur on extrajudicial, summary or arbitrary executions (6)

The Working Group on Arbitrary Detention (5)

The Special Rapporteur on the independence of judges and lawyers (5)

The Working Group on Enforced or Involuntary Disappearances (3)

The Special Rapporteur on the human rights of migrants (2)

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (3)

The Special Rapporteur on freedom of religion or belief (2)

The Special Rapporteur on trafficking in persons, especially in women and children (1)

The Independent Expert on the situation of human rights in Somalia (1)

The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (1)

The independent expert on minority issues (1).

7. The largest number of joint communications was sent together with the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The Special Rapporteur wishes to reiterate her underlying belief that joint communications reflect a deeper understanding of the convergence of the diverse forms of human rights violations experienced by women with more conventional forms of violations.

B. Cooperation and replies of Governments to the Special Rapporteur

8. In each communication, the Special Rapporteur requested Governments to respond to a detailed set of questions in order to clarify the allegations submitted. The Special Rapporteur remains concerned that only 14 Governments out of the 28 concerned replied to communications sent to them. The Special Rapporteur wishes to thank Governments who responded to her communications during the period under review and also expresses her appreciation to those Governments who provided responses to communications sent in previous reporting periods.

9. The Special Rapporteur is still awaiting the responses from the following Member States who are yet to respond to all or some of the communications sent during the period under review: Afghanistan, Angola, Central African Republic, Côte d'Ivoire, Ecuador, Guatemala, Guinea, Iran, Republic of Moldova, Namibia, Nigeria, Philippines, Democratic Republic of the Congo, Somalia, Uganda, United Arab Emirates and Yemen.

III. Trends and observations

10. The communications sent concerned a wide array of issues which reflect a pattern of inequality and discrimination related to violence against women, its causes and consequences, as defined in General Recommendation 19 of the United Nations Committee on the Elimination of Discrimination against Women and the United Nations Declaration on the Elimination of Violence against Women¹. These included: arbitrary detention, torture or cruel, inhuman or degrading treatment or punishment, summary and extrajudicial executions; sexual violence, including rape, sexual abuse and sexual exploitation; and other forms of violence grounded in discrimination against women.

11. In a substantial number of cases, violations were allegedly committed by State agents, in particular, police officers and military personnel. The Special Rapporteur notes, in this respect, article 4 (b) of the Declaration on the Elimination of Violence against Women, which stipulates that States should, without delay, pursue all appropriate means and policies of eliminating violence against women and, to this end, should refrain from engaging in violence against women.

A. Failure to prevent and respond to violence against women with due diligence

12. According to the Declaration on the Elimination of Violence against Women and other human rights instruments, States have a duty to take positive action and exercise due diligence to prevent and protect women from violence, to prosecute and appropriately sanction perpetrators of violence and to ensure that victims of violence receive compensation, regardless of whether the relevant acts were committed by State or non State actors. A failure to comply with any aspect of the due diligence obligation constitutes a human rights violation.

13. 23 out of 38 communications sent concerned allegations of a State failing to meet its obligations of due diligence in combating violence against women. In the period under review, the Special Rapporteur acted on cases in which authorities reportedly allowed investigations or prosecutions of acts of violence against women to lag, or where authorities failed to administer appropriate punishments and penalties to acts of violence against women.

14. Several of the communications sent underline that general problems of impunity and corruption in the public sector which are known to have exacerbated gender-based violence by depriving women of the option to invoke the rule of law to counter social power structures that systematically discriminate against women.

15. The Special Rapporteur would like to recall her report on the Due Diligence Standard as a Tool for the Elimination of Violence against Women² and reiterate that States cannot delegate their human rights obligations to prevent and respond to violence against

¹ General Recommendation 19 defines gender-based violence “as violence directed against a woman because she is a woman or which affects a woman disproportionately. It includes physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”. The Declaration on the Elimination of Violence against Women defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or physiological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”.

² E/CN.4/2006/61.

women with due diligence. They must therefore make appropriate, decisive and timely interventions whenever public or private actors, State or traditional justice mechanisms engage in and condone violence against women, or otherwise fail to address it adequately.

B. Sexual violence and other forms of violence amounting to torture or ill-treatment

16. Six out of 38 communications concern allegations of rape, sexual abuse and exploitation, allegedly committed, in a large majority of these cases, by State agents. 15 other communications concern cases in which authorities were alleged to have tortured women or subjected them to cruel, inhuman and degrading treatment or punishment (including sentencing to death and corporal punishment).

17. The Special Rapporteur wishes to recall that sexual violence, a pervasive manifestation of gender-based violence, is not restricted to specific regions, countries or contexts, but is a universal problem that exists in every country and region of the world, be it in contexts of peace, conflict, post-conflict and transitional justice. Sexual violence is rooted in a global culture of discrimination which results in unequal power relations between men and women and legitimizes the appropriation and control of women's bodies. Women's vulnerability to sexual violence is heightened by the existence of social and cultural norms that foster inequality, as well as by sexist policies and practices that often deny women effective recourse and force them to remain in violent situations. While sexual violence is often looked at in isolation, it often intertwines with other forms of discrimination, including on the basis of race, ethnicity, religion, sexual identity, social status or disabilities.

18. The Special Rapporteur notes that, in recent years, there has been an increased and explicit recognition of some forms of violence against women in international and national courts as amounting to torture and ill-treatment, the best known examples being rape by private or public actors in conflict or in custodial settings. Other forms of violence against women, such as physical or sexual violence in an intimate relationship, if committed with the acquiescence of the State, may qualify as torture or cruel, inhuman or degrading treatment as well.

19. Under international human rights law, notably the Declaration on the Elimination of Violence against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, States have the obligation to criminalize acts of torture and violence against women, to prosecute perpetrators and provide reparation to victims. Accordingly, States must do their utmost to prevent the perpetration of sexual violence, address any act of sexual violence and offer judicial remedies to the victims.

C. Violence against human rights defenders

20. The Special Rapporteur observes an ongoing trend to subject women's rights defenders to violence, including arbitrary detention and threats of violence. 19 out of 38 communications concerned cases of this nature.

21. The great majority of the cases concerning women's rights defenders were allegedly perpetrated by persons identified as State agents. The Special Rapporteur would like to remind Member States that by ratifying the Convention on the Elimination of All Forms of Discrimination against Women they have committed to take all appropriate measures to eliminate discrimination against women in the political and public life of their respective country and, in particular, to ensure to women, on equal terms with men, the right to participate in non governmental organizations and associations concerned with the public

and political life of the country (article 7 of the Convention). Further, the Special Rapporteur wishes to reiterate the principle reiterated in Commission on Human Rights resolution 2005/38 in which the Commission calls on States to facilitate the full, equal and effective participation and free communication of women at all levels of decision making in their societies.

D. Violence against women facing multiple and intersecting layers of discrimination

22. 7 out of 38 of all communications sent concerned women facing multiple and intersecting forms of discrimination. Women belonging to national, ethnic or religious minorities and migrant women are represented among such reported victims.

23. In this regard, the Special Rapporteur would like to refer to Human Rights Council Resolution 7/24 and recall that all forms of discrimination, including racism, racial discrimination, xenophobia and related intolerance and multiple or aggravated forms of discrimination and disadvantage can lead to the particular targeting or vulnerability to violence against girls and some groups of women, such as women belonging to minority groups, indigenous women, refugee and internally displaced women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, women with disabilities, elderly women, widows and women in situations of armed conflict, women who are otherwise discriminated against, including on the basis of HIV/AIDS status and victims of commercial sexual exploitation. She also wishes to recall the widespread discrimination and violence suffered by some groups of women owing to their sexual orientation and gender identity.

E. Laws that discriminate against women

24. The Special Rapporteur also acted upon laws, regulations, drafts and specific legal provisions which allegedly discriminate against women and may condone or cause violence against women. Several letters were sent in this respect reflecting the importance the Special Rapporteur attaches to addressing the full spectrum of her mandate, including the causes and consequences of violence against women. In this regard, the Special Rapporteur wishes to refer to relevant articles of the Convention on the Elimination of All Forms of Discrimination against Women which establish that States Parties, by agreeing to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women.

IV. Communications sent and Government replies received

25. Communications sent and Government replies are presented in the language received- be it in English, French or Spanish. Replies received in other UN official languages have been translated into English. The Special Rapporteur provides observations on which additional information is required to respond effectively to the information received or draws the attention of Governments concerned to relevant findings and recommendations contained in her country or thematic reports, reports by relevant special procedures mandate holders and treaty bodies, and international human rights instruments.

26. The following table sets out the overview of the communications sent by the Special Rapporteur during the period under review:

<i>Date</i>	<i>Country</i>	<i>Type of Comm</i>	<i>Individuals concerned</i>	<i>Alleged violations/human rights issues</i>	<i>Government reply</i>	<i>Date of Government response</i>
31.08.2009	Afghanistan	JAL	Shi'a minority of women and girls	Violation of the right to freedom of religion, violation of human rights of the Shi'a minority of women and girls	No	
18.12.2009	Angola	JAL	Approximately 18,800 DRC nationals	Violation of human rights of migrants (refugees, asylum-seekers and irregular migrants), victims of ill treatment, gender-based violence, sexual violence	No	
05.02.2010	Central African Republic	JUA	Ms. A.N., a 15 year old girl	Arbitrary detention, torture of a woman	No	
28.07.2009	Côte d'Ivoire	AL	A group of women and girls	Sexual violence (sexual abuse, rape, female genital mutilation), forced and early marriage, trafficking of women for sexual exploitation, domestic violence	No	
13.10.2009	Democratic Republic of Congo	JAL	Ms. R.A., member of an NGO and other members of the same NGO	Violation of the right to freedom of opinion and expression, threats against a woman human rights defender and her daughter	No	
30.10.2009	Democratic Republic of Congo	JUA	Mr. F.K., human rights defender	Death threats against a human rights defender	No	
16.03.2010	Democratic Republic of Congo	JAL	Mr. P.A., Mr. J.L., Mr. D.N., human rights defenders and Ms. E.L.	Violation of the right to freedom of opinion and expression	No	
04.05.2009	Ecuador	JUA	Ms. R.E.M.C. and Ms. G.L.J.B., human rights defenders	Physical aggression and threats against two human rights defenders, violation of the right to freedom of opinion and expression	No	
16.07.2009	Guatemala	JUA	Ms. J.B.V.A, human rights defender	Physical aggression, threats and intimidation of a human rights defender	No	
01.10.2009	Guatemala	JUA	Ms. N.C., human rights defender	Threats and intimidation of a human rights defender and her family	Yes	13.04.2010
06.04.2010	Guatemala	JUA	Ms. N.C., human rights defender	Threats and intimidation of a human rights defender and her family	No	

<i>Date</i>	<i>Country</i>	<i>Type of Comm</i>	<i>Individuals concerned</i>	<i>Alleged violations/human rights issues</i>	<i>Government reply</i>	<i>Date of Government response</i>
06.10.2009	Guinea	JUA	A group of individuals	Sexual violence (sexual harassment, rapes and collective rapes), arbitrary detention, enforced disappearances, violation of the right to freedom of opinion and expression, summary executions, use of mercenaries	No	
29.07.2009	India	JAL	Dr. H.K., human rights defender	Violation of the right to freedom of opinion and expression, threats against a human rights defender	Yes	29.12.2009
02.10.2009	Indonesia	JUA	Individuals under the jurisdiction of the new Islamic Criminal Code (Qanun Jinayah)	Torture, summary executions, violation of the right to freedom of religion, sexual violence (rape)	Yes	23.12.2009
21.07.2009	Iran	JUA	Ms. S.S., a Sawyer and human Rights activist	Arbitrary detention, violation of the right to freedom of opinion and expression, torture	No	
28.12.2009	Iran	JUA	Ms. S.R., human Rights activist, supporter of the One Million Signatures Campaign	Arbitrary detention	No	
07.01.2010	Iran	JUA	A group of individuals: human rights defenders, lawyers, journalists and bloggers	Arbitrary detention, violation of the right to independence of judges and lawyers, violation of the right to freedom of opinion and expression, torture	No	
27.01.2010	Iran	JUA	Ms. S.E., a woman sentenced to death by stoning	Violation of the right to independence of judges and lawyers, summary executions, torture	No	
04.02.2010	Kuwait	JUA	Ms. J.P., a Filipina national, domestic migrant worker	Violation of human rights of migrants, labour exploitation (exploitation of domestic workers)	Yes	17.03.2010
03.08.2009	Malaysia	JUA	Mrs. K.S.D.S., a Malaysian citizen and permanent resident of Singapore	Torture	Yes	01.09.2009
23.04.2009	Moldova	JAL	Ms. L.S., charged with murder for performing an abortion	Violation of the right to mental and physical health, degrading treatment by police forces	Yes	05.06.2009

<i>Date</i>	<i>Country</i>	<i>Type of Comm</i>	<i>Individuals concerned</i>	<i>Alleged violations/human rights issues</i>	<i>Government reply</i>	<i>Date of Government response</i>
21.10.2009	Namibia	JAL	40 women from a sample of 230 women living with HIV who participated in related research and were victims of coerced sterilization	Violation of the right to mental and physical health, torture	No	
30.04.2009	Nepal	JUA	A group of individuals: human rights defenders and journalists	Violation of the right to freedom of opinion and expression, torture, sexual harassment, intimidation and threats to a human rights defender	Yes	08.02.2010
26.11.2009	Nicaragua	JAL	Ms. L.N., human rights defender, Ms. P.O., human rights defender and Ms. A.E.O., lawyer and human rights defender	Harassment and ill-treatment against a human rights defender	Yes	04.02.2010
08.02.2010	Nigeria	AL	Ms. G.U., a member of the National Youth Service Corps	Sexual violence (rape), murder	No	
23.04.2009	Philippines	JAL	Women in Manila City	Violation of the right to mental and physical health	Yes	05.11.2009
23.12.2009	Philippines	AL	Killing of 57 persons, including 21 women	Violation of the right to freedom of opinion and expression, use of mercenaries for violating the human rights, sexual violence (female genital mutilation, sexual abuse) murder	No	
20.07.2009	Russian Federation	JUA	Ms. N.E., a human rights defender	Kidnapping of a human rights defender, summary execution, violation of the right to independence of judges and lawyers, violation of the right to freedom of opinion and expression, torture	Yes	27.08.2009
05.06.2009	Somalia	JUA	Ms. I.A.A, a pregnant woman, Mr. A.M.M. and Mr. B.M.I, sentenced to death	Summary executions, violation of the right to the independence of judges and lawyers	No	
14.08.2009	Sudan	JAL	Ms. A.H, a human rights defender and journalist	Violation of the right to freedom of opinion and expression	Yes	24.09.2009
26.08.2009	Sudan	JUA	Ms. L.A.H., a Sudanese	Torture	Yes	02.10.2009

<i>Date</i>	<i>Country</i>	<i>Type of Comm</i>	<i>Individuals concerned</i>	<i>Alleged violations/human rights issues</i>	<i>Government reply</i>	<i>Date of Government response</i>
			nacional			
22.05.2009	Turkey	UA	Ms. R.H., a citizen of Iran	Administrative and judicial difficulties for resettlement in a third country encountered by an Iranian women victim of violence.	Yes	27.05.2009
13.05.2009	Uganda	JUA	Ms. E.M.V. Executive director of an NGO and Mr. A.K.B., Chairperson and Chief of research of the same NGO	Violation of the right to freedom of opinion and expression, death threats, acts of harassment and intimidation against human rights defenders,	No	
03.06.2009	Uganda	JUA	Mr. A.K.B., the Chairperson and Chief of Research of an NGO	Involuntary disappearances, violation of the right to freedom of opinion and expression, death threats against a human rights defender	No	
12.03.2010	United Arab Emirates	JAL	Ms. S.M., a dual United States-United Arab Emirates citizen and founder of an NGO	Threats and harassment against the family of a human rights defender	No	
23.07.2009	United States of America	JAL	A group of individuals	Torture	Yes	17.12.2009
28.04.2009	Uzbekistan	JUA	Ms. E.U., a member of an NGO	Violation of the right to freedom of opinion and expression, threats against a human rights defender, physical violence against a human rights defender and her son	Yes	05.06.2009
29.04.2009	Yemen	JUA	Ms. F.H.A.B. sentenced to death and Mr. A.H.A.B. executed	Summary execution, violation of the right to independence of judges and lawyers, torture	No	
18.12.2009	Angola	JAL	Approximately 18,800 DRC nationals	Violation of human rights of migrants (refugees, asylum-seekers and irregular migrants), victims of ill treatment, gender-based violence, sexual violence	No	
05.02.2010	Central African Republic	JUA	Ms. A.N., a 15 year old girl	Arbitrary detention, torture of a woman	No	

<i>Date</i>	<i>Country</i>	<i>Type of Comm</i>	<i>Individuals concerned</i>	<i>Alleged violations/human rights issues</i>	<i>Government reply</i>	<i>Date of Government response</i>
28.07.2009	Côte d'Ivoire	AL	A group of women and girls	Sexual violence (sexual abuse, rape, female genital mutilation), forced and early marriage, trafficking of women for sexual exploitation, domestic violence	No	
13.10.2009	Democratic Republic of Congo	JAL	Ms. R.A., member of an NGO and other members of the same NGO	Violation of the right to freedom of opinion and expression, threats against a woman human rights defender and her daughter	No	
30.10.2009	Democratic Republic of Congo	JUA	Mr. F.K., human rights defender	Death threats against a human rights defender	No	
16.03.2010	Democratic Republic of Congo	JAL	Mr. P.A., Mr. J.L., Mr. D.N., human rights defenders and Ms. E.L.	Violation of the right to freedom of opinion and expression	No	

Afghanistan

Allegation letter

27. On **31 August 2009** the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on freedom of religion or belief, and the Independent Expert on minority issues sent an allegation letter to the Government regarding the **Shi'a Personal Status Law** passed and published in the official Gazette on 27 July 2009 (Gazette 988).

28. The Special Rapporteur noted that there were serious reasons for concern that the Shi'a Personal Status Law violated the human rights of minority Shi'a women and girls and was in breach of Afghanistan's national and international obligations. The Special Rapporteur noted that this new law contained changes compared to an earlier version of March 2009 and that several contentious provisions of the law had not been adequately amended to ensure their compliance with Afghanistan's international human rights obligations or with Afghanistan's constitutional guarantees.

29. The following listing illustrates a number of serious human rights concerns contained in the provisions of the new law as published in the official Gazette on 27 July 2009:

- The law makes it impossible for Shi'a wives to inherit houses and land from their husbands – even though husbands may inherit them from their wives;
- Only men are allowed guardianship rights;
- A female virgin — whatever age she may be — is treated as a legal minor and requires the consent of her “guardian” to enter into marriage;
- The law effectively condones the denial of maintenance by a husband to his wife if she refuses his sexual demands or what he perceives to be his “conjugal rights”;
- A woman's mobility, including the right to leave her house, continues to be potentially restricted to varying degrees, depending on the interpretations given to the qualifications in the provision which refer to “legitimate purposes” and “to the extent that local custom allows”.
- Under-age Shi'a girls and boys can be married against their will before the legal age of marriage if a guardian can demonstrate in a court that the child has the “ability and interest” to marry and they have reached puberty.

30. The Special Rapporteur requested some clarifications from the Government on the following matters:

(1) Are the allegations about the legal provisions of the Shi'a Personal Status Law accurate?

(2) Please provide details of legal and other domestic measures or mechanisms that can be used to challenge and review the constitutionality of the Shi'a Personal Status Law. In this connection, thank you for providing information on mechanisms that can be used to ensure that the law does not enter into force until such a judgment or conclusion on its legality/validity is reached. Also, please provide information on whether any such measures or legal actions have been taken to date.

(3) Please provide detailed information or any analysis that may have been conducted (and its conclusions) prior to the passing of the Shi'a Personal Status Law with regard to its conformity with Afghanistan's international human rights commitments as

well as Afghanistan's Constitution and other domestic legislation, including the law on the Elimination of Violence against Women. If such an analysis was not conducted, please explain why not.

Observations

31. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received an official reply and urges the Government of Afghanistan to provide at the earliest possible date a detailed substantive answer to the above communication.

32. While recognising the efforts made on the part of the Government to address violence against women in Afghanistan, including through the adoption in 2009 of a law on the Elimination of Violence against Women, the Special Rapporteur regrets that the new Shi'a Personal Status Law does not support the positive momentum to uphold the rights of women and girls and protect them from the type of discrimination that so often encourages or leads to violence against them. She also wishes to refer to the observations made by the Special Rapporteur on freedom of religion or belief (A/HRC/13/40/ Add.1).

Angola

Allegation letter

33. On **18 December 2009** the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an allegation letter to the Government regarding **the alleged collective detention, deportation and expulsions of a large number of Congolese nationals to the Democratic Republic of the Congo (RDC)**, since January 2009.

34. According to the information received, it was alleged that approximately 18,800 DRC nationals had been expelled from Angola, including 16,000 of them since late August 2009.

35. The Special Rapporteur drew the Government's attention to two instances - in May 2009, in the Ngazi settlement in Lunda Norte province and since early October 2009 in Lunda Sul, Soyo and Cabinda provinces - that illustrated the human rights violations that often took place during these expulsions. Reportedly, refugees, asylum-seekers and irregular migrant workers were subjected to ill-treatment, including gender-based violence, and were deprived of their belongings. These acts were mostly perpetrated by Angolan security forces and intended to force them to return to the DRC.

36. These Congolese citizens were allegedly detained, kept in very poor conditions prior their expulsion, without independent monitoring for asylum seekers. The expulsion took place without prior authorization from a judicial body or access to legal counsel which was often denied to the detainees. In the context of the expulsions, many of them were subject to sexual violence, body searches without minimum hygienic standards increasing the risk of HIV transmission and theft. It was also reported that Congolese refugees were threatened by the local population.

37. The Special Rapporteur welcomed an October 2009 initiative to create a Commission to negotiate with the DRC on these concerns and the issuance on 13 October 2009 of a joint communiqué from both Governments announcing the concerted cessation of the expulsions and the political will to find sustainable solutions to this issue. She noted that, according International Office for Migration-Angola, expulsions continued to occur at a lesser scale (150 persons expelled per day compared to 500 earlier on).

38. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Have complaints been lodged about the alleged violations including sexual and gender violence?
3. Please provide information on the existing legal framework and implementation procedures applied to migrants in detention and those deported and how these measures are compatible with international standards.
4. Please provide information on steps that have been taken with a view to stopping the occurrence of this and similar situations, and in particular to fulfill the commitments undertaken in the joint communiqué issued on 13 October 2009.
5. Please provide information on the proposed establishment of a Commission to discuss the issue of collective deportations and expulsions of nationals of the DRC, including when it is likely to be established in practice and what functions it will perform.

Observations

39. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received an official reply concerning the above mentioned allegations. She also wishes to recall that the situation of nationals of the DRC reportedly facing ill-treatment by Angolan security forces since at least 2005 was already the subject of an urgent appeal sent on 13 December 2007 (see A/HRC/7/6/Add.1) which also remained unanswered.

40. The Special Rapporteur reiterates her interest in receiving responses from the Government in regard to the allegations of serious human rights violations committed by the Angolan security forces during expulsion operations, including systematic use of physical and sexual violence towards migrants from the DRC. She would be particularly interested to know whether these cases have resulted in any prosecutions of alleged perpetrators, and whether victims of sexual violence, including rape, have been granted reparation

Canada

Response received to a communication sent earlier

41. In a letter dated **16 February 2010**, the Government provided complementary information, further to the request of the previous Special Rapporteur in a follow-up letter sent on 17 November 2008 concerning acts of ritual abuse against **Ms. A.C** (see A/HRC/11/6/Add.1 for a summary of the allegation letter and the follow-up letter by the Special Rapporteur).

42. In its letter, the Government informed that it succeeded, with the complainant's consent, to obtain from the police of Alberta a substantial number of police, medical and child welfare records concerning the complainant. These records indicated that the complainant had been in frequent contact with child welfare authorities since at least 1998 (when she was 14 years old) and received regular counseling to help her deal with her suicidal tendencies, depression and past sexual abuse.

43. In 1999, she alleged that her father was sexually abusing her; she was removed from the family home and placed in foster care for three months. She later recanted the allegation and authorities determined that she had made the allegation in order to avoid returning to her parents' care.

44. The records indicated that at other various times child welfare authorities were informed of different aspects of her past sexual abuse. Her parents stated that she had told them she has been sexually assaulted by a babysitter and the babysitter's father; and that she had been sexually abused by her father, as well as by others, from around the time she was 3 or 5 until the age of 14 or 15.

45. In 2002, her parents stated that they were no longer able to keep her at home because of what they said was her uncontrollable behavior and the emotional problems it was causing for her family. She was placed in care until her 18th birthday later that year. Upon leaving the child welfare system, it appeared that she continued to have frequent contact with the adult mental health system.

46. An incomplete list of health services made available to A.C. indicated that between July 2001 and December 2005 the province provided over 300 medical services to the complainant. The police records indicate that between August 2002 and February 2008, the complainant was in contact with the Calgary police twenty-four times. On eighteen of those occasions, she was transported to the hospital out of concern for her mental health, on a number of occasions having threatened or attempted suicide. On ten occasions, she complained of having been the victim of sexual assault.

47. The Government summarized some police records of the incidents involving the following sexual assault allegations:

- On 12 September 2002, the complainant was found by the police lying in a fetal position by a pay phone, from which she had called the Distress Center. She told police she had been kidnapped and gang raped when she was seven years old and she repeatedly stated that it was not her fault that she had broken the camera. The police transported her to a hospital under a mental health warrant.
- On 12 November 2002, the complainant called the police from a pay phone, complaining of a sexual assault by her father. When the police arrived, she refused to provide any information.
- On 31 January 2003, the complainant went to a hospital, complaining of a sexual assault by her father. She initially agreed to the collection of physical sexual assault evidence, but when a doctor attempted to examine her, she refused to be examined. A detective from Calgary Sex Crimes Unit twice attempted to meet with the complainant, and on both times she refused to meet with police.
- On 1 January 2004, the complainant told a worker at a local women's shelter that her father had sexually abused her for nineteen years. She stated that her father was a member of a Mormon cult, and she stated that they had sacrificed at least two babies. When the women's shelter worker called the police, two detectives from the Calgary Sex Crimes Unit went to meet Ms. A.C. She told the police that she would not provide any more information or cooperate with a police investigation; she also stated that she would contact the police when she would feel ready.
- On 18 March 2004, a worker at another women's shelter called the police, advising them that the complainant has been calling the shelter periodically, complaining that she had been sexually assaulted by her father, who belonged to a cult which sacrifices babies. When the police visited the complainant, she was verbally abusive and refused to provide any details of the allegations, although she agreed to be transported to the hospital.
- On 12 June 2004, the complainant called the police and said that she had been sexually assaulted earlier in the day by her father. She stated that after the assault, her father poured bleach from toilet bowl cleaner into her vagina to destroy the evidence. She was transported to the hospital and several care workers attempted to

speak to her, however she refused to provide any details regarding the sexual assault. A police officer sat with Ms. A.C. for three hours, during which time she stated that her father was the leader of a Mormon cult and that they torture anyone who speaks to outsiders. She described four methods of torture: electrocution, beating bottoms of feet with sticks, hanging upside down for long periods of time, and placing needles between fingers, toes and the groin area. She continued to refuse to provide details of the sexual assault, and refused treatment and a physical examination by a physician. She insisted that the police not visit her residence in search of any evidence.

- On 13 June 2004, Ms. A.C. called the police and said that her father had sexually assaulted her earlier in the day in her apartment. When the police arrived, she refused to provide any details and did not want to cooperate with an investigation.
- On 13 July 2004, the complainant attended the Calgary Police station and spoke to two detectives with the Sex Crimes Unit. She stated that she had been sexually assaulted hundreds of times by her father since she was 3 years of age. She had also reported having been sexually assaulted by other men, who were members of the same Mormon cult as her father. These were the same people who sacrificed babies at special ceremonies. The complainant agreed to provide more details at a later date. Several meetings were set, but each time, the complainant cancelled and eventually said that she did not want to provide any details.
- On 24 September 2004, the complainant called the Distress Center, saying she was going to kill herself. The police found her hanging from a cord in her closet. She was taken down and treated by emergency medical workers. She stated that she had been sexually assaulted by her father over the past five days. She was admitted to hospital.
- On 7 January 2006, the complainant called police and stated that she was sexually assaulted by her father the day before. The police attended her residence, and she provided a vague and inconsistent statement. She agreed to comply with a physical sexual assault examination, and exhibits were collected. Initially, she agreed to provide a statement, but after several attempts by a detective to meet with her, she stated that she did not want to continue with her complaint.

48. In its response, the Government drew to the Special Rapporteur's attention that the documentary record appeared to corroborate the complainant's allegation that she made numerous disclosures of the sexual abuse by her father and others to social workers, medical specialists and the police. The records do not confirm that her complaints were not taken seriously; the police records in particular strongly suggested that the reason for not having brought any criminal charges against her father or others was that she failed or was unable to provide sufficient detail of the incidents to conduct investigations, or simply did not want to pursue with her complaints.

49. The Government added that Canada took seriously the complainant's allegations, but informed that without the victim's cooperation it was maybe not going to be possible to bring the alleged abusers to justice. Her cooperation with investigators was deemed crucial with regard to any potential charges or subsequent criminal prosecution.

50. Moreover, the Government attached five Appendixes to its response. Appendix A included the most relevant standards to the complainant's allegations, asked by Department of Justice (DOJ) on the policies and/or guidelines that the Government of Alberta and its police services are required to follow with regard to sexual assault investigations, child abuse allegations and victims of crime. It was explained that the Government of Alberta is responsible for ensuring the adequate and effective policing is maintained throughout the Province. In addition, it was noted that the Solicitor General and Minister of Public Security

is responsible for policing standards pursuant to Section 3.1 of the Alberta Police Act and that, concerning the investigations, the police has as its core function the ability to investigate crimes. The standards identify elements that are common to every investigation. Furthermore, the police service may enter into a mutual aid or shared service agreement with another police service to ensure the availability of resources required to meet a particular standards. Domestic violence was defined “when there is any use of physical or sexual force, actual or threatened, in an intimate relationship. It may include a single act or a pattern of abuse that may include: physical, emotional, psychological, or sexual abuse. It can also include stalking and threats to children, other family members, pets and property”. Concerning assistance to victims or witnesses, the Government stated that the “police services shall take reasonable steps to protect the personal rights and safety of victims and witnesses” and “be particularly sensitive to the special needs of victims and their families in crimes such as domestic violence, child abuse, sexual assault, abuse of elderly, and hate crimes”. “The standards [...] are designed to ensure that victims and other witnesses are handled in a way that acknowledges their important investigative and prosecutorial role”. Finally, Appendix A explained the management of evidence and property in police control which have to be seen through a reliable system for maintaining the integrity of all evidence.

51. Appendix B concerned the Domestic Violence Protocol which states that “it is the responsibility of the service to respond and investigate all reported incidents of domestic conflict”.

52. Appendix C informed about the services available to victims in Alberta as stated by the Alberta Victims of Crime Act (VOCA) of 1997.

53. Appendix D contained the articles 151, 152, 153, 155 and 170-172 of the amended Criminal Code, concerning sexual offences against children and youth, as well as other relevant articles.

54. Appendix E contained the Section 269.1 of the Criminal Code of Canada, with regard to torture.

55. According to the Government, on the basis of the facts available, the police investigations into the complainant’s allegations were fully consistent with the requirements of the Protocol. The complainant applied for compensation and received financial compensation under the Financial Benefit Program for sexual assault victims. The complainant received \$4,000 in 2002 for a sexual assault that allegedly occurred in 2001 in Medicine Hat, Alberta. The accused was not the father and the charges against the accused were withdrawn by the Crown prosecutor who concluded, on further investigation, that there were serious questions as to whether the incident had ever occurred.

56. The Government considered that the criminal justice system’s response to the complainant’s allegations was appropriate, thorough and sensitive to her personal circumstances. The records indicated that extensive police, medical, psychological and victim support services were provided to the complainant over the course of a number of years, and that she had received a financial award for at least one alleged incident.

57. The Government encouraged the complainant to contact Calgary Police Services if she would want to pursue criminal charges and be willing to fully cooperate with the investigation.

58. The Government also included legislative or regulatory measures in place in Canada to address the problem of “ritual abuse-torture” committed by private individuals or organizations or by public actors. The Government noted that the term “torture” was not appropriate in the case of Ms. A.C. and drew to the Special Rapporteur’s attention the definition of the Article 1 of the Convention against Torture.

59. Finally the Government explained that there had been a follow-up to the 1993 report by the Canadian Panel on Violence Against Women. In 1993, the Canadian Panel on Violence Against Women, in its report *Changing the Landscape: Ending Violence and Achieving Equality*, noted that violence against women is multi-dimensional and has physical, sexual, psychological, financial and spiritual aspect. The Panel recognized an under-acknowledged form of violence against women which it termed “ritual abuse”. Ritual abuse was defined by the Panel as “a combination of severe physical, sexual, psychological and spiritual abuse used systematically and in combination with symbols, ceremonies and/or group activities that have a religious, magical or supernatural connotation. Victims are terrorized into silence by repetitive abuse over time and indoctrinated into the beliefs and practices of the cult group”.

60. The Panel proposed a two-pronged plan to address the problem of violence against women. The first prong was an Equality Action Plan to deal with the inequality that makes women particularly vulnerable to violence. Lack of equality rights, unequal access to the legal system, lack of political and public service participation, the tax system and other economic issues – and aimed for the maintenance or creation of specific mechanisms to foster women’s equality.

61. The second prong was a Zero Tolerance Policy, which was based on the position that “no level of violence is acceptable, and women’s safety and equality are priorities”. The Panel recommended that all organizations and institutions review their programs, practices and products in light of the Zero Tolerance Policy, which they should use as a tool for creating a violence-free environment and for monitoring that environment. The policy should also be applied in key sectors of society, such as health and social services, legal institutions, workplaces, the military, educational settings, the federal government and religious institutions.

62. Canada’s response to the report began with a comprehensive plan outlined in *Setting the Stage for the Next Century: The Federal Plan for Gender Equality* (1995), and has continued with a multi-faceted, ongoing effort to achieve gender equality and to reduce violence against women.

Observations

63. The Special Rapporteur would like to thank the Government of Canada for its detailed reply to her predecessor’s follow-up letter, and wishes to congratulate the Government for the legislative and regulatory measures put in place, as well as for the research conducted, on the problem of “ritual abuse-torture” committed by private individuals or organizations and by public actors. She is also grateful for the information provided in respect of the Government’s efforts to eliminate violence against women and to achieve gender equality.

Central African Republic

Appel urgent

64. Le **5 février 2010**, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, le Président Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants ont envoyé un appel urgent concernant la situation de **Mlle. A.N.**, une fille de 15 ans, qui aurait été accusée en 2007 de sorcellerie (« likundu » en sango) envers Mme. A.E.

65. Selon les informations reçues, A.N., alors mineure, aurait été enfermée avec des adultes dans la prison préfectorale de Mobaye et aurait été maintenue en prison sans condamnation, en raison de l'absence d'un juge pour mineurs à Mobaye.

66. En décembre 2008, un garçon de 12 ans s'est noyé dans le fleuve Oubangui à Mobaye. Selon la croyance, cette noyade aurait été provoquée par des personnes transformées en serpents. A.N aurait été frappée, afin qu'elle soit obligée de dénoncer ces personnes. Les deux personnes citées par A.N. auraient été immédiatement emprisonnées.

67. Le Code Pénal donne la possibilité juridique de porter plainte pour « likundu » et « talimbi » (métamorphose en sango).

68. Selon les informations reçues, le 29 juin 2009, A.N aurait été accusée responsable de la maladie et de la mort de la femme du responsable de prison. Ce dernier aurait donné l'ordre à deux prisonniers d'approcher du feu les bras d'A.N. couverts de pétrole. Celle-ci serait restée une journée et une nuit dans sa cellule sans aucun soin, avant d'être transférée à l'hôpital. Son avocat, Maître M.M. aurait fait des démarches pour porter plainte contre les responsables de mauvais traitements infligés à A.N. Selon des médecins étrangers ayant vu en photo les brûlures d'A.N., elle aurait pu rester handicapée sans une greffe de peau, et auraient conseillé d'envisager l'évacuation d'A.N. à l'étranger.

69. En date du 25 juillet 2009, l'avocat aurait organisé une réunion avec la population et les autorités de Mobaye sur le thème de la sorcellerie à laquelle plus de 150 personnes auraient participé. Début septembre 2009, le président du Tribunal de Mobaye, M. S.P.N.S. aurait réuni à son tour les gens de la ville de Mobaye pour proposer aux participants de créer des groupes de surveillance afin que chaque cas de « likundu » soit suivi et porté devant la justice.

70. En outre, la Rapporteuse spéciale a demandé des clarifications de la part du Gouvernement sur les points suivants :

1. Les faits tels que relatés dans le résumé du cas sont-ils exacts?
2. Une plainte a-t-elle été déposée par la victime ou en son nom?
3. Veuillez fournir toute information complémentaire, et éventuellement tout résultat des enquêtes menées, examens médicaux, investigations judiciaires et autres menées en relation avec les faits.
4. Si les allégations sont avérées, veuillez fournir toute information sur les poursuites et procédures engagées contre les auteurs de la violence.
5. Le cas échéant, veuillez indiquer si les victimes ont été indemnisées.
6. Veuillez fournir toute information disponible relative aux plaintes reçues ou poursuites entamées concernant des actes de sorcelleries durant les deux dernières années, ainsi que les articles pertinents dans la législation nationale.

Observations

71. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received a reply from the Government of Central African Republic concerning the above mentioned allegations. She wishes to recall that violence done to women based on accusations of witchcraft is closely linked to the low status of women in society and unequal gender relations, and used as a tool of domination and control over women. In this regard, she wishes to remind the Government of Central African Republic that addressing impunity for acts of violence occurring in the private sphere – without invoking any custom, tradition or religious consideration- is also part of the due diligence obligation of the State. She also wishes to encourage the authorities in Central African Republic to adopt all appropriate

measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women. She also wishes to refer to the section of report A/HRC/11/2 of the Special Rapporteur on extrajudicial, summary or arbitrary executions devoted to the persecution and killing of individuals, particularly women, on accusations of witchcraft.

China

Responses to communications sent earlier

72. In a letter dated **2 September 2008**, the Government replied to a communication dated 17 July 2008 concerning the case of **Ms. M. H.**, a reproductive and housing rights activist who had petitioned against family planning policies and forced evictions since 1989 (see summary of the communication in the previous report on communications to and from Governments, A/HRC/11/6/Add.1).

73. In its response, the Government informed that Ms. M.H, female, was a native of Shanghai, born in 1961. On 16 April 2007, she was sentenced by the Yangpu District People's Court to a term of imprisonment of two years and six months (from 30 May 2006 to 29 November 2008) for the crime of wilful destruction of property. It was noted that she was currently serving her sentence in the Shanghai Women's Prison.

74. The Government further noted that a medical examination of Ms. M. H. upon her admission to the prison indicated that she suffered from hypertension but that otherwise her health was normal. She was ordered to follow the medical treatment prescribed by the doctor and given an appointment for a subsequent exam. On 3 June she entered the infirmary with stomachache, diarrhea and an elevated white blood cell count. She was treated with fluids, and when a follow-up exam on 11 June revealed no symptoms of any kind, the treatment was stopped.

75. It was also indicated that, in prison Ms. M. H. shared housing with two other persons. The prison cell had four windows, each with a surface area of 2.8 square metres. The cell itself had a surface area of 36.7 square metres and was open from north to south, so that there was excellent light and ventilation; the cell also had a separate washroom. With regard to the covering up of the windows, it has been determined that in late 2007 the prison was in the process of rebuilding the dormitory roof; in order to provide temporary protection against the dust, newspapers were pasted over all the windows in the building. The intent was not simply to block off Ms. M. H's windows.

76. The Government further indicated that, to date Ms. H. H. had not drafted any complaint, nor had she applied to meet with a lawyer.

77. It was finally noted that the prison police dealt with criminals in a civilized manner and in accordance with the law, and that Ms. M. H. enjoyed the same rights as the other offenders, namely the right to health and the right to lodge a complaint, and all rights of which prisoners have not been deprived are protected by law. The Government concluded that the allegations raised in the communication were inconsistent with the facts.

78. In a letter dated **7 August 2008** the Government replied to a communication sent on 7 May 2008 concerning the case of **Ms. J.K.**, a well-known Tibetan writer and musician who published articles on women's issues in Tibet (see summary of the communication in the previous report on communications to and from Governments, A/HRC/11/6/Add.1).

79. The Government informed that J.K. was an editor at the Qinghai provincial television station. On 1 April 2008, pursuant to article 9 of the Police Law, she was taken by

Xining police officers, who first showed their badges, to the public security bureau for questioning in accordance with the law in response to accusations that she was suspected of having committed a criminal offence. The Government informed that questioning revealed that she was in fact a criminal suspect. In order to help determine the facts of the case, the public security authorities questioned J. K further and also conducted a search of her home, in accordance with the law, seizing certain items, including her computer. On 3 April, the public security authorities, acting in accordance with the law, placed J.K. in criminal detention and held her in the Xining municipal detention facility. In accordance with the relevant provisions of the Criminal Procedure Law of the People's Republic of China, the Xining police opened a case for investigation and prosecution in respect of J.K., who was charged with advocating splitting of the State. On 20 April, the Xining police, taking into consideration the serious illness of her father and the young age of her child, modified the coercive measures taken in respect of her and released her on bail on humanitarian grounds.

80. The Government indicated that J. K. was not arrested but was placed in criminal detention pursuant to article 61 of the Criminal Procedure Law of the People's Republic of China. Her personal property was not confiscated but was lawfully seized pursuant to article 114 of the Criminal Procedure Law of the People's Republic of China. It was further noted that the public security authorities handled the case in strict accordance with the relevant Chinese legislation, and J.K. was neither subjected to or at risk of ill-treatment.

Côte d'Ivoire

Lettre d'allégation

81. Le **28 juillet 2009**, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a envoyé une lettre d'allégation concernant **le nombre croissant d'incidents de violence contre les femmes et les fillettes** en Côte d'Ivoire. Plusieurs exemples témoignant de la diversité des formes de violence ont été fournies à l'attention de la Rapporteuse spéciale.

82. Selon les informations reçues, le 21 mai 2009, un Guéré, ancien membre d'une milice, aurait été arrêté par la police de Duekoué. Il aurait été impliqué dans le viol de plusieurs bébés et fillettes entre 3 et 10 ans en mars et avril 2009. Celui-ci les aurait enlevées pendant la nuit dans leurs chambres à coucher.

83. En mai 2009, une jeune étudiante de 13 ans aurait été violée par deux instituteurs. Huit autres cas de tentatives de viols par des individus armés auraient été rapportés.

84. Dans une zone désignée autrefois comme la « Zone de Confiance », ainsi que dans les régions à l'ouest du pays, des cas de viols collectifs auraient été perpétrés par des groupes de 2 à 12 bandits armés et masqués, en particulier sur les passagères utilisant les transports publics.

85. D'après d'autres rapports transmis à la Rapporteuse spéciale, les cas de trafic de femmes, incluant des mineures, aux fins d'exploitation sexuelle, seraient à la hausse. Ces rapports indiquent que l'on promettrait des emplois à ces femmes mais qu'elles seraient violées et forcées à la prostitution à leur arrivée en Côte d'Ivoire. Dans l'un des cas rapportés, deux Nigériennes âgées de 15 et 19 ans auraient été dupées de la sorte pour ensuite être violées par des clients.

86. Des craintes ont été exprimées par rapport à une augmentation apparente de la violence à l'égard des femmes et fillettes, incluant de violence de nature sexuelle. Cette augmentation est d'autant plus préoccupante puisque ce genre de crimes semble être caractérisé par un haut degré d'impunité. Les femmes et les fillettes seraient soumises à des formes particulières de violence sexuelle, y compris le viol, la mutilation génitale féminine,

le mariage forcé et prématuré, le trafic aux fins d'exploitation sexuelle ainsi que la violence domestique.

87. Même si ces violations seraient également perpétrées par des civils, plusieurs des rapports reçus font état de violence contre les femmes dans les régions ouest et nordiques du pays où l'on retrouve une forte concentration de membres de milices et groupes armés ainsi que d'anciens combattants. Tandis que dans le nord du pays les cas de violations des droits humains avec impunité seraient instigués par l'absence de l'état de droit et d'autorité étatique, la violence contre les femmes semblerait être perpétuée dans plusieurs autres parties du pays par : des pratiques traditionnelles ; des croyances persistantes, incluant reliées aux viols d'enfants ; la faible connaissance du public en général des droits de la femme ; l'impunité due à la corruption et l'incapacité du système judiciaire à saisir ces cas de manière adéquate (e. g. le faible taux de poursuites des présumés coupables) ; la crainte de stigmatisation et de possibles représailles dirigées vers la victime elle-même et sa famille. Ceci aurait pour résultat un nombre très bas de cas rapportés dans les faits, l'abandon des procédures initiées ainsi que la féminisation de la pauvreté.

88. Une amélioration par rapport à la situation générale de la violence contre les femmes a été notée suite à la signature de l'Accord Politique de Ouagadougou le 4 mars 2007. D'autres mesures positives prises par le Gouvernement signalaient aussi un certain progrès, telles que l'adoption d'un nombre de lois punissant la violence contre les femmes, la ratification d'instruments régionaux et internationaux protégeant les femmes et les fillettes, et son engagement dans une procédure de réforme liée à la sécurité ainsi que l'élaboration d'un plan stratégique national visant à combattre la violence contre les femmes.

89. Toutefois, la question de la violence contre les femmes et fillettes demeure préoccupante. Par exemple, certaines des lois relatives à la violence contre les femmes contiendraient des articles perçus comme discriminatoires et laisseraient une trop grande discrétion aux décideurs. En particulier, l'article 354 du Code Pénal n'incorporait pas les éléments devant être présents pour constituer le crime de viol, ce qui mènerait à des décisions incompatibles avec les normes internationales. Il arriverait également que des accusations pour viol soient classées comme 'attentat à la pudeur', un délit moins grave.

90. Les efforts visant la promotion des droits de la femme apparaissaient insuffisants, tels que le démontraient le faible niveau de participation des femmes au sein des mécanismes décisionnels et à l'intérieur du processus de paix, ainsi que la discrimination prédominante contre les femmes et la disparité des genres à tous les niveaux, incluant l'accès aux droits socio-économiques de base.

91. En outre, la Rapporteuse spéciale a demandé des clarifications de la part du Gouvernement sur les points suivants :

1. Les faits tels que relatés dans le résumé des cas ainsi que la description générale de la situation de la violence contre les femmes en Côte d'Ivoire sont-ils exacts?

2. Veuillez fournir toute information concernant les mesures mises en place afin de contrer la discrimination et la violence contre les femmes et de promouvoir le statut de la femme, incluant des mesures spéciales visant à freiner cette augmentation apparente de violations les touchant ces dernières années.

3. Veuillez fournir les détails concernant le nombre de plaintes et rapports enregistrés par la police, le nombre de poursuites pour crimes de violence contre les femmes, incluant la violence sexuelle et basée sur le genre, au cours des deux dernières années.

4. Veuillez également indiquer le nombre de poursuites ayant menées à des verdicts de culpabilité et les mesures prises afin de compenser les victimes.

Observations

92. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received an official reply and urges the Government of Côte d'Ivoire to provide at the earliest possible date a detailed substantive answer to the above communication.

93. She wishes to recall that gender equality and women's empowerment in the context of post-conflict reconstruction are critical to stability and inclusive governance, and encourages the Government to further promote reforms in its policies, laws and institutions to that effect. She also wishes to recall the obligation by States under international human rights law to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.

Democratic Republic of the Congo

Lettre d'allégation

94. Le **13 octobre 2009**, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, conjointement avec le Rapporteur Spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur Spécial sur la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégation au Gouvernement concernant la situation de **Mme. R.A.**, membre de l'association Solidarité Féminine pour la Paix et le Développement (SOFEPADI), une organisation pour la promotion des droits de femmes, **et des membres de cette organisation.**

95. Selon les informations reçues, le 1er octobre 2009, huit hommes cagoulés et armés auraient pénétré au domicile de R.A. à Bunia. Les hommes lui auraient reproché de les accuser de violations des droits de l'homme. Ils l'auraient également menacée, ainsi que sa fille de 16 ans, de viol et de mort. Un voisin serait intervenu après avoir entendu des détonations provenant du domicile de R.A. Celle-ci leur aurait versé 1,850 US dollars pour qu'ils quittent sa maison. Ces derniers auraient emporté plusieurs objets dont le téléphone portable de R.A.

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

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

98. La Rapporteuse spéciale a exprimé des craintes quant au fait que les menaces à l'encontre de R.A. et des membres de la SOFEPADI ne soient liées à leurs activités non-violentes de promotion et protection des droits de l'homme. Compte tenu de la gravité des menaces, des craintes ont également exprimées quant à l'intégrité physique et psychologique de R.A., de sa fille et des membres de la SOFEPADI.

99. En outre, la Rapporteuse spéciale a demandé des clarifications de la part du Gouvernement sur les points suivants :

1. Les faits tels que relatés dans le résumé du cas sont-ils exacts ?
2. Des plaintes ont-elles été déposées par Mme R.A., la SOFEPADI ou en leurs noms ?

3. Veuillez fournir toute information et éventuellement tout résultat des enquêtes, et investigations judiciaires menées en relation avec les faits. Si les allégations sont avérées, veuillez nous fournir toute information sur les poursuites et procédures engagées contre les auteurs des menaces.

4. Quelles mesures de protection ont été prises à l'égard de Mme R.A., sa fille, des membres de la SOFEPADI, et plus généralement des femmes défenseurs des droits de l'homme?

5. Quelles mesures concrètes ont été prises au cours des deux dernières années afin de faire avancer les droits et le statut des femmes en RDC, et en particulier, de traiter du problème persistant de violence, y compris de violences sexuelles, contre les femmes et fillettes dans le pays.

Appel urgent

100. Le **30 octobre 2009**, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences conjointement avec le Rapporteur spécial sur la situation des défenseurs des droits de l'homme ont envoyé un appel urgent au Gouvernement concernant des menaces exprimées envers **M. F. K.**, membre de Droits Humains Sans Frontières (DHSF), organisation gouvernementale basée à Kinshasa offrant une aide juridique aux femmes victimes de violence.

101. Selon les informations reçues, M. F.K. aurait reçu une lettre de menaces et un appel téléphonique le menaçant, respectivement le 6 et 7 octobre 2009. Le 10 octobre, celui-ci aurait reçu un appel anonyme le menaçant de mort, s'il continuait à dénoncer les forces de police comme étant les auteurs présumés d'actes de violence ou d'arrestations arbitraires à l'encontre des femmes. Le 11 octobre, F.K. aurait alerté le commissariat de police de son quartier des incidents encourus.

102. La Rapporteuse spéciale a exprimé des craintes quant au fait que ces menaces ne soient liées aux activités non-violentes de promotion et protection des droits de l'homme de M. F.K., en particulier l'aide juridique dispensée aux femmes victimes de violence. Des craintes ont également été exprimées concernant l'intégrité physique et psychologique de M. F.K. et de ses collègues de DHSF.

103. En outre, la Rapporteuse spéciale a demandé des clarifications de la part du Gouvernement, sur les points suivants :

1. Les faits tels que relatés dans le résumé du cas sont-ils exacts?
2. Une plainte a-t-elle été déposée par M. F.K. ou en son nom ?
3. Veuillez fournir toute information complémentaire, et éventuellement tout résultat des enquêtes menées, investigations judiciaires et autres menées en relation avec les faits. Si les allégations sont avérées, veuillez fournir toute information sur les poursuites et procédures engagées contre les auteurs des menaces.

4. Veuillez indiquer quelles mesures de protection ont été, ou seront, prises pour assurer l'intégrité physique et psychologique de M. F.K. et de ses collègues de DHSF.

Lettre d'allégation

104. Le **16 mars 2010**, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme ont envoyé une lettre d'allégation au Gouvernement concernant la situation de **M. P.A.**, **M. J.L.** et **M. D.N.**, membres du Comité des droits de l'homme et de développement (CODHOD), une

organisation luttant contre la pauvreté et l'injustice sociale en République Démocratique du Congo (RDC).

105. Selon les informations reçues, le 25 février 2010, M. P.A., M. J.L. et M. D.N. auraient été arrêtés par des policiers à Barumbu, Kinshasa, alors qu'ils filmaient le témoignage de Mme. E.L. sur les conditions de travail des femmes en RDC. Mme E.L. aurait également été arrêtée. Ces quatre personnes auraient été détenues dans un container, puis dans un cachot, au sous-commissariat Epolo de la commune de Barumbu et auraient été libérés le jour même.

106. Il était allégué que leur caméra aurait été saisie et que M. P.A., M. J.L. et M. D.N. auraient été interrogés par la police sur leurs activités et leurs sources de financement du CODHOD. Le responsable de la police leur aurait rendu leur caméra avant de les appeler à être prudents car ils portaient de « fausses accusations à l'égard du gouvernement ».

107. Les Rapporteurs Spéciaux exprimèrent des craintes quant au fait que l'arrestation de la détention des quatre personnes ne soient liées à leurs activités non-violentes de promotion et de protection des droits de l'homme.

108. En outre, la Rapporteuse spéciale demanda certaines clarifications de la part du Gouvernement, sur les points suivants :

1. Les faits tels que relatés dans le résumé du cas sont-ils exacts?
2. Des plaintes ont-elles été déposées par MM. P.A., J.L., D.N et Mme. E.L. ou en leurs noms ?
3. Veuillez indiquer la base légale ayant prévalu à l'arrestation et la détention de MM. P.A., J.L., D.N et Mme. E.L. Veuillez indiquer comment ces mesures sont compatibles avec les normes et standards internationaux en matière de droits de l'homme contenus, inter alia, dans le Pacte international relatif aux droits civils et politiques et la Déclaration sur les défenseurs des droits de l'homme, la Déclaration sur l'élimination de la violence à l'égard des femmes et la Convention sur l'élimination de toutes formes de discrimination à l'égard des femmes.

Observations

109. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received a reply from the Government concerning the communications sent on 13 and 30 October 2009 and 16 March 2010. She wishes to refer to the second joint report of seven United Nations experts on the situation in the Democratic Republic of Congo (A/HRC/13/63), in which she noted that limited progress has been made in implementing the recommendations of the previous joint report with regard to the protection of women's human rights and the promotion of gender equality, and that violence against women remains rampant throughout the country, particularly in the East. The report highlights a worrisome trend of certain officials trying to delegitimize and harass human rights defenders, which fuels an increase in violence, intimidation and threats against defenders. Women human rights defenders, particularly women working in rural communities on cases of sexual violence and as peace mediators, often fall victim to reprisal attacks – including sexual assaults – against them and their families, and are forced to move to safer locations.

Ecuador

Llamamiento urgente

110. El 4 de mayo de 2009, la Relatora especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Relator especial sobre la promoción

del derecho a la libertad de opinión y de expresión y la Relatora especial sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente señalando a la atención urgente del Gobierno la información recibida en relación con el ataque contra las **Sras. R.E.M.C. y G.L.J.B.**, integrantes del Frente de Mujeres Defensoras de la Pachamama, una organización que se ocupa de los problemas que enfrentan las mujeres como resultado de los proyectos mineros.

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

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

113. El día 23 de abril la Sra. R.E.M.C. habría puesto una denuncia ante la Fiscalía de Cuenca. Se alegó que los agresores estaban a la espera de recibir trabajo en la minería, concretamente en la empresa EcuadorGold.

114. Asimismo, se informó que el 25 de diciembre de 2008, la Sra. G.L.J.B., otra integrante del Frente de Mujeres Defensoras de la Pachamama, también habría sido atacada en la parroquia Victoria del Portete. Sus agresores no habrían sido procesados o condenados.

115. En visto de lo aquí resumido se expresó temor que estos ataques podrían estar directamente relacionados con el trabajo legítimo que realizan las Sras. R.E.M.C. y G.L.J.B. en defensa de los derechos humanos, en particular en relación con los problemas que enfrentan las mujeres como resultado de los proyectos mineros. Se expresó preocupación por la integridad física y psicológica de las Sras. R.E.M.C. y G.L.J.B., así como por la de los demás miembros del Frente de Mujeres Defensoras de la Pachamama.

116. Además, la Relatora especial le pidió al Gobierno que clarificara los puntos siguientes:

1. Son exactos los hechos a los que se refieren las alegaciones presentadas?
2. Fue presentada alguna queja?
3. Por favor proporcione información detallada sobre las investigaciones y diligencias judiciales iniciadas en relación con el caso. Si éstas no tuvieron lugar o no fueron concluidas, le rogamos que explique el porqué.
4. Por favor proporcione información detallada sobre las medidas de protección adoptadas en este caso.

Observations

117. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received a reply from the Government of Ecuador concerning the above mentioned allegations and urges the Government to adopt all the necessary measures to protect the rights and freedoms of the mentioned individuals in these cases, as well as to investigate, prosecute and impose adequate sanctions to all the responsible individuals of the alleged

violations. She further wishes to remind the Government of Ecuador its obligation to take all appropriate measures to ensure the right of women, on equal terms with men, to participate in non-governmental organizations and associations concerned with the public and political life of the country.

Guatemala

Llamamiento urgente

118. El **16 de julio de 2009** la Relatora especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias junto con la Relatora especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente al Gobierno de Guatemala en relación con amenazas de muerte de asalto físico contra la **Sra. J.B.V.**, coordinadora de La Red de Mujeres Ixhiles, una organización que trabaja en defensa de los derechos de la mujer.

119. Según las informaciones recibidas, el 30 de marzo de 2009, la Sra. J.B.V. habría sido agredida físicamente dentro del ayuntamiento de Nebaj. El 3 de julio de 2009 un vehículo, que supuestamente pertenecía al alcalde del municipio, se habría acercado a la casa de la Sra. J.B.V., mientras ella se encontraba afuera charlando con algunos amigos. Las personas que se encontraban en el vehículo habrían puesto las luces altas del vehículo directo a la cara de la Sra. J.B.V. y luego se habrían retirado, disparando 5 veces al aire. El 6 de julio de 2009, la Sra. J.B.V. habría recibido una llamada de un hombre no identificado quien le habría dicho que el ayuntamiento lo había contratado para asesinarla.

120. A pesar de que habría beneficiado de medidas de protección provisionales por parte de la Corte Interamericana de Derechos Humanos, la Sra. J.B.V. habría sido objeto repetidamente de amenazas e intimidaciones, siendo incluso seguida por vehículos sospechosos. Además, habrían intentado intimidar a miembros de su familia. Otros miembros de la Red de Mujeres Ixhiles también habrían recibido amenazas y habrían sido objetos de difamación.

121. La Relatora especial expresó preocupación a que las amenazas y asalto físico contra la Sra. J.B.V. estuvieran relacionados con sus actividades legítimas en la defensa de los derechos humanos.

122. Además, la Relatora especial le pidió al Gobierno que clarificara los puntos siguientes:

1. Son exactos los hechos a los que se refieren las alegaciones presentadas?
2. Fue presentada alguna queja?
3. Por favor proporcione información detallada sobre las investigaciones y diligencias judiciales iniciadas en relación con el caso. Si éstas no tuvieron lugar o no fueron concluidas, le rogamos que explique el porqué.
4. Por favor, proporcione información detallada sobre las diligencias judiciales y administrativas practicadas. ¿Han sido adoptadas sanciones de carácter penal o disciplinario contra los presuntos culpables?
5. Por favor proporcione información detallada sobre las medidas cautelares adoptadas en este caso (de acuerdo con el fallo de la Comisión Interamericana de Derechos Humanos).

Llamamiento urgente

123. El **1 de octubre de 2009** la Relatora especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias junto con la Relatora especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente al Gobierno de Guatemala en relación con la **Sra. N.C.**, Directora de la Fundación Sobrevivientes, una organización no gubernamental que apoya a mujeres víctimas de violaciones de los derechos humanos.

124. Según la información recibida, el 19 de septiembre de 2009, un hombre no identificado habría dejado un mensaje de amenaza en contra de sus hijos en el teléfono celular de la Sra. N.C., pidiendo que dejara el caso de [nombre de la persona]. El mismo día, un hombre no identificado habría llamado a las oficinas de la Fundación diciendo lo mismo a un miembro de dicha Fundación. El caso en cuestión se refería a la presunta violación de una joven a la que la Sra. N.C. estuvo ofreciendo asistencia jurídica. Algunos familiares de la joven que le habrían apoyado después del ataque habrían sido asesinados.

125. El 14 de agosto de 2009, el yerno de la Sra. N.C. habría sido seguido por un vehículo oscuro con cristales polarizados. Al llegar a su casa, al mismo tiempo que la policía, quien había sido advertida por parte de su esposa, el vehículo se habría alejado a toda velocidad al percatar la presencia de la policía.

126. Al parecer, desde final de julio, algunos hombres no identificados habrían estado vigilando las oficinas de la Fundación. El 14 de mayo de 2009, un hombre no identificado habría dejado dos mensajes en el contestador automático de la Sra. N.C., amenazando con matarla a ella y a los otros integrantes de la Fundación Sobrevivientes.

127. La Relatora especial expresó preocupación de que estos actos de intimidación y amenazas contra la Sra. N.C. y sus familiares estuviesen relacionados con su trabajo en defensa de los derechos humanos, en particular su trabajo en defensa de una víctima de violación.

128. La Relatora especial expresó una gran preocupación por la integridad física y psicológica de la Sra. N.C., de su familia, y de los demás miembros de la Fundación Sobrevivientes.

129. Además, la Relatora especial le pidió al Gobierno que clarificara los puntos siguientes:

1. Son exactos los hechos a los que se refieren las alegaciones presentadas?
2. Fue presentada alguna queja?
3. Por favor proporcione información detallada sobre las investigaciones y diligencias judiciales iniciadas en relación con el caso. Si éstas no tuvieron lugar o no fueron concluidas, le rogamos que explique el porqué.
4. Por favor proporcione información detallada sobre las medidas cautelares adoptadas en este caso. ¿Sigue en operación la seguridad perimetral en la residencia de la Sra. N.C. y las residencias de los miembros de su familia, tal y como se indicó en la respuesta de su gobierno recibida el 1 de diciembre de 2008? ¿La Sede de la Fundación Sobrevivientes cuenta todavía con seguridad fija? Por favor proporcione información detallada sobre cualquier medida cautelar adicional adoptada para garantizar la seguridad física y psicológica de la Sra. N.C., los miembros de su familia y los integrantes de la Fundación Sobrevivientes, a la luz de estos nuevos actos de intimidación y amenazas.

Llamamiento urgente

130. El **6 de abril de 2010** la Relatora especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con la Relatora especial sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente al Gobierno de Guatemala en relación con la **Sra. N.C.**, Directora de la Fundación Sobrevivientes, que brinda apoyo y asistencia a las víctimas femeninas de violencia sexual y de género. La Fundación trabaja para combatir la cultura de impunidad en Guatemala, en particular en relación con los asesinatos de mujeres en el país.

131. De acuerdo con las informaciones recibidas, la Sra. N.C. brindaba apoyo en un caso en que dos familiares de una víctima de violación de trece años de edad habían sido asesinados. El Sr. J.J.S.B. estaba acusado del homicidio de la Sra. F.A. y del Sr. C.E.C.P. en julio de 2008, en el pueblo de El Zapote, El Progreso. Estos homicidios estaban vinculados a un juicio que la Sra. F.A. había iniciado en contra del Profesor L.A. en relación con acusaciones de una joven de trece años, quien era sobrina de la Sra. F.A. El Sr. S.B. estaba acusado de llevar a cabo los homicidios en relación con su pertenencia a un grupo de crimen organizado, llamado el “Taquero”, que operaba supuestamente en el este del país.

132. Según las informaciones recibidas, la Sra. N.C. habría recibido varias amenazas de muerte en contra suyo y de sus familiares a través de mensajes de texto, pidiéndole de desistir del caso de J.J.S.B. Luego, una persona anónima habría llamado a la Sra. N.C. para amenazarla diciéndole que tenían “controladas a sus nietas y a la Usuaría...” La Sra. N.C. presentó una denuncia sobre las amenazas ante la Fiscalía de Derechos Humanos del Ministerio Público, la Procuraduría de Derechos Humanos y la Comisión Presidencial de Derechos Humanos de Guatemala.

133. El 13 de enero de 2010 el Sistema de las Naciones Unidas en Guatemala informó que la Sra. N.C. habría recibido amenazas telefónicas. El Sistema habría solicitado a las autoridades guatemaltecas que investigaran las amenazas y proporcionaran medidas cautelares para garantizar la seguridad de la Sra. N.C. y de su familia. Asimismo, durante los años 2007 y 2008, integrantes de la Fundación Sobrevivientes habrían recibido varias amenazas, por escrito y por teléfono, en relación con sus actividades de defensa de los derechos humanos.

134. La Relatora especial expresó preocupación por la posibilidad que las amenazas contra la Sra. N.C. y sus familiares estén relacionadas con sus actividades para promover y defender los derechos de las mujeres y víctimas de violencia de género en Guatemala. Además, la Relatora especial expresó preocupación por la integridad física y psicológica de la Sra. N.C. y de sus familiares.

135. La Relatora especial le pidió al Gobierno que clarificara los puntos siguientes:

1. Son exactos los hechos a los que se refieren las alegaciones presentadas?
2. Por favor, proporcione información detallada sobre las investigaciones y diligencias judiciales iniciadas en relación con las amenazas contra la Sra. N.C. y los miembros de su familia. Si éstas no tuvieron lugar o no fueron concluidas, le rogamos que explique el porqué.
3. Por favor, proporcione información detallada sobre las eventuales medidas cautelares adoptadas en este caso.

Respuesta del Gobierno

136. En una carta con fecha **13 de abril del 2010**, el Gobierno respondió a la comunicación enviada el 1 de octubre de 2009 en relación con la **Sra. N.C.**, Directora de la Fundación Sobrevivientes.

137. El Gobierno indicó que, de acuerdo con la información que se trasladó al Ministerio Público, la Sra. N. C. y sus familiares recibieron amenazas de muerte e intimidaciones de la parte de personas desconocidas el 14 de mayo, el 13 de agosto y el 19 de septiembre de 2009; de estos hechos presentaron denuncias respectivas al Ministerio Público, proceso que se encuentra actualmente en la fase de investigación.

138. El Gobierno indicó que el 14 de mayo de 2009, la Sra. N:C. interpuso denuncia de amenazas de muerte recibidas vía telefónica ese mismo día, ante la Fiscalía de Sección de Derechos Humanos, de la Unidad de Delitos Contra Activistas de Derechos Humanos del Ministerio Público. El 17 de agosto de 2009, la hija de la Sra. N. C. interpuso denuncia de persecución de un vehículo sin placas y personas desconocidas hacia su esposo, hecho que ocurrió el 13 de agosto de 2009, por lo que presentó la denuncia ante la Fiscalía de Sección de Derechos Humanos, de la Unidad de Delitos Contra Activistas de Derechos Humanos del Ministerio Público. El 21 de septiembre y 28 de septiembre de 2009, la Sra. N. C. interpuso denuncias en la Fiscalía de Sección de Derechos Humanos, de la Unidad de Delitos Contra Activistas de Derechos Humanos del Ministerio Público por amenazas de muerte recibidas vía el celular los días 19 de setiembre de 2009 y 26 de septiembre de 2009 respectivamente. El Gobierno indicó que las denuncias presentadas por la Sra. N. C. se encuentran en proceso de investigación por parte del Ministerio Público.

139. El Gobierno indico asimismo que la Sra. N. C. cuenta con seguridad de tipo perimetral en su residencia por parte de la Policía Nacional Civil, quienes pasan constantemente en el lugar. También informó que la sede de la Fundación Sobrevivientes cuenta con seguridad de puesto fijo, mediante dos agentes de la Policía Nacional Civil quienes pertenecen a la División de Protección a Personas y Seguridad. Además, se informó que la sede de la Fundación cuenta con seguridad perimetral. Finalmente, se indicó que la Sra. N. C., su hija y su yerno cuentan con seguridad de tipo personal, a cargo de agentes de la Policía Nacional Civil.

Observations

140. The Special Rapporteur thanks the Government for its detailed response to her communication dated 1 October 2009. She regrets that at the moment of finalizing the report, she had not received a reply from the Government of Guatemala to the communications sent on 16 July 2009 with regard to **Ms. J.B.V** and urges the Government for a substantive response.

141. She expresses concern at the fact that all the allegations received refer to intimidation and threats to women human rights defenders. In this respect, she calls on the Government of Guatemala to take all appropriate measures to fulfil its due diligence obligation to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, including against women's human rights defenders, whether those acts are perpetrated by the State or by private persons. She also wishes to call on the Government to enhance efforts towards ensuring the right of women, on equal terms with men, to participate in non-governmental organizations and associations concerned with the public and political life of the country.

Guinea

Appel urgent

142. Le **6 octobre 2009** la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, conjointement avec le Président Rapporteur du Groupe de Travail sur la détention arbitraire, le Président du Groupe de Travail sur les Disparitions Forcées ou Involontaires, le Rapporteur spécial sur la

promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires et le Groupe de Travail sur l'utilisation des mercenaires comme moyen de violer les droits de l'homme et d'empêcher l'exercice du droit des peuples envoyèrent un appel urgent au Gouvernement de la Guinée concernant **les opérations de forces de sécurité guinéennes au cours des journées du 28 et 29 septembre 2009 à Conakry.**

143. Selon les informations reçues, le 28 septembre 2009, près de 50 000 personnes manifestant contre une éventuelle candidature du Capitaine Moussa Dadis Camara aux élections présidentielles de janvier 2010 auraient défilé dans les rues et se seraient regroupées dans un stade de Conakry. Les forces de sécurité seraient intervenues afin d'évacuer le stade en utilisant des gaz lacrymogènes et leurs armes à feu. Celles-ci auraient tiré en l'air, mais auraient également ouvert le feu en direction de la foule.

144. D'après quelques sources, des mercenaires d'origine du Libéria auraient été présents parmi les forces de sécurité lors de la répression de la manifestation. Plus de 150 personnes auraient été tuées et plus d'un millier blessées. De nombreuses femmes participant à la manifestation, ou se trouvant dans la zone, auraient été arrêtées par les forces de sécurité, déshabillées et soumises à des violences sexuelles, notamment des attouchements, des viols, y compris collectifs, aussi bien dans le stade que plus tard dans des lieux de détention.

145. Suite à la manifestation, de nombreuses personnes, y compris des blessés, auraient été arrêtées à leur domicile, dans la rue ainsi que dans des hôpitaux. Il a été rapporté que ces personnes risquaient d'être torturées ou de disparaître. Le 6 octobre 2009, certaines familles n'avaient toujours aucune nouvelle de leurs proches qui auraient participé à la manifestation. Plusieurs dizaines de manifestants auraient été détenus et aucun d'entre eux n'aurait été présenté à un juge.

146. Le 29 septembre 2009, dans la banlieue de Conakry, les forces de sécurité auraient ouvert le feu sur des jeunes qui se trouvaient dans la rue causant la mort de trois adolescents. Des membres des forces de sécurité auraient procédé à l'enlèvement de cadavres des lieux de la manifestation ainsi que des hôpitaux et les auraient emmenés dans des lieux inconnus. A l'hôpital Ignace Deen de Conakry, plusieurs dizaines de corps auraient ainsi été emportés. Selon les informations reçues, ces enlèvements de cadavres auraient eu pour objectif de dissimuler les corps des victimes.

147. En outre, la Rapporteuse spéciale demanda certaines clarifications de la part du Gouvernement, sur les points suivants :

1. Les faits tels que relatés dans le résumé du cas sont-ils exacts? Si tel n'est pas le cas, quelles enquêtes ont été menées pour conclure à leur réfutation ?
2. Combien de personnes auraient été tuées et blessées lors de la manifestation du 28 septembre 2009 ainsi que pendant les opérations des forces de sécurité au cours des jours suivants ?
3. Combien d'incidents d'agression physique et sexuelle auraient été perpétrés contre des femmes ou fillettes durant les manifestations ou au cours des jours suivants, et quelles mesures ont été prises contre les responsables ? Quelles mesures ont été prises pour prendre en charge les victimes ?
4. Quelles sont les branches des forces de sécurité impliquées au cours de ces événements? Quels ordres ou instructions avaient-elles reçu, notamment quant à l'usage de la force? Est-ce que des éléments étrangers ont participé aux côtés des forces de sécurité guinéennes à ces événements ?

5. Quelles mesures ont été adoptées et mises en œuvre par les autorités afin d'identifier les victimes et notifier leurs proches de leur décès?

6. Veuillez fournir toute information, et éventuellement tout résultat des enquêtes menées, investigations judiciaires et autres menées en relation avec les faits. Si de telles enquêtes n'ont pas été menées, veuillez expliquer pourquoi.

7. Si les allégations sont avérées, veuillez fournir toute information sur les poursuites et procédures engagées contre les auteurs ou responsables des violations.

Observations

148. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received a reply from the Government of Guinea concerning the above mentioned allegations and urges the Government to adopt all the necessary measures for protecting the rights and freedoms of those individuals mentioned in these cases, as well as to investigate, prosecute and impose adequate sanctions to all the responsible individuals of the alleged violations. She also wishes to refer to the findings of the report of the International Commission of Inquiry mandated to establish the facts and circumstances of the events of 28 September 2009 in Guinea (A/2009/693), which confirmed, amongst other human rights violations, that at least 109 women were subjected to rape and other forms of sexual violence, including sexual mutilation and sexual slavery, and that several women died of their wounds following particularly cruel sexual attacks.

India

Allegation letter

149. On **29 July 2009**, the Special Rapporteur on violence against women, its causes and consequences, 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 situation of human rights defenders sent an allegation letter to the Government regarding **Dr. H.K.**, a citizen of India and resident of Patiala, Punjab, representing Mbororo Social and Cultural Development Association (MBOSCUDA).

150. At the 11th session of the Human Rights Council in June 2009, Dr. H.K. delivered a public statement, as part as the general debate, under agenda item N°3. His written and oral statement pertained to violence against women, particularly on human rights violations against women in India in the form of female feticide, female infanticide, dowry practices and rape. In this statement Dr. H.K. expressed general concern about these human rights violations and provided some supporting statistics.

151. According to information received, following this statement, on 8 June 2009, Dr. H.K. was reportedly approached by a person who identified herself as a “very senior Government official of India” in the Palais des Nations building in Geneva and was verbally threatened by this individual who told her that high-ranking officials in India and the Punjab region had been contacted about her statements, inquiring about her family’s whereabouts, and told her that she could harm her once she was back in India. Subsequently, an employee described as being from the Central Government (CBI), visited Dr. H.K.’s house in the Punjab region, to also enquire about her statement at the Human Rights Council.

152. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged accurate?

2. Please provide details of any measures taken to promote the rights of women to participate in the public and political life of the country, including in relation to the human rights situation of women in India, and to protect them from acts of retaliation by state and non state actors. In particular, are there programmes in place to raise awareness of the rights of women, including women's human rights defenders among government staff, and to receive complaints of threats or other human rights violations committed by government employees?

3. Please provide information on any follow up action or measure taken with regard to this case, and whether the victim was provided and/or assured of protection against any eventual form of retaliation or threat of such.

Response from the Government

153. In a letter dated **29 December 2009**, the Government responded to the communication sent on 29 July 2009 indicating that it had examined the communication and found the allegations to be inaccurate. The Government indicated that no Government of India official contacted the subject in Geneva on 8 June 2009. As regards the allegation of a visit by an official of the Central Bureau of Investigation (CBI) to her house in Punjab, the allegation had been investigated by the local office of the CBI that had found it to be untrue. Subsequent to the allegation, the CBI had contacted the subject and provided her with contact details to help her in case any person approached the subject at the behest of the CBI in future.

Response received to a communication sent earlier

154. In a letter dated **23 June 2009**, the Government responded to a previous communication sent on 5 March 2008 (available in the 2008 communications report of the Special Rapporteur A.HRC.11.6.Add.1). The Government indicated that it had examined the complaint and found the facts of the specific complaint only to be partly accurate.

155. The Government indicated that the victim, Ms. J.S. was summoned by some villagers of Chinthakunta village on 4 October 2002. Following the incident, a police case was duly registered at the behest of the victim's son. The matter was investigated thoroughly and 13 accused persons were arrested and remanded to judicial custody on 7 October 2002, subsequent to which, prosecution proceedings were launched. The arrested persons included four of the five people mentioned in the communication, namely A.K, A.N., N. and P. The case against the fifth accused in the communication, M.R., could not be established beyond doubt. The victim was provided adequate medical aid, first at the Community Health Centre, Vikarabad and later at Kamineni Hospital, L B Nagar. Apart from medical aid and expenditure for treatment, the government provided Indian Rupees 75.000/- to the victim.

156. In a letter dated **6 April 2009**, the Government responded to a previous communication sent on 20 October 2008 regarding the alleged gang rape of 11 women by Greyhound policemen during the anti-Naxalite operations at Vakapalli village in Visakhapatnam district of Adhra Pradesh (see summary of the communication in previous communications report of the Special Rapporteur, A.HRC.11.6.Add.1).

157. The Government indicated that the allegation was investigated and that, while a complaint was registered on the same day (i.e. 20 August 2007), the investigation conducted into the alleged complaint by a senior police officer at the directive of the High Court of Andhra Pradesh revealed that the complaint was false. The investigation's conclusion was based on medical reports which did not support any evidence of rape / sexual intercourse and considerable variations between the earliest versions of the complaint and the subsequent versions by the alleged victims.

Observations

158. The Special Rapporteur thanks the Government for its responses.

Indonesia

Urgent appeal

159. On **2 October 2009** the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on freedom of religion or belief sent an urgent appeal to the Government regarding the **adoption of the new Islamic Criminal Code (Qanun Jinayah) in Aceh**.

160. According to the information received, on 14 September 2009, the Aceh Legislative Council adopted a new Islamic Criminal Code which imposed severe sentences for consensual extra-marital sexual relations, rape, homosexuality, alcohol consumption and gambling. Among other sanctions, the Code imposed the punishment of stoning to death for adultery; 100 cane lashes for sexual intercourse outside marriage; between 100 and 300 cane lashes or imprisonment for rape; and 100 lashes for homosexuality.

161. In addition, the new Code legalized marital rape and provided that a woman alleging that she was a victim of rape would be found guilty of sex outside marriage unless she could provide four male witnesses testifying to the lack of consent on her part; impunity will be given to those who commit rape at the command of superiors.

162. The National Commission against Violence on Women called for a judicial review of Law No. 11/2006 of the Government of Aceh concerning the sources the Aceh Legislative Council had used to adopt the Aceh Islamic Criminal Code. Moreover, this Code applied both to Muslims and non Muslims.

163. It was furthermore alleged that although the Code was applicable to the population as a whole, in practice, women were far more likely to become victims of stoning due to patriarchal and discriminatory practices and policies, as well as biological differences such as pregnancy.

164. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Is the Government taking any action to request the Supreme Court to review the Code?

Response from the Government

165. In its response dated **23 December 2009**, the Government indicated that the Province of Aceh is given a special status under law no. 18 of 2001, which incorporated a special system of autonomy. In the preamble of this law, special status is granted to Aceh for its distinct contribution to the formation of the Indonesian nation, as much as for Aceh's unique historical and cultural background, as well as its religious, moral and social values which had been preserved from generation to generation. The special status of Aceh as an autonomous region was expressed through four specific areas over which it had sole decisional power: religious issues, customs, education and the role of the *Ulema* in the local policy-making process. This special status was further reinforced through law no. 11 of 2006 on the Governing of Aceh.

166. The Government explained that, in accordance with the above national laws, the promulgation of local laws and regulations was meant to endow the *Muamalat* (Islamic civil code) and the *Jinayah* (Islamic criminal code) within the applicable norms in Aceh. The task of promulgating local laws and regulations was carried out by the Aceh House of Representatives. The legislation produced by this body is known as the *Qanun* (Islamic bylaw). So far, the *Qanun* related to *Jinayah* issues generally deals with regulations related to gambling, drinking and adultery. Within this framework the Islamic Religious Courts in Aceh which previously had jurisdiction over issues of marriage and divorce had been transformed into *Mahkamah Syariah* (religious court at the local level) and had been granted additional jurisdiction over the issues of the *Muamalat* and certain aspects of the *Jinayah*. This was completed by the issuance of a Decree of the Supreme Court of 2004, which transferred some of the jurisdictional power of the civil courts of Aceh to the *Mahkamah Syariah*.

167. The Government indicated that one of the types of punishment that have been used so far was public flogging. However, it noted that there were also alternative punishments in the *Qanun*, namely imprisonment and fines. Thus, the judges had a number of options in carrying out justice. The Government argued that many people who had been sentenced to flogging were done so by their own choice as they considered it a form of religious penance.

168. On 14 September 2009, two weeks before leaving office, the outgoing legislature of Aceh passed five *Qanun* draft bills, including the *Qanun Jinayah* (Islamic Criminal Law) and the *Qanun on Jinayah Procedural Law*, which have sparked a fierce debate at national level, especially with regard to law enforcement on stoning for offenders. However, international reporting on this issue focused mostly on the aspect of the legislation which provides for – or even requires – the “stoning to death” of adulterers and the torture of women. Consequently, the international image of Indonesia generally, and Aceh in particular, has suffered as a result of this reductive interpretation. The real issue, according to the Government, concerned the extent to which democratic principles were finding a home in Aceh and in Indonesia.

169. The adoption of the *Qanun Jinayah* had sparked controversy and public debate in the local media and at the national level. The substance of the *Qanun* has also provoked protests and concern from various groups in the country, including members of the House of Representatives, the National Human Rights Commission, academics, religious leaders and NGOs. Aside from the controversial aspects of its substance, the adoption of the *Qanun* has also raised controversy on account of the fact that it was adopted just before the end of the term of office of the members of the provincial parliament for the 2004-2009 period, thereby insinuating a sense of politicization and haste in the adoption of these *Qanuns*.

170. About a month after receiving the draft bills by the provincial parliament, the local government in Aceh sent a letter to the local parliament refusing to endorse the draft bills and suggesting a revision of the proposed *Qanuns*, particularly the stoning provisions. The Governor of Aceh has so far not signed the *Qanun Jinayah*, the *Qanun on Jinayah Procedural Law* and the *Qanun on Nanggroe Guardian*. Legally speaking, all three *Qanuns* are not yet effective in view of article 23 (1.a.) and article 232 (1) of law no. 11/2006 on the Governing of Aceh, since the promulgation of the *Qanun* requires a joint agreement of both the local legislative and local executive. Thus, based on the two aforementioned articles, the approval from the Governor of Aceh is mandatory before a provincial law can be formally enacted. Moreover, according to article 235 (5) of law no. 11/2006, once the *Qanun Bill* has been ratified by the provincial parliament and accepted by the Governor of the region, it nevertheless remains subject to the final endorsement of the Minister of Home Affairs – as an advisor on regional legislation in Indonesia – as a prerequisite to the entry into force and implementation of these *Qanuns*. In addition, article 235 (3) and article 235 (4) of law no. 11/2006 provide for the review and annulment of a *Qanun* through a material review by the

Supreme Court. However, this process can only be conducted if the *Qanun* has been adopted by both the local parliament of Aceh and the Governor of Aceh. A material review of the *Qanun* can be proposed by the representatives of government agencies and equally by members of civil society. The Government emphasized that thus a natural system of checks and balances, as evident in a robust democratic country, concerning the promotion and protection of human rights and fundamental freedoms exists and operates in Indonesia through public initiatives, the legislative or the executive, to guarantee respect for, and protection of, human rights.

171. The Government indicated that the public discourse on human rights issues was not a taboo issue, but belonged to the dynamics of any healthy society and was common to all democratic countries, including Indonesia. The Government underlined that the checks and balances system was effective because it was supported by freedom of expression and a free but responsible media, which was expected to further strengthen and guarantee the promotion and protection of human rights in Indonesia. According to the Government, the Ministry of Home Affairs had conducted an evaluation of numerous regional regulations and since 2002 it proceeded to cancel 1,123 regulations found not to be in conformity with national laws and regulations.

Observations

172. The Special Rapporteur is grateful to the Government of Indonesia for its reply to the urgent appeal of 2 October 2009 and wishes to recall the importance of addressing situations of violence and discrimination that affect many women as well as other individuals on the grounds or in the name of religion or belief or in accordance with cultural and traditional practices. In this regard, it is essential that States take all appropriate measures, including in legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

173. In connection with this case, she, wishes to refer to the observations made by the Special Rapporteur on freedom of religion or belief (A/HRC/13/40/ Add.1) and to the mission report to Indonesia by the Special Rapporteur on torture (A/HRC/7/3/Add.7).

Iran (Islamic Republic of)

Urgent appeal

174. On **21 July 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government, regarding **Ms. S.S.**, a lawyer and human rights activist.

175. According to the information received, in the morning of 17 July 2009, Ms. S.S. was arrested in Tehran by unidentified plain clothed men on her way to Friday prayers. Ms. S.S. was accompanied by other activists for women's rights when the men pulled her into a car in a busy area of Tehran. She managed to briefly abscond, however, was swiftly reprehended and beaten with batons by the men before taken away in the car to an unknown location.

176. It was alleged that Ms. S.S.'s arrest formed part of a pattern of arrests of high profile Iranian civil society representatives in the wake of the presidential election.

177. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Ms. S.S.?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please indicate the legal basis for the arrest and detention of Ms. S.S. and how these measures are compatible with applicable international human rights norms and standards as stipulated, *inter alia*, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Urgent appeal

178. On **28 December 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the situation of human rights defenders sent an allegation letter to the Government regarding **Ms. S.R.**, who was working on women's rights and was notably supporting the One Million Signatures Campaign, whose purpose was to collect signatures in support of amendments of laws that discriminate against women.

179. According to the information received, on 14 December 2009, security officials went to Ms. S.R.'s house with a search warrant. After having searched the house, they seized her belongings. It was alleged that they refused to identify themselves. Five days later, S.R. was summoned to the Revolutionary Courts where she was allegedly interrogated for two hours. She was then charged, detained and transferred to Evin prison.

180. It was alleged that several other members of the One Million Signatures Campaign were also previously arrested and detained in April 2009. Furthermore, on 5 November 2009, more than eleven other members were allegedly summoned to the Revolutionary Courts for questioning.

181. Concern was expressed that the arrest and detention of Ms. S.R. could be directly related to her work in defence of human rights. More generally, further concern was also expressed about the summons and detentions of others members of the One Million Signatures Campaign.

182. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by any member of the One Million Signatures Campaign?
3. Please provide information concerning the legal grounds for the arrest and detention of Ms. S.R., and how these measures are compatible with international norms and standards as stated, *inter alia*, in the International Covenant on Civil and Political Rights and the Declaration on human rights defenders.
4. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to the acts of intimidation against members of the One Million Signatures Campaign and alleged detention of several

of its members. If no inquiries have taken place, or if they have been inconclusive, please explain why.

Urgent appeal

183. On **7 January 2010**, the Special Rapporteur on violence against women, its causes and consequences, 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, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government concerning the **arrest and incommunicado detention of a large number of human rights defenders, lawyers, journalists and bloggers** in the wake of the anti-government protests during the observance of Ashura on 27 December 2009.

184. According to information received, **Mr. R.A.B.** journalist; **Mr. M.S.** spokesperson in an Association and editor of Iranian newspapers; **Mr. B.M.**, the Secretary General of the Association of Iranian Journalists; **Mr. E.B.**, a human rights defender and founder of the Society for the Defense of Prisoner's Rights, winner of the Martin Annals Award in 2009 and a leading advocate against the death penalty; **Mr. M.K.**, a journalist working for several newspapers and reformist websites; **Ms. M.S.**, who contributed to various women's rights websites; **Mr. Ki.M.**, a journalist; **Mr. N.V.**, a journalist; **Mr. A.T.**, a reporter; **Mr. H. T.**, a student activist; **Mr. A.B.**, the Director of the website Kalame; **Mr. M.I.**, a journalist; **Mr. Ke.M.**, a journalist; **Ms. Z.T.**, a member of the organization 'Mothers for Peace' and Secretary General and Deputy Secretary General of the Cultural Foundation; **Mr. B.M.H.**; **Mr. H.R.**; **Ms. M.Z.**, a children's right activist, the President of the NGO 'Struggle for a World Deserving of Children' and member of the 'One Million Signatures Campaign'; **Mr. N.A.**, a lawyer representing imprisoned journalists; **Mr. M.H.**, a journalist working for the now closed Etemad-e Melli newspaper and **Mr. M.R.Z.**, the former editor of the newspaper Arya, were arrested between the 27 December 2009 and the 1 of January 2010. According to the information received, **Ms. N.E.**, the sister of the Nobel Peace Prize winner Shirin Ebadi, was detained on 28 December 2009 and held at an unknown location.

185. In addition, Mr. M.S., Mr. E.B., Mr. M.K. and Ms. N.E. were arrested in their homes by plain clothes officers. In the case of M.S, reportedly, the men did not present an arrest warrant, but only a document with the heading of the Revolutionary Court, which however did contain neither his name nor any reasons for his arrest. In the other case, E.B. reportedly suffered from heart and nerve conditions which were further aggravated by his previous detentions.

186. According to the information received, **Mr. M.S.J.**, a columnist for the now closed daily Etemad-e Melli, was arrested on 30 December 2009 after having been summoned by the Ministry of Intelligence. It was reported that books and his computer's hard drive had also been confiscated following a search of his home. Moreover, **Ms. P.K.**, a journalist and blogger was arrested on 2 January 2010 after being summoned by the Ministry of Intelligence.

187. The Special Rapporteur expressed concern that the arrest and detention at unknown location and without charges of the above-mentioned journalists, lawyers, bloggers and human rights defenders could be related to their activities in defence of human rights and the promotion of democracy in Iran. In light of their alleged incommunicado detention, further serious concern was expressed regarding the physical and psychological integrity of those arrested.

188. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information on how the arrest and prolonged incommunicado detention without charges of the above-mentioned persons is compatible with human rights standards contained, *inter alia*, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to which Iran is a party.

Urgent appeal

189. On **27 January 2010**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government concerning **Ms. S.E. and Mr. B.A.J.** who had been sentenced to death by stoning for adultery.

190. According to the information received, a criminal court in Oroomiyeh, West Azerbaijan Province, sentenced S.E. and B.A.J. to death on charges of adultery. The death sentence followed a trial in which they were allegedly denied the right to select their own defence attorneys. On 6 January 2010 (or 8 January, according to other reports received), Branch 12 of the West Azerbaijan Court of Appeals upheld the death sentence. Both defendants were held in Oroomiyeh central prison.

191. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summaries accurate?
2. Please provide statistics as to the number of persons sentenced to death and the number executed in the past three years for the offence of adultery. In particular, indicate how many men and how many women were sentenced to death and executed for the offence of adultery.

Observations

192. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received a reply from the Government of Iran concerning the communications sent on 21 July 2009, 28 December 2009, 7 January 2010 and 27 January 2010. She recalls that communications are an important part of the cooperation of Governments with her mandate and urges the Government to respond to the concerns raised.

193. The Special Rapporteur also wishes to recall that an urgent appeal concerning Ms. S.S. was sent on 7 March 2007, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders. On 14 March 2007, the Special Rapporteur sent another urgent appeal concerning Ms. S.S. The Special Rapporteur regrets that no reply was received from the Government to these communications.

194. With regard to the urgent appeal sent on 27 January 2010, the Special Rapporteur wishes to recall that stoning is a method of capital punishment primarily used for crimes of adultery and other related offences, of which women are disproportionately found guilty,

which is inconsistent with the prohibition of discrimination on the basis of sex enshrined in all major human rights instruments, including the Convention on Elimination of All Forms of Discrimination against Women. She would also like to highlight that the Human Rights Committee, the Committee against Torture, the Commission on Human Rights and the Special Rapporteur on Torture have reiterated that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

195. The Special Rapporteur regrets that the Government of Iran did not reply to her previous communications sent on 9 September 2008, 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 situation of human rights defenders, regarding members of the One Million Signatures Campaign. In this regard, she wishes to underline the challenges faced by women human rights defenders and requests that they be permitted to exercise their rights to freedom of assembly and freedom of expression. She considers that the arrest and detention of the members of the One Million Signatures Campaign may constitute a systematic attempt to curb these rights.

Responses received to communications sent earlier

196. By a letter dated **12 August 2009**, the Government responded to the communication sent on 5 April 2007, concerning **Ms. N.K.** and **Ms. M.H.**, two women arrested on 3 April 2007, while they were collecting signatures for the One Million Signatures Campaign, and had remained in detention in Evin Prison with charges against them being unknown.

197. The Government reported that Second of April is celebrated in Iran as the Nature's Day and it is also an official holiday. On this day, large numbers of people go to parks and recreational areas for leisure and clean air. Unfortunately, a number of women including Ms. N.K. and Ms. M.H. spread out in Laleh Park in the central Tehran and begin harassing people. They were adamant in their insistence in getting the people in the park to sign their petition and acted in ways that were contrary to the general spirit of the day that has a history of thousands of years. Even a woman by the name of S.A. began shouting and yelling to gather people around them. They were cautioned by the park security guards that they were disturbing the normal situation of the park. Consequently, police arrested them. Later on, all the arrested individuals were released on bail. The Government further indicated that, since Ms. S.A., Ms. N.K. and Ms. M.H. had a past record of disturbing public order and compliance with the court order, they were called to appear in the court and a trial date was set for them. There is no record of a ruling against them.

198. In a letter dated **15 July 2009**, the Government responded to the communication sent on 19 December 2007, concerning Ms. **M.H.**, Ms. **J.J.**, Ms. **H.A.**, Ms. **R.S.** and Ms. **D.A.**, members of the *One Million Signatures Campaign*. The Government that Ms. D.A. was found guilty of disturbing public order and was sentenced to four months imprisonment and payment of 50,000 Tomans fine, by Branch 21 of Tehran Appellate Court. She was acquitted of the charge of working against the security of the State.

199. The case was referred to the Head of Justice Department of Tehran and at the time when the Government sent the letter, she was free on bail and the case had gone to the Court Rulings Implementation Section. The delay in sending the case to the Court Rulings Implementation Section was meant for the purpose of allowing time for a pardon.

200. The Government informed that in the judicial system of the Islamic Republic of Iran review of the cases of the individuals charged with different offences is done on the basis of applicable laws regardless of the defendant's social titles and status. According to the Government, Ms. M.H., married and residing in Tehran, was arrested on 19 December 2007 on the charge of propagating lies and misinformation and acting against the security of the

State. She was not able to deposit the required bail at the time of her arrest, but was released on bail on 2 January 2008. She had access to a lawyer in accordance with article 128 of the Criminal Procedures Code. Ms. Shirin Ebadi was introduced as her defense lawyer and assumed the responsibility to represent her before the court. Her case was being investigated by the Investigation Branch.

201. Ms. J.J. was summoned to the Investigation Office on charges of collaboration and assembly with the aim of disturbing public order, propagating misinformation against the Islamic Republic of Iran and ignoring the summon of the police. She was released on bail on the same day. An indictment was prepared and the case was sent to the Criminal Court. Ms. M.J. was introduced as her defense lawyer and the trial date was set for 21 November 2009.

202. In a letter dated **10 July 2009**, the Government responded to the communication sent on 7 March 2008, concerning Ms. **S.N.**, Ms. **T.H.**, Ms. **S.** and Ms. **A.M.**, who were reportedly sentenced to death. The Government reported that Ms. N.'s records showed that the only case in connection with intentional murder registered under the name "N." related to a person by the name of Ms. A.A.N., daughter of J., born in 1956. She was charged with murder of her father. As a result of the consent acquired from the victim's next of skin, execution of Qesas (retribution in kind) was cancelled. However, in accordance with article 612 of the Penal Code, she was liable to sentence of three to twelve years of imprisonment. Her case was dealt with in accordance with the rule of law and any allegation otherwise is unfounded. Presently, Ms. N. is out of prison on bail.

203. According to Government, Ms. T.H. buried alive the seven-year-old daughter of her husband, E.K., in March 2003 in the forests of Lavizan, near the city of Tehran. The Government indicated that the communication mistakenly referred to the case as murder of her husband. After initial investigation, she was charged with intentional murder and was found guilty by judgment No. 18 dated 20 June 2007 issued by Branch 74 of the Criminal Court of the Province of Tehran, in presence of five judges and her two defense lawyers, Mr. M.T. and Ms. F.H.M.A.. The court ruled that she deserved Qesas (retribution in kind). She and her lawyers appealed the ruling and the case was referred to the Branch 37 of the Supreme Court. The ruling of lower court was reinstated by verdict No. 497 dated 21 January 2008. The verdict of Qesas was carried out on 27 November 2009 in the absence of the defendant's failure to acquire the consent of the victim's next of skin.

204. According to the existing information, there is no reference to Ms. A.M.'s compulsory or forced marriage. Besides, if a woman claims that her marriage was forced, she can request the pertinent family court for annulment of the marriage. Forced marriage may not establish the ground for committing murder. Moreover, the difference in the age of the husband and the wife may not be interpreted as an absolute reason for the marriage to be compulsory. According to Iranian penal code, commission of intentional murder is the cause for Qesas verdict. However, guardians of the victim have the power of pardon the offender or demand blood money or Qesas (retribution in kind). Therefore, any of the three rest with the victim's guardians and the ability of the offender to acquire their consent. Being a woman or a man does not establish a cause for discrimination between offenders. A substantial period of time has been provided to the offenders to acquire the consent of the victim's next of skin.

205. In a letter dated **9 July 2009**, the Government responded to the communication sent on 11 March 2008, concerning **Ms. P.A.**, a women's rights defender and one of the founding members of the *One Million Signatures Campaign* and **Ms E.S.**, an active member of the movement. The Government reported the following: "The case of Ms. P.A. was investigated and raised in Branch 13 of the Criminal Court and by judgment N° 4029 of 17 November 2007; she was sentenced to two years suspended imprisonment. Subsequently, the case was reviewed in Branch 21 of the court of appeal and the sentence was commuted to one year.

Although the ruling of the court is now final, the Government indicated that ultimate tolerance and compassion have been shown to her and that she is presently free.

206. By a letter dated **4 May 2009**, the Government responded to the communication sent on 22 February 2008, by the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders concerning **Ms. R.A.** and **Ms. N.K.**, two members of the One Million Signatures Petition Campaign. The Government indicated that the existing laws and regulations in connection with women, in the Islamic Republic of Iran, which are guaranteed and safeguarded by anticipated legal instruments, are:

- Equality before the Law, which in accordance with Article 3, para. 14 of the Constitution, the Government is bound to do its utmost towards, securing the multifarious rights of all citizens and providing legal protection and ensuring the equality of all before the law. Furthermore, Article 20 of the Constitution states that all citizens of Iran enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria. Moreover, Article 21 of the Constitution is devoted exclusively to guarantees for the protection of act aspects of women's rights.
- Right to Work, which gives to women and men equal social, political and other rights. According to Article 6 of the Labor Code, all the individuals are entitled to the same protection of the law and every person has the right to choose an occupation, which is not inconsistent with the Islamic principles, the public interest or does not violate other peoples' rights. Some responsibilities and obligations are envisaged for men from whom women are exempted, including the prohibition to women to have a dangerous work, while continuing to enjoy relevant rights and benefits, such as 90 days of maternity leave. Furthermore, the employer shall set up childcare centers according to the number of children, with due regard to their age.
- An Equal Pay, stated in Article 38 of the labor Code (1989), referring to equality and non discrimination in regard to wages, and the prohibition of discrimination on the basis of age, gender, race, ethnic origin and political or religious convictions, which will be punished on the basis of Article 174 of the Labour Code.
- Political, Social and Cultural Participation. Women are active in social and political life in Iran and have high profiles in the official governmental positions. Recently the Ministry of Higher Education of the Islamic Republic of Iran announced that there are no gender restrictions choosing various disciplines in the universities. In fact, women in Iran are among the leading university students in engineering a medicine. The majority of teachers are women who are extreme active in education.
- Rights and Special Privileges of Women in Marriage. Women constitute a willing partner marriages and their consent is required both for the initiation as for the termination of this institution. Furthermore, a number of provisions in Iranian legal system are geared to guarantee economic well-being and independence married women, including property, dowry or alimony. The same is true in the case of a divorced wife during the period of "Eddeh" or when she is pregnant by her husband until her child is born, according to Article 111 of the Civil Code. In addition, Article 105 of the Islamic Punishment Law states that "Any financially capable person, who refuses to pay his wife's maintenance, while the latter fulfills her matrimonial duties, will be sentenced by the court".
- Right to Divorce and Community Property Rights. According to legislation the divorce does not take place simply on the basis of a request by the husband; rather it should be based on a decision by a competent court and through a legal procedure.

The consent of the wife is required in divorce cases. Furthermore, the wife has the right to seek divorce through the same procedure. If the court finds that the husband is asking for a divorce without legitimate cause, he is required to pay for all his wife's work at home as determined by the court. In addition, in such a case, the court could rule for equal division of property, registered in husband's name.

207. The Government also provided detailed information concerning new developments in the realm of Iranian women affairs.

208. The Government informed that Iran's national human rights policy is based on the Constitution which is in full compliance with its commitments arising from international instruments and duly respects the internationally accepted human rights values and standards. The principles prevailing in the human rights policy, enshrined in the National Development Programs, clearly represent a vigorous attempt aimed at human rights, mainstreaming and at stipulating full respect for the status and the inherent dignity of human beings from the Islamic perspectives as well as full respect for the citizens' rights. These programs have been designed in a manner to adequately address all economic, social, cultural and civil and political rights of citizens including the rights to development and provide to the full extent possible the effective enjoyment of the said rights and their promotion and protection. To this end, the Islamic Republic of Iran, while reviewing, amending and updating the existing regulations, has taken measures for legislation of new and additional new regulations. Simultaneously, creation of national human rights institutions and bodies has effectively been pursued.

209. To accomplish the goals of National Development Programs, development of different approaches for national capacity building, strengthening of national institutions, human rights education and further attention to the economic, social and cultural rights particularly right to development, have been foreseen. To this end, strengthening of civil society, fostering an environment conducive for enhancement of national human rights mechanism such as standing human rights committee in judiciary, Article 90 commission within the Parliament, organization of National Ombudsman, Bar Association. Department of Administrative Justice and Islamic Human Rights Commission as well as drafting and implementation of Citizen's Rights bill have been accomplished.

210. The Government informed that Iran is also faced with certain shortcomings and difficulties, the roots of which are generally developmental questions and imposition of economic sanctions and application of unilateral policies by certain countries during the past quarter of century. In spite of the aforementioned obstacles, the Islamic Republic of Iran within the context of its National Development Programs is committed to take the necessary measures to uphold the highest standards and promotion and protection of the human rights and fundamental freedoms of all citizens, realization of which is not only dependent on the national endeavors, it is also interlinked with the international support and cooperation particularly with regard to realization of the right to development, as stipulated in the "Declaration on the Right to development".

211. The importance of role and contribution of civil society in different fields particularly issues pertaining to human rights policy through provision of their consultative views has precisely and completely been foreseen, and reiterated in National Development Programs. Furthermore the necessity of continuation of empowerment policy of NGOs has also been underlined in the said program. The vigorous pursuance of enabling policy has led to establishment or enhancing of scope of activities of some 2000 NGOs throughout the country as well as facilitating the acquiring of international consultative status for 16 Iranian NGOs. Furthermore, convening of different seminars and workshops relating to different aspects of NGOs' activities in collaboration with foreign counterparts at local, national and regional levels are yet another tangible result of above-mentioned policies.

212. In spite of all the above-mentioned plans and activities, which have already opened new horizons, the Government further indicated that there are efforts made by some women to belittle the achievements. They have been gathering signatures from women for fair~her/equa~ rights for women. Those individuals, instead of bringing their efforts, talents and energy together in the context of the already existing NGOs or a new legally-established NGO, have unfortunately resorted to malicious moves such as claiming to be human rights defenders who are opposed by the Iranian Government and so on. The Government and pertinent organizations have repeatedly announced that they would welcome and support any individual or organization who/which genuinely desires to work towards empowerment of women in the Iranian society. The Government noted in this respect that it does not believe that bossing or bullying around would bring about any assistance or solution to problems. At the same time, neither the Government nor the people of Iran may tolerate and watch silently and indifferently those who might dream to hinder or hurt advancement of the society, particularly advancement and empowerment of women, who have been genuinely and whole-heartedly sacrificing themselves for their sublime Godly causes, under the disguise of empty slogans and abuse of internationally recognized and respected human rights instruments.

213. To conclude, the Government informed that Ms. R.A. and Ms. N.K. were arrested and charged with disturbing public order. The investigating court dropped the charge against them on 19 August 2008, stating that they had not premeditated a disturbance and that their activity was originally peaceful. The two individuals were treated on the basis of the rule of law and they enjoyed all their rights”.

Kuwait

Urgent appeal

214. On **4 February 2010**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the human rights of migrants sent an urgent appeal to the Government regarding the death sentence imposed on **Ms. J.P.**, a Filipina domestic migrant worker and regarding the widespread exploitation of migrant domestic workers in the country.

215. According to the information received, Ms. J.P. was sentenced to death on 13 April 2008 by a court of First Instance for the crime of murder of her employer’s daughter. The death sentence was upheld by an appeal court on 16 June 2009. Reports suggested that J.P. had exhausted the appeal process and the death sentence was confirmed during the week of 25 January 2010.

216. Ms. J.P. maintained throughout the court proceedings that she was innocent; stating that one of the victim’s family members could have committed the murder because the victim was having an affair with a neighbour. Her lawyer also argued that there was no evidence proving that Ms. J.P. committed the crime.

217. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary accurate?
2. Please provide details of the judicial proceedings which determined and upheld Ms. J.P.’s sentence. Please also indicate measures taken to ensure the due process rights of Ms. J.P. have been fully respected.

Response from the Government

218. By a letter dated **17 March 2010**, the Government responded to the communication sent on 4 February 2010 indicating that the facts referred to were set forth in criminal case No. 675/2007, Annual Register 40/2007 Mubarak al-Kabir. The Government informed that Ms. J.P. was employed as a domestic worker by the family of the victim, D.B.A.H.N. Ms. J.P. intended to take revenge against the victim on account of their many quarrels and her unwillingness to accept the scolding she received from the victim. She decided to kill her and prepared a large knife for the purpose as well as a pair of nylon gloves to remove the traces left by her hand on the knife. Having waited until the victim was in bed alone, she went to her bedroom at dawn and attacked her while she was asleep, stabbing her repeatedly until she was dead. According to the report of the forensic physician, the victim's death was attributable to stab wounds to the chest area that led to ruptures of the lungs, the heart and the throat, and hence to a hemorrhage and stroke.

219. The Public Prosecutor's Office issued a decision on 19 August 2007 to refer the accused to the Criminal Court on the charge of intentional and premeditated homicide of the victim.

220. On 13 April 2008 the Criminal Court decided to sentence the accused to death, relying on the factual testimony of witnesses, supported by the conclusions of the forensic physician's report on the victim, the findings of the criminal evidence report, the results of the Public Prosecutor's Office examination of the scene of the crime and the conclusions of the Medical Committee's report. The decision was endorsed by the Appeal Court's judgment of 15 June 2009 and the judgment of the Court of Cassation of 19 January 2010.

221. On 11 February 2010 the Public Prosecutor's Office sent the above-mentioned criminal file to the Deputy Prime Minister responsible for legal affairs, the Minister of Justice and the Minister of Religious Endowments and Islamic Affairs, requesting them to transmit it to His Highness the Amir of the State of Kuwait so that he could consider whether to ratify the judgment imposing the death penalty on the above-mentioned accused.

Observations

222. The Special Rapporteur is grateful to the Government of Kuwait for its response. She is hopeful that the increased vulnerability to violence and discrimination suffered by migrant domestic workers- who often live in an abusive environment characterized by multiple oppressions of gender, class, nationality and ethnicity - will be taken into consideration in the revision of the judgment. She wishes to refer in this regard to General Recommendation 26 by the CEDAW Committee which aims at elaborating the circumstances that contribute to the specific vulnerability of many women migrant workers and their experiences of sex- and gender-based discrimination as a cause and consequence of the violations of their human rights.

Kyrgyzstan

Response received to a communication sent earlier

223. In a letter dated **4 December 2009**, the Government responded to the communication sent on 7 October 2008 concerning Ms. **N.T.K.**, aged 18, resident in Talas who was allegedly subjected to torture and ill treatment by members of the police (see A/HRC/11/6/Add.1). At the time this report was finalized, an official translation of the response was not yet available. The Special Rapporteur will therefore provide further observations in her 2011 communications report.

Malaysia

Urgent appeal

224. On **3 August 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding **Mrs. K.S.D.S.**, a Malaysian citizen and a permanent resident of Singapore.

225. According to the information received, Mrs. K.S.D.S. has been sentenced by the Pahang Syariah Court in Malaysia to six strokes of the rotan and fined RM 5000 for drinking beer in a hotel nightclub two years ago. The sentence was expected to be carried out on 3 August 2009 or 14 days from 20 July 2009. The punishment of caning, stipulated in Section 125 and 126 of the Phang Syariah Criminal Procedure Enactment of 2002, had not been applied against a Malaysian woman before.

226. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged accurate?
2. Has any appeal been submitted on behalf of Mrs. K.S.D.S. which seeks for an alternative punishment?
3. Has the punishment of caning applied against Mrs. K.S.D.S. taken place already? If yes please provide details of its application. If not, please provide details on the subsequent decisions on this matter.
4. Please provide details of any measures taken to promote the rights of women in Malaysia, including in relation to the application of physical punishments based on prejudices, customary practices and all other practices which lie on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women.
5. Please provide information on any follow up action or measure taken with regard to this case, and whether Mrs. K.S.D.S. has had access to an effective remedy, including the right to challenge the punishment of canning, if at all, whether she has been provided or assured protection against any eventual form of retaliation or threat for opposing such punishment.

Response from the Government

227. By letter dated **1 September 2009**, the Government indicated that the punishment of six strokes of caning (“whipping”) and a fine of RM 5,000.00 decreed by the Pahang Syariah High Court was based on the provisions of the laws enforceable in Malaysia. Ms. K.S.D.S. had pleaded guilty to the offence of consuming beer.

228. The Government indicated that the sentence given to Ms. K.S.D.S. does not constitute any form of discrimination against women, as it is based on the laws enforceable in Malaysia and has been executed in a number of cases involving men. It is enforced against all persons who profess the religion of Islam, regardless of gender.

229. The Government additionally indicated that, when executing the punishment of whipping, the person shall use the rod with average force, without lifting his hand over his head so that the offender’s skin is not cut. After inflicting a stroke, he shall lift the rod upward and not pull it. Whipping may be inflicted on all parts of the body except the face, head, stomach, chest or private parts. The whipping rod shall be of the same type and make either from rattan or small branch of a tree without segment or joint and its length not more than 1.22 meters and its thickness not more than 1.25 centimeters. Furthermore, the offender

shall wear clothes when the whipping is inflicted and for women, the whipping shall be inflicted in a sitting position.

230. According to the Government, the main purpose of punishment under Syariah laws is to educate the offender. It was noted that Ms. K.S.D.S. had not made any appeals in relation to the sentence imposed on her by the courts, despite having been advised by her lawyer to do so on several occasions. The Government noted that she actually refused to file an appeal because, as a Muslim, she felt repentance towards the wrongdoings that she had committed.

231. The Government was of the view that Mrs. K.S.D.S. had been provided access to effective remedies under the provisions of the relevant Malaysian laws. She was represented by her lawyer during the trial. She also had the right to appeal the sentence, although she made the decision to accept it without challenging it. At the time the Government response was received, the whipping had not yet taken place.

Observations

232. The Special Rapporteur is grateful to the Government of Malaysia for its reply to the urgent appeal. She wishes to recall the importance of addressing situations of violence and discrimination that affect many women as well as other individuals on the grounds or in the name of religion or belief or in accordance with cultural and traditional practices. In this regard, it is essential that States take all appropriate measures, including in legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

233. She also wishes to note that Human Rights Committee, the Committee against Torture, the Commission on Human Rights and the Special Rapporteur on Torture have reiterated that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment

Response received to a communication sent earlier

234. By a letter dated **24 November 2009**, the Government replied to a communication sent on 17 November 2008 concerning sexual abuses against **girls from the Penan Community** in the Baram area, Sarawak (see A/HRC/11/6/Add.1 for a summary of the communication)

235. The Government informed that since 1995, there has been one police report involving a Penan girl and three police reports involving Penan women, as following:

1. The Marudi District Police Report 279/1995 informed that a fourteen years old Penan girl claimed that she was raped. Upon investigation, the police had insufficient evidence to prosecute on the grounds on the medical doctor's report which stated that the victim's hymen was intact. In addition, the victim could not identify the suspects and the witnesses/landlord denied knowing or even allowing the victim to stay at his house. As a result, the investigation showed insufficient evidence to support any prosecution for rape.

2. The Marudi District Report 645/2008: a police report was lodged by the victim. The victim's ordeal was reported in the local newspaper, "The Star", on 6 October 2008 entitled "Against Their Will". According to the article, C. was abused and raped by loggers when she hitched a ride on the logging company's vehicle to go to school. As a result, the victim had given birth to a baby girl in July 2008. The investigation papers were submitted to the Senior Federal Counsel (SFC) of Sarawak on 17 December 2008. The SFC had instructed the police to conduct further investigation.

3. The Marudi District Report 646/2008: a police report was lodged by DSP Roselina from the Police Contingent Headquarters based on the article in "The Star", dated

6 October, entitled "Against Their Will". The victim, known as R. – it is not her real name – did not make any police report but the report was necessary to allow the police to initiate investigations. Upon investigation and based on the article, it was alleged that a logger came to R.'s house in a drunken state and she was raped. As a result, R. gave birth in May 2005. The investigation papers were submitted to the SFC in Sarawak on 17 December 2008. The SFC has instructed the police to conduct further investigation.

236. The Government of Malaysia further indicated that it had established the National-Level Task Force to investigate the accusations of sexual abuse towards the Penan girls in Sarawak on 8 October 2008. The task force is helmed by the Ministry of Women, Family and Community Development, and was chaired by the then Minister of Women, Family and Community Development. The establishment of the Task Force is aimed at investigating the accusations of sexual exploitation of Penan women and school girls in Sarawak by the logging company of workers.

237. Members of the Task Force participated in a visit to the Baram area of Sarawak from 10 to 15 November 2008. After the visit, the Task Force proposed several improvements that fell under the jurisdiction of several Ministries/Government Agencies.

238. In the report — available at <http://www.kpwkm.gov.my> — the Task Force concluded among others that the sexual abuse of the Penan women and school girls by outsiders dealing with the Penan tribe, including workers of logging companies and traders did occur and they occurred due to the victim's dependency of transportation owned by the logging company and the presence of outsiders dealing with the village people to purchase of forest products. The reports further explained that the Penan community is exposed to sexual abuse and exploitation due to the poverty, isolated places of residence, the high dependency on logging companies not only for transport for health services and schooling, but also for basic necessities such as water, electric generators, etc, the lack of trust towards higher authorities and the negative societal perception, prejudice and negative stereotypes with labels such as lazy, liars and alcoholics directed at the Penan. In addition the lack of infrastructure, such as roads, and the lack of public transportation leads to difficulties faced by the Penan villagers in dealing with outsiders, including Government agencies. To ensure a more balanced development, there should be increased involvement of the Penan tribe in the decision-making processes relevant to them.

239. The Government added that the findings of the Task Force did not determine the criminal liability of any person or groups of persons. Moreover, the investigations with regard to cases involving police reports n° 645, 646 and 647 of 2008 are still on-going. If someone is charged for the offence of rape under section 375 of the Malaysian Penal Code, those found guilty would be punished for a term of not less than five years and not more than thirty years and shall also be liable to whipping.

240. The Government informed that the Federal Government has been working in collaboration with the Sarawak State Government to initiate several development programmes to ensure that Penan children have safe access to schools, through the Service Centre Development in the Penan area. The Service Centres in this area are equipped with facilities such as school, clinics and agricultural stations. In addition, the State Government of Sarawak has provided financial support for transport of Penan children that are staying too far from schools. The implementation of the transport service was managed by the Resident's and District Office as well as the schools involved.

241. In order to respect the international norms, the Government informed that it had enacted or amended laws to punish acts of violence against women who are subjected to violence. For example, in the Penal Code, the punishment for rape has been amended from twenty years of imprisonment to a minimum of five years and a maximum of thirty years. In addition, women who are subjected to violence have been provided with unhindered access

to justice and health services. The Government also indicated that it had set up programs for sexually abused women and provided legal assistance for those who cannot afford their own legal counsel.

242. Concerning indigenous peoples, the Government has established programmes and mechanisms to consult with. The Government stated that Malaysia's actions are fully in compliance with the requirements of the Declaration on the Rights of Indigenous Peoples. The Government complies with Article 26 of the Universal Declaration of Human Rights and Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), even though Malaysia is not party to the ICESCR.

243. Finally, the Government gave its assurance and pledge that the investigation on the sexual abuses against Penan women and girls will be conducted in accordance with the prevailing domestic laws of Malaysia which are fully consonant with the norms and standards of international law. The Government reiterated its commitment to take necessary steps and measures to continuously guarantee to promote, protect and implement all human rights and fundamental freedoms as well as to guarantee the individual and collective rights of indigenous peoples, including the rights to culture, identity, language, employment, health, education and others

Observations

244. The Special Rapporteur thanks the Government of Malaysia for its detailed response and for the commitment to adopt necessary measures to guarantee the rights of indigenous peoples. In particular, she would like to encourage the Government to address the specific circumstances facing indigenous women and girls, in relation to gender-based violence, especially sexual violence, arising from multiple, intersecting and aggravated forms of discrimination, and paying particular attention to the structural causes of violence. In light of its de facto compliance with Article 13 of the ICESCR, she wishes to encourage the Malaysian authorities to sign and ratify the International Covenant on Economic, Social and Cultural rights.

Namibia

Allegation letter

245. On **21 October 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an allegation letter to the Government **regarding 40 from a sample of 230 women living with HIV who participated in related research and were subjected to coerced sterilization.**

246. According to the information received, 13 of the 40 cases were documented in detail and all suggested that informed consent to the procedure was compromised. Allegedly, coercion was used, in some cases, in obtaining the consent for the sterilization procedure, while in other cases, women were apparently unaware that the sterilization procedure was being conducted, and were only informed after completion of the surgery.

247. It was alleged that six of the women subjected to coerced or forced sterilization had filed cases before the High Court alleging violations of their right to life, human dignity and equality, and the right to be free from cruel, inhuman, and degrading treatment. Court dates were set for October and November 2009.

248. It was also reported that when on 15 July 2008, documentation of the 13 cases was submitted to the Deputy Minister of Health and Social Services, Ms P.H., she indicated that the Ministry would issue circulars to the health facilities stating that if forced and coerced sterilizations were occurring at hospitals they should be halted, but according to the information received, the circulars were not distributed to health care facilities and the Minister of Health denied that involuntary sterilizations of HIV-positive women have taken place in hospitals.

249. The Special Rapporteur requested some clarifications from the Government on the following matters: Are the facts alleged in the above summary accurate?

1. What specific measures are being taken to prevent further forced sterilization, particularly of women living with HIV, in government-run hospitals?

2. What specific measures are being taken to sanction medical staff allegedly carrying out forced sterilizations? Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to such cases. If no inquiries have been made, or if they have been inconclusive, please explain why.

3. What specific measures are being taken to ensure that reparation, including compensation and rehabilitation, is provided to those women living with HIV who may have been forcibly sterilized?

4. What specific measures are being taken to address stigmatizing and discriminating attitudes and practices against people living with HIV among health care providers?

5. What specific measures are being undertaken to ensure that informed consent requirements for all interventions are implemented in all health care settings?

What specific measures are being undertaken to ensure that the right of women living with HIV to the highest attainable standard of physical and mental health is realized?

Observations

250. The Special Rapporteur regrets that at the time of finalizing the report, she had not received a reply from the Government of Namibia concerning the above mentioned allegations. She wishes to recall that compulsory sterilization or abortion adversely affects women's physical and mental health and infringes the right of women to decide on the number and spacing of their children. In this regard, she calls on the Namibian authorities to place a gender perspective at the centre of all policies and programmes affecting women's health and require all health services to be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent and choice.

Nepal

Urgent appeal

251. On **30 April 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding **Ms. K.D.S., Ms. T.M., Ms. S.K., Ms. B.C., Ms. S.S., Ms L.C. and other women human rights defenders** of Chimdi Village Development Committee (VDC) in Sunsari district in Nepal, as well as **Mr. R.N., Mr. K.B. and Mr. G.K.**, all of them journalists, **Mr. S.C.**,

representative for the Informal Sector Service Centre (INSEC) and **Mr. B.C.**, a member of the Women's Rehabilitation Centre (WOREC), an organization helping victims of domestic and sexual violence.

252. According to the information received, on 9 April 2009, Ms. K.D.S., after calling for respect of the fundamental right of any person to marry and to choose freely her/his spouse, was beaten up by the relatives of Ms. L.G., a young woman who planned to have an inter-caste wedding with a young man belonging to the Dalit community. The two young people were also beaten up by L.G.'s relatives for speaking to each other in public. Immediately after the assault, Ms. K.D.S. approached the Illaka police station of Chimdi to file a complaint, but the Sub-Inspector refused to receive it.

253. On 11 April 2009, the Women Human Rights Defender Network, Sunsari, and more than 500 women from eight Village Development Committees (VDC) staged a demonstration in front of the police station in Chimdi VDC, in order to call for sanctions against the police for refusing to register Ms. K.D.S. complaint and to denounce the denial of access to justice. While doing so, they evoked the statement made by the Prime Minister on 25 January 2009, in which he committed himself to establish a complaints centre for women in order to end all forms of violence against women and criminalize caste-based discrimination against Dalits. They also called for a police apology since, on 10 April, while the Chimdi VDC were walking towards the police station in Chimdi, police officers publicly insulted them.

254. The women human rights defenders were subsequently assaulted with batons and the butt of their guns by around ten police officers and four other unknown persons. The police beat the women on the head, the chest, the thighs and the legs and some tried to sexually harass some of them. At least 14 women were injured, including Ms. T.M., Ms. S.K., Ms. B.C., Ms. S.S. and Ms. L.C., who were seriously injured and were brought to the Koshi Zonal hospital for medical treatment.

255. The journalists R.N., K.B. and G.K. as well as Mr. S.C., who went to the police station to investigate the incident, were also allegedly manhandled and their vehicle vandalized by the police. Likewise, Mr. B.C. was also threatened.

256. The Special Rapporteur was concerned that the alleged police violence against Ms. K.D.S., Ms. T.M., Ms. S.K., Ms. B.C., Ms. S.S., Ms L.C. and other women human rights defenders of VDC and the intimidation and threats made against Mr. R.N., Mr. K.B. and Mr. G.K., Mr. S.C. and Mr. B.C. were related to their legitimate work in defence of human rights in Nepal, particularly the rights of women and the Dalit community. Further concern was expressed for their physical and mental integrity.

257. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

Response from the Government

258. By a letter dated **8 February 2010**, the Government responded to the communication sent on 30 April 2009. The Government responded that on 9 April 2009, approximately 8 to 10 women including Ms. K.D.S. visited the Area Police Office in Chimdi, Sunsari district, and verbally reported the battery of Ms. K.D.S. The Sub-Inspector requested them for a written complaint of the incident, but the group of women left the Area Police Office in anger, without presenting any written complaint.

259. On 10 April 2009, in the afternoon, approximately 100 to 150 women from WOREC Federation Nepal approached the Area Police Office chanting various slogans and subsequently locked the Office of the Sub-Inspector. They behaved disorderly and rudely which caused displeasure. They also raided the properties of the office. The police remained calm and asked for orderly demonstration and to present their demand or complaint in writing so that it could take its course.

260. On 11 April 2009, at about 14:00 hrs, approximately 400-500 women chanting slogans attempted to forcibly enter the police station *en mass*. The mood of the demonstrators appeared disorderly and violent. Around 16:00 hrs, the protesters set a power trailer on fire and vandalized a private van in which journalists and human rights activists were travelling. The police was forced to disperse the crowd using light baton charge. As a result, in their attempt to run in the midst of the crowd, Ms. T.M., Ms. S.S. and Ms. L.C. received minor injuries and were immediately taken to the hospital for treatment and later discharged after minor primary treatment. Except the light use of force by the police to disperse the crowd in order to prevent further destruction to the public and private properties and harm to the general people, the women were neither beaten by the police, nor were they subjected to ill treatment. Demonstrators were treated with respect and honor and were not subject to any kind of misbehaviour.

261. In order to respond to a complaint from a group of journalists and human right activists against the officer-in-charge of the police station, the Sub-Inspector, the District Police Office in Sunsari formed an inquiry committee on 12 April 2009 to probe into the incident as demanded by the complainants. The inquiry committee found out in its report that the group of journalists and human rights activists were beaten and ill-treated by the agitating mob of the women staging the demonstration in front of the Chamdi Police Station and their vehicle was vandalized. No evidence was found to support the complaints against the Sub-Inspector R.C. and other police personnel.

262. Besides the findings of the inquiry, a large number of ordinary people witnessed the incident at the Area Police Office and its vicinity. The Home Minister and Polices Offices submitted a mass appeal in which 108 people, including local leaders, office bearers of NGOs and INGOs, as well as local civil society representatives, signed and explained the scene of the incident.

263. In the submission, they explained that the police had to use slight batons for self-defense and for the protection of the Area Police Station as well as for the protection of the property set ablaze by the violently agitating protestors. They also outlined how the protesters, including those claiming to be members of WOREC and INSEC of Sunsari District and other women participating in the agitation, intentionally and wantonly started to violently destroy the Area Police Office and the property in the area. The signatories demanded to punish those involved in the violent demonstration. The signed submission was sent to all relevant Government offices, police offices and national and international human rights organizations based in Nepal.

264. Finally, the Government stated that the facts alleged in the communication were conveniently fabricated and remained utterly misled.

Observations

265. The Special Rapporteur is grateful to the Government of Nepal for its response. She wishes to call upon the Government to enhance efforts towards ensuring the right of women, on equal terms with men, to participate in non-governmental organizations and associations concerned with the public and political life of the country. She also wishes to refer to the observations made by the Special Rapporteur on the situation of human rights defenders in A/HRC/13/22/Add.1.

Nicaragua

Carta de alegación

266. El **26 de noviembre de 2009**, la Relatora especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias junto con la Relatora especial sobre la situación de los defensores de los derechos humanos enviaron una carta de alegación al Gobierno de Nicaragua, sobre la situación de la **Sra. L.N.**, miembro del Movimiento contra el Abuso Sexual, la **Sra. P.O.**, Directora del Movimiento Autónomo de Mujeres de Nicaragua (MAM) y la **Sra. A.E.O.**, abogada y miembro del MAM.

267. Según la información recibida, el 30 de octubre de 2009, agentes de la Policía Nacional detuvieron el taxi en el que viajaban P.O., L.N. y A.E.O. quienes acababan de asistir a una reunión con representantes de otras organizaciones de derechos de las mujeres. Los policías pidieron los documentos de identificación del conductor y no dieron ningún motivo por haber detenido el taxi. Tras algunos minutos, las autorizaron a seguir adelante.

268. Posteriormente, otros agentes de la policía detuvieron el taxi nuevamente, alegando que habían escapado del primer control policial. Los agentes revisaron nuevamente los documentos de identificación del conductor y ordenaron a las mujeres que bajaran del taxi para poder revisar sus maletas. La Sra. P.O. opuso resistencia y exigió una explicación. Se alegó que agentes de la policía esposaron violentamente P.O. y la subieron a la fuerza a una camioneta de policía. Luego, las tres mujeres fueron llevadas a una comisaría en la ciudad de León y fueron puestas en libertad más tarde.

269. De acuerdo con las informaciones recibidas, P.O., L.N. y A.E.O. quisieron presentar una denuncia en relación con el incidente en la oficina de la Comisaría de la Mujer, pero la jefa policial se negó a aceptar la denuncia, arguyendo que cuya Comisaría sólo se ocupaba de casos de violencia en el hogar. Además, la Sra. P.O. hubiese solicitado atención médica para revisar las lesiones que habría sufrido durante el incidente, pero dicha asistencia nunca llegó.

270. Se alegó que dicho incidente sucedió pocas horas después de que la Primera Comisionada de la Policía, la Sra. A.E.G.S., asegurara a organizaciones de derechos humanos en Managua que no se reproducirían agresiones en contra de mujeres por parte de la policía.

271. La Relatora especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias expresó preocupación acerca de la posibilidad de que el hostigamiento contra P.O., L.N. y A.E.O. y el maltrato de la Sra. P.O. por parte de agentes de la policía, estuviesen relacionados con las actividades que realizaban en defensa de los derechos de las mujeres.

272. Además, la Relatora Especial le pidió al Gobierno que clarificara los puntos siguientes:

1. Son exactos los hechos a los que se refieren las alegaciones presentadas en relación con las Sras. L.N., P.O. y A.E.O.?

2. Fue presentada alguna queja?
3. Por favor, proporcione información detallada sobre la base legal de las acciones emprendidas por los agentes de la policía en el caso descrito.
4. En ausencia de bases legales, por favor proporcione información detallada sobre las investigaciones iniciadas en relación con el trato recibido por las Sras. L.N., P.O. y A.E.O. por parte de los agentes de la policía. Si éstas no tuvieron lugar o no fueron concluidas, le rogamos que explique el porqué.
5. Por favor, proporcione información detallada sobre las conclusiones de la investigación judicial llevada a cabo por el Ministerio Público en referencia a nuestra comunicación urgente de 14 de enero de 2008.
6. Por favor, proporcione información detallada sobre el mandato y las competencias de la Comisaría de la Mujer, en particular, sobre los tipos de denuncias que puede recibir.

Respuesta del Gobierno

273. En una carta con fecha del **4 de febrero de 2010**, el Gobierno respondió a la comunicación enviada el 26 de noviembre de 2009 e informó que el 30 de octubre del 2009, como parte de las medidas operativas generales para contrarrestar las actividades ilícitas y el crimen organizado, la Policía Nacional dispuso un retén ubicado en la salida del balneario de Poneloya, ubicado en el departamento de León. Dicho retén Policial, detuvo un vehículo taxi, con el objeto de requisarlo e identificar a los ocupantes. El conductor del vehículo, sin ningún problema, entregó los documentos respectivos y se identificó como L.J.A.V. Se procedió a continuación a inspeccionar el vehículo y se localizaron en el valijero del mismo tres maletas.

274. Cuando los policías se disponían a realizar la requisa rutinaria en las maletas localizadas, se bajaron del vehículo las tres mujeres, quienes sin identificarse, comenzaron a vociferar e impedir la actuación policial aduciendo que era ilegal, que no habían cometido delito alguno, que eran abogadas y conocían la ley, cerrando de forma violenta el valijero del vehículo y ordenando al conductor que se retirara del lugar.

275. Los miembros del retén policial dieron parte telefónico al Centro de Emergencia Policial de León, desde donde se orientó ubicar otro retén policial motorizado en la entrada a la ciudad de León para interceptar al vehículo taxi referido. Viendo que el vehículo se acercaba, la Autoridad Policial procedió a realizarle el alto respectivo. Sin embargo, el conductor del vehículo hizo caso omiso a la señal de detención por lo que procedió a su persecución policial.

276. La patrulla motorizada alcanzó al vehículo. Al abordar por segunda vez el conductor, se bajaron las tres mujeres viajando en el vehículo, agredieron verbalmente a los policías y negaron a identificarse. Al intentar trasladarlas a la Delegación Policial para aclarar la situación, agredieron físicamente a los policías. Seguidamente, los oficiales requirieron al Centro de Emergencia el apoyo de otra patrulla.

277. A ese lugar, llegó otra patrulla motorizada al mando del suboficial J.C.D., quien intentó persuadir a las tres mujeres a que se identificaran y se trasladaran a la Delegación Policial para aclarar la situación. Ellas respondieron con agresividad, improperios y bajo un estado de alteración excesiva. Por este motivo se envió al lugar del incidente una nueva patrulla, al mando del teniente H.F., quien luego de agotar la persuasión ante la agresividad de las mujeres y la negación a identificarse o permitir la requisa de las maletas, decidió conducir las a la Delegación Policial.

278. Al momento de intentar montarlas a la patrulla, las mujeres opusieron resistencia, forcejearon con los policías. Una de ellas tomó violentamente de la camisa al teniente H. F. desprendiéndole dos botones y rompiendo parte de la solapa. Ella le ocasionó mordiscos y arañazos, hasta que se lograra reducir a una de ellas, colocándole las esposas. Ella fue trasladada a la Delegación Policial. Las otras dos acompañantes se quedaron en el lugar, debido a la presencia de personas antisociales que se sumaron a la alteración.

279. En la Delegación, la mujer mantuvo siempre una actitud hostil, violenta y altamente agresiva negando identificarse e insistió en el que se le permitiera llamar telefónicamente. Posteriormente, llegaron las dos otras mujeres a bordo del taxi en el que se movilizaban, teniendo a la conducta violenta que habían mantenido.

280. Una de las mujeres le preguntó al sub-comisionado C. donde se encontraban las oficinas de la Comisaría de la Mujer y la Niñez. Después que él se la haya mostrado, ellas se dirigieron hasta ahí. Preguntaron por la jefa. La subcomisionada M.M. se identificó, preguntándoles si tenían algunas denuncias que hacer, a lo que ellas contestaron que iban a denunciar a la policía. Finalmente, decidieron interponer la denuncia ante los medios de comunicación.

281. La Policía supo que las personas conducidas eran P.O., A.E.O. y L.N., después de las llamadas telefónicas que las tres señoras realizaron, por lo que se procedió a informar a las autoridades superiores de la Policía Nacional y se permitió que se marcharan por decisión de la Jefatura Nacional. En ningún momento este incidente se derivó o estuvo vinculado al hecho de que las tres señoras relacionadas pertenecen a Organismos No Gubernamentales de Mujeres. Tampoco fue producto de alguna situación de persecución como se había pretendido dar la impresión.

282. Por iniciativa del Jefe de la Delegación Policial Departamental de León, se inició una investigación disciplinaria para determinar la legalidad de la actuación y responsabilidad de los oficiales de policía en sus actuaciones. El Inspector General de la Policía Nacional, Comisionado General J. A. B. G. , atendió personalmente a las tres señoras y posteriormente, ordenó una investigación exhaustiva sobre los hechos planteados.

283. Según la Ley 228, la Institución Policial actuó de manera legítima y apegada a las atribuciones y funciones que le confiere la dicha ley, la Ley de la Policía Nacional, el Código Procesal Penal (CPP) y el Código Penal. La Policía Nacional se encontraba realizando una actuación legal y legítima en el marco de las atribuciones y funciones que le confiere la ley. En virtud del Artículo 239 del CPP, ella tiene la facultad de registrar vehículos, naves y aeronaves cuando exista la probabilidad fundada de la comisión de un delito.

284. En el caso concreto, lo que justifica la acción policial es el hecho de que se trate de una zona altamente afectada por la actividad del tráfico de estupefacientes, armas, contrabando y otras modalidades de tráfico ilícito. Previamente a las 2:45 de la tarde del 30 de octubre de 2009, se registró un robo con intimidación en la zona, cerca de donde se produjo el incidente. El vehículo en el que se movilizaban las tres mujeres era un taxi con placas de Managua, lo que no es común en el sector de León. Estos tipos de vehículos han sido utilizados en otras ocasiones para cometer robos con intimidación. Además, los policías que actuaron en el retén ignoraban las calidades de las personas que viajaban en el vehículo, añadiendo que estas personas tampoco quisieron identificarse.

285. Las personas tienen la obligación de identificarse y brindar sus datos de filiación al momento de ser requerida por una autoridad policial que actúa en el cumplimiento de sus funciones bajo pena de incurrir en la Falta Penal de “Negativa de Identificarse” establecida en el Artículo 533, del Código Penal. Quien se oponga o impida a la Policía Nacional el cumplimiento de una función o actividad legítima incurre en el delito de “Obstrucción de Funciones” que establece el Artículo 460 del Código Penal.

286. La Jefatura Nacional de la Policía abrió un proceso de investigación administrativa en contra de los oficiales de Policiales involucrados, a través de la División de Asuntos Internos. Como parte del Proceso de Investigación, se recibió la denuncia de P.O. y L.N. Se entrevistaron a los ofendidos, testigos y policías. Además, se requirieron Dictámenes médicos legales de los oficiales H.J.F.N., R.J.H. y C.R.B. Como resultado del examen físico practicado a los oficiales, se encontró equimosis y excoriaciones traumáticas. El Oficio de la Policía le solicitó al Instituto de Medicina Legal una valoración medico legal de la Sra. P.O., en el que se concluyó equimosis compatible por colocación de las esposas y excoriación superficial. Además, el 18 de noviembre de 2009, se le solicitó al Instituto de Medicina Legal una valoración medico legal de A.E.O. y L.N. Al requerir el dictamen médico legal, se informó que mediante sus registros no se encontraron resultados. Se presume que las oficiadas no acudieron.

287. Atendiendo los resultados de cada una de las diligencias de investigación practicadas, se encontró que los oficiales investigados actuaron en correspondencia a las normas y procedimientos que rigen la actuación policial. Se determinó que no existe responsabilidad administrativa en contra de ellos y que al contrario, fueron victimas de violencia, lo que procedió a darle cierre a la investigación.

288. El Gobierno informó que no existía ninguna causa judicial abierta en este caso, pero denuncias radicadas en el Ministerio Público con fecha del 7 y del 30 de octubre del 2007. Al momento en el que contestó el Gobierno, las denuncias referidas estaban en proceso de análisis jurídico, ya que no existía causa judicial en contra de la Sra. L.N., ni de ningún otro por los hechos denunciados. Al no existir ninguna acusación ni causa penal en contra de los denunciados, los mismos gozan de la plenamente de sus derechos fundamentales establecidos en la Constitución Política de Nicaragua, sin ninguna limitación.

289. En su respuesta, el Gobierno informó igualmente que la Comisaría de la Mujer y la Niñez fue creada mediante el artículo 21 de la Ley 228, Ley de la Policía Nacional, con la finalidad de brindar atención especializada en casos de violencia física, psicológica o sexual en contre de la mujer o de la niñez. Conforme al artículo 63 del Decreto 26-96, está orientada a la prevención, el tratamiento y la investigación de las faltas y delitos de aquellos tipos de violencia. De conformidad al sustento jurídico, el Director General de la Policía Nacional, puso en vigencia el “Manual de procedimientos policiales para la atención especializada a víctimas de violencia intrafamiliar”. En el caso referido, no estaba comprendido dentro del ámbito especializado de atención de la Comisaría de la mujer y la Niñez, no obstante, hubo la intención de la Jefa de atenderlas.

Observations

290. The Special Rapporteur is grateful to the Government of Nicaragua for its detailed reply.

Nigeria

Allegation letter

291. On **8 February 2010**, the Special Rapporteur on violence against women, its causes and consequences sent an allegation letter to the Government of Nigeria, regarding the case of **Ms. G.U.**, a member of the National Youth Service Corps, from Obudu in Cross River.

292. It was alleged that Ms. G.U. was serving in Maiduguri, Borno State, when she was raped by some men who reportedly took offense to the fact that she was wearing Khaki trousers, a part of the official uniform of the youth corps. She subsequently died in October 2009, as a result of this incident. There had been no arrests in relation to this crime at the time this allegation letter was sent.

293. This crime took place in the context of the introduction and public hearings on a bill, introduced in the Senate in 2008, relating to “indecent dressing”. This bill included a number of prohibitions relating to the dress code for females above 14 years of age, such as any exposure of the belly and waist, and the wearing of transparent fabric. It proposed important powers of arrest and possible invasion of a woman’s body by police officers, and was considered to encourage vigilante action by ordinary citizens perceiving any woman “indecently dressed”.

294. Concern was expressed that the adoption of this bill would encourage and license violence against women and girls in Nigeria, resulting in a climate of impunity for crimes such as the rape and murder of G.U. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged accurate?
2. Please provide details of any measures taken to investigate the rape and murder of Ms. G.U., and any results that may have been obtained from such investigation.
3. Please provide details on whether your government has conducted a gender analysis of impact of the proposed bill on ‘indecent dressing’, and its conformity to international human rights standards, and the results of such analysis. If no such analysis had been conducted please explain why not, and provide details on the current status of this proposed bill.
4. Please provide information or available statistics on other reported cases of violence against women in the last two years which may have been motivated by objections to women or girls' dress.

Observations

295. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received a reply from the Government of Nigeria concerning the above mentioned allegations. The Special Rapporteur notes that Ms. G.U.’s crime highlights what some perceive as a pattern of increasing vigilante action enforcing vague notions of feminine decency and appropriate dress codes, which encourage various forms and manifestations of discrimination and violence against women, and foster a climate of impunity. She therefore urges the Government of Nigeria to take all necessary measures, including prosecution and public engagement and education, in its efforts to reduce this pattern.

Norway

Response received to a communication sent earlier

296. In a letter dated of **23 December 2009**, the Government replied to the communication sent on 6 March 2009, concerning **Ms. E.H.A.** (see summary of the communication in the previous report on communications to and from Governments, A/HRC/11/6/Add.1). In its response, the Government informed that the facts described by the hospital Stavanger Universitetssykehus were completely different from those described by Ms. E.H.A.

297. The Government informed that Norwegian regulations of compulsory mental health care comply with international human rights norms and standards. It enclosed an unofficial translation of the Mental Health Care Act and stated that according to the hospital, none of these regulations have been violated.

298. In addition, the Government informed that at the time when the response was sent, the case had been taken up by the Norwegian Board of Health supervision, but that no other details could be given on it due to Norwegian confidentiality regulations.

299. On 8 January 2010, the Government sent additional information regarding the case of Ms. E.H.A.

300. The Government indicated that, according to the Norwegian National Registry, one single person, Ms. E.H.A is registered as residing in Norway, in Stavanger. She was born on 20 February 1989. According to this information, the Government believed that she must be the person concerned. The Government pointed out the importance of including the date of birth of parties concerned when the Government is asked to respond to complaints.

301. Referring to the alleged facts regarding legal aid, Norway claimed that the statement *“due to a lack of sufficient legal advice, the parents of Ms. E.H.A were not aware of the possibility to challenge the decision of the Control Commission of 26 September 2008, before a court of law, pursuant to chapter 7 of the Norwegian Mental Health Care Act and chapter 36 of the Civil Procedure Act”*, did not provide a complete or an accurate view of the case. According to the Government, the statement gave the impression that Ms. E.H.A never received any form of free legal aid, which was not the case. Ms. E.H.A was granted free legal aid by the Control Commission, where she was represented by her attorney, Mr. Hugo Dybwad. He was compensated for a total of 6,5 hours of work on this case, in accordance with his claim. Prior to this, Ms. E.H.A had already been granted 7 hours of free legal aid by the Control Commission for work performed by her former attorney. However, Ms. E.H.A’s mother did not show up for the Control Commission’s meeting which was subsequently postponed.

302. Secondly, Ms. E.H.A’s parents were personally informed of the outcome of the Control Commission case number 105/08 by two letters dated 26 September 2008, sent to both parents independently, in which they were informed of the possibility of challenging the decision before a court of law. Hence, no legal assistance would be necessary in order to become aware of this possibility.

303. The Government further noted that it is part of the duties of any attorney acting on behalf of a client who is granted legal aid to review the outcome of the case and communicate it to the client, and further to inform the client of any further action that can be taken in challenging the decision. This work is considered as an integral part of the case, and covered by the original grant of legal aid. Consequently, Ms. E.H.A’s parents should have been made aware of the possibility to challenge the decision of the Control Commission before the courts by their attorney. If Ms. E.H.A’s parents were, in fact, unaware of the possibility of challenging the decision of the Control Commission before a court of law, this lack of knowledge was not a consequence of a lack of free aid, as Ms. E.H.A was indeed granted free legal aid that should have covered such legal advice.

304. The Government informed that all complaints made to the police in Norway are filled in a central registry for criminal cases (STRASAK) and that searches made in this registry did not produce any information on cases with Ms. E.H.A registered as a victim of any form of sexual crime. It also indicated that her parents did not fill any such complaint on her behalf. Moreover, searches made in the local police registry for Stavanger revealed information on an incident on 23 June 2005, when Ms. E.H.A was found barefoot and rather exhausted in the middle of a road. The police took her to an emergency ward and her father was notified. As the information indicated that no reports on sexual crimes against Ms. E.H.A have been made to the police, the Government could not provide further information concerning this section of the case.

305. The Government explained that the objective of the Legal Aid Act is not to provide citizens with unlimited legal assistance, but rather to ensure a provision of a minimum of

legal assistance in cases where such assistance is deemed necessary. Furthermore, free legal aid is secondary to other schemes that could cover the applicant's needs, such as the duty of public administrative bodies to provide citizens with the information and guidance. In cases where such alternatives schemes exist, additional assistance may not be regarded as a necessity. Concerning the case, the application for legal aid filed on 6 November 2008 did not specify the exact nature of the legal advice sought, but it was apparent that the objective was to further pursue cases relating to the treatment of Ms. E.H.A before various public administrative bodies including the regional branch of the Norwegian Board of Health Supervision, the Patient Ombudsman and the Control Commission. The County Governor of Rogaland rejected the application on 11 December 2008, with reference to the duty of public administrative bodies to provide information and guidance to the public. On 25 December 2008, the decision to reject the application for legal aid was appealed to the Norwegian Civil Affairs Authority, which affirmed the County Governor's decision to reject the application on 5 March 2009, but stated a different reason for the rejection. In the opinion of the Norwegian Civil Affairs Authority, the fundamental needs of Ms. E.H.A had been sufficiently covered by having several cases tried before administrative public bodies and exhausting the rights to administrative appeals through the free legal aid which was already granted by the Control Commission. Further, it ruled that that the decision of the Control Commission could be challenged before the courts, in which case free legal aid would be granted by the court itself.

306. As the Control Commission has the power to try any decision to compulsory admit a patient, and free legal aid will be granted unconditionally in such situations, the Norwegian Civil Affairs Authority found that any additional free legal aid to further pursue other cases than those already presented before the Control Commission would not be of great significance to Ms. E.H.A or her parents, and that free legal aid provided by the public treasury would not be reasonable in these cases.

Observations

307. The Special Rapporteur is grateful to the Government of Norway for its detailed response.

Pakistan

Response received to a communication sent earlier

308. In a letter dated of **14 October 2009**, the Government replied to the communication sent on 3 July 2008, concerning the alleged stoning death of **Ms. S** (see summary of the communication in the previous report on communications to and from Governments, A/HRC/11/6/Add.1).

309. In its response, the Government informed that the alleged killing of Ms. S. and her husband by stoning was referred to concerned law enforcement and administrative authorities in Pakistan. The Government informed that the case has been thoroughly examined by the relevant authorities at provincial and local levels, and confirmed that Ms. S. and Mr. D.K.M. were not sentenced to death by stoning.

310. The Government informed that Ms. S. was a resident of Deen Bahar Colony of Peshawar and not from Mahmand Agency in the Federally Administered Tribal Areas, as referred to in the communication. In addition, the two were killed on 31 March 2009 and not on 2 April 2009, as stated in the communication. Both were buried by their respective family members and no complaint was ever lodged with the local administration. Furthermore, the allegations of stoning to death were based on media reports; no proof of the event was found by the authorities and independent sources, even after thorough

investigations. Moreover, the dead body of Mr. A. was brought to hospital for examination. The postmortem report given by Medical Superintendent of Agency Headquarter Hospital Ghallanai also certified that Mr. A's death was caused by fire-arm and not by stoning.

311. It is believed that both were killed by extremists who challenged the writ of the Government and had *de facto* control over the area at the time of this incidence. These extremists managed to manipulate media by reflecting this story negatively.

312. The Government stated that to ensure promotion and protection of all human rights of its citizens, the Government launched a full-fledged law enforcement operation in that area. The successful operation resulted in the cleansing the area of extremist elements and establishing the writ of the Government. This action enjoyed the full support of local population.

Observations

313. The Special Rapporteur is grateful to the Government of Pakistan for its response and welcomes the efforts of the Government to ensure enhanced protection of human rights in this area. She wishes to reiterate earlier comments urging Governments to promulgate and strengthen state institutions and structures with a view ensuring an enhanced protection of women from violence.

Philippines

Allegation letter

314. On **23 April 2009** the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health sent an allegation letter to the Government regarding the **implementation of Executive Order N°003 (EO), issued in 2000 and its consequences on the rights of the Philippine population, and especially women and children in Manila city.**

315. According to the information received, the EO has resulted in a ban on modern contraceptives from all Manila public health facilities and denial of any information or referral services for family planning. Reportedly, the EO has resulted in unwanted pregnancies, unsafe abortion, maternal mortality and morbidity amongst women, especially in rural areas.

316. Allegedly, even though the EO was issued on 29 February 2000, with a view to "promote responsible parenthood and uphold natural family planning (NFP)", after its issuance, the Manila City Government withdrew all supplies of modern contraceptives from city public health facilities and has denied women from receiving any referral or information on family planning services. It was reported that since the issuance of the EO, city public health facilities have promoted NFP as the only acceptable contraceptive method.

317. The Office of the Mayor and the City Health Department denied residents of Manila City access to modern contraceptives, including those listed on the World Health Organization Model list of essential medicines. Testimonies allegedly also reveal that health workers have refused to provide information, counseling, or referrals on modern contraceptives, and have misinformed some women as to the safety of contraceptives. The withdrawal of modern contraceptives from clinics funded by the local government in Manila City has left many women without access to their main source of family planning

services. According to a 2007 study,³ the impact of the EO on the lives and health of Filipino women is pervasive, with particularly dire economic, social, physical and psychological consequences for often uneducated women of low economic status in Manila city. Some of the pervasive effects of the EO include unwanted pregnancies, unsafe abortions, maternal mortality and morbidity, lack of education and employment, hunger and poverty.

318. Regrettably, a reproductive health Bill which would require government hospitals to include contraceptives amongst the supplies they purchase and would make reproductive health education mandatory in schools, has reportedly also been pending for more than four years.

319. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged pertaining to the 2000 EO, and the manner of its implementation accurate?

2. Please provide full details of any actions taken to ensure the full enjoyment of the right to health, including sexual and reproductive health rights.

3. Please provide details on the conclusions and follow up actions to any professional and independent impact assessments of the implementation of the EO, conducted or commissioned by your Government on the following: the right to life, health, self-determination and bodily integrity; violence against women; and the standard of living of the affected population, and in particular women and children. If no such assessment has been conducted, please explain why not, and provide information on any alternative non-governmental reports and assessments that the Government may be reviewing or actively following up on.

Allegation letter

320. On **23 December 2009**, the Special Rapporteur on violence against women, its causes and consequences sent an allegation letter to the Government with regard to follow up reports received concerning the **case of the killing of 57 persons, including 21 women**, who were part of a convoy on its way to register the candidacy of Mr. Esmael Mangundadatu for 2010's gubernatorial elections in Maguindanao province.

321. According to the information received, on 23 November 2009, a convoy of supporters of Mr. Esmael Mangundadatu was travelling on the road to Shariff Aguak, en route to an electoral office to register Mr. Esmael Mangundadatu as a candidate in the elections for governor of Maguindanao province in 2010. The convoy, which did not include the candidate himself, was led by his wife and formed of local politicians, lawyers and journalists.

322. In a rural area near the villages of Salman and Malating, the convoy was abducted by a group of more than 100 gunmen, suspected to be members of a militia at the services of the family of the Governor of Maguindanao province. Some reports indicated that among the abductors there were members of the police and of the Armed Forces of the Philippines. The gunmen took the entire convoy to a location around ten kilometres from the main road, where they killed at least 57 persons, including 21 women.

323. According to the report of the President Gloria Macapagal-Arroyo dated 6 December 2009, the Government's investigation revealed that most if not all of the female

³ Imposing Misery, The impact of Manila's Contraception Ban on Women and Families, 2007, Reproductive Health, Rights and Ethics Center for Studies and Training, and the Center for Reproductive Rights.

victims' pants were found unzipped, and their sexual organs mutilated and mangled. Five of them were tested positive for traces of semen, indicative of sexual abuse. In addition, "some of the victims were shot in the genital area and in the face rendering them unrecognizable". (Page 6)

324. The body of Ms. M., in particular revealed evidence of very brutal sexual mutilation. Two of the women killed were pregnant, and some of the victims were hogtied. Some of the bodies were left on the ground and in the vehicles, but the majority were found in 3 different mass graves in Maguindanao province. The female victims included Mr. Esmael Mangundadatu's wife, several of his sisters, as well as other female relatives, journalists, government employees and two lawyers.

325. On 26 November 2009, Mr. A.A. Jr., mayor of the town Datu Unsay and son of the Governor of Maguindanao Province, was arrested as a suspect. Reports indicated that his father, A.A. Sr., who was serving his third term as Governor, had been grooming A.A. Jr. to succeed him in office as a result of the 2010 elections.

326. The National Police Director suspended or relieved several of the commanding officers of the police in Maguindanao province from their positions, while other members of Maguindanao police were arrested. The Armed Forces of the Philippines announced that the Ampatuan family's private militia would be disbanded, and through Proclamation No. 1959, the Government instated Martial Law in the province of Maguindanao (except for certain areas). Martial Law was subsequently lifted by President Arroyo on 13 December 2009.

327. The Acting Secretary of Justice in the Government announced that prosecutors were processing the admission to the witness protection program of 20 or more witnesses to the killings. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any criminal investigation or other inquiries which may have been carried out in relation to the killings on 23 November 2009, and, in due course, the results of any prosecutions undertaken, including for the further crimes of a sexual nature perpetrated against the women victims. Insofar as compatible with the needs of their protection, please describe the measures taken to ensure that witnesses and family members of the victims are not subject to any intimidation or retaliation.
3. With respect to Maguindanao Province, please provide available statistics or other reports of the level of violence against women in that province, by both state and non state actors in the last 5 years. Please also provide information on the specific measures to be taken in order to protect women and girls in that province from the culture of impunity and the violence perpetrated by state and non state actors in the future.
4. Please describe the measures adopted by your Excellency's Government to prevent any potential abuse of power or harm to civilian populations in the aftermath of this incident, and in order to prevent further killings in the course of the 2010 local and national election campaigns.

Response from the Government

328. In a letter dated **5 November 2009**, the Government responded to the communication dated 23 April 2009, informing that EO N° 003 did not ban the use of artificial methods of contraception and there was nothing that restricted access to family health services. Additionally, the Government noted that the City of Manila takes an affirmative stand on pro-life issues and responsible parenthood, and allows couples the discretion to use their own methods of family planning relevant to their own moral/ethical

perception and religion conviction. Furthermore, it highlighted that both nationally-run and/or locally governed public health facilities offer family planning methods which are part of the health education services provided in all health facilities.

329. The Government stated that there was no truth in the allegation that the City of Manila denied residents access to modern contraceptives. Although it was noted that health services in city hospitals and public health facilities in Manila were free of charge, the Government indicated that artificial family planning methods could not be provided due to financial constraints. However, Manila did not prevent private hospitals, clinics and NGOs from distributing free family planning commodities neither did it impose a ban on the sale such items in drugstores.

330. The Government further noted that EO 003 is a policy declaration which merely lays down the direction of the city as it puts high value on the right of women to health, including reproductive and health rights.

331. The Government informed that further information on the matter had been requested from concerned authorities and that the Special Rapporteur was going to be informed of new developments once they became available.

332. Moreover, the Government provided a copy of Republic Act N° 9710 , also known as “An Act Providing for the Magna Carta of Women”, a legislation that aims to eliminate discrimination against women, which President Gloria Macapagal-Arroyo signed into law on 14 August 2009.

Observations

333. The Special Rapporteur is grateful to the Government of the Philippines for its response to the communication sent on 23 April 2009. She would like to receive additional information on any further developments concerning the implementation of the Executive Order N° 003 in Manila City. She would also be grateful to receive information about access to sexual and reproductive rights for women and girls at the country level.

334. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received an official reply concerning the communication sent on 23 December 2009 and urges the Government to provide at the earliest possible date a detailed substantive answer to the above communication with information of any ongoing investigations and judicial proceedings against alleged perpetrators.

335. The Special Rapporteur wishes to take this opportunity to urge the Government of the Philippines to take all steps to ensure enhance protection of human rights activists, including women human rights defenders, from intimidation, threats and violence.

Responses received to communications sent earlier

336. In a letter dated **16 July 2009**, the Government responded to the communication dated 5 October 2007 regarding the kidnapping and detention of **Ms. K.E., Ms. S.C. and Mr. M. M.**, allegedly because of their activities in defense of human rights (see A/HRC/11/6/Add.1).

337. The Government noted that the parents of Ms. K.E., Ms. S.C. and Mr. M. M had filed before the Court of Appeals a Petition for *Habeas Corpus* on 17 July 2006, praying that a Writ of *Habeas Corpus* be issued directing several respondents of the Armed Forces of the Philippines (AFP) to bring the bodies of the victims to the Court. The petition was later dismissed for lack of evidence that the victims were indeed in respondents’ custody.

338. However, on 24 October 2007, a Writ of Amparo was subsequently filed in the Supreme Court where the Court resolved to issue the Writ and ordered the Court of Appeals

to hear the petition. Hearings were conducted with Mr. R.M. as the principal witness since the latter testified that he saw S.C. in the same military camp where he was brought after he was kidnapped by paramilitaries soldiers.

339. The Court of Appeals, on the basis of R.M.'s testimony, directed the AFP to immediately release of S.C., K.E. and M.M. In addition, the Philippine National Police (PNP) was ordered to resume its unfinished investigation so that the truth will be fully ascertained and appropriate charges filed against those truly responsible. However, witnesses refused to cooperate with the investigators despite several attempts to communicate and/or coordinate with them. The Government informed that the PNP is continuing its efforts to ensure that the witnesses or anyone who can give any information would eventually cooperate.

Republic of Moldova

Allegation letter

340. On **23 April 2009** the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an allegation letter to the Government concerning **Ms. L.S.**, a young woman, who was charged with intentional and premeditated murder after having performed an abortion at home.

241. According to the information received L.S. became pregnant in autumn 2005 as a result of a rape. In May 2006, L.S. performed an abortion at her home when she was in her 27th week of pregnancy. Suffering from severe blood loss, she was rushed to the local hospital, where the diagnosis report upon her release was "late term abortion outside the hospital with hemorrhagic shock". The doctors reported her to the police, who subsequently detained her.

242. After her arrest, L.S. was taken to the Remand Center Glodeni, where she was reportedly subjected to degrading treatment, including body searches by 2 male guards, insults and threats, and denied post-abortion care while in pre-trial detention. Poor conditions in the detention centre, including lack of adequate access to basic sanitary facilities, water, sanitary pads and heating aggravated her condition.

243. Although Moldovan legislation does not criminalize abortions except in certain situations – none of which were pertinent in the present case –, Ms. L.S. was sentenced on 29 December 2006, with 20 years of imprisonment for intentional and premeditated murder with aggravating circumstances.

244. On 17 January 2007, she appealed the court's decision and complained about several irregularities during the criminal proceedings. On the same day, the Court rejected her appeal without taking into consideration any of her statements, including her declaration that she was raped and unwillingly terminated her pregnancy with the help of the rapist. On 2 July 2007, Ms. L.S. filed a second appeal with the Supreme Court of Justice of the Republic of Moldova, which was declared inadmissible on 12 December 2007.

245. Information received described alleged violations with respect to Ms. L.S.'s right to due process, including the lack of appropriate consideration of evidence, the existence of gender bias and sex discrimination, and lack of effective legal assistance. Reportedly key evidence from her medical files confirmed that she was treated for a self induced abortion (rather than complications from a live birth) was not professionally examined and existing Moldovan law on the concepts of 'birth', the 'new born', the 'person', and 'foetus' was disregarded.

246. The lack of effective legal counsel was also reportedly manifest throughout the court proceedings, and authorities did not intervene to remedy the situation. For example, reportedly the court asked the defendant to provide her own statement and continued the hearing despite the fact that neither her appointed lawyer nor the prosecution appeared in the final hearing, where she was sentenced to 20 years of imprisonment. In her appeal, the irregularities in the previous stage of the criminal process, and her declaration that she was raped were reportedly also not taken into consideration. Gender biased and discriminatory statement made during the criminal proceedings reportedly included the written closing statements by the prosecution, and a “character” witness form by the town mayor. At the time the communication was sent, no measure had been taken by law enforcement authorities with respect to the reported rape.

247. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary accurate?
2. What are the legal grounds for charging and sentencing Ms. L.S. to 20 years of imprisonment for intentional and premeditated murder?
3. Please provide details regarding consideration by the courts or actions by other authorities with respect to: Ms L.S.’s medical records; her allegations of judicial irregularities; lack of proper legal counsel; discrimination; and rape.
4. Please provide details on any medical assistance provided to Ms. L.S. while in detention, and if none was provided, the reasons why not.
5. Please provide details on what legal remedies, including extraordinary legal remedies, (e.g. *recurs in anulare*, available before the Supreme Court of Justice under article 452 of the Moldovan Code of Criminal Procedure) are available, and whether this are being undertaken.

Response from the Government

248. On **5 June 2009**, the Government replied to the communication sent on 23 April 2009. It stated that Ms. L.S. was recognized guilty for having committed on 12 May 2006, criminal actions, according to Art. 145 para. 3) a), b), h) of the Criminal Code, in Fundurii Vechi, Glodeni District.

249. She was in a state of advanced pregnancy – which she hid –and gave birth alone to two viable male babies. With the aim to kill the babies, she hit both babies in the head with the help of a spade causing them serious injuries. Ms. L.S. buried the newborn babies in order to hide the crime, and kept their birth a secret until their bodies were found. According to the examined corpses and laboratory investigations data, both babies died as the result of cerebral traumas with multiple brain bone fractures.

250. Ms. L.S. was convicted to 20 years imprisonment by the Glodeni sector court. The sentence was appealed by Ms. L.S. on 17 January 2007 and was rejected by Criminal Chamber of Court of Appeal in Balti on 20 June 2007.

251. Ms. L.S. and her lawyer, Mr. O.D. appealed the sentence at the Supreme Court. The appeal was rejected by Criminal Chamber of the Supreme Court on 12 July 2007, declaring the appeal inadmissible and invoking the unfounded nature of it.

252. The Government explained that Ms. L.S. and her lawyers, Mr. I.R. and Mr. O.D. had chosen by themselves to exhaust all ordinary remedies and that it is not justified that Ms. L.S. has been deprived of the right to appeal the judicial decision at the Supreme Court.

253. With regard to the qualifications of actions sentenced on the base of art. 145, para 3 a), b), d), i) of the Criminal Code, Ms. L.S. committed a crime. According to forensic reports n° 45 and 46 from 26 June 2006, the babies were born alive but died prematurely at the age of seven months. The length of their extra uterine life was less than 40 minutes.

254. The judicial psychiatric expertise of Ms. L.S. — report of psychiatric expertise 161A-2006 from 20 June 2006 — showed that during the committal of the crime, she did not suffer from any psychic disease, or a temporary psychotic disorder, and that she did not manifest any physiological affect. The Court of Appeal disposed of the psychiatric expertise on the basis of the request of the defending lawyer of the accused. Judicial experts and psychiatrics had the same conclusion.

255. The Government informed that during the whole duration of the criminal case, Ms. L.S. benefited from the services of defending lawyers, chosen by herself or by her relatives. The Court examined the case objectively and under all the aspects, giving the possibility to the defense to present evidence in equal conditions with the prosecution.

256. After examining the request of Ms. L.S., the Office of the General Prosecutor did not determine the presence of any legal basis to appeal in cassation against the judicial decision delivered in this regard. Furthermore, the Criminal Procedural Law offers the possibility to appeal in cassation in case they consider that legal errors had been committed during the trial.

257. Furthermore, the Government stated that rape allegations were being examined by the Office of the General Prosecutor. The Government added that these statements, including that Ms. L.S. was raped, were done by her after the case had been examined by the Court. During the whole process of criminal investigation and trial, Ms. L.S. gave controversial statements regarding the crime.

258. The Government informed that when the Law on amendment of the Criminal Code n°277-XVI from 18 December 2008 would enter into force on 24 May 2009, the General Prosecutor will examine the possibility of notifying the Supreme Court of Justice with an appeal for an eventual reduction of Ms. L.S.'s conviction.

Observations

259. The Special Rapporteur is grateful to the Government of Moldova for its response. The Special Rapporteur would like to be informed on the results of the investigations conducted into the allegations of rape with regard to this case.

Russian Federation

Urgent appeal

360. On **20 July 2009** the Special Rapporteur on violence against women, its causes and consequences, jointly with 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, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government concerning the killing of **Ms. N.E.**, a prominent human rights defender and researcher working with the Russian NGO Memorial.

361. According to the information received, on 15 July 2009, Ms. N.E. was kidnapped in front of her house in Grozny. According to eyewitness reports, Ms. N.E. was dragged into a white vehicle and driven away by unknown individuals. Her body was later found in the

woods near the city of Nazran, in Ingushetia. She had sustained two gunshots to her head and chest.

362. Concern was expressed that the kidnapping and subsequent murder of Ms. N.E. may be directly related to her activities in the defense of human rights, in particular her fact-finding carried out into human rights abuses, such as summary executions, enforced disappearances and torture committed in the Chechen Republic. Further serious concern was expressed that the killing of Ms. N.E. formed part of a pattern of similar cases, including the murder of Ms. A.P., Mr. S.M. and Ms. A.B., which, coupled with the prevailing cycle of impunity, had the potential of gravely stifling independent human rights work and freedom of expression in the country.

363. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please provide the details of any measures taken by your Government to prevent the recurrence of such executions, in accordance with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

Response from the Government

364. In a letter dated **27 August 2009**, the Government responded to the communication sent on 20 July 2009, indicating that the preliminary investigation on the case established that on 15 July 2009, Ms. N.E., a member of the Memorial human rights centre, Grozny branch, left her apartment at about 7.35 a.m. and was making her way to public transport to go to work at the Memorial office, located at 84 Mayakovsky Street in Grozny. At Building No. 10, 133 Khmelnitsky Street, unidentified persons dragged her into a white VAZ 2107 vehicle and drove away to an unknown destination.

365. The Leninsky inter-district investigative team for Grozny instituted criminal proceedings under article 126, paragraph 2 (a) and (c), of the Russian Criminal Code on 15 July 2009.

366. It was on that day that, at 4.30 p.m., Ms. N.E.'s body was found with two gunshot wounds to her head and two to the torso in a wooded area some 200 metres from the Kavkaz federal highway near the village of Gazi-Yurt in the Nazran district, Republic of Ingushetia. Her passport and her purse containing personal items, including two switched-off mobile phones, were found lying beside her.

367. On the same day, 15 July 2009, the Nazranovsky inter-district investigative team for Nazran, a unit of the investigative department for the Republic of Ingushetia working under the Investigation Committee of the Procurator's Office of the Russian Federation, opened a criminal case under article 105, paragraph 1, and article 222, paragraph 1, of the Russian Criminal Code.

368. On 16 July 2009, the criminal cases were transferred to the Central Investigative Department for the Southern Federal District under the Investigative Committee attached to the Procurator's Office of the Russian Federation and combined into one case.

369. Searches were carried out on the grounds of Building No. 10, 133 Khmelnitsky Street, Grozny; at the site where the body was discovered; in the office of the Grozny branch of Memorial; and at Ms. N.E.'s place of residence, where material evidence that is now undergoing the necessary forensic analysis was gathered.

370. The investigation has involved:

1. Carrying out three re-enactments of the crime to establish how long it might take a light vehicle to go from the spot where Ms. N.E. was abducted to the site where her body was found
2. Obtaining and analyzing video surveillance footage to find the white VAZ 2107 and a green VAZ 2112 resembling the one that accompanied the vehicle used in the crime against Ms. N.E.
3. Identifying vehicles that may be relevant to the investigation and authorizing bodies of the Russian Ministry of Internal Affairs to trace their owners and check for involvement in the crime
4. Showing witnesses photographs of makes of the vehicles that drove away from the spot where Ms. N.E. was abducted on the morning of 15 July 2009
5. Re-enacting what might have been seen from the apartment from which a person had witnessed vehicles coming and going
6. Obtaining vehicle registration records
7. Confiscating and incorporating in the case materials DVDs of video surveillance footage from several checkpoints; the information on the DVDs is currently being reviewed and analysed
8. Arranging for 16 different forensic analyses, the initial results of which are being reviewed and compared with other evidence obtained in the case
9. Gathering and analysing information on Ms. N.E.'s mobile phone contacts.

371. Moreover, the Government informed that 263 witnesses had been questioned and that a range of investigative and operational activities to identify the perpetrators of the crime was under way. It further noted that the Investigative Committee of the Procurator's Office of the Russian Federation was overseeing the progress and outcome of the investigation.

Observations

372. The Special Rapporteur is grateful to the Government of the Russian Federation for its response. The Special Rapporteur observes, with concern, that several high-profile female human rights defenders have been subjected to violence in the course of their work. She wishes to remind States of their international obligation to eliminate discrimination against women in the political and public life of their respective country and, in particular, to ensure to women, on equal terms with men, the right to participate in non governmental organizations and associations concerned with the public and political life of the country. She wishes to be kept informed of any ongoing investigations and judicial proceedings.

Somalia

Urgent appeal

373. On **5 June 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Independent Expert appointed by the Human Rights Council

on the situation of human rights in Somalia, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government regarding the death sentence issued in two cases, respectively against **Ms. I.A.A.**, who was reportedly pregnant and incarcerated in Bossaso central prison, and against **Mr. A.M.M.** and **Mr. B.M.I.**

374. According to the information received, the Court of First Instance in the City of Bossaso sentenced Ms. I.A.A. to death on 27 April 2009, for the murder of Ms. S.M.A., another of her husband's wives. The victim was the daughter of the President of that same court. However, he did not sit on the bench during the trial. Ms. I.A.A. was reported to be 73^{four} or five months pregnant. She was sentenced to death within 24 hours after the alleged killing and did not have the necessary time to consult with a lawyer and prepare her defence. In this regard, it was unclear whether Ms. I.A.A. had access to adequate legal representation. Ms. I.A.A.'s relatives reported that she may have acted in self-defence.

375. Mr. A.M.M. and Mr. B.M.I. were sentenced to death on 29 April 2009 by a temporary Islamic Shari'a Court appointed, by virtue of decree No: MW/DPS/27/09 dated 28/04/09 of the President of Puntland, State of Somalia, to hear and reach a verdict on the case that caused the death of the Governor of Karkar Y.S.H. and the injury of Mr. M.A.M. that took place in Dudhub village in Karkar Region on 26/04/09. As such, the Islamic Shari'a Court was not part of the ordinary judicial structure of Somalia. In addition, two of the persons appointed were not judges, but religious scholars. Mr. A.M.M. and Mr. B.M.I. were only appointed a lawyer during the hearing and did not allegedly have enough time to consult with him.

376. In its sentence, the court only referred to the possibility that "The President has the right to alleviate the death sentence to imprisonment and thereafter the heirs have the right to present their request for compensation." It did not, however, inform the accused of their right to appeal.

377. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details of any investigation into Ms. I.A.A.'s alleged conduct and of the trial proceedings conducted against her, including: the conduct she was charged with and found guilty of; whether she was represented by legal counsel; the amount of time she was afforded to prepare a defence and the resources available to ensure the adequacy of the defence; whether she was afforded the opportunity to present evidence and witnesses; whether she was afforded the right to appeal her conviction and sentence.
3. Please provide the details of any investigation into Messrs. A.M.M. and B.M.I. alleged conduct and of the trial proceedings against them, including: that which they were charged with and found guilty of; whether they were represented by legal counsel; the amount of time they were afforded to prepare a defence, the resources available to ensure the adequacy of the defence; whether they were afforded the opportunity to present evidence and witnesses; and whether they were afforded the right to appeal their conviction and sentence.
4. Please provide information about the remedies open to Ms. A.M.M. and to Messrs. A.M.M. and B.M.I. to challenge the sentence imposed against them.

Observations

378. The Special Rapporteur regrets that at the time of finalizing the report, she had not received an official reply and urges the Government of Somalia to provide at the earliest possible date a detailed substantive answer to the above communication.

379. The Special Rapporteur wishes to stress that only full respect for stringent due process guarantees distinguishes capital punishment as permitted under international law from a summary execution, which violates human rights standards. She would also like to refer to the express prohibition, in the International Covenant on Civil and Political Rights, to carry out death sentences on pregnant women.

Sudan

Allegation letter

380. On **14 August 2009**, the Special Rapporteur on violence against women, its causes and consequences, 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 situation of human rights defenders sent an allegation letter to the Government regarding the judicial prosecution of **Ms. A.H.**, a women's rights defender and journalist.

381. According to the information received, Ms. A.H. was facing judicial prosecution following the publication of an article on 12 July 2009 in Ajrass Al Horreya in which she criticized restrictions on women's rights in Sudan. In the article, she expressed her support for fellow journalist Ms. L.A.H. who was arrested for wearing trousers in public and faced a possible sentence of 40 lashes. The Public Order Police filed a complaint against Ms. A.H. for defamation, in accordance with Article 159 of the Sudanese Criminal Code.

382. The Special Rapporteur expressed concern that the judicial prosecution of Ms. A.H. may be related to her peaceful and legitimate activities in defense of women's rights.

383. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide information on how the judicial prosecution of Ms. A.H. is compatible with international human rights norms and standards, in particular those related to freedom of opinion and expression, as contained inter alia in the International Covenant on Civil and Political Rights, the Declaration on Human Rights Defenders and the Declaration on the Elimination of Violence against Women.

Response from the Government

384. In a letter dated **24 September 2009**, the Government responded to the communication sent on 14 August 2009, concerning **Ms. A.H.**

385. The Government emphasized that the judicial proceedings against Ms. A.H. had no relation to the constitutional rights enjoyed by her as a citizen or to the right of freedom of opinion and expression, as the newspaper had been writing critical articles of the Government for many years without anyone interfering with its freedom of opinion.

386. On 11 July 2009, Ms. A.H. published an article in the opposition newspaper Ajras al-Hurriya, in which she announced her solidarity with another journalist but also referred to the forces of law and order in offensive and unseemly terms, degrading the reputation of the police in the minds of ordinary citizens.

387. The forces of law and order instituted criminal proceedings against her through the Office of the Press and Publications Prosecutor, invoking defamation. According to these authorities, a complaint was filed against the newspaper Ajras al-Hurriya and the author of the article, Ms. A.H., in July 2009.

388. Pursuant to the article 28 of the Press and Publications Act, the Union of Journalists was informed of the charges filed against the author of the article. The journalist and the editor of the newspaper, Mr. M.G. was not arrested but was summoned by telephone to assist with the investigation. Their statements could be recorded, in accordance with the normal procedure of the Prosecutor's Office. They were released immediately after questioning on personal recognizance.

389. After assessing the case, the Prosecutor's Office issued a decision on 28 July 2009 to file charges for defamation, under article 159 of the Criminal Code in conjunction with articles 27 and 29 of the 2004 Press and Publications Act. They were informed of the decision of the Prosecutor's Office to file charges and of their right to lodge an appeal against the decision with the representative of the Higher Public Prosecutor's Office by 2 August 2009.

390. The defendants did not lodge an appeal within the legal time limit. Then, the criminal case was referred to the competent court on 14 August 2009. At the time of receiving the response from the Government, the case was pending before the competent court.

Urgent appeal

391. On **26 August 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on torture sent an urgent appeal to the Government concerning the case of **Ms. L.A.H.**, a Sudanese national.

392. According to the information received, Ms. L.A.H. was charged with the offence of 'inappropriate dress and conduct' for which she faced being flogged 40 times, should she be found guilty. Her trial, which was previously postponed, was scheduled to take place on 7 September 2009.

393. On 3 July 2009, police forces stormed into a restaurant in Khartoum where Ms. L.A.H. and twelve other women were having dinner, and arrested them for wearing trousers. The women were charged under article 152 (Indecent and Immoral Acts) of the 1991 Penal Code. It was reported that ten of the women (two were under the age of 16) pleaded guilty and received punishments of ten lashes each. Charges were brought against three others, including Ms. L.A.H.

394. The Special Rapporteur requested some clarifications from the Government on the following matters:

- (1) Are the facts alleged accurate?
- (2) Please provide information and an analysis on the conformity or lack thereof of article 152 (Indecent and Immoral Acts) of the 1991 Penal Code, and Sudan's international human rights obligations as well as Sudan's Constitution.
- (3) Please provide detailed information on what mechanisms exist to bring Sudanese legislation in line with its Constitution and international human rights obligations, and whether any such legal or other actions have been taken, and if not, why not.
- (4) Please provide information on measures taken by your Excellency's Government to safeguard the human rights of Ms. L.A.H., including her right to physical integrity and freedom from torture and degrading treatment.

Response from the Government

395. In a letter dated **2 October 2009**, the Government responded to the communication sent on 26 August 2009 concerning **Ms. L.A.H.**. At the time this report was finalized; a translation of the response was not yet available.

Observations

396. The Special Rapporteur thanks the Government for its responses to the communications above mentioned. She will provide further observations, once the translation becomes available, in her 2011 communications report.

Turkey

Urgent appeal

397. On **22 May 2009** the Special Rapporteur on violence against women, its causes and consequences sent an urgent appeal to the Government concerning **Ms. R.H.**, a citizen of Iran.

398. According to the preliminary information received, Ms. R.H. has been residing in Turkey as a refugee since 3 June 2004. She was living in a shelter, namely, the Eskisehir Tepabasi Municipality Women's Shelter, in Eskisehir. Ms. R.H. had undergone many developments in her refugee and residency status in Turkey since 2004, as well as a divorce from an abusive husband, a rape resulting in a pregnancy, several other instances of sexual harassment, a previous acceptance of resettlement by Canada which she was unable to avail herself of due to administrative blockages in Turkey, and attempts to deport her to Iran by the Turkish authorities.

399. Ms. R.H. was accepted for resettlement by Sweden and had a visa, passport and flight tickets to depart for Sweden on 27 May 2009. She was reportedly not being granted legal permission by the Foreign Agency office of Eskisehir to leave Eskisehir and go to Ankara in order to deal with the administrative aspects of her imminent resettlement to Sweden. A similar situation occurred in February 2009, when she was accepted to go to Canada but was unable to do so, due to the fact that the Foreign Agency Office of Kırklareli / and police department did not give her legal permission to go to Ankara for her required medical and other interviews.

400. Ms. R.H. informed that there was an ongoing court case regarding her situation since the day of her deportation to Iran was withheld / stayed, by the temporary decision of the Administrative Court. Her lawyer informed her that this may be what was blocking her from leaving Turkey. He suggested that a solution could be that Ms. R.H. dropped her court case in relation to her stay of deportation, and requested the Turkish Government that they deport her to Sweden instead or allow her to leave voluntarily to Sweden.

401. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the preliminary facts alleged in the above summary of the case accurate?
2. Please provide information about the measures that have been requested and taken in view of the urgency of the situation, to review the case of Ms. R.H., including to review the denial of permission to travel to Ankara (in order to prepare her departure to Sweden), and with regard to resolving the pending court case on her stay of deportation to Iran.
3. I would like to be informed about any future administrative or judicial decisions taken with regard to the case of Ms. R.H.

Response from the Government

402. In a letter dated **27 May 2009**, the Government responded to the communication sent on 22 May 2009 concerning **Ms. R.H.** The Government explained that Ms. R.H.

entered in Turkey on 28 May 2005 from Esendere-Hakkari border and requested to be resettled to a third country due to family reasons.

403. Since she did not carry the necessary conditions to be considered a refugee according to the 1951 Geneva Convention, the Turkish Ministry of Interior decided to close her file on 16 June 2006. While the necessary procedures were underway, an interim measure was taken by the European Court of Human Rights and accordingly she was sent to the Kirklareli Reception and Accomodation Center for Asylum Seekers and Refugees.

404. The Government informed that Ms. R.H. refused to be settled to a satellite city for foreigners and filed a suit against the Turkish Ministry of Interior on the 13th Administrative Court of Ankara. The Court decided for a stay of execution of the above-mentioned decision and further ruled for her settlement in Eskisehir.

405. The Government finally informed that the judicial process would need to be completed before a final decision to be taken concerning Ms. R.H.

Observations

406. The Special Rapporteur is grateful to the Government of Turkey for its response to the communication mentioned above and reiterates that she would like to be kept informed on any administrative or judicial decisions which may have been or may be taken with regard to Ms. R.H.

Uganda

Urgent appeal

407. On **13 May 2009**, the Special Rapporteur on violence against women, its causes and consequences, 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 situation of human rights defenders sent an urgent appeal to the Government regarding the death threats received between 10 April and 8 May 2009 by **Ms. E.M.V.**, the Executive Director of WODIDEF, and **Mr. A.K.B.**, the Chairperson and Chief of Research for WODIDEF, and originally from the Democratic Republic of the Congo. WODIDEF mission is to improve refugee women and girls' lives through international human rights standards and advocacy on their behalf.

408. Since October 2008, WODIDEF has undertaken activities and research on sexual and gender-based violence against refugee women in Uganda. WODIDEF submitted a report to the African Commission for Human and Peoples Rights, which called on the Government to address the issues raised in the presentation of its third periodic report.

409. According to the information received, on 10 April 2009 Mr. A.K.B. was reportedly denied access to the confidential email of WODIDEF, despite only him and Ms. E.M.V. having access. Later that day, he received a call from an unidentified man who asked about his whereabouts. He received two further calls and, fearing for his safety, did not answer, and decided to change his telephone number. When WODIDEF staff members called the number from which Mr. A.K.B. received the anonymous calls, a male voice allegedly announced that that number belonged to the Security Unit located in Bukoto.

410. On 14 April, Ms. E.M.V. allegedly received an anonymous call threatening her for passing false information to the international community that criticized the Government of Uganda and its criminal justice system. She was told she was under security watch, and that she would not escape.

411. On 15 April, Ms. E.M.V. reportedly sensed being followed while returning to her home from the premises of the Refugee Law Project where she works. She noticed three men that she had seen earlier that day outside the Refugee Law Project at Makerere University. She took evasive action but eventually returned to the office of the Refugee Law Project as the men continued to follow her. Fearing that she would be followed home once more, she spent the night in hiding in another home.

412. On 20 April, members of WODIDEF allegedly discovered that their office had been broken into, and two computers had been stolen. These computers were said to have contained confidential information concerning the situation of refugee women in Uganda, information used in WODIDEF reports to the international community.

413. On 3 May, Mr. A.K.B. received an anonymous call on his new phone number. A male voice reportedly told him to return to his country and warned him that for his security he should stop carrying out human rights activities in Uganda. The male voice then issued a death threat. On 8 May, Mr. A.K.B. received another anonymous phone call, reiterating the threats expressed earlier. Ms. E.M.V. and Mr. A.K.B. were reported to be in hiding out of fear for their safety.

414. Concern was expressed regarding the physical and psychological integrity of Ms. E.M.V. and Mr. A.K.B.. Further concern was expressed that the acts of harassment and intimidation against the aforementioned persons may be related to their activities defending human rights, in particular their publication of information concerning the rights of refugees in Uganda.

415. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Ms. EM.V. and Mr. A.K.B.?
3. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

Urgent appeal

416. On **3 June 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent another urgent appeal to the Government regarding the enforced disappearance of **Mr. A.K.B.**, the Chairperson and Chief of Research for The Women for Dignity and Development Foundation (WODIDEF).

417. According to the information received, between 10 April 2009 and 8 May 2009, Mr. A.K.B. received a number of threatening phone calls. On two occasions an unidentified male voice issued death threats, warning him to return to his country and cease his human rights activities.

418. On 31 May 2009, three unidentified men wearing civilian clothing and carrying guns entered in the house where Mr. A.K.B. was staying with his two brothers. The men reportedly pointed their guns at Mr. A.K.B.'s head and ordered him to leave his home, threatening to shoot him if he made any noise. The three men allegedly said nothing that

would indicate their motive for abducting Mr. A.K.B. The men took Mr. A.K.B. On 1 June 2009, Mr A.K.B.'s abduction was reported to the local police who were reported to be investigating this case.

419. Concern was expressed for the physical and psychological integrity of Mr. A.K.B. Further concern was expressed that the abduction of Mr. A.K.B. may be linked to the previous threats received by Mr. A.K.B. and that these acts of intimidation may be related to his activities defending human rights, in particular their publication of information concerning the rights of refugees in Uganda.

Observations

420. The Special Rapporteur regrets that at the moment of finalizing the report, she had not received a reply from the Government concerning the above mentioned allegations. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised and provide detailed information regarding investigations undertaken to prosecute the perpetrators as well as protective measures taken to ensure the physical and mental integrity of defenders and their families. She also wishes to refer to the observations made by the Special Rapporteur on Human Rights Defenders in A/HRC/13/22/Add.1.

United Arab Emirates

Allegation letter

421. On **12 March 2010**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on trafficking in persons, especially women and children sent an allegation letter to the Government concerning the situation of **Ms. S.M.**, a dual United States-United Arab Emirates citizen, the founder of an NGO aimed at protecting women subjected to violence in the UAE and children victims of trafficking for the purpose of camel jockeying ("the Organization").

422. According to the letter sent by the Government on 23 April 2007, S.M. was found innocent on the ground of unfounded evidence. However, additional information on this case was received, which raised some concerns about the rights of S.M.

423. According to the information received, 35 women and 10 children resident of the Organization were allegedly transferred by the authorities to a new government-run shelter the Dubai Women and Children's Foundation. It was alleged that the transfer was an attempt by the authorities to close the Organization by merging it with the new government-run shelter.

424. On 24 November 2007, Ms. S.M. wrote a letter to the Vice-President of the UAE and then the Minister of Labour denouncing the attempt to merge the two shelters as a way to forcibly close down the Organization. On 9 March 2008, the newspaper Gulf News reportedly published an article suggesting that Ms. S.M. was selling the stories of women living in the Organization to newspapers against their will. In late March 2008, the Organization was allegedly closed and the women from the shelters were transferred to the Dubai Women and Children's Foundation.

425. On 21 May 2008, Gulf News stated that Ms. S.M. was involved in the sale of children. Following these publications, the Consulate of the United States advised Ms. S.M. to leave the UAE for her own safety. Her family remained in the UAE. It was alleged that her family members had been harassed and threatened since she had left the country.

426. On 11 January 2010, the newspaper *Emirat Alyoum*, published an article referring to Ms. M. on a BBC show on 14th December 2009 stating that Ms. M. had psychological problems, that she was involved in trafficking and sale of children and that she had been involved in the misappropriation of funds.

427. On 26 January 2010, Al Bayan website published an article about domestic violence. The article quoted Mr. A.A.B., the director of the Dubai Women and Children's Foundation, suggesting that Ms. S.M. had misappropriated 300 000 UAE dirhams. This publication coincided with the consideration of the UAE's report by the United Nations Committee on Discrimination against Women where experts asked the UAE's delegation to comment on the widely reported closure of the Dubai Organization Shelter. The head of delegation responded that the shelter had begun operating without authorization and that the building of such centres should had been in compliance with State laws.

428. Concern was expressed that the closure of the Organization, the campaign of defamation against Ms. S.M. as well as the acts of intimidation against her family could be directly related to her legitimate work in defence of human rights.

429. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by Ms. S.M., her family or on their behalf?
3. Please provide information concerning the legal grounds for the closure of the Organization and how these measures are compatible with international norms and standards as stated in the Universal Declaration of Human Rights and other relevant international instruments.
4. Please provide the details, and where available the results, of any investigation and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information on any shelters provided by your Excellency's Government and/or by civil society organizations in the country, including specialized shelters for victims of domestic violence. Please also provide information on partnerships and cooperation with civil society organizations that your Excellency's Government may have in ensuring the adequate provision of protection and assistance to victims of trafficking.

Observations

430. The Special Rapporteur regrets that the Government of the United Arab Emirates had not replied to the communication sent on 12 March 2010, She considers responses to her communications as an important part of the cooperation of Governments with her mandate and calls therefore upon the Government to provide information on the questions raised in the communication as soon as possible.

United States of America

Allegation letter

431. On **23 July 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an allegation letter to the Government regarding the **use of shackles and other restraints on pregnant women** incarcerated or detained in U.S.A. prisons or jails.

432. According to the allegations received, in many U.S. prisons and jails pregnant women were restrained by their ankles or wrists when transported for prenatal medical appointments or when they went to the hospital for delivery. Pregnant women reportedly also remained shackled during labour, delivery and the post-delivery recovery period –for hours or days- despite the presence of armed guards.

433. While acknowledging that significant progress was made at the level of federal policy over the last ten years, this did not appear to be reflected at the state level. Since the majority of women in prison in the United States appeared to be in state rather than federal prisons, only 4 States have passed legislation restricting the use of shackles during labour and delivery. Moreover, while the policies of the Department of Corrections in some States also prohibited this practice, the lack of a statutory prohibition meant that these policies could be relatively easily changed.

434. Human rights reports, as well as a number of court cases attested to the fact that shackling women during birthing continued to be practiced in States with and without statutory prohibitions, including on women detained because of their immigration status.

435. The Special Rapporteur requested some clarifications from the Government on the following matters:

(1) Are the facts alleged pertaining to the legislation and practice of shackling of pregnant inmates accurate?

(2) Please provide full details of any actions taken, including legislative, to ensure the full enjoyment of pregnant inmates to the right to health, and to freedom from discrimination, and cruel and unusual practices.

(3) Please provide details of any measures taken to abolish or clearly restrict the use of restraints, including shackles, on pregnant inmates.

(4) Please provide details of any professional and independent impact assessments of the use of shackles on pregnant inmates and any follow up measures instituted as a result. If no such assessment has been conducted please explain why not, and provide information on any alternative non-governmental reports and assessments that the government may be reviewing or actively following up on.

Response from the Government

436. In a letter dated **17 December 2009**, the Government responded to the communication sent on 23 July 2009.

437. The Government explained that as the United States has a federal system of government, in addition to federal detention policies, each state has its own policies and procedures. The Government informed that there have been significant developments in both federal and state policies regarding the restraint of pregnant inmates and detainees since the report produced on the issue in 1998.

438. With regard to federal policies addressing the restraint of incarcerated or detained pregnant women, the United States Department of Justice, Federal Bureau of Prisons (“BOP”) and the United States Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”) have adopted policies substantially limiting the use of restraints on pregnant women.

439. BOP policies were adopted on 6 October 2008 and stated that:

- “An inmate who is in labor, delivering her baby, or is in post-delivery recuperation, or who is being transported or housed in an outside medical facility for the purpose of treating labor symptoms, delivering her baby, or post-delivery recuperation,

should not be placed in restraints unless there are reasonable grounds to believe the inmate presents an immediate, serious threat of hurting herself, staff or others, or there are reasonable grounds to believe the inmate presents an immediate and credible risk of escape that cannot be reasonably contained through other methods. If an inmate who is in labor or is delivering her baby is restrained, the restraints used must be the least restrictive restraints necessary to still ensure safety and security”.

440. With regard to the use of restraints on pregnant detainees in ICE custody, the Government informed that current ICE policy requires that the use of restraints on detainees within the United States care and custody be conducted in a manner that is safe, secure, humane and professional.

441. The Government further noted that, where use of restraints is necessary, DRO detention standards require that ICE officers consult with medical staff who will describe the precautions including the manner in which the pregnant detainee will be restrained, the advisability of a medical professional’s presence when restraints are applied, and whether there is a medical necessity for restraining the detainee in the facility hospital or a local medical facility. In addition, ICE policy requires that the level and type of restraints used shall be reasonable under the circumstances. Officers shall also avoid exposing restrained detainees to unnecessary public display.

442. The Government also noted that the federal nature of the United States Government made it impossible for the Government to conduct a truly comprehensive survey of individual state policies and practices. The Government determined that the allegations reproduced in the communication sent by the Special Rapporteur were incomplete. At the time the Government sent its response, there were at least five states that had adopted such legislation, although many states appear not to have passed legislation restricting the use of restraints on pregnant women who are incarcerated or detained. These five States include the four listed in the communication such as California, Illinois, Vermont and New Mexico, as well as New York. Moreover, several other states have considered similar legislation.

443. The Government considered these findings as a trend among states towards addressing the problems inherent in restraining pregnant inmates.

444. Furthermore, the Government informed that the United States’ judicial system provides an array of remedial procedures to individuals who believe their rights have been violated. In addition, certain actions may be brought directly by the federal government.

445. The Government explained that the American Correctional Association (“ACA”) had approved a prohibition on the use of restraints on pregnant inmates that was to be reflected in its 2010 accreditation standards manual. The ACA’s guidance states that:

- “Written policy, procedure and practice, in general, prohibit the use of restraints on female offenders during active labor and the delivery of a child. Any deviation from the prohibition requires approval by, and guidance on, methodology from the Medical Authority and is based on documented serious security risks. The Medical Authority provides guidance on the use of restraints on pregnant offenders prior to active labor and delivery”.

446. Furthermore, a comment accompanies the standard which states that:

- “Restraints on pregnant offender during active labor and the delivery of a child should only be used in extreme instances and should not be applied for more time than is absolutely necessary. Restraints used on pregnant offenders prior to active labor and delivery should not put the pregnant offender or the fetus at risk”.

447. This standard may apply to both state and federal correctional facilities. At the time of receiving the response from the Government, the BOP was in the process of revising its

policies to incorporate this standard and had updated its 2010 annual training lesson plans to incorporate this standard.

448. The Government stated that pregnant inmates and detainees may avail themselves of an array of remedial procedures in cases where they believe their rights have been violated.

Observations

449. The Special Rapporteur thanks the Government for its detailed response.

Uzbekistan

Urgent appeal

450. On **28 April 2009**, the Special Rapporteur on violence against women, its causes and consequences, 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 situation of human rights defenders sent an urgent appeal to the Government regarding **Ms. E.U.**, a member of the Human Rights Alliance of Uzbekistan.

451. According to the information received, on 15 April 2009, Ms. E.U. was assaulted and threatened by two unknown young men dressed in black and wearing sunglasses outside her home in Tashkent, as she was leaving her home with her son. The two men kicked her and punched her in the head and chest, and cut her leather jacket with knives. Her five-year old son witnessed the attack. Ms. E.U. was diagnosed with contusions on her head and chest, and high blood pressure. She filed a complaint with the police, but the investigation did not yield any results.

452. On 22 April 2009, M.M., the five-year old son of Ms. E.U. was assaulted near their apartment building by an unknown young man, who hit him with a baton on the head. He was later diagnosed with a concussion. However doctors at the N14 children's hospital in Tashkent refused to note in his medical card that the concussion was a result of an attack. Ms. E.U. reported the incident at the local police station, but the police refused to initiate an investigation, arguing that a child's testimony was not sufficient evidence. Ms. E.U. later received a phone call from an unknown man, threatening her with an "even worse attack".

453. Concern was expressed that the attacks on, and threats against, Ms. E.U. and her son were solely connected to her legitimate activities in defence of human rights. Further concern was expressed regarding the physical and psychological integrity of Ms. E.U. and her family.

454. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

Response from the Government

455. In a letter dated **5 June 2009**, the Government responded to the communication sent on 28 April 2009, concerning Ms. E.U. The Government sent the following information:

456. On 17 April 2009, Ms. E.U. lodged information at the Mirzo Ulugbek District Internal Affairs Authority. She explained that about 9:00, on 15 April 2009, she was attacked near her house by two unknown persons, one of whom had a knife. They harassed her and demanded that she should leave Uzbekistan. Ms. E.U. requested that appropriate measures should be taken with regard to these persons.

457. Ms. E.U.'s statement was registered by the duty office of the Mirzo Ulugbek District Internal Affairs Authority. In an explanatory note, Ms. E.U. stated that Mr. A.S. and his wife F.S. had threatened her over the telephone. She also stated that these persons had earlier asked her to help with the release of their friend A.Y., who had been tried on a criminal charge.

458. The Inspector of the Crime Protection Unit of the Mirzo Ulugbek District Internal Affairs Authority, Mr. Y.R. carried out a pre investigative inquiry, in which it was established that the address in question was that of Mr. D.S., who, according to the representative of the house tenants' committee, Ms. M.G. Gulyamova, had been in the Russian Federation at the time.

459. The Tashkent Municipal Registry showed that A.S. and F.S. did not have a residence permit and that no information on them was held at all. It was also established that, from 2001 to present, Ms. E.U. had been registered at Tashkent Neuropsychological Clinic No. 2 with a diagnosis of chronic paranoid schizophrenia and, by a decision of the Mirabad Interdistrict Civil Court of 24 August 2006, she had been declared incapable. It was decided on 23 April 2009 that there would be no prosecution in this case.

460. The Decision and the evidence in the investigation were considered under the review procedure by the Procurator's Office of the Mirzo Ulugbek District. On 16 May 2009, the Decision was rescinded as being premature. The case was returned to the District Internal Affairs Authority for further investigation.

461. Ms. E.U. went to the Mirzo Ulugbek Internal Affairs Authority on 22 April 2009, claiming that, at about 7:00. The same day, unknown persons had beaten her small son, Mr. M.N.M., with a stick and requested that appropriate measures should be taken against the perpetrators.

462. An officer of the Investigative Unit of the District Internal Affairs Authority, Mr. S.B.T., carried out a preliminary investigation into the matter, which established that, while walking past School No. 211 on 22 April 2009, Mr. M.N.M. insulted three boys, A.M.B., R.K.R., and A.A.B., after which the persons in question threw a stick in his direction and the stick hit Mr. M.N.M. on the head.

463. The uncle of Mr. M.N.M., Mr. V.A.M., wrote a counter-statement on the matter on 24 April 2009, in which he stated that his nephew's physical injuries had been the result of a game. The family made no complaint and did not wish a forensic medical examination to be carried out. It was formally decided on 30 April 2009 not to institute criminal proceedings.

464. This decision was considered under the review procedure and subsequently rescinded. On 18 May 2009, the evidence was turned over for further investigation to the Mirzo Ulugbek District Internal Affairs Authority. The person who originally lodged the information will be informed of the result of the additional investigation.

Observations

465. The Special Rapporteur thanks the Government for the response it provided to her communication. She also wishes to make reference to the observations provided by the Special Rapporteur on Human Rights Defenders in A/HRC/13/22/Add.1.

Yemen

Urgent appeal

466. On **29 April 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding the death sentence imposed against **Ms. F.H.A.B.**

467. According to the information received, F.H.A.B. and her brother A.H.A.B. were arrested in July 2000 for the murder of her husband, H.A.A.J., tried and sentenced to death on 17 February 2001. The appeals court upheld the death sentence. In September 2003, the Supreme Court confirmed the death sentence imposed on A.H.A.B. After confirmation of the sentence by the President of Yemen, he was executed on 2 May 2005.

468. With the regard to the case of F.H.A.B. the Special Rapporteur received information which was not available to her at the time of the letter of December 2005. These reports indicated that in September 2003 Section B of the Supreme Court found that F.H.A.B. was not guilty of murder, but only of participating in hiding the victim's body. It therefore quashed the death sentence and imposed a four years' prison term. Because of the death sentence imposed in the same Supreme Court judgment against A.H.A.B., the case went to the President of Yemen for confirmation. The President ordered the Supreme Court to reconsider its findings and sentence regarding F.H.A.B. In August 2004, the Supreme Court sitting as General Assembly, i.e. with the participation of all judges, reportedly overturned the judgment of Section B of the Supreme Court and reinstated the death penalty against F.H.A.B. She has been on death row since then. Her death sentence has reportedly not been carried out as a special appeal to the President by her defence lawyer remained pending.

469. According to the information received, the President's order to the Supreme Court to reconsider its decision not to sentence F.H.A.B. to death followed a letter of January 2004 by the then Head of the Council of Representatives (Yemen's Parliament) to the President urging him not to ratify the judgment. The letter allegedly referred to a report by the Justice and Endowment Committee of the Council of Representatives which had studied the case upon a request by relatives of the victim. The Justice and Endowment Committee noted that, if the death sentence against F.H.A.B. was lifted, she would be reinstated as her late husband's heir and could ask for pardon for her brother.

470. The Special Rapporteur requested some clarifications from the Government on the following matters:

1. Are the reports above regarding the proceedings before the Supreme Court in the case of F.H.A.B. accurate? Please explain the legal basis for the order by the President to the Supreme Court to review the sentence imposed against F.H.A.B.
2. Are the allegations above regarding the threats against and torture of F.H.A.B., aimed at extorting confessions from her and A.H.A.B., accurate? If not so, please share the results of any investigation and all information and documents proving their inaccuracy.

Observations

471. The Special Rapporteur regrets that the Government of Yemen had not replied to her communication. She considers response to her communications an important part of the cooperation of Governments with her mandate. She therefore calls upon the Government to provide information on the questions raised in the communications as soon as possible.
