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

**The right to freedom of opinion and expression**

**Report of the Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression, Ambeyi Ligabo**

**Addendum**

**Summary of cases transmitted to Governments  
and replies received \* \*\***

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

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

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## INTRODUCTION

1. At its sixty-first session, the Commission on Human Rights, in its resolution 2005/38 entitled 'The right to freedom of opinion and expression', appealed to all States to cooperate fully with and assist the Special Rapporteur in the performance of his tasks, and to provide him with all necessary information requested by him. The Human Rights Council, in its decision 1/102, dated 30 June 2006, decided to extend exceptionally for one year, subject to the review to be undertaken by the Human Rights Council in conformity with General Assembly resolution 60/251, the mandates and the mandate holders of all the special procedures of the Commission on Human Rights. The Human Rights Council also requested the special procedures to continue with the implementation of their mandates and the Office of the United Nations High Commissioner for Human Rights to continue to provide them with the necessary support.

2. In accordance with the above-mentioned provisions, the present report contains, on a country-by-country basis, summaries of general and individual allegations, as well as urgent appeals transmitted to Governments between 1 January and 31 December 2007, as well as replies received from Governments until 15 January 2008. Replies to communications received after 15 January 2008 will be included in the next communication report of the Special Rapporteur, as well as replies not yet translated by that date. Observations made by the Special Rapporteur have also been included where applicable.

3. During the period under review, the Special Rapporteur transmitted 241 communications on behalf of 623 persons to the Governments of 81 countries: Afghanistan, Algeria, Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bolivia, Brazil, Bulgaria, Cambodia, Chad, Chile, China (People's Republic of), Colombia, Congo (Republic of the), Côte d'Ivoire, Cuba, Djibouti, Dominican Republic, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gambia, Georgia, Greece, Guatemala, Guinea, Guinée-Bissau, Haiti, Hungary, India, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kyrgyzstan, Liberia, Libyan Arab Jamahiriya, Malaysia, Mali, Morocco, Mauritania, México, Myanmar, Nepal, Niger, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Republic of Moldova, Republic of Serbia, Democratic Republic of the Congo, Russian Federation, Rwanda, Senegal, Somalia, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Republic of Tanzania, United States of America, Uzbekistan, Venezuela, Vietnam, Yemen, and Zimbabwe. Two communications were sent to the Palestinian Authority.

4. Owing to restrictions on the length of documents, the Special Rapporteur has reduced details of communications sent and received. The full text of all communications is available within the files of the Office of the United Nations High Commissioner for Human Rights.

5. In reporting on the communications, the Special Rapporteur has used initials for those victims who, in the Special Rapporteur's opinion, could be in a potentially sensitive situation, in order to respect their privacy and to prevent the possibility of further victimization. With a view to preserve the presumption of innocence, the Special Rapporteur omitted to include the names of alleged perpetrators, and of other individuals involved in the cases included in this report. Conversely, Governments' communications may contain names of persons and/or disclose specific situations linked to the violation.

6. The Special Rapporteur wishes to reiterate that violations and concerns regarding the right to freedom of opinion and expression are, to different extents, a common phenomenon in the whole world. Consequently, the exclusion or the inclusion of a particular country or territory should not be interpreted as the indication of any specific choice done by the Special Rapporteur regarding the analysis of trends and patterns of the implementation of the right to freedom of opinion and expression.

## SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED

### Afghanistan

#### Letter of allegations sent on 12 March 2007

7. The Special Rapporteur brought to the attention of the Government a case in which the Minister of Culture and Information and 50 security personnel allegedly entered the **Radio Television Afghanistan** (RTA) headquarters, during the absence of the then director-general, Mr. Najib Roshan, to dismiss the chief of the news section. It is alleged that the Minister instructed the security guards protecting the headquarters to prevent 55 persons appointed as contractors to enter the premises. It was also reported that on 20 December 2006, the Minister of Communication appointed the director of the Radio Division of RTA, in apparent contravention with the procedures outlined in the applicable Media Law (2004). Reportedly, these were attempts of the Minister of Culture and Information to maintain and further increase government control over the media.

8. The Special Rapporteur also referred in his communication to the new **Draft Law on Media**, adopted in December 2005 by presidential decree, and expected to be approved by the Parliament. According to the information received, since the appointment of the Minister of Culture and Information, and particularly since November 2006, control oriented amendments have been introduced in the draft Media Law. Allegedly, these amendments, if adopted, would introduce new prohibitions for journalists; eliminate several of the initially proposed commissions, including the Afghan National Radio-Television Commission; place the Minister of Culture and Information at the Head of the High Media Council (in charge of policy making) and grant him significant new powers over the Commission on Media Affairs (replacing the former Private Media Commission). These amendments, if adopted, are seen to effectively open the media to political interference and to place the national broadcaster Radio Television Afghanistan under direct control of the State, via the Ministry of Culture and Information.

9. This draft Law on Media is also considered as failing to address the needs of private media in Afghanistan. In this regard, the Rapporteur referred to reports that over the past months, a prominent Dari/English publication, Kabul Weekly – among the first of the post-Taliban papers, closed down, and that financial problems were reported at other media organizations and programmes including Nai, CIJ, The Khillid Group, The Voice of Women Radio, Internews, Good Morning Afghanistan, Institute of War & Peace Reporting, Pahjwok Afghan News Agency, and the UN's Irin Radio. As of late 2006, some 15 provincial community radio stations were reported to be facing difficulties in paying staff and meeting running costs. It has been reported as well that a growing number of Islamist government

officials have expressed their concerns with regard to the number of women portrayed on TV and their clothing, which they consider to be disrespectful to Islamic values.

10. In the same communication, the Special Rapporteur finally referred to information received that the **National Assembly's Draft Amnesty law** reportedly contains two articles that appear to conflict with the Constitutional guarantees relating to Freedom of Expression and that would prevent journalists from reporting on certain issues. Allegedly, its Article 1 states that: "the champions of resistance shall be immune to all kinds of animosity" and should be "treated properly". In addition, Article 11 reportedly states that "the mass media should keep in mind the provisions of the national reconciliation charter and make efforts to strengthen peace and national reconciliation."

#### **Letter of allegations sent on 10 October 2007**

11. The Special Rapporteur brought to the attention of the Government the situation of **Ghulam Ali Sarem**, Chief-Editor of Etesam Monthly Magazine. On 4 October 2007, Mr. Sarem was attacked in Kabul while attempting to take photographs of an army bus which had exploded by a suicide bomber. It is reported that the attackers were members of the Afghan National Army, and that Mr. Sarem was placed under arrest and taken to a detention facility.

#### **Observations**

12. The Special Rapporteur regrets that he has not received a reply for the two communications sent in 2007.

### **Algeria**

#### **Lettre d'allégations envoyée le 6 mars 2007 conjointement avec la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme et la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences**

13. Les Rapporteurs spéciaux et la Représentante Spéciale ont attiré l'attention du Gouvernement sur l'interdiction d'un séminaire sur les disparitions forcées à Alger. Selon les informations reçues, le 7 février 2007, le séminaire «Pour la Vérité, la Paix et la Conciliation», organisé par le Collectif des familles de disparus en Algérie, SOS Disparus, Djazairouna, l'Association nationale des familles de disparus et Somoud, n'aurait pu se tenir en raison de l'intervention des forces de l'ordre alors même que les autorités algériennes auraient été informées et invitées à ce séminaire et que celles-ci n'auraient pas manifesté leur opposition à sa tenue. Les forces de l'ordre, venues en grand nombre, auraient empêché l'accès à la salle de conférence située dans un hôtel d'Alger et auraient également fait couper l'alimentation électrique. Les conférenciers déjà présents dans la salle se seraient alors installés à la tribune à la lueur des bougies, mais les forces de l'ordre auraient fait évacuer entièrement la salle.

#### **Lettre d'allégations envoyée le 2 novembre 2007**

14. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la situation de **M. Dhif Talal**, correspondant du journal « Al Fadjr », qui aurait été condamné à 6 mois de prison pour diffamation le 15 octobre 2007 suivant une plainte présentée par le Ministère de l'Agriculture,

à la suite d'un article que M. Talal aurait écrit faisant état d'une perte de fonds publics en raison d'une mauvaise administration au sein du Ministère de l'Agriculture.

15. Dans la même communication, le Rapporteur a relaté le cas de **M. Ouahid Oussama**, correspondant du journal « Al Bilad », qui aurait été sommé de se présenter à la Cour le 19 novembre pour répondre d'une plainte en diffamation déposée par le Directeur du Département d'Education de Djelfa. M. Oussama aurait écrit un article critiquant les problèmes du système éducatif dans la région.

### **Observations**

16. The Special Rapporteur regrets that he has not received a reply for the two communications sent in 2007.

## **Angola**

### **Letter of allegations sent on 6 March 2007 with the Special Representative of the Secretary-General on the situation of human rights defenders**

17. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Ms **Sarah Wykes**, a human rights activist working for Global Witness, a non-governmental organization dealing with environmental issues and campaigning against corruption. According to the information received, on 18 February 2007, Ms Wykes was arrested by the Angolan police in Cabinda, following her meetings with representatives of the human rights organization Mpalabanda to discuss revenue transparency issues related to oil resources. On 19 February, Ms Wykes was presented to the Provincial Public Prosecutor of Cabinda for the first official hearing and was accused of espionage. She was released on bail, but she was not allowed to leave the country. In the course of the hearing, Ms Wykes was reportedly denied access to the lawyer of her choice, Mr David Mendes, a prominent human rights lawyer and leader of the human rights organization Mãos Livres and the newly established Angolan Council for Human Rights Coordination.

### **Response from the Government sent on 14 March 2007**

18. The Government emphasized that the case did not fall within the purview of the executive, but rather the judiciary, and noted that that the case was still being dealt with by the court and that the verdict had yet to be released. It was stated that Ms Wykes was apprehended by local police on 18 February, while photographing strategic military and civilian facilities. The Government informed that three Angolan lawyers had been assigned to Ms Wykes. As one of them, Mr David Mendes, was accompanying the defendant from Luanda and his name was referred in the process, the prosecutor barred him from the defence team. The other two lawyers then walked out of the courtroom in a show of solidarity. The Government further informed that the British Embassy in Angola was following the case closely.

### **Observations**

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

## Argentina

### Carta de alegación enviada el 23 de abril de 2007

20. El Relator Especial envió una comunicación con relación a la situación de **Carlos Fuentealba**, profesor de Química y delegado gremial del colegio secundario del barrio Cuenca XV. Según las informaciones recibidas, **Carlos Fuentealba** hubiera resultado muerto luego de recibir en la parte posterior del cráneo una bomba de gas lacrimógeno disparada a corta distancia contra él por un policía durante una manifestación sobre el conflicto de maestros y profesores en demanda de mejoras salariales. Según las informaciones recibidas, el presunto culpable del hecho, cuyo nombre es conocido por el Relator Especial, fue detenido posteriormente gracias a testimonios de varios testigos, filmaciones e informes policiales.

### Respuesta del Gobierno

21. El Gobierno transmitió la siguiente información en relación con el deceso del Sr. Fuentealba. El deceso se produjo el 5 de abril de 2007. El día anterior, durante una importante manifestación que interrumpió el libre tránsito de la ruta nacional 22 y la acción de despeje de la vía, un agente policial hirió el Sr. Fuentealba, quien falleció un día después. La esposa de la víctima se ha constituido en calidad de querellante en la causa penal que esta tramitando ante la Justicia Penal de la ciudad de Neuquen. Se ha iniciado la causa penal (Expediente n° 37831) ante el Juzgado de Instrucción (Penal) N° 4 con asiento en la ciudad de Neuquen Capital, de la que solo se tiene conocimiento de que se ha decretado la prisión preventiva del presunto culpable, cuyo nombre es conocido por el Relator Especial. Por cuanto se trata de una investigación autónoma, realizada dentro del ámbito y jurisdicción del Poder Judicial de la Provincia del Neuquen, no se puede suministrar otra información relacionada con el estado procesal. También se ha promovido un sumario administrativo dentro de la esfera de la Policía de la Provincia de Neuquen, dirigido a establecer las responsabilidades administrativas-disciplinarias emergentes y las posibles sanciones de que de ella se deriven. Por los canales administrativos correspondientes, se han realizado las gestiones necesarias para que los familiares del Sr. Fuentealba perciban los beneficios económicos del Seguro de vida. Asimismo, por Decreto n° 0553/07 del 7 de mayo de 2007, el Sr. Gobernador de la Provincia otorgó una pensión de carácter vitalicia irrevocable y de por vida a favor de la esposa de la víctima, equivalente al monto de 36 horas cátedras de nivel medio AA-7 del escalafón docente.

### Observaciones

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

## Azerbaijan

### Urgent appeal sent on 11 May 2007 with the Chairperson-Rapporteur of the Working Group on arbitrary detention

23. The Special Rapporteur and the Chairperson-Rapporteur brought to the attention of the Government the situation of **Mr. Rafiq Tagi** and **Mr. Samir Sadagatoglu**, reporter and editor of the newspaper Sanat, who were reportedly sentenced, respectively to three and four years in prison on charges of religious hatred by the Sabail district court in Baku on 4 May

2007. The journalists had reportedly already been held for more than four months in pretrial detention. This reportedly followed an article published on 1 November 2006, in which Mr. Tagi allegedly linked religious influence to the lack of economic and political development in the country. According to information received, a group of religious activists, sitting in the court room, menaced the defendants, and insulted journalists and other observers attending the trial. It has also been reported that the court took no action in this regard, and that the trial went on in an atmosphere of intimidation.

#### **Urgent appeal sent on 5 September 2007**

24. The Special Rapporteur brought to the attention of the Government the case of **Mr. Faramaz Allahverdiyev**, also known as Faramaz Novruzoglu, a journalist working for the independent newspaper “Nota Bene”. According to the information received, Mr. Allahverdiyev has been in detention since 30 January 2007, serving a two-year sentence after being condemned of libelling the Minister of Interior. According to reports, Mr. Allahverdiyev was in a critical state and his health was rapidly deteriorating. He had already undergone an operation since his detention and conducted a hunger strike in July 2007. Concern was expressed that Mr. Allahverdiyev’s life may be in danger if he does not undergo appropriate medical treatment.

#### **Letter of allegations sent on 12 September 2007**

25. The Special Rapporteur brought to the attention of the Government information he received concerning **Mr. Eynulla Fatullayev**, editor of the newspaper “Realny Azerbaidjan”. Mr. Fatullayev was the subject of an urgent appeal sent on 3 October 2006, after he was sentenced on 26 September 2006 to two years of incarceration and a fine of US\$ 11,500 for libelling and insulting the Minister of Interior. According to the information received, Mr. Fatullayev was charged with three additional criminal offenses after his initial conviction in September 2006. In April 2007, he was reportedly sentenced to 30 months in prison for defaming Azerbaijanis in an Internet posting which he denied writing. In July 2007, the National Security Ministry allegedly charged Mr. Fatullayev with terrorism and incitement of religious hatred. If convicted, he could spend up to 16 years in prison. Finally, on 4 September 2007, he was reportedly charged by the National Security Ministry with tax evasion, which carries a penalty of six months in prison or two years in a corrective labor facility. The Rapporteur expressed concern that the charges against Mr. Fatullayev are related to the critical reports he published as a journalist.

#### **Response from the Government sent on 8 October 2007**

26. The Government stated that the necessary legal framework was established to promote freedom of expression and freedom of the media. The mechanisms for censorship and control over the mass media were abolished and there are over 3,000 media outlets in Azerbaijan. Serious and systematic measures to promote freedom of expression are being undertaken by the Government, in line with European standards. One of the serious problems of Azerbaijani journalism, however, is the low level of ethics and professional behaviour, and offenses on human dignity, sentiment and business reputation, which leads to individual complaints for defamation and libel. Mr. Fatullayev was held criminally liable for insulting the honor and dignity of the residents of the town Xojali, which suffered from the Armenian aggression and genocide. On 5 April 2007, the local court imposed on Mr. Fatullayev a fine of USD 23,000,

but the applicants – former residents of Khojali – did not agree with the allegedly soft penalty and appealed against the decision. On 20 April 2007, Mr. Fatullayev was sentenced to 2,6 years' imprisonment. In April 2007, the website of Mr. Fattullayev's newspaper also published information stating that some foreign companies, organizations and individuals working in Azerbaijan would be targeted by Iranian military strikes if Azerbaijan supported an anti-Iranian coalition. Following complaints issued by companies, organizations and individuals concerned, Mr. Falluyev was subject to criminal proceedings based on the fact of terrorist blackmailing. In the same text, false information was disseminated concerning discrimination against Azerbaijani citizens of Talish origin living in the southern regions of the country. Such information aimed to disseminate ethnic and religious hatred and hostility. An investigation showed that this information was given to Mr. Fatullayev by an Iranian citizen. These acts are posing serious threats to the national security interests of the democratic and secular state of Azerbaijan. The investigation on this matter is still underway.

### Observations

27. The Special Rapporteur is grateful for the Government's response to his communication of 12 September 2007. He regrets, however, that the Government has yet to reply to the two other communications sent in 2007.

### Bahrain

#### **Urgent appeal sent on 25 January 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention**

28. The Special Rapporteur and the the Chairperson-Rapporteur brought to the attention of the Government the case of **Dr M. Al Sahlawi** and **Mr. H. Al Hebshi**, who were reportedly arrested on 16 November 2006 by the authorities for being found in possession of 1.500 copies of a publication deemed by the authorities to be "subversive literature". The publication is said to call on Bahrainis to boycott the parliamentary elections held in November 2006. On 7 January 2007, the public prosecutors reportedly charged them with crimes related to State security under Articles 160, 161 and 168 of the Penal Code, which prescribe prison sentences for up to seven years. The session was adjourned till 14 of January 2007 during which the attorneys of the accused presented their defense. Since then, the two detainees were allegedly held in solitary confinement.

#### **Response from the Government sent on 31 May 2007**

29. The Government stated that the information contained in the urgent appeal was inaccurate. The publications which the two defendants, **Mohammed Sa'id al-Sahlawi** and **Hussayn Abd al-Aziz Salman "Al-Habashi"**, had in their possession and acquired contained material advocating the overthrow and change of the Government, together with false and tendentious reports and rumours and seditious messages of a kind likely to disrupt public order and to damage the public interest. The claim, in the urgent appeal, that the publications simply called on Bahrainis to boycott the parliamentary elections is not true.

30. The defendants were not charged under article 160 of the Penal Code, which prescribes a penalty of up to 10 years' imprisonment, but under articles 161 and 168 (2), which prescribe a penalty of either imprisonment or a fine. The place in which any sentence

of deprivation of liberty imposed by a court must be served in a designated prison and there is no discrimination between convicted persons. The place in which the two defendants were being held was Jaw Prison; it is not true that they were being held in solitary confinement. The two defendants were brought before the third lower court, an independent and impartial judicial authority constituted in accordance with the Constitution and the law. The court examined the facts of the case during a trial in which full legal guarantees were provided. On the basis of the evidence and the admissions of the two defendants that, at the time of their arrest, they were in possession of papers containing seditious messages, false reports and propaganda aimed at changing the political, social and economic system of the State, the court issued its verdict on 31 January 2007, sentencing Mohammed Sa`id al-Sahlawi to one year in prison and Hussayn Abd al-Aziz Salman to six months in prison. Bahraini laws grant every individual the freedom to express his or her opinion and to hold gatherings, subject to certain conditions. These laws also provide guarantees against the disruption of public order and damage to the public interest or to the honour and reputation of others. On 25 February 2007, His Majesty the King issued Decree No. 27/2007, granting a pardon which annulled the sentences imposed on the two men in case No. 8350/C/2005.

**Urgent appeal sent on 7 March 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the independence of judges and lawyers**

31. The Special Procedures mandate holders sent an urgent appeal regarding **Mr. Ali Jaffar Ali**, 17 years old, **Mr. Jassim Mirza**, 17 years old, and his brother **Mr. Mohammad Mirza**, 16 years old, who were reportedly arrested after participation in a demonstration regarding Mr. Hassan Mushiana, Secretary-General of the organisation "Movement of Freedoms and Democracy –HAQ", and Mr. Abdul Hadi Al-Khawaja, President of the organisation "Bahrain Center for Human Rights". Mr. Hassan Mushiana and Mr. Abdul Hadi Al-Khawaja were the subject of a joint urgent appeal by the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Representative of the Secretary-General on the situation of human rights defenders on 2 February 2007 and have since been released as stated in your Excellency's Government's reply dated 15 February 2007.

32. According to the information received, Mr. Ali Jaffar Ali was arrested on 25 February 2007 after security forces had searched the home of his father in Sanabis several times during his absence. On the same day he was formally ordered into custody for 15 days by the Public Prosecutor and charged pursuant to article 178 of the Penal Code of 1976, which provides that anyone "shall be punished by a term of up to two years and a fine not exceeding two hundred Dinars, or both, who participated in a gathering in a public place consisting of at least five persons, the purpose of which is to commit crimes, or acts equipping or facilitating it, or to disturb public security, even if that was to fulfill a legitimate objective." Mr. Ali Jaffar Ali was reportedly being detained at Khamees police station detention center at the time the communication was sent. Mr. Jassim Mirza and Mr. Mohammad Mirza were reportedly arrested on 3 February 2007 at their homes in Sanabis by heavily armed special forces and were detained at an unknown place of detention without access to lawyers or members of their family since then. The arrests were made following their participation in a peaceful protest on 2 February 2007 against the arrests of Mr. Hassan Mushiana and Mr. Abdul Hadi Al-Khawaja.

**Urgent appeal sent on 25 May 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the question of torture**

33. The Special Procedures mandate holders sent an urgent appeal regarding **Mr Ali Saeed Yacob Al-Khabaz**, 22 years old, residing in Sanabis, who was arrested after a demonstration regarding Mr. Hassan Mushiana and Mr. Abdul Hadi Al-Khawaja. Mr. Hassan Mushiana and Mr. Abdul Hadi Al-Khawaja were the subject of a joint urgent appeal by the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Representative of the Secretary-General on the situation of human rights defenders on 2 February 2007 and have since been released as stated in your Excellency's Government's reply dated 15 February 2007.

34. According to the information received, Mr Ali Saeed Yacob Al-Khabaz was arrested by Special Forces on 20 May 2007 after attending a peaceful demonstration that took place in an area between the cities of Sanabis and Daih. The Special Forces allegedly dispersed the demonstration, making use of rubber bullets, sound bombs and tear gas. The Special Forces were allegedly chasing some of the demonstrators and arrested Mr Al-Khabaz in front of his family home. During the arrest, he was forced to the ground by the Special Forces, collectively beaten with batons and kicked with boots. For two days he was treated at the Bahrain Defence Force Hospital for various injuries, and he was not able to walk. The public prosecutor reportedly ordered Mr Al-Khabaz' detention for one week. On 23 May 2007 he was first transferred from the hospital to Qudhaibeya police station and then to Nuaim police station in Manama, where he was reportedly being held at the time the communication was sent. When his family requested to visit him on 22 May 2007 at Nuaim police station, they were reportedly threatened by the station commander and forced to leave.

**Response from the Government sent on 14 June 2007**

35. The Government indicated that the facts set out in the summary to which the letter refers are untrue and baseless. According to the Government, the right to express an opinion by peaceful means is guaranteed by the Constitution and by Bahraini law. No one has ever been arrested for exercising this right. Mr. **Al Khabbaz** was one of a group of around 40 persons who took part in riots in the Sanabis area on 20 May 2007. They threw Molotov cocktails and stones at the security forces which had been sent to the area to disperse the crowds, quell the rioting and protect the lives of citizens from these irresponsible acts of sabotage. Such acts are punishable by a term of imprisonment and/or a fine of up to 500 dinars, pursuant to article 179 of Decree Law No. 15 of 1976, promulgating the Criminal Code. There is no truth to the allegations that he was picked up in front of his home. According to article 55 of Decree Law No. 46 of 2002, promulgating the Code of Criminal Procedures, a senior police officer must remand an accused person in custody if there is sufficient evidence to charge him with a serious or lesser delicto flagrante offence that carries a penalty of over three months in prison. The accused was arrested after being caught red-handed committing the offence of rioting, for which the punishment is a custodial sentence. The Ministry of the Interior did not receive any complaints from or on behalf of this person in connection with the allegations set out in the letter. These procedures are consistent with international treaties; the accused was informed of the reasons for his arrest and, in accordance with article 9 of the International Covenant on Civil and Political Rights, he was brought before the public prosecution service, which is the judicial authority in charge of

investigations. The accused was arrested for committing the offences of arson and rioting and not for exercising the rights to freedom of expression and freedom of peaceful assembly. These rights are guaranteed under articles 19 and 21 of the aforementioned international Covenant and the Kingdom strives earnestly to protect them and ensure that they are exercised fully and freely. The Government informed that on 8 June 2007, Mr. Al-Khabaz was released by the competent authorities.

**Letter of allegations sent on 25 October 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences**

36. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms **Ghada Jamsheer**, a women's rights activist and president of the Bahrain Women's Petition. According to the information received, in early October 2007, a formal governmental decision had been revealed concerning a prohibition for Ms. Jamsheer to appear in the Bahraini press, including radio, television and all local newspapers. Allegedly, this prohibition may be related to a letter that she sent to His Highness the King of Bahrain calling for the dissolution of the Supreme Council for Women, which is chaired by Her Highness Sheikha Sabika Bint Ibrahim Al Khalifa. Ms. Jamsheer has already faced charges in the past related to her professional activities. In 2005, she was criminally prosecuted for allegedly criticizing family judges. These proceedings were later discontinued. This case was the subject of a joint Urgent Appeal sent on 13 June 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders. Since 2006, Ms. Jamsheer has allegedly been placed under surveillance, having her activities and movements monitored by security officials. Concern was expressed that the ban imposed on Ms. Jamsheer may be directly linked to her non-violent activities in defence of women's rights in the Kingdom of Bahrain.

**Letter of allegations sent on 25 October 2007**

37. The Special Rapporteur brought to the attention of the Government the situation of **Mr Saleh Al-Amm**, a journalist, writer and the editor of the electronic journal "Al-Saheefa"; **Mr. Muath Al-Meshari**, a columnist for the "Al-wasat newspaper"; **Mr. Fared Al-Shayeb**, a writer for "Al-Saheefa"; and **Mr. Hesham Al-Zayani**, editor-in-chief of "Akhbar Al-Khaleej" newspaper. It was reported that, on 23 October 2007, Mr. Al-Amm, Mr. Al-Meshari and Mr. Al-Shayeb were convicted by the Higher Criminal Court of insult and defamation under Article 15 of the Penal Code, received a fine of 200 Bahraini Dinars and 51 BD in damages, in addition to court fees. The conviction is said to refer to the alleged defamation of the director of the Dar Al-Manar Elderly Care Center in an article published in the on-line journal "Al-Saheefa". According to reports, 14 journalists, bloggers and website administrators were interrogated and prosecuted for insult and defamation under Article 15 of the Penal Code and Article 47 of the Press Code.

38. In the same communication, the Rapporteur referred to another case, in which **Mr. Al-Zayani** was reportedly convicted on 28 October 2007 by the Supreme Criminal Court of Appeals for insult and defamation against the President of Arabian University, receiving a 1000 BD fine.

### **Follow-up to previously transmitted communications**

39. On 4 February 2007, the Government replied to the communication sent by the Special Rapporteur on 31 October 2006 concerning the reported blockage of the Bahrain Center for Human Rights' website. In its reply, the Government informed that on 4 October 2006, the Higher Criminal Court of the Kingdom of Bahrain prohibited the press, websites and other media from discussing a matter that was being handled by the investigation or prosecuting authorities on the ground that it would influence the soundness of the investigations. As the website of the (dissolved) Bahrain Center for Human Rights violated this prohibition, the Minister of Information issued an order to the Batelco company to block the website. The so-called (dissolved) Bahrain Center for Human Rights is not at present registered as a civil association and hence is not permitted to engage in any activities under that name. The exercise of the right to freedom of opinion and expression, as reflected in the International Covenant on Civil and Political Rights and understood by the European Court of Human Rights entails obligations and responsibilities and may be subject to restrictions to protect the reputation of others. It has also held that freedom of expression is not impaired by regulations requiring the licensing of audio-visual media (European Court of Human Rights, *De Haes and Gijssels v. Belgium*, case No. 19923/92, 24 February 1997). It should, however, correspond to a pressing social need. It is for national authorities to assess the existence of such a need, which differs from case to case. This is also the approach that the European Court of Human Rights has adopted in its jurisprudence (European Court of Human Rights, *Dudgeon v. the United Kingdom*, 22 October 1981). Article 14 of the Covenant, which enshrines the principle of a public hearing, permits the exclusion of the press and the media from all or part of a trial for reasons of morals, public order (*ordre public*) or national security. As the website of the (dissolved) Bahrain Center for Human Rights was blocked in response to and in implementation of the decision by the relevant judicial authorities to prohibit the media from disseminating any material that might influence the course of the investigation and the aforementioned website failed to comply with that ruling, the ensuing order was consistent with the conditions for lawful restriction of the right to freedom of expression set out in international instruments.

### **Observations**

40. The Special Rapporteur is grateful for the Government's responses to his communications. He regrets that the Government has not replied to his other communications.

### **Bangladesh**

#### **Letter of allegations sent on 8 March 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people**

41. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Ranglai Mro**, an indigenous leader of the Mro indigenous community from Bandarban, in the Chittagong Hill Tracts (CHT). Mr Ranglai Mro is the elected Chairman of the Suolak Union Parishad, a district leader of the Bangladesh Awami League, and the Bandarban unit president of the Land Rights Protection Committee. According to the

information received, on 23 February 2007, in the early morning, Mr Ranglai Mro, aged 38, was forcefully taken away from his residence in Bandarban town by army lead-security forces. He was allegedly subject to torture in Bandarban Cantonment and handed over to the police station of Bandarban Sadar Thana. He was accused of possession of illegal weapons and of illegal grabbing of public and private lands. Mr Ranglai Mro was admitted to the Bandarban Sadar Hospital on the same day, to receive treatment for his injuries sustained through torture, and was subsequently transferred to the Chittagong Medical College Hospital. Concern was expressed that Mr Ranglai Mro's detention could be linked to his vocal role in opposing the establishment of an Artillery Training Center in Sualok Union of Bandarban, which reportedly led to the uprooting of 400 indigenous families in 2005, and to his opposition against ongoing plans to create a training centre for the Bangladesh Air Force in Sualok Union, which would reportedly lead to further displacements.

#### **Response from Government sent on 26 April 2007**

42. The Government reported that Mr. **Ranglai Mro** was apprehended in the morning of 23 March 2007. A large quantity of arms and ammunitions were found in his house. As he was unable to produce valid documents regarding these arms and ammunitions, the Joint Forces arrested him and logged a case against him under the Arms Act, according to which the unauthorized possession of arms and ammunitions is a punishable crime. During interrogation, Mr. Mro complained about his chest pain. He was then sent to Bandarban Sadar Hospital for treatment, and, on the advice of a local physician, he was subsequently shifted to Chittagong Medical College Hospital for better treatment. Law enforcement agencies denied any kind of torture during their custody. Mr. Mro was subsequently sent to the Special Tribunal Judge, Chittagong Hill Tracts, for trial. At the time that the communication from the Government was sent, he was in custody at the Chittagong Jail.

#### **Urgent appeal sent on 14 May 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture**

43. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Tasneem Khalil**, investigative journalist with Dhaka-based Daily Star newspaper and part-time consultant for the international human rights organization, Human Rights Watch. Mr Khalil assisted Human Rights Watch in research for a 2006 report concerning allegations of torture and extrajudicial killings by security forces in the country, and has published several controversial reports of alleged cases of corruption and abuse by members of the security forces. According to information received, on 11 May 2007, at approximately midnight, four plain-clothed individuals, who identified themselves as being from the 'joint task force', visited Mr Khalil's home in Dhaka. The four men stated that they were placing Mr Khalil under arrest and proceeded to search the house, confiscating his passport, two computers, documents and two mobile phones, before taking him to Sangsad Bhavan army camp outside the parliament building in the city. A warrant was not produced for Mr Khalil's arrest nor was he informed of the reason for his detention. Mr Khalil was reportedly called for questioning by military intelligence during recent weeks.

**Response from the Government sent on 15 May 2007 and 31 October 2007**

44. The Government informed that the Joint Forces took Mr. Khalil from his residence on 11 May, and he was allowed to leave the office within less than 24 hours since he was brought in for interrogation. No information regarding discourteous behavior with him was reported.

**Urgent appeal sent on 22 May 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

45. The Special Rapporteur and the Special Representative sent an urgent appeal to the Government concerning Mr **Jahangir Alam Akash**, journalist with CSB News Bangladesh and human rights defender. According to information received, in the evening of 3 May 2007, Mr Akash received a threatening call on his mobile phone from an individual who identified himself as Major Rashidul Hassan Rashid, an official from the Rapid Action Battalion (RAB)-5, in Rajshahi region. The alleged threats were in relation to a CSB broadcast the day before, in which RAB officials had raided a house in the city of Rajshahi, shooting an alleged criminal in the presence of his wife and child. Mr Akash had interviewed the victim's wife a short time after the incident, and the report was aired later that evening. According to reports, the caller questioned Mr Akash as to why CSB News had broadcast the incident, claiming that he had acted against the State and that if Mr Akash or any of his colleagues attempt to cover any incidents involving RAB in the future, they would 'suffer the consequences'.

**Urgent appeal sent on 7 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers**

46. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr. **Jahangir Alam Akash**, journalist with CSB News Bangladesh and human rights defender. Mr. Alam Akash was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Representative of the Secretary-General on the situation of human rights defenders on 22 May 2007. While we appreciate Your Excellency's Government's reply dated 23 May 2007, in which it is inter alia stated that the contents of the communication have been duly noted and forwarded to the concerned authorities in Bangladesh for necessary inquiry and action, we would like to draw your attention to new information we have received on Mr. Jahangir Alam Akash. According to the new information received, on 23 October 2007, a group of 10 -12 Rapid Action Battalion (RAB) agents in plain clothes went to the house of Mr. Alam Akash in Rajshahi. Reportedly, his wife did not let them in until they told her who they were; she asked for a search warrant but they refused to present one. Reportedly, the agents disclosed their identity and said that a reliable source had told them that there were some arms hidden in the house and alleged they had a search warrant issued by the concerned court. The RAB agents grabbed Mr. Alam Akash and began slapping him hard in the face. Then, they put him in handcuffs, wrapped a black cloth around his head and took him away. He was reportedly taken to a nearby army camp where he was severely beaten. It has been reported that he has suffered severe physical injuries and is unable to walk, having been moved to the Rajshahi hospital. Mr. Alam Akash remains detained on extortion charges and has not yet appeared in court. Prior to these attacks, Mr.

Alam Akash had been broadcasting and publishing news on alleged abuses of power by the RAB. In particular, on 2 May 2007 Mr. Alam Akash presented a report on an attempted extrajudicial execution by RAB agents that had allegedly taken place in Rajshahi. He has also received numerous death threats due to his work and has suffered physical assaults in the past after publishing critical articles regarding local politicians. Concern was expressed that the alleged ill-treatment and detention of Mr. Alam Akash may be directly related to his peaceful activities in defence of human rights.

### **Response from the Government sent on 27 November 2007**

47. The Government stated that the Journalists Steering Committee of Rajshahi declared Mr. **Jahangir Alam Akash** as persona non grata on 24 June 2003 for his corrupt practices and unethical activities. He has been one of the top toll collectors in Rajshahi and his lavish life style does not match his known income. Mr. Akash blackmails rich people of the society by resorting to yellow journalism. Such allegations against him were published in many newspapers. Many consider Mr. Akash published an article in the Daily Sangbad about "Collection of Toll under the disguise of Journalism" to cover his own misdeeds. In this regard Rajshahi Journalist Union asked a written explanation for his reporting in the Daily Sangbad, which was defamatory to the image of journalists. In the investigation, it has been revealed that an application accusing Mr. Akash of threats was addressed to the president of the Metropolitan Press Club on 11 June 2001. Two other persons accused him of threats and blackmailing on 24 February 2001. It has also been reviewed that, as son-in-law of a local Awami League (president) and former member of parliament, Mr. Akash has proved to be an AL biased journalist, which is contrary to journalistic ethics, publishing news that supports AL positions and actively participating in demonstrations and agitations against the RAB. On 2 May 2007, Mr. Akash has also tried to portray a terrorist whose house was raided by the RAB as a political leader. Mr. Akash has a record of toll collection, blackmailing and reporting false and fabricated stories. He is using his profession as a money-making tool. For such unethical activities, he was boycotted by his colleagues and was avoided by the local people. Mr. Akash has launched an international campaign just to draw sympathy in his favour so that the Government refrains from taking action against him according to the existing legislation.

### **Urgent appeal sent on 10 August 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living**

48. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Rabindra Ghosh**, President of the Dhaka Chapter of the Human Rights Congress for Bangladesh Minorities (HRCBM). An urgent appeal to the Government concerning Mr Ghosh was already sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 30 August 2005. According to information received, on 7 August 2007, police officers came to the home of Mr Ghosh in the Western Bazaar area of Moulvibazar town. They issued him with an arrest warrant, informing him that he had 24 hours to comply with the warrant and present himself at Bogra police station. The following day, Mr Ghosh proceeded to the station, but was not arrested; he was instead threatened to be arrested should he continue his work. It is alleged that the arrest warrant was ordered by Upazilla Nirbahi Officer, in reaction to Mr Ghosh's campaigning for

the recovery of the historic Bhabani Temple at Bogora. The temple was reportedly destroyed by national armed forces on 13 February 2007, in violation of a High Court order to protect the building. The historic temple reportedly existed for hundred years and a minority community, including caretakers of the temple, lived in the premises for generations and were forcefully evicted when the building was demolished.

### **Response from the Government sent on 15 January 2008**

49. The Government stated that the allegations of curbing Mr. Ghosh's right to freedom of expression as a journalist and torture upon him are not correct. Mr. Ghosh was not present, as claimed, during the eviction carried out by the Bhabanipur Temple areas under Sherpur Police Station in Bogra district in February 2007. A case was filed against the eviction activities of the Joint Forces at the Court of the Assistant Judge. It was subsequently dismissed by the Court after proper examination. There was no mention of torture against Mr. Ghosh in the case. Mr. Ghosh was arrested in connection with another incident. The local Upazilla Nirbahi Officer brought the charge against Mr. Ghosh of threatening him over the mobile phone. On completion of the investigation, Non-FIR Prosecution No. 31 dated 24 April 2007 as per Article 189 of the Penal Code was submitted to the Court. Mr. Gosh appeared before the Court voluntarily and was granted bail on his appeal. He was neither threatened nor arrested by law enforcement agencies, therefore the allegations are incorrect.

### **Observations**

50. The Special Rapporteur is grateful for the Government's responses. He regrets that the Government has not replied to his communication of 22 May 2007.

## **Bhutan**

### **Follow-up to previously transmitted communications**

51. By a letter sent on 21 May 2007, the Government provided additional information in regards to the communication sent on 12 July 2006 by the Special Rapporteur jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the question of torture. The Government informed that Mr. Dungana and Mr. Tamang were released on 28 July 2006 on payment of a fine.

## **Bolivia**

### **Carta de alegaciones enviada el 1 de noviembre de 2007**

52. El Relator Especial envió una carta de alegaciones en relación con la situación de los periodistas **Uriel Gutiérrez**, del canal de televisión Sitel, **Analía Álvarez**, del diario La Estrella de Oriente, **Aydeé Rojas**, del diario El Nuevo Día y **Christian Peña y Lillo**, del periódico El Deber. Según las informaciones recibidas, los días 18 y 19 de octubre, 600 efectivos de la Fuerza Aérea Boliviana y 60 policías hubieron llevado a cabo una operación para recuperar el control del aeropuerto de Santa Cruz, en la que resultaron heridos diversos periodistas. **Uriel Gutiérrez**, que se intoxicó con chorros de gas lacrimógeno, habría sido golpeada y pateada por unos militares en un enfrentamiento con algunos manifestantes que

pretendían entrar en el aeropuerto. Presa de convulsiones y dificultad respiratoria, la periodista habría sido inmediatamente trasladada al hospital. **Analía Álvarez** habría sido golpeada con una porra, y le habrían sido propinados patadas y puñetazos. Según fuentes, presenta contusiones múltiples en las piernas y brazos. **Aydeé Rojas** habría resultado herida levemente en un brazo, lo mismo que **Christian Peña y Lillo**. Otros periodistas también habrían resultado maltratados durante estos incidentes. El 19 de octubre por la mañana, periodistas de Santa Cruz se habrían manifestado para protestar contra estas agresiones.

### **Carta de alegaciones enviada el 11 de diciembre de 2007**

53. El Relator Especial envió una carta de alegaciones en relación con la situación de **Gonzalo Durán Carazani**, abogado de 29 años; **Juan Carlos Serrudo Murrillo**, estudiante de 25 años; **José Luis Cardozo**, estudiante de 19 años. Según las informaciones recibidas, las tres personas hubieran resultado muertas en el contexto de las manifestaciones y enfrentamientos violentos relacionados con las protestas en contra de las reuniones celebradas en la ciudad de Sucre para la aprobación de la nueva Constitución Política. El Sr. Durán Carazani habría resultado muerto por una herida de bala el 24 de noviembre de 2007. El Sr. Serrudo Murrillo habría resultado muerto el 25 de noviembre de 2007 tras ser alcanzado en el pecho por un proyectil de gas lacrimógeno lanzado por la policía. El Sr. Cardozo habría resultado muerto el 26 de noviembre de 2007 por una herida de bala recibida durante los disturbios. Asimismo, más de 300 personas habrían resultado heridas, entre ellos varios periodistas. En la misma comunicación, el Relator también mencionó los casos de periodistas de la emisora de radio Digital Pando, que hubieran recibido amenazas de grupos opositores al gobierno el 27 de noviembre de 2007, por informar en contra del paro regional que se realizaban en la ciudad de Cobija. El Relator también mencionó los casos de **David Guzmán**, fotógrafo del diario La Razón, **Adriana Gutiérrez**, periodista de la red televisiva PAT, **Pablo Tudelo**, camarógrafo de la misma red, así como el caso de **Aizar Raldes**, fotógrafo de la agencia AFP y otros reporteros de los diarios La Razón y El Deber y de las redes televisivas ATB y UNO. Según las informaciones recibidas, el 25 de noviembre, este grupo de reporteros hubiera recibido agresiones cometidas por un contingente policial cuando cubrían las protestas contra la aprobación de la nueva Constitución Política en la ciudad de Sucre. En otro sector de la ciudad, miembros de la policía habrían intentado quitarle la cámara al **David Guzmán** y estudiantes universitarios habrían intentado agredirlo.

### **Observations**

54. El Relator Especial lamenta no haber recibido respuesta a sus comunicaciones de 1 de noviembre y 11 de diciembre de 2007.

## **Brazil**

### **Letter of allegations sent on 23 May 2007**

55. The Special Rapporteur brought to the attention of the Government the case of **Mr. Luiz Carlos Barbon Filho**, a journalist for Porto FM Radio Station and columnist for “Journal do Porto” and “JC Regional newspapers”, who was reportedly shot on 5 May 2007 by two masked men in Porto Ferreira, Sao Paulo state, and died the following day at a local hospital. According to information received, Mr. Barbon Filho had received constant death threats by telephone and mail. Known for his investigative reports on corruption, Mr. Barbon Filho allegedly criticized five city councillors and

four local businessmen for corruption of minors, who were condemned in 2003 to prison terms and released not long before Mr. Barbon Filho was killed.

**Letter of allegations sent on 2 July 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right to food**

56. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr. **Antonio Santos do Carmo**, rural worker and member of the Movimento de los Trabajadores Sin Tierra (MST), a movement which works for land rights and agrarian reform in Brazil. According to information received, on 2 May 2007, Mr. Santos do Carmo, along with a group of MST members, were ambushed by unknown individuals, in front of the Hacienda São Felipe, near the motorway connecting Belem de Para with Brasilia. The assailants, some of them allegedly belonging to the military police, entered the MST camp and began to attack those inside. Mr. Santos do Carmo was violently assaulted and died from bullet wounds to the chest and throat. Other MST members were also injured in the attack. After the incident, MST members blocked the road between Belem and Brasilia as a form of protest and demanded that representatives from the National Institute for Agrarian Colonization and Reform, and the federal Government take action to resolve the situation in the area. The following day one a man suspected of having taken part in the attack on the MST members was detained.

**Observations**

57. The Special Rapporteur regrets that he has not received a response to the two communications sent in 2007.

**Bulgaria**

**Urgent appeal sent on 22 February 2007, jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the human rights of migrants**

58. The Special Procedures mandate holders brought to the attention of the Government the situation of **Mr. Annadurdy Khajiev**, journalist, senior member of the exiled opposition Watan party, which, inter alia, calls for democratic governance and observance of human rights in Turkmenistan, and a dual Turkmen and Russian national, who was reportedly arrested on 19 February 2007 in the port city of Varna, by Police agents reportedly following a formal request for extradition from Turkmen authorities. Mr. Khajiev has been living in Bulgaria since 2001 and obtained refugee status in March 2004. The Government of Turkmenistan reportedly requested his extradition on charges of embezzlement and allegations of theft of 40 million US dollars in connection with Mr. Khajiev's activities as a bank director in Turkmenistan.

59. It was reported that a previous request for extradition in 2002 was declined by a Bulgarian court in May 2003 for the reason that Mr. Khajiev's political activities had been the actual grounds for this request. Bulgarian authorities have interrogated him regarding members of the Turkmen opposition in exile. Reports indicate that, at the time the communication was sent, the decision to extend Mr. Khajiev's detention and to extradite him was to be scrutinised by a Varna court on 23 February 2007. Grave concerns were expressed that Mr. Annadurdy Khajiev's physical integrity or

even his life might be at risk should he be extradited to Turkmenistan. His sister, Ogulsapar Muradova, reportedly died in prison in Turkmenistan in 2006.

### **Response from the Government sent on 3 April 2007**

60. The Government informed that after thorough investigation by the relevant Bulgarian authorities, Mr. **Annadurdy Khajiev** has a dual, Turkmen-Russian nationality. He has been living in Bulgaria since 2001. On 7 April 2004, the Police Department of the Ministry of Interior issued him a humanitarian status (ID No 850000546). He also possesses a humanitarian status certificate for travelling abroad (No 860002397). Mr. Khajiev was arrested in Varna on 20 February 2007, and detained for 72 hours, on the basis of ordinance of the Supreme Prosecutor's Office of Cassation following a letter from INTERPOL-Ashkhabad to INTERPOL-Sofia about the crime he was accused of and about the intention of the Turkmen authorities to request his extradition. On 21 February, the Prosecutor General of Bulgaria received a letter from the Prosecutor General of Turkmenistan with a request for extradition of Mr. Khajiev on charge of embezzlement and allegations of theft of some USD 40 million, under articles 229 and 187 of the Criminal Code of Turkmenistan. In connection with this, it has to be noted that on 22 May 2003, the District Court of Varna declined a previous request for extradition of Mr. Khajiev for the reason that the prosecution was based on political grounds. On 22 February, the District Court of Varna, following the request of the Varna District Prosecutor, prescribed the detention of Mr. Khajiev for 40 days (until 30 March). Mr. Khajiev lodged a complaint against the arrest which was confirmed by the Varna Court of Appeal on 27 February 27. The decision of the Court of Appeal regarding the detention of Mr. Khajiev is final and there is no further possibility of appeal. The Court of Appeal also specified that the Regional Court of Varna would consider the case in substance as a first instance. The above summary shows that the rights of Mr. Khajiev, more precisely the rights under Article 9 (Rights of Freedom and of Security) and Article 14 (Right of Equal treatment) of the International Covenant on Civil and Political Rights, were integrally safeguarded by the Bulgarian authorities. The measures taken by the Bulgarian authorities are lawful and legitimate and by no means intended to violate the rights of Mr. Khajiev under Article 19 of the international Covenant on Civil and Political Rights. The request of the Special Rapporteurs that all necessary measures be taken by the Government to guarantee that the rights and freedoms of the aforementioned person are respected and that the accountability of any person guilty of the alleged violations is ensured will be dully noted.

### **Observations**

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

### **Cambodia**

#### **Letter of allegations sent on 7 May 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers**

62. The Special Procedures mandate holders brought to the attention of the Government two events affecting the functioning of the Extraordinary Chambers in the Courts of Cambodia (ECCC), in particular the expulsion of the non-governmental organization Open Society Justice Initiative (OSIJ) by the Extraordinary Chambers in the Courts of Cambodia (ECCC) and the imposition by the Bar Association of the Kingdom of Cambodia (BAKC) of high fees on international lawyers who wish to represent defendants before the ECCC. Regarding the decision made by the ECCC to expel

the international non-governmental organisation OSIJ from all cooperation, according to the information received the OSIJ issued a press release on 14 February 2007, calling for a thorough investigation of allegations that Cambodian officials may be obliged to pay “kickbacks” in return for their positions at the ECCC. The press statement also called for any investigation on the case to be made public and, if the allegations proved true, that immediate measures were taken by the ECCC to address the problem. The release was based on information gathered over several months from sources both within and outside of the ECCC.

63. On 16 February, the Deputy Prime Minister Sok An stated in the newspaper Agence France Press that Justice Initiative was no longer allowed to enter the court. Meanwhile, ECCC Deputy Administrator Michelle Lee and Public Affairs Officer Peter Foster claimed that the OSIJ would still have full access to the tribunals. Later that same day, though, the ECCC Administrator Sean Visoth sent a letter to the OSIJ, which stated that, the Cambodian side of the ECCC’s Office of Administration would “have no further cooperation with the OSIJ”.

64. On 9 March, OSIJ members were informed by two ECCC staff members that two weeks earlier, the Prime Minister Hun Sen had issued an oral order to expel the OSIJ from Cambodia and had asked for a list of the names of everyone associated with the OSIJ’s ECCC project. On the 11 March, the OSIJ was told that the delivery of names to the Deputy Prime Minister might trigger a decision to execute the expulsion order. We understand that the OSIJ has served as a primary source of information about the ECCC and has provided a platform for Cambodian civil society to exchange views on the chambers. National and international non-governmental organizations have an essential role in scrutinizing the work of the courts and thereby ensuring that trial proceedings conform to international standards guaranteeing the right of defendants to a fair trial before a competent, independent and impartial tribunal. We also understand that the reported action against OSIJ may be in response to the issued public statement mentioned above. The allegations, if proven true, would raise serious concerns as to the impartiality and independence of the Chambers and their ability to provide defendants with a fair trial in accordance with international standards. The expulsion of the OSIJ would also constitute a damning statement about the willingness of the Cambodian Government to allow the ECCC to proceed free of improper government influence and also hinder the cause of freedom of expression generally in Cambodia.

**Letter of allegations sent on 2 August 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief**

65. The Special Procedures mandate holders sent an urgent appeal concerning the following case: According to information received, on 8 June 2007, the Ministry of Culture and Religion and the Buddhist patriarch Non Nget issued a directive which forbids all monks living in the Kingdom of Cambodia from organizing or participating in any demonstration or strike or carrying out Buddhist marches which affect public order. The decision also bars monks from providing false information which may affect Buddhist religion. The directive states that monks who do not respect the instructions strictly will be punished in accordance to Buddhist norms and national law. The directive was adopted after Khmer Kampuchea Krom monks carried out a series of peaceful demonstrations in Phnom Penh in February and April 2007 to advocate for the protection of the rights of the Khmer Krom, particularly in Vietnam following the alleged defrocking and arrest of five Kampuchea Krom monks in that country. It has been reported that the monks who were defrocked and arrested in Vietnam were sentenced to 2 - 4 years of imprisonment for disturbing traffic when they organised demonstrations to advocate for the religious and cultural rights of the Khmer Krom in Vietnam to be

respected. It was feared that the Cambodian authorities will use the directive of 8 June 2007 to prevent monks from continuing to carry out their peaceful protests in defence of human rights, and to crack down on them if they go ahead. Allegedly the directive is specifically aimed at restricting the activities of Khmer Kampuchea Krom monks who protest regularly and who are under particular focus at the moment because of their activities in Vietnam.

#### **Letter of allegations sent on 23 August 2007**

66. The Special Rapporteur brought to the attention of the Government the situation of Mr. **Phan Phat**, a journalist with the local newspaper “Chbas Kar”, who reportedly published a number of news stories concerning illegal logging in the Bakan district. On 10 August 2007, after Mr. Phat received two threats by phone and his house was set on fire by unknown assaulters. Reportedly, the fire was quickly extinguished and Mr. Phat and his family were not injured. A local police chief allegedly stated that this attack was likely in revenge for Mr. Phat’s recent reporting of illegal logging and that the police was approaching the case as an attack on the free press. Mr. Phat reportedly lodged a complaint to the Pursat Prosecutor on 13 August. On the evening of 17 August, a group of three people, whose names are known to the Rapporteur, allegedly tried to burn down Mr. Phat’s house again. Two of the men were reportedly arrested, whereas the third one escaped. The three men were using a car that belongs to a local wood businessman, whose name is known to the Rapporteur. The two men detained were reportedly charged for attempted arson.

#### **Urgent appeal sent on 30 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief**

67. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Tim Sa Khorn**, chief monk in the North Phnom Denh temple, and member of the Khmer Krom community in Cambodia. Mr Tim Sa Khorn acquired Cambodian citizenship after he moved in 1979 to the commune of Phnom Denh in Kirivong District in Takeo Province because of acts of harassment against him. According to the information received, in 2002, Mr. Khorn was appointed as chief monk of North Phnom-Denh temple. On 16 June 2007, Supreme Patriarch Tep Vong issued a religious decree in both Cambodian and Vietnamese languages to defrock Mr. Khorn, accusing him of conducting activities that were harmful to the Cambodia-Vietnam friendship. Subsequently, the Vietnamese authorities allegedly circulated this decree to Khmer Krom Buddhist temples. On 3 July 2007 a spokesperson of the Cambodian Minister of Foreign Affairs declared that Mr. Khorn “had returned to Vietnam” after reportedly being summoned to the office of the religious head of the Takeo Province in Cambodia and being forced to enter a car. On 2 August 2007 Vietnamese authorities announced that he had been arrested for having illegally entered the country.

#### **Observations**

68. The Special Rapporteur regrets that he has not received a response to any of the communications sent in 2007.

## Cameroon

### Suivi des communications précédemment transmises

69. Le 15 novembre 2006, le Gouvernement a adressé une réponse relative à une communication envoyée le 14 novembre 2006 sur Mme. Agnès Tailé, animatrice de l'émission radion « À vous la parole » de la radio Sweet FM, qu'aurait été enlevée à son domicile par trois hommes qui l'auraient ensuite brutalement agressée. Le Gouvernement a informé que les Autorités camerounaises ont aussitôt engagé sur le cas les investigations nécessaires. Les services compétents de la Police Judiciaire camerounaise, notamment du Commissariat no 2 de la ville de Douala, qui ont été saisis de la plainte introduite au nom de l'intéressée, mènent depuis lors des enquêtes pour la manifestation de la vérité et la poursuite des auteurs de ces faits. Mme. Taile a aussi reçu le réconfort du Ministre de la Communication. Il apparaît que les informations contenues dans la correspondance du Rapporteur spécial sont disproportionnées. Il y aurait lieu de se demander si l'agression dont Mme. Taile a été victime est directement liée à son activité de journaliste, dans la mesure où existent une très grande liberté des médias camerounais. La sécurité des médias fait l'objet d'une large protection en droit camerounais, y compris des normes constitutionnelles.

### Observations

70. Le Rapporteur spécial remercie le Gouvernement de sa réponse.

## Chad

### **Appel urgent envoyé le 9 février 2007 avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme**

71. Les titulaires de mandats des procédures spéciales ont attiré l'attention du Gouvernement sur la situation de M. **Marcel Ngargoto**, dirigeant de l'organisation non-gouvernementale Association des Droits de l'Homme sans Frontières dans la région de Moïssala. Jusqu'en septembre 2006, M. Ngargoto avait travaillé comme journaliste pour la station communautaire Radio Brakoss basée à Moïssala qui était souvent critique à l'égard des pratiques des autorités locales en matière de droits de l'homme. Au cours de l'année 2006, les journalistes de Radio Brakoss auraient été régulièrement victimes d'actes de harcèlement et d'intimidation de la part de la gendarmerie. Le 28 avril, M. Tchanguiz Vatankhah, rédacteur en chef de Radio Brakoss et président de l'Union des radios privées du Tchad, fut arrêté par la gendarmerie après qu'il ait appelé publiquement au report des élections présidentielles du 3 mai. Il fut libéré le 19 mai après avoir mené une grève de la faim pendant plusieurs jours. M. Vatankhah a fait l'objet d'un appel urgent envoyé le 17 mai 2006 par la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, le Rapporteur spécial sur l'indépendance des juges et des avocats et par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression. Selon les informations reçues, depuis le 31 janvier 2007, M. Ngargoto serait détenu par la gendarmerie de Moïssala pour avoir dénoncé des pratiques alléguées d'extorsion de fonds auprès de la population locale par la gendarmerie et plus particulièrement par le Commandant de celle-ci. Aucune charge ne serait retenue contre M. Ngargoto et la famille de celui-ci ne serait pas autorisée à lui rendre visite.

## Observations

72. Le Rapporteur spécial regrette l'absence de réponse à sa communication du 9 février 2007.

### Chile

#### **Llamamiento urgente enviado el 24 de enero de 2007 con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas enviaron un llamamiento urgente**

73. Los titulares de mandato de procedimientos especiales enviaron un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con el Observatorio de Derechos de los Pueblos Indígenas, una organización no gubernamental dedicada a la promoción y defensa de los derechos de los pueblos indígenas de Chile, con sedes en Temuco, Villarrica y Santiago. Según la información recibida, el 9 de diciembre de 2006, las oficinas del Observatorio de Derechos de los Pueblos Indígenas en Temuco habrían sido allanadas por personas desconocidas. Según se alega, estos desconocidos se habrían apropiado de seis discos duros de los ordenadores de la organización, que contenían información importante relacionada con el trabajo de la organización en favor de los derechos de las comunidades indígenas mapuche de la región, incluyendo una serie de casos judiciales en curso. Sin embargo, no se habría sustraído ningún otro artículo de valor, como impresoras, instrumentos musicales, teléfonos y otros enseres de la sede. La organización habría denunciado el robo a las autoridades competentes. Se informaron que el allanamiento y sustracción de los discos duros se habría producido tan sólo dos días después de que la organización hubiera emitido un comunicado público sobre la operación policial llevada a cabo en la Comunidad de Temucuicui, en la que diez miembros de esta comunidad habrían resultado heridos, entre ellos una mujer embarazada y un menor de ocho años.24/01/2007/ JAL/ Chile/ Freedom of expression; Human rights defenders; Indigenous people; / Concerning a NGO -

#### **Respuesta del Gobierno enviada el 5 de febrero de 2007**

74. El Gobierno informó de que la Dirección de Derechos Humanos estaba coordinando con la Corporación Nacional de Desarrollo Indígena, el Ministerio Público y la Fiscalía de la IX Región de la Araucanía, la recopilación de los antecedentes. Informó de que los hechos fueron debidamente denunciados a las instancias de la jurisdicción penal, de que las investigaciones criminales se encuentran en pleno desarrollo y de que cuando los antecedentes solicitados hayan sido decepcionados, serán puestos en conocimiento de los Relatores Especiales y de la Representante Especial. Por último, la comunicación del Gobierno indicaba que el Observatorio de Derechos de los Pueblos Indígenas se encontraba realizando sus funciones en completa normalidad, como también otras instancias de promoción y defensa de las libertades fundamentales de la región de la Araucanía, particularmente aquellas cuyas labores están dirigidas hacia las comunidades indígenas.

## Observaciones

75. El Relator Especial agradece al Gobierno la respuesta proporcionada.

## China

### **Urgent appeal sent on 4 January 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the question of torture**

76. The Special Procedures mandate holders brought to the attention of the Government the situation of **Mr Jigme Gyatso**, detained at Qushui Prison on the outskirts of Lhasa. Mr Jigme Gyatso was sentenced to 15 years of imprisonment and five years of deprivation of political rights by the Lhasa Municipal Intermediate People's Court on 25 November 1996 on charges of "planning to found an illegal organization and to seek to divide the country and to damage its unity". During the meeting with the Special Rapporteur on the question of torture on the occasion of his visit to Qushui Prison, Mr Gyatso, inter alia, explained that, in May 2004, his sentence was extended by two years after shouting pro-Dalai Lama slogans at the Tibet Autonomous Region (TAR) Prison, upon which he was reportedly also kicked and beaten and treated with electric batons. According to new allegations received, since meeting with the Special Rapporteur on torture, Mr Gyatso has been ill-treated and held in solitary confinement in particularly restricted conditions. Moreover, it has been suggested that further restrictions have been placed upon Mr Gyatso regarding his monthly family visits rights and that his health is rapidly deteriorating. Earlier in the year 2006 he was reportedly hospitalized for several weeks and was unable to walk normally due to a leg injury. Also, contrary to information provided by Mr. Gyatso during his meeting with the Special Rapporteur on torture, it is alleged that Mr Gyatso's prison term was actually extended by three years for "inciting splittism" following the incident at TAR Prison. In connection with Mr. Gyatso's solitary confinement, concerns were expressed that he might be at risk of ill-treatment. Concern was particularly expressed for his deteriorating health.

### **Response from the Government sent on 9 March 2007**

77. In its response, the Government stated that it has carefully investigated the matters referred to in this letter and wishes to make the following reply: **Jinmei Jiacao (Jigme Gyatso)**, also known as **Yideng Ciren (Yidem Tsering)**, who was sentenced by the Lhasa Intermediate People's Court to 15 years' imprisonment and 5 years' deprivation of political rights for the crime of seeking to divide the State. He accepted the judgement and did not file an appeal. In March 2004, while serving his sentence, Jinmei Jiacao became involved in activities aimed at inciting separation of the State, for which he was indicted by the procuratorial authorities. On 18 May 2004 the Lhasa Intermediate People's Court sentenced him to 3 years' imprisonment for the crime of inciting separation of the State, to be added on to the 7 years and 27 days remaining from his original sentence; he was thus ordered to serve a further 9 years and 27 days, with the expiry of his sentence to fall on 30 March 2014. Mr. Jiacao accepted the judgement and did not file an appeal; he is currently serving his sentence in the Qushui prison in Tibet Autonomous Region. According to article 71 of the Criminal Law of the People's Republic of China, if a convicted criminal, having been sentenced but not having served the sentence in its entirety, commits a new crime, a judgement shall be rendered in respect of the new offence; taking the crime into account, the duration of the combined punishment shall not exceed the length of the individual sentences taken together, nor shall it be any shorter than the longest of the individual sentences. It was pursuant to this provision that the Lhasa Intermediate People's Court issued the above-mentioned sentence in respect of Jinmei Jiacao. After entering prison, Jinmei Jiacao enjoyed the same rights and

treatment as other criminals. From November 2005, before he met with the Special Rapporteur on the question of torture in November 2005, until the present he has remained in a double cell, and his conditions of detention have not changed; there is no substance to the allegation in the letter that “since meeting with the Special Rapporteur [he] has been ill-treated and held in solitary confinement in particularly restricted conditions”. Jinmei Jiacao is currently in excellent health and receives regular visits from family members, and the allegations in the letter that “restrictions have been placed on [him] regarding his ... family visits and that his health is rapidly deteriorating” are not true.

**Urgent appeal sent on 31 January 2007 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the right to freedom of religion or belief, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders**

78. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr. **Jamyang Gyatso**, a monk at Bora Monastery in Xiahe, Northwest Gansu. According to the information received, he was arrested on 8 January 2007, by plain clothed Chinese security officials outside Bora Monastery. Officials at the Monastery later discovered that Mr. Gyatso’s room had been searched and that a bag full of religious scriptures, including CDs, had been removed. Several calls made to the publicly listed number for the local police were dismissed as a wrong number or the recipient hung up when enquiries were made as to Mr. Gyatso’s whereabouts. Mr Gyatso was detained at an unknown location at the time the communication was sent.

79. Before his arrest Mr. Gyatso had served as custodian of the gardens and forests in Bora Monastery and encouraged local Tibetans to listen to foreign radio broadcasts. He had also worked on making copies of a book written by a Tibetan poet, Hortsang Jigme, who lives abroad. His work as a human rights defender was carried out peacefully in the form of religious teachings and providing information to local Tibetans on how to receive images and writings of Tibetans living abroad. Concerns were expressed that the arrest and detention of Mr. Gyatso forms part of an ongoing campaign against Tibetans advocating for the human rights of Tibetans, such as the right to freedom of expression and freedom of religion. In view of the reported detention at an undisclosed location, further concern is expressed that Mr. Gyatso might be at risk of ill-treatment.

**Response from the Government sent on 23 March 2007**

80. In its reply, the Chinese Government informed that Mr. Jamyang Gyatso is a male Tibetan, born 30 April 1981, and is a monk at Bora monastery in Gansu province. The Government stated that on 9 January 2007, in accordance with the law, Mr. Gyatso was placed under investigation by the State security authorities, on suspicion of having conducted unlawful acts which endangered State security. In the course of the investigation Mr. Gyatso confessed in full to having committed the offence of incitement to separatism. On 3 February 2007, the Chinese security authorities ordered that he be placed under restricted freedom of movement, on his own recognizance, pending trial.

**Urgent appeal sent on 13 March 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture**

81. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Ablikim Abdiriyim**, third son of the human rights defender for the minority Uighur community in the northwest region of Xinjiang, Ms Rebiya Kadeer. He is currently being detained at Tianshan Detention Centre in Urumchi, the capital of the Xinjiang Uighur Autonomous Region (XUAR). Mr Abdiriyim was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 1 July 2005 and of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders on 29 June 2006. According to the information received, Mr Abdiriyim was arrested on 13 June 2006, along with his brothers Mr Alim Abduriyim and Mr Kahar Abduriyim. Subsequently, Mr Ablikim Abdiriyim was subjected to prolonged interrogations and beatings whilst awaiting trial. As a result of this treatment and the detention conditions, he is suffering from ill health. However, he is being denied access to medical treatment. He has also been prevented from wearing warm clothes provided by his family. Furthermore, on 26 November 2006, Mr Ablikim Adiriyim was seen being carried out of Tianshan Detention Centre on a stretcher. On 28 January 2007, Mr Abdiriyim was charged and tried with "subversion of state power", "ethnic separatism" and "sending information over the internet to Ms Kadeer".

82. Before their arrest, on 1 June 2006, both Mr Ablikim Abdureyim and his brother Mr Alim Abduriyim had been beaten by police in front of their children and their sister. Mr Ablikim Abdureyim was beaten unconscious and later hospitalised. His sister was then given a mobile phone by the perpetrators and told to call their mother, Rebiya Kadeer, who was in the United States at the time and to inform her about what was happening. She was later taken to hospital and treated for symptoms of stress and shock. Since 1999, when Ms Kadeer was first detained as a prisoner of conscience, members of her family have been subjected to ongoing harassment and intimidation. After her release on medical parole on 17 March 2005, when she left China for the USA, the intimidation of Ms Kadeer's family intensified. Prior to her release she had been warned that if she engaged with members of the Uighur ethnic community or spoke publicly about "sensitive issues" after her release, her "businesses and children will be finished". The "Kadeer Working Group", has been established by the authorities to handle the state's actions against the family and its businesses. Members of the Kadeer family have been informed that they should find new residences as the court would be confiscating their properties around or after the Chinese New Year, in February 2007, as partial payment for the heavy fines levied on the family business. On 27 November 2006, the day following Ms Rebiya Kadeer's election as president of the World Uyghur Congress (WUC), Mr Alim Abdiriyim and his brother Mr Kahar Abdiriyim were subjected to fines amounting to millions of US dollars and Mr Alim Abdiriyim was sentenced to seven years of imprisonment on charges of tax evasion.

### **Response from the Government sent on 17 July 2007**

83. The Government informed that on 13 June 2006, Ablikim Abdureyim was taken into custody. The Urumchi city people's procurator's office in the Xinjiang Uighur Autonomous Region laid charges against the defendant Ablikim Abdureyim for the offence of incitement to separatism and instituted proceedings against him with the Urumchi city people's intermediate court. Following proceedings in open court, the Urumchi city people's

intermediate court determined that on 21 April 2004, in the course of operations by the fire protection department of the Tianshan district public security bureau in Urumchi to check and rectify the fire protection facilities in the Rebiya Kadeer office building, Ablikim Abdureyim, acting under instructions from his mother Rebiya Kadeer, together with Alim Abdureyim, Rushangul Kadeer and others, started spreading rumours to the effect that the Government was going to prohibit and to close down the businesses operating in the Rebiya Kadeer office building, and other such allegations, printed 450 inflammatory leaflets, purchased cotton sheeting and started to prepare banners, with the intention of stirring people up to march on the government offices.

84. On 17 July 2004, Ablikim Abdureyim downloaded from the Internet two articles containing separatist material, entitled “Issues to be on guard against and to prohibit in jihad” and “Struggle towards independence”, and sent these to the Yahoo Uighur language website, requesting the dissemination of the articles on the Internet.

85. On 15 May 2006, after gleaning from the Internet the news that the United States Government had refused to hand over to the Chinese Government five East Turkestan terrorists who were Chinese nationals and was preparing to hand them over to the Albanian Government, Ablikim Abdureyim posted under that article such comments as “Long live East Turkestan! ... What we are doing in our own land to repel the alien invaders is not terrorism: it is revolution, we are making revolution! ...” and so forth. On 28 May 2006, acting under instructions from his mother Rebiya Kadeer and stepfather, Sidikaji Rozi, and together with Alim Abdureyim, Rushangul Kadeer and others, Ablikim Abdureyim concocted an article giving a distorted picture of the Chinese human rights system and nationalities policy, entitled: “Are we the criminals?” and, by use of the Internet, sent it to Rebiya Kadeer, Sidikaji Rozi and others in the United States of America and, after further amending this material, prepared to send it to people from Xinjiang who were out of the country at that time. The Urumchi city people’s intermediate court found that Ablikim Abdureyim had engaged in separatist activities and had violated the unity of the State and that his conduct constituted the offence of incitement to separatism. This conduct clearly does not fall within the scope of exercise of the freedom of expression and opinion; not only is it in breach of criminal law, it also violates the Constitution.

86. On 17 April 2007, the Urumchi city people’s intermediate level court handed down its judgement and published its verdict: pursuant to the provisions of article 103, paragraph 2, article 56, article 55, paragraph 1, and article 106 of the Criminal Code of the People’s Republic of China, Ablikim Abdureyim was sentenced to nine years’ fixed term imprisonment and stripped of his political rights for three years, for the offence of incitement to separatism. In the course of this case, the courts, in accordance with the law, safeguarded Ablikim Abdureyim’s lawful rights. Ablikim Abdureyim did not appoint defence counsel, nor did he request the court to assign a defence lawyer on his behalf. Article 34 of the Chinese Code of Criminal Procedure provides that, “if a defendant is blind, deaf or mute, or is a minor, and has not appointed defence counsel,” or “could be sentenced to death, but has not appointed defence counsel, the people’s court shall designate a lawyer to undertake the duty of providing legal assistance”. As in this case there was no duly appointed defence counsel, as stipulated by law, thus during the trial at first instance there was no defence counsel participating in the proceedings. During the trial, the defendant Ablikim Abdureyim made a full confession to having perpetrated a criminal offence. Three days before the trial opened, the court of first instance, as prescribed by law, posted an advance announcement of the date

and venue of the trial on the bulletin board and notified the procuratorial authorities and the defence thereof. Following the proceedings at first instance, Ablikim Abdureyim did not lodge an appeal and the judgement has since become enforceable. During the period over which Ablikim Abdureyim has been held in custody, the Chinese public security authorities have conducted all proceedings in strict compliance with the law and there have been no instances of intimidation, excessively long custody, use of torture to extract confessions or other such practices being used against him.

**Urgent appeal sent on 19 June 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the right to the highest standard of health**

87. The Special Procedures mandate holders brought to the attention of the Government the situation of **Mr. Peng Ming** detained at Han Yang Prison No. 16 in Wu Han City, Hu Bei province. The case of Mr. Peng Ming is the subject matter of Opinion no. 43/2005 of the Working Group on Arbitrary Detention, adopted on 29 November 2005. In that Opinion, the Working Group finds that “any limitation of Mr. Peng Ming’s legitimate political and non-violent activities carried out peacefully and in exercise of his rights to freedom of association and expression would be contrary to the international human rights law enshrined in the Universal Declaration of Human Rights”. The Working Group concludes that Mr. Peng Ming’s detention, which lasts since 28 May 2004, is “arbitrary, being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights”.

88. In the course of the last year, the independent experts received reports that Mr. Peng Ming, who continued to be detained in spite of the Working Group’s Opinion, was suffering from serious health problems, as well as allegations that the prison authorities were denying him adequate medical care.

89. The Working Group and the Rapporteurs report that they received information that Mr. Peng Ming, who continued to be detained in spite of the Working Group’s Opinion, was suffering from serious health problems, including kidney stones, infections, swelling and open wounds on arms and legs, and that the prison authorities were denying him adequate medical care. On 14 August 2007, the Special Rapporteur sent, jointly with the Special Rapporteur on the right to freedom of religion or belief, an allegation letter concerning **Mr. Runggye Adak**, of the Yonru nomadic group, as well as reportedly **200 people** allegedly involved in a protest to release him from prison. According to the information received, on 1 August 2007, Mr. Adak took the stage during the annual horse racing festival in Lithang, in the Kanze autonomous prefecture in the Suchuan province. He allegedly made a statement defending the Dalai Lama’s return and the release of Gedhun Choekyi Nyima who has been recognized as the eleventh reincarnation of the Panchen Lama by the Dalai Lama. Furthermore, he stated that the people of Lithang should have freedom of religion or belief. Mr. Adak was reportedly arrested by the People’s Armed Police as soon as he made these comments and subsequently taken into custody. According to the reports received, a large crowd proceeded to the police station and gained access to the compound. The crowd was dispersed after the authorities assured that Mr. Adak would be released the following day. On 2 August 2007, as people gathered in the police station again to demand the release of Mr. Adak, 200 protesters were allegedly taken into custody by the People’s Armed Police, including several other members of the Yonru nomadic group.

### **Response from the Government sent on 31 July 2007**

90. The Government indicated that **Peng Ming**, male, born 11 October 1956, ethnic Han Chinese, university graduate, unemployed, was arrested on 17 June 2004 on suspicion of the offence of kidnapping and on 23 June was remanded in custody. On 20 July 2005, the Wuhan city people's procurator's office in Hubei province laid charges against the defendant Peng Ming for the offences of setting up and directing a terrorist organization, kidnapping, and possession of counterfeit currency and instituted proceedings against him with the Wuhan city intermediate people's court.

91. Following proceedings held in open court, the Wuhan city intermediate people's court determined the following: since November 2000, through such means as composing and publishing written materials, devising training courses in terrorism, disseminating materials over the Internet, and others, Peng Ming had propagated and promoted views advocating violence and terror, recruited members of his terrorist organization, and incited others to carry out violent and terrorist criminal activities, including kidnapping and murder. To raise funds, from early 2002 to May 2004 in Wuhan, Changsha, Beijing and other places, Peng Ming had plotted, organized and directed criminal activities involving kidnappings. Between June 2003 and early 2004, Peng Ming had masterminded the setting up of a training base in Myanmar, for which he had enlisted recruits, and had instructed others in Myanmar to train these recruits, to teach them how to carry out kidnappings, murders and other crimes of violence and terror, and had then directed these trained recruits, after their return to their homeland, to enlist more recruits and to carry out acts of violence and terror.

92. On 22 May 2004, Peng Ming had knowingly carried forged renminbi banknotes across the border from Thailand into Myanmar, and was arrested by the Burmese police, who found on his person a total of 108 hundred-yuan banknotes, totalling 10,800 yuan in value. The Tachilek district court in Myanmar had sentenced Peng Ming to seven years' fixed-term imprisonment. Subsequently, the Myanmar authorities, in accordance with the relevant provisions of the China Myanmar frontier control and cooperation agreement between the People's Republic of China and the Government of the Union of Myanmar, had handed Peng Ming over to the Chinese judicial authorities.

93. The Wuhan city people's intermediate court passed down the following judgement: Peng Ming had disseminated and put into effect ideas advocating violence and terror, as a ringleader he had actively recruited and organized members, had established a training base for violence and terrorism, had trained operatives in violence and terror, and had organized, planned and carried out acts of violence and terror involving, among other things, kidnapping, thereby seriously endangering public security, and his actions had therefore constituted the offence of setting up and directing a terrorist organization. For the purpose of raising funds, Peng Ming had on many occasions also prepared acts of kidnapping involving the use of explosives, coercion and other methods, which acts constituted the offence of kidnapping. Peng Ming had also knowingly been in possession of forged renminbi currency, furthermore in a relatively large amount, and these actions constituted the offence of being in possession of counterfeit currency. The kidnapping activities directed and put into effect by Peng Ming were categorized as the preparation of the instruments and creation of the necessary conditions for the perpetration of an offence, and his acts of kidnapping were categorized as the preparations for an offence and, in accordance with the law, were subject to the imposition of lighter sentences.

94. On 13 October 2005, the Wuhan city people's intermediate court, passing judgement at first instance, sentenced Peng Ming to life imprisonment for the offence of setting up and directing a terrorist organization and stripped him of his political rights in perpetuity; for the offence of kidnapping, it sentenced him to 13 years' fixed-term imprisonment, stripping him of his political rights for two years; and fining him the amount of 20,000 yuan; for the offence of possession of counterfeit currency, it sentenced him to six years' fixed term imprisonment, and fined him the amount of 15,000 yuan. The court ruled that the final consolidated sentence should be life imprisonment, with the deprivation of his political rights in perpetuity and a fine of 35,000 yuan.

95. Following his sentencing at first instance, Peng Ming refused to accept the court's verdict and lodged an appeal. The Hubei provincial people's high court, after hearing the case at second instance, found that the determination of the offences by the court of first instance had been based on clearly established facts, the evidence had been sound and ample, the classification of the offences had been accurate, the sentence was commensurate with the offences and the trial proceedings had followed due process. Accordingly, on 15 December 2005, the court reached its ruling at second instance and, on 23 December, made public its judgement, that Peng Ming's appeal was dismissed and that the original judgement should stand.

96. Upon entering prison, the results of Peng Ming's physical examination showed that he was suffering from high blood pressure, kidney stones in his right kidney, and hepatitis. Following medication and treatment over the course of nearly one year, his state of health improved demonstrably. In December 2006, the results of his medical examination clearly showed that, apart from a slight kidney stone problem, all other results were normal and he is continuing with his treatment as before. The allegations in the communication that we have received, including that "he suffers from serious health problems ... infections", and that "the prison authorities are denying him adequate medical care", are completely groundless.

#### **Letter of allegations sent on 14 August 2007 jointly with the Special Rapporteur on freedom of religion or belief**

97. The Special Rapporteurs brought to the attention of the Government information they had received concerning Mr. **Runggye Adak**, of the Yonru nomadic group, as well as reportedly 200 people allegedly involved in a protest to release him from prison. According to the information received, on 1 August 2007, Mr. Adak took the stage during the annual horse racing festival in Lithang, in the Kanze autonomous prefecture in the Sichuan province. He allegedly made a statement defending the Dalai Lama's return and the release of Gedhun Choekyi Nyima who has been recognized as the eleventh reincarnation of the Panchen Lama by the Dalai Lama. Furthermore, he stated that the people of Lithang should have freedom of religion or belief. Mr. Adak was reportedly arrested by the People's Armed Police as soon as he made these comments and subsequently taken into custody. According to the reports received, a large crowd proceeded to the police station and gained access to the compound. The crowd was dispersed after the authorities assured that Mr. Adak would be released the following day. On 2 August 2007, as people gathered in the police station again to demand the release of Mr. Adak, 200 protesters were allegedly taken into custody by the People's Armed Police, including several other members of the Yonru nomadic group.

### **Response from the Government sent on 20 November 2007**

98. The Government informed that Mr. **Runggye Adak**, aged 53, is an ethnic Tibetan and farmer from Kahui village in Benghe rural district, Lithang county, Garzê prefecture. On 1 August 2007, he was taken into criminal custody, in accordance with the law, by the Lithang county public security bureau on suspicion of unlawful activities intended to foment the division of the State. On 25 August, in accordance with the provisions of article 103, paragraph 23, of the Criminal Code of the People's Republic of China, his detention was authorized by Garzê prefecture people's procuratorate. After measures of restraint had been imposed against Runggye Adak by the public security bureau, he did not submit any complaint to the judicial authorities. The case is still at the pretrial inquiry and preliminary investigation stage and has not yet been referred to the procurator's office.

99. The Chinese Constitution protects citizens' freedom of religious belief and freedom of expression. No one may be prosecuted because of their expression of their views or the legitimate exercise of their right to freedom of religious belief. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, together with other international human rights instruments, clearly stipulate that the exercise of rights and freedoms must be subject to restrictions under the law. In accordance with its law, China punishes actions intended to divide the country and other illegal and criminal activities, in conformity with the relevant provisions of international human rights conventions.

100. In the present case, there was no statement by Runggye Adak, as alleged, demanding steps by the Chinese Government to guarantee the safety of the Dalai Lama's return to China and the release of Gedhun Choekyi Nyima, appointed by the Dalai Lama as the eleventh Panchen Lama, or that the people of Lithang should have freedom of religion or belief, nor is it true that assurances were given that Runggye Adak would be released the following day or that some 200 protesters were taken into custody by the armed police.

### **Letter of allegations sent on 21 August 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

101. The Special Rapporteur and the Special Representative brought to the attention of the Government information they had received concerning **Melanie Raoul, Sam Price, Leslie Kaup, Nupur Modi, Duane Martinez, Pete Speller, Lhadon Tethong** and **Paul Golding**, human rights activists. According to the information received, Melanie Raoul, Sam Price, Leslie Kaup, Nupur Modi, Duane Martinez and Pete Speller, citizens of Canada, the United States and the United Kingdom, were arrested by the Chinese Police on 7 August 2007 during a demonstration at the Great Wall of China. Reportedly, the protesters displayed banners calling for Tibet's independence. On a related manifestation, Lhadon Tethong, Executive-Director of the organization Students for a Free Tibet, and Paul Golding were detained in Beijing on the same day. Allegedly, they had been manifesting for the independence of Tibet during the celebrations on the countdown to the Olympic Games in Beijing. According to the information received, the eight human rights activists were released from prison on 8 August 2007 and deported to Hong Kong on the same day.

### **Response from the Government sent on 20 November 2007**

102. At the time this report was finalized, the Special Rapporteur was not in a position to reflect the content of the reply from the Government of China as he had not received the translation of its content from the relevant services.

### **Letter of allegations sent on 30 August 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

103. The Special Rapporteur and the Special Representative sent a letter of allegations concerning the **Asia Catalyst Group**, a New York-based non-governmental organisation collaborating with local partners to foster respect for human rights and social justice; the China Orchid AIDS Project (COAP), a Beijing-based support group for those suffering from HIV/ AIDS as well as the families and orphans of those killed by HIV/ AIDS; human rights defender Mr Zhu Zhaowu, director of the COAP's office in Kaifeng in Henan province; Yirenping, an Information and Counselling Centre for those suffering from HIV/AIDS based in Beijing; the Alliance of People Living with HIV/AIDS; CAP+, a network of organisations of people living with HIV, and Mr Duan Jun, Head of the Henan Zhumadian PLWHA Self-Help Group,

104. According to information received, Chinese authorities allegedly called for the cancellation of a meeting organised by the Asia Catalyst Group and the China Orchid AIDS Project (COAP) to be held at the beginning of August 2007 in the city of Guangzhou in Guangdong province. The meeting was to involve a discussion with Chinese and foreign experts on how people living with HIV can best exercise their legal rights. The authorities reportedly said that they considered such issues to be too sensitive for public discussion.

105. In addition, on 15 August 2007, officers of the Kaifeng Public Security Bureau ordered the temporary closure for two provincial offices of COAP in Henan province. On 16 August 2007, Mr Zhu Zhaowu, the director of COAP's Kaifeng office, was allegedly instructed to clear out the office by midday of the following day or risk his own personal safety. The authorities in Henan are reportedly acting as an obstacle to Mr Zhu Zhaowu's attempts to secure alternative premises for COAP offices.

106. Yirenping was reportedly informed by local authorities that it could not hold a meeting planned for 4 August 2007 in Guangzhou. A meeting organised by the China Alliance of People Living with HIV/ AIDS to be held on August 19-20 2007 in Kaifeng was also cancelled by members of Kaifeng police, on the grounds that the organisation was unregistered and therefore illegal.

107. Similarly, CAP+ planned to hold a training in August for organisations of people living with HIV in Henan in collaboration with among others Henan Zhumadian PLWHA Self-Help Group. The organisations were given the permission to organise the meeting by the health authorities. However, the organisations were contacted by the Bureau of Public Security and summoned to cancel the meeting. As a result, Mr Duan Jun, who was supposed to participate in the training, is reportedly under constant police surveillance.

**Response from the Government sent on 20 November 2007**

108. At the time this report was finalized, the Special Rapporteur was not in a position to reflect the content of the reply from the Government of China as he had not received the translation of its content from the relevant services.

**Urgent appeal sent on 30 August 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

109. On 30 August 2007 the Special Rapporteur and the Special Representative sent a letter of allegation concerning Mr. **Lu Gengsong**, a well-known writer who has published several pro-democracy articles on the internet and books on political reform.

110. According to the information received, on 24 August 2007, Mr. Lu, [delete] was arrested at his home by members of the security forces. These agents also carried out a search in Mr. Lu's home and questioned his family. Mr. Lu was taken to the Detention Center of the Hangzhou Public Security Bureau's branch in the West Lake district. The charges against him were "inciting subversion of state power" and "illegal possession of state secrets". According to reports, the police informed Mr. Lu's family that the main reason for his detention had been his articles attacking the Chinese Communist Party.

**Response from the Government sent on 20 November 2007**

111. At the time this report was finalized, the Special Rapporteur was not in a position to reflect the content of the reply from the Government of China as he had not received the translation of its content from the relevant services.

**Urgent appeal sent on 5 September 2007 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders**

112. The Special Rapporteur, the Special Representative and the Chairperson-Rapporteur sent an urgent appeal concerning the situation of Mr **Yang Chunlin**, a resident of Jiamusi City, Heilongjiang Province. According to the information received, on 6 July 2007, Mr Yang was arrested, and on 3 August was charged with "subversion of state power" following an apparent order of the Ministry of Public Security. Mr Yang is reportedly detained at Heitong Detention Center in Heilongjiang with no access to his family. It is not clear whether he has access to a lawyer. It is believed that Mr Yang was arrested because of his campaign in collecting signatures to support an open letter entitled "We want human rights, not the Olympics" in villages where he had been helping farmers who lost their land to seek legal redress. Mr Yang had reportedly collected more than 10,000 signatures, mostly by Heilongjiang farmers who reportedly were forcedly evicted and sympathized with victims of land loss in urban areas where officials allegedly evicted them for hosting the Olympics without providing adequate compensation.

**Response from the Government sent on 20 November 2007**

113. In a letter sent on 20 November 2007, the Government informed that Yang Chunlin, was taken into criminal detention on 6 July 2007 by the Jiamusi public security authorities, in

accordance with the law, on suspicion of the offence of fomenting subversion of State political power and on 12 August his arrest was approved by the procuratorial authorities. His case is currently under consideration.

**Urgent appeal sent on 4 October 2007 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on freedom of religion or belief**

114. The Special Rapporteurs and the Chairperson-Rapporteur sent an urgent appeal regarding **Kunkhen**, an artist, and **Mr. Lobsang Phuntsok**, a 30 years old monk of the Lithang Monastery. According to the information received, Mr. Lobsang Phuntsok was arrested on 15 September 2007 following a raid carried out at his residence in the monastery by officials from the Lithang County Public Bureau Security. He was arrested on allegations of having established close ties with an artist named Kunkhen. Kunkhen was arrested on 22 August 2007 by Lithang County Public Bureau Security officials for having taken pictures of Mr. Ronggay A'drak [Runggye Adak] on 1 August 2007 when he was addressing a large Tibetan crowd gathered for the annual Lithang horse-race festival. The exact whereabouts of Kunkhen and Mr. Lobsang Phuntsok and the charges held against them remained unknown at the time the communication was sent.

**Response from the Government sent on 21 December 2007**

At the time this report was finalized, the Special Rapporteur was not in a position to reflect the content of the reply from the Government of China dated 21 December 2007 as he had not received the translation of its content from the relevant services.

**Urgent appeal sent on 9 October 2007 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the Special Rapporteur on the question of torture**

115. The Special Rapporteurs, the Chairperson-Rapporteur and the Special Representative sent an urgent appeal concerning Mr **Zheng Dajing**, a petitioner and human rights defender. According to the information received, Mr Zheng Dajing was arrested and detained on 9 September 2007 by officials of the Public Security Bureau of Shiyan City, Yunxi County, Hubei Province, on criminal charges of “petitioning leading to disturbance of social order.” Mr Zheng was believed to be held at the Yunxi Detention Centre, however, on 18 September 2007 it appeared that Mr Zheng is being detained at Yancao Station in Hongtai Yuansigou Village, where he has been beaten and subjected to other forms of ill-treatment. Yancao Station is an unofficial detention facility established by local authorities for the purpose of detaining petitioners. Local Government authorities allege that Yancao Station is in fact merely a “class for petitioners who have adopted unusual means to petition” and was set up following directives of the Central Government.

116. Before Mr Zheng was arrested he had been forcibly returned from Beijing to his hometown on 7 September 2007 by unidentified officials believed to be from the Hubei Province. In Beijing he had met with other petitioners and received information about the destruction of a village where other petitioners were living. Local Government officials in Beijing also attempted to forcibly return Mr Zheng’s wife, Ms Cao Xiangzhen, to the Hubei

Province. Earlier, on 5 September 2007, Mr Zheng published a letter addressing leaders at the Asia-Pacific Economic Cooperation (APEC) meeting on 8 and 9 September 2007 about the human rights situation in the People's Republic of China. His seven year old daughter and his wife were previously detained for 65 days in July 2006. Mr Zheng has been petitioning for several years because his house was seized by the local Government. Since early 2007, Mr Zheng has also actively helped hundreds of other petitioners and defended their rights.

#### **Response from the Government sent on 15 January 2008**

117. At the time this report was finalized, the Special Rapporteur was not in a position to reflect the content of the reply from the Government of China as he had not received the translation of its content from the relevant services.

#### **Urgent appeal sent on 25 October 2007 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders**

118. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms **Liu Jie**, human rights defender and pro-democracy activist, and Mr. **Fu Jingjiang**, her husband. According to information received, on 11 October 2007, Ms Liu Jie was reportedly arrested by members of the Beijing police in the area of the Beijing Zhong Ding Village. From there, she was taken to You-an Men police station. On 13 October, Ms Liu Jie was charged with "suspicion of gathering crowds to disturb social order" on the basis of Article 61 of the PRC Criminal Procedure Law regarding the initial detention of "major suspects" or "active offenders". Ms Liu Jie is currently detained at the Beian Nongken Detention Centre.

119. Prior to her arrest, Ms Liu Jie had been the main coordinator in the presentation of a public letter, signed by over 12,000 petitioners, to the Chinese Communist Party leaders when they are to meet at the 17th Party Congress on 27 October 2007. The letter calls on party leaders to enact political and legal reforms and has been signed by victims of alleged harassment and brutality at the hands of the police and other state officials. Ms Liu Jie has been involved in such petitions to official Chinese Communist Party meetings since 2003. The other coordinators of the public letter have reportedly gone into hiding. It is believed that Mr Fu Jingjiang has also been arrested by police forces as he has not been seen since petitioners witnessed his arrest in Harbin on 15 October 2007.

#### **Urgent appeal sent on 30 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

120. The Special Rapporteur and the Special Representative sent a letter of allegations concerning Mr **Ronggyal Adrak**, a Tibetan nomad of the Yonru nomadic group, Mr Adruk Lopoe, monk of Lithang Monastery, from Yonru Village, and nephew of Mr Ronggye Adrak. He had publicly campaigned for the release of Mr Ronggye Adrak and was subsequently arrested. Mr Ronggyal Adrak was the subject of a letter of allegation sent by the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 14 August 2007. Mr Adruk Lopoe was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working

Group on Arbitrary Detention and Special Rapporteur on the question of torture on 29 August 2007.

121. According to the information received, on 20 November 2007, Mr Ronggyal Adrak was sentenced by the Ganzi Autonomous Prefecture People's Court in Dartsedo to eight years of imprisonment with deprivation of political rights for four years on charges of seeking to "split" the country and subvert state power during a public meeting on 1 August in Lithang county when he called for the return of the Dalai Lama and the release of Tibetan political prisoners. On 20 November 2007, Mr Adruk Lopoe was sentenced by the same court to ten years' imprisonment on charges of "colluding with foreign separatist force to split the country and distributing political pamphlets."

#### **Response from the Government sent on 15 January 2008**

122. At the time this report was finalized, the Special Rapporteur was not in a position to reflect the content of the reply from the Government of China as he had not received the translation of its content from the relevant services.

#### **Urgent appeal sent on 30 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

123. The Special Rapporteur and the Special Representative sent a letter of allegations concerning Mr. **Yang Maodong** (a.k.a Mr. **Guo Feixiong**). Mr. Yang Maodong is a legal adviser with the Shengzhi law firm in Beijing. Mr Yang Maodong has been the subject of other communications sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers on 6 March and 19 October 2006.

124. According to information received, on 14 November 2007, Mr. Yang Maodong was convicted by the Tianhe District Court of Guangzhou City of having conducted "illegal business activity" through the publication of Political Earthquake, which exposed government corruption in Shenyang City, Liaoning Province. Mr. Yang Maodong was sentenced to five years' imprisonment and a fine of 40,000 Yuan and is being detained at Guangzhou City No. 3 Detention Centre. The trial reportedly featured irregularities in legal procedure, such as the absence of Mr. Yang Maodong's lawyers at the sentencing. Mr. Yang Maodong has been detained since 14 September 2006 and has reportedly been subject to ill-treatment during his detention. Prior to his detention he had provided legal assistance to peasants from the village of Taishu in Guangdong in their campaign to obtain a court ruling to dismiss the head of the village committee, who has been suspected of corruption.

#### **Response from the Government sent on 15 January 2008**

125. At the time this report was finalized, the Special Rapporteur was not in a position to reflect the content of the reply from the Government of China as he had not received the translation of its content from the relevant services.

#### **Urgent appeal sent on 28 December 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Representative of the Secretary-**

## **General on human rights defenders and the Special Rapporteur on the question of torture**

126. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms **Liu Jie**, human rights defender and veteran rural campaigner. Ms Liu Jie was the subject of an urgent appeal sent on 25 October 2007 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders to which the Government had not responded at the time this report was prepared.

127. According to the information received, on 26 October 2007 Liu Jie's husband was told by officers at the Beian City Nongken Detention Center, where Liu Jie was detained, that she would be released on that day. However, when he went to the detention center that afternoon, he was told that it had been decided to send Liu Jie to Re-education through Labor (RTL). RTL is an administrative detention measure, according to which, without any proper legal procedures or court proceedings, the Public Security Bureau can send individuals to detention facilities for a maximum of four years. Detainees sent to RTL are deprived of their rights to legal counsel and appeal.

128. Ms Liu Jie is now serving her 18-month RTL term in Qiqihaer, Heilongjiang province, where she has to work 14 hours a day, six days a week. According to a doctor who examined her on 20 December 2007, Ms Liu Jie will go blind if she does not receive proper treatment immediately. Reportedly, Liu Jie's eye injuries require treatment unavailable in Heilongjiang Province so she must be sent to Beijing for treatment. Her family has requested RTL authorities to grant her bail for medical treatment. Her lawyers have also filed a request for an administrative review of the decision to send her to the RTL camp. The authorities have reportedly not responded to either of these requests.

129. The eye injuries are said to be linked to beatings she suffered because of her petitioning and human rights activities. She was reportedly beaten a number of times by Heilongjiang Provincial Nongken (Military Farm Bureau) Public Security Bureau Beian Sub-division personnel. In March 2002, in one such beating, she suffered permanent eye injury and drastically reduced vision. While in detention, she was again beaten, which caused further injuries to her eyes.

### **Follow-up to previously transmitted communications**

130. On 9 October 2006 and 4 January 2007, the Government replied to the letter sent by the Special Rapporteur on 10 August 2006 concerning the case of Mr **Dolma Kyab** [Zhuo Shique], who was sentenced to ten years' imprisonment term for writing and maintaining a commentary manuscript on various socio-political issues in Tibet. According to the Government's reply, Mr. Kyab was arrested on 27 May 2005 on suspicion of illegally crossing the State frontier and espionage. It was ascertained by the Lhasa people's intermediate court that, between November 2003 and June 2004, without following the required legal formalities, the defendant had unlawfully departed from and re-entered the country at the Dram border crossing, actions which constituted the offence of illegally crossing the State frontier. Once out of the country, he actively contacted members of the intelligence agency in the so-called "Security Ministry" of the Dalai clique, to whom he

proposed the formation of a purported “environmental protection organization”. He proceeded to enlist supporters to conduct separatist activities, obtained the backing of the “Security Ministry” of the Dalai clique and received first 12,400 Indian rupees and then 6,500 Nepalese rupees to fund activities. On the instructions of employees of the Dalai clique’s “Security Ministry”, Dolma Kyab added extensive separatist material to his book *Restless Himalayas*, including discussion of such issues as a “Tibetan State” flag, “sovereignty”, etc. He then burnt this on to CDs which he brought with him into the country, planning to disseminate them widely inside China, an act which constituted the offence of espionage. Dolma Kyab’s actions were in breach of the Chinese Criminal Code and manifestly did not fall within the scope of freedom of opinion and expression. He was thus sentenced to 10 years imprisonment, as well as the suspension of his political rights for 5 years, on the offence of espionage. Mr. Kyab refused to accept the court’s verdict and lodged an appeal. The people’s high court of the Tibetan Autonomous Region upheld the original verdict. In its final judgement, the court upheld the sentence passed at first instance, with the additional penalty of forfeiture by the defendant of all his personal assets. On its letter of 4 January 2007, the Government added that Mr. Kyab is currently serving his sentence in the Qushui prison in Tibet Autonomous Region. His health is normal and the prison hospital has him under regular observation and has found that his normal cold-like condition is not susceptible to active treatment.

131. On 4 January 2007, the Government replied to the urgent appeal sent on 22 August 2006 concerning the case of Ching Cheong, a reporter working for the Singapore daily *Straits Times* who was convicted on espionage charges. The Government provided that On 31 August 2006, the Beijing People’s Intermediate Court No. 2 publicly announced its verdict in the proceedings against Mr. **Ching Cheong** on charges of espionage. While stationed in Taiwan as a reporter with the *Straits Times*, through his participation in a current affairs seminar organized by a certain Taiwanese foundation, Ching had been introduced to a certain Xue and a certain Dai, agents working for the Taiwanese foundation, which was an espionage organization. From May 2004 to April 2005, in full awareness that the foundation was a Taiwanese espionage organization, and that Dai and Xue were agents, Ching had taken instructions from Xue and Dai and, with the use of fax, email and other means of communication, had sent them documents and written material containing State secrets and other intelligence from Beijing and other places and, operating under an assumed name, had received the sum of HK\$ 300,000 as payment for services rendered. Beijing People’s Intermediate Court No. 2 found that the defendant Ching Cheong had acted on instructions from agents for a Taiwanese organization, had actively gathered State secrets and intelligence and had passed these on to the espionage organization, and ruled that his conduct constituted the offence of espionage. Mr. Cheong voluntarily confessed to the charges and was subject to a measure of clemency. He was convicted to five years’ imprisonment, suspension of political rights for one year and seizure of personal assets to a total of 300,000 yuan. After hearing the case at second instance, the Beijing People’s High Court overturned his appeal and upheld the original sentence, publicly announcing its verdict on 24 November.

## **Observations**

132. The Special Rapporteur is grateful for the Government’s responses. At the time this report was prepared, the Special Rapporteur had not received responses to his communications of 25 October 2007 and 28 December 2007.

## Colombia

### Llamamiento urgente enviado el 6 de marzo de 2007

133. El Relator Especial envió un llamamiento urgente en relación con el Sr. **Édgar Buitrago**, director del periódico La Razón. Según las informaciones recibidas, el 20 de febrero de 2007, dos hombres armados se acercaron a las oficinas del periódico La Razón. Se alega que uno de los asaltantes habría atacado al Sr. Gustavo Adolfo Alape, escolta del Sr. **Édgar Buitrago**, y se produjo un intercambio de disparos tras el cual los agresores escaparon. El Sr. Alape resultó herido, al igual que un empleado del periódico y un transeúnte, estos últimos con heridas leves. Existirían serios indicios de que el ataque fuera en represalia a los reportajes críticos del Sr. Buitrago en La Razón sobre la corrupción existente en el gobierno local. Según fuentes, el 8 de febrero de 2007, el periodista hubiera recibido un mensaje electrónico anónimo en el que le advertían que de seguir informando, lo matarían. También en agosto y septiembre de 2006 el Sr. Buitrago habría recibido varias llamadas de individuos no identificados a su teléfono celular, amenazándolo de muerte. Según las informaciones recibidas, en el 2004, el Ministerio del Interior habría adjudicado protección policial al Sr. **Édgar Buitrago**, después de que se hubiera visto obligado a huir dadas las amenazas de muerte recibidas. Anteriormente, en el 2002, el Sr. **Édgar Buitrago** habría huido de Cali tras haber recibido amenazas de muerte vinculadas a sus reportajes sobre corrupción gubernamental para la Revista Valle 2000.

### Respuesta del Gobierno enviada el 6 de julio de 2007

134. El Gobierno transmitió la información siguiente en relación con la comunicación del 6 de marzo de 2007 sobre la situación del Sr. **Édgar Buitrago**. El Gobierno mencionó que el caso se encontraba en etapa de verificación de información, habiéndose practicado varias pruebas. Según las investigaciones, el atentado no fue dirigido contra el periodista sino contra su escolta, por razones de índole personal. Se informó que en entrevistas del Jefe de la Oficina de Protección Especial del Departamento Administrativo de Seguridad con Jhony Rios Raigoza, integrante del esquema protectivo del periodista, se expresó la probabilidad de que el ataque ocurrido no estuviera dirigido contra el periodista Édgar Buitrago, sino contra su escolta Gustavo Alape, quien le había comentado al entrevistado acerca de sus problemas con un individuo, cuya esposa o compañera mantenía una relación amorosa con él. Se conocía que en cierta oportunidad ese sujeto le reclamó de manera airada y amenazante. El Sr. Alape también habría confirmado esta información, considerando que el atentado iba dirigido exclusivamente en su contra y no de Édgar Buitrago. Por estos hechos, el Departamento Administrativo de Seguridad concluyó que los precipitados hechos no guardan relación alguna con las presuntas amenazas contra Édgar Buitrago, sino que por el contrario se estaría frente a un caso de venganza personal por problemas sentimentales, en contra del Sr. Alape. No obstante, el Ministerio del Interior y de Justicia informó que el Édgar Buitrago es beneficiario de un esquema individual de seguridad en el Programa de Protección a Periodistas y Comunicadores desde el año 2003, el cual consta de un vehículo corriente, dos unidades de escolta, junto con sus respectivos elementos de dotación y medios de comunicación Avantel.

### **Carta de alegaciones enviada el 11 de abril de 2007**

135. El Relator Especial envió una comunicación en relación con el Sr. **Johnny Olivares**, reportero gráfico del diario Heraldo de la ciudad de Barranquilla. Johnny Olivares hubiera sido agredido por dos individuos cuando se disponía a cubrir unas informaciones. Como consecuencia de las agresiones él habría quedado inconsciente y fue incapacitado por 15 días. Los presuntos agresores, cuyos nombres son conocidos por el Relator Especial, habrían tratado de impedir que Johnny Olivares se acercara a las instalaciones del Instituto Nacional de Medicina Legal y que tomara fotos de ellos. Según las informaciones recibidas, el hermano de los presuntos agresores estaría vinculado a una investigación penal por el robo de 2.800 kilos de cocaína por parte de miembros de la Policía en el año 2002. Las agresiones al Sr. Johnny Olivares estarían relacionadas con el temor de los agresores a que éste pudiera publicar alguna información de relevancia al caso.

### **Llamamiento urgente enviado el 23 de mayo de 2007 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias**

136. Los Relatores y la Representante Especial señalaron a la atención urgente del Gobierno la información recibida en relación con el asesinato del Sr. **Francisco Puerta**, líder campesino y ex-coordinador de la Zona Humanitaria de la vereda Miramar y los miembros de la Comunidad de Paz de San José de Apartadó, en el Departamento de Antioquia. De acuerdo con la información recibida, el 14 de mayo de 2007, hacia las 07:00 de la mañana, el Sr. Puerta fue asesinado por dos individuos, con supuestos vínculos paramilitares, en una tienda frente del Terminal de Transportes de Apartadó. Los asesinos le habrían disparado varias veces. Los agresores habrían salido caminando tranquilamente a pesar de que hubiera una presencia policial en los alrededores. Así mismo, el 9 de mayo de 2007, tres paramilitares, vestidos de civil y portando armas de fuego y radios de comunicación, habrían detenido a tres mujeres partidarias de la Comunidad de Paz de San José de Apartadó. Estos tres individuos se les habrían presentado como miembros de las ‘Águilas Negras’, y les dijeron que las buscaban, amenazando en matarlas. Los paramilitares llevaron a las mujeres hacia la salida de Apartadó en donde se ubica el retén de la policía, y las pidieron identificaciones y efectuaron llamadas por radio dando datos de cada una. Resultó que las mujeres no eran las que buscaban y las soltaron tras una media hora de detención, insultos y amenazas. Se alega que, antes de liberarlas, los paramilitares les habrían dicho que ‘ya tenían orden de meterse a San Josesito, la Unión y las demás veredas para realizar una masacre’ y que ‘la orden se había coordinado con la policía y el Ejército, quienes les habían dado los nombres de a quien tenían que “darle”’. Las mujeres fueron amenazadas con que algo les sucedería si dijeran algo sobre el incidente.

### **Respuesta del Gobierno enviada el 14 de diciembre de 2007**

137. En su respuesta, el Gobierno transmitió la siguiente información en relación con el llamamiento urgente. La Fiscalía General de la Nación ha asignado al Fiscal Delegado ante los jueces del Circuito Especializado adscrito a la Unidad Nacional de Derechos Humanos, para adelantar hasta su culminación la investigación penal por el homicidio del Sr. **Francisco Puerta**. Se ha realizado una inspección técnica al cadáver, inspección al lugar de los hechos, orden de necropsia y entrevistas. La Procuraduría General de la Nación señaló que recurrió a

las entidades competentes con el fin de desplegar todos los mecanismos necesarios para prevenir la ocurrencia de hechos similares en la región. Por su parte, el Grupo de Asesores Disciplinarios de la Procuraría General de la Nación asumirá conocimiento de un informe en el que se contextualizan los hechos que rodearon la muerte del señor Puertas, a partir de información recibida de parte de personas residentes del Corregimiento de San José de Apartado.

138. Según información recibida por el Comando General de las Fuerzas Militares, se han implementado varias acciones para contrarrestar situaciones de riesgo en contra de miembros de la Comunidad de Paz, que han evitado acciones de grupos armados ilegales en contra de personas civiles. La Policía Nacional informó que se había impartido instrucciones a los Jefes Seccionales de policía Judicial y Seccional de Inteligencia, con el fin de desarrollar todas las labores de su competencia, para contrarrestar cualquier acción que intente vulnerar a los habitantes de la comunidad de paz de San José de Apartado. La Seccional de Inteligencia no cuenta con elementos de información que indiquen la presencia de grupos ilegales de autodefensa en el área general de San José de Apartado, conociéndose únicamente la presencia de los frentes 5 y 58 del grupo guerrillero de las FARC. El Departamento de Policía de Urabá permanentemente dispone la recolección de información así como la alerta permanente, disposición de los uniformados y el incremento de las campañas comunitarias en la jurisdicción con el fin de mejorar el acercamiento y la confianza de la población civil en la Policía Nacional. Asimismo se ha realizado coordinaciones con la Alcaldía Municipal, a fin de expedir los actos administrativos necesarios que apoyen la labor policial, para garantizar el orden y la tranquilidad de la localidad de San José de Apartado. El Gobierno precisó que las diferentes Fuerzas que componen la Fuerza Pública del orden nacional, actúan coordinadamente, con una política pública vigente no tolerante con los grupos armados ilegales, por lo cual se ha acudido a la continua

### **Llamamiento urgente enviado el 22 de junio de 2007 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

139. El Relator y la Representante Especial señalaron a la atención urgente del Gobierno la información recibida señalando que en la madrugada del 6 de junio de 2007, un grupo de criminales armados atacó en su propia casa a la familia del Sr. **Hernando Melán Cardona**, un destacado sindicalista de la empresa Textiles Rionegro, asesinando a su hijo, el Sr. **Andrés Julián Melán**, e hiriendo gravemente a su esposa, la Sra. **Luz Ángela Velásquez**, y a su otro hijo, en el municipio de Rionegro (Departamento de Antioquía). De acuerdo con las informaciones recibidas, el Sr. Melán Cardona, un defensor del proceso de unidad que se ha venido dando en todo el sector textil colombiano, proceso encabezado por la Central Unitaria de Trabajadores de Colombia (CUT), ya había recibido amenazas contra su vida anteriormente. Según fuentes, el Sr. **Johan Jairo Arcila Parra**, dirigente comunal y de los artesanos, y también líder político, habría sido asesinado el pasado 5 de junio de 2007, en la ciudad de Armenia, Departamento de Quindío. El Sr. Jairo habría hecho denuncias sobre la presunta corrupción que se venía presentando por parte de la administración municipal en el centro comercial popular, lugar donde estarían instalados los vendedores ambulantes, a los cuales él también dirigía.

### **Carta de alegaciones enviada el 29 de junio de 2007**

140. El Relator Especial envió una comunicación en relación con la Sra. **Johana Toro**, fotógrafa de la revista Cambio, que hubiera sido agredida el 30 mayo de 2007 por un agente del Escuadrón Móvil Antidisturbios de la Policía (ESMAD) después de tomar unas fotografías de una agresión a un manifestante de la jornada de protestas y de paro nacional en el centro de Bogotá. Según las informaciones recibidas, el agente habría golpeado a la fotógrafa.

### **Respuesta del Gobierno enviada el 3 de diciembre de 2007**

141. El Gobierno transmitió la información que el Comandante del ESMAD precisó que le correspondió adoptar todas las medidas de seguridad, vigilancia y control de las protestas producidas en el 30 de mayo, bajo una Orden de Servicio dictada por la Policía Metropolitana de Bogotá. Las acciones del ESMAD tendrían como misión y finalidad general proteger y velar por la integridad física de las personas asistentes a las diferentes marchas, evitando las alteraciones del orden público. Según directivas permanentes de la policía, hay criterios establecidos para la identificación del personal y sus integrantes, incluso la utilización del número de placa de identidad policial, con el fin de permitir su identificación ante cualquier eventual novedad. El Gobierno comunicó que la Policía Nacional no conoce novedad alguna en la que resultara involucrada la fotógrafa **Johana Toro**. Se informó que los hechos de que presuntamente habría sido víctima son de conocimiento de la Fiscalía Local Décima y de la Unidad Primera de Fiscalías Delegadas ante los Juzgados Penales Municipales de Bogotá. La Procuraduría General de la Nación informó que no existe queja disciplinaria alguna por los hechos en mención. La Defensoría del Pueblo informó que no hay petición o queja interpuesta por la presunta víctima. El Ministerio del Interior y de Justicia informó que no encontró antecedentes o peticiones de protección por parte de la periodista, dentro del Programa de Protección de Periodistas y Comunicadores Sociales.

### **Carta de alegaciones enviada el 18 de julio de 2007**

142. El Relator Especial envió una comunicación en relación con el Sr. **Javier Manjarrés**, director del noticiero de radio Actualidad de Emisoras Unidas. Según la información recibida, el periodista habría sido atacado por simpatizantes del partido político Polo Democrático Alternativo (PDA) en el hotel El Prado, en Barranquilla, al finalizar una rueda de prensa ofrecida por el presidente de dicho partido. Al parecer, las preguntas realizadas por **Javier Manjarrés** sobre las investigaciones y las denuncias por corrupción referentes a otro miembro del PDA, cuyo nombre es conocido por el Relator Especial, ofendieron a varios simpatizantes del partido, quienes le abordaron a la salida del recinto. El periodista habría sido golpeado, llegando incluso a perder la conciencia durante varios minutos y, según fuentes, dejándolo incapacitado por once días.

### **Respuesta del Gobierno enviada el 29 de noviembre de 2007**

143. El Gobierno transmitió la información que el Ministerio del Interior y de Justicia no encontró antecedentes o peticiones de protección por parte de la víctima dentro del Programa de Protección de Periodistas y Comunicadores Sociales. Se precisó que ante el desconocimiento de los datos de ubicación de **Javier Manjarrés**, no se pudo establecer contacto con el mismo, con el fin de adoptar medidas protectivas a su favor. La Defensoría

del Pueblo también informó no haber encontrado ninguna petición o queja interpuesta por la víctima. La Procuraduría General de la Nación, por su parte, informó que no existe queja disciplinaria por los hechos mencionados en la comunicación. La Fiscalía General de la Nación informó que las alegaciones son de conocimiento de la Fiscalía 35 de la Unidad de Delitos contra la Vida e Integridad Personal de la ciudad de Barranquilla. El 31 de agosto de 2007, la Fiscalía ordenó, bajo el radicado No. 281620, una resolución ordenando compulsar copias del expediente para investigar el delito de Lesiones Personales del que fuera víctima Javier Manjarrés.

### **Llamamiento urgente enviado el 16 de agosto de 2007 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

144. El Relator Especial y la Representante Especial señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. **Héctor Torres** y el Sr. **Rigoberto Jiménez**. El Sr. Jiménez es el director de la Coordinación Nacional de Desplazados (CND), una organización que trabaja en defensa de los derechos de los desplazados, y los dos son integrantes del Movimiento Nacional de Víctimas de Crimenes de Estado que se dedica a la denuncia de las violaciones de derechos humanos y derecho internacional humanitario cometidos contra ciudadanos o comunidades por miembros de la Policía Nacional o grupos paramilitares en Colombia. De acuerdo con la información recibida, el 31 de julio del 2007, individuos de un grupo paramilitar que se identificaron como “Águilas Negras”, habrían irrumpido en la casa del Sr. Héctor Torres en la ciudad de Villavicencio. Dichos individuos, que llevaban armas pequeñas, habrían amenazado a las personas que estaban adentro mientras buscaban al Sr. Héctor Torres, quien no se encontraba en la casa. Uno de los miembros de la familia habría avisado a un vecino que llamó a la policía. Según la información recibida, el 26 de junio del 2007, las “Águilas Negras de Bosa” habrían enviado un correo electrónico a la Coordinación Nacional de Desplazados (CND) con una amenaza de muerte contra el Sr. Jiménez. El 22 de junio de 2007, el Sr. Jiménez habría recibido un mensaje amenazante donde se le ordenaba que dejara sus actividades y que mantuviera la boca cerrada. El 12 de julio se habrían acercado dos individuos desconocidos al Sr. Jiménez en una calle en Bogotá. Le habrían dicho que trabajaban con las “Águilas Negras” con la intención de poner fin a todos los guerrilleros que estaban criticando al gobierno. Todos los incidentes antedichos ocurrieron durante la celebración del Tribunal Internacional de Opinión en Bogotá, una conferencia internacional que trató del tema de los desplazamientos forzados. Se expresó profunda preocupación por la seguridad e integridad física y psicológica del Sr. Héctor Torres y el Sr. Rigoberto Jiménez.

### **Llamamiento urgente enviado el 16 de agosto de 2007 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria**

145. Los titulares de mandato de procedimientos especiales señalaron a la atención urgente del Gobierno la información que las siguientes personas fueron detenidas el 29 de septiembre de 2007 en la vereda El Cagüí, Ciénaga de San Lorenzo, zona rural de Cantagallo, Departamento de Bolívar, mientras se encontraban reunidos con campesinos miembros de la Comunidad, por agentes del Departamento Administrativo de Seguridad (DAS) y miembros del Ejército:

- Sr. **Andrés Gil**, Coordinador de la Asociación Campesina del Valle Cimitarra (ACVC) en Barrancabermeja;
- Sr. **Oscar Enrique Duque**, dirigente fundador de la ACVC;
- Sr. **Evaristo Mena**, miembro de la ACVC y de la Junta de Acción Comunal de la vereda La Poza.

146. Se informa que durante la detención de estas personas, y ante las protestas de los campesinos de la Comunidad, los agentes realizaron disparos al aire. Luego de su detención estas tres personas fueron conducidas al cuartel del Batallón Nueva Granada de Barrancabermeja. Se informa también que el Sr. Oscar Enrique Duque fue ya detenido el 5 de octubre de 2006 en su vivienda por soldados del Ejército Nacional, al parecer pertenecientes a unidades de la Quinta Brigada, en la vereda La Concepción, en el valle del río Cimitarra, siendo posteriormente liberado. Se informa también que el Sr. **Mario Martínez**, Tesorero de la ACVC, fue detenido el mismo día en su domicilio en Barrancabermeja, Departamento de Santander, por agentes del DAS, siendo conducido a la sede de dicha entidad en Barrancabermeja. Posteriormente los cuatro detenidos habrían sido conducidos a la Cárcel Modelo de Bucaramanga, donde se encontrarían actualmente. Según las informaciones recibidas, la ACVC es una organización legalmente constituida y registrada y ampliamente conocida en la región del Magdalena Medio. En julio de 2007 fue interlocutora del Gobierno durante las negociaciones de un acuerdo regional de carácter humanitario. Su oficina regional en Barrancabermeja, ubicada en el Edificio La Tora, fue allanada el 1 de octubre por soldados y agentes del DAS. La ACVC postularía la constitución de zonas de reserva campesina, orientadas a la propiedad comunal de las tierras y a la protección ambiental.

#### **Respuesta del Gobierno enviada el 15 de enero de 2007**

147. El Gobierno informó que el 29 de septiembre de 2007, detectives del DAS, con apoyo de la Armada Nacional, capturaron al Sr. **Andrés Gil** [Andrés Elías Gil Gutiérrez] y otra persona en cumplimiento de las órdenes judiciales de captura N° 16050-8 y 16050-13 de 12 de julio de 2007 por el delito de rebelión, dentro del proceso penal 256775 que se adelanta en la Fiscalía 3 Seccional de Barrancabermeja, Departamento de Santander. Mediante informe N° 332 del 19 de septiembre, las personas mencionadas fueron puestas a disposición del precipitado despacho judicial que los requería. Los detenidos fueron trasladados a las instalaciones del DAS, en donde fueron visitados por diferentes autoridades y personalidades nacionales y extranjeras, como la Defensora del Pueblo, un abogado y un representante de la ONG Credhos. Posteriormente, las dos personas fueron conducidas a la seccional del DAS en Bucaramanga. En relación con la afirmación realizada en la comunicación en el sentido de que los agentes del DAS habrían realizado tiros al aire durante la detención de estas personas, la autoridad en mención fue precisa en aclarar que los funcionarios encargados de efectuar las capturas en ningún momento efectuaron disparos y que los detenidos tampoco fueron trasladados al Batallón Nueva Granada de Barrancabermeja.

148. El lo concerniente a la detención del Sr. **Oscar Enrique Duque**, el DAS aclaró que en la captura no participaron sus funcionarios.

149. El 29 de septiembre de 2007 fue capturado el Sr. **Mario Martínez Mahecha**, en cumplimiento de la orden judicial de captura 16050-2 de 12 de julio de 2007, por el delito de rebelión, dentro de la investigación penal con radicado 256775, adelantada por la Fiscalía 3

Seccional de Barrancabermeja, siendo dejado el capturado a disposición de la precitada autoridad que lo requiera, mediante informe 331 del 29 de agosto.

150. El 1° de octubre de 2007, detectives del DAS, por orden judicial del Fiscal 3 Seccional de Barrancabermeja, acompañados de esta autoridad y del Personero municipal, se procedieron a allanar la oficina del Edificio La Tora, donde funcionan las oficinas de la ACVC, diligencia que fue acompañada por un ciudadano y una señora que manifestó a ser abogada de la Asociación. El Ejército Nacional prestó seguridad en el perímetro del primer piso del Edificio. En el procedimiento, se incautó material importante para la investigación. El DAS informó que no se tiene conocimiento queja alguna relacionada con el procedimiento en mención. La investigación penal contra algunos integrantes de la ACVC se inició el 4 de mayo de 2005, y a la fecha cursa en la Fiscalía 3 de Barrancabermeja, bajo el radicado 256775, en virtud de la cual se expidieron varias órdenes de captura por el delito de rebelión. Es así como las cuatro personas antes referidas cuentan en la actualidad con medida de aseguramiento y están reclusos en la Cárcel Modelo de Bucaramanga, Santander, en cumplimiento de órdenes de captura expedidas por la autoridad judicial competente. El Gobierno de Colombia seguirá atento al resultado de las investigaciones que se adelantan, respecto de lo cual informará oportunamente al Relator y a la Representante Especial.

#### **Carta de alegaciones enviada el 13 de noviembre de 2007**

151. El Relator Especial envió una comunicación en relación con nueve casos distintos de supuestas amenazas de los que se me ha informado. En este sentido, las siguientes personas habrían recibido supuestas amenazas: **Ulilo Acevedo Silva**, del periódico Hoy Diario del Magdalena; **Blanca Irene López**, abogada y miembro de la Corporación Jurídica Yira Castro; **Pedro Antonio Cárdenas**, director de la revista La Verdad; **Hollman Morris**, productor del programa de noticias Contravía; **Geovanny Álvarez Castro**, co-director y conductor del programa de noticias La Verdad; **Gonzalo Guillén**, corresponsal del diario El Nuevo Herald de Miami; y las supuestas agresiones recibidas por los periodistas **Abel Zabala Vargas**, director del periódico El Ariareense; **Yolanda Becerra Vega**, directora de la Organización Femenina Popular (OFP); **Jacqueline Rojas Castañeda**, directiva de la Organización Femenina Popular (OFP). De acuerdo con las alegaciones recibidas:

- El 11 de octubre de 2007, un grupo de estudiantes de la Universidad de Santa Marta, que protestaba por un fallo judicial en contra del ex rector de la institución, habría atacado la sede del periódico Hoy Diario del Magdalena con piedras y consignas. Posteriormente, Ulilo Acevedo, director del periódico, habría denunciado haber recibido nuevas amenazas en su contra.
- El 15 de octubre de 2007, Blanca Irene López habría encontrado en su casa un mensaje escrito de amenaza. Ésta no sería la primera vez que la CJYC y sus miembros son víctimas de hostigamiento y amenazas. El 22 de junio de 2007, se habría producido un allanamiento ilegal con robo importante de material de trabajo en la sede de la CJYC. Desde el día 24 de julio de 2007, los miembros habrían venido recibiendo mensajes electrónicos amenazantes.
- El 29 de octubre de 2007, el Sr. Pedro Antonio Cárdenas, cuya hija fue víctima de un intento de secuestro el día 24 de octubre de 2007, habría sido de nuevo amenazado. A las 10:49, el Sr. Cárdenas habría recibido una llamada en la que una voz de hombre le decía que no olvidara que tanto él como su familia eran objetivo militar. Esta es la cuarta amenaza que el Sr. Cárdenas recibe durante el último mes.

- Los periodistas colombianos Hollman Morris, Geovanny Álvarez Castro y Gonzalo Guillén habrían abandonado el país este mes tras recibir amenazas de muerte vinculadas a su trabajo. El Sr. Morris, conocido por sus informes de investigación sobre el conflicto armado en Colombia, habría abandonado el país junto a su familia, tras haber sido amenazado y acosado en reiteradas ocasiones. Según fuentes, el 26 de septiembre de 2007, el Sr. Morris habría recibido un correo electrónico, en el cual un grupo paramilitar denominado el “Frente Patriótico” le advertía que había ganado una “boletera para reclamar un ataúd”. En el mensaje, los agresores habrían explicado que el periodista está siendo amenazado “por antipatriota, por guerrillero, por sapo”. El Sr. Álvarez habría abandonado el país dos días antes que el Sr. Morris tras haber recibido varias amenazas de muerte. Finalmente, el Sr. Guillén, corresponsal en Colombia del diario El Nuevo Herald de Miami, habría abandonado su hogar en Bogotá tras recibir más de 20 amenazas de muerte.
- Abel Zabala Vargas habría sido agredido por el escolta del alcalde de Granada, para impedir que realizara una grabación. El Sr. Zabala habría sufrido un fuerte arañazo en el cuello y habría tenido que permanecer encerrado dentro de un establecimiento comercial de donde el escolta no le habría dejado salir. Según fuentes, agentes de policía se habrían presentado en el lugar y habrían intentado quitarle la cámara al periodista, quien se habría resistido.
- El 4 de noviembre de 2007, a las 7:30, dos hombres armados, encapuchados y vestidos de civil, habrían entrado en el apartamento de Yolanda Becerra Vega y la habrían amenazado mientras destruían su apartamento e intentaban llevarse el disco duro de su computadora. Según fuentes, le habrían puesto un arma en la cabeza amenazándola. Según las informaciones que hemos recibido, poco antes, unos desconocidos habrían entrado en el domicilio de Jacqueline. Rojas Castañeda y habrían bloqueado desde el exterior la cerradura de la puerta de su apartamento, impidiéndole salir.

### **Carta de alegaciones enviada el 21 de diciembre de 2007**

152. El Relator Especial envió una comunicación en relación con **Gonzalo Guillén**, periodista de El Nuevo Herald y defensor de derechos humanos, y **María Elena Triana**, su abogada. Según la información recibida, en la mañana del 3 de diciembre de 2007, el Sr. Guillén habría recibido una llamada a su teléfono celular amenazándole de muerte. El Sr. Guillén ya habría sido anteriormente objeto de amenazas de muerte. En el mes de mayo de 2007, habría recibido información de que existía un plan para asesinarle, y que supuestamente provenía de grupos paramilitares. El Sr. Guillén habría recibido 24 amenazas de muerte por teléfono y correo electrónico durante el mes de noviembre de 2007. Preocupado por su seguridad personal, habría decidido salir del país. La Sra. Triana, abogada del Sr. Guillén, también habría recibido amenazas.

### **Seguimiento de comunicaciones transmitidas previamente**

153. El 26 de julio de 2007, el Gobierno contestó al llamamiento urgente enviado el 31 de mayo de 2006 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la cuestión de la tortura, el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas.

En su respuesta, el Gobierno informa de que el Grupo de Derechos Humanos de la Policía Nacional disiente de lo expresado en la comunicación relativo a que “más de 50.000 personas de distintos sectores de la sociedad civil se habrían congregado en distintos puntos del país para protestar de manera pacífica contra el Tratado de Libre Comercio, la reelección presidencial de Álvaro Uribe Vélez y la adopción de la Ley de justicia y paz”. Según el Gobierno, los hechos difieren notoriamente de lo señalado en la comunicación de los Relatores Especiales y de la Representante Especial, por cuanto las manifestaciones se caracterizaron por su violencia, al agredir los manifestantes a integrantes de la Policía Nacional. Entre 600 y 700 personas, miembros de las centrales obreras, campesinos desplazados y grupos indígenas, se concentraron frente a las instalaciones del SENA y el barrio La Paz de Popayán (departamento del Cauca). Los manifestantes habrían utilizado palos y piedras, y habrían hecho rodar un cilindro de gas encendido en contra de la policía. El Gobierno informó de que la fiscalía quinta delegada ante los juzgados penales municipales de Popayán, estaba llevando a cabo una investigación contra 41 personas, pertenecientes en su mayoría a cabildos indígenas del Cauca, por el delito de lesiones personales y daño en bien ajeno.

154. En relación con la finca La María, municipio de Piendamó, vía Panamericana (departamento del Cauca), el Gobierno manifestaba que los manifestantes habrían arrojado rocas y bombas incendiarias (cócteles molotov) contra una tanqueta policial, y que habrían secuestrado a tres patrulleros de la policía. Igualmente, el Gobierno informó que en la finca El Pital, vía Mondomó, se agredió con palos, canicas, piedras, bombas molotov, y demás elementos contundentes al cuerpo de policía, y hubo dos casos de intento de incendio. En la localidad de Remolinos (departamento de Nariño), se incendió según informó el Gobierno, a tres vehículos de servicio público. Los manifestantes utilizaron bombas molotov armadas con ácido sulfúrico con las cuales pretendían incinerar las instalaciones de la estación de policía. El Gobierno informa de que resultaron gravemente heridos varios policías, con quemaduras en el rostro.

155. En vista de lo anterior, el Gobierno concluyó que los hechos de los días 14 y 15 de mayo de 2006 difirieron notoriamente de lo señalado en la comunicación de los Relatores Especiales y de la Representante Especial, por cuanto las manifestaciones se habrían caracterizado por la violencia y se habrían producido agresiones en contra de la Policía Nacional.

156. Sobre el presunto homicidio y una desaparición forzada, la Policía Nacional informó de que tuvo conocimiento de la muerte de una persona indígena de nombre **José Pedro Pascue Canas** (que podría ser Pedro Mauricio Coscue). Las circunstancias de su muerte estaban.

### **Observaciones**

157. El Relator Especial agradece al Gobierno por sus respuestas detalladas a las comunicaciones de 31 de mayo de 2006, 6 de marzo de 2007, 23 de mayo de 2007, 29 de junio de 2007, 18 de julio de 2007 y 16 de agosto de 2007. En el momento de finalizar su informe, el Relator Especial aún no había recibido respuesta a sus otras comunicaciones.

## **Congo (Republic of the)**

### **Appel urgent envoyé le 16 janvier 2007 avec la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme**

158. Le Rapporteur et la Représentante Spéciale ont envoyé un appel urgent sur la situation de M. **Christian Mounzé**, président de l'organisation non-gouvernementale Rencontre pour la paix et les droits de l'Homme (RPDH) et de M. **Brice Makosso**, secrétaire permanent de la Commission épiscopale Justice et Paix à Pointe-Noire. Un appel urgent concernant M. Mounzé et M. Makosso avait déjà été envoyé le 13 avril 2006 par la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Selon les informations reçues, le 27 décembre 2006, MM. Mounzé et Makosso auraient été condamnés à un an de prison avec sursis et 300.000 francs CFA d'amende par le tribunal de Pointe-Noire, pour «abus de confiance», «faux et usage de faux» et «complicité». MM. Mounzé et Makosso auraient immédiatement fait appel de cette décision. Incarcérés le 7 avril 2006 à la Maison d'arrêt de Pointe-Noire, M. Christian Mounzeo et M. Brice Makosso avaient été inculpés pour « faux en écriture privée » et « abus de confiance » par le Procureur de la République auprès du Tribunal de grande instance de Pointe-Noire. Le 28 avril 2006, ils avaient été remis en liberté provisoire. Le Procureur de la République aurait agi à la suite d'une plainte déposée le 17 février 2006 par l'ancien Secrétaire général de la RPDH. Le 13 novembre 2006, M. Christian Mounzé avait été arrêté à nouveau alors qu'il revenait d'un séjour en Europe où il avait rencontré, en compagnie de M. Makosso, plusieurs représentants de gouvernements étrangers. Il aurait été interrogé et maintenu au secret par la police sans accès à son avocat jusqu'à sa libération le lendemain matin. M. Christian Mounzeo et M. Brice Makosso ont été particulièrement actifs dans la campagne « Publiez ce que vous payez » qui vise à assurer une meilleure transparence des activités liées au commerce du pétrole dans le pays.

### **Réponse du Gouvernement envoyée le 29 janvier 2007**

159. Le Gouvernement informe que les faits relatés dans l'appel urgent ne sont pas exacts. En l'occurrence, les faits reprochés à MM. Christian Mounzeo et Brice Makosso sous les qualifications d'abus de confiance, de faux en écriture de banque et de complicité de faux, sont prévus et punis par code pénal en vigueur, d'une part, et n'ont aucun lien avec leurs activités de défense de droits de l'homme, d'autre part. La procédure judiciaire en cours se déroule dans le strict respect des lois nationales en vigueur, d'autant plus que MM. Christian Mounzeo et Brice Makosso bénéficient de l'assistance de leurs avocats depuis le début de la procédure judiciaire et comparaissent libres devant le tribunal.

### **Observations**

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

## **Côte d'Ivoire**

### **Lettre d'allégations envoyée le 3 octobre 2007**

161. Le 3 octobre 2007, le Rapporteur spécial a envoyé au Gouvernement une lettre d'allégation portant sur des informations concernant les journalistes **M. Coulibaly Seydou** et

**M. Alexis Noumé**, du journal « Le Jour Plus », ainsi que **M. Assouan N’Gueeta**, **M. Nando Dapa** et **Mme Laure Gozo**, du journal « Le Rebond », qui auraient été interpellés et interrogés par la police criminelle le 11 septembre 2007, pour un délit d’ « offense au Chef de l’État ». Il semblerait par ailleurs que les trois derniers auraient reçu une menace de mort d’un député cité dans l’un des articles, en présence d’un officier de police. Le parlementaire aurait de plus porté plainte pour diffamation contre le journal « Le Rebond ». Selon les informations reçues, les journalistes auraient été de nouveau convoqués le 17 septembre. Ces accusations feraient suite à la publication d’articles évoquant le Président Laurent Gbagbo et d’autres politiciens du parti au pouvoir, le Front Populaire Ivoirien (FPI): dans son édition du vendredi 7 septembre, « Le Jour Plus » avait accusé le Président et certains de ses collaborateurs de corruption dans un article titré « La CIA aux troussees des refondateurs - l’achat d’usine café-cacao aux USA livre ses secrets ». D’un autre côté, dans son édition du lundi 3 septembre, « Le Rebond » avait publié une liste de 38 personnalités du FPI, y compris le Président Gbagbo, les désignant comme étant des milliardaires.

### Observations

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

### Cuba

#### **Llamamiento urgente enviado el 1 de febrero de 2007 con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

163. El Relator y la Representante Especial señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. **Juan Carlos González Leiva**, abogado de derechos humanos y Presidente de la Fundación Cubana de Derechos Humanos y de la Fraternidad de Ciegos Independientes Cubanos. El Sr. González Leiva ha sido el objeto de una carta de alegaciones enviada por la Representante Especial del Secretario-General para los defensores de los derechos humanos el 8 de diciembre de 2006. De acuerdo con la información recibida, el 15 de enero de 2007, el director de inteligencia del Departamento de Seguridad del Estado en la provincia de Ciego de Ávila habría amenazado con encarcelar al Sr. González Leiva a menos que renuncie a su trabajo de defensa de los derechos humanos en Cuba. Según se informa, el Sr. González Leiva habría sido previamente encarcelado en marzo de 2002 y en abril de 2004 habría sido condenado a cuatro años de arresto domiciliario. Se informa que el Sr. González Leiva habría sido sometido a una vigilancia persistente por parte de las autoridades así como al hostigamiento y agresiones violentas por grupos de ciudadanos, actuando supuestamente con el consentimiento de las autoridades cubanas. Además, el Sr. González Leiva habría denunciado que el teléfono de su casa se estaría interrumpiendo frecuentemente y pareciera que estuviese intervenido.

#### **Respuesta del Gobierno enviada el 28 de marzo de 2007**

164. El Gobierno informó de que son falsas las alegaciones de hostigamiento, amenazas o agresiones al Sr. **González Leiva**. Juan Carlos Gonzales no ha sido objeto de violación a sus derechos humanos y su vida no corre peligro alguno. El Sr. González Leiva fue en el pasado responsable de actos graves de violaciones del orden público y obstrucción de servicios médicos en instalaciones hospitalarias en Cuba. Por estos delitos, fue condenado a 4 años de arresto domiciliario; esto ultimo atendiendo a su condición de discapacitado físico. El Sr.

González Leiva no es en lo absoluto un defensor de derechos humanos. No ha sido sancionado como consecuencia del disfrute del derecho a su libertad de opinión y de expresión. No milita ni se encuentra afiliado a las organizaciones que se mencionan en la comunicación recibida; esas supuestas organizaciones no existen.

#### **Carta de alegaciones enviada el 9 de marzo de 2007**

165. El Relator Especial envió una comunicación en relación con el Sr. **Roberto de Jesús Guerra Pérez**, corresponsal de los sitios Payolibre y Nueva Prensa Cubana, y de la emisora Radio Martí. El 27 de febrero de 2007, el Sr. Guerra Pérez habría sido condenado a 22 meses de cárcel por "alteración del orden público". El 13 de julio de 2005, el Sr. Guerra Pérez habría participado en una manifestación pacífica que conmemoraba el naufragio, 11 años antes, de una embarcación de "balseros". Inmediatamente después fue detenido, junto con otras cuatro personas, por las fuerzas de Seguridad del Estado, permaneciendo en prisión desde entonces, inicialmente en una celda de la Policía Nacional Revolucionaria (PNR), y posteriormente en el Departamento Técnico de Investigación (DTI) de La Habana. Teniendo en cuenta que el periodista ya ha permanecido preso 19 meses, se entiende que su puesta en libertad debería tener lugar el 13 de abril 2007, fecha en la que habría terminado de cumplir 22 meses de cárcel desde su detención el 13 de julio de 2005. Según la información recibida, en octubre y noviembre de 2005 el Sr. Guerra Pérez fue hospitalizado en varias ocasiones a consecuencia de las huelgas de hambre que llevó a cabo, siendo después reenviado a la cárcel. Durante su internamiento, el periodista ha sufrido una infección renal y padece frecuentes crisis de asma.

#### **Respuesta del Gobierno enviada el 16 de mayo de 2007**

166. El Gobierno transmitió la siguiente información en el caso del Sr. **Jesús Guerra Pérez**. Las alegaciones presentadas en la comunicación serían falsas y el Sr. Pérez no se encontraría sujeto hoy a ninguna medida de privación de libertad. El Sr. Pérez no se encontraría registrado como reportero, corresponsal o periodista de ningún órgano de prensa en Cuba. El Sr. Pérez no sería un defensor de derechos humanos, sino un mercenario asalariado de la Sección de Intereses de los Estados Unidos en La Habana, que se prestaría para la realización de actos de desorden público en Cuba. Por estos actos, él habría sido condenado a cumplir sentencia en prisión. Se informó que en Cuba, desde 1959, nunca se ha sancionado a alguien por la simple expresión de opiniones o puntos de vista diferentes, e incluso contrarios, a los de las autoridades.

#### **Carta de alegaciones enviada el 27 de julio de 2007**

167. El Relator Especial envió una comunicación en relación con el Sr. **Armando Betancourt Reina**, periodista independiente cubano, condenado a 15 meses de cárcel por un delito de desorden público. Al parecer, el periodista llevaría encarcelado en la prisión Cerámica Roja, en Camagüey, desde que fuera arrestado en mayo de 2006. Según fuentes, el periodista habría sido detenido el 23 de mayo de 2006 por "alteración del orden público" mientras cubría un desalojo, sin haberse formulado una acusación oficial hasta el día del juicio. El juicio, según las informaciones recibidas, habría durado unas cinco horas. El Sr. Betancourt habría sido sentenciado a 15 meses de prisión. El tiempo que el Sr. Betancourt ha pasado en prisión, según las informaciones recibidas, contará como parte de su condena.

## Observaciones

168. El Relator Especial agradece al Gobierno por las respuestas a sus comunicaciones del 1 de febrero y 9 de marzo de 2007. El Relator Especial lamenta no haber recibido respuesta a su comunicación del 27 de julio de 2007 en el momento de finalización del presente informe.

### Democratic Republic of the Congo

#### Appel urgent envoyé le 15 janvier 2007

169. Le Rapporteur spécial a envoyé un appel urgent au sujet de la situation de **Rigobert Kwakala Kash**, éditeur et directeur-responsable du bihebdomadaire « Le Moniteur », journal paraissant à Kinshasa, qui aurait été condamné le 6 janvier 2007 par le Tribunal de paix de Kinshasa/Kasa-Vubu à onze mois de prison ferme et conduit, le 11 janvier, au Centre pénitentiaire et de rééducation de Kinshasa. Son avocat aurait interjeté appel et aurait déposé une demande de liberté provisoire. Le journaliste aurait été jugé pour « diffamation, injure publique, dénonciation calomnieuse et propagation de faux bruits » à l'encontre du gouverneur du Bas-Congo. En novembre et décembre 2006, « Le Moniteur » aurait publié une série d'articles mettant en cause la gestion des fonds publics par le gouverneur. Par ailleurs, le 10 janvier, la Haute autorité des médias, saisie par le gouverneur sur la même affaire, aurait décidé d'interdire la publication du journal pour une période de six mois.

#### Appel urgent envoyé le 2 mars 2007 avec la Présidente-Rapporteur du Groupe de Travail sur les détentions arbitraires et le Rapporteur spécial sur la question de la torture

170. Les Rapporteurs Spéciaux et la Présidente-Rapporteur ont attiré l'attention du Gouvernement sur la situation de **M. Ernest Che Guevara Bosange**, reporter au journal « Alerte Plus » paraissant à Kinshasa, détenu à la prison Makala de Kinshasa. Selon les informations reçues, M. Bosange se serait rendu le 21 novembre 2006 à la Cour suprême de justice pour couvrir le procès en contestation des résultats du second tour de l'élection présidentielle ainsi que la manifestation violente du 21 novembre 2006, au cours de laquelle une partie du bâtiment de la Cour suprême a été incendiée. Le journaliste aurait été interpellé pendant qu'il couvrait cette manifestation.

171. Alors qu'il rentrait de la Cour, il aurait été arrêté par des éléments de la Direction de renseignements généraux et de sécurité (DRGS) et des militaires de la Garde Républicaine, et conduit dans l'enceinte des locaux de la Police Nationale, où un commandant lui aurait demandé s'il était originaire de l'Equateur. M. Bosange aurait répondu par l'affirmative. Quelques temps après, des agents de la DRGS seraient venus le chercher pour l'emmener dans leurs locaux, où il aurait été interrogé par un colonel et deux majors (dont les noms sont connus des rapporteurs). Le colonel lui aurait dit « tu es originaire de l'Equateur, tu es un espion de Bemba, tu vas tout nous dire, tu vas souffrir ». Ensuite, M. Bosange aurait été frappé, ses mains et ses pieds auraient été menottés avec un engin dénommé « mangozo » et il aurait été déshabillé pour subir un électrochoc. Le colonel et les majors l'auraient ensuite remis à un capitaine qui l'aurait menacé avec une arme en disant qu'il était un espion du Mouvement pour la Libération du Congo. Finalement, M. Bosange se serait évanoui. Il se serait réveillé dans une salle qui ressemblait à un cachot et qui était occupée par une centaine de personnes. Ensuite, une femme serait venue pour l'entendre et établir un procès verbal

d'audition. M. Bosange aurait refusé de répondre, mais il aurait été forcé de signer un procès verbal rédigé sur la base de déclarations faites par le colonel à sa place. M. Bosange serait resté un mois et demi à Kin-Maziere. Sa famille aurait été informée de sa détention par un voisin qui y travaille.

172. Il aurait été transféré à la prison Makala CPRK (Centre Pénitentiaire et de Rééducation de Kinshasa) le 27 décembre 2006 et son dossier se trouverait auprès de l'Auditorat de Garnison de la Gombe. Cependant, il n'aurait jamais été entendu par un magistrat. En effet, le magistrat en charge de son dossier exigerait la somme de 200\$ pour le faire.

### **Réponse du Gouvernement envoyée le 7 juin 2007**

173. Le Gouvernement a informé que M. **Ernest Bosange** a précisé qu'il est journaliste non te l'organe « Alerte Plus » mais plutôt du journal « Mambenga » paraissant à Kinshasa. L'intéressé a présenté au Ministère des Droits Humains une version des faits proche de celle présentée dans la communication envoyée. Cependant, les recherches menées par mes collaborateurs ont établi que M. Bosange est poursuivi par le Tribunal Militaire de garnison de Kinshasa-Gombe pour vol d'effets militaires. Son procès est donc en cours devant cette juridiction qui va bientôt statuer sur le fond.

174. Pour ce qui est de l'exactitude des faits tels qu'ils ont été résumés, le Gouvernement a précisé qu'en dehors des allégations de l'intéressé, il ne dispose d'aucun élément pour confirmer ou infirmer lesdites allégations. Toutefois, le Ministère des Droits Humains fait foi en la Justice congolaise qui rétablira la vérité. À la connaissance du Gouvernement, aucune plainte n'a été déposée par la victime ou en son nom. En effet, se trouvant actuellement sous le coup des poursuites judiciaires, il lui est difficile d'entreprendre une telle action. Il faudra attendre l'issue du procès pour pouvoir donner suite aux autres préoccupations adressées dans la communication.

### **Lettre d'allégations envoyée le 14 juin 2007**

175. Le Rapporteur spécial a attiré l'attention du Gouvernement concernant **une réunion de journalistes dans la ville de Mbuji-Mayi**, capitale de la province du Kasai Oriental : le 31 mai 2007, une assemblée générale réunissant une centaine de journalistes, aurait été violemment dispersée par un groupe de policiers conduits par le commandant de la Police urbaine, dont le nom est connu du Rapporteur. Un journaliste, **M. Luboya Nokia**, travaillant pour Radio Mont Carmel, aurait été grièvement blessé et hospitalisé tandis que plusieurs de ses collègues auraient été battus et auraient perdu leur matériel de travail. Selon les informations reçues, le but de la réunion aurait été de discuter les agissements du coordonnateur local de l'Union de la presse du Congo. L'intervention policière serait survenue après qu'un certain nombre d'individus, apparemment des policiers en civil, auraient été éloignés de la salle où les journalistes étaient réunis.

### **Lettre d'allégations envoyée le 27 juin 2007**

176. Le Rapporteur spécial a attiré l'attention du Gouvernement au sujet du cas de M. **Serge Maheshe**, journaliste et secrétaire de rédaction de la radio Okapi, une station parrainée par les Nations Unies, qui aurait été abattu par des inconnus à Bukavu le 13 juin. Selon les informations, le journaliste aurait été tué de plusieurs balles par deux inconnus, alors qu'il

était en train de monter dans une voiture des Nations Unies. Serge Maheshe avait couvert tous les grands événements de ces dernières années en RDC pour la radio Okapi. Récemment, il aurait reçu plusieurs menaces par courriel.

### **Lettre d'allégations envoyée le 24 août 2007**

177. Le Rapporteur spécial a attiré l'attention du Gouvernement à l'égard d'informations selon lesquelles **M. Patrick Kikuku Wilungula**, photographe indépendant travaillant pour l'Agence congolaise de presse (ACP) Nord Kivu et « l'Hebdo de l'Est », hebdomadaire privé paraissant à Kinshasa, aurait été tué à Goma, dans la soirée du 9 août 2007. M. Kikuku Wilungula aurait été abordé par plusieurs hommes armés non identifiés et tué d'une balle dans la tête près de son domicile du quartier Ndoshu, commune de Karisimbi, à Goma. Ses agresseurs n'auraient emporté que son appareil photo.

### **Appel urgent envoyé le 29 Octobre 2007 avec la Représentante Spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme**

178. Le Rapporteur spécial et la Représentante Spéciale ont attiré l'attention du Gouvernement sur la situation de M. **Dismas Kitenge Senga**, président du Groupe Lotus, une organisation de défense des droits de l'Homme basée à Kisangani. M. Kitenge Senga a fait l'objet d'appels urgents envoyés par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 28 novembre 2006, le 29 septembre 2005 et le 13 juillet 2005. Selon les informations reçues :

179. Le 18 octobre 2007, alors que M. Kitenge Senga se rendait en voiture à l'université de Kisangani où il travaille, son véhicule aurait été immobilisé par un groupe d'étudiants qui l'auraient accusé d'être un opposant au régime du Président Kabila, de soutenir le général Nkunda engagé dans le conflit armé au Nord-Kivu et d'être un « traître corrompu par ces insurgés ». Ces assaillants auraient menacé M. Kitenge Senga de brûler son domicile si les factions du général Nkunda progressaient et auraient jeté des pierres contre sa voiture. M. Kitenge Senga aurait été contraint de s'enfuir en abandonnant son véhicule. Cette attaque ferait suite aux propos tenus par M. Kitenge Senga le 11 octobre 2007 sur Radio France International au cours de l'émission Appels sur l'actualité, lors de laquelle M. Kitenge Senga aurait préconisé une solution négociée au conflit armé du Nord-Kivu, afin de consolider la paix en République démocratique du Congo et dans toute la région des Grands Lacs.

### **Lettre d'allégations envoyée le 2 novembre 2007**

180. Le Rapporteur spécial a attiré l'attention du Gouvernement sur des informations concernant **M. Heustache Namunanika**, journaliste à la chaîne de télévision privé Horizon 33, et **M. Didier Lofumbwa**, cameraman à la même chaîne. Le 21 octobre 2007, Mssrs. Namunanika et Lofumba auraient interviewé le Ministre d'Etat en charge de l'enseignement supérieur et universitaire au sujet de sa décision récente de suspendre le recteur intérim de l'Université Libre CIDEP. Après avoir recueilli le point de vue du Ministre, les journalistes auraient aussi pris l'opinion du recteur intérim, montrant les deux témoins lors de la diffusion du reportage. Le 22 octobre, Mssrs. Namunanika et Lofumba auraient été invités à se présenter au bureau du Ministre, qui a exprimé son désaccord avec le fait que les journalistes aient diffusé l'interview avec le recteur intérim. Les journalistes auraient offert au Ministre la

possibilité d'exercer son droit de réponse, mais à ce moment le Ministre aurait fait monter dans son bureau des policiers commis à sa garde et leur aurait demandé de prendre des mesures contre les deux journalistes. Mssrs. Namunanila et Lofumba auraient été agressés par les policiers dans le bureau du Ministre et en sa présence avant d'être jetés hors du Ministère. Selon les informations, les journalistes auraient souffert de contusions et blessures lors de ces attaques.

### **Lettre d'allégations envoyée le 2 Novembre 2007 avec la Représentante Spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme**

181. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la situation de MM. **Donat Mbaya Tshimanga et Tshivis Tshivuadi**, respectivement président et secrétaire général de l'organisation non-gouvernementale Journalistes En Danger (JED). Selon les informations reçues, depuis juillet 2007, MM. Mbaya Tshimanga et Tshivuadi auraient reçu de nombreuses menaces de mort pour leurs activités de dénonciation des meurtres des journalistes MM. Franck Ngyeke Kungundu le 3 novembre 2005 et Serge Maheshe le 13 juin 2007. M. Tshivis Tshivuadi aurait notamment reçu un appel téléphonique, dont l'auteur aurait déclaré "bien connaître sa femme et ses enfants", et l'aurait mis en garde contre la possibilité de voir "une roquette tomber sur [sa] maison". En août 2007, JED aurait même été qualifié «d'organisation antipatriotique qu'il faut à tout prix anéantir» par le Ministre de l'Information et Presse dans une interview accordée à la chaîne privée Antenne A. MM. Mbaya Tshimanga et Tshivuadi auraient alors été amenés à quitter momentanément le pays et leurs familles contraintes de se déplacer à l'intérieur de la RDC. De retour au pays, MM. Mbaya Tshimanga et Tshivuadi auraient reçu le 20 août 2007 un fax anonyme dans lequel il leur aurait été ordonné « de ne plus plonger [leur] doigt dans le dossier de [leur] confrère Franck Ngyeke Kungundu [ ; ] ...votre temps viendra et nous saurons quoi faire de vous deux ».

### **Lettre d'allégations envoyée le 2 novembre 2007**

182. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la décision communiquée le 20 octobre 2007 à Kinshasa par le Ministre de l'Information, de la Presse et de la Communication de fermer **22 chaînes de télévision et 16 stations de radio privées** pour une période indéfinie, sur présomption de non-conformité aux lois nationales sur la presse. Selon les informations reçues, la raison qui serait à la base de ladite fermeture serait l'absence de licence d'exploitation ou de documents administratifs adéquats, ainsi que le défaut de paiement des taxes requises, sans avoir apparemment laissé aux médias concernés l'opportunité de répondre aux allégations. Selon les sources, l'audit n'aurait jusqu'à présent affecté que les stations de Kinshasa, certaines appartenant à l'opposition, mais il devrait continuer dans les provinces, où des stations de radio et télévisions communautaires seraient vraisemblablement incapables de payer les frais réglementaires requis pour l'obtention d'une licence de diffusion. De même, ces radios associatives continueraient à ne pas avoir un statut défini par la loi, après les propositions faites en début de cette année pour réglementer leur secteur.

## **Observations**

183. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à la communication du 2 mars 2007. Il regrette l'absence de réponse pour les autres huit communications envoyées en 2007.

### **Djibouti**

#### **Appel urgent envoyé le 14 mars 2007 avec la Représentante Spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme**

184. Le Rapporteur spécial et la Représentante Spéciale ont envoyé un appel urgent sur le cas de M. **Jean-Paul Noël Abdi**, président de la Ligue djiboutienne des droits humains (LDDH). Selon les informations reçues, dans la matinée du 9 mars 2007, M. Abdi aurait été arrêté à son domicile par des policiers de la brigade criminelle, puis aurait été emmené dans les locaux de la brigade criminelle. En début d'après-midi, M. Abdi aurait été officiellement placé en garde à vue sans aucun motif ne lui soit notifié. Lors de l'interrogatoire, les forces de l'ordre se seraient particulièrement intéressées à une communication de la LDDH concernant la découverte d'un charnier dans le village du Day (district de Tadjourah) comprenant le corps de sept civils qui auraient été tués par les forces gouvernementales le 1er janvier 1994. Le 10 mars, M. Abdi aurait été emmené à la prison de Gabode sur décision du Ministère public. Le 11 mars, le président de la Chambre des flagrants délits du Tribunal de première instance de Djibouti aurait décidé la mise en liberté provisoire de M. Abdi et aurait ordonné au Parquet de procéder à une enquête. Son cas aurait été mis au rôle du Tribunal pour le 18 mars 2007. Par ailleurs, le directeur de la Sécurité Publique aurait ordonné à deux officiers de saisir le passeport de M. Abdi à son domicile.

#### **Réponse du Gouvernement envoyée le 23 mars 2007**

185. Le Gouvernement a informé que l'exposé des faits, la procédure suivie et les conclusions du Tribunal de première instance de Djibouti font, entre autres, clairement ressortir que:

- le principe de base de toute loi pénale qui est la présomption d'innocence a été scrupuleusement observé ;
- chaque étape de la procédure a été menée avec la diligence, la précaution et la promptitude adéquate ;
- le temps nécessaire a été accordé au défendeur afin de réunir les éléments matériels pouvant corroborer ses allégations et de conduire ainsi convenablement sa défense ;
- le délit pénal de diffamation a été reconnu après qu'il ait été prouvé que les déclarations contestées sont fausses et ont été faites avec malice ;
- M. Abdi a pris la responsabilité de publier ces déclarations diffamatoires sur support écrit et en toute connaissance de l'illégalité de son action car les articles 425 et 427 du Code Pénal et les articles 77 et 79 de la loi No2/AN/92/2èmeL/ du 15 septembre 1992 sont suffisamment clairs et explicites.

## **Observations**

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

## Dominican Republic

### Llamamiento urgente enviado el 18 de julio de 2007

187. El Relator Especial envió un llamamiento urgente en relación con **Héctor Abreu**, presentador de radio Azua y corresponsal de Radio Herniquillo. El 5 de julio de 2007, unos desconocidos habían disparado contra la casa del Sr. Abreu, en el municipio de Tamayo. Al parecer, la víctima habría informado sobre un determinado número de casos delictivos ocurridos en la región donde trabaja, lo que podría haber motivado el ataque. Asimismo, el Sr. Juan Cadena, productor de un programa diario emitido por el canal Sport Visión, en Santo Domingo, manifestó haber recibido amenazas de muerte por teléfono. Según fuentes, un interlocutor anónimo le avisó de que sería ejecutado si no dejaba de decir “tonterías” en su programa de televisión. El periodista habría admitido haber hecho comentarios sobre la huelga general sobre mejoras sociales del 9 de julio. Según fuentes, desde comienzos de 2007, las agresiones y amenazas contra los periodistas se han multiplicado, llegando a contabilizarse cerca de una treintena.

### Observaciones

188. El Relator Especial lamenta no haber recibido respuesta a la comunicación mencionada.

## Ecuador

### Seguimiento de comunicaciones transmitidas previamente

189. Mediante comunicación 5 de abril de 2007 el Gobierno respondió al llamamiento urgente enviado 28 de junio de 2006. El Gobierno informa que la comunicación de 28 de junio 2006, señalada en el párrafo 206 de su informe, nunca fue recibida por la Misión Permanente. El Gobierno refiere a la supuesta detención arbitraria del Sr. **Jiménez Salazar**. Dicha medida fue tomada por el Gobierno del Ecuador en cumplimiento de su obligación de garantizar la seguridad e integridad ciudadana, preservar el orden público, y proteger los bienes del Estado. El día 19 de junio del 2006, mientras el Estado de Emergencia se encontraba vigente, el Sr. Jiménez Salazar participo de la medida de hecho adoptada por los campesinos de las comunidades “15 de abril”, “Asociación Campesina Payamino”, y “Punino” que habían ocupado los alrededores de la Estación petrolera Coca en la Provincia de Orellana, con la intención de apoderarse de ella. De hecho, al momento de su detención, el Sr. Jiménez Salazar estaba “haciendo uso de e incitando a la violencia, formando parte de los disturbios y había ingresado a la fuerza y de forma ilegal a la instalación petrolera de propiedad privada. Durante el proceso se observo estrictamente la suspensión de garantías que contempla la propia Convención Americana de Derechos Humanos, Artículo 27. El Sr. Jiménez Salazar fue trasladado, en forma inmediata al Hospital de la Provincia de Orellana para certificar su buen estado de salud antes de ser puesto a órdenes del Juez de la Zona Militar según lo dispone la ley. El 7 de julio se comunico oficialmente de la liberación del Sr. Jiménez Salazar por parte de las autoridades militares. Es preciso señalar que el Ministerio de Defensa del Ecuador ha presentado una acción penal por injurias, en el mes de julio de 2006, en contra de la Sra. Alexandra Almeida, Presidenta de Accion Ecologica quien informo a la prensa sobre una supuesta desaparición, tortura, y detención arbitraria del Sr. Jiménez Salazar a manos de las Fuerzas Armadas ecuatorianas.

## Observaciones

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

### Egypt

#### Letter of allegations sent on 1 March 2007

191. The Special Rapporteur brought to the attention of the Government information concerning **Mr. Abdel Kareem Nabil Seliman**, also known as Karim Amer, former student of the al-Azhar University. According to reports, on 22 February 2007, Karim Amer was sentenced to a four-year prison term by a Court in Alexandria on charges of "spreading information disruptive of public order and damaging to the country's reputation", "incitement to hate Islam" and "defaming the President of the Republic", because of articles he had published on his blog concerning the al-Azhar University, religious riots and President Mubarak. Owing to his writings, it is alleged that Karim Amer was first arrested in October 2005, detained for a few days and subsequently released without charge. On 7 November 2006, he reportedly appeared before the Public Prosecutor of Alexandria, following a complaint lodged against him by the al-Azhar University, and detained since then.

#### Response from the Government sent on 12 March 2007

192. The Government indicated that article 47 of the Egyptian Constitution guarantees freedom of opinion and expression. The Egyptian laws and legislation comply with this article of the Constitution. The Egyptian legislature places appropriate restrictions on the exercise of the right to freedom of opinion and expression in order to guarantee and safeguard the rights and freedoms of others and to satisfy the just requirements of public order, the public interest and the security, integrity and stability of society. In this regard, the law criminalizes a number of acts relating to public insults and defamation, such as disparagement of religions, misrepresentation of divine scriptures, attacks upon religious symbols or places, and vilification of religious rituals. These provisions have been invoked in a number of complaints brought before the courts concerning the offence of disparagement of the Muslim or the Christian religion.

193. With regard to **Mr. Abd al-Karim Sulayman**, the Department of Public Prosecutions investigated allegations that he had attacked, and incited hatred for, the Muslim religion by claiming that the Prophet Mohammed and the Companions were symbols of terrorism, that the Muslim religion advocates murder and robbery, and by denying the existence of God. In addition, he was accused of using terms offensive to the person of the President of the Republic in material published on the Internet. He was questioned at the offices of the Department of Public Prosecutions, where he made a confession and witnesses confirmed the charges against him. Accordingly, the Department of Public Prosecutions sent him for trial before the criminal court, in case No. 882 of 2007, pursuant to articles 98 (f), 102 bis and 179 of the Criminal Code. He was tried on the following counts: (a) Fomenting discord and disparaging the Muslim religion through the allegations that he had made about Almighty God and the Prophet Mohammed (May peace be upon Him!), thereby damaging national unity and the Muslim religion; (b) Deliberately spreading information of a kind likely to

disrupt public order and damage the public interest, and insulting the President of the Republic.

194. The accused was represented in court by his defence counsel, and he confessed to the charges against him. His defence submitted a series of documents and pleadings to the court and the defendant was given full guarantees of a fair trial. On 22 February 2007, the court delivered its verdict, sentencing the defendant to three years in prison on the first count and one year on the second. The verdict rejected all the defence pleadings and modified the charges with respect to the offences under articles 171, 176 and 179 of the Criminal Code, as follows: firstly, incitement to hatred and disparagement of the Muslim community by publishing writings on the Internet describing the Prophet and the Companions as murderers and thereby inciting a breach of the peace; secondly, insulting the person of the President of the Republic by writing offensive remarks about him on the Internet. The Court concluded by convicting the defendant in light of his confession and by imposing the penalties described here above. It is worth noting that the verdict was delivered by a criminal court and that the accused appealed it before a lower court. The appeal hearing was scheduled for 12 March 2007. The appeal court's verdict can also be appealed before the Court of Cassation in accordance with Egyptian law.

195. Under the Egyptian Constitution, the judiciary is independent and no State authority can interfere in matters of justice or decisions taken by the judicial authority, since this is an offence under the Egyptian Criminal Code. Egyptian law grants judges immunity and independence and provides legal guarantees for anyone subject to a criminal trial in accordance with the international norms established in this regard. Consequently, it is not acceptable for any individual or authority in the country, much less abroad, to comment on judgements and proceedings in cases which courts are still hearing or on which they have yet to take a decision. In conclusion, Egypt regards any interference in cases before its courts as an infringement of its national sovereignty and interference in its domestic affairs. It categorically rejects any interference in these matters on any grounds whatever, especially as Egypt clearly respects the sovereignty of other States and does not interfere in cases before their courts, even if it does have comments or observations to make on them.

#### **Urgent appeal sent on 7 May 2007**

196. The Special Rapporteur sent an urgent appeal regarding **Mr. Abdel Moneim Mahmoud**, a correspondent for the Arabic language TV channel al-Hiwar (Dialogue). According to the information received, on 14 April 2007 Mr. Abdel Moneim Mahmoud was arrested on board a plane to depart from Cairo International Airport. The next day, Mr. Abdel Moneim Mahmoud was reportedly brought before the public prosecutor in Shubra al-Khima and was charged with membership of the Muslim Brotherhood organization, financing student political activities at the Institute of Agricultural Cooperation in Shubra al-Khima, inciting them to stage a quasi-militia style parade, and harming Egypt's image by contacting foreign media and human rights groups to publicize reports of torture in police stations. It is reported that the Public Prosecutor extended his detention, first foreseen for 15 days, pending further investigation into those charges. Mr. Abdel Moneim Mahmoud was reported to remain in detention in Mahkoum prison in Tora, southeast of Cairo, at the time the communication was sent. In addition to his media work, Mr. Abdel Moneim Mahmoud also coordinated a campaign for the release of members of the Muslim Brotherhood whose trial started on 26 April 2007 in Heikstep Military Court Complex outside Cairo. Mr. Abdel Moneim Mahmoud

has helped the relatives of the defendants contact the media and national and international human rights organizations. Concern was expressed that his arrest and detention may be linked to his legitimate and peaceful activities in defence of human rights, in particular his role in denouncing and publicizing torture and other human rights violations in Egypt.

#### **Letter of allegations sent on 12 September 2007**

197. The Special Rapporteur brought to the attention of the Government the situation of Mr. **Ibrahim Issa**, editor of the “Al-Dustour” newspaper, reporting that on 5 September 2007, state security prosecutors brought against Mr. Issa charges for publishing articles referring to rumours about the President’s health. Mr. Issa was allegedly accused of “spreading false reports likely to disturb public security and besmirch the country’s reputation”. According to reports, Mr. Issa was the only journalist who received formal charges, even though a number of news outlets reported the story. Mr. Issa will be tried by the state security court and can be condemned to up to 4 years in prison. Mr. Issa had previously been convicted of libelling the president in June 2006.

#### **Urgent appeal sent on 11 October 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

198. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr **Mohammed al-Dereini** who runs the Shiite Aal Beit research centre in Cairo and Mr Adhmad Sohb, who is the director of the Imam Ali Centre for Human Rights. Both advocate for the rights of Egypt's Shi'a minority. According to information received, Mr Mohammed al-Dereini and Mr Adhmad Sohb were arrested on 8 October and 28 August 2007 on charges of having published “false information aimed at agitating public opinion” relating to torture in Egyptian prisons. They are reportedly both currently being detained under a decree issued under Egypt’s Emergency Law, and are being held in solitary confinement in Tora Prison outside Cairo. It is further alleged that Mr al-Dereini was arrested without a search warrant. Both Mr Mohammed al-Dereini and Mr Adhmad Sohb have been previously detained by the Egyptian authorities. Mr Sohb was released in 2005 following fifteen years’ detention without trial on the basis of his alleged membership in an armed Islamic group. In 2004, Mr al-Dereini was detained without charges for fifteen months. In 2006, Mr al-Dereini published a book entitled “Hell’s Capital” (“Asimat Jahanam”) in which he detailed his experiences of torture while in detention. These claims of torture have reportedly not been investigated by the Public Prosecutor. Concern was expressed that the arrest and detention of Mr Mohammed al-Dereini and Mr Adhmad Sohb may be directly related to their human rights activities, in particular their work in defence of the victims of torture in Egypt.

#### **Urgent appeal sent on 8 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

199. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr **Kamal Abbas** and Mr **Mohamed Helmy**. Mr Kamal Abbas is the General Coordinator of the Centre for Trade Unions and Workers’ Services (CTUWS) and Mr Mohamed Helmy is a lawyer who has worked to represent the CTUWS. The CTUWS was the subject of an allegation letter sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 30 April 2007 when the Egyptian

authorities ordered the closure of its headquarters in Cairo. According to information received, on 11 October 2007, Messrs. Abbas and Helmy were sentenced to one year's imprisonment. Mr Kamal Abbas and Mr Mohamed Helmy were charged with slander and defamation of character after a lawsuit was filed against them by Mr Mohamed Ibrahim, the Chairman of the board of directors of a youth centre about which Mr Kamal Abbas and Mr Mohamed Helmy, through the CTUWS magazine *Kalam Sinai*, had published a report detailing accusations of financial and administrative irregularities. These accusations were reportedly corroborated by an internal investigation

### **Observations**

200. The Special Rapporteur is grateful for the Government's response to his communication sent on 1 March 2007. He regrets that he has not received a reply to the communications of 7 May, 12 September, 11 October and 8 November 2007.

### **El Salvador**

#### **Llamamiento urgente enviado el 17 de julio de 2007 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

201. El Relator y la Representante Especial señalaron a la atención urgente de su Gobierno la información recibida en relación con la Sra. María Haydee Chicas, periodista y encargada de la comunicación de la Asociación de Comunidades Rurales para el Desarrollo de El Salvador (CRIPDES), fue detenida junto con otras trece personas por "actos de terrorismo". Al parecer, la periodista fue detenida el 2 de julio de 2007 cuando iba a Suchitoto, con intención de cubrir un forum asociativo contra las nuevas medidas gubernamentales de privatización de la distribución del agua. Según fuentes, un centenar de campesinos que debían participar en el forum, cerraron varias calles para protestar por la privatización del agua. El movimiento, en principio pacífico, degeneraría en una manifestación violenta que causaría veinticinco heridos en el momento de la intervención policial. En el acto, las fuerzas del orden detendrían a catorce personas. La Sra. Chicas, según las informaciones recibidas, se disponía en ese momento a grabar la escena. Los catorce detenidos serían enviados a la cárcel en aplicación de la nueva ley antiterrorista, adoptada este año, que establece hasta cuarenta años de cárcel.

#### **Respuesta del Gobierno enviada el 17 de agosto de 2007**

202. En su respuesta, el Gobierno informa que desea dejar claramente establecido que las personas involucradas no fueron detenidas por razones políticas, sino por la comisión de un ilícito penal, es decir, por haber realizado actos violentos y vandálicos en contra de la integridad de funcionarios del Estado y de bienes del Estado, debiendo mencionarse que a efecto de la detención de que fueron objeto, se siguieron los procesos policiales existentes; procesados con todas las garantías necesarias propias del debido proceso, garantizados en todo momento, el respeto a sus derechos humanos y garantías individuales.

#### **Carta de alegaciones enviada el 14 de noviembre de 2007**

203. El Relator Especial envió una comunicación en relación con el Sr. **Borman Mármol**, fotoperiodista de La Prensa Gráfica, el Sr. **Alex Nolasco**, periodista de Canal 21 y el Sr. **Walter Aparicio**, su camarógrafo. Según las informaciones recibidas, el 25 de octubre de 2007, los tres periodistas habrían sido golpeados durante enfrentamientos entre policías y pobladores en el departamento de Santa Ana. Pobladores de la comunidad Santa Gertrudis habrían cerrado la carretera que llega a la zona. Según fuentes, dichos pobladores protestaban por la construcción en esa localidad de un relleno sanitario para la disposición de basura. La policía habría enviado agentes antimotines a despejar el paso de los vehículos, lo que dio lugar a un enfrentamiento con los pobladores. Tres de los periodistas que cubrían los hechos habrían sido golpeados. El Sr. Mármol habría sido golpeado por manifestantes, quedando dañado su equipo. El Sr. Nolasco y el Sr. Aparicio habrían sido golpeados por cuatro agentes de policía de la Unidad de Mantenimiento del Orden. Además, se habrían lanzado piedras contra vehículos de la televisora Telecorporación Salvadoreña y del periódico El Diario de Hoy. Dos personas que se encontraban entre los manifestantes habrían sido detenidas. Según las informaciones recibidas, los periodistas agredidos habrían interpuesto una demanda contra la policía.

#### **Respuesta del Gobierno enviada el 11 de enero de 2008**

204. El Gobierno transmitió la información de que los hechos violentos descritos por el Relator Especial efectivamente se produjeron en la fecha indicada. El incidente se produjo cuando el microbús del equipo del Canal 21 irrespetó el cordón de seguridad que se había dispuesto y continuó su marcha, abalanzándose sobre los policías e inobservando a su vez las señales de alto que se le indicaron. Un miembro de la Unidad de Mantenimiento del Orden ocasionó lesiones al conductor del vehículo. Una investigación se inició inmediatamente por la Inspectoría General de la Policía Nacional Civil para deducir responsabilidades sobre la actuación del elemento policial. Se ha individualizado el agente responsable por la agresión física, cuyo nombre es conocido por el Gobierno y por el Relator Especial, que fue sometido a un proceso disciplinario y trasladado con funciones estrictamente administrativas a otra dependencia policial. Una investigación se ha iniciado en la Fiscalía General de la República a fin de deducir la responsabilidad penal. ENo se logró individualizar a ningún responsable por la agresión sufrida por el Sr. Aparicio. El Gobierno informó también que la acción del responsable por la agresión fue un acto aislado que no puede considerarse como generalizado, y que no ha existido intención premeditada por parte del agente responsable para acallar opiniones o expresiones, ni mucho menos para evitar la noticia.

#### **Observaciones**

205. El Relator agradece al Gobierno por sus respuestas.

#### **Eritrea**

#### **Letter of allegations sent on 9 March 2007 jointly with the Special Rapporteur on the question of torture**

206. The Special Rapporteurs brought to the attention of the Government the situation of **Mr. "Joshua" Yohannes Fessehaye**, aged 48, poet, playwright and a journalist with the weekly "Setit", who allegedly surrendered to the police in September 2001 in a wave of

arrests of several other media professionals and opinion-makers. Around that time the popular weekly “Setit” was banned. Fessehaye Yohannes was first held at a police station in Asmara, then moved to a prison at Dongolo in April 2002. Finally he was transferred to a prison camp at Eiraeiro. Mr Fessehaye reportedly died on 11 January 2007 as a result of the treatment he had received under detention and of the very harsh conditions in the prison camp. According to the reports received, cells at Dongolo prison measure 1.5 metres by 1.5 metres by 2.5 metres. They are lit by a bulb that is never turned off. The prisoners are chained to the wall by their feet. Their wrists are manacled. In the course of interrogations at Dongolo, Mr. Fessehaye’s fingernails were ripped out. At Eiraeiro, a prison camp in the desert of the Red Sea province, the detainees are permanently manacled. Their food consists of bread, lentils, spinach or potatoes. They sleep on the ground with two sheets. Any contact with other prisoners or with guards is absolutely forbidden. It is reported that in the course of 2005 and 2006 several journalists, such as Said Abdulkader, co-founder and editor of the weekly Admas, Medhanie Haile, co-founder and deputy editor of the weekly Keste Deben, and Yusuf Mohamed Ali, the editor of the weekly Tsigenay, died in Eiraeiro prison camp as a result of the conditions.

### **Observations**

207. The Special Rapporteur regrets that he has not received a response to the above-mentioned communication.

### **Ethiopia**

#### **Urgent appeal sent on 9 January 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture**

208. The Special Procedures mandate holders brought to the attention of the Government information concerning the situation of Messrs **Tilahun Ayalew**, **Anteneh Getnet** and **Meqcha Mengistu**, prominent members of the Ethiopian Teachers' Association (ETA), Ethiopia's main teachers' trade union. Mr. Getnet was previously the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 September 2006. That communication, in which we brought to your Government's attention allegations that Mr. Getnet was abducted and beaten by members of the security forces in May 2006 and again abducted and taken to an undisclosed location on 23 September 2006, has unfortunately remained without a reply from the Government.

209. According to the information received, Mr Tilahun Ayalew was arrested on 14 December 2006 and Mr Anteneh Getnet on 29 December 2006. Both have since been held incommunicado by police at the headquarters of the Central Investigation Bureau (Maikelawi) in Addis Ababa. Mr Tilahun Ayalew and Mr Anteneh Getnet appeared before a judge, but they were reportedly neither charged, nor given access to legal counsel or their relatives. Since 15 December 2006 Mr Meqcha Mengistu has reportedly been detained by the police at

a secret location after being under police surveillance for several days. His exact whereabouts are not known and the authorities deny all knowledge about his whereabouts.

#### **Response from the Government sent on 24 January 2007**

210. By letter sent on 24 January 2007, the Government informed that Messrs **Tilahun Ayalew**, **Anteneh Getnet** and **Meqcha Mengistu** were detained by Addis Ababa Police Commission for alleged violations of the criminal law in accordance with the Criminal Procedure Code and accepted international standards. Ethiopian law enforcement agencies have scrupulously followed appropriate legal procedures and due process rights while taking the aforementioned individuals to custody. Hence, the concern expressed regarding their physical integrity is unfounded. The detainees were brought before the Federal High Court within 48 hours. In accordance with the Criminal Procedure Code, the Court has allowed a remand period for police to undertake the necessary investigations. The men are now held at Addis Ababa Police Commission headquarters. The Government assures that they are being treated humanely and in accordance with international norms and standards. While in detention they are allowed visits by their family, friends and religious counselors.

#### **Urgent appeal sent on 5 July 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

211. The Special Rapporteur and the Special Representative brought to the attention of the Government the following situation. On 11 June 2007, four editors, Andualem Ayele, editor of Ethiop, Mesfin Tesfaye, editor of Abay, Wonakseged Zeleke, editor of Asqual, and Dawit Fassil deputy editor of Satanaw, were found, by a court, guilty of political offences, including "outrages against the constitution or constitutional order" and "impairment of the defensive power of the state". Reportedly, these charges are related to the publication of editorials on the parliamentary elections in 2005 and the Government's conduct in the electoral period. Three other journalists, Solomon Aregawi (Hadar), Dawit Kebede (Hadar) and Goshu Moges (Lisane Hezeb) and thirty-four opposition leaders and civil society activists were convicted in the same affair. Among them, two academics: Berhanu Nega, economist, vice chairman of the opposition Coalition for Unity and Democracy and elected mayor of Addis Ababa, and Mesfin Wolde Mariam, author and former chairperson of the Ethiopian Human Rights Council. According to the information received, all the above-mentioned media professionals and academics were arrested in November 2005 and are presently detained. Moreover, it has been reported that Andualem Ayele and Mesfin Tesfaye, could face possible execution or life imprisonment for "outrages against the constitutional order". Wonakseged Zeleke, could be sentenced to up to 10 years in prison on similar charges and Dawit Fassil could be sentenced to up to three years for "inciting the public through false rumors".

212. Mr. Dawit Fassil was the subject of an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 11 July 2005, Mr. Dawit Kebede was the subject of a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 18 November 2005 and Mr. Mesfin Wolde Mariam was included in a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 3 November 2005, a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 18 November 2005, a joint urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 5 May 2006 and a joint urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 8 September 2006.

**Urgent appeal sent on 20 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers**

213. The Special Rapporteurs and the Special Representative brought to the attention of the Government the situation of Mr **Daniel Bekele**, Head of the Policy Research and Advocacy Department for ActionAid International in Ethiopia, and Mr Netsanet Demissie, human rights and environmental lawyer based in Addis Ababa, founder and director of the Organization for Social Justice in Ethiopia. Both men were arrested in November 2005, together with numerous human rights defenders and journalists, following demonstrations against alleged fraud in the general elections of May 2005 in which over 190 protestors were reportedly killed in clashes between demonstrators and law enforcement authorities. They are currently detained and are facing the charge of “crimes of outrage against the constitutional order” which carries a possible life sentence or death penalty.

214. Mr Bekele was the subject of a joint urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 25 October 2005. Both Mr Bekele and Mr Demissie were the subjects of a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 18 November 2005; a joint urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 5 May 2006; a joint urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 8 September 2006; and a joint urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 6 July 2007.

215. According to the information received, in mid-July 2007, the 38 principal defendants in the trial were reportedly found guilty as charged, and most were sentenced to life imprisonment. Having signed a statement admitting their activities had been unconstitutional, they received a pardon and were freed with their civil rights restored. It is reported that international observers were barred from attending the trial. In August 2007, all the others

accused, still on trial in the same case, were freed having gone through the same procedure of conviction, sentencing, pardon and release. However, Mr Bekele and Mr Demissie declined to sign any kind of statement admitting guilt. They appealed for bail, but on 6 August the Supreme Court heard and rejected their bail appeal. Few days later, the Court closed the defence case, and a verdict was scheduled to be delivered when the Court resumed its sessions on 9 October 2007. On 9 October 2007, the Court adjourned its verdict for a further 46 days to consider the evidence. A verdict is then expected to be given on 22 November. The charge against Mr Bekele and Mr Demissie carries a possible life sentence or death penalty.

## **Observations**

216. The Special Rapporteur is grateful for the Government's response to his communication of 9 January 2007. He regrets that he has not received a response to his other communications.

## **Fiji**

### **Urgent appeal sent on 29 January 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences**

217. The Special Procedures mandate holders brought to the attention of the Government information concerning Ms **Laisa Digitaki**, a Fijian businesswoman. Ms Digitaki is associated with the pro-democracy movement in Fiji for turning her own office into a 'Pro-Democracy Shrine' that has featured quite often in the media. Banners covered the outside of her office with statements such as, "Democracy is our right", "Yes to Democracy, No to guns", "Ballots not bullets" and "By the vote we elect the government by the vote we remove the government".

218. According to information received, on Christmas Eve, 24 December 2006, at approximately 23:20, Ms Digitaki's home was visited by a group of military soldiers. The soldiers requested that Ms Digitaki accompany them to a military camp for questioning. She was told that if she did not comply with their request she would be taken by force. On arrival at the camp Ms Digitaki was escorted through a passageway lined with cells, one of which contained her business partner Mr Imraz Iqbal. Ms Digitaki was subsequently detained in a dark cell. After a period of 20 minutes she was taken from the cell and asked to accompany a number of soldiers to Mr Pita Waqavonovono's house, a friend and fellow pro-democracy supporter. Ms Digitaki complied with the request. On her return to the camp, Ms Digitaki was led to a dark hall where Ms Virisila Baudromo, Executive Director of the Fiji Women's Rights Movement (FWRM) was waiting. Ms Baudromo was the subject of an urgent appeal sent on 25 January 2007 by the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders. Ms Digitaki and Ms Baudromo were subsequently subjected to a barrage of verbal abuse and torture, during which Ms Digitaki was threatened at gunpoint and made to lie face down on the ground. After enquiring if she was pregnant, one of the soldiers proceeded to jump on her back. The ordeal lasted approximately 45 minutes, after which Ms Digitaki and Ms Baudromo, along with four other pro-democracy activists, including Mr Iqbal and Mr Waqavonovono, were ordered to run to the camp gate. The group was followed

outside the camp by two military trucks and they were forced to run some distance by the soldiers. Before returning home, Ms Digitaki passed by her office in. The office had been trashed and raided and the pro-democracy banners were removed. Graffiti was on the wall saying "Merry Xmas Happy New Year Laisa Chang". (The reference is a derogatory one, referring to one of her male business clients. Ms Digitaki is one of the few businesswomen dealing in a male dominated corporate world in Fiji and she is often accused of sleeping with all her male associates. Similar comments were made by officers while she was in detention on 24-25 December 2006). Previously on 9 December 2006, a group of armed men broke into the pro- democracy shrine, tearing down banners and damaging the property. Ms Digitaki is currently in hiding, in order to protect herself from arrest after a statement she made outlining the events of 24 December 2006, was made public, and fears for her physical integrity.

### **Urgent appeal sent on 29 January 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

219. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Ms **Angelina Heffernan**, Executive Director of the Pacific Centre for Public Integrity (PCPI), an NGO which monitors, investigates and documents human rights abuses in Fiji. According to information received, on 11 December 2006, Ms Heffernan received an anonymous threatening phone call which, it is believed, came from military sources. Ms Imrana Jalal, an international lawyer, former Commissioner of the Fiji Human Rights Commission and Board member of the Fiji Women's Rights Movement (FWRM), also received a phone call threatening her with rape. According to reports the call was traced to a phone booth outside the military barracks in Nabua, Suva. Ms Jalal was the subject of a communication sent by the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders on 25 January 2007.

220. In January 2007, Lt. Colonel Pita Drita, Land Force Commander of the Fiji Defence Force, confirmed that the military is actively seeking the whereabouts of Ms Heffernan, along with Ms Laisa Digitaki who was the subject of a communication sent by the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 29 January 2007. Lt. Colonel Pita Drita stated that both women need to be cautioned against making public statements against the President, the interim government and the military as they are detrimental to the security situation in the country.

### **Letter of allegations sent on 19 July 2007 jointly with the Special Rapporteur on the independence of judges and lawyers**

221. The Special Rapporteurs brought to the attention of the Government information concerning **Ms. Tupou Draunidalo**, vice-president of the Fiji Law Society. According to the information received, the Interim Attorney General took legal action against Ms. Tupou Draunidalo concerning a statement she made in May 2007, when she allegedly said that "the confidence of lawyers in the judicial system, let alone the public, is shattered". The Interim Attorney General allegedly said that in bringing this proceeding, he was acting in the public

interest to protect the integrity and authority of the judiciary, which may be undermined by such statements. The High Court was to hear the case on August 16.

222. In the same communication, the Rapporteurs referred to the case of **M. Graham Leung**, a lawyer, who was reportedly banned from travelling by the Home Affairs Ministry. On 16 July, the lawyer was barred from leaving Fiji and travelling to Australia and New Zealand. The Military spokesman allegedly said that Mr. Leung was stopped from leaving the country because he had made misrepresenting statements about the interim Government abroad, and that at the Law Asia conference he had made a number of misrepresentations in his paper which was printed in The Fiji Times. He indicated that Mr. Leung misinformed the gathering by stating that members of the legal profession representing clients in constitutional matters were being silenced. Finally, it is reported that on 18 July, the travel ban against Mr Leung was lifted. Mr Leung's lawyer indicated that he was still pursuing a judicial review of the matter, which was before a judge.

#### **Response from the Government sent on 31 October 2007**

223. In its response, the Government stated that the information contained in the communication concerning the case of Ms. **Tupou Draunidalo** is in the main correct, except for reference to hearing date which is set for 19 November instead of 16 November 2007 as reported. The Government further stated that the legal proceeding against Ms. Draunidalo is an action for "Contempt of Court". The principle of judicial independence implies an obligation on the Attorney-General to defend the Courts. The Attorney General's intervention ensures that attacks on the judiciary are responded to and ensures that the judges are not forced to descend down a path where they feel obliged to defend themselves. The role of the Attorney General in contempt proceedings and as defender of the judiciary is well traversed at common law. In instituting Contempt of Court proceedings against Ms. Draunidalo, the Interim Attorney General of Fiji was merely exercising a duty bestowed upon him at common law and by convention to protect the integrity and authority of the judiciary.

224. Regarding the case of Mr. **Graham Leung**, the Government stated that it is not in the position to comment on whether the information regarding Mr. Leung as contained in the Special Rapporteurs' note is substantiated. The Government further informed that the matter is currently before the courts and the facts in the case are disputed and are still to be determined. It can be confirmed however, that there are currently no bans or restriction imposed on Mr. Leung's movement or travel.

#### **Letter of allegations sent on 14 August 2007**

225. On 14 August 2007, the Special Rapporteur sent an allegation letter in relation to **Taniela Tabu**, the Secretary-General of the Viti National Union of Taukei Workers. According to the information received, on 1 August 2007, Mr. Taniela Tabu was taken into military custody on the early hours of the day. He was allegedly taken to military barracks, where he underwent physical and psychological abuse. He was later summoned before a military body, which threatened that he would be killed if he continued to make statements against the Army Commander. He was allegedly released at 7 p.m. on the same day.

## Observations

226. The Special Rapporteur is grateful for the Government's response to his letter of 19 July. He regrets that the Government of Fiji did not respond to his other communications sent in 2007.

## Gambia

### **Urgent appeal sent on 11 October 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

227. The Special Rapporteur and the Special Representative brought to the attention of the Government information concerning the situation of Ms **Tania Bernath**, Mr **Ayodele Ameen**, members of staff of the International Secretariat of Amnesty International, and Mr **Yaya Dampha**, a local journalist with the Gambian local newspaper Foroyaa. Ms Bernath and Mr Ameen have been on mission on behalf of Amnesty International in the Gambia since 2 October 2007, in order to look into the human rights situation in the country and to conduct training sessions for civil society organizations and journalists on good governance and human rights. The Gambian authorities had been informed of their visit.

228. According to the information received, on 6 October 2007, Ms Bernath, Mr Ayodele, Mr Dampha, and their driver were arrested by the National Intelligence Agency, and then handed over to the police in Bassé. They were kept in detention overnight and transferred to Banjul on the morning of 7 October 2007. On arrival in Banjul, the driver was released. However, Ms Bernath, Mr Ayodele, and Mr Dampha, remained in detention at Banjul Central Police Station for another day. Ms. Bernath, Mr. Ayodele and Mr. Dampha were allegedly conditionally released on 8 October, and had to report to the police on 9 October. They are due to further report on 11 October. None of them has reportedly been charged with any offence.

## Observations

229. The Special Rapporteur regrets that he has not received a response to the communication sent on 11 October 2007.

## Georgia

### **Urgent appeal sent on 13 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture**

230. The Special Procedures mandate holders sent an urgent appeal to the Government concerning the police actions in connection to mass protests in Tbilisi as well as the declaration of state of emergency and suspension of some fundamental rights. According to the information received, on 7 November, peaceful anti-government demonstrations in Tbilisi were violently curtailed by the riot police. Protesting crowds were dispersed by water cannons, tear gas and rubber bullets. Police officers allegedly chased various protestors and physically attacked them using rubber truncheons and by firing rubber bullets. Mr. Koba Davitashvili, the leader of the opposition People's Party, was severely beaten and, at time of

writing, was hospitalized in critical condition. According to reports, the police also targeted journalists covering the events as well as independent observers. Two cameramen from Imedi TV were also hospitalized after reportedly being assaulted by the police.

231. The Public Defender (Ombudsman) of Georgia, Mr. Sozar Subari, was also attacked by the riot police with rubber truncheons. He was present in the protest to document the police actions. Mr. Subari has been a regular critic of the Georgian government's human rights record. The Riot Police also raided the offices of two television stations, Imedi TV and Kavkasia, taking them off the air. Imedi radio station and internet website were also suspended. Demonstrators who gathered outside Imedi TV headquarters to protest its suspension were dispersed by the police with tear gas and physical attacks. Later in the evening of 7 November, the Georgian Government declared a state of emergency for 48 hours, suspending a number of fundamental rights. The state of emergency was later extended to 15 days. In particular, all public demonstrations in the country were banned and only the state television is allowed to broadcast news. It is believed that around 500 protesters were injured, 100 of whom remain hospitalized.

### **Observations**

232. The Special Rapporteur regrets that he has not received a response to the communication sent on 13 November 2007. He urges the government to provide detailed information concerning the events of 7 November 2007, particularly the restrictions imposed on protesters, journalists and TV stations.

### **Guatemala**

#### **Llamamiento urgente enviado el 25 de enero de 2007 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

233. El Relator y la Representante Especial señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. **Lázaro Noe Reyes Mata**, el Sr. **Max Alberto Estrada Linares**, el Sr. **Eulogio Obispo Monzón Mérida**, el Sr. **Oscar Giovanni González Donado** y el Sr. **Arturo Granados Hernández**, miembros del comité ejecutivo del Sindicato de Trabajadores de la Empresa Portuaria Quetzal (STEPQ) y el asesinato del Sr. Pedro Zamora Álvarez, Secretario General del STEPQ. El STEPQ está afiliado con la Federación Internacional de los Trabajadores (ITF), una organización que representa a cinco millones de trabajadores y trabajadoras afiliados en 681 Sindicatos del Transporte de 148 países. Según la información recibida, el 17 de enero de 2006, entre las 13:45 y las 20:00, el Sr. González Donado y el Sr. Reyes Mata habrían recibido tres llamadas telefónicas anónimas en las cuales los habrían amenazado de muerte, en un plazo de nueve días, a ellos y a sus familias. Además, últimamente se habría visto una camioneta, con los cristales tintados, aparcada cerca de la casa del Sr. Monzón Mérida.

234. Según los informes, en el mes de junio de 2006, el Sr. Estrada Linares habría sufrido una grave herida a causa de un atentado contra su vida por unos desconocidos. El ataque se habría denunciado ante el Procurador General, pero no se habrían encontrado a los culpables. El 15 de enero de 2007, el Sr. Zamora Álvarez, habría sido asesinado, al regresar a su casa, en compañía de dos de sus hijos, en el pueblo de Puerto Quetzal. Según se informa, cinco

individuos habrían disparado a la camioneta del Sr. Zamora Álvarez provocando el choque del vehículo contra un muro. Se alega que uno de sus agresores le remató con un disparo en la cabeza. Uno de los hijos del Sr. Zamora Álvarez resultó herido en el ataque.

235. Se informa que el 10 de enero de 2007, los miembros del Comité Ejecutivo del Sindicato habrían participado en una reunión del Congreso de la República, en la Ciudad de Guatemala. El sindicato habría sido informado sobre la readmisión de nueve trabajadores, supuestamente víctimas de un despido improcedente por el puerto de Quetzal, en octubre de 2006. Después de la reunión los integrantes del sindicato habrían sido seguidos por un coche de la marca Toyota Yercel. Se expresó profunda preocupación por la seguridad de los miembros del comité ejecutivo del Sindicato de Trabajadores de la Empresa Portuaria Quetzal (STEPQ).

#### **Respuesta del Gobierno enviada el 7 de diciembre de 2007**

236. El Gobierno informó de otras amenazas en contra de los sindicalistas de la STEPQ. El 4 de febrero de 2007, un vehículo tipo Pick Up atemorizó a los **Sres. Lázaro Noe Reyes y Eulogio Obispo Monzón**. Personas no identificadas que se conducían en motocicleta, entre las cuales un hombre armado con dos pistolas en el cinto, llegaron durante el mes de febrero de 2007 a la casa de la viuda de **Pedro Zamora**. Se informa que el 4 de septiembre del 2007, el Sistema Interamericano de Derechos Humanos solicitó al Estado de Guatemala la adopción de medidas cautelares identificándole como MC 162-07 a favor de **Lázaro Noe Reyes Matta, Eulogio Obispo Monzón Mérida, Arturo Granados Hernández, Miguel Antonio Madrid Hernández, Max Alberto Estrada Linares y Oscar Giovanni Gonzáles Donado**. Los sindicalistas solicitaron que las medidas cautelares a implementar sean las de seguridad perimetral para resguardar la sede del sindicato. El Estado de Guatemala ha implementado las medidas cautelares por un plazo de 6 meses. En un informe del Ministerio Público con fecha 1 de octubre de 2007 dirigido a la Comisión Presidencial de Derechos Humanos (COPREDEH) se informó que las investigaciones realizadas por la Fiscalía a cargo habían permitido la identificación de dos personas como responsables de los hechos y que se había ordenado a la Policía Nacional de proceder a la detención de los presuntos responsables.

#### **Llamamiento urgente enviado el 31 de enero 2007 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

237. El Relator y la Representante Especial señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. **Flaviano Bianchini**, voluntario que trabaja para el grupo ecologista Colectivo Madre Selva presentó un informe sobre la contaminación presuntamente causada por una mina de oro en el río Tzala, en Sipakapa departamento de San Marcos. De acuerdo con la información recibida, el 5 de enero de 2006, durante la presentación, cuya información fue publicada en la prensa nacional al día siguiente, el Sr. Bianchini informó sobre el hecho del que el río, fuente principal de agua para los pueblos indígenas de la región, está contaminado con metales pesados. Según informes, el 10 de enero de 2006, una autoridad gubernamental, en conferencia de prensa, comunicó a los periodistas que se iban a presentar en el Ministerio Público cinco cargos penales contra Flaviano Bianchini y Madre Selva. Desde el 12 de enero de 2006, el Sr. Bianchini ha estado recibiendo llamadas anónimas increpándole a tener cuidado y ha sido sometido a vigilancia. En este sentido se teme que la seguridad del Sr. Bianchini esté en peligro, y que el acoso al que está

siendo sometido se deba al resultado de la difusión de las conclusiones del informe de la Organización Madre Selva.

#### **Llamamiento urgente enviado el 9 de marzo de 2007**

238. El Relator Especial envió una comunicación en relación con el Sr. **Haroldo Sánchez**, director del noticiero televisivo Guatevisión, y la Sra. **Samanta Guerrero**, de la emisora Radio Punto. Según las informaciones recibidas, el 28 de febrero de 2007, el Sr. Sánchez y la Sra Guerrero fueron objeto de varias llamadas telefónicas amenazándoles de muerte de no cesar con la investigación y cobertura informativa relacionada con el asesinato de tres diputados salvadoreños y su chofer y de cuatro policías presuntos responsables del hecho.

#### **Respuesta del Gobierno enviada el 19 de septiembre de 2007**

239. El Gobierno informó que la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDH) inició las gestiones necesarias para obtener la información relacionada con los hechos denunciados por el Sr. **Haroldo Sánchez**. El Ministerio Público indicó que no existían denuncias sobre los hechos que dieron origen a la presente comunicación. El Sr. Sánchez indicó a la COPREDH que la amenaza que había sufrido por medio de un correo electrónico se refería a hechos que habían sucedido en la década de los años ochentas. Por lo tanto, el Sr. Sánchez estimó que no era necesario interponer una denuncia ante el sistema nacional, pero consideró importante hacerlo ante el sistema internacional con el objeto de dejar constancia del hecho. El Gobierno indicó que la naturaleza de los hechos y que el delito de amenazas está regulado como un delito de acción pública dependiente de instancia particular, por lo tanto no se ha realizado ninguna investigación. En relación con la Sra. **Samanta Guerrero**, hasta la fecha de la comunicación del Gobierno el Ministerio Público no había remitido la información de mérito.

#### **Llamamiento urgente enviado el 7 de mayo de 2007 juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

240. El Relator y la Representante Especial señalaron a la atención urgente del Gobierno la información recibida en relación con la Sra. **Paula Barrios**, miembro del equipo del área de mujeres en prisión y violencia de género, el Sr. **David Dávila** y el Sr. **Oswaldo Samayoa** investigadores y otros miembros no identificados del Instituto de Estudios Comparados en Ciencias de Guatemala (ICCPG). El ICCPG es una institución académica que realiza investigaciones en las áreas de política criminal y derechos humanos. Además, la Institución es querellante en varios casos de derechos humanos y ha publicado informes sobre las ejecuciones extrajudiciales en Guatemala. De acuerdo con la información recibida, el 25 de abril de 2007, hacia las 6:30 de la tarde, cuando un miembro del ICCPG se dirigía en coche a la ciudad de Guatemala dos vehículos con vidrios polarizados sin placas habrían forzado a parar el coche del trabajador/a. Bajando de los vehículos, dos hombres, uno de ellos con palo, le habrían sacado al trabajador/a del coche. Los agresores le habrían dicho que sabían que trabajaba en el Instituto y que tenían controlado todo.

241. Según se informa, el 12 de abril de 2007, al salir del ICCPG un/a empleado/a habría sido introducido forzosamente en un coche donde habían dos hombres armados. Los hombres le habrían interrogado al empleado/a si trabajaba en el Instituto amenazándole con que algo le

sucedería si no dejaba su actividad. Además, el 20 de marzo de 2007, la casa de la Sra. Barrios habría sido allanada. Se alega que no se habrían robado ningún otro artículo de valor, sin embargo uno de los osos de peluche en el cuarto de sus hijos tenía la boca tapada. El 13 de marzo de 2007, el Sr. Dávila y el Sr. Samaoya fueron seguidos por un vehículo. Al día siguiente, el 15 de marzo de 2007, al dirigirse a la casa de la familia del Sr. Tirso Román Venezuela (presunto ejecutado extrajudicial) su coche fue detenido cinco veces por la policía. El ICPPG habría denunciado oficialmente los susodichos incidentes ante el Ministerio Público y se habría solicitado de medidas cautelares ante la Comisión Interamericana de Derechos Humanos.

### **Respuesta del Gobierno enviada el 19 de septiembre de 2007**

242. El Gobierno informó que se está realizando la investigación de merito sobre los hechos cometidos los días 24 y 25 de abril del 2007. El Ministerio Publico informó que la persona que fue victima de los hechos del día 12 de abril no presentó la denuncia de merito. El Ministerio Publico informó que la persona que fue victima de los hechos del día 25 de abril tampoco presento la denuncia de merito. El Gobierno informó que el 7 de junio de 2007 la Comisión Interamericana de Derechos Humanos ordenó adoptar medidas cautelares a favor del Instituto de Estudios Comparados en Ciencias Penales de Guatemala. Por lo tanto, los Sres. Paula Barrios, Oswaldo Samayoa y David Dávila cuentan con medidas cautelares. El Gobierno informa que según el personal del Instituto, el servicio que está brindando la Policía Nacional es deficiente. Debido a lo anterior, el Viceministro de Apoyo al Sector de Justicia del Ministerio de Gobernación se comprometió a que los agentes de la Policía Nacional Civil de se asignen firmarán un libro de asistencias, que el Instituto tendrá en su poder. El 30 de mayo de 2007, el Relator Especial envió una comunicación en relación con el Sr. **Mario Rolando López Sánchez**, periodista de la emisora Radio Sonora. El 3 de mayo de 2007, el Sr. Sánchez fue asesinado por tres individuos mediante varios impactos de bala cuando salía del coche para dirigirse a su domicilio. Se informa que el Sr. Sánchez, aún con vida, fue trasladado por bomberos voluntarios al Hospital Roosevelt donde falleció minutos después. El hecho habría ocurrido en un barrio al sur de la ciudad de Guatemala. Según las informaciones, la emisora Radio Sonora habría sido amenazada repetidas veces con llamadas telefónicas. El Sr. López Sánchez era coproductor del programa "Casos y cosas de la Vida Nacional", donde se criticaba la política guatemalteca. Los individuos que le dispararon no habrían sustraído ningún objeto de valor en particular, lo cual hace pensar sobre la posible vinculación de este asesinato a las labores periodísticas del Sr. López Sánchez.

### **Carta de alegaciones enviada el 30 de mayo de 2007**

243. El 30 de mayo de 2007, el Relator Especial envió una comunicación en relación con el Sr. **Mario Rolando López Sánchez**, periodista de la emisora Radio Sonora. El 3 de mayo de 2007, el Sr. Sánchez fue asesinado por tres individuos mediante varios impactos de bala cuando salía del coche para dirigirse a su domicilio. Se informa que el Sr. Sánchez, aún con vida, fue trasladado por bomberos voluntarios al Hospital Roosevelt donde falleció minutos después. El hecho habría ocurrido en un barrio al sur de la ciudad de Guatemala. Según las informaciones, la emisora Radio Sonora habría sido amenazada repetidas veces con llamadas telefónicas. El Sr. López Sánchez era coproductor del programa "Casos y cosas de la Vida Nacional", donde se criticaba la política guatemalteca. Los individuos que le dispararon no habrían sustraído ningún objeto de valor en particular, lo cual hace pensar sobre la posible vinculación de este asesinato a las labores periodísticas del Sr. López Sánchez.

## Observaciones

244. El Relator Especial agradece el Gobierno por sus respuestas a las comunicaciones de 25 de enero, 9 de marzo y 7 de mayo de 2007. En relación a la comunicación enviada el 9 de marzo y respondida por el Gobierno el 19 de septiembre de 2007, el Relator agradecería el recibimiento de informaciones sobre la situación de la Sra. Samanta Guerrero. El Relator Especial lamenta no haber recibido respuesta a las comunicaciones del 31 de enero de 2007 y 30 de mayo de 2007.

## Guinea

### **Lettre d'allégations envoyée le 30 janvier 2007 avec le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants**

245. Les Rapporteurs spéciaux ont attiré l'attention du Gouvernement au sujet d'allégations concernant les forces de sécurité à Conakry au cours de la **grève générale entamée le 10 janvier 2007**. Selon les informations reçues, la Confédération Nationale des Travailleurs de Guinée (CNTG) et l'Union Syndicale des Travailleurs de Guinée (USTG), conjointement avec l'Organisation Nationale des Syndicats Libres de Guinée (ONSLG), et l'Union Démocratique des Travailleurs de Guinée (UDTG), auraient organisé une manifestation le 17 janvier 2007 pour protester contre le gouvernement et la gestion du pays qui serait en proie à une grave crise économique. Les forces de sécurité auraient violemment dispersé cette manifestation avec des gaz lacrymogènes, des balles en caoutchouc et des balles réelles. Ils auraient aussi frappé de nombreux manifestants. Quatre personnes auraient été tuées, plusieurs blessées et au moins soixante auraient été arrêtées.

246. Le 22 janvier 2006, de nombreux membres de la garde rapprochée du Président de la République se seraient rendus à la Bourse du travail où ils auraient saccagé l'ensemble des bureaux et passé à tabac de nombreux syndicalistes et membres d'organisations de la société civile qui y étaient réunis depuis le début de la grève générale. Une vingtaine de dirigeants syndicaux qui avaient organisé la manifestation susmentionnée, parmi lesquels **Dr. Ibrahima Fofana**, Secrétaire général de l'USTG, **Mme Hadja Rabiadou Diallo**, Secrétaire générale de la CNTG, **M. Yamodou Touré**, Secrétaire général de l'ONSLG et **M. Abdoulaye Baldé**, Secrétaire général de l'UDTG, auraient été frappés, puis arrêtés et conduits dans les locaux de la Compagnie mobile d'intervention et de sécurité, et enfin libérés dans la nuit du 22 au 23 janvier 2007.

247. Au moins trois étudiants, **MM. Ousman Baldé, Abbas Camara et Mamadou Bobo Barry**, arrêtés les 15 et 16 janvier, étaient encore détenus par les forces de police au moment de l'envoi de la communication. Par ailleurs, le ministre de l'information de la Guinée, Boubacar Yacine Diallo, aurait visité personnellement, le 15 janvier 2007, nombre de radios privées et communautaires pour interrompre tout reportage sur la grève générale entamée le 10 janvier en menaçant de confisquer les équipements des radios à qui n'obéiraient pas à ses ordres. Les Rapporteurs spéciaux ont exprimé leur préoccupation que l'usage excessif de la force par les forces de l'ordre lors de la dispersion de la manifestation, les arrestations subséquentes des personnes susmentionnées et la censure des médias radiophoniques ne soient en représailles de leurs activités légitimes de défense des droits de l'homme.

### **Lettre d'allégations envoyée le 12 novembre 2007**

248. Le 12 novembre 2007, le Rapporteur spécial a envoyé une lettre d'allégation au Gouvernement, attirant son attention sur des informations reçues sur la situation de **M. Mady Conde** et du journal qu'il dirige, « La Nouvelle », bimensuel indépendant basé à Conakry. Selon les informations reçues, le 29 octobre 2007, le Conseil National de la Communication (CNC) aurait interdit à Mr. Conde d'exercer toute activité liée au journalisme pour une durée d'un mois et suspendu pour la même durée le journal susmentionné. Selon les sources, ces décisions du CNC feraient suite à la publication par ledit journal d'un article dans son édition du 10-29 octobre intitulé « Armée Nationale vers une nouvelle mutinerie » qui, selon le CNC, serait « susceptible de porter atteinte à l'honneur de l'armée guinéenne ». Cet article serait anonyme et spéculerait sur une possible révolte des militaires.

### **Observations**

249. Le Rapporteur spécial regrette l'absence de réponse à ses communications.

## **Guinea Bissau**

### **Urgent appeal sent on 2 August 2007**

250. The Special Rapporteur brought to the attention of the Government the case of **Mr Mario Sá Gomes**, Chairperson of the human rights non-governmental organization Guinea Association of Solidarity with victims of miscarriage of justice (AGSOVEJ), who was reportedly in hiding since early July 2007, when agents of the national armed forces came to his home with a warrant to arrest him. The presumed reason of Mr Sá Gomes' arrest was a statement he made earlier to a local radio station, Pindjiquiti, in which he would have affirmed that the solution to the problem of drug trafficking in Guinea Bissau was the dismissal of high-ranking officials of the armed forces. These events are occurring against a background where information has also been received in relation to alleged harassment of journalists who have been investigating the emerging drug problem. The Special Rapporteur expressed concern that the order for the arrest of Mr Sá Gomes may have been related to his legitimate activities in defence of human rights. Further concern is expressed for the physical and psychological integrity of Mr Sá Gomes and his family.

### **Observations**

251. The Special Rapporteur regrets that he has not received a response to the above-mentioned communication.

## **Haiti**

### **Lettre d'allégations envoyé le 6 juin 2007**

252. Le 6 juin 2007, le Rapporteur spécial a envoyé une lettre d'allégation au Gouvernement, concernant le cas de **M. Alix Joseph**. Selon les informations reçues, le 16 mai 2007, M. Alix Joseph, animateur et gérant de Radio-Télé Provinciale aux Gonaïves, aurait été assassiné par deux inconnus armés qui l'auraient abattu de plusieurs balles. M. Joseph était animateur d'une émission populaire le dimanche matin, responsable des activités quotidiennes

de la station et remplaçant souvent l'animateur des actualités, professeur de philosophie et un membre actif de plusieurs organisations culturelles locales.

253. Dans la même communication, le Rapporteur a également rapporté le cas de **M. François Latour**, publiciste et animateur de la rubrique "On achète, On vend" sur Caraïbes FM, aurait été abattu le 23 mai 2007 après avoir été kidnappé à Port-au-Prince. Il semblerait que le 22 mai 2007, M. Latour avait été enlevé par des individus armés alors qu'il retournait à son domicile. Il aurait été exécuté d'une balle dans le ventre.

### **Observations**

254. Le Rapporteur spécial regrette l'absence de réponse à sa communication.

## **Hungary**

### **Urgent appeal sent on 26 June 2007**

255. On 26 June 2007, the Special Rapporteur sent an urgent appeal to the Government concerning **Ms. Iren Karmen**, an investigative journalist, who was reportedly assaulted by two men who left her unconscious on the banks of the Danube River on 22 June. She was reportedly found tied up and beaten the next morning and had to be hospitalized in Budapest with serious head injuries. It seems that Ms. Karmen had received several e-mails and telephone threats the previous winter, apparently prompted by her investigation into fraudulent dealings in petroleum products and other cases of corruption in the early 1990s. Ms. Karman published a book and made a documentary film in 2006, both of which suggested that law enforcement agencies officials and political representatives were involved in the oil scams.

### **Response from the Government sent on 29 June 2007**

256. The Government transmitted the preliminary information that the case is under investigation by the relevant authorities, in accordance with the well-established legal regulations of Hungary. The investigation into the case has been taken over by the National Investigation Office, and the Public Prosecutor's Office has also been involved.

### **Observations**

257. The Special Rapporteur is grateful for the Government's response and would appreciate to receive follow-up information concerning developments in the investigation after 29 June 2007.

## **India**

### **Urgent appeal sent on 16 February 2002 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention**

258. The Special Procedures mandate holders brought to the attention of the Government the situation concerning Mr. **Gopen Sharma**, District Human Rights Officer in the

Murshidabad District of West Bengal of a non governmental organisation called People's Watch, which is implementing an European Union funded "National Project on Prevention of Torture in India" (NPPT) in West Bengal in collaboration with a non governmental organisation Manabadhikar Suraksha Mancha (MASUM). Mr Sharma was already the subject of an urgent appeal of the Special Representative of the Secretary-General on the situation of human rights defenders on 8 December 2006.

259. According to further information received, Mr Gopen Sharma was arrested by police officers on 8 February 2007 during his visit to the Kaharpara Border Outpost of the Border Security Force (BSF) camp in order to collect information on three cases of human rights violations alleged committed by the BSF following complaints lodged with the National Human Rights Commission (NHRC). At Outpost No. 1 he was approached and assaulted by an individual not known to Mr Sharma with the name of Achinto Sarkar, who alleged that one of his co-villagers owed him money. When Mr Sharma asked for protection by the local BSF he was taken into custody instead and transferred to Ranninagar Police Station. Mr Sharma was not provided with an arrest warrant. Upon arrest Mr Sharma was threatened and insulted by a police officer, who accused him of filing complaints with human rights organisations against the police and the BSF. Police officers seized his mobile phone and all documents related to the complaints to the NHRC Mr Sharma had been investigating.

260. Mr Sharma was charged pursuant to sections 420, 468 and 471 of the Indian Penal Code on allegations of fraud and dishonestly inducing delivery of property, forgery for the purpose of fraud and using as genuine a forged document, respectively. On 9 February 2007 Mr Sharma was summoned before the Additional Chief Judicial Magistrate of Lalbagh, Murshidabad, who decided to remand him until 22 February 2007. The application for bail filed by Mr Sharma's lawyer was also rejected by the court. These events followed Mr Sharma's participation in a fact-finding mission to the BSF Khayer Tala Border Outpost that the NPPT undertook on 1 February 2007.

261. The other members of the fact-finding mission were Mr Henri Tiphagne, Executive Director of People's Watch, Mr Biplap Mukherjee, State Programme Coordinator for the NPPT for West Bengal, and Mr Kirity Roy, President of MASUM, who was already the subject of a letter of allegation by the Special Representative of the Secretary-General on the situation of human rights defenders on 9 January 2007, an urgent appeal by the Special Representative of the Secretary-General on the situation of human rights defenders on 25 January 2006 and a joint allegation letter by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 14 December 2005. When the fact-finding mission reached the area it was threatened and harassed by BSF officers at BSF Khayer Tala Border Outpost. The fact-finding mission was related to alleged human rights violations by police officers committed against local villagers.

#### **Letter of allegations sent on 18 May**

262. The Special Rapporteur brought to the attention of the Government information concerning three employees of the Tamil newspaper Dinakara, **Mr. Vinod Kumar** and **Mr. Gopinath**, both computer engineers, and **Mr. Muthuramalingam**, the building's caretaker, who were reportedly killed on 9 May 2007 in the newspaper's offices in Madurai, in the southeastern state of Tamil Nadu, allegedly by supporters of M.K. Azhagiri, one of the sons

of Tamil Nadu chief minister K. Karunanidhi. Mr. Kumar and Mr. Gopinath would have died of smoke inhalation after going into the building to try to save the computers. Reportedly, M.K. Azhagiri's supporters were angry about the publication of a poll tipping another son as his likeliest successor. According to information, hundreds of supporters of M.K. Azhagiri, one of the leaders of the state's ruling Dravida Munnetra Kazhgam (DMK) party, attacked Dinakaran's offices in broad daylight, setting fire to its building along with two other news organisations, Sun TV and the newspaper Tamil Murasu. Dinakaran is one of the region's most popular Tamil-language dailies and is part of the Sun press group, owned by a relative of the chief minister.

#### **Letter of allegations sent on 23 August 2007**

263. The Special Rapporteur brought to the attention of the Government information concerning reports of an assault against the **Mumbai office of the weekly magazine "Outlook"**, on 14 August 2007 by six men who identified themselves as members of the Shiv Sena, a Hindu nationalist party. After gaining forced entry to the magazine's office, the men reportedly demanded to speak to the editor and, when informed that he was not available, started to ravage the premises, destroying windows, computer equipment and furniture. The Outlook magazine had recently published a news report where the founder of the Shiv Sena, Bal Thackeray, is allegedly portrayed as one of the "villains" in Indian history and criticized due to his alleged incitement of hatred against Muslims.

#### **Observations**

264. The Special Rapporteur regrets that he has not received a reply from the Government concerning the above-mentioned communications

#### **Iran (Islamic Republic of)**

#### **Urgent appeal sent on 23 January 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the independence of judges and lawyers**

265. The Special Procedures mandate holders brought to the attention of the Government the situation of **Ali Farahbakhsh**, former reporter of the banned dailies Yas-e No and Shargh, who was reportedly detained in November 2006 by security officers after he returned from a civil society conference in Bangkok about "Media and the Government". Since then and for more than 40 days, Mr. Farahbakhsh has been reportedly detained under the suspicion of espionage, though no charges were filed against him. The Director of prisons in Teheran province allegedly confirmed that Mr. Farahbakhsh was still in custody at the time the communication was sent.

266. In the same communication, the independent experts referred to the case of **Mr. Javanmard**, a journalist of the daily "Krafto", based in the capital of the Kurdish region Sanadej, was reportedly arrested on 18 December 2006 at his home by officials from the ministry of intelligence. Mr. Javanmard was still being held at Sanadej prison without charges at the time the communication was sent.

267. Finally, the independent experts also referred to the case of **Mr. Hesén Rashidi**, a journalist and writer, who was reportedly sentenced on 27 October 2006 to one year imprisonment and 5 years of suspended sentence. Mr. Rashidi appealed the sentence during the first week of November 2006. Reportedly the charges and the sentence brought against him related to his activities on the promotion of the Azerbaijani identity, his engagement in research about Southern Azerbaijani history and culture and his articles and conferences on this question. It was reported that Mr. Rashidi had no access to a lawyer during the interrogations and the proceedings, and that the court hearings were held in closed sessions.

#### **Response from the Government sent on 28 February 2007**

268. In its reply, the Government transmitted the following information. According to information received from the Judiciary of the Islamic Republic of Iran Mr. **Ali Farahbakhsh** has been charged with "espionage. His legal dossier has been examined by the Office of Public Prosecutor and has been sent to the relevant court.

269. Regarding Mr. **Javanmard**, he has been charged with "measures against the security of the country" by participating in the riots in the City of Sanandaj (Western Iran) on 1 August 2005. He has been sentenced to 5 years of imprisonment. This sentence has been commuted by the appellate court to 2 years. It is important to note that the above mentioned person continued his actions against the country even during the period of his trial and was detained again for his second charge. He is serving his prison term for his first sentence.

270. Regarding Mr. Hesén Rashidi, the local judiciary authority of both Western and Eastern Azerbaijan have announced that they did not find any record of such person in their database. The issue will be reexamined if the source can provide complete details of this person. The first name is an irregular name in Iran,

#### **Letter of allegations sent on 6 February 2007 jointly with the the Special Representative of the Secretary-General on the situation of human rights defenders**

271. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms. **Mansoureh Shojaei**, Ms. **Sedigheh Taghinia** (alias Tal'at Taghinia) and Ms. **Farnaz Seifi**, three journalists and women rights activists. They were at the forefront of an on-line campaign launched by Iranian feminist groups in August 2006 for the elimination of all forms of legal discrimination against women in Iranian law, and inviting legislators to review and reform existing laws to ensure the conformity of Government's commitments with international human rights instruments.

272. According to the information received, on 27 January 2007, Ms. Mansoureh Shojaei, Ms. Sedigheh Taghinia and Ms. Farnaz Seifi were reportedly arrested at the Imam Khomeini Airport while on their way to India to participate in a training course in journalism organised by the Shahrzad News website. They were subsequently transferred to the 209 (women's) section of Evin Prison, in Tehran. Before their transfer, police officers reportedly searched their respective houses, and seized some of their personal belongings, including cell phones, computers, books and notes.

273. On 28 January 2007, Ms. Mansoureh Shojaei, Ms. Sedigheh Taghinia and Ms. Farnaz Seifi were released on bail, without any official charges against them. However, it is reported that a hearing will take place in two months on the basis of unknown charges.

#### **Response from the Government sent on 23 February 2007**

274. In its response, the Government stated that, according to information received, prior to being released on bail, Ms **Mansoureh Shojaei**, Ms **Sedigheh Taghinia** and Ms **Farnaz Seifi** had been charged with ‘measures against security of the country’. Furthermore, the letter stated that the women’s legal case was under investigation by the Public and Revolutionary Office and that since the public prosecutor had not yet prepared their indictments, the date of their hearing was still not set.

#### **Urgent appeal sent on 7 March 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on violence against women**

275. The Special Procedures mandate holders brought to the attention of the Government the situation of at least 24 women human rights defenders reportedly arrested while holding a peaceful demonstration in front of the Islamic Revolutionary Court in Tehran.

276. According to the information received, on 4 March 2007, the Iranian authorities arrested at least 31 women, seven of whom were released on bail on 6 March 2007. Ms. **Assieyh Amini, Zhila Bani Yaghoob, Mahboobeh Abbasgholizade, Mahboobeh Hoseinzadeh, Sarah Loghmani, Maryam Hoseinkhah, Jelveh Javaheri, Zeynab Peighambarzadeh, Maryam Mirza, Nahid Keshavarz, Mahnaz Mohammadi, Nasrin Afzali, Elnaz Ansari, Azadeh Forghaani, Somayeh Farid, Minoo Mortazi, Sussan Tahmassebi, Parvin Ardalan, Nooshin Ahmadi Khorasani, Shahla Entesaari, Fatemeh Govarayi, Nahid Jaafari, Shadi Sadr, and Rezvan Moghadam** still remained in detention. A number of these women had allegedly gone on a hunger strike. The women had staged a peaceful demonstration against the prosecution of several women, who had been charged with criminal offences against public order and security for having organized a peaceful women’s demonstration in Haft-e Tir Square of Tehran on 12 June 2006. Many of the detained women were well-known women’s rights defenders who have publicly expressed their views on numerous occasions. All of the detained women had reportedly been transferred to Ward 209 of the Evin Prison in Teheran. Allegedly, police officers had also broken the teeth of Ms. Nahid Jaafari by banging her head against the door of a police bus.

#### **Urgent appeal sent on 16 March 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the question of torture**

277. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr. **Esma’il Javadi**, aged 31, journalist, Mr. **Ebulfezl Alilu**, shopkeeper, and Mr. **Ramin Sadeghi**. All men are Iranian Azeri Turks and linguistic rights activists.

278. According to the information received, the three men named above were arrested at around the time of several peaceful demonstrations marking International Mother Language Day on 21 February 2007. The assemblies were intended to celebrate linguistic diversity and called for education in Azeri Turkish in the Islamic Republic of Iran. They were arrested in the cities of Orumiyeh and Ardabil in north-western Iran. Mr. Esma'il Javadi was arrested on 18 February 2007 in the city of Orumiyeh. He was being detained in a detention facility under the auspices of the Ministry of Intelligence in the Dokkuz Pille area of Orumiyeh and had been reportedly ill-treated in detention. Mr. Javadi was in poor health and in urgent need of medical care. Family members who were permitted to meet with him had been threatened by security officials and told that they should not speak about Mr. Javadi to anyone.

279. Mr. Ebulfezl Alilu was in a group of around 50 people who were arrested in Orumiyeh on 21 February 2007. Authorities had closed his shop at Orumiyeh Bazaar. Mr. Alilu was being detained at Dokkuz Pille detention facility, where he had been reportedly ill-treated. Mr. Ramin Sadeghi was arrested in the city of Ardabil on 19 February 2007 together with around 20 other persons. He was first held in a detention facility of the Ministry of Intelligence and then transferred to Section 1 of Ardabil prison on 3 March 2007. Authorities had denied him any visits. He had gone on hunger strike and was in poor health, and thus in urgent need of medical care.

280. Concern was expressed that the arrests and detention of the persons named above may have been related to their peaceful activities on behalf of the cultural and linguistic rights of the Azeri-Turkish community, and that these measures may have formed part of a pattern of harassment and intimidation against members of the Azeri-Turkish community in the Islamic Republic of Iran. Further concern was expressed with respect to the health and well-being of Mr. Ramin Sadeghi and Mr. Esma'il Javadi, who reportedly requires urgent medical attention. Concern was also expressed regarding the physical integrity of Mr. Esma'il Javadi and Mr. Ebulfezl Alilu, who have reportedly been ill-treated while in detention. Finally, in view of his incommunicado detention, further concern was expressed that Mr. Ramin Sadeghi might be at risk of ill-treatment.

**Urgent appeal sent on 5 April 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women**

281. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms Nahid Keshavarz and Ms Mahboubeh Hoseinzadeh. According to information received, Iranian security agents arrested the two women on 3 April 2007 in Laleh Park (Tehran) while they were collecting signatures for a campaign to change Iranian laws that discriminate against women.

282. It was reported that Ms. Nahid Keshavarz and Ms. Mahboubeh Hoseinzadeh remained in detention and had been transferred to Evin Prison. Three other persons, Ms. Saiideh Amin, Ms. Sarah Imanian and her husband Mr. Homayoon Nami, who were arrested on the same occasion, had since been released on bail. The charges against the five persons were not known. Concern was expressed that the arrest and detention of Ms. Nahid Keshavarz and Ms. Mahboubeh Hoseinzadeh may have been related to their peaceful activities in defence of women's human rights.

**Urgent appeal sent on 16 May 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention**

283. The Special Procedures mandate holders brought to the attention of the Government the situation of Dr. **Haleh Esfandiari**, aged 67, a dual United States and Iranian citizen, who has worked as a journalist and has been a frequent lecturer on Iranian and United States affairs. According to the information received, Dr. Haleh Esfandiari was arrested in Tehran on 8 May 2007 after having been summoned for questioning by officials from the Iranian Ministry of Intelligence. She was being detained without charge in Section 209 of Evin Prison, which is run by the Ministry. Dr. Esfandiari was allowed only to make one phone call to her elderly mother on the day of her arrest, but had not been permitted any visits or contacts since then while in detention in solitary confinement.

284. Dr. Esfandiari travelled from the United States to Iran in December 2006 to visit her 93-year-old mother. On 30 December 2006, while on her way to the airport to return to the United States, her taxi was stopped by three masked men wielding knives, who took her Iranian and U.S.-American passports and belongings. Since then, Iranian authorities have failed to replace her passport. Four days later she was summoned by officials from the Military Intelligence Service to two different offices in Tehran for interrogation sessions totalling over 50 hours and stretching out over six weeks. The questions focussed almost exclusively on the activities and programs of the Middle East Program at the Woodrow Wilson Center for Scholars in Washington D.C., which she is heading. Dr. Esfandiari was repeatedly pressured, apparently in order to obtain false confessions or to make her falsely implicate the Wilson Center in activities in which it had not taken part.

285. Concern was expressed that Dr. Haleh Esfandiari's arrest and detention might have been connected solely to her peaceful exercise of her rights to freedom of opinion and expression. In view of her incommunicado detention further concerns were expressed that she might be at risk of ill-treatment.

**Urgent appeal sent on 31 May 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women**

286. The Special Procedures mandate holders brought to the attention of the Government the situation of the following women's rights activists: Ms. **Zeynab Peihgambarzadeh**, Ms. **Maryam Hoseinkhah**, Ms. **Fatemeh Govarayi**, Ms. **Nusheen Ahmadi Khorasani**, Ms. **Shahla Entesari**, Ms. **Parvin Ardalan**, Ms. **Fariba Davoudi Mohajer**, Ms. **Sussan Tahmassebi**, Ms. **Behareh Hedayat**, Ms. **Azadeh Forghaani**, Ms. **Mahboubeh Hossein Zadeh** and Ms. **Nahid Keshavarz**. Several of these women's rights activists had already been subject to an urgent appeal, sent on 7 March 2007, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention.

287. According to the latest information received, on 7 May 2007, Ms. Zeynab Peyqambarzadeh, Ms. Maryam Hosseinhkah and Ms. Fatemeh Govarayi were summoned to court for their participation in a peaceful demonstration on 4 March 2007. The demonstration was directed against the prosecution of women activists in connection with a peaceful women's demonstration that took place on 12 June 2006 in Haft-e Tir Square of Tehran and

was addressed in an urgent appeal transmitted on 16 June 2006. Ms. Zeynab Peyqambarzadeh reported to the Revolutionary Court after receiving a summons, where she was then arrested and transferred to Evin prison. Ms. Zeynab Peyqambarzadeh was released on bail on 17 May 2007.

288. On 24 April 2007, the Sixth Branch of the Revolutionary Court in Tehran sentenced Ms. Nusheen Ahmadi Khorasani, Ms. Shahla Entesari and Ms. Parvin Ardalan in connection with the peaceful demonstration of 12 June 2006 to three years' imprisonment for "collusion and assembly to endanger the national security," under article 610 of the Islamic Penal Code. The court ordered Khorasani, Entesari, and Ardalan to serve six months in prison, but suspended the remaining two-and-half years of their sentences. The same court sentenced two other women's rights advocates to prison terms on 18 April 2007 in relation to same demonstration. Ms. Fariba Davoudi Mohajer was sentenced to four years imprisonment, of which three years were suspended, and Ms. Sussan Tahmassebi was sentenced to two years imprisonment, of which 18 months were suspended. The women, currently free, are expected to appeal against their sentences.

289. The same day, Ms. Behareh Hedayat, a university student, was reportedly also tried without the presence of her lawyer due to her participation in the demonstration of 12 June 2006. On 26 May 2007, she was reportedly sentenced to a two-year suspended sentence for "acting against national security by participating in an illegal gathering." On 11 April 2007, Branch 15 of the Revolutionary Court in Tehran gave Ms. Azadeh Forghani, a university student, a two-year suspended sentence in connection with the demonstration of 12 June 2006 for "acting against national security by participating in an illegal gathering." Several days later, she was summoned to court where she was questioned and informed that she was facing new charges in connection with a peaceful gathering on 4 March 2007 held to protest against the prosecution of activists in connection with the demonstration in June 2006.

290. Appreciation was expressed that Ms. Mahboubeh Hossein Zadeh and Ms. Nahid Keshavarz have been released on bail on 15 April 2007 but the Special Representative remained concerned that the charges against the two women had reportedly not been dropped and that they might be prosecuted at a future point in time. Concern was expressed that the arrests and sentencing of the aforementioned activists may have been solely related to their peaceful activities in defence of women rights and could form part of wider pattern of harassment against women rights activists.

### **Letter of allegations sent on 7 June 2007 jointly with the Special Rapporteur on the right to education**

291. The Special Rapporteurs brought to the attention of the Government the case of teachers, mostly members of local teachers' Associations or of the National Council of Teachers' Association, who were reportedly targeted after they initiated a series of protest in March 2007, demanding the improvement of the salary scales and teacher's welfare. It is reported that hundreds of teachers were arrested across the country, some of them several times, and in some cases, subsequently released. According to the information received, on 7 April 2007, 45 teachers were arrested in Hamedan, including the entire board of the Hamedan Teacher's association, which was afterwards banned by the authorities. On 12, 14, 16 and 17 April, at least a dozen teachers were allegedly detained across the country in connection with

these protests. Moreover, it is alleged that more teachers have been arrested during the demonstrations held on 2 May which is Iran's National Teacher's day.

#### **Letter of allegations sent on 27 June 2007**

292. The Special Rapporteur sent an allegation letter in relation to the case of **Ms. Parnaz Azima**, a translator and a journalist with Radio Farda, the Persian-language service of Radio Free Europe based in the Czech Republic, who is reported to have had her passport confiscated upon her arrival at the airport in Tehran on 25 January 2007. On 15 May, Ms. Azima reportedly appeared before the Special Security Bureau of the Revolutionary Court's Public Prosecutor's office, where she was allegedly charged with "anti-regime propaganda" because of her work with Radio Farda. The bail was subsequently set at 400 million Tomans, but in spite of the posting of the bail by Ms. Azima's lawyer on 21 May 2007, authorities apparently decided to retain her passport. Reportedly, Iranian authorities had already confiscated Ms. Azima's passport from March to May 2006.

#### **Urgent appeal sent on 5 July 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on violence against women and the Special Rapporteur on the question of torture**

293. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms. **Delaram Ali**, a women's rights defender from Tehran University. According to information received, the Tehran Revolutionary Court convicted Ms Delaram Ali on charges of "Propaganda against the System" and "Disturbing Public Order" for having participated in a peaceful demonstration for a better recognition of women's rights and to remove discriminatory clauses against women from Iranian law, which took place in Haft Tir Square on 12 June 2006. Ms. Delaram Ali was sentenced to two years and 10 months imprisonment and 10 lashes. The sentence had not been suspended and could be carried out at any time. Reportedly, several other persons arrested during the demonstration had also been convicted and sentenced, but had their sentence suspended.

294. In an urgent appeal dated 16 June 2006, to which the Iranian government responded by letter, dated 15 August 2006, the mandate holders had already expressed their concern that Iranian security forces had arrested Ms. Delaram Ali and others during the demonstration of 12 June 2006. Concern was reiterated that the sentencing of Ms Delaram Ali may be related to her peaceful activities in defence of women's rights in the Islamic Republic of Iran. The government was urged to ensure that Ms. Delaram Ali would not be subjected to any punishment, including the cruel, inhuman and degrading punishment of lashing, for having exercised her right to freedom of expression. Particular concern was expressed that the execution of the lashing sentence could be imminent.

#### **Urgent appeal sent on 10 July 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention**

295. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Mohammad Sadiq Kabudvand**, Chair of the Kurdish Human Rights Organization (RMMK) based in Tehran, and editor of Payam-e Mardom-e Kurdistan (Kurdistan People's Message) a weekly published in Kurdish and Persian and suspended in

June 2004 for “disseminating separatist ideas and publishing false reports”. Mr Sadiq Kabudvand was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 22 September 2006.

296. According to the information received, on 1 July 2007, Mr Sadiq Kabudvand was reportedly arrested at his place of work in Tehran by plainclothes security officers. He was taken to his house where the security officers confiscated several personal belongings, including three computers, personal documents, books, photographs and family films. He was then taken to ward 209 of Evin prison where he was being detained and denied access to a lawyer. The date of his arrest coincides with the last day of suspension of the Payam-e Mardom-e Kurdistan newspaper.

**Urgent appeal sent on 12 July 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention**

297. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Mohammad Hashemi**, Mr **Ali Nikou Nesbati**, Mr **Mehdi Arabshahi**, Ms **Bahareh Hedayat**, Mr **Hanif Yazdani**, Mr **Ali Vefqi**, Mr **Abdollah Momeni**, Mr **Bahram Fayazi**, Ms **Hashemi**, Mr **Morteza Eslahchi**, Mr **Mojtaba Bayat**, Mr **Ezzatollah Ghalandari**, Mr **Habib Haj Heydari**, Mr **Massud Habibi**, Mr **Sayid Hosseiniya** and Mr **Arash Khandel**, all members of the High Council of the Office for the Consolidating Unity (HCOCU) and the Advar Centre. The HCOCU is a non-governmental organisation dedicated to the defence and promotion of student rights. The Advar Centre is a branch of the HCOCU founded by its alumni members.

298. According to information received, on 9 July 2007, at approximately 7.30am, national security forces attacked the Abir Kabir University in Tehran, Iran and arrested Mr Mohammad Hashemi, Mr Ali Nikou Nesbati, Mr Mehdi Arabshahi, Ms Bahareh Hedayat, Mr Hanif Yazdani, and Mr Ali Vefqi who were participating in a sit-in protest at the main entrance of the university. The protest was intended to mark the eighth anniversary of the student uprising of 1999 as well as to raise concern in relation to the continued detention of eight students of the university, arrested two months ago on charges of having published offensive material in university publications. The university was closed down later that day, allegedly due to problems with electricity. Immediately after the arrests were made at the university, security forces allegedly attacked the offices of the Advar Centre.

299. According to reports, the security forces broke down the doors and arrested everyone at gunpoint. Security forces were said to have opened fire although the shots fired were blank shots and there were no injuries. Among those named in reports as having been arrested were the aforementioned. Concern was expressed that the arrests of the aforementioned individuals may be directly related to their peaceful work in the defence of human rights in the Islamic Republic of Iran, in particular students' rights, and that their arrests may form part of a pattern of harassment against human rights defenders in the country.

**Urgent appeal sent on 13 July 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention**

300. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Mansour Osanloo** (Ossanlu), President of the Syndicate of Workers of Tehran and Suburbs Bus Company (Sandikaye Kargarane Sherkat-e Vahed). Mr Osanloo was the subject of two urgent appeals sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 16 January 2006 and on 4 December 2006.

301. According to information received, on 10 July 2007, at approximately 7pm, Mr Osanloo was abducted by unidentified individuals as he was getting off a bus on his way home. According to eye-witnesses who viewed the attack from the bus, Mr Osanloo was the subject of a severe beating and his attackers were still beating him as they forced him into an unregistered car and drove away to an undisclosed location. He had allegedly been followed all that day by the same car. His family appealed to the police for information, but did not receive any helpful feedback. Since April 2006, Mr Osanloo had been detained incommunicado twice and arrested on one occasion by police and national security forces.

302. Concern was expressed that the abduction of Mr Mansour Osanloo may be related to his peaceful work in the defence of human rights, in particular his trade union activities, and may form part of an ongoing pattern of intimidation against human rights defenders in the Islamic Republic of Iran. Further concern was expressed for the physical integrity of Mr Osanloo.

**Urgent appeal sent on 26 July 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention**

303. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Adnan Hassanpour** and his cousin, Mr **Abdolwahed Butimar** who have been sentenced to death. Mr Hassanpour is a Kurdish journalist and an advocate of cultural rights for members of the Kurdish-Iranian community residing in Iran. He is also a former member of the editorial board of the Kurdish-Persian journal Aso (Horizon) which was shut down by the Iranian authorities in August 2005. Mr Butimar is an environmental activist and director of the environmental organisation, The Green Mountain Society.

304. According to information received, Mr Butimar and Mr Hassanpour were arrested in Marivan, in the province of Kordestan, on 23 December 2006 and 25 January 2007 respectively. They were reportedly detained incommunicado in a Ministry of Intelligence facility in Marivan before being transferred to Marivan Prison on 26 March, 2007. Members of the Iranian Intelligence Service searched the home of Mr Butimar following his arrest. They allegedly found items relating to Kurdish identity such as flags, videos, and family photos. These items were confiscated and later used as evidence against Mr Hassanpour and Mr Butimar in their trial at the Revolutionary Court in Sanandaj on 12 June 2007 on charges of espionage and the crime of “Moharebeh” (being an enemy of God). On 17 July 2007, the two men were informed that they had been sentenced to death.

305. According to their lawyer, Mr Saleh Nikbakht, Mr Hassanpour’s charges were linked to a phone exchange he had with a staff-member of Radio Voice of America. Mr Butimar was

also charged with carrying a lethal weapon although Mr Nikbakht had said that this charge was without any supporting evidence. The Mehr News Agency had also alleged the involvement of Mr Hassanpour with Kurdish opposition groups and had reportedly implied that he assisted two known Kurdish activists, wanted by the Iranian authorities, to flee Iran.

306. Although the death penalty is not prohibited under international law, it has long been regarded as an extreme exception to the fundamental right to life, and must as such be interpreted in the most restrictive manner. Article 6(2) of the International Covenant on Civil and Political Rights, to which Iran is a party, provides that the “sentence of death may be imposed only for the most serious crimes”. Moreover, when the HRC for the last time considered a report presented by the Iranian government, it expressly stated in its concluding observations that it “considers the imposition of [the death] penalty for crimes [...] that do not result in loss of life, as being contrary to the Covenant” (CCPR/C/79/Add.25, paragraph 9).

307. According to the information received, the offences for which the above two persons have been convicted were not intended to result in any killings and did not result in loss of life. Moreover, regarding the charges of “mohareb”, we would like to draw attention to concerns already raised in correspondence with the government as well as in general reports. In a communication of 31 August 2006 concerning the imposition of the death penalty against Ali Motirijad and others (reproduced in A/HRC/4/20/Add.1, pages 165f) similar concerns were raised with regard to the charge of “mohareb”: The Special Representative was concerned that this charge, which according to her information, in Iran is brought against political dissidents, critics of the Government and persons accused of espionage, might not be sufficiently well defined to satisfy the very strict standards of legality set by Article 6(2) ICCPR for the imposition and execution of the death penalty. Indeed, in order for sentence of death to be imposed “in accordance with the law”, the law in question must be sufficiently precise to clearly allow distinction between conduct punishable with the capital sentence and conduct not so punishable.

308. The concept of a “fair trial” similarly requires that the elements of the crime charged be known in sufficient detail to the defendant for him to be able to effectively address them.” The query to the government to provide the definition of “mohareb” under Iranian law has unfortunately remained without a reply as of to date. Concern was expressed that the aforementioned sentence of the death penalty imposed against Mr Hassanpour and Mr Butimar may be related to their peaceful work in the defence of human rights, in particular Kurds’ rights. Further concern was expressed due to fears of the ill-treatment of Mr Hassanpour and Mr Butimar while in detention.

### **Response from the Government sent on 23 August 2007**

309. The Iranian government responded to the above communication, stating that Mr Abolwahed Butimar was charged with actions against national security through the purchase and possession of war arms and munitions and that he had been arrested while delivering weapons to a terrorist group PEJAK. Mr Adnan Hassanpour was charged with espionage in favour of aliens through mapping military and police sites and their transfer to aliens. He was also charged with cooperation and organizational relations with PEJAK, receiving money from terrorists groups and their delivery to newspapers. They had been sentenced to death and the verdict had been presented to the Supreme court for a final decision. The charges had no connection with journalism.

### **Letter of allegations sent on 21 August**

310. The Special Rapporteur brought to the attention of the Government the situation of Mr. **Emadoldin Baghi**, former editor of “Jomhouriat”, a daily newspaper that was closed by the authorities in July 2004, who was reportedly sentenced on 31 July 2007 to three years in prison by a Tehran revolutionary court for allegedly writing articles defending persons who were sentenced to death in the southern Khozestan region. The charges against him were “activities against national security” and “publicity in favor of the regime’s opponents”. The court is reported to have also passed suspended sentences on his wife, Fatemeh Kamali Ahmad Sarahi, editor of the “Jameh-e-no” and his daughter, Mary Baghi. Mr Baghi has allegedly filed an appeal and is currently waiting for a final decision on his sentence.

311. In the same letter, the Rapporteur referred to the case of **Farshad Ghorbanipour**, **Soheil Assefi** and **Masoud Bastani**, three contributors to the online newspaper “Rooonline”, who were reportedly detained on 31 July 2007. Although the charges against them were allegedly not revealed when they were arrested, they appeared before the court on 5 August 2007. According to the information received, a bail of 2,000 million Rials was set for Mr. Ghorbanipour’s release, which is allegedly an unusually high value. He was reportedly unable to pay this amount and remained in prison at the time the communication was sent. Mr. Assefi was reportedly convicted and transferred to prison without further information given to his family. Mr. Bastani was sentenced to six months imprisonment and sixty lashes for “libel and slander” and was in prison when the communication was sent.

### **Urgent appeal sent on 24 October 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

312. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Emadeddin Baghi**, President of the Society for Defending Prisoners’ Rights, a non-governmental human rights organization founded in 2003, and former editor of Jomhouriat, a daily newspaper closed by the authorities in July 2004. Mr Baghi’s case was the subject of an allegation letter sent on 21 August 2007 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

313. According to the information received, on 14 October 2007, Mr Baghi was sentenced to one-year imprisonment by the Security Unit of the General and Revolutionary Public Prosecutor’s Office in Teheran for “propaganda against the system” and “publishing secret government documents” obtained from prisoners detained in security prisons. Mr Baghi was set to be released on bail, but was transferred to Evin prison to serve another one-year sentence from a previous conviction in 2003. Concern was expressed that the prison sentence for Mr Baghi may have been related to his peaceful activities in defence of human rights, in particular prisoners’ rights, and his defence of persons sentenced to death in the Khozestan region.

**Letter of allegations sent on 15 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers**

314. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Abdolfattah Soltani**, a lawyer at the Bar of Tehran and a founding member of the Defenders of Human Rights Centre (DHRC). Mr Soltani was the subject of numerous urgent appeals sent by the Special Representative of the Secretary-General on the situation of human rights defenders, Special Rapporteur on the independence of judges, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 8 and 11 August 2006, 31 March 2006 and 14 December 2005.

315. According to the information received, Mr Soltani was invited by the non-governmental organisation International Federation of Human Rights to participate in a conference on “Freedom of expression in Iran” that was held at the Sorbonne university on 27 October 2007 in Paris. However, Mr Soltani was unable to travel to France because his identity documents (i.e. passport and family record book) had not yet been returned to him after his acquittal on 28 May 2007 of all charges that were pending against him since July 2005. Concern was expressed that the abovementioned interference with the freedom of movement of Mr Soltani may be linked to his peaceful activities in defence of human rights.

**Urgent appeal sent on 30 November 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences**

316. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms **Maryam Hosseinkhah**, a journalist and activist for women’s rights. Ms Maryam Hosseinkhah is also a member of the Campaign for Equality which is leading the One Million Signatures campaign, which calls for an end to discriminatory laws against women in Iran. She was a member of the Women’s Cultural Centre prior to its closure by the Iranian authorities, days before her summons. Ms Maryam Hosseinkhah had been the subject of an urgent appeal sent by several mandate-holders on 7 March 2007.

317. According to information received, on 18 November 2007, Ms Maryam Hosseinkhah was arrested when she reported to a branch of the Revolutionary Court in Tehran for questioning following a summons that had been issued to her. She had reportedly been accused of “disturbing public opinion”; “propaganda against the system”; and “publication of lies”, as a result of articles posted on a website of which she is the editor. No date for trial had reportedly yet been set. Concern was expressed that the arrest of Ms Maryam Hosseinkhah and the accusations that have been made against her may have been directly related to her peaceful human rights activities, in particular her work to promote women’s rights in Iran.

**Urgent appeal sent on 14 December 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention**

318. The Special Rapporteur and the Chairperson-Rapporteur brought to the attention of the Government allegations that between 20 and 30 students, including the persons mentioned below, were arrested on 7 December 2007 and were being detained without charges in Tehran

and other cities. They had participated in demonstrations, marches and student sit-ins linked to the Iran's University Students' Day. They are associated with the student group Freedom and Equality (Daneshjouyan-e Azadi Khah va Beraber Talab). Their names were given as follows: **Ms. Rosa 'Essa'ie**, member of Iran's Armenian minority, student at Tehran's Amir Kabir University; **Mr. Mehdi Geraylou**, student at Tehran University; **Ms. Anousheh Azadfar**, student at Tehran University; **Ms. Ilnaz Jamshidi**, student at Free University of Central Tehran; **Mr. Rouzbeh Safshekan**, student at Tehran University; **Mr. Nasim Soltan-Beigi** student at 'Allameh Tabatabai University; **Mr. Yaser Pir Hayati**, student at Tehran's Shahed University; **Mr. Younes Mir Hosseini**, student at Shiraz University; and **Mr. Milad Moini**, student at Mazandaran University.

319. These students were reportedly detained following protests against the replacement of scores of professors and other actions allegedly intended to limit of freedom of expression on university campuses, including the banning of a number of student publications, and suspensions and expulsions of students from their places of higher education. It was reported that activists from the students' groups, the Office for Strengthening Unity (Daftar-e Tahkim-e Vahdat) and Students For Freedom and Equality (Daneshjouyan-e Azadi Khah va Beraber Talab) were among those who took part in these demonstrations. Most of those detained in Tehran were said to be held in sections 209 and 240 of Evin Prison and others in a unit depending of the Ministry of Intelligence called Daftar-e Paygiri (Follow-up Office). It was further reported that the recent student demonstrations – often involving hundreds of students – took place in Shahroud, east of Tehran; at Mazandaran University in Babolsar in the north of the country; and in Shiraz, in the south.

320. On 12 December, family members of those detained gathered outside Evin prison and outside Iran's Parliament building to protest against the incommunicado detention of their relatives. In April 2007, Minister of Intelligence Gholam Hossein Mohseni Ejeie publicly accused student activists and campaigners for the rights of women in Iran of being part of an "enemy conspiracy".

### **Follow-up to previously transmitted communications**

321. On 8 May 2007, the Government replied to the communication sent by the Special Rapporteur on 14 September 2006 concerning the Sharq newspaper, which was reportedly closed for failing to comply with an order of the Press and Supervisory Board. In its reply, the Government transmitted the information that Mr. Mehdi Rahmanian, manager of the said daily, was charged with "dissemination of materials against Islamic Sanctities" and "blasphemy to Islam". He has been indicted on this basis and referred to court. After hearing the prosecutor and the defense team, the court based on articles 6 and 9 of the Law of the Press and articles 47 and 698 of the Islamic Penal Code, sentenced him to a fine in substitution of imprisonment. On other counts of charges such as "promoting illegal opposition groups" and "blasphemy to the President" he has been acquitted. Also, the Sharq Daily has been cleared from the ban and is free to publish.

### **Observations**

322. The Special Rapporteur is grateful for the Government's response to his letters of 14 September 2006 as well as 23 January, 6 February and 26 July 2007. He regrets that the Government has not replied to his other 16 communications sent in 2007.

## Iraq

### Letter of allegations sent on 2 January 2007

323. The Special Rapporteur brought to the attention of the Government the death of seven media professionals, **Mr. Muhammad al-Ban, Ms. Luma al-Karkhi, Mr. Nabil Ibrahim al-Dulaimi, Mr. Aswan Ahmed Lutfallah, Mr. Walid Hassan, Mr. Raad Jaafar Hamadi and Ms. Fadhila Abdelkarim.**

324. On 13 November 2006, unidentified gunmen shot Mr. Muhammad al-Ban, a reporter and cameraman for Al-Sharqiya television station, as he was leaving his home in Mosul together with his wife who was wounded in the attack. Al-Ban, who had received several death threats warning him not to cover Kurdish activities, worked for three years at Al-Sharqiya and had a reputation as a seasoned journalist.

325. On 15 November 2006, several unknown gunmen in Baqubah killed Ms. Luma Al-Karkhi, a reporter for the Baghdad daily Al-Dustour while she was on her way to work. Ms. Al-Karkhi had allegedly received several death threats from insurgents in Diyala province warning her to stop reporting.

326. On 20 November 2006, comedian and TV producer Mr. Walid Hassan, was kidnapped and killed shortly afterwards in Baghdad. Under the previous regime, he took part in many entertainment programmes on public television. More recently, he ran a satirical programme on Al Sharqiya television station, in which he criticized the US army and Iraqi politicians, as well as Sunni insurgents and Shiite militias.

327. On 22 and 26 November 2006, two employees of the state-owned Iraqi Media Network (IMN) were killed: Mr. Raad Jaafar Hamadi, a journalist with the daily Al Sabah, was shot dead in Baghdad and Mr. Fadhila Abdelkarim, a member of the administrative staff of the local TV station Nainawa, was killed while leaving her home in Mosul. IMN was established by the coalition forces in 2003 and is the biggest media group in Iraq with more than 3,000 employees. Many of them have received threatening letters telling them to quit the network or die.

328. On 4 December 2006, unidentified gunmen murdered Mr. Nabil Ibrahim al-Dulaimi, a news editor for Radio Dijla, shortly after he left his home in Baghdad to go to work.

329. On 12 December 2006, Aswan Ahmed Lutfallah, Associated Press Television news' cameraman was killed in Mosul while filming a clash between police and insurgents. According to information received, insurgents approached him and shot him dead. He had worked for several local television channels before joining Associated Press as a cameraman in 2005 and never reported death threats against him.

### Letter of allegations sent on 9 March 2007

330. The Special Rapporteur sent a communication concerning a raid carried out 19 February 2007 by U.S. soldiers on the **Baghdad offices of the Iraq Syndicate of Journalists.** According to information received, US soldiers broke into the offices of the Iraq Syndicate of Journalists destroying furniture, ransacking offices and arresting a number of

security guards. The soldiers confiscated computers and other small electric equipment. Reportedly, the Iraq Syndicate of Journalists recently received formal recognition from the Iraqi Government. Reportedly, the Syndicate has also been very active in supporting the families of media professionals killed since the beginning of the conflict, and drawing attention to the increasing climate of impunity.

#### **Letter of allegations sent on 7 June 2007**

331. On 7 June 2007, the Special Rapporteur sent an allegation letter to the Government with respect to the following cases:

332. On 9 May 2007, **Mr. Raad Mutashar**, chairman of the Kirkuk Writers' Union and owner of the media company Al-Raad , **Mr. Imad Abdul-Razzaq al-Obeidi** , **Mr. Aqeel Abdul-Qader** and **Mr. Nibras Razzaq**, all three working for Al-Raad , were reportedly dragged from their car, tortured and killed in the Rashad area near the northern city of Kirkuk. The independent Raad media company publishes several weekly newspapers and monthly magazines that are generally pro-government and deal with politics, education and arts. Mr. Mutashar was reportedly editor in chief of the governmental newspaper in Kirkuk under Saddam Hussein's regime. According to informations, after the U.S.-led invasion, he was the head of the Kirkuk Writers' Association and then he established the publishing company Al-Raad.

333. On 17 May 2007, **Mr. Alaa Uldeen Aziz** , a cameraman from ABC News , and **Mr. Saif Laith Yousuf** , a soundman from the same media, were reportedly killed while on their way home from the network's Baghdad bureau by unidentified gunmen in Baghdad.

334. On 20 May 2007, **Mr. Ali Khalil** was reportedly killed by armed men as he was bundled into a vehicle in the al-Bayaa district in the south of the capital. It is reported that Police found his body one hour later. According to informations, he would have been targeted for writing an article about armed groups, in which he quoted members of parliament calling on the authorities to physically eliminate members of these groups. Concern was expressed that Mr. Raad Mutashar , Mr. Imad Abdul-Razzaq al-Obeidi , Mr. Aqeel Abdul-Qader, Mr. Nibras Razzaq, Mr. Alaa Uldeen Aziz, Mr. Saif Laith Yousuf and Mr. Ali Khalil's killings may be connected to their work as journalists.

#### **Letter of allegations sent on 7 June 2007**

335. The Special Rapporteur brought the following cases to the Government's attention:

336. On 26 May 2007, **Mr. Aidan Abdallah Al-Jamiji**, who worked in Kirkuk television's Turkmen-language section, was found dead in his car, which had been torched and dumped near the cemetery in Kirkuk, north of Baghdad.

337. On 28 May 2007, **Mr. Mahmud Hassib Al-Kassab**, editor of the weekly Al-Hawadith, was killed outside his home in the northern part of Kirkuk.

338. On 29 May 2007, **Mr. Abdel-Rahman Al-Issawi**, journalism professor at Baghdad University and contributor to several newspapers, was killed along with seven members of his

family (including his wife, son, father and mother) when gunmen entered into his home in Amariyah, near Fallujah.

339. On 30 May 2007, **Mr. Nizar Al-Radhi**, who worked on the independent news agency Aswat Al-Iraq (Voices of Iraq) and was a correspondent since last year for Radio Free Iraq, was shot dead when three gunmen opened fire on a group of journalists who had gone to a news conference outside the city hall in Amara, south of Baghdad.

340. On 14 June 2007, the Special Rapporteur sent an allegation letter to the Government, with respect to the case of **Ms. Sahar Al-Haidari**, an Iraqi journalist who worked as a news reporter for Iraq Voices News Agency, the National Iraq News Agency-Nina and the Institute for War and Peace Reporting, who was reportedly killed on 7 June 2007 by several unknown armed individuals in the city of Mosul. It is reported that Ms. Al-Haidari's name was included in a death list of journalists that circulated throughout the city of Mosul. Apparently, Ms. Al-Haidari had been kidnapped in 2005 by a militant group and, in 2006, was badly injured as she was taking pictures of burned mosques. Concern was expressed that Ms. Al-Haidari's killing may be related to her work as a journalist.

#### **Letter of allegations sent on 14 June 2007**

341. The Special Rapporteur brought to the attention of the Government the following case. On 7 June 2007, several unknown armed individuals in the city of Mosul killed Ms. **Sahar Al-Haidari**, an Iraqi journalist who worked as a news reporter for Iraq Voices News Agency, The National Iraq News Agency-Nina and the Institute for War and Peace Reporting. Reportedly, Ms. Al-Haidari's name was included in a death list of journalists that circulated throughout the city of Mosul. Apparently, Ms. Al-Haidari had been kidnapped in 2005 by a militant group and, in 2006, was badly injured as she was taking pictures of burned mosques. Concern is expressed that Ms. Al-Haidari's killing may be related to her work as a journalist.

#### **Letter of allegations sent on 5 July 2007**

342. The Special Rapporteur referred to the following cases:

343. On 5 April 2007, **Baghdad TV** was reportedly attacked by armed men who opened their way to the TV building with an explosive truck, and then killed deputy director **Thaer Ahmed Jabr** and one of his assistants, **Hussein Nizar**. Nine other people were injured in the attack. Following that aggression, the station, which is owned by Iraqi Vice-President Tareq al-Hashimi, was moved to the city of Sulaymaniyah, in the region of Kurdistan.

344. On 8 June 2007, **Mohammed Hilal Karji**, Baghdad TV's correspondent in the Al-Yusufia region, was allegedly kidnapped outside his home on his way to work. The next day, relatives found his body in the morgue.

345. On 27 June 2007, another Baghdad TV's journalist, **Sarmad Hamdi Al-Hassani**, was reportedly kidnapped at his home in the neighbourhood of Al-Jami'a of the capital. The next day, relatives found his body in the morgue.

346. On 28 June 2007, the body of **Luay Suleiman**, a journalist with "Nineveh", a local newspaper published by the Christian group Bait Nahrain, was found in the city of Mosul.

## Observations

347. The Special Rapporteur regrets that he has not received a reply to any of the communications sent in 2007.

### Israel

#### **Urgent appeal sent on 16 March 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

348. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr **Shawan Jabarin**, general Director of Al Haq and well known human rights defender in the Occupied Palestinian Territories. Al Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank established in 1979 to protect and promote human rights and the rule of law in the Occupied Palestinian Territory (OPT).

349. According to information received, since 23 March 2006, Mr Jabarin had been prevented on several occasions, from leaving the country in order to attend events organised by international organisations abroad. In December 2006, Mr Jabarin was prevented from traveling to Egypt to attend a conference organized by Christian Aid. An appeal filed by Mr. Jabarin was later rejected by the High Court. The court ruling reportedly took into account information submitted by the authorities that neither Mr. Jabarin nor his counsel were permitted to access. In October 2006, Mr. Jabarin was again refused permission to travel to attend a conference in Spain.

350. On 23 March 2006, Mr Jabarin attempted to cross from the West Bank to Jordan when he was presented with a police order to appear three days later at the Etsion Liaison Office, between Hebron and Bethlehem. On 26 March 2006, Mr Jabarin presented himself at the Liaison Office at the time requested. After waiting outside the Office for four hours in uncomfortably cold conditions, and after refusing to remove the clothing from his torso before entering the compound, Mr Jabarin was informed by an Israeli official that he could go home. However, the official refused to return Mr Jabarin's identification documents, thus preventing him from legally traveling within the West Bank until July 2006, when his documents were finally returned to him.

#### **Urgent appeal sent on 23 August 2007**

351. The Special Rapporteur sent an urgent appeal concerning the case of **Ata Farahat**, a correspondent for the Syrian public television and for the daily newspaper "Al-Watan". According to the information received, on 30 July 2007, members of the Israeli forces entered Mr. Farahat's home in Buqata at around 3 a.m., carrying out a search and taking him in custody. It is reported that the authorities gave no explanation for his arrest nor provided information concerning the charges against him. Mr. Farahat appeared three times before a Tel Aviv judge, who renewed a provisional detention order on each occasion. It is alleged that he was detained in the Al-Jalama prison at the time the communication was sent. Mr. Farahat's lawyers and the press have reportedly been prohibited by judicial authorities from

addressing the case. According to information received, there has been a recent increase in the number of court orders limiting the scope of journalistic inquiry in similar cases.

**Urgent appeal sent on 31 August 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention**

352. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr. **Mohammad Bsharat**, Executive Director of the Nafha Society for the Defence of Prisoners and Human Rights in Nablus, legally established and registered with the Palestinian Authority in 2006. It is one of several NGOs representing Palestinian detainees in Israeli courts and advocating on behalf of Palestinian prisoners in Israeli prisons and detention centres. According to the information received, Mr. Mohammad Bsharat was arrested in Nablus on the night of 2 August 2007 by Israeli soldiers and then interrogated at the Huwara detention centre in the city. No charges were been brought against him. He was reportedly questioned about his human rights activities. On 12 and 19 August 2007, Mr. Bsharat's detention was extended. During the last hearing on 26 August 2007, the Salem Military court ordered that he be detained administratively, without any precise official reason. Concern was expressed that the detention of Mr. Bsharat may have been an attempt to sanction his human rights activities, and fears were also expressed for his physical and psychological integrity.

**Letter of allegations sent on 21 September 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

353. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr **Raji Sourani**, Director of the Palestinian Centre for Human Rights, a non-governmental human rights organization. According to the information received, in late August 2007, Mr Sourani was reportedly prevented from travelling outside the Gaza Strip to attend the United Nations Conference of Civil Society in Support of Israeli-Palestinian Peace organized by the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People and held in the European Parliament Building in Brussels on 30 and 31 August. Mr Sourani was due to present a paper entitled "Enforcement of International Law in the Occupied Palestinian Territory: The Only Real Roadmap for Peace" in which he denounced ongoing human rights violations and called for enforcing international human rights law in the OPT.

**Follow-up to previously transmitted communications**

354. On 20 March 2007, the Government replied to the letter sent by the Special Rapporteur on 4 September 2006 concerning Mr. **Sabbah Hmaida**, a Reuters reporter, and Mr. **Fadel Shana**, a Reuters cameraman. On 27 August 2006, Mr. Hmaida was seriously injured and Mr. Shana lost consciousness when Israeli aircraft fire two missiles during an incursion into the Gaza Strip. In its reply, the Government informed me that the Israeli Defense Forces (IDF) did not intentionally target the Reuters vehicle in the incident. IDF ground forces had entered the area near the Karni Crossing to uncover explosive devices planted along the security fences. The IDF has been operating in the area for three weeks and suffered various attacks by terrorist groups. The Reuters vehicle was first observed after midnight and advanced towards the soldiers in a suspicious manner. One of the passengers had left the car to speak with a man positioned on the rooftops of buildings, subsequently returning to the vehicle. While the

vehicle may have been marked as a media-owned vehicle, the darkness of the late hour did not allow it to be previously identified as such. When the vehicle was fired upon, the intention was to stop its advance rather than target its occupants, as photographs published by Reuters and IDF make clear. The area where the incident occurred is a dangerous combat zone where terrorist groups are known to operate and target the IDF. While the IDF takes precautions to prevent injury of media personnel, those who choose to enter a combat zone do so at their own considerable risk.

355. In a letter dated 23 April 2007, the Israeli government responded to an urgent appeal sent by the Special Representative on 14 March 2006, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning the continued administrative detention of Mr **Ziyad Muhammad Shehadeh Hmeidan**, human rights defender and fieldworker for Al-Haq, a Palestinian NGO and affiliate organization of the International Commission of Jurists. In the letter, the government stated that an administrative detention order had first been issued against the aforementioned in June 2005, for a period of six months, on grounds of endangering the public security, because of alleged involvement with the Popular Front, a well-known terrorist group, and that his detention was periodically reviewed in the intervening months, with each extension order judicially reviewed and approved by the courts. Mr Hmeidan had appealed his detention on 26 December 2006. The Military Court of Appeals which examined the confidential evidence against Mr Hmeidan decided to extend his detention until 18 March 2007. When the administrative detention order expired on 18 March 2007, it had not been renewed and Mr Ziyad Muhammad Shehadeh Hmeidan had been released accordingly.

### **Observations**

356. The Special Rapporteur is grateful for the responses of 20 March and 23 April 2007 concerning communications sent in 2006. He regrets that he has not received a response to the communications he sent in 2007.

### **Jordan**

#### **Urgent appeal sent on 31 August 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on arbitrary detention**

357. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Ahmad Oweidi Abbadi**, former Jordanian parliamentarian and human rights activist. According to the information received, on 3 May 2007, Mr. Ahmad Oweidi Abbadi was arrested after he had accused the Jordanian Government of “corruption, human rights abuses and attacks to the independence of the media” in an open letter posted in the Internet addressed to a US Congressman. Mr. Abbadi was reportedly prosecuted on charges of defamation, “violating laws governing the Internet” and “harming the State’s prestige and reputation”.

358. Mr. Abbadi was a member of parliament from 1989 to 1993, and again from 1997 to 2001. At the time of writing he headed the Jordanian National Movement, an organisation that supports democracy, human rights and political, economic and social reform. Mr. Ahmad

Oweidi Abbadi was being held at Al-Jwaidah prison. Concern was expressed that his arrest may have been related to his legitimate activities in defence of human rights, in particular to his exercise of the rights to freedom of opinion and expression.

### **Response from the Government sent on 22 June 2007**

359. The Government stated that the case of Dr. **Ahmad Oweidi Abbadi** involved a criminal suit filed by an individual, that it was not a case about opinion or freedom of expression and that it was not political in nature. The letter further stated that the Minister for Internal Affairs had filed the suit in a personal capacity, not in his capacity as a government official. The complainant had filed the suit because of allegations which Dr. Ahmad Oweidi Abbadi had made against him personally, not because of matters pertaining to his ministerial work or the general policies of his Ministry.

360. According to the government letter, the case before the courts was not based on the Publications Act, which prohibits detention, but rather on other laws such as the General Penal Code and the Electronic Data Act, and as such, it followed that the offence has nothing to do with freedom of opinion and of expression. The letter stated that full legal guarantees were afforded to this individual during the examination phase, his lawyer was present at all times and he was given the right to challenge the detention order before the highest judicial authority (the appeal court), which reviewed the case on more than one occasion and decided, on the basis of the evidence, that the order issued by the prosecutor general was in conformity with the law.

361. Dr. Abbadi had submitted more than one complaint to the authorities, either through his lawyers or in person, but made no allegations about being subjected to any violence that would justify the conduct of a medical examination. In any case, the law stipulates that a medical examination must be given to anyone entering a detention centre: this was done in this case; as for the results of the examination, any interested party, including the lawyer for the accused, can ask for a copy of the investigation file.

362. The Government further stated that it had no involvement of any kind in the case before the judicial authorities. In their view, the detention was not arbitrary; it was lawful, and the place of detention was a facility reserved for detainees in which no convicted persons are being held. The case was being considered by the courts, which have competence for deciding on its merits. No influence was being brought to bear on the conduct of the proceedings

### **Observations**

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

## **Kazakhstan**

### **Letter of allegations sent on 2 February 2007**

364. The Special Rapporteur referred to the following cases:

365. On 22 January 2007, the Bostandyk district court in the city of Almaty reportedly sentenced journalist **Kazis Toguzbayev** to two years in prison, on probation, for "insulting

the honor and dignity of the President of Kazakhstan". Court proceedings were initiated following a report by the Center of Court Expertise of the Ministry of Justice, which found two articles published by Toguzbayev on the site www.kub.kz, to be insulting the honor and dignity of President Nursultan Nazarbayev.

366. In a separate case, the the **bi-weekly Uralskaya Nedelya** had been unable to find a printing house willing to produce the newspaper after the printing company that had printed Uralskaya Nedelya since 2001, informed editor-in-chief Tamara Yeslyamova in December 2006 that they were obliged to rescind the contract, allegedly owing to pressure exercised by local officials. Other printing companies refused to print Uralskaya Nedelya.

### **Observations**

367. The Special Rapporteur regrets that he has not received a response to the above-mentioned communication.

## **Kyrgyzstan**

### **Urgent appeal sent on 9 May 2007**

368. The Special Rapporteur sent an urgent appeal concerning the case of **Mr. Kairat Birimkulov**, a TV presenter of programmes "Journalistic investigation" and "Society and Law", which are broadcasted on the Kyrgyz State TV Channel, who was reportedly assaulted on 16 March 2007 by two unknown men who severely beat him with a metal object and knuckleduster. He was left unconscious and later hospitalized in the Chui regional hospital and diagnosed with concussion, left arm bone fracture and numerous bruises. The assaulters would have taken away the digital camcorder, dictaphone and documents belonging to Mr. Birimkulov. It is reported that on 4 March 2007 Mr. Birimkulov's TV programme focused on his investigation about corruption schemes at the Kyrgyz State Railroad Enterprise (KSRE). It is also reported that both before and after the assault, Mr. Birimkulov received threats by telephone. In addition, two unidentified men in plain clothing would have come to Mr. Birimkulov's spouse's place of employment and told her that if her husband did not quit his journalistic activities, their family would be in danger. The two men would have told his spouse that they know where their daughters (aged 10 and 8) were studying. Concern was expressed that Mr. Birimkulov's assault and further threats to him and his family are directly related to Mr. Birimkulov's professional activities as a journalist.

### **Letter of allegations sent on 23 October 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

369. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr. **Maxim Kuleshov**, Coordinator of the Tokmok Human Rights Resource Centre. According to the information received, on 24 September 2007, Mr. Kuleshov was sentenced to 10 days' imprisonment by the Tokmok city Court for recording open discussions that were organised in the local assembly of the city of Tokmok concerning a new draft Constitution that will be submitted to referendum on 21 October 2007, and for taking photos at this event. Mr. Kuleshov was asked by the Mayor of the city of Tokmok to stop taking pictures and recording his speech, stating that he had no right to do it. Mr.

Kuleshov was removed from the meeting hall by employees of the city hall and arrested by plain-clothes officers. Mr. Kuleshov spent three days in detention in Tokmok, but was released when the rest of the sentence was suspended following the filing of a complaint by his lawyer before the Tchuyski Regional Court.

370. On 17 October 2007, this same court confirmed the sentence pronounced by the Tokmok city Court. Mr. Kuleshov's lawyer filed a new writ before the Supreme Court in order for his case to be re-examined. It was reported that Mr. Kuleshov had been defending human rights for several years, bringing cases of abuses perpetrated by Tokmok officials to administrative justice and cases of torture and ill-treatment to criminal courts. In 2006, he was prosecuted for defamation by a representative of the local authorities after organising a public awareness campaign against torture. On 12 September 2007, Mr. Kuleshov was informed that a litigation case against him had begun, when a deputy of the Tokmok city hall initiated judicial proceedings against him accusing Mr. Kuleshov of harming his honour and professional reputation. Mr. Kuleshov had lodged a complaint some months ago accusing Mr. Kadyrkulov of breaching the Kyrgyz law on freedom of access to information.

#### **Letter of allegations sent on 31 October 2007**

371. The Special Rapporteur brought to the attention of the Government the situation of Mr. **Alisher Saipov**, editor of the independent Uzbek-language weekly *Siyosat* and contributor to several regional news outlets, including Radio Free Europe, Radio Liberty, Voice of America and the Central Asia news Web site *Ferbhana*, who was reportedly shot dead on 24 October 2007 in downtown Osh by an unknown gunman using a silencer. Mr. Saipov traditionally covered political and social issues related to Uzbekistan and recently interviewed members of the banned Islamic groups *Hizb-ut Tahrir* and the Islamic Movement of Uzbekistan. According to the information received, Mr. Saipov reported extensively on repression in Uzbekistan and criticized its President. Mr. Saipov had also covered the aftermath of the killings in Andijan in May 2005, when government troops allegedly shot at crowds of civilians demonstrators.

372. Prior to his murder, Mr. Saipov had reportedly received anonymous threats warning him to stop his press and political activities. Also, a state television channel in the Uzbek city of Namangan recently aired a program depicting Mr. Saipov as a provocateur who tried to destabilize Uzbekistan with his reporting.

#### **Observations**

373. The Special Rapporteur regrets that he has not received any response for the communications sent in 2007.

### **Liberia**

#### **Letter of allegations sent on 17 October 2007**

374. The Special Rapporteur referred to the access of journalists for coverage of the Presidency. According to the information received, on 1 October 2007, the Government disclosed that **media coverage of the Presidency** will be restricted to a limited number of photo journalists and reporters who will be chosen by the Press Secretary and the Ministry of

Information. These reporters will allegedly cover information from the Presidency on behalf of other journalists in Liberia.

375. In a separate case, journalists **Precious Seboe, Abbas Dolley and Alesia Anderson** were reportedly held for contempt of the court by Criminal Court "C" at the Temple of Justice in Monrovia on 28 September 2007. They were summoned to court after publishing news reports on the preceding day, when they disclosed information that the records for a corruption case involving the former chairman of the Liberian Transitional Government had disappeared from the court's file. Reportedly, the judge assigned to the case issued a writ of summons and gave a 72-hour ultimatum for the newspapers to retract the news reports or pay a fine of US\$100 each, since the files of the corruption charge had allegedly been found.

### **Observations**

376. The Special Rapporteur regrets that he has not received a response for the above-mentioned communication.

### **Libyan Arab Jamahiriya**

#### **Urgent appeal sent on 17 August 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

377. The Special Procedures mandate holders brought to the attention of the Government the situation of **Al-Mahdi Humaid, Al-Sadiq Salih Humaid, Faraj Humaid, `Adil Humaid, `Ali Humaid, Ahmad Yusif al-`Ubaidi, `Ala' al-Dirsi, Jamal al-Haji, Idris Boufayed, Farid al-Zuwi, Bashir al-Haris, Al-Sadiq Qashut**, who were on trial for planning to hold a political demonstration in Tripoli, as well as **`Abd al-Rahman al-Qotaiwi and Jum`a Boufayed**, who had disappeared since their arrest in connection with the same demonstration. According to the information received, the fourteen men listed above were arrested on 15 and 16 February 2007 for organizing a demonstration in Tripoli, aiming at marking the first anniversary of the death of eleven people in a clash with the police on 17 February 2006 during a protest against the publication of the cartoons of the Prophet Mohammed in a Danish newspaper. Twelve of the fourteen men detained were on trial for planning to overthrow the government, possession of arms, and meeting with an official from a foreign government. According to Articles 166, 167 and 206 of the Libyan Constitution, these men could be sentenced to death. **`Abd al-Rahman al-Qotaiwi and Jum`a Boufayed**, who were arrested as organizers of the demonstration, had disappeared since their arrest and not been brought to court. The Rapporteurs expressed concerns that the arrest and disappearance of the above mentioned persons might be linked to their activities in defense of human rights.

#### **Response from the Government sent on 5 November 2007**

378. In its response, the Government informs that the persons mentioned in the communication were accused of committing acts that are punishable under Libyan law. They were charged and brought before the competent court of appeal to be tried pursuant to article 2, paragraphs (a), (b) and (c), of Revolution Command Council Decree No. 71 of 1972, concerning unlawful political activities; articles 178, 196, 206 (32), 207, 211 (1), (2) and (3), and 345 (1), of the Libyan Criminal Code; article 195, as amended, of Act No. 80 of the year 1327 MWR (from the death of the Prophet); articles 1, 2, and 3 (1), of Act No. 7 of 1981,

concerning possession of weapons, ammunition and explosives; articles 59 (1), 60, 76 (2), 100 (2) and (3), and 101, of the Criminal Code; and articles 1, 2, 4 and 8 (1), of Act No. 4 of 1423 MWR, concerning the prohibition of alcohol, as amended in 1425 MWR. The case was heard by the court during four sessions, the last of which was held on 4 August 2007. No criminal verdict was handed down in the case. The court applies the Code of Criminal Procedures and the Libyan Criminal Code to the defendants.

### **Follow-up to previously transmitted communications**

379. On 11 October 2007, the Government replied to an allegation letter sent on 3 February 2006 by the Special Rapporteur, jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Independent Expert on minority issues concerning legislation that allegedly prevents people from using any language other than Arabic, tribal names and forbids all literature and writings that are not in Arabic. In its reply, the Government that the information provided is an unreliable account devoid of objectivity and impartiality provided by some individuals. The Government further noted that it is untrue that people are prevented from using their tribal names. According to Decision No. 3 of 2007 issued by the Secretariat of the General People's Committee and judgments handed down in implementation of Act No. (24) 1369 MWR [from the death of the Prophet], it is permitted to register the names of ascendants, names conveying meanings that are authentically Libyan or names that are passed down from ascendants to descendants in keeping with recognized Libyan traditions and customs.

### **Observations**

380. The Special Rapporteur is grateful for the Government's responses.

### **Malaysia**

#### **Urgent appeal sent on 21 June 2007 jointly with the Special Representative of the Secretary-General on the situation of human rights defenders**

381. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr **Nyam Kee Han**, Coordinator and Mr **See Siew Min**, member of the secretariat of Suara Rakyat Malaysia (SUARAM) in Johor. SUARAM is a well known human rights organization which monitors and documents human rights violations. According to information received, on 17 June 2007, at approximately 11:30am, Mr Nyam and Mr See were arrested by members of the Johor Bahru police force during a peaceful demonstration outside the residence of the Chief Minister (Menteri Besar) of Johor State, calling on the government official to take measures to reduce crime rates in the State. At the time of their arrest, Mr Nyam and Mr See were distributing leaflets to encourage the immediate establishment of an Independent Police Complaint and Misconduct Commission, in line with one of 125 recommendations put forward by the Royal Commission on police reform.

382. According to reports, Mr Nyam and Mr See appeared before the Magistrates Court on 18 June 2007 where the police were granted a 24-hour remand order. Mr Nyam and Mr See were being detained at Johor Bahru (Selatan) Police Station and at time of writing, no official charges had been issued against them.

### **Response from the Government sent on 8 August 2007**

383. In its response, the Government stated that the aforementioned persons had been arrested during an assembly which was unlawful, as no permit to hold a gathering had been obtained. The two activists had been arrested on suspicion of distribution of leaflets of a seditious nature and were and upon arrest, these documents were seized from them. The government letter further stated that the participants had been instructed to disperse shortly before being arrested. Following their 24 –hour remand, both men were released and no charges were brought against them.

### **Urgent appeal sent on 27 December 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Representative of the Secretary-General on human rights defenders**

384. The Special Procedures mandate holders brought to the attention of the Government information concerning the recent wave of arrests and detention of a number of ethnic Indian human rights defenders. According to information received, on 13 December 2007, five ethnic Indian human rights defenders members of the Hindu Human Rights Action Force (HINDRAF) – **P. Uthayakumar, M. Manoharan, R. Kenghadharan, V. Ganabatirau and T. Vasanthakumar** – were arrested by Special Branch police officers while carrying out non-violent demonstrations at various locations in Selangor, Kuala Lumpur and Seremban. Their arrests were carried out on the basis of Section 8(1) of the Internal Security Act (ISA) for allegedly carrying out activities that threaten national security. They are currently being detained in Kamunting Detention Centre in Perak in Bukit Aman. The ISA allows persons to be detained for any period not exceeding two years. The five human rights defenders concerned were not presented with an arrest warrant; neither were they brought before a tribunal or given access to legal counsel.

385. Moreover, on 25 November, police used tear gas and water cannons to disperse between 8,000 and 10,000 persons of Indian ethnic origin attending a peaceful rally organized by HINDRAF to protest against alleged discrimination practices against ethnic Indians in Malaysia. The objective of this rally was also to request compensation for the suffering caused to their ancestors who were brought from India as labourers in the 19th century. Thirty one of the protestors were charged with attempted murder and causing mischief while others were charged with illegal assembly.

386. On the eve of this rally, over 2,000 persons of ethnic Indian origin who were assembled in a Hindu temple in Batu Caves on the outskirts of Kuala Lumpur, were reportedly beaten by approximately 300 police officers with a view to dissuading those assembled from attending the rally being organized by HINDRAF on 25 November 2007. The police officers also used tear gas and water cannons, spraying a liquid chemical irritating to the eyes and skin. Around 70 persons who attempted to escape were arrested. Many were charged with attending an illegal assembly and failing to obey police orders.

387. In addition, on 23 November, V. Ganapathy Rao, P.Uthayakumar, and P. Wyatha Moorthy, all HINDRAF officials, were arrested and charged with sedition for speeches allegedly inciting hatred delivered in a restaurant in Batang Berjuntai, Selangor, on 16 November. P. Wyatha Moorthy was remanded in custody while V. Ganapathy Rao, and P. Uthayakumar were released on bail. Finally, on 21 November 2007, again reportedly with the

objective of preventing HINDRAF's plans to organize the same rally of 25 November 2007, police officers set up checkpoints on all roads leading to Kuala Lumpur and prevented many ethnic Indians, who are not residents of the capital, from entering the city.

### **Follow-up to previously transmitted communications**

388. On 10 January 2007, the Government replied to the communication of 4 March 2005 concerning the investigation of Mr. **Jeff Ooi**, a blogger who was reportedly under investigation for fostering religious disunity due to a posting on his Screenshots blog. The Government informed that the investigation carried out in this case was related to a person referred to as "Anwar" who posted offensive comments in Mr. Ooi's blog. Interrogations carried out on Mr. Ooi were only insofar as to assist in investigations and he was never detained. Due to insufficient evidence linking the comments with Mr. Ooi, he was not charged with any offence.

389. On 29 May 2007, the Government replied to the communication of 30 June 2005 concerning the arrest of 64 Myanmar nationals outside the compound of the Embassy of Myanmar in Kuala Lumpur on 16 June 2005. The Government informed that on the date in question, 64 Myanmar citizens staged a demonstration without permit in front of the Myanmar Embassy, calling for the release of Aung San Suu Kyi and shouting in the direction of the Embassy. The Officer-in-Charge of the Pudu Police Station (OCS) informed the protesters that they could submit any protest note or request to the Embassy within the following 15 to 20 minutes. After 20 minutes had passed, the OCS warned the protestors to disperse or to face arrest. Since there was no cooperation by the protestors and the protest took place without there being a valid license to hold such an assembly, as stipulated under Section 27(2) of the Police Act of 1967, the protesters were arrested and taken to the Pudu Police Station for further investigation. Four other citizens who were behaving suspiciously in front of the Police Station were detained and found to be in possession of t-shirts calling for the release of Aung San Suu Kyi. As the police was unable to complete the investigation within 24 hours, an order of further detention was granted by a Magistrate for a period of 14 days, under Section 117 of the Criminal Procedure Code. On 28 June 2005, the 64 protestors were charged under section 27(4) and 27(5) of the Police Act 1967 and section 6(19)(c) of the Immigration Act 1959/63. On 21 December 2005, 27 of the accused pleaded guilty to all charges and were sentenced to three months imprisonment. The remaining persons were charged on 7 March before the Magistrate's Court and two of them before the Juvenile Court. With regard to another two persons, an order was given to the Investigating Officer to get validation from UNHCR on their status as they were holders of UNHCR cards.

390. On 29 May 2007, the Government also responded to a communication sent jointly by the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders on 18 July 2006. The Government informed that the right of every Malaysian citizen to freedom of opinion and expression is guaranteed by article 10(1) of the Federal Constitution, the highest authority and source of law in Malaysia. This provision is in line with Article 19 of the Universal Declaration of Human Rights. When elaborated in the International Covenant on Civil and Political Rights, the right to freedom of opinion and expression was subject to the following limitation, that "... in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of ... meeting the just requirements of morality, public order and the general welfare in a democratic society". In line with this, the Constitutional guarantee of the right to

freedom of opinion and expression in Malaysia is subjected to the same limitations. Article 10(2) of the Constitution states that Parliament may by law impose restrictions on these rights in the interest of the security of the Federation, friendly relations with other countries, public order and morality.

391. In Malaysia, all matters relating to the use of printing presses and the printing, importation, production, publishing and distribution of materials are regulated by the Printing Presses and Publications Act 1984 (hereinafter referred to as the PPPA). Under Section 7(1) of the PPPA, it allows for the banning of a publication which is prejudicial or likely to be prejudicial to public order, morality, security, the relationship with any foreign country or government, or which is likely to alarm public opinion, or which is likely to be contrary to any law or is otherwise prejudicial to public or national interest.

392. The publication of 18 books of various titles was banned by the Malaysian authorities as the content of the books were found to be inaccurate and contradicting the true teaching of Islam. Such deviations may be prejudicial to public order and security. The Government also attached a list of the banned publications. In essence, these publications contain one or more of the following elements: (a) Theories, ideologies, statements or opinions with the purpose to influence readers on their *aqidah* (faith), laws and teachings which contradict with the *Ahl Sunnah Wal-Jamaah*, observed by Muslims in Malaysia; (b) Caricatures or illustrations of Prophets, the Four Caliphs and Angels, which are forbidden in Islam; (c) Articles and alleged facts which conflict with the historical facts of Islam and its *Ummah*, as agreed by Islamic historians; (d) Elements of *Isra'iliyat* – tales with ludicrous cultures, which are forbidden in Islam; (e) Quranic writings in languages other than Arabic, which may lead to different interpretations of their true meaning.

393. The Government stated that publications which are in conflict with the true teachings of Islam, if it is made available to the public without a certain amount of regulation, would create confusion and misunderstanding about the religion. This could lead to the establishment of deviant movements, which in turn could cause apprehension, stir strong emotional reactions and create a detrimental environment within a plural society. The provisions contained in relevant domestic legislation seek to ensure that Malaysia's multi-ethnic and multi-religious society continues to grow and thrive without unnecessary friction caused by virtue of insensitive and irresponsible publications. The Government maintained that the action it has taken in this matter is in full compliance with the provisions of relevant domestic legislation and in keeping with the provisions of the Universal Declaration of Human Rights.

## Observations

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

## Mali

### Lettre d'allégations envoyée le 14 août 2007

395. Le Rapporteur spécial a attiré l'attention du Gouvernement sur le cas de **M. Adama Coulibaly**, animateur à la station communautaire Radio Kafo-Kan dans la ville de Bougouni, et correspondant de la station Radio Klédu, basée à Bamako, qui se serait fait agressé, le 23

juillet 2007, par un homme politique local, dont le nom est connu du Rapporteur. Celui-ci aurait frappé le journaliste à coups de pied, le renversant de sa chaise, suite à une discussion à propos de l'émission du journaliste diffusée le jour même des élections, le 22 juillet 2007. Dans cette émission, le journaliste aurait annoncé dans un premier temps la défaite de l'homme politique, pour rectifier ensuite ses informations confirmant son élection. M. Coulibaly aurait porté plainte pour coups et blessures et la Radio Kafo-Kan aurait déposé plainte pour agression à l'encontre de l'homme politique. Ce dernier aurait récusé cette version de l'attaque, affirmant qu'il s'agissait de légitime défense, poursuivant ensuite le journaliste, pour « injures et publications de fausses informations ».

### **Réponse du Gouvernement envoyée le 2 novembre 2007**

396. Le Gouvernement a informé que les faits tels que relatés dans le résumé sont exacts. M. Coulibaly Adama, animateur à la Radio Kafokan de Bougouni et correspondant de radio Klédu a été effectivement victime, le 23 juillet 2007, de coups de pieds portés par un homme politique (nouvel élu à l'Assemblée Nationale et originaire de ladite localité). Une plainte conjointe par la direction de la radio Kafokan et M. Coulibaly a été déposée près du Tribunal de 1<sup>ère</sup> instance de Bougouni. Une médiation sociale a été entreprise, incluant des membres de la famille d'Adama Coulibaly. Elle a abouti à une réconciliation entre les protagonistes lors d'une cérémonie qui s'est déroulée au domicile de l'élu. La réussite de la démarche de conciliation a amené le juge à classer l'affaire pour cause inopportune. M. Coulibaly n'est menacé aujourd'hui d'aucune forme d'insécurité pouvant porter atteinte à son intégrité physique. L'incident de Bougouni ne peut être considéré comme une volonté délibérée d'intimider un journaliste. L'élu en question ne s'est pas rendu à la station dans l'intention préméditée de s'en prendre à M. Coulibaly, mais pour faire passer une information concernant son parti. Ayant trouvé le journaliste sur place, il l'a effectivement accusé d'avoir fait passer des informations qui lui étaient préjudiciables. M. Coulibaly a réfuté les accusations à propos d'un montage malveillant. Le ton est monté entre les deux hommes et l'élu s'est laissé aller à des actes condamnables. L'intercession sociale s'est mise en route en estimant que l'incident était dû à un malentendu entre les deux hommes et devrait voir ses effets rapidement dissipés. La rapidité de réaction des habitants de Bougouni a rendu inutile toute intervention des autorités gouvernementales et a permis l'arrêt du processus judiciaire.

### **Observations**

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

## **Mauritania**

### **Appel urgent envoyé le 1<sup>er</sup> juin 2007**

398. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la situation de **M. Abdel Fettah Ould Ebeidna**, directeur de publication du quotidien "Al-Aqsa", qui aurait été incarcéré le 24 mai à la prison de Nouakchott suite à une plainte pour "diffamation" d'un homme d'affaires. Le journaliste aurait été convoqué au commissariat de police et un juge – dont le nom est connu par le Rapporteur - lui aurait notifié le mandat d'arrêt. Dans son édition du 16 mai, le quotidien aurait publié un article sur une affaire de trafic de drogue, dans la ville de Nouadhibou, à la quelle notables et autres personnages bien connus au pays auraient participé. Suite à l'adoption d'une nouvelle législation sur la presse en 2006, les

délits de diffamation ou de publication de fausses nouvelles ne seraient plus passibles de peines de prison ferme en Mauritanie.

### **Observations**

399. Le Rapporteur spécial regrette l'absence de réponse à la communication mentionnée.

### **Mexico**

#### **Llamamiento urgente enviado el 26 de enero de 2007 juntamente con el Relator Especial sobre la cuestión de la tortura y la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria**

400. Los titulares de mandato de procedimientos especiales enviaron una comunicación en relación con el Sr. **Rogelio García Hernández**; el menor **V. G. M.**; el Sr. **José de Jesús Villaseca Pérez**; el Sr. **Miguel López Cruz**; el Sr. **José Ponciano Neri**; el Sr. **Arnulfo Ezequiel Vázquez** y el Sr. **Humberto Vázquez**. Según las informaciones recibidas, el 13 de enero de 2007, entre las 16.30 y las 17.00 horas, varias personas que participaban en una demostración en Miahuatlán, Oaxaca, demandando la liberación de los presos detenidos el 25 de noviembre de 2006, fueron detenidas por miembros de la Unidad Policial de Operaciones Policiales (UPOE), de la Policía Preventiva y de la Policía Municipal. Las detenciones se efectuaron al finalizar la demostración, mientras los manifestantes se encontraban comiendo frente al penal Porfirio Díaz (CERESO). Se afirma que los agentes policiales llevaban los rostros cubiertos con pasamontañas y que estaban armados con fusiles AK-47 y otras armas largas. Los policías llegaron al lugar sorpresivamente a bordo de diversos vehículos, y procedieron a detener a los manifestantes haciendo uso excesivo de la fuerza. En otro hecho simultáneo, algunos de los manifestantes que regresaban de una marcha a la ciudad de Oaxaca a bordo de camionetas, fueron también detenidos e interrogados por funcionarios de la Procuraduría General de la República y del Ministerio Público de Oaxaca. Se trata del Sr. Hernández; el menor V. G. M.; el Sr. Pérez; el Sr. Cruz; el Sr. Neri; el Sr. Ezequiel Vázquez y el Sr. Vázquez. Algunas de las personas detenidas en los hechos descritos, fueron liberadas luego de pagar fianzas de entre 5,000 y 10,000 pesos Mexicanos. Otras personas fueron acusadas del delito de portación ilegal de armas de fuego de uso exclusivo militar o policial. Algunos detenidos han denunciado que durante su arresto e interrogatorio fueron víctimas de amenazas de violación y de muerte. Todos los detenidos habrían sido golpeados y algunos obligados a fotografiarse con armas de fuego proporcionadas por los agentes.

#### **Llamamiento urgente enviado el 8 de febrero de 2007**

401. El Relator Especial envió una comunicación en relación con tres periodistas de la emisora Radio Calenda: Sr. **Emilio Santiago Ambrosio**, Sr. **Darío Campos** y Sr. **Abel Sánchez** así como sobre el Sr. **Rodolfo Rincón Taracena**, periodista del diario regional Tabasco Hoy. La emisora de Radio Calenda es una radio comunitaria que emite en San Antonio de Castillo Velasco, Oaxaca. El 3 de noviembre de 2006, el Presidente Municipal de San Antonio de Castillo declaró a través de la radio Ocoteca que existían una serie de averiguaciones previas abiertas en contra de integrantes de Radio Calenda, y amenazó también con cerrar la radio. Ante esta amenaza los integrantes de la Radio Calenda acudieron al Ministerio Público Local para saber si efectivamente existía alguna averiguación previa en contra de alguno de ellos, sin que dicha autoridad les diera información alguna. Según

informes la Radio Ocoteca ubicada en Ocotlán, comunidad cercana a San Antonino, no tiene autorización de la Secretaría de Comunicaciones y Transportes para transmitir. Según fuentes:

- El 15 de noviembre de 2006, el Sr. Ambrosio y el Sr. Sánchez recibieron amenazas de muerte de manera directa, por parte de una persona cercana al Presidente Municipal quien advirtió al Sr. Sánchez de que, "tuviera cuidado pues tenía contados sus días si continuaba hablando mal del presidente". El 25 de noviembre de 2006, el Sr. Ambrosio, recibió amenazas en el teléfono de la estación mientras transmitía un reporte y una entrevista relacionada con las marchas de la APPO.
- El 27 de noviembre de 2006, el Sr. Campos fue interceptado y secuestrado en una camioneta, por varias personas encapuchadas, que le privaron de su libertad por aproximadamente 1 hora, tiempo durante el cual fue golpeado y amenazado por sus agresores, quienes le amenazaron de muerte diciéndole "que lo iban a matar y llevar a una cárcel fuera del estado de Oaxaca".
- El 28 de noviembre de 2006, a través de la Radio Ciudadana, se comenzaron a emitir mensajes solicitando que se cerrara la Radio Calenda por la cobertura informativa que lleva a cabo sobre el conflicto de la entidad. Según informes, Radio Ciudadana es una estación de radio que transmite sin autorización de la Secretaría de Comunicaciones y Transportes en la Ciudad de Oaxaca, y que supuestamente se ha dedicado a incitar a militantes del Partido Institucional Revolucionario (PRI) y otros a agredir a los simpatizantes de la APPO. Entre la noche del 24 y la madrugada del 25 de enero de 2007, se suscitó un enfrentamiento entre un grupo de militantes del PRI e integrantes del ayuntamiento popular de San Antonino de Velasco, en el estado de Oaxaca. Durante los hechos, el Sr. Ambrosio y el Sr. Campos fueron fuertemente golpeados y uno de ellos detenido, a pesar de que se identificaron plenamente como periodistas en funciones. Asimismo otras doce personas de la comunidad fueron detenidas. Según informes, el periodista detenido fue puesto en libertad. Se teme que el Sr. Santiago pueda perder un ojo debido a las lesiones recibidas. Al parecer, la represión la llevaron a cabo personas cercanas al presidente municipal y policías ministeriales. Existen serios temores por la seguridad e integridad física de los periodistas miembros de la Radio Calenda y se teme que las amenazas y agresiones sufridas están relacionadas con su trabajo como periodistas.
- En un incidente separado, el 20 de Enero de 2007, el periodista Rodolfo Rincón Taracena desapareció en Villahermosa. Se teme que su desaparición esté relacionada con su trabajo como periodista, principalmente con dos reportajes que el periodista acababa de firmar, uno sobre los puntos de venta de droga en los barrios de Atasta y Tamulté, en Villahermosa a raíz de los cuales había dado los nombres de algunos traficantes, y el otro sobre los atracos de bancos.

#### **Carta de alegaciones enviada e 1 de mayo de 2007**

402. El Relator Especial envió una comunicación en relación con el Sr. **Saúl Noé Martínez Ortega**, periodista mexicano y editor del periódico Interdiario de Agua Prieta. El 23 de abril de 2007, el Sr. Martínez Ortega fue hallado muerto en el estado de Chihuahua. Según informes, él había sido secuestrado durante la noche del 16 de abril de 2007 a la entrada del edificio de la policía municipal de Agua Prieta, una ciudad en el estado de Sonora cerca a la

frontera con Arizona. El Sr. Martínez Ortega habría estado investigando la desaparición de un amigo quien entregaba informes a la policía municipal. Se teme que su muerte esté relacionada con su trabajo periodístico sobre este caso.

### **Respuesta del Gobierno enviada el 5 de julio**

403. El Gobierno informó que las investigaciones de este caso aún se encontraban abiertas, sendo imposible determinar si la muerte del Sr. Martínez Ortega se encuentra relacionada con su trabajo periodístico. El Gobierno transmitió informaciones detalladas sobre las circunstancias de la desaparición del Sr. Martínez Ortega. Su esposa informó que el Sr. Martínez Ortega era el único periodista que investigaba la desaparición de su amigo Juan Carlos Álvarez Sánchez y que no tenía conocimiento de que le hubieran amenazado con anterioridad, pero que a partir de la desaparición de su amigo, no quería que su familia anduviera con él. Diversas diligencias están previstas para la investigación del caso. El 18 de abril de 2007, se envió copia de la Averiguación Previa al Agente de Ministerio Público especializado en los delitos cometidos contra periodistas. Los familiares no habían solicitado ni recibido compensación a modo de indemnización.

### **Llamamiento urgente enviado el 31 de mayo**

404. El 31 de mayo de 2007, el Relator Especial envió una comunicación en relación con el Sr. **Terencio Sastré Hidalgo**, delegado municipal de El Cedro, y el diario Tabasco Hoy, de Villahermosa. El 27 de mayo de 2007 unos individuos depositaron la cabeza cortada del Sr. Hidalgo, delegado municipal del El Cedro, municipio de Nacajuca dentro de una nevera frente a la puerta del diario Tabasco Hoy. El Sr. Hidalgo, según informaciones, habría sido asesinado el 25 de mayo de 2007 por un comando armado. Según parece, el Sr. Sastré habría denunciado a un asesino a sueldo relacionado con el grupo de narcotraficantes “Los Zetas”. Se teme que esta amenaza contra el diario Tabasco Hoy pueda estar relacionada con ciertos artículos publicados sobre el tráfico de drogas.

### **Carta de alegaciones enviada el 5 de septiembre de 2007**

405. El Relator Especial envió una comunicación en relación con el Sr. **Reynaldo Hernández** y otros miembros del Sindicato Nacional de Trabajadores Mineros Metalúrgicos de México (SNTMM). Según las informaciones recibidas, el 11 de agosto de 2007, un grupo de ex-mineros de la mina “La Caridad” de Nacozari, Sonora, pertenecientes a SNTMM, habrían sido atacados con golpes y armas de fuego en la carretera de Nacozari, en las inmediaciones de la empresa “Mexicana de Cobre”, propietaria de dicha mina. El grupo de ex-mineros, despedidos a raíz de una huelga ocurrida en el año 2006, se dirigía a una manifestación por la reinstalación de la mina cuando habrían sido atacados por trabajadores de la empresa Mexicana de Cobre. Como resultado de las agresiones, el Sr. Hernández, uno de los manifestantes, habría resultado muerto. Al parecer, los agresores golpearon a los manifestantes con distintos instrumentos y les cortaron el paso con varios vehículos cuando aquéllos intentaban huir. Uno o varios agresores habrían disparado contra los ex trabajadores, habiendo alcanzado quedando éste muerto. La persecución habría continuado hasta el rancho de Agua Zarca, donde vecinos y familiares habrían intentado auxiliar a los agredidos, llamando a los números de emergencia. Según fuentes, las autoridades policiales no tomaron ninguna medida, siendo que en la comandancia de Barandilla habrían negado el envío de patrullas. Autoridades políticas interpeladas se habrían negado a recibir a los familiares.

### **Respuesta del Gobierno enviada el 31 de octubre de 2007**

406. El Gobierno informó que el 11 de agosto de 2007, la Procuraduría General de Justicia del estado de Sonora inició la averiguación por el delito de homicidio simple doloso con motivo de muerte del Sr. González. De las testimoniales, se desprende que tres enfrentamientos diferentes ocurrieron alrededor de las instalaciones de la mina “La Caridad”, entre grupos de obreros y ex-obreros. Las lesiones que originaron que el Sr. Hernández perdiera la vida fueron ocasionadas en el tercer enfrentamiento, cuando otras 30 personas resultaran heridas. No habría existido actos de omisión de las autoridades públicas, una vez que los cuerpos de emergencia de Nacozari de García, en Sonora, intervinieron en la atención de los de los lesionados una vez que la policía municipal tuvo controlada la situación. Asimismo, la población más cercana al lugar de los hechos está a 23 kilómetros, y la Agencia del Ministerio Público más cercana está a 66 kilómetros del lugar de los hechos. Sería falso el hecho de que el Sr. González hubiera fallecido por un disparo de arma de fuego de la autoridad policiaca, toda vez que su muerte, como indico la necropsia, se originó por el impacto de un objeto o proyectil irregular, probablemente una piedra. El Gobernador del estado de Sonora solicitó la intervención de la Comisión Nacional de los Derechos Humanos (CNDH) para las diversas diligencias.

### **Carta de alegaciones enviada el 17 de octubre de 2007**

407. El Relator Especial envió una comunicación en relación con los Señores **Mateo Cortés Martínez, Agustín López y Flor Vásquez López**, trabajadores del periódico El Imparcial del Istmo, así como a los Señores **Gonzalo Domínguez**, coordinador de información y **Felipe Ramos**, reportero de nota policiaca de dicho diario. Según las informaciones recibidas, el 8 de octubre de 2007, los Srs. Cortés Martínez, López y Vásquez López fueron asesinados a balazos por unos desconocidos en la carretera que conecta a las ciudades de Salina Cruz y Tehuantepec, en el paraje “La Noria”, en el estado de Oaxaca. Según fuentes, los trabajadores, que viajaban en una camioneta con el logo del diario El Imparcial del Istmo, portaban credenciales de dicho periódico. Asimismo, los Srs. Domínguez y Ramos así como los otros trabajadores de dicho diario habrían sido amenazados de muerte y habrían solicitado protección a las autoridades federales. Según las informaciones, diversos ataques contra periodistas y medios de comunicación en el estado de Oaxaca se han sucedido a lo largo del último año, sobre todo en contra de los que cubren los temas de tráfico de drogas y crimen organizado.

### **Respuesta del Gobierno enviada el 14 de diciembre de 2007**

408. Por carta del 14 de diciembre de 2007, el Gobierno transmitió la siguiente información. El 8 de octubre de 2007, los Srs. **Mateo Cortés Martínez, Agustín López y Flor Vásquez López** fueron encontrados muertos. La Procuraduría General de Justicia del estado de Oaxaca inició una averiguación previa para determinar la identidad del o los responsables y las circunstancias en que se suscitaron los homicidios. El Gobierno transmitió informaciones específicas sobre las investigaciones judiciales y administrativas iniciadas con relación a este caso. Las investigaciones para este caso continúan abiertas en varias líneas.

## **Llamamiento urgente enviado el 26 de noviembre de 2007 con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

409. El Relator Especial y la Representante Especial señalaron a la atención urgente de su Gobierno la información recibida en relación con graduados de una escuela universitaria de magisterio con sede en Ayotzinapa, municipio de Tuxtla, estado de Guerrero, y miembros de la Federación de Estudiantes Campesinos Socialistas de México (FECSM), una organización no gubernamental que se dedica a la promoción y la protección de los derechos humanos de estudiantes y campesinos.

410. Según la información recibida, el día 14 de noviembre del 2007, alrededor de 800 manifestantes habrían caminado hasta el edificio del Congreso estatal de Guerrero, en la capital, para protestar contra violaciones de derechos humanos cometidas hacia estudiantes y campesinos. Según fuentes, los manifestantes habrían permanecido enfrente del edificio del Congreso hasta las cinco de la tarde. Las autoridades habrían considerado la protesta como un obstáculo al acceso al edificio y, a las cinco de la tarde, centenares de policías estatales habrían rodeado la zona y habrían dispersado a los manifestantes de forma brusca. Algunos de los manifestantes se refugiaron en el interior del Congreso y otros huyeron, mientras la policía, según los informes, les echaba gas lacrimógeno y los golpeaba con porras. Se alega que más de 200 manifestantes habrían resultado heridos y que al menos una persona habría sufrido lesiones graves en la cabeza. Según fuentes, seis manifestantes habrían sido detenidos y, posteriormente, liberados sin cargos el mismo día. Un reducido número de personas que participaban en la manifestación se habría comportado de forma violenta durante la misma, echando piedras y cócteles molotov, aunque la mayoría participaba de forma pacífica.

### **Seguimiento de comunicaciones transmitidas previamente**

411. Por carta del 7 de mayo de 2007, el Gobierno transmitió la siguiente información en relación con la Sra. María del Carmen López Velásquez, locutora de la Radio Universidad en Oaxaca, que habría sido atacada por hombres armados el 22 de Julio de 2006. Las protestas para aumento salarial, organizadas por la Sección XXII-SNTE y la Asamblea Popular de los Pueblos de Oaxaca (APPO), pasaron a ser actos primordialmente políticos, con la exigencia de destituir el gobernador. Los actos de protesta de las dos organizaciones se radicalizaron y transgredieron a la ley, y en este contexto ocurrió el ataque en contra la Sra. Velásquez. Conforme al ordenamiento legal aplicable en el Estado de Oaxaca, son los directamente afectados por este tipo de hechos quienes pueden denunciarlos ante la autoridad ministerial, situación que no ocurrió en este caso. El 22 de julio de 2006, se inició de oficio una averiguación previa (1296/PME/2006) y se determinó la realización de una diligencia de inspección ocular, la cual no se pudo concretar debido a la presencia de manifestantes en el local. Para continuar las investigaciones, la autoridad ministerial citó al Subdirector de la Radio Universidad y al Rector de la Universidad Autónoma Benito Juárez de Oaxaca para que se declaren con relación a estos hechos. Las investigaciones continúan en trámite. Cuando se concluyan, será posible determinar lo conducente en lo que se refiere a la compensación a las víctimas.

412. Por carta del 7 de mayo de 2007, el Gobierno transmitió la siguiente información en relación con los señores **Jaime Vargas Chablé** y **Manuel Acuña López**, periodistas del diario "Por Esto!". El Gobierno coincide con las alegaciones presentadas. Sin embargo, no está en condiciones de afirmar o negar las motivaciones o señalar a los responsables hasta que se concluyan las investigaciones correspondientes. El 24 de agosto de 2006, la policía judicial

del Estado localizó y presentó ante el Representante Social del fuero común a una persona cuyo nombre es conocido por el Relator Especial, quien el 25 de agosto de 2006 rindió su declaración ministerial, remitiendo dicha autoridad, desglose de la averiguación previa a la Delegación de la Procuraduría General de la República en el Estado de Quintana Roo. La Agencia Federal de Investigación localizó el inculpado y lo presentó a la Delegación de la PGR en el Estado de Quintana Roo. El inculpado se encuentra bajo la orden de arraigo decretada en su contra por el Juez Décimo Octavo de Distrito de Procesos Penales Federales en el Distrito Federal. La autoridad ministerial radicó una averiguación previa (AP/PGR/YUC/MUY-DD/101/2006), instruida en contra de quien o quienes resulten responsables en la comisión de los delitos de violación a la ley federal de armas de fuego y explosivas, daño en propiedad ajena y amenazas. Hasta el momento no se ha determinado responsabilidad penal de ninguna persona. Las investigaciones siguen su curso y una vez que se concluyan se estará en posibilidad de determinar lo conducente.

413. Por carta del 7 de mayo de 2007, el Gobierno transmitió la siguiente información en relación con los señores **Mario Viveros Barragán, Juan Pablo Ramos Jiménez y Miguel Ángel Fuentes Cortina**, reporteros de la productora de documentales Canal 6 de Julio, que habrían sido agredidos por agentes de la Seguridad Pública. Los hechos ocurridos sucedieron en el marco de un gran operativo implementado para salvaguardar la integridad de miles de personas que participaban de los festejos de Independencia, donde había una importante presencia policiaca. Hasta que se concluyan las investigaciones, el Estado no está en posibilidad de afirmar o negar los hechos alegados. La víctimas presentaron una denuncia ante la Agencia Investigadora del Ministerio Público número 50 el 16 de septiembre de 2006. En su denuncia, los periodistas señalaron haber sido víctimas de los delitos de lesiones y daño a la propiedad ajena. A los señores Barragan, Jiménes y Cortina no les fue posible proporcionar los números de las patrullas o la media filiación de las personas que los agredieron, lo que ha complicado la identificación de los presuntos culpables. La Secretaría de Seguridad Pública del Distrito Federal, bajo el Acta Administrativa número 1162-06/EDGUAJ realiza las diligencias inherentes para recabar los datos necesarios para determinar la probable responsabilidad de los elementos que hubieran participado en los hechos manifestados por los reporteros. En el momento que se tengan resultados concretos, se procederá a la consignación de los presuntos responsables antes el Juez correspondiente.

414. Por carta del 7 de mayo de 2007, el Gobierno transmitió la siguiente información en relación con el llamamiento urgente enviado el 6 de noviembre de 2006 por el Relator Especial, juntamente con la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, en relación con la situación de los menores **Pedro César Cornejo y Marcelo Adam Vergara Barrera**; así como sobre **Nayeli Martínez, Isabel Galindo Aguilar, Héctor Guzmán Acosta, Armando Aguilar y Abel Martínez Pacheco, Javier Moreno Colmenares, Juan Crisóstomo Aparicio, Hugo Joaquín, Daniel Olmedo, Inti Martínez y Francisco Núñez Basan, Juan José Flores Hernández y Alfonso Rutilio García Martínez**, quienes habrían sido detenidos el 2 de noviembre de 2006 en la ciudad de Oaxaca. El contexto en que se suscitaron los hechos tuvo sus orígenes en mayo de 2006, con una petición de aumento salarial planteada por la Sección XXII-SNTE y más tarde apoyada por la Asamblea Popular de los Pueblos de Oaxaca (APPO). Las protestas pasaron a ser actos primordialmente políticos, con la exigencia de destituir al gobernador de Oaxaca, radicalizándose y transgrediendo a la ley, lo que afectó de manera importante la economía de la ciudad de Oaxaca. El 27 de octubre de 2006, Oaxaca se vio afectada por un clima de violencia, condenado por el Gobierno Federal, que continuó con la postura de privilegio al diálogo y

conminó las organizaciones Sección XII y APPO a cumplir los compromisos adquiridos para alcanzar la normalidad en la capital de Oaxaca mediante la acción de la policía local bajo un mando federal. Ante el incumplimiento de dichos acuerdos, el Gobierno Federal exigió la entrega inmediata de las zonas bajo el control de dichas organizaciones para preservar el pleno respeto a las garantías individuales de la población de Oaxaca. El 28 de octubre de 2006, el Presidente de la República ordenó la movilización de fuerzas federales a esa ciudad, fundamentándose, entre otras razones, en la necesidad de restablecer el orden, la solicitud de apoyo de la fuerza pública por las autoridades locales, la presencia de grupos radicales que pusieron en riesgo la tranquilidad de la ciudadanía y la necesidad de brindar protección suficiente a los niños, niñas y maestros que ratificaron su decisión de regresar a clases. El Gobierno federal determinó que la presencia de las fuerzas federales solo sería por el tiempo que fuere necesario, sin apoyar a ninguna de las partes en conflicto y para restablecer el orden. El empleo de la fuerza pública es un recurso legítimo que no implica coartar la libertad de expresión y el derecho de manifestarse. En las fuerzas federales no hubo elementos militares ni se utilizaron tanquetas. Las detenciones efectuadas estuvieron fundadas en la flagrancia en que fueron sorprendidas dichas personas respecto de la presunta comisión de actos delictivos. El Gobierno presentó informaciones detalladas para cada persona mencionada en la comunicación:

- **Pedro César Cornejo** (alias Juan Pérez Escobar): delito de robo específico, daños y lesiones, proceso 131/06, detenido el 22 de noviembre y liberado el 10 de diciembre de 2006. Auto de libertad por desvanecimiento de datos para procesar y libertad caucional por los delitos de daños y lesiones;
- **Marcelo Adam Vergara Barrera** y **Nayeli Martínez**: ninguna persona bajo estos nombres fue internada en alguno de los Centros de Readaptación Social del Estado mexicano o Consejo Tutelar para menores.
- **Isabel Galindo Aguilar**: delito de sedición, asociación delictuosa, resistencia de particulares y ataques a las vías de comunicación. Juzgado A.P. 213 (F.M.) 2006. Detenida el 3 de noviembre y liberada el 6 de noviembre bajo caución.
- **Héctor Guzmán Acosta, Armando Aguilar Acosta, Abel Martínez Pacheco, Javier Moreno Colmenares, Juan Crisóstomo Aparicio, Hugo Jarquín, Daniel Olmedo, Inti Martínez Rafael, Juan José Flores Hernández**: delito de sedición, asociación delictuosa, resistencia de particulares y ataques a las vías de comunicación. Juzgados A.P. 221 (F.M.) 2006. Detenidos el 3 de noviembre y liberados el 5 de noviembre bajo caución.
- **Alfoso Rutilio García Martínez**: delito de amenazas y portación de armas. Proceso 143/2006. Detenido el 1 de noviembre y liberado el 4 de noviembre bajo caución.

415. Por carta del 12 de febrero de 2007, el Gobierno transmitió la siguiente información en relación a la comunicación enviada el 8 de noviembre de 2006 por el Relator Especial, juntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sobre las muertes del Sr. **Alberto Jorge López Bernal** durante su participación en una manifestación de APPO el 29 de octubre de 2006 y del Sr. **Bradley Wheyler**, camarógrafo de la agencia de prensa Indymedia, cuando cubría una manifestación de APPO el 27 de octubre de 2006, así que sobre el Sr. **Oswaldo Ramírez**, fotógrafo del diario Milenio, que resultó herido en un tiroteo. En el caso del Sr. **Alberto Jorge López Bernal**, la Procuraduría General de Justicia del Estado de Oaxaca ha iniciado una averiguación previa (1258(C.R.)2006). Una vez que se cuente con información sobre los avances de dicha investigación se harán del conocimiento de los Relatores especiales. El Sr. **Bradley Roland Will** fue privado de la vida cuando videgrababa un enfrentamiento entre miembros de la Asamblea Popular de Pueblos de Oaxaca (APPO) y

vecinos del Municipio de Santa Luncia del Camino, Oaxaca. Una averiguación previa (1247(C.R.)2006) fue iniciada, con los siguientes avances. El 1º de diciembre de 2006, se ejerció acción penal en contra de los indiciados, cuyos nombres son conocidos por el Relator Especial, como probables responsables en la comisión del delito de homicidio calificado. De su cuerpo, fueron rescatadas ojivas pertenecientes a un arma para uso exclusivo militar. Con la finalidad de establecer si existe competencia federal en la investigación de los hechos, el Ministerio Público Federal inició por instrucciones de la Fiscalía Especial para la Atención de Delitos cometidos contra Periodistas una averiguación previa independiente a de la Procuraduría General de Justicia del Estado. Una vez que se concluya el proceso penal seguido en contra de los probables responsables se estará en posibilidad de determinar su responsabilidad penal y en su caso imponerles las sanciones correspondientes. Por lo que se refiere al Sr. **Osvaldo Ramírez**, el Gobierno del Estado de Oaxaca no encontró registro de denuncia presentada o investigación iniciada por el hecho.

### **Observaciones**

416. El Relator Especial agradece al Gobierno por las respuestas a sus comunicaciones de 2006 y de 1 de mayo, 5 de septiembre y 17 de octubre de 2007. El Relator Especial lamenta no haber recibido respuesta a las comunicaciones de 26 de enero, 8 de febrero, 31 de mayo y 26 de noviembre de 2007.

### **Morocco**

#### **Lettre d'allégation envoyée le 18 janvier 2007 avec le Rapporteur spécial sur le droit à la liberté de croyance et de religion**

417. Les Rapporteurs spéciaux ont attiré l'attention du Gouvernement sur la situation de l'hebdomadaire « Nichane », son directeur M. **Driss Ksikes** et la journaliste Mme **Sanaa Elaji**. Le 15 janvier 2007, le Tribunal de première instance de Casablanca aurait condamné le directeur de publication de l'hebdomadaire Nichane, Driss Ksikes, et la journaliste Sanaa Elaji à trois ans de prison avec sursis et à une amende de 80 000 dirhams. Le Tribunal aurait aussi suspendu la parution de l'hebdomadaire pour deux mois à partir du 15 janvier 2007.

175. Dans son numéro 91 paru en décembre 2006, l'hebdomadaire aurait publié un dossier intitulé « Blagues: comment les Marocains rient de la religion, du sexe et de la politique ». Le 20 décembre 2006, le Premier ministre marocain aurait notifié à M. Driss Ksikes, l'interdiction de sa diffusion. Parallèlement à cette décision, le parquet du roi près le tribunal de première instance de Casablanca aurait lancé des poursuites à l'encontre de M. Driss Ksikes et de la journaliste responsable du dossier Mme Sanaa Elaji, pour « atteinte à la religion islamique » et « publication et distribution d'écrits contraires à la morale et aux mœurs ». Le 8 janvier 2007, à l'issue de la première audience, le procureur du roi aurait requis une peine de trois à cinq ans de prison ferme ainsi que l'interdiction d'exercer et une amende allant de 10 000 à 100 000 dirhams à l'encontre de M. Driss Ksikes et de Mme Sanaa Elaji. Il aurait également réclamé la fermeture définitive du journal.

### **Appel urgent envoyé le 1 février 2007 avec la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la question de la torture**

418. Les titulaires de mandats des procédures spéciales ont attiré l'attention du Gouvernement sur la situation de M. **Brahim Sabbar**, Secrétaire général de l'Association Sahraouie des Victimes des Violations Graves des Droits de l'Homme Commises par l'Etat du Maroc (ASVDH), et M. **Ahmed Sbai**, membre du Conseil de coordination de l'ASVDH et du Comité pour la Protection des Détenus de la Prison Noire. Tous les deux sont actuellement détenus dans la 'Prison Noire' de Laâyoune. MM. Brahim Sabbar et Ahmed Sbai ont fait l'objet d'un appel urgent envoyé par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 29 juin 2006. Selon les informations reçues, le 19 janvier 2007 des policiers de la Compagnie mobile d'intervention auraient pénétré dans la cellule où étaient détenus Brahim Sabbar et Ahmed Sbai, ainsi que 16 prisonniers politiques, et les auraient battus violemment, quelques uns avec des matraques. Ils auraient cassé la jambe de Brahim Sabbar au cours de l'attaque. Ensuite les policiers auraient menotté tous les prisonniers présents.

419. MM. Brahim Sabbar et Ahmed Sbai auraient été arrêtés à Boujdour, au Sahara occidental, le 17 juin 2006. Leur arrestation aurait fait suite à la réunion inaugurale d'une branche de l'ASVDH à Boujdour et à la publication d'un rapport contenant des allégations d'arrestations arbitraires, de torture et de mauvais traitement au Sahara occidental. Le 27 juin 2006, M. Brahim Sabbar aurait été condamné à deux ans d'emprisonnement pour avoir attaqué et désobéi à un officier de police, ce que M. Brahim Sabbar nierait. De plus, on aurait nié le droit à M. Sabbar de lire et de vérifier le rapport de police sur lequel se base l'accusation. Une Cour d'appel aurait confirmé cette décision le 20 juillet 2006.

### **Réponse du Gouvernement envoyée le 17 août 2007**

420. Le Gouvernement a informé que MM. **Ahmed Sbai** et **Brahim Sabbar** ont été arrêtés le 17 juin 2006 et présentés à la justice pour refus d'obtempérer aux sommations de la force publique, violence et outrage à des agents publics dans l'exercice de leur fonction avec tentative d'atteinte à leur intégrité physique. Ils ont été condamnés à deux ans de prison ferme. Le Gouvernement affirme qu'ils ont bénéficié de procès publics et équitables conformément à la législation nationale en vigueur, en respectant les standards internationaux et avec la présence d'observateurs étrangers. Selon le Gouvernement, l'Administration pénitentiaire de la prison civile de Laâyoune a procédé, le 19 janvier 2007, à une opération de fouille des cellules des détenus, notamment celles de MM. Ahmed Sbai et Brahim Sabbar. Le Gouvernement affirme que cette opération a été menée par les gardiens de la prison et non par des éléments de la Compagnie Mobile d'Intervention. Il est mentionné que l'opération en question a été menée en conformité avec la réglementation en vigueur, en respectant les droits des prisonniers à préserver leur dignité. Le Gouvernement souligne que les personnes chargées de l'inspection n'ont pas eu recours à la force. Concernant la fracture de M. Brahim Sabbar, le Gouvernement affirme qu'il s'agit d'une fracture du métatarse du pied gauche qu'il a contractée le 17 novembre 2006 (deux mois avant l'opération de fouille du 19 janvier 2007), suite à une glissade dans les toilettes. Il a, par la suite, été évacué au service de traumatologie à l'Hôpital de Laâyoune où il a reçu les soins appropriés. Le Gouvernement a joint à sa réponse les copies des rapports sur l'état de santé de MM. Ahmed Sbai et Brahim Sabbar en

date du 8 février 2007. Les rapports affirment que l'état de santé général des deux hommes est bon.

### **Lettre d'allégations envoyée le 23 mai 2007 avec la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme**

421. Le Rapporteur spécial et la Représentante Spéciale ont attiré l'attention du Gouvernement sur la situation de M. **Mahdi Barbouchi**, lycéen, et M. **Abderrahim Karrad**, ouvrier agricole et syndicaliste, tous deux membres de la section de l'Association Marocaine des Droits humains à Biougra dans la région d'Agadir. Selon les informations reçues, le 10 mai 2007, le tribunal de première instance d'Agadir aurait condamné MM. Barbouchi et Karrad à deux années de prison ferme et 10.000 dirhams d'amende pour « atteinte aux valeurs sacrées du Royaume ». Cette condamnation ferait suite à l'arrestation et inculpation de ces mêmes personnes par les forces de l'ordre le 1er mai pour leur participation au défilé organisé à l'occasion de la Fête du Travail.

### **Appel urgent envoyé le 27 juillet 2007 avec le Rapporteur spécial sur l'indépendance des juges et des avocats**

422. Les Rapporteurs spéciaux ont attiré l'attention du Gouvernement sur la situation de M. **Abderrahim Ariri**, directeur de publication de l'hebdomadaire arabophone « Al Watan Al An » (« La Nation maintenant »), et M. **Mostapha Hurmatallah**, journaliste. Selon les informations reçues, le 24 juillet 2007, M. Abderrahim Ariri aurait été placé en liberté provisoire et M. Mostapha Hurmatallah aurait été écroué à la prison de Okacha, dans l'attente de leur procès, dont la première audience aurait eu lieu le 26 juillet 2007. Les deux journalistes seraient poursuivis pour « recel de documents obtenus à l'aide d'un crime », en vertu de l'article 571 du code pénal qui prévoit une peine d'emprisonnement d'une à cinq années. Selon les informations reçues, cette décision du parquet de Casablanca aurait été prise suite à une garde à vue de 96 heures, renouvelée une fois, au siège de la brigade nationale de la police judiciaire de Casablanca, au cours de laquelle les deux hommes auraient été continuellement interrogés sans la présence d'un avocat.

423. Suite à la publication d'un dossier intitulé « Les rapports secrets derrière l'état d'alerte au Maroc » dans l'édition numéro 253 d'« Al Watan Al An », parue le 14 juillet 2007, les deux journalistes auraient été interpellés par des policiers en civil le 17 juillet 2007 vers 7 heures du matin, à leurs domiciles respectifs à Casablanca. Ensuite, ils auraient été conduits à la préfecture de police où ils auraient été interrogés. En milieu de matinée, ils auraient été accompagnés au siège de la rédaction d'« Al Watan Al An » où une fouille aurait été menée, au cours de laquelle un nombre très important d'archives du journal, ainsi que l'ordinateur, le téléphone portable et l'agenda d'Abderrahim Ariri auraient été confisqués.

424. L'un des articles du dossier publié se serait appuyé sur une note interne de la Direction Générale de la Surveillance du Territoire (DGST), publiée dans le journal, qui avisait tous les services de sécurité de faire preuve de vigilance après la diffusion sur Internet d'un enregistrement vidéo d'un groupe terroriste lançant « un appel solennel au jihad contre les régimes maghrébins, en désignant particulièrement le Maroc ». Selon les informations reçues, le contenu de ladite note publiée par cet hebdomadaire ne révélait aucune information confidentielle mais relatait des informations déjà publiées sur internet et donc publiques.

**Appel urgent envoyé le 25 septembre 2007**

425. Se référant à la communication envoyée le 27 juillet 2007 conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial a envoyé un appel urgent au Gouvernement au sujet de **M. Mostapha Hurmatallah**, journaliste de l'hebdomadaire arabophone « Al Watan Al An » (« La Nation maintenant »), qui aurait été condamné le 18 septembre 2007 par la Cour d'appel de Casablanca à sept mois de prison ferme. Le directeur de la publication, **M. Abderrahim Ariri**, aurait été condamné à une peine de cinq mois de prison avec sursis pour « recel de documents à l'aide d'un crime ». La Cour d'appel a ainsi allégé d'un mois le jugement rendu par le Tribunal correctionnel de Casablanca le 15 août 2007 et maintenu l'amende de 1000 dirhams infligée aux deux journalistes de l'hebdomadaire susmentionné. Le 14 juillet 2007, l'hebdomadaire avait publié un article qui relatait nombre d'informations provenant de la Direction Générale de la Surveillance du Territoire (DGST), mais déjà largement diffusés sur Internet, concernant la possibilité d'attaques terroristes contre l'ensemble du pays. Il semblerait qu'au moment de l'envoi de cette seconde communication, M. Abderrahim Ariri était libre tandis que M. Mostapha Hurmatallah, quant à lui, aurait été libéré provisoirement, après avoir passé 56 jours en détention préventive à la prison d'Oukacha. Selon les informations reçues, il devrait rester en liberté jusqu'au terme du pourvoi en cassation.

**Observations**

426. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 1 février 2007. Il regrette l'absence de réponse aux autres communications.

**Myanmar****Urgent appeal sent on 2 March 2007 with the Chairperson-Rapporteur of the working Group on arbitrary detention and the Special Rapporteur on the situation of human rights in Myanmar**

427. The Special Procedures mandate holders brought to the attention of the Government the situation of **Mr. Min Kyi, Mr. Myint Oo, Maw Si, Mr. Naing Oo (a) Tote Gyi, and four other persons**, whose identities have yet to be established, who organised a public literacy seminar in a Buddhist monastery in the city of Paungtaiei, were arrested under Emergency Provision Act powers on 8 February 2007 by military intelligence officers after completion of the seminar. They were detained at the Sitlone military security camp in the city of Mingyitaung near Pyi at the time the communication was sent and no charges had been made against them. Concern was expressed that the above mentioned persons have solely been arrested and detained in connection with the legitimate exercise of their right to freedom of opinion and expression.

428. Mr. Min Kyi was already the subject of a letter of allegation sent on 21 July 2004 by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture and a joint urgent appeal sent on 4 December 2003 by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights in Myanmar and the Special Rapporteur on the right to freedom of opinion and expression. Mr. Myint Oo was already the

subject of a joint urgent appeal sent on 19 January 2004 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in Myanmar. Unfortunately the letter of allegation and joint urgent appeals have remained without a reply from your Excellency's Government.

**Urgent appeal sent on 18 May 2007 with the Chairperson-Rapporteur of the working Group on arbitrary detention, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on human rights defenders**

429. The Special Procedures mandate holders brought to the attention of the Government the situation of 38 human rights defenders, **Mr Thant Zin Myo, Ms Hla Hla Maw, Mr Yan Naing Htun, Mr Kyaw Soe Win, Mr Win Myint, Mr San Naing, Mr Soe Nge, Mr San Win, Mr Tin Yu, Mr Mee Thay, Mr Thant Zin, Mr Mya Hlaing, Mr Ye Myat Hein, Mr Kyi Phyu, Mr Ye Htut, Ms Daw Shuu, Mr Kyaw Ze Ya, Mr Myint Kyaw Oo, Mr Ye Min Thu, Mr Phyo Wai Linn, Mr Saw Kyw Kyaw Min, Ms Suu Suu New, Mr Aye Naing, Mr Aye Lwin, Ms Tin Yee (Daw), Mr Min Aung Linn, Mr Phyo Wai Aung, Mr Nay Linn Aung, Mr Thauta, Mr Nay Htun, Mr Ye Thein Naing, Mr Htun Htun Naing, Ms Mya Mya San (Daw), Mr Bo Bo Win Hlaing, Mr Hlaing Htet Aung, Mr Aye Min Htun, Mr Aung Tin, and Mr Kyi Myint.** Ms Suu Suu New (aka Su Su Nway) was already the subject matter of Opinion No. 4/2006 adopted by the Working Group on Arbitrary Detention on 9 May 2006, in which it held upon the facts of the matter that had been submitted that “[t]he detention of Ms. Su Su Nway is arbitrary, being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights, and falls within categories II and III of the categories applicable to the consideration of cases submitted to the Working Group.”

430. According to the information received, on 15 May 2007, 38 human rights defenders were reportedly arrested -and some physically assaulted- in Yangon by members of the police force, members of the Union Solidarity and Development Association and members of the Swann Arr Shin, while demonstrating for the release from house arrest of Ms Aung San Suu Kyi. Some of the aforementioned were arrested at Mikwet Market, Tadaphyu bus station in Hlaingthaya on their way to Shwedagon Pagoda; others were arrested at Arlein Ngasint Pagoda on their way to Kyauktawgyi Pagoda.

431. According to reports, all these persons were being held at the Kyaik Ka San interrogation camp in Tharmwe Township. Serious concern was expressed that the arrest and detention of the aforementioned persons may have been solely related to their non-violent activities in defence of human rights in Myanmar.

**Response from the Government sent on 9 July 2007**

432. The Government stated that on 15 May 2007 at 07.00, Maung Thant Zin Myo was walking from Bo Aung Kyaw Road, Hlaing Thar Yar Township, toward Shwe Dagon Pagoda, along with 11 other people, all of whom were wearing red t-shirts and holding red roses and other flowers. The letter further stated that while, on their way, a group wishing to avoid violence attempted to stop them. However, they refused to stop and were eventually taken by the same group and handed over to the relevant authorities.

433. On the same day, at 09.30, Saw Kyaw Kyaw Min as well as other members of NLD gathered in front of a motel in Insein Township. They were wearing t-shirts with Daw Aung San Suu Kyi's photo. Su Su New later joined them. There followed a quarrel between photographers and cameramen wishing to record the event and NLD members. Then Su Su Nwe and the rest of the group walked to Kyauktawgyi Pagoda. They were again stopped by people who wanted to avoid violence in the area and brought to Kyaikkasan Stadium. The government stated that the authorities had kept them temporarily for interrogation in accordance with the laws of Myanmar and to prevent unrest and that they had now been returned to their families.

**Urgent appeal sent on 2 July 2007 with the Chairperson-Rapporteur of the working Group on arbitrary detention, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on human rights defenders**

434. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms **Phyu Phyu Thin**, a prominent HIV/AIDS activist and member of the National League for Democracy (NLD), founded by Nobel Peace Laureate, Ms Aung San Suu Kyi. Ms Phyu Phyu Thin also dedicates much of her time to caring for those with HIV/AIDS at her home in Yangon, Rangoon and assists with counseling, housing and arranging access to medical treatment. According to information received, on 21 May 2007, Ms Phyu Phyu Thin was arrested whilst attending a prayer service for the release of NLD leader Ms Aung San Suu Kyi in Yangon. Ms Phyu Phyu Thin's family was apparently informed by sources of where she was being detained and of the fact that she had initiated a hunger strike on 18 June 2007, however authorities had refused to divulge the exact location of her detention.. Ms Phyu Phyu Thin suffers from asthma and her family had been unable to contact her directly since her arrest. She had reportedly also been denied medical assistance.

435. According to reports, in January 2007, Ms Phyu Phyu Thin publicly protested against the lack of antiretroviral drugs being administered to HIV/AIDS patients in Rangoon hospitals. In an interview prior to her detention she also suggested that mortality rates among HIV/AIDS patients in Myanmar were much higher than official statistics claimed. In 2000, Ms Phyu Phyu Thin was arrested and detained during a period of four months whilst traveling with NLD leader Ms Aung San Suu Kyi. Concern was expressed that the aforementioned events form part of an ongoing campaign against human rights defenders in Myanmar. Further concern was expressed for the health of Ms Phyu Phyu Thin, in light of reports that she had been on hunger strike since 18 June 2007 and that she had been denied medical assistance.

**Urgent appeal sent on 28 August 2007 with the Chairperson-Rapporteur of the working Group on arbitrary detention, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on human rights defenders**

436. The Special Procedures mandate holders brought to the attention of the Government the situation of **Min Ko Naing, Ko Ko Gyi, Mya Aye, Htay Win Aung, Kyaw Min Yu, Ant Bwe Kyaw, Kyaw Kyaw Htwe, Yin Htun, Min Zeya, Pandate Tun, Thet Zaw, Zaw Zaw Min, Nyan Lin Tun and Zeya**, members of the 88 Generation Students Group; **Htin Kyaw,**

member of the Myanmar Development Committee and **Zaw Nyunt**, former chairperson of Labor Solidarity; **Kyaw Ko Ko, Nyan Oo, Yar Zar Mon, Nyan Linn Oo and Lyi Lwin Oo**, university students; **Naw Ohn Hla, San San Myint, Cho Cho Lwin, Yin Yin Myat, Tin Yee, Than Zaw Myint, Tin Maung Yee**, participants in recent protests against the rise of oil prices; **Tun Myint, Kyi Phyu, Myo Khin, Tin Myint, Tin Zaw Oo, Lay Lwin, Zaw Zaw Aung, Ko Ye, Tin Maung Oo, Phyo Min Kyin, Soe Kywe, Ms.Khin Aye, Myint Thein, Aung Tun**, members of the National League for Democracy; **Ohn Than**, a former political prisoner who participated in the protests; **Myint Aye**, leader of the organization Human Rights Defenders and Promoters.

437. According to the information received, on 21 August 2007, Min Ko Naing, Ko Ko Gyi, Mya Aye, Htay Win Aung, Kyaw Min Yu, Ant Bwe Kyaw, Kyaw Kyaw Htwe, Yin Htun, Min Zeya, Pandate Tun, Thet Zaw, Zaw Zaw Min, Nyan Lin Tun and Zeya, members of the 88 Generation Students Group mentioned above were reportedly arrested by the police and taken to the Kyaikkssan Ground Detention Center in the Tamwe Township of Yangon. At the same time, Htin Kyaw, member of the Myanmar Development Committee, along with Zaw Nyunt, former chairperson of Labor Solidarity, were arrested in a separate location. Their whereabouts were unknown at time of writing. According to information, these arrests were related to the participation of these persons in the organization of a protest that took place on 19 August 2007 against the government's decision to increase the prices of diesel, petrol and natural gas.

438. On the same day, Kyaw Ko Ko, Nyan Oo, Yar Zar Mon, Nyan Linn Oo and Lyi Lwin Oo, five other university students, were arrested in Yangon by members of the Union Solidarity and Development Association (USDA) as well as police officials on plain clothes. They were allegedly displaying a poster demanding a reduction of the price of fuel and other commodities. The five students were allegedly taken to the Headquarters of the Shwe Pyi Thar Police Regiment No. 2. No official charges had allegedly been brought against these students.

439. On 22 August at noon, Naw Ohn Hla, San San Myint, Cho Cho Lwin, Yin Yin Myat, Tin Yee, Than Zaw Myint, Tin Maung Yee were allegedly arrested at the Parami Junction and were allegedly physically assaulted by Soe Win Than, a member of the USDA. On 23 August in the morning, Tun Myint, Kyi Phyu, Myo Khin, Tin Myint, Tin Zaw Oo, Lay Lwin, Zaw Zaw Aung, Ko Ye, Tin Maung Oo, Phyo Min Kyin, Soe Kywe, Khin Aye, Myint Thein, Aung Tun, members of the National League for Democracy were allegedly arrested in Shwe Gone Dyne at the Bahan Township in the Yangon Division. They were reportedly protesting by marching to the party headquarters in Yangon.

440. On the same day, Ohn Than was allegedly arrested during a solo protest outside the Embassy of the United States in Yangon. He was reportedly carrying a sign calling for UN intervention to reinstate the parliament in Myanmar. On the same day, Myint Aye was allegedly detained near his home by the Chairperson of the Kemmendine Township Peace and Development Council and the Sub-Lieutenant Win Myint of the police force.

**Urgent appeal sent on 17 October 2007 with the Special Rapporteur on the question of torture, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on human rights defenders**

441. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Htay Kywe**, Ms **Mie Mie** (also known as Ms **Thin Thin Aye**) and Mr **Aung Thu**. Mr Htay Kywe, Ms Mie Mie and Mr Aung Thu are all non-violent human rights activists and members of the 1988 Generation Students Group.

442. According to information received, on 13 October 2007, in the early hours of the morning, approximately seventy members of the security forces reportedly broke into the house where Mr Htay Kywe, Ms Mie Mie and Mr Aung Thu were staying. The officers arrested all three, as well as the owner of the house and two other members of the 1988 Generation Students Group who were also present. Mr Htay Kywe, Ms Mie Mie and Mr Aung Thu were initially involved in protests in August 2007. However, once the authorities began searching for the members of the 1988 Generation Students Group, they went into hiding.

443. On 21 August 2007, thirteen activists who were members of the 1988 Generation Students Group were arrested, which was the subject of a joint urgent appeal sent on 28 August 2007 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in Myanmar.

444. At time of writing, the whereabouts of Mr Htay Kywe, Ms Mie Mie and Mr Aung Thu are unknown. Before his arrest Mr Htay Kywe was in poor health. Mr Htay Kywe, Ms Mie Mie and Mr Aung Thu had all been previously arrested by the authorities under national security provisions criminalizing peaceful protest. Concern was expressed that the aforementioned arrest and subsequent detention of Mr Htay Kywe, Ms Mie Mie and Mr Aung Thu may have been directly related to their human rights activities, in particular their criticism of the current regime in Myanmar through peaceful protest. In view of the alleged detention of Mr Htay Kywe, Ms Mie Mie and Mr Aung Thu at an undisclosed or unconfirmed location, concern was expressed that they may be at risk of torture or other forms of ill-treatment.

**Urgent appeal sent on 17 October 2007 with the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on human rights defenders**

445. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **U Gambira**, Mr **Aung Kyaw Kyaw**, Mr **Min Lwin** and Ms **Su Su Nway**. Mr U Gambira is a Buddhist monk and human rights activist. He was one of the leaders of the peaceful demonstrations that began in August 2007 in reaction to an increase in fuel prices. He also led the All-Burma Monks Alliance (ABMA). Mr Aung Kyaw Kyaw and Mr Min Lwin are, respectively, the brother and father, of Mr U Gambira. Ms Su Su Nway is also a human rights activist, campaigning for workers' rights in Myanmar.

446. According to reports received, Mr U Gambira was allegedly charged with treason due to his leading role in the August demonstrations, for which he faced either life imprisonment or the death penalty. His name also reportedly appeared on a list of individuals wanted by the authorities and so, he consequently went into hiding. He then published an article indicating that hundreds of monks and nuns have been beaten and arrested, that thousands of clergy have

disappeared and that monasteries have been looted or destroyed. Reportedly he was arrested on 4 November 2007 in Singaing. His brother, Mr Aung Kyaw Kyaw, and his father, Mr Min Lwin, were arrested in October 2007 in an attempt to force him out of his hiding. Both Mr Aung Kyaw Kyaw and Mr Min Lwin were still being detained at time of writing. Ms Su Su Nway was arrested on 13 November 2007, during the visit of the UN Special Rapporteur on the situation of human rights in Myanmar. Ms Su Su Nway was reportedly arrested in the city of Yangon following an attempt to distribute leaflets near the hotel where the Special Rapporteur was staying. Ms Su Su Nway also took part in the August 2007 demonstrations and had been in hiding since the arrests of the suspected leaders of the protests. She had been previously charged with criminal intimidation and given 18 months imprisonment in October 2005, following a successful lawsuit she brought against village authorities for the use of forced labour.

447. On 9 May 2006, the Working Group on Arbitrary Detention rendered its Opinion No. 4/2006 indicating that the detention of Ms Su Su Nway is arbitrary, being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights (A/HRC/4/40/Add.1, pp. 50-51). Ms Su Su Nway was released in June 2006. Concern was expressed that the arrests of Mr U Gambira, Mr Aung Kyaw Kyaw, Mr Min Lwin and Ms Su Su Nway were a result of the human rights activities of Mr U Gambira and Ms Su Su Nway, in particular their work to defend the right to freedom of expression in Myanmar. Further concern was expressed for the psychological and physical integrity of Mr Aung Kyaw Kyaw, Mr Min Lwin and Ms Su Su Nway while detained.

**Urgent appeal sent on 10 December 2007 with the Chairperson-Rapporteur of the working Group on arbitrary detention, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on human rights defenders**

448. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Aung Zaw Oo**. Mr Aung Zaw Oo is a member of the Human Rights Defenders and Promoters (HRDP) network and is involved in human rights education programmes and documenting human rights violations.

449. According to information received, on 26 November 2007, Mr Aung Zaw Oon was arrested by plain-clothes policemen while sitting in a tea-shop in downtown Rangoon and his whereabouts were unknown. Mr Aung Zaw Oo had recently been involved in organising events on behalf of HRDP in preparation for International Human Rights Day on 10 December 2007. Concern was expressed for the physical and psychological integrity of Mr Aung Zaw Oo while in detention. Further concern was expressed that the aforementioned arrest and reported incommunicado detention of Mr Aung Zaw Oo may have been directly related to his peaceful human rights activities.

**Urgent appeal sent on 13 December 2007 with the Chairperson-Rapporteur of the working Group on arbitrary detention, the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on human rights defenders**

450. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **U Tin Hla**. Mr U Tin Hla is a member of the Federation of Trade Unions -

Burma (FTUB) and of the Burma Railway Union. According to information received, on 28 November 2007, Mr U Tin Hla was arrested, along with his family, by the Special Branch Police. Members of the Special Branch Police came to Mr U Tin Hla's home and accused him of organising and inciting railway workers' participation in the rallies of September 2007. Mr U Tin Hla, his wife, his son and his daughter were all taken to Mingala Taungyunt Police Station where they were interrogated. After a period of five days, Mr U Tin Hla's wife and children were released while Mr. U Tin Hla was taken to an unknown location for further interrogation. Police are reported to have confiscated various personal items from Mr U Tin Hla's home, including photographs of Daw Aung San Suu Kyi, as well as electrical cords and tools that Mr U Tin Hla uses for his work. Mr U Tin Hla has been returned to the Mingala Taungyunt Police Station, where he is being detained and charged with "possession of explosive material, tools and electric cords".

### **Observations**

451. The Special Rapporteur is grateful for the Government's response to the communication of 18 May 2007. He regrets that he has not received any response to the other seven communications sent in 2007.

## **Nepal**

### **Urgent appeal sent on 9 February 2007**

452. The Special Rapporteur brought to the attention of the Government the attack of the offices of Radio Birgunj during a demonstration. According to the information received, on 28 January 2007 in Birgunj, a mid-western city of Nepal, a section of protesters, allegedly supporters of the Madhesi People's Rights Forum (MPRF) set fire and vandalized the offices of Radio Birgunj during a demonstration, therefore interrupting broadcasting for 15 minutes until police arrived. Reportedly, protestors also tried to attack the offices of the radio station Narayani FM, and the Parsa Chapter of the Federation of Nepalese Journalists (FNJ). On that same day, journalists Ram Sharraf, Dhruva Shah and Bhuwan Jha, were beaten during the demonstration, needing Mr. Sharraf to be taken to the hospital. Shiva Puri, a journalist working for Kantipur daily, was threatened with death by a protester, whose name is known to the Rapporteur, in the Terai district of Rautahat. Puri was told he would be killed if he did not publish news favorable to the demonstrators. In another incident in Morang an eastern city of Nepal, demonstrators assaulted a journalist with Udgosh Daily, Kamal Rimal. The incident took place while he was covering the 29 January demonstration.

453. It is reported that editors of various newspapers in Birgunj decided to cease their publication in protest against the attacks on journalists and requested the demonstrators to apologize and compensate them for the damages caused. Among them: FNJ-Makawanpur weekly newspaper, Bara Darpan, Bara Sandesh, Kalaiya Today, Kripa, Aaja ko Terai and Bara Weekly. Moreover it has been reported that journalists based in Birgunj have fled to neighboring Indian cities.

454. In addition, on 5 February 2007 in Jhapa, various dailies and weekly newspapers decided to suspend publication, allegedly due to the shortage of printing paper in the district and in order to demand guarantees for the safety of journalists. Among these: Purbancha,

Janasamsad, Bibechna, Purba Sandesh and Mechi Times, and weeklies Swadin Sambad, Swatantra Janaawaz, Janajyoti, Samaweshi, Naulo Awaz, Sasakta Nari Awaz and Jhulke Gha.

455. On 4 February 2007 in Nawalparasi, a western district of Nepal, journalists Hari Sharma and Tika Ram Gaire, secretary and past president of FNJ-Nawalparasi chapter, respectively, were allegedly phoned by representatives of the Madhesi Janatantrik Forum (MJF), who threatened to break their legs for not reporting about the group. According to Keshab Parajuli, president of FNJ-Nawalparasi chapter, when contacted, the MJF leaders denied that the threat came from their representatives.

456. In a separate incident, on that same date, Mr. Mahesh Das, local correspondent of Avenues Television, was allegedly mistreated by Armed Police Force (APF) personnel in Birgunj, an eastern city of Nepal, while reporting on a demonstration near the District Administration office. Reportedly, when Das revealed his identity, he was attacked by the police.

**Urgent appeal sent on 24 August 2007 with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers**

457. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr Jitman Basnet, a lawyer and journalist, and the Secretary General of the Lawyer's Forum for Human Rights (LAFHUR), in Babarmahal, Kathmandu. Mr Jitman Basnet had previously been the subject of three communications sent by mandate-holders; on 16 February 2004, 26 January 2005, and most recently on 12 June 2007.

458. According to information received, on 7 August 2007, Mr Jitman Basnet received a threatening telephone call from an unidentified woman. On 11 August 2007, Mr Basnet received another call from a different unidentified woman who informed him that both he and his wife would be killed. Mr Basnet officially reported these calls to the authorities on 13 August 2007, filing a complaint at Tinkune police station. On 18 August 2007, Mr Basnet received another telephone call, this time from an individual identifying himself as both Khadga Mahato and Mahat, who informed him that he had been named in a book entitled 258 Dark Days, written by Mr Basnet in 2007; chronicling his period of extended custody in Bhairabnath Battalion's facilities and detailing human rights violations allegedly committed against other detainees by personnel at the Bhairabnath Barracks.

**Letter of allegations sent on 25 September 2007 with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

459. The Special Procedures mandate holders brought to the attention of the Government the situation of Ms **Uma Devi Badi**, the coordinator of the "Badi Adhikari Sangharsa Samiti" (Badi community Struggle Committee), and women and male human rights defenders of the Badi community in Nepal. According to information received, on 22 August 2007, three dozen women human rights defenders from the Badi community were reportedly beaten and detained in custody. They were protesting in Singha Durbar, in Kathmandu. Allegedly, the

aim of their protest was the rehabilitation of women who have been forced to work as commercial sex workers, the right to own land, the equal representation of male and female candidates in the constituent assembly, and the establishment of legal bodies at all levels of the government addressing issues as racial discrimination, untouchability and legal identity for their children who are deprived of citizenship certificates. All the protestors were released later on that day without being charged.

460. On 27 August 2007, 450 Badi women and men (225 of them were women from the Badi Community Struggle Committee and members of the Dalit Civil Society Movement) protested to enter in Singha Durbar. They were beaten with truncheons by the police. Reportedly, the police tried to take off the clothes of Ms. Uma Devi Badi, the coordinator of the Badi community Struggle Committee. 120 protestors were arrested by the police. Ms Uma Devi Badi and other women human rights defenders of the Women's rehabilitation centre (WOREC) were taken to the Armed Police Battalion number-2 in Maharajgunj. They were released in the evening without charge.

461. On 7 September, members of the Badi Community again protested in front of Singha Durbar. They were severely beaten by the police. On 9 September, during another protest in Harihar Bhawan, members of the Badi community were beaten by the police with sticks and boots. The police also poked sticks into people's organs. One of the victims is Padma Badi, 18 years old, whose intestine was badly damaged. Altogether 140 persons were arrested and taken to Mahendra Police Club in Maharajgunj, Kathmandu, and were kept there for around 8 hours without being provided any food or water. At time of writing, demonstrations continued to take place.

#### **Letter of allegations sent on 25 September 2007 with the Special Representative of the Secretary-General on human rights defenders**

462. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr Birendra Shah, a journalist and human rights activist, member of the Central Committee of the Press Chautari Nepal and a correspondent for Nepal FM, the Drishti Weekly and Avenues TV; as well as regarding the abduction of Mr Ram Dev Das, the editor of the Terai Khabar Weekly magazine. The letter was also sent in relation to information received regarding fourteen journalists who were allegedly arrested in a demonstration to express concern regarding Mr. Birendra Shah's whereabouts: Gangadhar Parajuli, Hemanta Kafle, Yuvraj Bidrohi, Kedar Koirala, Navaraj Chalise, Dinesh Acharya, Ram Kumar Chettri, Ram Chandra Silwal, Gagan Bista, Yadhav Joshi, Deepak Pandey, Rimesh Shrestha, Santosh Neupane and Laxman Karki.

463. According to information received, on 5 October 2007, at approximately 5.30 pm, Mr. Birendra Shah and Mr. Ram Dev Das were driving a motorcycle in the Bara district when they were stopped by unidentified men and taken to an unknown location near the Tripura Bazaar, where they were detained. On 8 October, Mr. Ram Dev Das was released alone from the location and moved to Kathmandu. He was subsequently the subject of death threats, allegedly due to speaking publicly about his abduction. Mr. Birendra Shah and his family had reportedly received death threats from members of the CPN-Maoist in August 2007. He has been very active in documenting human rights violations carried out by extremist Maoist groups in Nepal and has written several reports on the subject. According to the information received, a report that was released on 5 November by a Maoist committee investigating the

abduction claimed that Mr. Birendra Shah had been killed on the day of his abduction. According to the report, the perpetrators and organizers of said abduction and subsequent murder were known. It was reported that Mr. Birendra Shah's body was found on 8 November at the Dumarwana village, near Tangiya colony at Bara district, about 160 kilometers south of Kathmandu. Information was also received of arrests conducted during a peaceful sit-in organized prior to the announcement of Mr. Birendra Shah's death.

464. On 4 November, a group of journalists gathered at Singhadurbar's South Gate to express their concern regarding Mr. Birendra Shah's disappearance. Police agents reportedly arrested the aforementioned fourteen participating journalists, who were reportedly injured during the police actions. The fourteen journalists were detained at the Mahendra Police Club in Kathmandu and released later that day. Concern was expressed that the reported killing of Mr. Birendra Sah and the abduction of Mr Ram Dev Das may have been directly related to their human rights activities, in particular Mr Birendra Sah's work to defend the freedom of the press and report human rights violations in Nepal. Further concern was expressed for the physical and psychological integrity of Mr Birendra Sah's family members.

### Observations

465. The Special Rapporteur regrets that he has not received responses from the Government concerning the above-mentioned communications.

### Niger

#### Lettre d'allégations envoyée le 27 juillet 2007

466. Le Rapporteur spécial a attiré l'attention du Gouvernement sur le cas de **M. Moussa Kaka**, correspondant de Reporters sans frontières (RSF) et de Radio France Internationale (RFI) au Niger, au sujet duquel le Rapporteur spécial avait déjà envoyé un appel urgent au Gouvernement dans d'autres circonstances. Dans sa communication, le Rapporteur indique que M. Kaka aurait rapporté avoir été menacé de mort, le 14 juillet 2007, par un haut fonctionnaire de la République du Niger, dont le nom est connu du Rapporteur, parce qu'il aurait assuré la couverture médiatique de la rébellion qui sévit au nord du pays. Il semblerait que le haut fonctionnaire aurait menacé le journaliste lorsqu'il est allé saluer un groupe de personnalités au cours d'une réception offerte par l'ambassadeur de France au Niger en sa résidence, pour commémorer la fête nationale française. Il semblerait également que ce haut fonctionnaire aurait déjà menacé M. Kaka. Le journaliste se serait également vu suspendre la publication de plusieurs photos et articles.

467. Depuis le début des affrontements au nord du Niger entre les rebelles Touareg et l'armée, de nombreuses atteintes auraient été portées à la liberté d'expression, et la réforme sur la dépénalisation des délits de presse promise par le gouvernement n'aurait pas été réalisée. Le 29 juin 2007, le bimensuel « Aïr-Info » aurait été suspendu pour trois mois par le Conseil Supérieur de la Communication (CSC) pour avoir publié des informations relatives aux affrontements du Nord du pays « portant atteinte au moral des troupes », selon nos sources. En plus, la subvention annuelle de 1'4 millions de francs CFA, versée par le gouvernement au journal aurait elle aussi été suspendue. Le directeur d' « Aïr-Info », **Ibrahim Manzo Diallo**, aurait été interrogé pendant plusieurs heures le 12 juillet 2007 à la gendarmerie d'Agadez sur les motifs du lancement, le 9 juillet 2007, de son nouvel

hebdomadaire « Info-Aïr ». Le 11 juillet 2007, les autorités auraient interdit à **Gislaine Dupont**, envoyée spéciale pour RFI, de se rendre dans le nord du pays et le 19 juillet 2007, le CSC aurait pris la décision de suspendre RFI pour un mois sur l'ensemble du territoire. Des raisons telles que le traitement de manière « déséquilibrée et partisane » des affrontements du nord du pays, ainsi que la diffusion d'« informations mensongères et occultant la réalité » sur les événements auraient été données.

#### **Lettre d'allégations envoyée le 26 octobre 2007**

468. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la situation de **M. Moussa Kaka**, directeur de Radio Saraouniya, correspondant au Niger de Radio France Internationale (RFI) et Reporters sans frontières et de **M. Ibrahim Manzo Diallo**, directeur de publication du bimensuel privé Aïr-Info, publié à Agadez, au sujet desquels il avait déjà envoyé une communication le 27 juillet. Selon les informations reçues, le 20 septembre 2007, M. Kaka aurait été arrêté et inculpé de « complicité de complot contre l'autorité de l'Etat ». Selon les sources, il lui serait reproché d'avoir eu des contacts réguliers avec la rébellion touareg du Mouvement des Nigériens pour la justice (MNJ). Il pourrait être condamné à la prison à vie.

469. M. Manzo Diallo aurait quant à lui été arrêté le 9 octobre 2007 à l'aéroport de Niamey alors qu'il s'apprêtait à prendre un vol pour la France. Selon les sources, il aurait été arrêté par la police des frontières nigériennes et conduit de force au quartier général de la Police judiciaire (PJ). Il aurait été interrogé, avant d'être transféré dans la matinée à la gendarmerie, où il se trouverait détenu jusqu'à présent. Selon les informations, M. Manzo Diallo serait accusé d'être « le correspondant de RFI à Agadez ».

#### **Lettre d'allégations envoyée le 19 décembre 2007**

470. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la situation du directeur de publication et du propriétaire de l'hebdomadaire privé « L'enquêteur », **Ibrahim Souley et Soumana Maïga**. Selon les informations reçues, M. Maïga aurait été arrêté le 5 décembre et M. Souley le 4 décembre et tous deux étaient maintenus en détention à la Police Judiciaire de Niamey au moment de l'envoi de la communication.

471. Il semblerait que ces arrestations auraient eu lieu suite à une plainte en diffamation déposée par le Ministre de l'Economie et des Finances. « L'Enquêteur » aurait publié trois articles le 19 novembre alléguant que le Ministre était impliqué dans l'octroi "illégal" de marchés publics et l'accusant de favoriser les "mauvaises pratiques de gestion" des finances publiques.

472. Dans cette même communication, le Rapporteur s'est à nouveau référé au cas de Moussa Kaka et Ibrahim Manzo Diallo, qui ont fait l'objet de communications envoyées les 27 juillet et 26 octobre 2007, qui seraient toujours incarcérés depuis plus de deux mois. Ils seraient accusés d'infractions pénales suite à leur couverture de la rébellion touareg dans le pays.

## Observations

473. Le Rapporteur spécial regrette l'absence de réponse aux communications envoyées en 2007.

### Nigeria

#### **Urgent appeal sent on 9 March 2007 with the Special Representative of the Secretary-General on human rights defenders**

474. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr. **Anyakwee Nsirimovu**, Executive Director of the Institute for Human Rights and Humanitarian Law (IHRHL) in Rivers State. IHRHL works to promote human rights, democracy and social justice in local communities of the Niger delta region. According to the information received, on 2 March 2007, Mr Nsirimovu reportedly received anonymous text messages on his mobile, threatening him and his family and urging him to stop his human rights activities. The messages stated “Did I steal your money? Did I kill your wife? Did I kill your children? Stop doing what you are doing” and “We don’t want to talk to you, you either repent or not”. These threats were believed to be related to the publication in February 2007 by IHRHL of a document in which it questioned the state government's allocation of funds with regards to the Rivers State budget expenditure. Moreover, IHRHL published a newsletter which presented the report of the international non-governmental organization Human Rights Watch, entitled Chop Fine: The Human Rights Impact of Local Government Corruption and Mismanagement in Rivers State, Nigeria.

475. On 4 March, Mr Nsirimovu was reportedly attacked by unknown assailants near the city of Port Harcourt when driving back from a meeting during which he referred to the threats that he had received. When attempting to stop the car, the assailants smashed the rear windscreen. Mr Nsirimovu managed to drive away and neither he nor his passenger was injured. This attack was reportedly premeditated since Mr Nsirimovu’s car was the only one targeted on the busy street where the incident occurred. Concern was expressed that the aforementioned acts of intimidation against Mr Nsirimovu may have been related to his peaceful and legitimate activities in defence of human rights, in particular his public denunciation of alleged corruption in the state government.

#### **Urgent appeal sent on 25 May 2007 with the Special Representative of the Secretary-General on human rights defenders**

476. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr. **Kola Olabisi**, editor of the privately-owned weekly Osun Defender, Mr. **Sola Jacobs**, reporter, and Mr. **Amitolu Shittu**, a human rights activist and president of the Committee for Democracy and Rights of the People. According to the information received, on 16 May 2007, warrants for the arrest of the aforementioned were issued by a court in Oshogbo. Reportedly, these warrants were in response to a 14 May 2007 report in the Osun Defender about a news conference that Mr. Shittu gave in which he condemned irregularities in a trial of demonstrators who had protested against the alleged rigging of the 14 April 2007 presidential election. According to information, all three men had been in hiding since the warrants were issued.

## **Observations**

477. The Special Rapporteur regrets that he has not received a response to the communications sent in 2007.

### **Pakistan**

#### **Urgent appeal sent on 16 March 2007 with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the question of torture**

478. The Special Procedures mandate holders brought to the attention of the Government the situation of demonstrators, including **lawyers** from the prime bar associations, **political activists, civil society actors and members of the public**, engaged since 13 March 2007 in protests against the decision of the President of Pakistan to suspend the Chief Justice. According to the information received, on 16 March 2007, law enforcement authorities used force in an excessive manner against peaceful protestors in Islamabad, Lahore and Karachi. Several of these protesters, including lawyers from the prime bar associations, political activists, civil society actors and members of the public, were physically assaulted by the forces, and subsequently arrested. According to reports, in Islamabad, Lahore and Karachi, law enforcement authorities fired tear gas shells at the protesters leading to several injuries. Rubber bullets were also used in Islamabad to disperse the demonstrators in different parts of the city.

479. Furthermore, journalists were denied access to key points from where the public protests could be covered. Several of them were physically and verbally abused, and their cameras and other equipment damaged by the police. Finally, law enforcement authorities raided the premises of the private GEO TV station, using tear gas and beating up the journalists present inside. Serious concern was expressed that the excessive use of force against the protestors and the subsequent arrests of some of them may have been related to their legitimate and peaceful activities in defence of human rights and their attempts to safeguard the independence of the judiciary in Pakistan.

#### **Response from the Government sent on 23 March 2007**

480. The Government informed that all decisions regarding the Supreme Court Justice had been filed in accordance with the Pakistani Constitution. With regard to the street protest and civil unrest, the government conceded that there had been some 'unfortunate mishandling' of protesters, including lawyers, journalists and political activists, as well as the incident in the private television station, however it denied that rubber bullets had been used on protesters and maintained that tear gas shells were only used to disperse 'violent and unruly' crowds and not to inflict harm. The government further stated that it had instructed law enforcement agencies not to obstruct peaceful protests and that the government of Pakistan remained committed to freedom of the press and to addressing the current situation in a legal and constitutional manner.

### **Urgent appeal sent on 8 June 2007**

481. The Special Rapporteur sent an urgent appeal regarding **Mr. Mazhar Abbas**, correspondent for the French news agency Agence France Presse (AFP) and Secretary General of the Pakistan Federal Union of Journalists, **Mr. Zarrah Khan**, correspondent and photographer for the US news agency Associated Press, and **Mr. Asif Hassan**, AFP photographer. According to the information received, on 29 May 2007, Mr. Mazhar Abbas, Mr. Zarrah Khan and Mr. Asif Hassan were threatened by several bullets placed in their cars' seats in the city of Karachi. It is reported that on 22 May 2007, a fax with their names and ten other names (**Mr. Azhar Abbas** of Dawn TV; **Mr. Zafar Abbas** of the daily newspaper Dawn; **Mr. Aneeq Ahmed** and **Mr. Shaheen Sehbai** of ARY TV; **Mr. Ayaz Amir**, columnist of Dawn; **Mr. Asfar Imam** of Aaj TV; **Mr. Zahid Hussain** and **Mr. Shahid Masood** of Geo TV; **Mr. Sajjad Mir** of TV One; **Mr. Irfan Siddiqui** of daily Nawa-e-Waqt) was sent from the headquarters of the Muttahida Qaumi Movement (MQM), a coalition partner of the Government, warning them to change their critical views of the Government. It would seem that the Human Rights Commission of Pakistan secretary general, **Mr. Iqbal Haider**, was also named on the list.

### **Letter of allegations sent on 14 June 2007**

482. The Special Rapporteur brought to the attention of the Government the situation of **Mr. Noor Hakim**, reporter for the Urdu-language daily Pakistan and vice-president of the Tribal Union of Journalists, who was reportedly killed on 2 June in a bombing in Bajaur, in the north western Tribal Areas region, close to the border with Afghanistan. He was reportedly traveling with a tribal chief in a vehicle that was blown up by a remote-controlled bomb, killing all the occupants.

### **Response from the Government sent on 2 August 2007**

483. The Government informed that the facts of the case, as confirmed by the authorities in Pakistan, are that on 2 June 2007, a remote controlled bomb went off in village Dara of Tehsil Salarzai, killing Mr. **Noor Hakim** along with four others, including Mr. Wisal Khan (Tehsildar, an administrative officer) Mr. Nazakai Malilm Mr. Pervez and Mr. Hassan Muhammad (a Levy Sepoy). The Government has strongly condemned the incident and granted Rupee 500,000/- to the family of Mr. Noor Hakim. It has also given employment to his son in Bajaur Levies through special quota. The law enforcement agencies have intensified their search for the culprits whose identity has not yet been determined.

### **Urgent appeal sent on 6 November 2007 with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the working Group on arbitrary detention and the Special Rapporteur on the promotion and protection of human rights while countering terrorism**

484. The Special Procedures mandate holders sent an urgent appeal concerning the imposition of the state of emergency by the President of Pakistan on 3 November 2007 and the suspension of fundamental freedoms, including the right not to be deprived of one's liberty, save in accordance with the law and to the enjoyment of safeguards as to arrest and

detention, the right to freedom of movement, the right to assemble in public and the freedom of expression. Furthermore, the proclaimed state of emergency entailed an attack on the independence of the judiciary. The State of Emergency declared by President Musharraf was said not to be a constitutional emergency envisaged in the Constitution, which has now been declared to remain in abeyance and replaced by a "Provisional Constitution Order".

According to the information received, seven members of the Supreme Court issued a declaration against the emergency rule order stating that it appeared not to be legal, neither under the Constitution nor under international law.

485. In particular, the mandate-holders were concerned about the situation of some 70 human rights defenders arrested during a meeting inside the premises of the NGO Human Rights Commission of Pakistan (HRCP) in Lahore. They were initially taken to the police, and requested to sign a declaration not to engage in any human rights activities. They all refused to sign it and were verbally abused by police officers. Those arrested on 4 November include the following 55 human rights activists (31 male and 24 female): Mr. **I.A. Reham**, Director of HRCP, Mr. **Syed Iqbal Haider**, Secretary General of HRCP, Ms. **Shahtaj Qazalbash**, Mr. **Mehboob Khan**, Mr. **Nadeem Anthony**, Ms. **Saleema Hashmi**, Ms. **Rubina Saigol**, Ms. **Samina Rehman**, **Brig Rao**, **Abid Hameed**, **Faisal Akhtar**, **Waseem Majeed Malik**, **Irfan Barket**, Dr. **Naseem Ali**, Dr. **Khurram Iftikhar**, Dr. **Yousaf Yaseen**, Mr. **Irshad Choudhry**, **Imran Qureshi**, **Shams Mahmood**, **Zaffar ul Hassan**, **Khalid Mehmood**, **Bilal Hassan Minto**, **Muhammad Bashir**, **Ali Cheema**, **Shahid Hafeez**, **Syed Mozam Ali Shah**, **Mansoor Ali Shah**, **Shahzeb Masood**, **Javed Amin**, **Suleman Akram**, **Muhammad Bilal Sabir**, **Shahid Amin**, **Khawaja Amjad Hussain**, **Mahmood Ahmed**, **Rahim ul Haq**, **Ashtar Ausaf Ali**, **Alia Ali**, **Samia Ali**, **Azhra Irshad**, **Jona Anderyas**, **Ayra Anderyas**, **Zeba**, **Neelam Hussain**, **Gulnar**, **Sonobar**, **Sadaf Chughtai**, **Nasreen Shah**, **Shaista Parvaiz Malik**, **Iram Sharif**, **Amina Sharif**, **Taina Sabah ud Din**, **Tamkant Karim**, **Lala Raukh**, **Huma Shah**, **Nasreen Shah**, and **Samia Ameen Khawaja**.

486. All 55 human rights activists were brought before the Judicial Magistrate on 5 November 2007 and were sent to Kot Lakhpat Jail Lahore. A hearing took place on 6 November 2007 and these 55 activists have reportedly been released on bail. The practising lawyer and United Nations Special Rapporteur on freedom of religion or belief, Ms **Asma Jahangir**, has been placed under house arrest for a period of 90 days, and her house has been declared a sub-jail where some of the activists mentioned above are currently detained. Two women defenders, Ms Shahtaj Qazalbash and Ms Saleema Hashmi, were transferred to a police-owned residence at an unknown location. None of them have been charged. Neither a warrant nor judicial order was issued. The activists had not had access to lawyers or to their families and were detained for several hours without receiving food.

487. Concern was expressed at the health of some of these leaders who are rather elderly. One of the detained activists, Mr. Ashtar Ausaf Ali advocate was sent to hospital after suffering a heart attack in police custody. The Proclamation of Emergency states that some members of the judiciary have undermined the executive and legislative branches in the fight against terrorism and extremism, thereby weakening the Government's ability to address this grave threat. Immediately after the imposition of the State of Emergency judges were required to take an oath of allegiance to the Provisional Constitutional Order to continue exercising their functions as judges. A high number of the judges refused to take the oath, as they refused to accept the state of emergency order, declaring it unconstitutional. In particular, only four out of the 17 judges of the Supreme Court took the oath. The Chief Justice of the Supreme

Court was among those who did not agree to take the oath. All the judges of the Supreme Court who refused to take oath had been immediately replaced by new judges. They were not allowed to leave their homes, being prevented by Government forces from doing so. Eight out of the 27 judges of the High Court of the Sindh Province took oath, while the other, including the Chief Judge, refused. In Balochistan, all five judges of the High Court agreed to take the oath. In Punjab Province, 17 out of the 31 judges of the High Court, including the Chief Judge, took oath. The most senior judge among those who refused to take oath, Mr Bokhari, was under house arrest. In the North West Frontier Province, around half of the 17 judges had not taken the oath.

488. On 5 November 2007, lawyers protested against the declaration of the state of emergency. There were indications of extreme brutality in the repression by the police and extensive arrests of lawyers. Some 150 lawyers had been arrested in Karachi and 50 in Lahore, including Ms Hifza Aziz and Ms Abid Saqi. Lawyers had also been attacked by the police inside the Court and the bar premises and all office bearers of the Bar Associations had been arrested. The Government had suspended the transmission of privately owned local and international television channels, in particular news stations. Agents of the Electronic Media Regulatory Authority (PEMRA) alongside police officers raided the premises of television and radio channels to confiscate equipment. Internet service providers were also ordered to stop their service, interrupting Internet access for a large number of users. The President promulgated a new ordinance under which the print and electronic media had been barred from printing and broadcasting “anything which defames or brings into ridicule the head of state, or members of the armed forces, or executive, legislative or judicial organ of the state”. The ordinance stipulated up to 3 years in prison as punishment for non-compliance.

**Urgent appeal sent on 23 November 2007 with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture**

489. The Special Procedures mandate holders sent an urgent appeal concerning the situation of lawyers, judges and human rights activists in Pakistan, including the lawyers Mr. **Munir A. Malik**, Mr. **Aitzaz Ahsan**, Mr. **Tariq Mahmood**, Mr. **Ali Ahmed Kurd**, Mr. **Abrar Hassan** and Mr. **Ahsan Bhoon**, and Mr. **Ifetkhar Choudhry**, chief justice of Pakistan, other judges of the Supreme Court, Mr. **Sabih Uddin Ahmed**, Chief Justice of Sindh, Mr. **Justice Shahani**, and Mr. **Justice Musheer Alam**, judges of the Sindh High Court. Mr. Malik and Mr. Kurd have been subject to previous communications sent by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 14 May and 7 May 2007 respectively. No reply to these communications had been received as of yet.

490. The situation of lawyers and judges, including the judges of the Supreme Court, had also been addressed by an urgent appeal sent by several mandate-holders on 6 November 2007. According to the information received, since 3 November 2007, when President Musharraf declared the state of emergency, thousands of lawyers had been arrested and detained in all provinces of Pakistan. These arrests and detentions constituted an unprecedented attack to the legal profession in Pakistan. Many of them were being held for up to 90 days under the Maintenance of Public Order law. Among them were numerous lawyers affiliated with political movements striving for the restoration of the constitution. It was

reported that these lawyers had been arrested and put in detention without having committed any offense, for the sole fact of having expressed their opinion about the recently declared state of emergency.

491. Furthermore, it was reported that a new professional ordinance was to be passed giving the High Courts and the Supreme Court the power to remove the licences of practicing lawyers, which would be in violation of the independence of lawyers and their right to exercise their functions without interference. In this context, information was received regarding senior lawyers Mr. Munir A. Malik, Mr. Aitzaz Ahsan, Mr. Tariq Mahmood, Mr. Ali Ahmed Kurd, Mr. Abrar Hassan and Mr. Ahsan Bhoon. It was reported that Mr. Munir A. Malik, former president of the Supreme Court Bar Association (SCBA), was being held in Attock Fort under the custody of the military intelligence service. Numerous instances of torture are said to have occurred at Attock Fort in recent months. Munir A. Malik, who is known to suffer from a heart condition, had been reportedly visited by government doctors on 10 November. There had been no further reports on his current condition.

492. Aitzaz Ahsan, current president of the SCBA, was being held in Adiala prison in Rawalpindi. His lawyer had repeatedly been denied access to him. On 6 November, the authorities at the Adiala prison were said not to have admitted Aitzaz Ahsan's lawyer, even though the Deputy Commissioner of Islamabad Administration had given permission for the visit. Mr. Tariq Mahmood, former President of the Supreme Court Bar Association had allegedly also been imprisoned in Adiala prison. No one had been allowed to see him and it was reported that he had been transferred to an unknown place. The whereabouts of Ali Ahmed Kurd, former Vice Chair of the Pakistan Bar Council, who was also detained on 3 November, continued to be unknown.

493. Information received suggested that Mr. Ali Ahmed Kurd had been handed over to intelligence agencies and had been maltreated. Mr. Abrar Hassan and Mr. Ahsan Bhoon were said to have been held incommunicado since their arrest on 3 November. Although some lawyers had been freed around 20 November, it appeared that many of them had been re-arrested, and that the vast majority still remained in detention. It was also reported that lawyers, including women lawyers, had been severely beaten during demonstrations, and that they would be subjected to cruel and degrading treatment while in detention.

494. Concerning the situation of judges, it was reported that Mr. Ifetkhar Choudhry, Chief Justice of Pakistan, remained in detention, as well as other judges of the Supreme Court who had refused to take the new Oath under the new state of emergency regulations. Other judges were detained in the country, including the following judges of the Sindh High Court who had been put under house arrest: Mr. Sabih Uddin Ahmed, Chief Justice of Sindh, Mr. Justice Shahani, Mr. Justice Musheer Alam and Ms. Noor Naz Agha. The aforementioned judges had been dismissed in violation of the Pakistan Constitution and legislation guaranteeing the security of tenure of judges, in particular of Supreme Court judges, and which does not provide the President of Pakistan with the authority to dismiss judges. Grave concern was expressed at the numerous arrests and detentions of lawyers and judges under provisions that allow detention without charge or trial. Of further concern was the reported frequent incommunicado detention, which included denial of visits by family and lawyers.

495. With respect to the lawyers and judges mentioned above and in the annex, grave concern was expressed that they are at risk of torture or other ill-treatment. As regards Mr.

Malik, concern was expressed with regard to his health. Great concern was also expressed at the dismissal of judges. In this regard, the mandate-holders called upon the Government to reinstate all judges that have been illegally dismissed. They expressed their deepest concern at the arrests and detentions of human rights activists who had been arrested in connection with their peaceful protests to oppose the suspension of the Constitution and to support the independence of the judiciary. Many activists were reportedly arrested to prevent them from undertaking such activities.

496. Annexed to this letter were lists of lawyers, judges and human rights activists who had been arrested in the aftermath of the imposition of the state of emergency. These lists contained the names of those about whom information has been received but did not reflect the total number of those arrested. In list A, the mandate-holders included information on lawyers who had been released when this information had been made available to them. The mandate-holders regretted that the Government had not publicly released either the names of those arrested or those released.

### **Observations**

497. The Special Rapporteur is grateful for the Government's response to his communications of 16 March and 14 June 2007. He regrets that the Government has not replied to his other communications, particularly those of 6 and 23 November 2007.

## **Panama**

### **Carta de alegaciones enviada el 5 de septiembre de 2007**

498. El Relator Especial envió una comunicación en relación con el Sr. **Oswaldo Lorenzo Pérez**, dirigente del Sindicato Único Nacional de Trabajadores de la Industria de Construcción y Similares (SUNTRACS), y con el Sr. **Luigi Antonio Argüeles**, representante sindical del SUNTRACS. Según las informaciones recibidas, el 14 de agosto de 2007, el Sr. Pérez fue asesinado en las dependencias de la Empresa Norberto Odebrecht. Al parecer, el sindicalista fue asesinado por un disparo de un trabajador contratado por la empresa para reprimir una manifestación contra el despido de un centenar de trabajadores. Otros manifestantes también habrían resultado heridos. El 16 de agosto de 2007, el Sr. Argüeles habría fallecido de un disparo propinado por un agente de la Policía Nacional en la Isla Viveros, sobre el Archipiélago de San Miguel. El Sr. Argüelles participaba de una manifestación para exigir el cierre de la empresa MAQTEC, ordenada por la Alcaldía de Balboa, así como los salarios no pagados por la empresa. Al parecer, los agentes policiales habrían impedido el acceso a los trabajadores lanzando bombas lacrimógenas y disparos de perdigones. Otro dirigente sindical, Raymundo Garcés, secretario de prensa y propaganda del SUNTRACS, habría sido retenido durante la manifestación y se le habría decomisado un video con los hechos de los incidentes ocurridos.

### **Observaciones**

499. El Relator Especial lamenta que no haya recibido respuesta a la comunicación enviada en el 2007.

## Paraguay

### Llamamiento urgente enviado el 25 de mayo de 2007

500. El Relator Especial envió un llamamiento urgente en relación con el Sr. **Óscar Bogado**, periodista del diario Última Hora. El día 24 de abril de 2007, al parecer, unos individuos habrían entrado en su domicilio, en la ciudad de Encarnación, sin sustraer nada y dejando la puerta abierta al marchar. Según fuentes, el Sr. Bogado habría sido objeto de continuas amenazas telefónicas desde marzo de 2006 cuando publicó, por primera vez, un artículo sobre corrupción local y producción de marihuana a lo largo de la frontera sur de Paraguay. Según fuentes, una de las llamadas anónimas decía "si quieres ver a tu hijo crecer, no continúes con estos temas" y "cuando queramos, te podemos matar". Al parecer, el 18 de abril de 2007 un coche siguió al Sr. Bogado durante más de 100 kilómetros, recorrido entre su casa y la oficina de su mujer. Desde entonces, el Sr. Bogado, habría estado recibiendo llamadas no identificadas que le indicaban detalles de su itinerario diario. Se teme que las amenazas hacia el Sr. Bogado estén relacionadas con sus artículos sobre el narcotráfico en el departamento de Itapúa. Se expresa, asimismo, profunda preocupación a cerca de la integridad física del Sr. Bogado y de su familia.

### Respuesta del Gobierno enviada el 11 de julio de 2007

501. El Gobierno informó que el 16 de mayo de 2007, el Ministerio Público recibió una denuncia hecha por el Sr. Bogado sobre las amenazas que habría recibido. Se solicitó al Jefe de la Comisaría de Capitán Miranda que realice las averiguaciones pertinentes a los efectos de identificar al o los supuesto/s autor/es; asimismo la realización de una recorrida y/o pesquisa por la zona donde reside el Sr. Bogado a los efectos de brindarle seguridad a él y a su familia. En el momento de la denuncia, el Sr. Bogado no se ha presentado a brindar declaración ni ha aportado datos concretos como el número de celular en la que recibe las supuestas amenazas a fin de solicitar informe sobre el titular del mismo y otros datos que puedan ayudar al esclarecimiento del hecho de referencia. La Corte Suprema de Justicia informó que su Dirección de Derechos Humanos ha realizado averiguaciones sobre el caso del Sr. Bogado. Tomando en consideración que el delito de amenaza esta estipulado en el Código Procesual Penal como de acción penal privada, se procede únicamente por querrela de la víctima o de su representante legal.

### Carta de alegaciones enviada el 29 de agosto de 2007

502. El Relator Especial envió una comunicación en relación con el Sr. **Tito Alberto Palma Godoy**, trabajador radial de la localidad de Mayor Otaño, en el departamento de Itapúa. En la noche del 22 al 23 de agosto de 2007, el Sr. Palma Godoy fue asesinado a balazos por unas personas vestidas con uniforme militar en el paraje de Repatriación del Este, en Itapúa. Según fuentes, el periodista recibió numerosos balazos cuando estaba con su pareja, que también habría sido alcanzada. Al parecer, el Sr. Palma Godoy estaría afincado en el país desde hace varios años, trabajando como comunicador en una emisora comunitaria de la localidad de Mayor Otaño, Itapúa, así como para la radio Chaco Boreal de Asunción. Asimismo, el periodista habría sido objeto de varias amenazas, que serían motivadas por su labor de denuncia de las operaciones de tráfico ilegal de combustibles y drogas, incluidas las vinculaciones con algunas autoridades políticas. Según informaciones, el departamento de Itapúa habría albergado últimamente varios casos de ataques contra periodistas.

## Observaciones

503. El Relator Especial lamenta que no haya recibido respuesta a su comunicación del 29 de agosto de 2007

### Peru

#### Llamamiento urgente enviado el 6 de febrero de 2007

504. El Relator Especial envió un llamamiento urgente en relación con la Sra. **Elizabeth Salinas**, reportera del programa radial Satélite Noticias, y la Sra. **Cynthia Florez**, reportera gráfica de la revista Cono Este. De acuerdo con la información recibida, el 20 de enero de 2007, ambas periodistas fueron pateadas, insultadas y amenazadas de muerte por funcionarios municipales de Chosica, cuyos nombres son conocidos por el Relator Especial, quienes, según informes, les exigieron que dejaran de investigar la gestión del alcalde de Chosica e intentaron apoderarse de la grabadora de mano y cámara fotográfica que portaban. Según informaciones recibidas, las periodistas han sufrido continuo acoso e insultos por parte de los citados funcionarios desde que en octubre de 2005 cubrieran una serie de denuncias de corrupción contra el alcalde de Chosica. Las periodistas han interpuesto una denuncia ante la comisaría de Chosica.

#### Llamamiento urgente enviado el 21 de febrero de 2007

505. El 21 de febrero de 2007, el Relator Especial envió un llamamiento urgente en relación con el Sr. **Edwin Ocrospoma Reynaga**, reportero del programa informativo Día a Día de AMR Televisión, con el Sr. **Hugo Gonzáles Henostroza**, periodista del diario YA. Según las informaciones recibidas, el 16 de febrero de 2007, en la ciudad de Huaraz, el Sr. Reynaga denunció que, desde el 12 de febrero, habría recibido amenazas de muerte anónimas en su teléfono. El periodista afirmó que en dichas amenazas se le advertía de que le quedan pocos días de vida. En opinión del propio periodista, las amenazas están relacionadas con sus dos recientes denuncias periodísticas, emitidas a inicios de febrero, sobre los presuntos actos de corrupción en la policía municipal y en el Frente de Defensa de los Intereses de Huaraz. Según informes el Sr. Ocrospoma ha solicitado garantías personales a la gobernación de la ciudad y ha denunciado las intimidaciones ante la policía. El 6 de febrero de 2007, el Sr. Henostroza, denunció haber sido amenazado de muerte por el secretario de la organización del Sindicato de Trabajadores del Gobierno Regional de Ancash. Según informes la intimidación ocurrió cuando el reportero cubría una actividad en la sede del gobierno regional. Según el periodista, la amenaza se debería al artículo que publicó a comienzos de febrero, donde denunció al Secretario de la citada organización de tráfico de influencias en el gobierno regional. El periodista denunció la amenaza con la policía y solicitó garantías personales ante la gobernación.

#### Llamamiento urgente enviado el 9 de marzo de 2007

506. El 9 de marzo de 2007, el Relator Especial envió un llamamiento urgente en relación con el Sr. **Elías Navarro Palomino**, director del semanario Línea Roja y corresponsal del diario La República en Ayacucho. Según las informaciones recibidas, desde que el Sr. Navarro Palomino hubiera revelado un caso de desvío de fondos en el que estaba

supuestamente implicada la Cooperativa de Ahorro y Crédito de la localidad de Santa María Magdalena, ha sufrido constantes amenazas hasta la fecha, e incluso un atentado el 30 de septiembre de 2006 en el que unos explosivos se colocaron cerca de su domicilio. Según informes, el 24 de febrero de 2007, dos mujeres, tras interrogar a varios vecinos de la zona cercana al domicilio del Sr. Navarro Palomino, se presentaron en su domicilio e interrogaron a su hija sobre quién habitaba en la casa y le increparon a llamar a alguna de las personas mayores presentes. Cuando la hija regresó a la puerta del domicilio junto con su padre, el Sr. Navarro, las dos mujeres se habían ya marchado. De acuerdo con la información recibida, el Sr. Navarro Palomino habría recibido protección hasta finales de enero de 2007. Existen serios temores por la integridad física del Sr. Navarro Palomino y se teme que las constantes amenazas recibidas estén relacionadas con su trabajo periodístico y en concreto sobre sus revelaciones acerca de casos de corrupción.

#### **Respuesta del Gobierno enviada el 20 de agosto de 2007**

507. El Gobierno informó que no se había recibido ninguna denuncia ni se ha iniciado proceso judicial alguno relacionado con las supuestas amenazas o atentados con explosivos que se habrían cometido contra el Sr. **Elías Navarro Palomino**. Sobre el caso del desvío de fondos de la Cooperativa de Ahorro y Crédito Santa María Magdalena, el Sr. Navarro Palomino ha interpuesto una denuncia por la presunta comisión de los delitos contra la fe pública en la modalidad de falsificación de documentos contra la propiedad industrial. Dicho caso está a la espera del informe técnico del Instituto Nacional de la Competencia y de la Propiedad Intelectual (INDECOPI).

#### **Carta de alegaciones enviada el 9 de mayo de 2007**

508. El Relator Especial envió una comunicación en relación con el Sr. **Miguel Pérez Julca**, periodista radial de Radio Exitos, y el Sr. **Marcelo Sánchez Oliva**, periodista de la emisora Radio Miramar. Según las informaciones recibidas, el 16 de marzo de 2007, el Sr. Julca fue asesinado por dos individuos en motocicleta que le dispararon dos tiros en la cabeza. Se teme que su muerte esté relacionada con sus trabajos de investigación sobre corrupción local en Jaén, en la provincia de Cajamarca. El Sr. Oliva habría recibido varias amenazas de muerte en su teléfono móvil en las cuales se le advierte que de seguir con su labor periodística e informativa sobre los preparativos del paro regional, programado para los días 11 y 12 de abril de 2007, sería asesinado como el Sr. Julca.

#### **Respuesta del Gobierno enviada el 13 de julio de 2007**

509. El Gobierno informó que el 5 de abril de 2007 se elaboró el atestado policial que inculpó una persona cuyo nombre es conocido por el Relator Especial y que se encuentra recluido en el Penal de San Rafael de Jaén, acusado de delito de homicidio calificado y lesiones graves en agravio del Sr. Julca y su esposa. El Titular del Ministerio del Interior se había trasladado al lugar de los hechos, junto al Director de la Policía Nacional de Perú, por encargo del Presidente de la República, para supervisar las investigaciones y ofrecer no sólo su respaldo a la familia del Sr. Julca, sino también se les brinde protección.

### **Carta de alegaciones enviada el 22 de noviembre de 2007**

510. El Relator Especial envió una comunicación en relación con los supuestos ataques y amenazas recibidos por los Sres. **José Ramírez**, colaborador del diario La Primera, **Víctor Balcázar Porrás**, de la revista Destape y director del portal de noticias Destape.net y **John Rupay Machaguay**, periodista de la emisora Radio FM 98, que conduce el programa La Verdad en la Noticia.

511. Según las informaciones recibidas, el pasado 11 de noviembre, en el distrito de Wari, el periodista José Ramírez habría sido víctima de una emboscada por un grupo de funcionarios del mismo municipio. Según fuentes, el vehículo del periodista habría sido interceptado por dos camionetas del municipio de Wari. El Sr. Ramírez se encontraría con un chofer y dos amigos cuando los agresores habrían disparado balas al aire y perseguido el auto del Sr. Ramírez hasta acorralarlo en una zona, sacando a la fuerza al periodista y a sus acompañantes. El Sr. Ramírez habría logrado huir y esconderse y luego habría denunciado los hechos en una conferencia de prensa. La policía local habría comprobado las heridas sufridas por sus acompañantes. Según fuentes, estos hechos están siendo investigados. Anteriormente, el Sr. Ramírez había criticado públicamente la gestión llevada a cabo por algunas autoridades municipales que les involucrarían en posibles actos de corrupción.

512. En un caso separado, el Sr. Balcázar habría recibido dos amenazas de muerte por correo electrónico, donde se amenazaba también a su familia y donde se le advertía que le estaban persiguiendo. Según fuentes, el periodista habría publicado en su portal de internet una nota sobre la agresión de un funcionario a su esposa.

513. Igualmente, me gustaría llamar la atención de su Gobierno a la información que he recibido sobre las supuestas agresiones recibidas por el periodista Jhon Rupay Machaguay. Según fuentes, el 14 de noviembre de 2007, el periodista habría sido amenazado y golpeado por un funcionario municipal del distrito de Mariano Dámaso Berun, en la provincia de Leoncio Prado. Según fuentes, el agresor habría intentado arrebatar al periodista documentos, supuestamente comprometedores, que implicaban a funcionarios en delitos de corrupción. Al no conseguirlo, le habría golpeado y amenazado, advirtiéndole que, si continuaba con sus denuncias, se atuviera a las consecuencias.

### **Observaciones**

514. El Relator Especial agradece al Gobierno por su respuesta a las comunicaciones del 9 de marzo y del 9 de mayo de 2007. El Relator Especial lamenta que no haya recibido respuesta a las otras comunicaciones enviadas en el 2007.

## **Phillippines**

### **Letter of allegations sent on 6 February 2007**

515. The Special Rapporteur brought to the attention of the Government the situation of journalists **Ramon, Erwin** and **Raffy Tulfo**. Mr Raffy Tulfo was already the subject of an urgent appeal sent by the Special Rapporteur on 5 September 2006. According to the information received, on 26 January 2007, a judge issued warrants for the arrest of the three journalists, accused of libel by the Assistant Prosecutor of Quezon City, following a

complaint filed by Mr. Jose Miguel Arroyo, the husband of President Gloria Macapagal Arroyo. The three journalists were subsequently released on bail. The three presented a TV programme, *Isumbong Mo, Tulfo Brothers*, on the TV station RPN 9, which was cancelled in August 2006. In a press conference, the Tulfo brothers stated that Mr. Arroyo was behind the cancellation of the programme because of their reports on the alleged illegal activities of two persons who were presumed to have links with Arroyo. The trial of the three journalists was expected to start on 28 February 2007.

#### **Response from the Government sent on 8 August 2007.**

516. The Government informed that the case is *sub judice*, as it is currently being heard by the trial court. On 22 January 2007 a criminal case of libel was filed against the **Tulfo brothers** in connection with a statement which they made against Mr. Jose Miguel T. Arroyo. The case was docketed as Criminal Case No. Q-07-144890 before Branch 83, Regional Trial Court of Quezon City. The facts as indicated in the criminal complaint for libel provides that the accused “willfully, unlawfully and feloniously and with malicious intent of impeaching the honesty, integrity and reputation” and “with malicious intent of injuring and exposing said offended party to public hatred, contempt and ridicule”, wrote and published a column in the *People’s Journal*. The issuance of warrants of arrest against the Tulfo brothers followed the normal domestic process concerning libel, whereby as a matter of course, after the filing of a criminal complaint, the trial court which has jurisdiction over the offense issues a warrant of arrest against the accused and the accused is arrested and taken into custody. Libel is bailable under domestic laws. The Government further informed that it does not appear that the Tulfo brothers have filed any complaint in relation to the libel case. The Government also provided information concerning the rules on libel under domestic law, including the criteria that must be present for an act to be considered libel, as well as on the overall legislation concerning freedom of opinion and expression.

#### **Letter of allegations sent on 7 June 2007**

517. The Special Rapporteur brought to the attention of the Government the situation of **Mr. Dodie Nunez**, a photojournalist of regional newspaper *Katapat*, who was reportedly killed on 21 May, when he returned home in Cavite province, south of Manila. Reportedly, three motorcyclists stopped the bus he was on and shot him dead. During the campaign of the elections in early May 2007 the newspaper *Katapat* had accused a candidate – whose name is known by the Special Rapporteur - of corruption. The Rapporteur expressed concern that the critical approach and further denouncing of corruption of *Katapat* in the elections of May 2007 may be related to the killing of Mr. Dodie Nunez.

#### **Response from the Government sent on 20 July 2007**

518. The Government informed that the investigation conducted by the Municipal Police Station of General Mariano Alvarez (GMA), Cavite revealed that on 21 May 2007, at about 10:00 p.m., Mr. Rodolfo Goodies Nunez was on board a passenger jeepney, seated at the rear section, travelling from Biñan, Laguna to GMA, Cavite. While at GMA, Cavite, two unidentified male backriders suddenly alighted from a motorcycle and fired at Mr. Nunez several times hitting him on different parts of his body. He died on the spot. The suspects hurriedly fled towards south direction. Another passenger hit by a stray bullet was immediately brought to a nearby hospital for treatment. The body of Mr. Nunez was taken to

a funeral home in GMA, Cavite for autopsy. Recovered from the crime scene were empty shells of caliber .45 pistol, a deformed slug and metal splinters. Continuous investigation is being conducted by the GMA Municipal Police Station for possible identification and arrest of the suspects as well as to establish the motive behind the killing. No complaint has been lodged by the family of Mr. Nunez or on their behalf, as the identities of the suspects have not yet been established.

### **Letter of allegations sent on 1 November 2007 jointly with the Special Representative of the Secretary-General on human rights defenders**

519. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr **Pete Pinlac**, Mr **Arturo Castillo**, Mr **John Beato**, Mr **Aurelio Veloso**, Ms **Virginia Suarez Pinlac**, Ms **Mitzi Chan** and Mr **Roy Fernandez**. Mr Pete Pinlac is the President of Manggagawa sa Komunikasyon ng Pilipinas (MKP – The Telecommunications Workers' Union of the Philippines); Mr Arturo Castillo and Mr John Beato are First and Second Vice-Presidents of MKP respectively; Aurelio Veloso works with Manggagawa para sa Kalayaan ng Bayan, MAKABAYAN (Workers for People's Liberation); Ms Virginia Suarez Pinlac is Vice-Chairperson of Pagkakaisa ng Kababaihan (KAISA KA), a womens' rights organisation; Ms Mitzi Chan is Chairperson of the People's Struggle Commission of Kilusan para sa Pambansang Demokrasya (KPD); and Mr Roy Fernandez is an MKP Representative.

520. According to information received, on 10 October 2007, Mr Pinlac, Mr Castillo, Mr Beato, Mr Veloso, Ms Pinlac, Ms Chan and Mr Fernandez were arrested during their participation in a peaceful protest against the labour policies of the Philippine Long Distance Telephone Company. The protest, which was held outside the Department of Labour and Employment in Manila, was reportedly violently dispersed by members of the Western Police District of the Philippine National Police. The individuals arrested have reported having suffered severe bruising and Ms Mitzi Chan had her nose broken, allegedly as a result of being hit by a member of the police.

521. Mr Pinlac, Mr Castillo, Mr Beato, Mr Veloso, Ms Pinlac, Ms Chan and Mr Fernandez were later released on bail. The charges filed against them include having held a rally without a permit; obstructing traffic; and disturbing the peace. Concern was expressed that the aforementioned arrests of Mr Pete Pinlac, Mr Arturo Castillo, Mr John Beato, Mr Aurelio Veloso, Ms Virginia Suarez Pinlac, Ms Mitzi Chan and Mr Roy Fernandez, as well as the charges that have been filed against them, may have been directly related to their non-violent human rights activities, in particular their work to promote and protect workers' rights in the Philippines.

### **Follow-up to previously transmitted communications**

522. On 22 January 2007, the Government replied to the communication sent by the Special Rapporteur on 4 July 2006. The Government informed that Mr. **Crispin Beltran** is in the custody of the Philippine National Police (PNP) at the Philippine Heart Center while he is undergoing trial for the crime of rebellion before Branch 50, Regional Trial Court of Makati City. He was arrested by the police without a warrant following Section 5, rule 113 of the Rules of Criminal Procedure.

523. According to the Department of Justice (DOJ), on 24 February 2006 a political rally was held by several non-governmental organizations at the People Power Monument in Quezon City to commemorate the 20<sup>th</sup> anniversary of People Power I. Members of the PNP Crowd Disturbance Unit were deployed in the area to protect the crowd and prevent violence from erupting. During the political rally, Mr. Beltran made the following utterances: “Down with the Arroyo government!”, “Oust Glorlal”, “Evict the pretender from Malacañang”; “Replace the Arroyo administration with the government of the working class!”. The police officers were not able to effect the immediate arrest of Mr. Beltran due to the commotion that followed. Nevertheless, they conducted pursuit operations to track him down. On 26 February 2006, the police arrested Rep. Beletran while he was en route to Marilao, Bulacan. He was taken to Camp Crame where he was detained. In the domestic criminal justice system, warrantless arrests of persons caught in *flagrante delicto* or “caught in the act” are constitutionally allowed. Moreover, rebellion is considered in domestic jurisprudence as a “continuing crime” that is, one who is involved in rebellion is deemed to be always actually committing rebellion, hence may be arrested at any time without a warrant.

524. Following his arrest and the conduct of inquest proceedings, the DOJ filed an information for rebellion against Mr. Beltran and a certain 1<sup>st</sup> Lieutenant Lawrence San Juan before the trial court. It bears mentioning that when an arrest is made without a warrant, the DOJ immediately conducts inquest proceedings on the case to determine the existence of “probable cause”, i.e. whether the evidence presented by the police is sufficient to engender a well-founded belief that the offense was committed and that the person arrested is probably guilty thereof. The criminal case against Mr. Beltran was docketed as Criminal Case No. 06-452 and raffled to the sala of Judge Jenny Lind B. Aldecoa-Delorino of Regional Trial Court Branch 137, Makati City. On 4 April 2006, Mr. Beltran moved that the court make a determination on the existence of probable cause, i.e. whether there exists sufficient evidence to hold him for trial. Mr. Baltran also requested the court to allow his transfer to a hospital with adequate facilities to monitor his health condition. Judge Aldecoa-Delorino granted the request for transfer.

525. On 21 April 2006, the DOJ sought to amend the criminal information filed against Mr. Beltran by including in the case several other individuals. After the accused in a criminal case has entered his plea, an amendment of the information against him can only be made with leave of court. In the instant case, the DOJ sought the permission of Judge Delorino to amend the information, which request was denied. After the denial of its plea to have the information amended, the DOJ filed a motion for the inhibition of Judge Delorino. Judge Delorino voluntarily inhibited herself from hearing the case. Hence, the case was re-raffled to another court where it is being heard until now.

526. Concerning the charges against Mr. **Ocampo**, Mr. **Casiño**, Mr. **Virador**, Mr. **Mariano** and Ms. **Maza**, the Government provided the following information. On 12 May 2006, on the basis of the complaint and evidence submitted by the Philippine National Police-Directorate for investigation and Detective Management, an infommation for rebellion was filed by the DOJ against Jose Maria Sison, Satumino Ocampo, Rafael Mariano, Teodoro Casino, Liza Maza, Joel Virador and several others before the Regional Trial Court (RTC) of Makati. The case for rebellion, docketed as Criminal Case No. 06-944, was raffled to RTC Branch 57, Makati City. The case was consolidated with the case for rebellion filed against Mr. Beltran. After the filing of the case, Messrs. Ocampo, Mariano, Casino, Virador and Ms. Maza went to the Supreme Court questioning the filing of the case against them. The Supreme Court issued

a status quo order pending the hearing of the petition filed before it. On 21 June 2006, Messrs. Ocampo, Casinos Mariano, Virador, and Ms. Maza filed a manifestation that the proceedings in the trial court be suspended in view of the Status Quo Order issued by the Supreme Court. 527. Concerning the restrictions on the freedom to travel of Mr. Ocampo, the Government informed that the Supreme Court once held that a person who had a pending case and had been admitted to bail might be prevented from leaving the country considering the risk of flight. Since there is a pending case for rebellion against Mr. Ocampo, the DOJ may validly object to the travel. However, the Government notes that Mr. Ocampo has been able to leave the country more than once for Geneva, Switzerland.

### **Observations**

528. The Special Rapporteur is grateful for the Government's responses to his letters of 4 July 2006, 6 February 2007 and 7 June 2007. He regrets that, at the time this report was written, he has not received a reply for the letter sent on 1 November 2007.

### **Republic of Moldova**

#### **Letter of allegations sent on 8 May 2007 jointly with the Special Representative of the Secretary-General on human rights defenders**

529. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of the **Information Center GenderDoc-M**, a non-governmental organisation that defends the rights of sexual minorities in Moldova. The organisation was the subject of an allegation letter sent by the Special Representative to the Secretary-General for Human Rights Defenders on 23 May 2006.

530. According to the information received, on 11 April 2007, Chisinau City Council banned the Moldovan Pride parade, organised by Information Center GenderDoc-M, on the grounds that it could pose a public disorder threat, that it would promote sexual propaganda and that it would undermine Moldovan Christian values. The event was due to take place in Chisinau city between 27 and 29 April 2007 and was planned as part of the Council of Europe's "All Different, All Equal" campaign. In February 2007, the Supreme Court held that the City Council had acted illegally in banning the event in 2006. According to reports, the Parade was prohibited on two previous occasions. On 28 April 2006, the office of the General Mayor in Chisinau, Moldova rejected an application by the Information Center GenderDoc-M to hold a peaceful demonstration in Chisinau on 5 May 2006. The purpose of this demonstration was to support the adoption of legislation barring discrimination based on sexual orientation. The reported reasons for the rejection of the application were based on "the statements of religious organisations that they will organise protest actions if the demonstration organised by GenderDoc-M is allowed, and also based on letters of complaint from individuals living in Chisinau."

531. Furthermore, on 16 May 2005 the office of the General Mayor in Chisinau, Moldova reportedly rejected an application to hold a peaceful demonstration in Chisinau to support the adoption of legislation based on sexual orientation. It was also reported that in June 2005 this decision was overturned by the Court of Appeal in Moldova.

## Observations

532. The Special Rapporteur regrets that he has not received a response to the above communication.

### Republic of Serbia

#### Urgent appeal sent on 19 April 2007

533. The Special Rapporteur sent an urgent appeal regarding the grenade attack against **Mr. Dejan Anastasijevic**, a journalist of the independent news magazine "Vreme", on 14 April. It is reported that the attack followed investigative articles about Serbia's security forces and war crimes, particularly the "Scorpion case", a group of Serbian paramilitaries. Mr. Anastasijevic had also made comments about Scorpion members on B92 Radio program Kaziprst. Mr. Anastasijevic was a correspondent from the war zone in the former Yugoslavia in the 1990s, testified in The Hague at Slobodan Milosevic's trial, and in recent years he regularly wrote investigative articles about war and organized crime. The Rapporteur expressed concern that Mr. Anastasijevic might be the target of further attacks.

## Observations

534. The Special Rapporteur regrets that he has not received a response to the above communication.

### Russian Federation

#### Letter of allegations sent on 8 February 2007 jointly with the Special Representative of the Secretary-General on human rights defenders

535. The Special Rapporteur and the Special Representative brought to the attention of the Government the case concerning the Federal Supreme Court of Moscow's decision to uphold a ruling to close the **Russian Chechen Friendship Society (RCFS)**, a registered, independent non-governmental organization based in Nizhny Novgorod which monitors human rights violations in Chechnya and other parts of the North Caucasus. Mr **Stanislav Dmitrievsky**, Director, and Ms. Oksana Chlysheva, Deputy Director of RCFS were previously the subjects of several communications sent by these mandate-holders; an allegation letter on 9 June 2005, of an urgent appeal on 15 November 2005, of a joint allegation letter on 21 November 2005 and of a joint urgent appeal on 20 October 2006.

536. According to information received, on 23 January 2007, the Federal Supreme Court of Moscow upheld a decision of the Regional Court of Nizhny Novgorod to close the Russian Chechen Friendship Society (RCFS). The original order was issued on 13 October 2006, on the grounds that the organization had violated laws relating to public association, NGO reporting procedures and had been involved in alleged extremist activities. The decision taken by the Regional Court of Nizhny Novgorod's to close RCFS was based on recently adopted legislation enshrined within the Federal Law on NGOs. According to the Court's decision, Article 19 required that Mr Dmitrievsky step down as Director of RCFS for his alleged involvement in extremist activities. In addition, according to the Regional Courts decision, Article 15 of the Law on the Fight against Extremist Activities, required RCFS to publicly

condemn Mr Dmitrievsky's alleged extremist activities within five days of the court hearing if its reputation was to remain intact.

537. On 2 September 2005, Mr Dmitrievsky, was charged under Article 282 (1) of the Criminal Code of the Russian Federation, for inciting hatred. In February 2006, he was again charged with the same alleged offence, on the basis of articles published in the RCFS newspaper calling for peace in Chechnya. According to reports, legal actions had been pursued by the Russian Government on two previous occasions in an attempt to close the RCFS. The first was initiated by the Federal Registration Service, which claimed that the organization was unable to produce original copies of financial records. It later transpired that the documents were with another government agency and RCFS was unable to comply with both requests simultaneously.

538. In 2005, legal action was taken against the organization by the tax authorities and the registration department of the Ministry of Justice. Serious concerns were expressed that the decision to close the Russian Chechen Friendship Society formed part of an ongoing campaign against human rights defenders in the Russian Federation and may have been the latest attempt to silence organizations because of their legitimate activities in monitoring the human rights situation in Russia.

**Urgent appeal sent on 16 May 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the independence of judges and lawyers**

539. The Special Procedures mandate holders brought to the attention of the Government to the situation of Mr. **Dias Rafikov**, a Russian national born in 1986, who was in pre-trial detention in Kazan city, Tatarstan at the time the communication was sent. According to the information received, Mr. Rafikov, a practicing Muslim, was arrested by police officials on the early morning of 7 December 2006, and accused under articles 205, part 1, 272, and 282-1, parts 1 and 2, of the Criminal Code of the Russian Federation, for involvement in terrorist activities, establishment of an extremist organization, participation in an extremist organization and preparation of a change of the constitutional order by violence.

540. Upon his arrest, the police conducted a search and seized several copies of Islamic literature, films, and other documents. Mr. Rafikov was accused of having acted on behalf of Hizb ut-Tahrir al-Islami, a party whose activities were banned in the Russian Federation by a decision of the Supreme Court in 2003. However, Mr. Rafikov had no links with this organization or with Islamic extremism. The police seized only Islamic literature, whereas in his home there were also Christian and Hindu materials. Mr. Rafikov was interested in religion in general and is a first-year student in psychology. Many of the witnesses during the seizure did not pay attention to the police acts and it is not certain that all the materials recorded as seized had actually been present in his house prior to the seizure.

541. Mr. Rafikov suffered from several diseases. His father requested a copy of his medical record from the district medical unit to show it to the pre-trial detention centre authorities in order for his son to receive the necessary medical treatment. The medical personnel refused to issue a copy of the medical record, claiming that Mr. Rafikov was an extremist. This refusal was reportedly due to acts of intimidation against the medical personnel carried out by members of the Security Services, who had visited the medical unit earlier than Mr. Rafikov's

father. Mr. Rafikov's arrest and detention were ordered by a court and his pre-trial detention was extended by courts on two occasions.

542. Concern is expressed that the arrest and detention of Mr. Rafikov is solely connected to his peaceful exercise of his rights to freedom of opinion and expression and to freedom of religion or belief. Further concern is expressed as regards Mr. Rafikov's state of health and the fact that the proceedings against him may have been instigated in order to enhance statistics relating to activities in the fight against terrorism.

### **Response from the Government sent on 30 July 2007**

543. The Government informed that regarding the circumstances surrounding the arrest of **Dias Albertovich Rafikov**, it has been ascertained that, following investigations by the authorities of the Russian Federal Security Service, the above-mentioned citizen of the Russian Federation was charged under the following articles of the Criminal Code of the Russian Federation: 205.1 (Abetting terrorism); 282.1 (Setting up an extremist organization); 282.2 (Organizing the activities of an extremist organization); and 279 (Armed insurrection), also taking into consideration article 30 (Preparing to commit an offence and attempted commission of an offence). On 5 December 2006, criminal proceedings No. 606008 were instituted against Mr. Rafikov by the investigations branch of the Republic of Tatarstan office of the Federal Security Service. In accordance with the rules of the Russian Federation Code of Criminal Procedure, as a measure of restraint imposed on the defendant, the court of the Republic of Tatarstan ordered remand in custody, and this custody has since been extended by the court to 5 August 2007.

544. During detective operations, it was established that, when Mr. Rafikov learned of the 14 February 2003 decision of the Supreme Court of the Russian Federation declaring the so called "Islamic Freedom Party" ("Hezb'-ut-Tahrir al-Islami") a terrorist organization and banning it from the territory of the Russian Federation, he had systematically organized and conducted extremist activities in the interests of the said banned organization in the Republic of Tatarstan, laying the groundwork for the perpetration of acts designed to bring about violent change of the constitutional order of the Russian Federation. These activities led to his being charged with the commission of the offence covered by article 278 (Preparations for the forcible seizure of power or forcible retention of power) of the Criminal Code of the Russian Federation.

545. Mr. Rafikov's involvement in the perpetration of offences with which he is charged is corroborated by the evidence gathered on his case. Pursuant to a judicial order of 7 December 2006, Mr. Rafikov's home was searched and extremist materials seized. During the search, books, leaflets, pamphlets and other publications on the activities of the Islamic Freedom Party were found. The search was conducted in compliance with the requirements of criminal procedure law. Other searches carried out in the homes of 13 active members of the "Islamic Freedom Party" revealed material containing information on the activities of the said organization. In addition, plans and 1 kilogram of aluminium powder, which serves for the manufacture of home-made explosive devices, were found.

546. The searches of the homes of the accused, including Mr. Rafikov, were carried out by a detective from the investigations branch of the Republic of Tatarstan office of the Russian Federal Security Service. During these searches, no comments or statements by the

investigative officers were recorded in the search report. Mr. Rafikov was transferred to pre-trial detention centre No. 1 of the State headquarters of the Russian Federal Corrections Service for the Republic of Tatarstan and, upon admission to this facility, underwent a medical check-up and examination. He did not report any health complaints.

547. On 21 March 2007 and 11 April 2007, Mr. Rafikov sought medical attention from the medical service of the pre-trial detention centre, in response to which he was given medical examinations and prescribed the appropriate treatment for his conditions. He was placed under medical observation by specialists at the medical service of pre-trial detention centre No. 1 for the illnesses from which he was suffering. Currently, Mr. Rafikov is in satisfactory health and shows no sign of aggravation of these chronic illnesses. The allegations that obstacles have been placed in the way of Mr. Rafikov receiving medical assistance are unfounded. No requests for medical checks have been submitted to the authorities at the pre-trial detention centre or to the investigative authorities either by the accused or by his relatives.

548. The claims that staff at the district medical unit refused to issue medical records to Mr. Rafikov's relatives have been investigated and found to be baseless. Upon his request, Mr. Rafikov's father was given a transcript from his son's outpatient card on 14 December 2006. A second request based on Mr. Rafikov's alleged poor health and need of extensive treatment was refused in early February 2007, on the grounds that there were no records of Mr. Rafikov's state of health. The claims that medical personnel at the clinic had been intimidated by officials from the Tatarstan headquarters of the Federal Security Service were checked and also proved to be unfounded.

549. It was also established that Mr. Rafikov was admitted to Kazan pre-trial detention centre No. 1 on 14 December 2006 and detained in cells which are furnished in accordance with the requirements of Federal Act 103 of 15 July 1995, the Criminal Suspects and Defendants (Remand in Custody) Act. Every cell is fitted with a sufficient number of sleeping places for the detainees confined within it, the essential sanitary facilities, a television, a cabinet for storing food, proper ventilation and adequate lighting. The check brought to light no evidence of failure by the staff of the criminal corrections system to protect Mr. Rafikov's right to personal safety.

#### **Urgent appeal sent on 16 May 2007**

550. The Special Rapporteur sent an urgent appeal regarding **Mr. Pavel Sedakov**, correspondent for the independent business daily "Kommersant", **Ms. Kseniya Rusyayeva**, correspondent for Ren-TV and **Mr. Maksim Vnukov**, a Ren-TV camera operator. According to the information received, on 10 May 2007, Mr. Pavel Sedakov, Ms. Kseniya Rusyayeva and Mr. Maksim Vnukov were arrested by police officers from the Samara Main Internal Affairs Directorate (GUVD) and the Directorate for Combating Organized Crime, while they were interviewing a local leader of the opposition coalition 'Other Russia' in the southern Russian city of Samara. Reportedly, police officers interrogated Mr. Sedakov, Ms. Rusyayeva and Mr. Vnukov for more than two hours, asking questions about 'Other Russia' and its planned "March of the Dissenters" on 18 May 2007 in Samara. The journalists were then reportedly released.

551. It is also reported that on 11 May 2007, several police officers seized the computers of the independent newspaper Novaya Gazeta, accusing the employees of "using counterfeit software" and confiscating all of the office's financial records. On the same day, the police reportedly also raided the local offices of the independent news agency Regnum.

552. The Rapporteur expressed concern that Mr. Sedakov, Ms. Rusyayeva and Mr. Vnukov's arrest and the raid of independent newspaper Novaya Gazeta and news agency Regnum, may be related to their coverage of the opposition coalition "Other Russia".

### **Response from the Government sent on 30 July 2007**

553. The Government indicated that according to information from the Ministry of Internal Affairs, at around 9.45 p.m. on 10 May 2007, a report was received by the duty desk of the Law and Order Office of the State Central Internal Affairs Office for Samara province that certain unidentified persons were filming and taking photographs in the courtyard of a building at No. 100, Tashkent St., in Samara. Officers from the Law and Order Office reported to the building in question, together with staff from the Criminal Enforcement Inspectorate for Samara province, who were monitoring the activities of a convicted criminal whose name was provided to the Special Rapporteur.

554. On arrival at the site, the staff of the said units found **K.M. Rusyaeva, M.M. Vnukov** and **P.V. Sedakov**, who had just concluded an interview with the convicted criminal mentioned above, and invited them to come to the Public Law and Order Office for the purpose of filing a written report confirming that the said convicted criminal had breached the restrictions placed upon him by the court. The above-named persons agreed to come in their own car to the Public Law and Order Office. On arrival, Rusyaeva refused to speak to the staff of the office, citing her rights under article 51 of the Constitution of the Russian Federation, while Vnukov and Sedakov explained that Rusyaeva had asked them to come along to film and photograph "certain people", a request to which they had acceded.

555. Following the legally prescribed procedure, the convicted criminal was warned by officers from the Criminal Enforcement Inspectorate that he had been in breach of the restrictions placed upon him by the court. Sedakov, Rusyaeva and Vnukov were not arrested, detained or questioned by staff of the Public Law and Order Office. When questioned by staff of the procurator's office, the journalists confirmed that they had not been subjected to any pressure by members of the police force and that they had no complaints against them.

556. Pursuant to orders No. 30 and No. 31 of 10 May 2007, passed by Chief Superintendent V.A. Kuzmin, first deputy chief of the State Central Internal Affairs Office for Samara province, on 11 May 2007 staff of the Office's Special Operations Unit carried out a check of the financial and business activities of the limited liability company Novaya Gazeta (S) and of the news agency Volga-Inform, which represents the news agency Regnum in the city of Samara. During this check, three personal computers were removed from the premises of the Novaya Gazeta offices, at No. 106, Novo-Sadovaya St., in Samara. Pirated software had been installed and was running on the computers. Two personal computers were also removed from the offices of Volga-Inform, situated at the same address. Pirated software had also been installed and was running on these computers. Following checks of the managing directors of the companies Novaya Gazeta and Volga Inform carried out by the Samara city procurator's office, on 14 May 2007 criminal proceedings were instituted on the basis of evidence of an

offence covered by article 146, paragraph 2, of the Russian Criminal Code (Violation of copyright and related rights). The case is currently at the preliminary investigation stage.

557. Thus no evidence came to light during all these investigations of breaches of the law by the police in the performance of their duties. The checks of the journalists' documents and the removal of computers from the offices of the said media organizations had nothing to do with any attempts to prevent media coverage of the activities of any voluntary or political organization.

558. Pursuant to article 17, paragraph 1, of the Constitution human rights and freedoms are recognized and guaranteed in line with universally recognized principles and standards of international law, and it is the duty of the State to ensure that human rights and freedoms are recognized, upheld and protected (article 2 of the Constitution). Human rights and freedoms are directly invocable, and they determine the meaning, content and application of laws, the activities of the legislative and executive branches of government and of local authorities and their exercise is guaranteed by the system of justice (article 18 of the Constitution). Under article 29 of the Constitution, freedom of thought and expression is guaranteed to all.

559. Article 45, paragraph 1, and article 46, paragraph 1, of the Constitution provide State (including judicial) guarantees of protection of human rights and freedoms. In addition, pursuant to article 46, paragraph 3, of the Constitution, every citizen has the right, in accordance with the international treaties to which the Russian Federation is party, to apply to international bodies for the protection of human rights and freedoms, if all available domestic legal remedies have been exhausted.

560. Issues relating to the freedom to express opinions in the mass media are governed by Russian Federal Act No. 2124-1 of 27 December 1991, the Mass Media Act. Article 1 of the act states that no restrictions may be placed on the right to seek, receive, publish or disseminate mass information, or to establish mass media outlets, or to own, use and manage such outlets, or to manufacture, acquire, store and operate devices and equipment and raw materials and other inputs intended for the manufacture and dissemination of media materials, except such restrictions as are provided for under the Russian law on the media. Pursuant to article 3 of the act, no censorship is permitted of mass information. At the same time, article 4 of the act sets out a number of rules designed to prevent the abuse of freedom of information. In particular, the mass media may not be used for the perpetration of criminal acts, for the unauthorized disclosure of information constituting State secrets or other confidential material specially protected by law, for the dissemination of materials containing public incitements to the perpetration of terrorist acts or publicly justifying terrorism, or for the dissemination of materials propagating pornography, the cult of violence or cruelty. Under the provisions of article 16 of the act, the operation of mass media outlets may only be halted or suspended by a decision of their proprietor, or by a court through a civil lawsuit brought by the registration authorities. In such a case, a court may halt the operation of a media outlet on the grounds of repeated violations by its editors or management, over a period of 12 months, of article 4 of the act, in response to which the registration authority has issued written warnings to the proprietor or the management (editor in chief) or both, and also in the event of failure by a mass media outlet to comply with a court order to suspend operation. The operation of mass media outlets may also be halted in the manner and on the grounds set out in Federal Act No. 114 of 25 July 2002, as amended on 10 May 2007, the Extremist Activities (Efforts to Counter) Act.

561. Encroachments on the freedom of information - in other words, any attempts by members of the public or by the officials of State agencies and organizations or of voluntary associations to impede the lawful activity of the proprietors, editors, publishers and distributors of mass media materials, and also of journalists, shall incur criminal, administrative, disciplinary or other forms of liability in accordance with the law of the Russian Federation (article 58 of the act). The discovery that any agencies, organizations, institutions or offices include among their tasks or functions the censoring of mass information shall result in the immediate halting of their funding and their dissolution in accordance with the procedure prescribed by Russian law. Article 114 of the Criminal Code of the Russian Federation establishes liability for efforts to impede the lawful professional activity of journalists, which shall incur penalties up to and including the deprivation of liberty for periods of up to two years, with or without suspension of the right to occupy certain official positions or to engage in certain activities for periods of up to three years. In addition to those described above, similar provisions on the freedom of expression may be found in Federal Act No. 149 of 27 July 2006, the Information, Information Technology and Information Protection Act (art. 3, para. 1; art. 5, para. 1; and art. 8, para. 1).

#### **Urgent appeal sent on 21 June 2007**

562. The Special Rapporteur brought to the attention of the Government the situation of **Mr. Andrei Kalitin**, an investigative reporter, who was reportedly shot in the shoulder as he was leaving his home on 13 June. Reportedly, Mr. Kalitin, who works in Spetsrassledovaniye (Special Investigation), a program on Russia's national television Channel One, has been working for the past months on a book alleging mafia involvement and criminal dealings in Russia's aluminum business. Mr. Kalitin is a former reporter for Sovershenno Sekretno (Top Secret), an independent anti-corruption television program and has investigated topics such as the dealings of the alleged Russian mafia in the United States, the conflict in Chechnya and the North Caucasus, and the July 2004 slaying of Forbes-Russia Editor Paul Klebnikov.

#### **Response from the Government sent on 22 August 2007**

563. The Government indicated that that the Ministry of Internal Affairs has established that on 13 June 2007, at 9 p.m., Mr. **Kalitin** was returning home from work. According to the victim, in the courtyard of the building where he is currently residing, he was fired on by an unknown man from an unidentified weapon. When he was treated at State hospital No. 1 in Moscow, Mr. Kalitin was found to have been wounded in the lower third of the left shoulder, as a result of which a haematoma developed. There was no serious damage to his health and, according to the findings of the forensic medical examination, this injury cannot be categorized under the criminal legislation currently in force.

564. On 14 June 2007, the internal affairs office for the Nagatino-Sadovniki district of Moscow opened criminal case No. 218378 on the basis of evidence of an offence contrary to article 213, paragraph 1, of the Criminal Code. A crime response unit was set up to investigate the offence, and a plan of additional investigative measures was developed and is being implemented. Several lines of inquiry are being pursued, including the possibility that the offence was linked to the victim's professional activities. The law enforcement agencies are taking all necessary measures to identify the persons who took part in the commission of this offence. The leadership of the City Internal Affairs Authority for Moscow and the Office of

the Procurator-General of the Russian Federation are monitoring the progress made in carrying out these measures.

#### **Letter of allegations sent on 14 August 2007**

565. On 14 August 2007, the Special Rapporteur sent an allegation letter to the Government, in relation to **Mikhail Afanasyev**, editor-in-chief of the Internet magazine “Novy Fokus”, who was reportedly attacked by a man who identified himself as a police officer on 17 June. A complaint was reportedly filed by Mr. Afanasyev with the Abakan City Court, but the results of the investigation were not made public within the 10-day limit established by law. Reportedly, the prosecutor’s office forwarded the case materials to the police. According to the information received, in cases that a police officer is involved, the prosecutor’s office is required to conduct an independent investigation.

#### **Response from the Government sent on 18 October 2007**

566. The Government informed that that on 22 June 2007, the Internal Affairs Authority for Abakan received from the City Procurator’s Office a statement by the Editor-in-Chief of the Internet publication “Novy Fokus”, **Mikhail Afanasev**, claiming that, on the night of 15-16 June 2007, he and A.V. Lepeshkin had been attacked while they were in a motor vehicle. An unknown individual had inflicted bodily harm on Mr. Afanasev, stolen two cellphones, a leather jacket and a bag containing documents and attempted to hijack the car. Earlier, on 18 June 2007, Mr. Afanasev had made a similar statement to the Abakan Procurator’s Office. The statement indicated that, in addition to the property listed above, a bag containing documents and keys had been stolen from him.

567. On 29 June 2007, the Investigation Department of the Internal Affairs Authority for Abakan opened criminal case No. 303652 under article 161, part 2, paragraph (d) (Robbery), of the Criminal Code of the Russian Federation against the unidentified individual who had perpetrated the attack. Mr. Afanasev was informed of the decision in writing. On 24 July 2007, Mr. Afanasev lodged a complaint with the Abakan City Court in which he claimed that he had not been notified of the receipt of his statement. The court proceedings concerning his complaint were discontinued on 5 September 2007 as a result of Mr. Afanasev’s withdrawing the complaint. Claims that militia officers might have taken part in the attack on Mr. Afanasev appeared in the Internet publication “Otkrytoe informatsionnoe agentstvo” on 23 and 26 July 2007 and on the website of the “Khakassia Internet” news agency on 24 July 2007. The claims concerning the participation in the offence of officers of the Ministry of Internal Affairs for the Republic of Khakassia were not substantiated during the investigation of the case. Mr. Afanasev, when questioned as a victim, explained that the attack had been committed by persons unknown to him, not by militia officers.

568. According to the information available, Mr. Afanasev has a reputation as a journalist who publishes articles the content of which cannot be objectively confirmed later. For example, in 2006, he was prosecuted three times by the Abakan City Court for offences under article 129, part 3 (Libel), of the Criminal Code of the Russian Federation. On 20 June 2007, he was convicted of repeat offences under article 319 (Insulting a representative of a public authority) and article 129, part 2 (Libel), of the Criminal Code of the Russian Federation. The investigation identified a person, who had attempted to sell property stolen from the victim,

and who is being sought by the police. The progress of the pretrial investigation is being monitored by the Office of the Procurator-General of the Russian Federation.

**Letter of allegations sent on 19 September 2007 jointly with the Special Representative of the Secretary-General on human rights defenders**

569. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of the non-governmental organization **Tolerance Support Foundation** and Mr. **Stanislav Dmitrievsky**, one of the Foundation's collaborators, editor-in-chief of the newspaper *Pravozaschita* and Executive-Director of the Russian-Chechen Friendship Society. Mr. Dmitrievsky was previously the subject of several communications sent by mandate-holders; the subject of an allegation letter sent on 9 June 2005, of an urgent appeal on 15 November 2005, of a joint allegation letter sent on 21 November 2005, of a joint urgent appeal on 20 October 2006 and of a joint allegation letter sent on 8 February 2007.

570. According to the information received, on 30 August 2007, three officers from the department of computer crimes in the internal affairs directorate presented a search warrant to the Nizhni Novgorod's office of the Tolerance Support Foundation. They conducted a complete inspection of the foundation's financial and administrative operations as well as other activities, which were allegedly not covered by the warrant. All four computers in the organization were confiscated on the basis of lack of a software licence. The Foundation's director and administrator were ordered to appear for questioning at the Nizhni Novgorod police.

571. According to reports, the inspection in the Tolerance Support Foundation may have been related to the activities of Stanislav Dmitrievsky, who received a two-year suspended sentence in February 2006 on the charge of inciting racial hatred after publishing critical articles in the Russian-Chechen Friendship Society's newspapers. In April 2007, Mr. Dmitrievsky organized a demonstration called the "March of Dissenters", which was not authorized by the authorities. Subsequently, he received a written statement from the Federal Service to Executive Punishment warning him that his conditional sentence might be commuted to imprisonment. Allegedly, the authorities refused to hand him a copy of the warning. This prevented him from filing an appeal.

572. On 5 and 6 June 2007, the Peace Court 1 of the Nizhegorodskiy district also issued two rulings ordering that administrative proceedings be undertaken against Mr. Dmitrievskiy. According to information, the terms of Mr. Dmitrievskiy's suspended sentence had also become more severe and he may now be imprisoned if he commits administrative violations. Concern was expressed that the inspection of the Tolerance Support Foundation's activities and the confiscation of its computers as well as the written warning and administrative proceedings against Mr. Dmitrievsky may have been related to their legitimate exercise of their right to freedom of expression and to their peaceful actions in the defence of human rights.

**Response from the Government sent on 23 November 2007**

573. The Government stated that the internal affairs agencies of the Russian Federation are taking measures to prevent violations of copyright and related rights by carrying out regular checks of enterprises and organizations to determine whether they are using unlicensed

computer software. Over nine months in 2007, the Department for the Prevention of Computer Crime of the Central Internal Affairs Department for Nizhny Novgorod province checked 47 organizations for compliance with legislation on intellectual property.

574. On 29 August 2007, the Central Internal Affairs Department for Nizhny Novgorod province, in accordance with article 11, paragraph 1, subparagraphs 16 and 25, of the Militia Act, decided to inspect the financial, economic, entrepreneurial and commercial activities of the Tolerance Support Foundation, situated at 26 Korolenko St., room 5, in Nizhny Novgorod. On the same day, members of the Department for the Prevention of Computer Crime of the Central Internal Affairs Department, in the presence of witnesses and representatives of the Tolerance Support Foundation, Ms. O.A. Chelysheva and Mr. S.M. Dmitrievsky, in accordance with articles 11 and 23 of the Militia Act, inspected the premises of the Foundation with a view to discovering violations of Russian legislation on the protection of copyright and related rights.

575. During the inspection, it was found that four base units in the office of the Tolerance Support Foundation were using pirated software. The inspection and confiscation of the articles were reported in accordance with legislation currently in force. When the Expert-Criminalistic Centre of the Central Internal Affairs Department for Novgorod province examined the aforementioned base units, it found that the software installed was not licensed.

576. According to the representative of the company for Privolzhsky federal district, Mr. V.G. Bunatyan, the damages caused by the Tolerance Support Fund to the Microsoft Corporation amounts to 75,870 roubles and 51 kopecks. On 1 October 2007, the investigative department for Nizhny Novgorod district of the investigative committee attached to the office of the procurator of the Russian Federation for Nizhny Novgorod province instituted criminal proceedings (case No. 35410) on the basis of evidence of an offence contrary to article 146, paragraph 2 (Unlawful use of objects of copyright), of the Criminal Code of the Russian Federation. Proceedings in connection with the pretrial investigation of the criminal case were under way.

#### **Letter of allegations sent on 29 November 2007 jointly with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the question of torture**

577. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Oleg Orlov**, head of the human rights organization Memorial, and three journalists from the Russian TV station REN TV, Mr **Artem Vysotskii**, Mr **Karen Sakhinov** and Mr **Stanislav Goriachikh**. According to the information received, during the night of 23 to 24 November 2007, armed masked men in camouflage woke up Oleg Orlov, Artem Vysotskii, Karen Sakhinov and Stanislav Goriachikh at the "Assa" hotel in Nazran in Ingushetia. They took all their possessions from the hotel, including computers, money, notebooks, their clothes and mobile phones, and put plastic bags over their heads threatening to shoot them. The four men were then taken to an unknown place, where they were beaten and abandoned after two hours. As they had not been given time to dress or take their shoes before they left the hotel, they had to walk barefoot to the nearest police station in the village of Nesterovskoye, where they sought assistance. From there they were taken to the Sunzhenkoye police station where they reported formally on what had happened. On the morning of 24 November, the four men also told the police of Nazran about their abduction

and ill-treatment. At the police station they were examined by a medical doctor who recommended that Artem Vysotskii should be urgently hospitalized. However, the police did not allow him and the other two journalists to leave until 1 p.m. Oleg Orlov was allowed to leave the police station at around 11.30 a.m.

578. It was feared that this attack was an attempt to prevent the media and the human rights defender from monitoring and reporting about a demonstration, which was scheduled to take place in Nazran on that day, in which about 70 or 80 persons took part, vastly outnumbered by the police. During the demonstration, several of the persons, who protested against repressive actions by law enforcement officials including enforced disappearances, unlawful killings, torture and ill-treatment, were reportedly ill-treated. According to participants in the demonstration, Special Forces (OMON) fired in the air and beat several demonstrators with batons. The police detained several young men and took them to a police station.

### **Replies to communications sent previously**

579. On 20 February 2007, the Government replied to a communication sent by the Special Rapporteur on 8 September 2006 concerning the situation of the independent newspaper Permsky Obozrevatel and Mr. **Vladimir Korolyov** and Ms. **Evgeniya Silivanova**, journalists at said newspaper. According to the Government's reply, the Perm Prosecutor's Office is conducting a criminal investigation launched on 23 June 2006 into allegations that confidential information about the private and family life of Mr. Kotov was collected without his consent. Allegations of similar crimes against 14 other individuals were investigated, and the criminal charge of disclosing State secrets was brought against Mr. V.A. Korolyov. The evidence collected confirms that the website server on which information about citizens' private lives was collected belongs to a limited liability company, the Permsky Obozrevatel Media Group. Documents and electronic media were removed from the offices occupied by this company. The search of Mr. Korolev's apartment on 22 August 2006 was conducted in accordance with the law governing criminal procedure on the basis of an order by the Sverdlovsky District Court in the city of Perm.

580. Investigation into the case continues and the findings are under review. The Motovilikhinsky District Procurator's Office in the city of Perm examined Ms. E.V. Silivanova's complaint that Mr. A.R. Aramyan, an investigator from the Office, had behaved improperly and breached the Code of Criminal Procedure when summoning her to testify as a witness in the above-mentioned criminal case. It was established that the investigator acted in conformity with article 188 of the Code of Criminal Procedure. On 2 August 2006, in the course of a criminal investigation opened on 12 July 2006 by the Perm branch of the Federal Security Service (FSB), the offices of the Alfa group of security companies were investigated on charges of disclosing State secrets. The Alfa group is located in the same building as the Permsky Obozrevatel newspaper and was founded by the same person. The heads of both the Alfa Group and the newspaper were informed in advance. No search in the premises occupied by the newspaper was conducted.

581. With regard to the edition of the Permsky Obozrevatel newspaper containing deliberate libels of a candidate for the Perm municipal administration, on 17 March 2006 the investigations department of the Perm internal affairs authority instituted criminal proceedings on the basis of evidence of an offence contrary to article 129, paragraph 2, of the Criminal Code (defamation). On the investigator's instructions, 24,519 copies of the

newspaper were seized. The confiscated newspapers were examined and added to the file as material evidence in the case. The preliminary inquiry continues.

## **Observations**

582. The Special Rapporteur is grateful for the Government's responses to his communications. He regrets that at the time of writing this report he had not received a response to his letters of 8 February 2007 and 29 November 2007.

## **Rwanda**

### **Lettre d'allégations envoyée le 16 février 2007**

583. Le Rapporteur spécial a attiré l'attention du Gouvernement sur cas de **M. Jean-Bosco Gasasira**, directeur de publication du bimensuel « Umuvugizi » qui aurait été violemment agressé par plusieurs inconnus dans la capitale Kigali le 9 février 2007. Gravement atteint à la tête, le journaliste serait resté dans le coma jusqu'au 13 février. Le ministre rwandais de l'Information, Laurent Nkusi, lui aurait rendu visite et annoncé l'ouverture d'une enquête policière. Un suspect aurait été arrêté mais aurait nié toute implication dans l'attaque au journaliste. A partir d'août 2006, M. Jean-Bosco Gasasira aurait fait l'objet d'intimidations téléphoniques fréquentes et d'une vigilance des agents du service de renseignements militaire lors de ses déplacements. Les raisons de tels agissements seraient liées à la fuite à l'étranger du directeur de l'hebdomadaire « Umuco », M. Bonaventure Bizumuremyi, suite aux menaces dont il était l'objet. M. Gasasira, comme son collègue M. Bizumuremyi, aurait aussi dénoncé le présumé favoritisme dans la gestion du ministère de l'Economie et des Finances.

### **Response from the Government sent on 25 June 2007**

584. The Government transmitted the Police report regarding the incident and information concerning the follow up action that has been undertaken. In the night of 9 February 2007 at Medi Motel in Kimironko sector, Gasabo district in Kigali city, Mr. **Gasasira J. Bosco**, a journalist and director of the UMUVUGIZI publication was attacked by three people as he left the motel for his car. He was assaulted and sustained serious injuries. Eyewitnesses close to the scene of the incident confirmed hearing alarm raised by Mr. Gasasira and rushed for his rescue. They reported seeing three attackers fleeing from the scene of the incident. Two suspects reportedly fled on a motorcycle that had concealed number plates, while the third one who was armed with an iron bar, fled to the nearby bush where he was apprehended and later identified, his name being known to the Special Rapporteur. Another eyewitness who was on the second floor of the Medi Motel confirmed that she saw the three suspects mentioned above as they assaulted Mr. Gasasira. Immediately after the apprehension of the third suspect, the Police arrived and took him for questioning, while Mr. Gasasira was rushed to King Faisal hospital.

585. Despite overwhelming evidence against him, the third suspect denies assaulting Mr. Gasasira. He argues that he heard the victim's alarm and intervened, disarming the attackers the iron bar they were using against the victim. Because of available evidence, the Police believe his arguments have no basis. The two other suspects are still at large and their identity is not yet known. The case file of the third suspect was handed to the prosecution on 12 February 2007 (case file n. RPGR 01100415/51/07/KGL/BG/MVK). The suspect appeared

before the judge in the district court of Kacyiru on 16 February 2007. The judge ruled that he be detained provisionally (Court ruling DO 27/2007) at Kigali Central Prison pending further court hearings. The file is now in the Prosecutor General's office.

**Appel urgent envoyé le 28 février 2007 conjointement avec la Présidente-Rapporteur du Groupe de Travail sur les détentions arbitraires**

586. Le Rapporteur spécial et la Présidente-Rapporteur ont attiré l'attention du Gouvernement sur le cas de M. **Idesbald Byabuze**, professeur à l'Université catholique de Bukavu et directeur du journal "Mashariki News". Selon les informations reçues, le 23 février 2007 le Tribunal de base de Gikondo à Kigali aurait ordonné sa détention pour une durée de 30 jours, après qu'il ait été arrêté par la police pendant qu'il donnait un cours à l'Université des Grands Lacs le 16 février. Il serait accusé de ségrégation, sectarisme et atteinte à la sûreté intérieure de l'Etat, pour avoir publié un article en Juin 2005 intitulé "Alerte Rwanda" dans lequel il critiquait le régime rwandais. Si M. Byabuze est reconnu coupable, il encourerait jusqu'à 20 ans de prison ferme.

**Réponses du Gouvernement envoyé le 20 avril 2007**

587. Le 20 avril 2007, le Gouvernement a transmis l'information que M. **Idesbald Byabuze** avait été arrêté le 16 février après la découverte des informations l'inculpant des infractions d'atteinte à la sûreté intérieure de l'Etat rwandais, du négationnisme et de la ségrégation ethnique. Le Gouvernement a informé qu'aucune illégalité n'a entaché ni l'arrestation ni la détention préventive de M. Byabuze. Après l'instruction du dossier par le parquet, le tribunal a été saisi en date du 23 février 2007 et a prononcé une détention préventive de 30 jours. M. Byabuze n'a pas interjeté appel et n'a déposé aucune plainte. Il a plaidé coupable et a avoué être parmi les auteurs d'un document contenant les éléments de preuves des infractions d'atteinte à la sûreté de l'Etat Rwandais, de négationnisme et de ségrégation ethnique. Vu que les infractions ont été commises à la République Démocratique du Congo par un Congolais, les instances habilitées ont pris la décision d'envoyer M. Byabuze dans son pays, espérant qu'il y sera poursuivi.

**Observations**

588. Le Rapporteur spécial remercie le Gouvernement pour ses réponses.

**Senegal**

**Appel urgent envoyé le 26 avril 2007**

589. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la situation de M. **Ndiogou Wack Seck**, journaliste et directeur du quotidien « Il Est Midi », qui aurait été condamné le 18 avril par un tribunal de Dakar à six mois de prison ferme et 40 millions de francs CFA (41'000 dollars US) en dommages et intérêts dans un procès en diffamation à la suite d'un article sur un présumé scandale de corruption dans une affaire politique. M. Seck aurait été interdit d'exercer comme directeur de publication pendant trois mois et son journal se serait vu infliger une interdiction de parution pendant la même période. M. Seck était au moment de l'envoi de la communication l'objet d'un mandat d'arrêt.

### Réponse du Gouvernement envoyée le 7 août 2007

590. Le Gouvernement a informé que M. **Ndiogou Wack Seck** a fait l'objet de plusieurs plaintes. Celle qui est évoquée et dont l'auteur est Maître Ousmane Seye, avocat au barreau de Dakar, est la dernière en date. Dans le n° 417 de son journal, M. Seck y traitait, notamment, M. Seye ainsi que deux autres personnes de « trois menteurs entre le glaive et la balance ». Le jugement a été prononcé en l'absence de M. Seck, qui n'a pas déferé à la convocation de la juridiction compétente, comme, du reste, lors des deux derniers procès le mettant en cause pour des faits similaires et qui ont précédé ce dernier. Toutes les poursuites pénales contre M. Seck, dont celle qui a été initiée sur requête de Maître Seye, sont consécutives à des plaintes déposées par des particuliers. Compte tenu de ce qui précède, l'Etat du Sénégal est un tiers absolu dans cette affaire. Par conséquent, les allégations sur « un présumé scandale de corruption dans une affaire politique de haut niveau » ne sont pas fondées. Aucune plainte au nom de M. Seck n'a été enregistrée. En vertu de la législation sénégalaise, aucune information ne peut être donnée sur les enquêtes et investigations judiciaires. Au Sénégal, la liberté d'opinion et d'expression est protégée. Aucune formalité particulière, n'est, à cet égard, nécessaire pour créer un journal et aucune censure n'est imposée aux articles et aux propos des citoyens publics.

### Appel urgent envoyé le 18 octobre 2007

591. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la situation de **M. Moussa Guèye**, directeur de publication du quotidien privé « L'Exclusif » et **M. Justin Ndoye**, journaliste au même quotidien. Selon les informations reçues, dans la soirée du 8 octobre 2007, M. Guèye aurait été arrêté par cinq agents de la Division des investigations criminelles (DIC) sur la route en direction de Rufisque. Selon les sources, les agents auraient affirmé être à la recherche du journaliste Justin Ndoye, dont un article évoquant des « sorties nocturnes » du Président de la République aurait été publié au journal. Il semblerait que M. Ndoye, recherché par la police, était en fuite au moment de l'envoi de la communication. Depuis le 8 octobre, le journal « L'Exclusif » aurait été fermé par les autorités. Après son arrestation, M. Guèye aurait refusé de fournir des informations sur ses collaborateurs. Les agents auraient donc décidé de se rendre à la rédaction du journal où ils auraient emporté les ordinateurs du quotidien. M. Guèye aurait été frappé et amené à la prison centrale de Dakar. Il aurait été accusé d'offense au Chef de l'État parce qu'il aurait publié de fausses nouvelles, ainsi que d'atteinte à la sécurité publique, pouvant être condamné à une peine de prison allant jusqu'à cinq ans.

### Lettre d'allégations envoyée le 19 décembre 2007

592. Le Rapporteur spécial a attiré l'attention du Gouvernement sur la situation de **M. Babou Birame Faye**, de l'hebdomadaire privé « Weekend » à Dakar. Selon les informations reçues, le 3 décembre, le Ministre de l'Hydraulique aurait fait parvenir une lettre écrite à la main au siège de l'hebdomadaire « Weekend ». La lettre, dans une enveloppe officielle portant l'entête du Ministère, et adressée au journaliste Madiambal Diagne, président du Groupe de presse qui publie « Weekend », aurait contenu une déclaration selon laquelle M. Birame Faye "ne tardera pas à payer pour sa méchanceté gratuite". Cette lettre aurait été écrite suite à la publication d'un article paru dans l'édition de vendredi 30 novembre 2007 intitulé "Scandale au Ministère de l'Hydraulique" et qui aurait souligné la disparition présumée de 42,5 millions de francs CFA (95'000 dollars US) destinés à une commande de matériel hydraulique.

L'article aurait conclu à des "graves soupçons" pesant sur le Ministre et son directeur de cabinet.

### **Observations**

593. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à la communication envoyée le 26 avril 2007. Il regrette ne pas avoir reçu une réponse aux autres communications envoyées en 2007.

## **Somalia**

### **Letter of allegations sent on 18 January 2007**

594. The Special Rapporteur brought to the attention of the Government the situation of **Radio Warsan**, a radio station based in the city of Baidoa. It is reported that on 7 January 2007, the Transitional Federal Government decided the immediate closure of "Radio Warsan". It seems that the reason for its closing is its independent editorial line, and that this was the fifth time it had been forced to close in recent times. Reports also indicate that on 24 December 2006, the Transitional Federal Government inaugurated in Baidoa "Radio Bay", also called the Voice of the Somali Republic, a radio station under its direct control, which was, at the time the communication was sent, the only radio broadcasting from the city seat of the Government.

595. In the same communication, the Rapporteur referred to the case of journalist **Hassan Mohammed Abikar** from radio station "Voice of the Holy Quran", based in Baidoa, who was allegedly held by governmental forces in an undisclosed location, with no charges brought against him, since 1 January 2007.

### **Letter of allegations sent on 2 May 2007**

596. The Special Rapporteur brought to the attention of the Government the situation of **Mr. Yahya Ali Farah**, a reporter with "Radio HornAfrik", and **Mr. Abdi Dhaqane**, working for the same radio station and for the Nairobi Bureau of the international news agency Reuters, who were reportedly injured on 21 April when several artillery shells were fired at the studios of "Radio HornAfrik" in Mogadishu. Mr. Yahya Ali Farah suffered minor injuries, and Mr. Abdi Dhaqane was seriously injured. Reportedly, as a result of this attack the radio station was forced to temporarily shut down its operations. The Rapporteur expressed concern that this attack may represent an attempt to prevent both journalists from reporting on the human rights situation in Somalia.

### **Letter of allegations sent on 12 July 2007**

597. The Special Rapporteur brought to the attention of the Government the situation of **Radio Shabelle**, a major independent station in Mogadishu, which was reportedly raided four times by Somali Government troops on 7 and 8 July. It seems that these raids were a retaliation of the contents of a programme broadcasted by Radio Shabelle on a large-scale security operation by Government security forces in the Bakara market the preceding week, in reaction to a wave of lethal assaults in the area, during which some members of the military forces involved abused market merchants and local residents. It is reported that during the raid

against the radio station, staff was threatened of death, equipment destroyed and live broadcasting disrupted. Newscaster **Abdinur Mohammed Kadie** and sports producer **Abdi Rashid Abdi Ahmad** were among the staff threatened.

598. In the same communication, the Rapporteur reported that on 6 June 2007, Information Minister Madobe Nounow Mohamuda allegedly ordered three radio stations – **HornAfrik**, **Radio Shabelle** and **Quran Kariim** (Holy Koran) – to stop broadcasting, accusing them of supporting Islamists groups, violating press freedom and spreading chaos amongst the population.

#### **Letter of allegations sent on 17 August 2007**

599. The Special Rapporteur brought to the attention of the Government the deaths of **Mahad Ahmed Elmi**, Director of “Radio Capital Voice”, **Ali Iman Sharmarke**, Director of “Horn Afrik”, as well as the attack against **Abdihakim Omar Jimale**, journalist at “Radio Mogadishu”. According to the information received, Mr. Elmi was shot in the head by an unknown gunman in the village of Gubta, close to Mogadishu, dying later in hospital. Mr. Sharmarke was killed by a remotely-detonated bomb that exploded as his car passed when he was returning from Mr. Elmi’s funeral. Reportedly, another journalist in the car was injured and a third one was in a state of shock. Another journalist, Mr. Jimale, was allegedly wounded after he was shot in the shoulder by gunmen in the Yaqshid neighbourhood north of Mogadishu. He was reportedly hospitalized.

#### **Urgent appeal sent on 5 September 2007 jointly with the Special Representative of the Secretary-General on human rights defenders**

600. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr **Ali Moallim Isak**, Organising Secretary of the National Union of Somali Journalists (NUSOJ). Mr Ali Moallim Isak had been engaged in training and protection activities of Somali journalists and was involved in negotiations to release some of them. According to the information received, on 3 September 2007, Mr Ali Moallim Isak received death threats over the phone from an unidentified person who warned him to stop his human rights activities if he did not want to be killed. The caller reportedly stated that he knew where Mr Ali Moallim Isak lived and worked. Later that day, two armed men entered the premises of NUSOJ and asked for Mr Ali Moallim Isak, who, however, was not present at that time. Serious concern was expressed that the death threats against Mr Ali Moallim Isak may have been solely related to his peaceful activities in defence of human rights, in particular the right to freedom of opinion and expression of journalists in Somalia. Further concern was expressed regarding recent reports of mounting violence against journalists in Somalia, a theme that was the subject of an allegation letter sent by the Special Rapporteur on freedom of opinion and expression on 17 August 2007, subsequent to the murders of journalists Mahad Ahmed Elmi and Ali Iman Sharmarke.

#### **Urgent appeal sent on 17 October 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the question of torture**

601. The Special Procedures mandate holders brought to the attention of the Government the situation of **Abdullah Ali Farah**, manager of Mogadishu Radio Simba, and **Mohamed**

**Farah**, a journalist at Radio Simba. According to the information received, on 11 October 2007, Radio Simba broadcast an interview with Sheikh Robow, the military chief of the Islamic Courts. In the interview, Sheikh Robow claimed responsibility for a suicide car-bomb attack on an Ethiopian army checkpoint in the western city of Baidoa. After the broadcast, members of the Somali security services arrived at Radio Simba and arrested Abdullahi Ali Farah and Mohamed Farah, taking them to an undisclosed location. The radio station was closed by the authorities after their arrest. In view of their alleged incommunicado detention at an undisclosed or unconfirmed location concern was expressed for the physical and mental integrity of Mr. Abdullahi Ali Farah and Mr. Mohamed Farah.

### **Observations**

602. The Special Rapporteur regrets that he has not received a response to any of the communications sent in 2007.

## **South Africa**

### **Letter of allegations sent on 9 October 2007 jointly with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living**

603. The Special Procedures mandate holders brought to the attention of the Government the situation concerning a **demonstration of shack dwellers** in the eThekweni Municipality. According to the information received, on 28 September 2007, a group of civil society organizations representing shack dwellers in the eThekweni Municipality organized a march to deliver a memorandum to the Mayor presenting their views on housing and land issues that currently affect the city. According to reports, although it was legal and peaceful, the march was stopped by the police, which used water cannons, rubber bullets and stun grenades to disperse the protesters. Two participants were severely injured, one of which was allegedly struck by a rubber bullet at close range. Fourteen participants of the march were arrested during the manifestation and released after paying bail. They were due to be tried on 13 November 2007 by the Durban Magistrate's Court.

### **Observations**

604. The Special Rapporteur regrets that he has not received a response to the above-mentioned Communications.

## **Sri Lanka**

### **Letter of allegations sent on 23 April 2007**

605. The Special Rapporteur brought to the attention of the Government the situation of Mr. **Sripathi Sooriyaarachchi**, former Projects Minister, who was reportedly arrested on 17 March under the Misappropriation of Public Property Act, on the charge of misusing a government vehicle. On 27 March, a Magistrate Court refused his request to be released on bail. It is reported that Sripathi Sooriyaarachchi, together with National Heritage Minister **Anura Bandaranaike** and Ports Minister **Mangala Samaraweera** were stripped of their

ministerial portfolios on 9 February 2007, allegedly in connection with their position with regard to the Government's contacts with the LTTE and with regard to some cases of corruption. It seems that former Ports Minister Mangala Samaraweera left the country in March 2007 fearing that he could also be arrested.

### **Letter of allegation sent on 24 April 2007 jointly with the Special Rapporteur on the right to education**

606. The Special Rapporteurs brought to the attention of the Government the situation of several students of the University of Jaffna, who have reportedly been the target of abductions, illegal detentions and killings. According to information received, on 3 January 2007, **Mr. Arunakirinathan Niruparajh** student of the Faculty of Sciences was abducted by Army Officers. It is reported that at the time, Mr. Niruparajh's family was moving residence. At about 11 a.m., Army officers carried out a cordon-and-search operation at the family's new residence. Mr. Niruparajh went to the former residence, at around 2:30 p.m., but he did not return home. Subsequently, University students organized a non-violent protest claiming the release of Mr. Arunakirinathan Niruparajh. He was subsequently released, reportedly with signs of torture. It is reported that the family has lodged a complaint before the Human Rights Commission.

607. On 19 August 2006, **Mr. Sivarajah Paheerathan**, President of the Student Union of the University of Jaffna and student of the Faculty of Arts, was reportedly arrested by the Army. He was at the University students' common room when the Army came to conduct a search operation, and arrested him without any legal basis.

608. On 18 November 2006, **Mr. Markandu Sasikumar**, student of the Faculty of Arts, was abducted. Mr. Sasikumar had gone to Pungudutheivu Navy camp in order to obtain military clearance to go out of Jaffna. He had left the camp and was waiting for a bus nearby when unidentified men in a pick up truck abducted him. The whereabouts of Mr. Sasikumar remained unknown. It is reported that his family lodged a complaint before the Human Rights Commission.

609. On 18 February 2007, **Mr. Krishnan Kamalathas** tutor and student of the Faculty of Arts was killed. Mr. Kamalathas was on his way to give a private class at Varany, when he was reportedly stopped by Army officers near the Varany Army camp. The officers asked him to return home and he did so. While he was returning home, unknown men dressed in t-shirts and trousers opened fire at him.

610. On 15 August 2006, **Mr. Sinnaiah Sivashankar**, a student at the Faculty of Sciences was murdered. He left the University hostel with a friend at around 12:20 p.m. to buy a soft drink in a shop nearby when unidentified men opened fire at them. Mr. Sivashankar family has reportedly lodged a complaint before the Human Rights Commission on 10 October 2006. To date, none had been arrested in connection with his killing.

611. According to the information received, since August 2006 attacks against students from the Jaffna University belonging to the Tamil community have increased. They have had a negative impact on students' curricula which failed to start on two occasions, (i.e. on 19 January and on 18 February 2007) as authorized by the University Council. In particular, it is feared that the abduction of Arunakirinathan Niruparajh and the killing of Krishnan

Kamalathas have prevented the continuation of normal academic activities. Students also fear to be the target of another attack in the current pervasive climate of impunity.

**Letter of allegations sent on 27 April 2007**

612. The Special Rapporteur brought to the attention of the Government the situation of **Mr. Subash Chandraboas**, editor of the Tamil-language monthly magazine “Nilam”, was reportedly shot dead at his residence in Thirunavatkulam, Vavuniya on 16 April. Mr. Chandraboas contributed to the London-based magazine “Tamil World” as a freelance journalist until March 2007 and owned a printing press in Vavuniya.

**Letter of allegations sent on 23 August 2007 jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions**

613. The Special Rapporteurs brought to the attention of the Government the reported **killings of eleven journalists and media workers** in Sri Lanka since January 2006. All those killed either worked for Tamil language publications or reported violations relating to the conflict. Many of the killings appear to share common elements: the shootings occurred in Government controlled areas and sometimes during curfew hours. It is furthermore reported that investigations into most of the killings have been inconclusive and the perpetrators have not been found.

614. **Mr Thanikasalam Sarirooban**, a journalist with the “Daily Mirror” newspaper, was shot dead on 2 August 2007. It was reported that he was returning home in Jaffna and was shot by two gunmen on a motorcycle.

615. **Mr Sahathevan Nilakshan**, a student of journalism and one of the editors of a magazine “Chaa’laram” was shot dead at his house at Kokuvil, 3km from Jaffna on 1 August, 2007. Mr Nilakshan was reportedly shot dead by two gunmen who entered his home during the early morning before the end of a night time curfew. It is reported that “Chaa’laram” is a publication linked to the Federation of Jaffna District students which is known for supporting Tamil nationalism. It was also reported that death threats were made in May 2007 against students selling Chaa’laram at Jaffna University.

616. **Mr Selvaraja Rajivaram** a journalist working for the Tamil language “Uthayan” (Dawn) newspaper in Jaffna was shot dead on 29 April 2007 in Jaffna. Mr Rajivaram reported on human rights issues in the Jaffna peninsula and had earlier written for the Namathu Ealanadu.

617. **Mr Subash Chandraboas**, editor of the magazine “Nilam” was shot dead on the evening of 16 April 2007 at his home in Thirunavatkulam, near Vuvuniya. Mr Chandraboas was reportedly also wrote for the Colombo-based magazine Aravali and the London-based Tamil World.

618. On 20 August 2006, **Mr Sinnathamby Sivamaharajah**, the managing director of “Namathu Eelanadu”, a Tamil-language newspaper, in Jaffna, was shot dead at Vellippalai. Mr Sivamaharajah was a former Member of Parliament for the Tamil United Liberation Front, and a member of the Tamil National Alliance. The shooting reportedly occurred at night time within an area controlled by the Sri Lankan army and during a curfew.

619. On 16 August 2006, **Mr Sathasivam Baskaran** a delivery man for the Jaffna based “Uthayan” newspaper was reportedly shot dead whilst in his Uthayan delivery van in an area controlled by the Sri Lankan armed forces, during a temporary lifting of the curfew.

620. On 1 August 2006, **Mr Mariathas Manojanraj** was reportedly killed by a mine as he was travelling to Jaffna on 27 July 2006 to collect newspapers for distribution. Mr Manojanraj’s death reportedly occurred at a time that death threats were being made against distributors of Tamil-language newspapers.

621. In July 2006, the independent Sinhala journalist **Mr Sampath Lakmal de Silva** was found dead in Colombo. He was working as a freelancer after covering the conflict between the government and the Tamil separatists for the newspaper “Sathdina”. It was reported that he was abducted during the night of 1 to 2 July in Borallasgamuwa, Colombo and that his body was found the next morning.

622. On 2 May 2006, it was reported that two employees of the Tamil-language daily “Uthayan” were shot dead. According to information received, gunmen burst into the newspaper’s offices and demanded to see the editor and on learning of his absence, they opened fire and shot **Mr Suresh Kumar**, the newspaper’s marketing manager, and **Mr Ranjith Kumar**, another employee. Two other people reportedly sustained bullet wounds. The day before the killings, the newspaper had published a cartoon of Douglas Devananda of the Eelam People’s Democratic Party (EPDP).

623. On 24 January 2006, **Mr Subramaniam Sugirdharajan**, correspondent for the Tamil daily “Sudar Oli” in Trincomalee, was found dead a day after writing an article about alleged excesses committed by pro-government paramilitary forces in his region. He was reportedly shot early in the morning as he was waiting for public transport to go to work.

#### **Response from the Government sent on 21 November 2007**

624. The Government provided the following information:

625. According to relevant authorities, no murder of a person by the name **Thanikasalam Sarirooban** has been reported on or about 2 August 2007 in Jaffna District. The news editor of Daily Mirror confirmed that there was no journalist or media work by that name.

626. On 1 August 2007, one Rajaratnam Sabadevan had complained at Jaffna Police station that his son **Sahathevan Nilakshan** who was an undergraduate at the Jaffna University was shot dead by an unknown gunman at about 5.30 a.m. On receipt of this complaint, officers of Jaffna Police visited the scene and conducted investigations, questioning the people in the vicinity, but could not trace any person who had witnessed this murder. All required norms of investigations have been followed by the officers of the Jaffna Police. There was no report of death threats received by the deceased as mentioned in the communication. Facts of this case have been reported in the Magistrate Court of Jaffna under case no.B 272/07 and inquiries are being continued to trace the suspects responsible

627. On 21 August 2006, one Periyathambi Naguleshwari complained at Tellippalai Police Station that her brother **Sinnathamby Sivamaharajah** had fallen in his locked room and he is

motionless. On receipt of this complaint officers of Tellippalsi broke open the front and the bedroom doors of the residence and found Mr. Sunnathamby Sivamaharajah dead with injuries similar to gun shots. Officers of Tellippalai Police conducted investigations under the directions of the Magistrate of Jaffna and Senior Superintendent of Jaffna Division. The post mortem examination was held by the Jurisdiction Medical Officer of Jaffna and the cause of death was given as due to two shot injuries. Mr. Sivamaharajah was a former member of Parliament for Jaffna District from "Tamil Arasakattu" political party and was the former President of the Tellippalai Cooperative Society and the "Eelanadu" newspaper. On a directive of Inspector General of Police, the Criminal Investigation Department took over the investigations from Tellippalai; Police and preliminary investigations have revealed that on 20 August 2006 at about 19.30hrs a lone gunman had shot at Mr. Sivamaharajah through a partly opened window of his room. Witnesses could not identify the suspect due to darkness in the area. The Police personnel manning the police post closest to the residence of the deceased stated that on this particular day around 19.30hrs they heard two sounds similar to gun shots and alerted their senior officers anticipating an attack from the LTTE.

628. On 27 July 2007 one Mariyanayagarn Robinson complained at Atchchuveli Police that he and Mr. **Mariadas Manojanraj** were riding two motorcycles delivering newspaper and close to Rasa Veediya at around 03.40hrs, Mr. Mariadas, who was in front, got caught to a mine and died. On receipt of this complaint officers of Atchchuveli Police visited the scene and conducted investigations under the directions of Senior Superintendent of Police Jaffna Division. Police recovered six ball bearings from the scene of the crime. In conformity with forensic examinations the mine has been filled with C4 explosives and ball bearings have been added to cause maximum possible damage. In the recent past LTTE have used identical mines to kill Security Forces and Police personnel in Jaffna Division. It could be rationally inferred that the mine has been placed to target a Service or Police vehicle by the LTTE and it may have gone off accidentally. It is also pertinent to mention that since Security Forces and Police personnel are confined to their barracks in the night, LTTE cadres from demilitarized areas in Atchchuveli infiltrate the Government Control areas and place mines to target the security forces and the police. The mine has been positively identified as a mine used by the LTTE.

629. On 2 July 2007 on receipt of information officers of Dehiwala Police recovered a body with gun shot injuries. Subsequent inquiries led to the identification of the dead body as that of free lance journalist Mr. Sampath Lakmal De Silva. Officers of Dehiwala Police recovered the following items from the scene of the crime: (a) four empty casings of 9mm munitions; (b) 17 mobile telephone cards; and (c) an identity card issued to journalists.

630. On 2 May 2006 at about 19.45 hrs an unidentified armed gang entered the premises of "Uthayan" newspaper and opened fire, killing two persons and seriously injuring two others. The gang also caused extensive damage to the property and got away on three motorcycles. The two dead persons have been identified as Mr. **W.J. Sagaudas** a.k.a **Suresh Kumar** and Mr. **R Ranjith**, a. k.a. **Ranjith Kumar**. A.R. Udayakumar and N. Dayakaran sustained serious injuries. On the directive of Inspector General of Police the CID took over the investigations from Jaffna Police. The CID questioned eye witnesses, Uthayan employees and the military personnel. Inquiries revealed that at least seven men have been in the gang which entered the premises from the side entrance. Two were armed with T-56 rifles with folded butts, and armed with a pistol and another with a SMG. Witnesses have heard some of them speaking to each other in fluent Tamil in typical Jaffna Tamil accent and they have also spoken in broken

Sinhala on their eve of departure. The assailants had opened fire at the military personnel manning the check point near Sivam Kovil on old KKS road when challenged to stop. The army returned fire but the assailants escaped, leaving behind a T-56 rifle which had fallen down when they turned the bikes to escape. The weapon was taken into custody by the Army and later handed over to Police. This goes to confirm that the assailants had used military type weapons in this operation and have it planned well to avoid any counter attack by the security forces and also to implicate the Army, with a view to bring GOSL into disrepute in the eyes of the world community.

On 24 January 2006 at around 06.45hrs, Mr. **Subramaniam Sugirdarajan** was shot dead by a lone gunman as he was walking towards the bus stop. Officers of Trincomalee Police visited the scene and immediately conducted investigations under the supervision of Senior Superintendent of Police. Mrs. Suhair Rajan Maheswari, the wife of the deceased, stated that her husband was a tele clerk attached to the Trincomalee Port Authority. Although several persons have been questioned in connection to this case, nobody was able to identify the assailant. The facts of this case have been reported to the Magistrate Court of Trincomalee under case 62/2006. Further inquiries are being continued by Trincomalee Police.

### Observations

631. The Special Rapporteur is grateful for the Government's response to his communication of 23 August 2007. He regrets that he has not received a reply to the other communications sent in 2007.

### Sudan

#### **Urgent appeal sent on 22 June 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders**

632. The Special Procedures mandate holders brought to the attention of the Government the situation of eight persons who took part in protests against the construction of the Kijbar dam. These eight persons are: Mr **Saad Mohamed Ahmed**, journalist with Ilaf weekly newspaper and activist on dam issue; two lawyers, namely Mr. **Imad Al Deen Murgani** and Mr. **Alam Al Deen Abdulghani**; Mr. **Abdulaziz Mohamed Ali Khairi**, engineer and head of foreign relations committee of the Kajbar Dam Popular Committee (a committee formed by the affected community which has not so far been recognized by the authorities); Mr. **Raafat Hassan Abbas**, information officer in the Khartoum support committee of the Kajbar Dam Popular Committee, Dr. **Mohamed Jalal Ahmed Hashim**, a leader of the Mahas community; Mr. **Abdallah Abdelgayoum**, a member of the Mahas community and former National Security officer; and Mr. **Osman Osman**, driver.

633. According to the information received, on 13 June 2007 four persons were reportedly killed and nine other civilians were injured when police used violence to disperse a protest by members of the Nubian population opposed to the building of the Kijbar Dam. Five of the aforementioned were arrested on the same day in Dongola on their way to investigate and report on the demonstrations and the violence. After being questioned about the purpose of their trip, the five men were arrested and were being detained in the National Security Section

in Kober prison. Mr. Raafat Hassan Abbas was arrested by National Security officers at a private house in El-Dim, southern Khartoum, at 2 a.m. on 15 June 2007. He was believed to be in the custody of Khartoum State Security in Riyadh, but a member of his family had been denied permission to visit him. Dr. Mohamed Jalal Ahmed Hashim was arrested at his home in Riyadh after participation in a press conference organized by the SPLM on 16 June 2007. His whereabouts were unknown.

634. On 20 June, Mr. Saad Mohamed Ahmed was arrested at his office in Khartoum and was being detained in the National Security Section in Kober prison. None of the detainees had been allowed to contact their families or a lawyer. Concern was expressed that the arrest and detention of the aforementioned persons may be related to their peaceful activities in defence of the human rights of the people protesting against the construction of the Kijbar dam. In view of the incommunicado detention of the aforementioned the mandate-holders were further seriously concerned that they might be at imminent risk of torture or other treatment likely to cause grave damage to their physical and mental health.

#### **Response from the Government sent on 17 September 2007**

635. The Government stated that the detainees had been arrested for incitement of mobs by security authorities under preventative measures under the provisions of the National Security Act in order to stop the escalation of violence surrounding the dam project. The letter further stated that all the detainees had been treated humanely and according to the law while in detention and that all had been released on 19 August 2007, except Dr Mohamed Jalal Hashim, who was released on 24 August 2007.

#### **Urgent appeal sent on 25 July 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living , the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on human rights defenders**

636. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr. **Osman Ibrahim**, spokesperson for an organisation called “Committee against the Kajbar Dam”. According to the information received, Mr. Osman Ibrahim was arrested in the early morning of 20 July 2007 by police officers at his home in Farraig village, Halfa municipality, Northern Sudan. No arrest warrant was produced and no reasons were given for Mr. Ibrahim’s removal to an unknown location. His arrest followed incidents on 13 June 2007, when Sudanese security forces allegedly killed and injured civilians in the Farraig village by shooting at them during a non-violent demonstration against the construction of the Kajbar Dam in the area. On that occasion, several individuals were arrested and detained in Dongola, the capital of the northern State, and in Khartoum. Concern was expressed that the arrest and detention of Mr. Osman Ibrahim may have been in reprisal for his activities in defense of the human rights of communities at risk of being affected by the Kajbar Dam. In view of Mr. Ibrahim’s incommunicado detention at an undisclosed place further concern was expressed regarding his physical and mental integrity.

### **Response from the Government sent on 29 August 2007**

637. The Government stated that Mr **Osman Ibrahim** had been released along with the other men detained in relation to the Kajbar Dam protests. As outlined in the response to the communication of 22 June 2007, Dr Mohamed Jalal Hashim was the last detainee to be released on 29 August.

### **Letter of allegations sent on 12 September jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions**

638. The Special Rapporteurs brought to the attention of the Government the **killings of protestors by the security forces** in connection with the construction of a hydropower dam in the Kajbar area, northern State. According to information received, on 13 June 2007, Sudanese security forces shot dead four civilians and injured eleven close to the Kajbar Dam site in the Nubia area of northern Sudan. It was reported that five hundred protestors set out on a protest march from the hamlet of Jeddi heading for authorities based in Sabu, to hand over a memorandum apparently in light of the fact that they had been neither consulted nor informed about the commencement of the dam construction. Those shot dead were named as **Abdelmuezz Mohamed Abdelrahim, Mohamed Faqir Mohamed Sid Ahmed, Al Sadeg Salim, and Sheikh Eddin Haj Ahmed**. It was reported that three of the four who died were shot in the head, the remaining person in the chest.

### **Letter of allegations sent on 29 November jointly with the Special Representative of the Secretary-General on human rights defenders**

639. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr. **Faisal al Bagir**, a human rights activist with the Sudan Organization Against Torture (SOAT), Ms. **Lemia al Jaili Abubakr**, a journalist from Khartoum Centre for Human Rights, and Ms. **Sabah Mohamed Adam**, a journalist working for Al-Ayyam who were reportedly summoned and questioned by members of the National Intelligence and Security Services (NISS). Information was also received by the mandate-holders concerning Mr. **Amir Mohamed Suleiman**, chairperson of the Khartoum Center for Human Rights and Mr. **Mashair Abdullah Omer**, financial officer of the Center, Ms. **Madiha Abdullah**, journalist with the daily newspaper al-Ayyam and collaborator of the al-Laqa Press Centre, a NGO that provides training for journalists, and Dr. **Nagib Nagmeldin**, former coordinator of the Sudan Organization Against Torture.

640. According to the information received, on 4 November, Mr. al Bagir, Ms. Abubakr and Ms. Adam were summoned to appear in the office of the political department of the NISS in the Bahri district of Khartoum the following morning. Upon their arrival, they were taken to a room where they were kept waiting, in the presence of a security official, for six hours. A general subsequently informed them that their questioning would be postponed for the following morning. On 6 November, they were reportedly questioned about different human rights and journalist groups in whose activities they participate, or whose activities they know about, among them SOAT, the Khartoum Centre for Human Rights, and a group of journalists working on freedom of the press. They were reportedly asked about the organizations' structures, their sources of funding and the activities they conduct. They were released without charge at noon.

641. On 21 November, Messrs Suleiman and Omer were ordered by two NISS officials to follow them to NISS offices in North Khartoum, where they were detained for eight hours and questioned about personal matters as well as regarding the finance and administrative structure of the Karthoum Center for Human Rights. On the same day, Ms Madiha Abdullah and Dr Nagib Nagmeldin were also summoned to the NISS offices, where they faced similar questioning. Concern was expressed that the summoning and interrogation of the aforementioned persons may be directly linked to their peaceful activities in defence of human rights.

**Letter of allegation sent on 5 December 2007 jointly with the Special Rapporteur on the right to freedom of religion and belief**

642. The Special Rapporteurs brought to the attention of the Government the situation of **Gillian Gibbons**, a 54 years old English teacher from Liverpool, living in Sudan. According to information received, on 25 November 2007, Ms. Gibbons was arrested at her home in Khartoum, where she teaches at a British International School. A court in Khartoum on 29 November 2007 found her guilty of “insulting the faith of Muslims” and sentenced her to 15 days in prison followed by deportation. Prosecutors had called for her conviction on charges of inciting religious hatred, which carries a punishment of up to 40 lashes, six months in prison and a fine. Allegedly, in September, Ms. Gibbons had asked her pupils to vote a name for a teddy bear as part of the class’s study of animals and they named it “Muhammad”. Subsequently an office assistant complained to the Ministry of Education and Ms. Gibbons was accused of blasphemy for allowing her pupils to name a teddy bear with the Prophet’s name. On 30 November 2007, thousands of protesters demonstrated in Khartoum, claiming the 15-day prison sentence was too lenient. Since protesters have reportedly called for the execution of Ms. Gibbons, serious concern was expressed at her safety. Further reports indicate that Ms. Gibbons was given a presidential pardon on 3 December 2007.

**Observations**

643. The Special Rapporteur is grateful for the Government’s responses to his communications of 22 June and 25 July 2007. He regrets that he has yet to receive a response to his other communications sent in 2007.

**Syrian Arab Republic**

**Urgent appeal sent on 8 January 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture**

644. The Special Procedures mandate holders brought to the attention of the Government the situation of **Mr ‘Ali Nizar ‘Ali**, 21 years of age, student, **Mr Husam ‘Ali Mulhim**, 21 years of age, student, **Mr Tarek Ghorani**, student, **Mr Maher Ibrahim**, around 25 years of age, shop owner, **Mr Ayham Saqr**, around 30 years of age, employee of a beauty salon, **Mr ‘Alam Fakhour**, around 26 years of age, **Mr ‘Omar ‘Ali al-‘Abdullah**, around 21 years of age, student, **Mr Diab Sirieyeh**, around 26 years of age, part-time student, all detained at Sednaya Prison near Damascus at the time the communication was sent.

645. The cases of Mr ‘Ali Nizar ‘Ali and of Mr Husam ‘Ali Mulhim were already the subject matter of an urgent appeal by the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 21 February 2006. While appreciating the response of the Government of 30 August 2006 in these cases, the independent experts requested further clarification in view of new information received. In the Government’s reply it is explained that both persons took part in activities hostile to the State and incited public unrest using the Internet, which are acts penalized by article 307 of the Syrian Criminal Code as “any act, writing or correspondence aimed at, or resulting in, the creation of confessional or racial strife or encouragement of conflict between the confessional groups and different ethnic communities of the nation.” According to the Government, these two persons have further established a cell of an organization that advocates acts of terrorism against society and the State and solicits support from abroad, which is punishable under articles 306 and 364 of the Syrian Criminal Code. They have accordingly been arraigned before the Higher State Security Court on 4 April 2006. In addition to our request for additional information on the case of Mr ‘Ali Nizar ‘Ali and Mr Husam ‘Ali Mulhim we would also like to draw Your Government’s attention to information we have received on the other persons concerned.

646. According to new allegations received, the above mentioned individuals were arrested between 26 January and 18 March 2006 and were detained incommunicado since, three months of which in solitary confinement. While in detention they were ill-treated during interrogation at the Air Force Intelligence Branch in the town of Harast near Damascus. The trial of the eight persons commenced on 26 November 2006 before the Higher State Security Court in Damascus. Each defendant denied the charges brought against him in court, since their confessions had been obtained by resorting to ill-treatment. The eight individuals named above had been denied access to counsel until the hearing in court, where they were able to meet briefly with their lawyers, in the presence of guards. At least one of the persons was allowed to meet with his parents inside the courtroom for three minutes with a guard present. The families of the defendants were not permitted to provide them with warm clothing on the occasion of the court hearing in order to protect them from the chilly conditions in prison. The trial was adjourned until 14 January 2007.

647. According to the Government’s reply Mr ‘Ali Nizar ‘Ali and Mr Husam ‘Ali Mulhim were charged under articles 306, 307 and 364 of the Syrian Criminal Code. Reportedly however, all except Mr ‘Ali Nizar ‘Ali were charged under article 278 of the Syrian Criminal Code, which makes it a criminal offence to take action or make a written statement or speech which could endanger the State or harm its relationship with a foreign country, or expose it to the risk of hostile action by that country. Furthermore, all eight were reportedly charged under article 287 of the Syrian Criminal Code, which penalizes the “broadcasting of false news considered to be harmful to the State”. During the hearing the judge accused the defendants of having established links with an opposition party based outside Syria.

#### **Response from the Government sent on 27 April 2007**

648. In its reply, the government indicated that:

- (a) Mr. Ali Nizar Ali was released pursuant to a presidential amnesty issued on the occasion of Id al-Adha. He had been convicted under article 287 of the Syrian

Criminal Code for broadcasting false information regarded as damaging to the State.

- (b) As for the remaining persons mentioned above, they were referred to the competent court after a public prosecution case was brought against them, under article 287 of the Syrian Criminal Code, for committing criminal offences involving acts that are prohibited by the Government, since such acts could expose the Syrian Arab Republic to the threat of hostilities and damage its relations with foreign States. These individuals are currently on trial.

**Letter of allegations sent on 16 May jointly with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers**

649. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Anwar al-Bunni**, a lawyer and human rights activist, currently held at Adra prison near Damascus. He was the subject of previous communications sent out 19 May, 2 June and 25 October 2006, to which no answers from the Government had so far been received.

650. According to new information received, on 24 April 2007, Mr Anwar al-Bunni was sentenced to 5 years in prison by the First Damascus Criminal Court for “spreading false or exaggerated information that weaken the spirit of the nation,” and ordered to pay a fine of US\$2,000 to the Ministry of Social Affairs and Labour for his membership in an unlicensed human rights centre. Earlier, Mr al-Bunni had been charged with “spreading false news” for a statement he had made about the inhumane conditions that led to the death of a man in a Syrian prison. Furthermore, on 25 January 2007, prison guards made Mr al-Bunni crawl on the ground and forcibly shaved his head as punishment during a crackdown on a ward where criminal detainees had mounted a protest after being excluded from a recent amnesty. Also, on 31 December 2006, Mr al-Bunni was pushed down some stairs and then beaten up by another detainee in the presence of prison guards who failed to intervene. Concern was expressed that the arrest and conviction of Mr al-Bunni may have been in reprisal for his legitimate and peaceful work as a lawyer and human rights activist. Concern was also expressed about the repeated ill-treatment of Mr. al-Bunni in detention.

**Letter of allegations sent on 25 May jointly with the Special Representative of the Secretary-General on human rights defenders**

651. The Special Procedures mandate holders brought to the attention of the Government the situation of Mr **Michel Kilo**, journalist and president of the Organisation for the Defence of Freedom of Speech and Press, Mr **Mahmoud Issa**, an opposition member, Mr **Hasan al-Shummar**, a leading member of the Democratic National Community, Mr **Khaleel Hussein**, president of the Public Relations Office at the Kurd Future Trend, and Mr **Kamal Labwani**, head of the Liberal Democratic Party and member of the Administration Board of the Committees for the Defense of Human Rights. Mr Kilo was the subject of several urgent appeals sent on 17 May 2006, on 2 June 2006 and on 25 October 2006. Mr Mahmoud Issa was the subject of a joint urgent appeal sent by several mandate-holders on 19 May 2005 and another joint urgent appeal sent by mandate-holders on 2 June 2006. Mr Hussein’s case was included in the communications sent by mandate-holders on 17 May 2006 and on 2 June 2006. Mr Kamal Labwani was the subject of a joint urgent appeal sent on 11 November 2005.

652. According to the information received, on 13 May 2007, Mr Michel Kilo and Mr Mahmoud Issa were sentenced to three years in prison for "weakening the national ethic". Both men were reportedly arrested in May 2006, after signing the Damascus-Beirut Declaration, a petition signed by more than 300 intellectuals and human rights defenders from Syria and Lebanon, calling for the improvement of the relationships between both countries. On the same day Mr Hasan al-Shummar, and Mr Khaleel Hussein were also sentenced to ten years in prison for "conspiring with a foreign country". They were reportedly sentenced without trial. On 10 May 2007, Mr Kamal Lubwani was sentenced to 12 years imprisonment on charges of "contact with a foreign entity" and "encouraging attacks against Syria". He had been arrested on 8 November 2005 at Damascus Airport. Concern was expressed that the detention and sentences against Mr Michel Kilo, Mr Mahmoud Issa, Mr Hasan al-Shummar, Mr Khaleel Hussein and Mr Kamal Labwani may represent an attempt to prevent them from carrying out their peaceful human rights activities, in particular their work advocating the right to freedom of expression.

#### **Response from the Government sent on 14 August 2007**

653. The Government stated that Mr. Kamal Al-Labwani had set up an illegal political organization without permission from the relevant authorities, and that this was punishable under Syrian law in accordance with article 288 of the Criminal Code. The letter further stated that he had established personal links with official agencies abroad and secretly received material assistance from foreign organizations hostile to Syria, and that this was also punishable under Syrian law in accordance with article 264 of the Criminal Code.

654. The government response asserted that Mr. Al-Labwani had published spurious information on a website of a kind likely to damage the reputation of the State locally and internationally, and that this was punishable under Syrian law in accordance with articles 286 and 287 of the Criminal Code. The Office of the Public Prosecutor in Damascus initiated criminal proceedings against Mr. Kamal Al-Labwani for the crimes of damaging the reputation of the State and weakening national morale and unity. Mr. Al-Labwani was interrogated on 12 November 2005 with his legal representatives in attendance. A decision was taken to issue a detention order and to remand him in Damascus Central Prison for the crimes with which he was charged.

655. The Permanent Mission of the Syrian Arab Republic thanked 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 for the concern that they had expressed regarding this matter but wished to confirm that the reasons for Mr. Al-Labwani's detention were not related to his peaceful calls for democratic reform in Syria. The letter stated that he was a Syrian citizen and was protected by Syrian law from torture or any ill-treatment and allowed regular visits from his lawyers and members of his family.

#### **Letter of allegations sent on 15 August 2007 jointly with the Special Rapporteur on the question of torture**

656. The Special Rapporteurs brought to the attention of the Government the situation of **Saif Al-Khayat**, an Iraqi journalist working for the Japanese news agency "Jihi Press" bureau

in Damascus. According to the information received, Saif Al-Khayat travelled to Syria to work as a member of the local Jihi Press team. Before receiving permission to work in the country, Mr. Al-Khayat was reportedly questioned more than once by Syria's Political Security concerning the nature of his journalism, his political positions and previous work in Iraq. On 19 June 2007, after he wrote two news reports about the presidential referendum in Syria, a number of Syrian Political Security personnel allegedly raided his apartment and arrested him. According to reports received, he was taken to Branch 701 of the Political Security's headquarters, where he was allegedly told that the two reports were not satisfactory to Syrian authorities. He reportedly suffered physical assault and was forced to sign a document testifying that he would leave the country within three days.

### **Follow-up to previously transmitted communications**

657. In a letter dated 13 February 2007, the Government of the Syrian Arab Republic responded to an urgent appeal dated 23 August 2006, sent by Special Representative, together 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 concerning Mr. **Ali Shahabi**. The letter stated that Mr. Ali Shahabi had been arrested on 10 August 2006 and brought before the courts pursuant to article 278 of the Criminal Code for establishing a secret association, for infringing the laws and regulations, and for engaging in this association's activities without an official permit from the competent institutions. This charge was the core component of an offence under article 288 of the General Criminal Code. Mr. Al-Shahabi was, in the view of the government, engaged in clandestine activities, distributing unlicensed publications of a kind likely to make Syria vulnerable to attack, to sour its relations with foreign States and to leave Syrians or their activities open to revenge attacks.

658. The government added that many Syrians living in Lebanon had been physically attacked and some had died at the hands of Lebanese nationals, and further stated that Syrian courts would have the final say as to whether Mr Shahabi would be convicted or acquitted in accordance with the laws and regulations in force in Syria.

659. On 15 March 2007, the Government replied to the communication sent by the Special Rapporteur on 4 October 2006 concerning Mr. **Habib Saleh**, writer and journalist for the Lebanese daily An-Nahar who was sentenced to 16 years' imprisonment by a military court in Hamas. In its reply, Mr. Habib Saleh was arrested on 26 May 2006 for publishing false information about the country. He was brought before a regular court and convicted after a trial in which all the procedures laid down in the laws in force in Syria on the conduct of criminal proceedings were respected and Mr. Saleh was attended by his defence counsel. The court sentenced him to five years' imprisonment with hard labour and stripped him of his civil rights. Mr. Saleh is currently serving his sentence in prison, benefits from full legal guarantees, is being treated well and receives free health care, just like any other prisoner.

### **Observations**

660. The Special Rapporteur is grateful for the Government's responses to his communications of 23 August 2006, 4 October 2006, 8 January 2007 and 25 May 2007. He regrets that he has not received a response to his other communications sent in 2007.

## Thailand

### **Urgent appeal sent on 16 March 2007 jointly with the Special Representative of the Secretary-General on human rights defenders**

661. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Ms **Angkhana Neelaphaijit**, wife of human rights lawyer Mr Somchai Neelaphaijit. Ms Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 September 2005 and of an urgent appeal sent by the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 March 2006.

662. According to information received, on 12 March 2007, Ms Neelaphaijit filed a complaint with the Central Administrative Court regarding the failure by the police to investigate her husband's disappearance three years ago. He was allegedly abducted by members of the police and his case remains unresolved. The complaint was lodged against Pol.Gen.Seripisuth Themiyavet in his capacity as National Chief of Police. Later that day, Pol. Gen. Seripisuth Themiyavet was quoted in the online newspaper Manager, as saying that Ms Neelaphaijit should be prevented from enquiring further into her husband's case, and that she should not "trust other people too much". He also warned that she would make an enemy of him. Ms Neelaphaijit had stated in an article published that morning in the Bangkok Post that those responsible for the abduction of her husband were still on duty and that they continued to use their positions of power to thwart justice.

663. In February 2007, after Pol. Gen. Seripisuth Themiyavet was promoted, he appointed Pol. Gen. Sombat Amornivat as one of his Deputy Officers. Pol. Gen. Sombat Amornivat was the former Director of Special Investigations, who allegedly obstructed an investigation into the case of Mr Somchi Neelaphaijit, and who was later dismissed and transferred to the Ministry of Justice. Concern was expressed that the comments allegedly made by the acting Chief of Police form part of an ongoing pattern to discredit human rights defenders in Thailand. Further concern was expressed for the safety of Ms Neelaphaijit following the alleged remarks made by the acting Chief of Police.

### **Letter of allegations sent on 21 August 2007 jointly with the Special Representative of the Secretary-General on human rights defenders**

664. The Special Rapporteur and the Special Representative brought to the attention of the Government the situation of Mr **Jaran Ditapichai**, Commissioner with the National Human Rights Commission of Thailand, Mr **Chatuporn Promphan**, Mr **Jakrapob Penkair**, and Mr **Nattawut Saiku**, PTV executives; Mr **Veera Musikapong**, PTV's President; Mr **Viphuthalaeng Pattanaphunthar**, spokesman for the Saturday Voice against Dictatorship; Dr. **Weng Tojirakar**, adviser to the Confederation for Democracy; Mr **Manit Jitjanklab**, former Chief Justice of the Criminal Court; and Mr **Apinant Vinyachai**, former Thai Rak Thai Member of Parliament. They are all leaders of the United Front against Thailand (UDD),

a non-governmental organisation advocating the promotion of democracy through peaceful means.

665. According to information received, on 22 July 2007, the UDD organised a peaceful protest in which 30,000 protesters participated. The aim of the protest was to march to the residence of the Privy Council President General Prem Tinsulanonda and call for his resignation, due to his alleged involvement in the coup d'état of 19 September 2006. The protesters set off from Sanam Luang at 2.00pm and were prevented from continuing on two occasions. They negotiated with the police present at the scene and were permitted to proceed, arriving at the residence of General Prem Tinsulanonda's residence at approximately 5.00pm. The protesters then set up the stage from which speakers were to address the crowd. At approximately 9.00pm, several hundred policemen allegedly arrived; armed with anti-riot gear, including shields, batons, pepper spray and tear gas, which they were reported to have used in order to disperse the crowd.

666. It was also alleged that military personnel were among the riot police and that there were military troops on standby. According to reports, forty-two people were injured in the struggle that ensued. The UDD then decided to retreat to Sanam Luang. Nonetheless, the following UDD's nine leaders were arrested: Mr Jaran Ditapichai, Mr Chatuporn Promphan, Mr Jakrapob Penkair, and Mr Nattawut Saiku, Mr Vipphuthalaeng Pattanaphunthar, Dr. Weng Tojirakar, Mr Manit Jitjanklab, Mr Apinant Vinyachai, and Mr Jaran Ditapichai. They were all later released on bail, but had to report to the police on a regular basis. Concern was expressed that the arrest and detention of the nine aforementioned UDD leaders may have been related to their peaceful activities in defense of human rights.

#### **Response from the Government sent on 29 November 2007**

667. The Government stated that exercising the rights to assemble had to be in conformity with the law and not adversely affect public safety, public order, or the rights and freedom of others. The protesters caused damage to public and private property, injuring more than 250 people, over 200 of whom were police officers. Only after three failed attempts to persuade the protesters to end their rally, and with the rally continuing for over seven hours, did the police use tear gas and pepper spray to disperse the crowd at 23.00. They carried only riot shields and batons that they had been strictly instructed to use only in self-defense. The rally came to an end without the police using force against the people.

668. The Government further stated that requests for arrest warrants had been made to the court for key leaders of the protest for inflicting bodily harm against police officers carrying out their duty and that due process would be followed to ensure justice for both officers and protestors.

#### **Follow-up to previously transmitted communications**

669. On 16 March 2007, the Government replied to the communication sent by the Special Rapporteur on 11 September 2006 concerning Mr. Asda Jayanama, former Ambassador of Thailand to the United Nations, who was sued for defamation by the Deputy Prime Minister. In its response, the Government transmitted the information that the allegation submitted by the Special Rapporteur was accurate, but that Dr. Surakiart Sathirathai is no longer the Deputy Prime Minister of Thailand and no longer holds any political office. Mr. Asda has not lodged

any complaint on his behalf. The court of first instance would hear witness testimony on 6-9 March 2007 for the plaintiff's witnesses and on 13-16 March 2007 for the defendant's witnesses. The Government informed that it respects the right to freedom of opinion and expression, but that its exercise is subject to certain restrictions as stipulated by the International Covenant on Civil and Political Rights. By virtue of Section 327 of Thailand's Penal Code, defamation is punishable, with certain exceptions. The Government further emphasized that the right to freedom of opinion and expression is well protected under Thai laws and that the defamation suit is by no means a violation of human rights as alleged. It is up to the court of justice to decide whether this defamation lawsuit will succeed. **Follow-up to previously transmitted communications**

### **Observations**

670. The Special Rapporteur is grateful for the Government's response to his communications of 11 September 2006 and 21 August 2007. He regrets that he has not received a response to his communication of 16 March 2007.

### **Tunisia**

#### **Lettre d'allégations envoyée le 2 novembre 2007 conjointement avec la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats**

671. Les titulaires de mandats des procédures spéciales ont attiré l'attention du Gouvernement sur la situation de Me **Mohamed Abbou**, avocat, membre du Conseil national pour les libertés en Tunisie et de l'Association internationale de soutien aux prisonniers politiques. Me Abbou a été libéré le 25 juillet 2007 après 30 mois d'emprisonnement. Il a été l'objet de plusieurs communications envoyées par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme les 17 mars et 3 avril 2005, 12 mai et 16 juin 2006, et par le Rapporteur sur la torture et le Président-Rapporteur du Groupe de Travail sur la détention arbitraire les 11 novembre et 9 mars 2005 et 6 avril 2006. Selon les informations reçues, le 23 octobre 2007, la police de l'air et des frontières aurait interdit à Me Abbou de voyager vers le Caire où il devait se rendre afin de suivre le procès de M. Ibrahim Essa, éditeur-en-chef du journal indépendant *Aldostur*, qui devait se tenir le 24 octobre. La police aurait prétexté que Me Abbou étant en liberté conditionnelle, ne pourrait circuler librement.

672. Le 24 août 2007, Me Abbou aurait une fois de plus été empêché de voyager vers Londres où il devait participer à une émission sur la démocratie et les droits de l'homme dans les studios de la chaîne Al-Jazeera. En vertu de l'article 357 du Code de procédure pénale tunisien, la liberté de mouvement d'une personne en liberté conditionnelle ne peut être restreinte qu'au moment de sa libération, soit en l'assignant à résidence (art. 357(a)), soit en la plaçant d'office dans un service public ou une entreprise privée (art. 357(b)). Or, à aucun moment Me Abbou ne se serait vu signifier l'une ou l'autre de ces restrictions.

**Lettre d'allégations envoyée le 10 décembre 2007 conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats**

673. Les Rapporteurs spéciaux ont attiré l'attention du Gouvernement sur la situation de **Slim Boukhdir**, 39 ans, correspondant du journal panarabe basé à Londres « Al Quds Al Arabi » et du site internet de la chaîne de télévision satellitaire « Al-Arabiya ». Il publie aussi des articles sur plusieurs sites Internet dont Tunisnews et Kantara. Selon les informations reçues, M. Boukhdir devait se présenter au service compétent pour récupérer son passeport, dont il aurait été privé depuis 2004 et pour la remise duquel il aurait mené une grève de la faim pendant deux semaines jusqu'au 14 novembre 2007. Le 26 novembre, quand il se dirigeait au poste de police, il aurait subi un contrôle d'identité des passagers d'un taxi collectif reliant Sfax et il aurait été conduit au poste de police en état d'arrestation. Le 27 novembre, M. Boukhdir aurait été traduit devant le tribunal de Sakiet Ezzit (Sfax) et le 4 décembre 2007, le juge Hatem Ouarda, du tribunal cantonal de Sakiet Ezzit, aurait condamné Mr. Boukhdir à huit mois de prison pour « outrage à fonctionnaire dans l'exercice de ses fonctions », quatre mois pour « atteinte aux bonnes mœurs » et à verser cinq dinars d'amende pour « refus de présenter ses papiers d'identité ».

674. Selon les sources, le journaliste aurait de même fait état de mauvais traitements et de mauvaises conditions de détention mais le juge aurait refusé d'enregistrer sa plainte et d'en tenir compte. D'ailleurs, il aurait pu y avoir « vice de forme » pendant le procès, puisque le juge n'aurait pas voulu écouter les arguments de la défense et aurait auditionné les témoins à charge sans leur faire prêter serment. M. Boukhdir serait détenu depuis son interpellation le 26 novembre puisque le juge en charge du dossier aurait refusé de lui accorder la mise en liberté provisoire, et serait maintenu en détention jusqu'à la date du procès en appel.

**Suivi aux communications envoyées précédemment**

675. Le 2 mars 2007, le Gouvernement a répondu à l'appel urgent envoyé le 11 juillet 2006 par la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, au sujet de la situation de M. Ali Ben Salem. Le Gouvernement informe qu'après vérifications, il s'est révélé que la réunion en question s'est tenue normalement le 4 juillet 2006 en présence de plusieurs activistes et sous la direction de Madame Chloé Ponchelet Goldzman, représentante de l'ONG « The Fund for Global Human Rights ». A l'issue de cette réunion, M. Ali Ben Salem a même rendu public un communiqué de presse au sujet de cette réunion sans qu'il ne soit inquiété. Quant au cas de M. Ali Ben Salem, le Gouvernement précise que l'intéressé n'a cessé de propager des allégations dénuées de tout fondement ayant pour objectif de porter atteinte à l'image de la Tunisie, comme celles faisant état de « mauvais traitement de détenus » et « d'atteinte au Saint Coran<sup>2</sup> à la prison civile de Borj Erroumi (Bizerte) et véhiculées dans un communiqué diffusé par l'intéressé le 2 juin 2006. S'agissant des autres allégations dont M. Ali Ben Salem est l'auteur et suivant lesquelles il aurait été bousculé et son domicile encerclé par les policiers, elles relèvent de la même démarche.

## Observations

676. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à la communication du 11 juillet 2006. Il regrette ne pas avoir reçu de réponse pour les communications envoyées en 2007.

### Turkey

#### **Letter of allegations sent on 27 April 2007 jointly with the Special Rapporteur on the right to freedom of religion and belief**

677. The Special Rapporteurs brought to the attention of the Government information they had received regarding **three Christian employees of the Zirve publishing house** who distributed bibles in Malatya, a city in eastern Anatolia, and who on 18 April 2007 were found dead with their throats slit and their hands and legs bound. Allegedly, one man was still alive when found, was taken to the hospital but died later. Reportedly, one of the victims was the director of the publishing house. According to the information received, the Zirve publishing house prints bibles and Christian literature. Its employees had reportedly been the target of threats and a demonstration by nationalists accusing them of proselytism. Concern is expressed that these killings may be in connection with their freedom of expression and freedom of religion or belief.

#### **Response from the Government sent on 25 June 2007**

678. The Government indicated that the incident involving the **three Christian employees of the Zirve publishing house** has prompted a great reaction in all segments of the society in Turkey. The perpetrators of this crime were captured and brought to justice soon after the incident. Freedom of religious belief and conscience is firmly safeguarded by the Turkish Constitution and the relevant legislation. Equality before the law and the prohibition of all forms of discrimination are enshrined as fundamental principles of the Republic in the Turkish Constitution. The religious rights of non Muslim citizens are further protected in accordance with the Lausanne Peace Treaty. There are more than 300 places of worship belonging to non- Muslim communities, including 53 churches run by foreigners residing in Turkey. As of December 2006, 122 foreign clergymen have been registered with working permit to serve in places of worship.

679. The Government informed that the dissemination of religious beliefs is not prohibited under Turkish Law, contrary to the suggestions made in connection with the last incident. Indeed, preventing a person from disseminating or expressing their religious beliefs through use of force or threat constitutes an offence according to the Turkish Penal Code. The Government also sent an information note on the case. According to this note, it is reported that on 18 April 2007 the Directorate for Security of Malatya received a phone call from a person who reported that he was concerned about his friends working at the Zirve Publishing House and that he could not enter its premises as the door was not answered for a long time despite the fact that he heard noises coming from inside. The law enforcement officials immediately responded to the call and arrived at the premises of the Zirve Publishing House. While the officials were trying to break the lock of the door, a man was seen jumping from the balcony. The law enforcement officials, who later entered the flat, discovered three men lying on the floor with their hands and legs bound and seriously injured. A medical team was

immediately dispatched to the crime scene. Despite the necessary medical intervention, the German citizen Mr. Tilman Ekkehart Geske and Mr. Necati Aydin, lost their lives at the scene due to the serious injuries they had sustained as result of the attacks. The third victim of the assault, Mr. Ugur Yüksel, who was found alive, was transferred to the nearest hospital but could not be saved since he was heavily injured.

680. The five suspects, who were trying to escape, were apprehended by the law enforcement authorities at the crime scene together with the weapons used in the crimes. An investigation was immediately launched in connection with the murder. A total of 13 persons, 8 of whom had direct links with those apprehended at the crime scene, were detained for their suspected involvement in the incident. The four suspects were arrested on the charges of murder, accomplicing to murder, depriving a person of liberty as well as terrorist charges under the Anti-terror law No. 3713. They are currently in Malatya E- Type Prison. The fifth suspect, who jumped from the balcony, was arrested on 19 May 2007 and sent to the same prison after he received medical treatment in the hospital. Further eight persons were later released, facing trial for their suspected involvement in the incident. The investigation is still under way.

681. During the investigation, the families of the deceased reported to the authorities that they did not receive any threats prior to their relatives' murder and there was nothing to suggest that their lives were in danger. Close friends and business partners of the deceased, also confirmed in their statements to the authorities that to their knowledge the deceased did not face an apparent threat, otherwise they would have taken precaution both in their private and business lives and would have reported any threats to the relevant authorities, which was apparently not the case.

682. Upon the request for protection by the wife of Mr. Geske, the family has been offered protection by the law enforcement officials, who accompany their children to school. The house of the other deceased, Mr. Aydin, has also been provided with protection. The Zirve Publishing House is under 24-hour protection by the security forces. After this incident, the law enforcement agencies conducted an inquiry in Malatya in order to identify as to whether the non-Muslim community is facing any similar threat due to their religion or sect. As a result, neither a threat nor an application for protection was reported to the authorities, except for a priest, who was rendered a protection order upon his application solely based on the last incident.

683. Regarding compensation for the victims or their families to redress the damages or losses that they sustain as a result of serious crimes, the Government informs that no such compensation scheme exists. However, individuals are entitled to claim compensation before the courts for any pecuniary and non-pecuniary damages as a result of any crime as well as other injurious acts. Judicial assistance is provided for those who are in need. The administrative authorities are also liable for any negligence which may be attributed in such instances and can be sued for compensation.

**Letter of allegation sent on 9 November 2007 jointly with the Special Representative of the Secretary-General on human rights defenders**

684. The Special Rapporteur and the Special Representative brought to the attention of the Government information they had received regarding Mr **Ethem Acikalin**, President of the

Human Rights Association (Insan Haklari Dernegi - IHD), Mr **Mustafa Bagcicek**, Secretary General, and Mr **Hüseyin Beyaz**, Financial Secretary. According to the information received, on 7 June 2007, Mr Ethem Acikalin, Mr Mustafa Bagcicek, and Mr Hüseyin Beyaz were sentenced by the Adana Criminal Court n°1 to two years and eight months' imprisonment for "inciting hatred and hostility" and "praising crime and criminals" (Article 215 of the Criminal Code).

685. Mr Ethem Acikalin, Mr Mustafa Bagcicek, and Mr Hüseyin Beyaz organized a demonstration in 2005 criticizing the "Return to Life" military operations of December 2000 and calling for the prosecution of those responsible for the alleged violations connected to the operations. They also issued a press release on the occasion of the demonstration, criticizing the conditions of detention of Kurdish leader Abdullah Öcalan, who was reportedly being kept in solitary confinement. On the same day, the three men appealed their sentence before the Appeal Court in Ankara (Yargitay). They were reportedly due to remain free until the decision of the court, expected to be taken during the first semester of 2008. Concern was expressed that the sentencing of Mr Ethem Acikalin, Mr Mustafa Bagcicek, and Mr Hüseyin Beyaz may be linked to their peaceful activities in defence of human rights.

#### **Responses from the Government sent on 8 January 2008**

686. The Government stated that the subjects of the communication had been convicted of offenses against article 215 (praising a crime or criminal) and 216/1 (incitement to hatred and enmity) of the Turkish Penal Code. The government letter stated that a declaration distributed at the gathering on 18 December 2005 praised the ringleader of the terrorist organization PKK/KONGRA-GEL, Abdullah Öcalan, incited citizens of Kurdish origin to breed enmity against others and called on them to resort to violence in the context of the 'Return to Life' operation. Following their conviction on these charges, the aforementioned lodged an appeal with the Court of Cassation against the verdict of the First Court of Adana, and the appeal case was underway at time of writing.

#### **Letter of allegations sent on 21 November 2007**

687. The Special Rapporteur brought to the attention of the Government the situation of Mr. **Faruk Cakir**, editor-in-chief of the "Yeni Asya" newspaper, who was reportedly indicted on 25 July 2005 after his newspaper published articles claiming possible links between the attacks on the 2nd Chamber of the Council of State in Ankara in May 2006 and the discovery of a weapons arsenal in a house in Istanbul. In his indictment, Mr. Cakir, as editor-in-chief, was deemed responsible for the content of the articles, which were published as unsigned pieces. He was accused of violating Article 285 of the Penal Code, on violation of secrecy, and Article 11 of the Press Law, which defines criminal responsibility in press institutions. He allegedly faced up to 4.5 years in prison.

#### **Follow-up to previously transmitted communications**

688. In a letter dated 25 May 2007, the Government of Turkey responded to an urgent appeal sent by the Special Rapporteur jointly with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers on 5 April 2006, concerning remarks made by Ms. **Eren Keskin**, a member of the Human Rights Association (Insan Haklari Dernegi, IHD), alleging incidents of sexual

violence against women perpetrated by members of the Turkish Armed Forces. The letter stated that the Court considered if Me Keskin's comments fell within the limits of criticism as safeguarded in article 301(4) of the Turkish Penal Code. However, Ms Keskin's comments were found to be motivated by a desire to publicly denigrate the institution of the armed forces, her allegations were found to be baseless and she was accordingly fined 6000 Turkish Lira

689. On 4 April 2007, the Government replied to the urgent appeal sent by the Special Rapporteur on 16 June 2006 concerning the case of Ms. Perihan Mağden, novelist and columnist. In its reply, the Government transmitted the information that on 27 July 2006 the 2<sup>nd</sup> Penal Court of First Instance of Istanbul decided on the acquittal of Ms. Mağden on the charge of turning people against military service.

### **Observations**

690. The Special Rapporteur is grateful for the Government's responses to his communications.

## **Turkmenistan**

### **Letter of allegations sent on 2 January 2007**

691. The Special Rapporteur brought to the attention of the Government the situation of **Ms. Ogulsapar Muradova, Mr. Annakurban Amanklychev, Mr. Sapardurdy Khajiyev**, journalists and activists with the Turkmenistan Helsinki Foundation. It is reported that because of their alleged involvement in pro-democracy campaigns and in reporting about human rights violations, Mr. Amanklychkev was arrested on 16 June 2006, and Ms. Muradova and Mr. Khajiev on 18 June 2006, and were reported to be held incommunicado since then. According to information received, Ms. Ogulsapar Muradova, who also worked for Radio Free Europe/Radio Liberty, died in custody in September 2006. Mr. Annakurban Amanklychev and Mr. Sapardurdy Khajiyev were still detained at the time the communication was sent, and their health condition was reportedly worsening.

692. Their situation was the subject of a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 29 June 2006. A second joint urgent appeal, signed by the above-mentioned rapporteurs and the Special Rapporteur on torture, was sent on 24 July 2006.

### **Observations**

693. The Special Rapporteur regrets that he has not received a response to the communication mentioned above.

## Uganda

### Letter of allegations sent on 23 April 2007

694. The Special Rapporteur brought to the attention of the Government the situation of journalists **Sam Matekha**, working for Radio Simba, **Richard Ssemakula**, working with “Bukedde” newspaper, and **Charles Ssekajja**, working for Ddembe FM, who were allegedly injured by the police during a stand off at the High Court while covering a case involving suspected members of the People’s Redemption Army (PRA) on 1 March 2007. Several other journalists were reportedly beaten and prevented from taking pictures, while others had their equipment confiscated. It is reported that Chris Ahimbisibwe, working with the “New Vision” newspaper, was attacked by military personnel outside the Bushenyi court premises for taking a picture of a group of suspected members of the PRA.

### Observations

695. The Special Rapporteur regrets that he has not received a response to the communication mentioned above.

## Ukraine

### Letter of allegations sent on 17 August 2007

696. The Special Rapporteur brought to the attention of the Government the situation of **Mr. Artem Skoropadskiy**, a journalist of Russian citizenship working with the “Commerçant” newspaper. According to the information received, on 13 August 2007, Mr. Skoropadskiy wrote a story harshly criticizing the mayor of Kiev. The newspaper’s editorial office subsequently received a phone call from the City Hall, which complained about an alleged distortion of the mayor’s statement. In the evening on the same day, Mr. Skoropadskiy was attacked at the porch of his home by two unknown persons. Reportedly, the assailants did not say anything nor extorted money from the victim. A complaint of the assault was reportedly filled by Mr. Skoropadskiy with the police.

### Response from the Government sent on 8 November 2007

697. The Government informed that the Office of the Procurator-General of Ukraine has established that, on 14 August 2007, **Artem Kirillovich Skoropadsky** lodged a complaint with the Obolon district office of the Central Administration of the Ministry of Internal Affairs in Kiev to the effect that, on 13 August 2007, at the entrance to the apartment building in which he lives, an unidentified man struck him twice in the face with his hand. As a result of an investigation by the Obolon district militia office, on 20 September 2007 the institution of criminal proceedings was refused on the grounds of lack of evidence that a crime had been committed.

698. It was not possible to establish the existence or degree of severity of Mr. Skoropadsky’s bodily injuries because the victim refused to undergo a forensic medical examination. There is no evidence that suggests that the beating of Mr. Skoropadsky had anything to do with his professional activities. Mr. Skoropadsky did not appeal to the law enforcement authorities to ensure his physical safety.

699. Since the investigation that was conducted was not sufficient to clarify the matters referred to in Mr. Skoropadsky's complaint, the Office of the Prosecutor-General of Ukraine overturned the decision not to institute criminal proceedings. The case file has been sent to the procurator in Kiev for a further investigation.

700. In connection with the complaint that Russian citizen Artem Kirillovich Skoropadsky lodged with the Central Administration of the Ministry of Internal Affairs of Ukraine on 14 August 2007, the Ministry of Internal Affairs wishes to state the following. According to Mr. Skoropadsky's statement, it was established that, on 13 August 2007, after his midday meal he went out until evening and consumed a large quantity of alcoholic beverages. At approximately 8 p.m., having taken the metro, he arrived at Obolon metro station and headed home. On the way, he bought beer from a stall, entered the building and began to walk upstairs to the fifth floor. Between the third and fourth floors he felt a blow to his face and saw an unidentified young man. Mr. Skoropadsky, in turn, kicked him, after which they began to fight. A moment later, the unidentified man ran downstairs and disappeared, and the complainant went to his apartment. According to the results of the investigation of Mr. Skoropadsky's complaint, and on the basis of the evidence that has been collected, the Obolon district office of the Central Administration of the Ministry of Internal Affairs in Kiev issued Decision No. 8171 in which it refused to institute criminal proceedings on the basis of article 6, paragraph 2, of the Code of Criminal Procedure of Ukraine. The complainant was informed of the decision, and the negative decision was sent to the Obolon district procurator's office in Kiev for verification of its legality. On 30 August 2007, the district procurator's office overturned the decision not to institute criminal proceedings and issued instructions that a further investigation should be conducted until 25 September 2007.

701. On 30 August 2007, Mr. Skoropadsky was summoned to the Central Administration of the Ministry of Internal Affairs in Kiev where he was given an explanation of the procedure for considering his complaint and the reasons for taking such a decision, and he was also informed of the procedure for lodging an appeal. Mr. Skoropadsky confirmed in writing that he had no grievances against the militia officers. From his words it became clear that, on 15 August 2007, he resigned from the editorial office of the newspaper Kommersant, and that he does not associate the incident with the publication of his article about the mayor of Kiev, Mr. L. Chernovetsky. He will return to Moscow in the near future. An internal investigation did not find that the officials of the district office of the Central Administration of the Ministry of Internal Affairs had responded to Mr. Skoropadsky's complaint in an appropriate manner.

## **Observations**

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

### **United Arab Emirates**

**Urgent appeal sent on 21 February 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the question of torture**

703. The Special Procedures mandate holders brought to the attention of the Government the case of **Abdullah Sultan Sabihat Al Alili**, aged 46, agricultural engineer and civil servant

with the Ministry of Agriculture of Ajman Emirate, resident at Ajman. According to the information received, Mr. Abdullah Sultan Sabihat Al Alili was arrested without warrant by the State Security Forces (Amn Al dawla) on 15 February 2007 at his residence. His home was searched and his personal documentation and library confiscated. Since then neither his family nor his lawyer have received any information about his whereabouts or the reason for his arrest. Mr. Al Alili had been in detention between 8 August 2005 and 25 October 2005. No arrest warrant had been issued, he was held in secret detention and was never brought before a court. During that time he was interrogated about his political opinions and his criticism related to the state of democracy in the country. He was allegedly repeatedly beaten by the State Security Forces. In view of his incommunicado detention, concern was expressed for his physical and mental integrity.

### **Observations**

704. The Special Rapporteur regrets that he has not received a response to the communication mentioned above.

### **United States of America**

#### **Letter of allegations sent on 9 March 2007**

705. The Special Rapporteur brought to the attention of the Government information regarding a raid that was reportedly carried out on 19 February 2007 by US military units in the **Baghdad offices of the Iraq Syndicate of Journalists**. According to information received, US soldiers broke into the offices of the Iraq Syndicate of Journalists, destroying furniture, ransacking offices and arresting a number of security guards. The soldiers allegedly confiscated computers and other small electric equipment. It is reported that the syndicate, which recently received formal recognition from the Iraqi Government, has been very active in supporting the families of media professionals killed since the beginning of the conflict, and drawing attention to the increasing climate of impunity.

#### **Urgent appeal sent on 24 August 2007 jointly with the Special Rapporteur on the right to the highest standard of health and the Special Rapporteur on the question of torture**

706. The Special Procedures mandate holders brought to the attention of the Government information regarding **Samil Al-Haj**, a Sudanese cameraman who worked for Al-Jazeera and who has been detained in Guantanamo since June 2002. According to the information received, Samil Al-Haj was arrested by Pakistani security forces at the Afghan border in December 2001 and transferred to US military custody in the Guantanamo Bay military base in June 2002, where he has remained in detention ever since. Reportedly, Mr. Al-Haj began a hunger strike in December 2006 to protest against his detention. According to his lawyer, he has already lost 18 kilograms and is suffering from intestinal problems. It is alleged that Mr. Al-Haj's hunger strike has been followed by reprisals from medical and military personnel, including punishment by placing him in more painful chains. It is also reported that he was force-fed. Allegedly, medical personnel have inflicted injuries on Mr. Al-Haj and other detainees on hunger strike by using large-diameter tubes or by inserting them into the lungs rather than the stomach. Four prisoners have allegedly died since June 2006 as a result of hunger-strikes and force-feeding. According to reports, the mental condition of Mr Samil Al-

Haj has deteriorated and he exhibits signs of anxiety and paranoia attacks. At present, no charges have been brought against Mr. Al-Haj.

### **Observations**

707. The Special Rapporteur regrets that he has not received a response to the communications mentioned above.

## **Uzbekistan**

### **Urgent appeal sent on 23 April 2007 jointly with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers**

708. The Special Procedures mandate holders brought to the attention of the Government information regarding Ms **Umida Niyazova**, a member of Veritas, an unregistered non-governmental organization which works for the protection of human rights in Uzbekistan. Ms Niyazova also works as a journalist for the Central Asia website Oasis, a project of the Moscow-based media watchdog Centre for Journalism in Extreme Situations and as a translator for Human Rights Watch in Tashkent. Ms Niyazova was included in a communication sent by the Special Representative on 25 January and 1 February 2007.

709. According to new information received, on 22 January 2007, Ms Niyazova was arrested in Uzbekistan whilst crossing the Uzbek-Kyrgyz border. She was reportedly detained in Andijan, before being transported to Tashkent four days later. Ms Niyazova was denied access to her lawyer during this period. According to reports, Ms Niyazova remained in detention at Tashkent prison where she was awaiting trial on charges of 'illegal border crossing' and 'smuggling subversive literature'. If charged, Ms Niyazova could face up to ten years in prison. On Friday 13 April 2007, prosecutors issued a further charge for alleged 'distribution of materials and threatening national security by using foreign financial aid'. This latest charge carried up to 15 years in prison along with the confiscation of property.

710. Ms Niyazova had reportedly been subjected to daily interrogations of up to 15 hours whilst in detention and slept three to four hours a night. Family who had visited Ms Niyazova claimed that she had lost considerable weight and that loud music was constantly played while she was in her cell. Concern was expressed that the arrest and continued detention of Ms Umida Niyazova formed part of an ongoing campaign against human rights defenders in Uzbekistan and that the aforementioned events may be an attempt to prevent her from carrying out her legitimate work in defense of human rights. Concern was also expressed at reports that she was being detained in poor conditions and that her health was deteriorating as a result.

### **Response from the Government sent on 4 May 2007**

711. The Government transmitted a press release concerning the case of Ms Niyazova. The press release stated that, on 1 May 2007, Ms Niyazova had been convicted on three charges of smuggling, illegal border crossing and production and dissemination of materials containing threat to public security and public order. The release further stated that the court hearings had

been open and attended by members of Human Rights Watch and other non-governmental organizations. Ms Niyazova was sentenced to seven years imprisonment.

712. The statement added that in the course of the investigation of the case, it had emerged that Ms Niyazova had been engaged in financing various unregistered non-governmental organizations operating in Uzbekistan and that she had received this funding from various foreign diplomatic missions accredited in the country. The press release stated that this constituted financing of illegal organizations and that according to international law, this should be considered as an attempt to interfere in the internal affairs of a sovereign state. This issue was further addressed by the Uzbek government in a letter dated 28 June 2007. This letter detailed the amounts and origin of funding given to non-governmental organizations, which in the view of the government was intended to finance and unite the various 'so-called human rights' organizations and associations illegally operating in Uzbekistan.

**Urgent appeal sent on 9 May 2007 jointly with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers**

713. The Special Procedures mandate holders brought to the attention of the Government information regarding Ms **Gulbahor Turayeva**, human rights defender and pathologist from Andijan. According to information received, on 25 April 2007, Ms Turayeva was sentenced to six years in prison by the Andijan Regional Court on charges of alleged slander and the production and distribution of literature deemed threatening to public order. Ms Turayeva was denied access to a defense lawyer of her choice throughout her detention and trial.

714. According to reports, Ms Turayeva was arrested on 14 January 2007 by Uzbek customs officers, whilst crossing the Uzbek-Kyrgyz border at the Dustlik post in Andijan, for carrying press material published by the opposition Erk party in her bag. Ms Turayeva was subsequently detained at Andijan Region customs department before being transferred to the local office of the National Security Service detention centre on 16 January 2007. Ms Turayeva was currently being detained at the National Security Service Centre in Andijan. Concern was expressed that the afore-mentioned events are related to Ms Turayeva's work in defence of human rights and that her arrest and detention may form part of a pattern of harassment of human rights defenders in Uzbekistan.

**Response from the Government sent on 3 July 2007**

715. The Government informed that Ms. Turayeva had been found guilty of committing the following offences: In April 2005, Ms. Turayeva established and headed the unofficial organization Animakor under the pretext of providing legal assistance to doctors and patients. Through this organization, she engaged in the dissemination, in the mass media, of slanderous information that had a negative impact on social stability. In such information, Ms. Turayeva exaggerated a number of shortcomings in the work of health-care institutions. In addition, she disseminated, on Internet pages, unfounded information about terrorist acts committed in Andijan on 13 May 2005, thereby spreading panic among the population. In January 2007, Ms. Turayeva, for a large sum of money, travelled to Osh in Kyrgyzstan in order to obtain literature containing an open call for the overthrow of the existing constitutional order of Uzbekistan and for the violation of the Republic's territorial integrity. This literature was to

be disseminated in Uzbekistan. On her return to Uzbekistan, she was arrested at the Dustlik customs checkpoint.

716. In the view of the government, Ms. Turayeva's guilt had been proven by her confessions and repentance for her acts at her trial, by the testimony of the witnesses G. Saypirov, Y. Isakov, A. Oripov, M. Tukhtasinov, I. Yuldashev and S. Saydakhmetov, by the findings of a comprehensive forensic psychological, philosophical, philological and religious examination and by other evidence. The pretrial investigation and trial were conducted in accordance with the Code of Criminal Procedure of Uzbekistan. The accusations were discussed and the evidence was correctly assessed. The letter further stated that there was no indication in the case file that law enforcement agencies exerted any physical or psychological pressure on Ms. Turayeva during the investigation. The materials of the criminal case showed that, from the moment that Ms. Turayeva was arrested as a suspect on 14 January 2007, all investigative measures with her participation were conducted in the presence of the lawyer O. Matyakubova.

717. On 17 January 2007, Ms. Turayeva requested that Ms. Matyakubova be replaced by the lawyer D. Botiraliyev; on 22 January 2007, she requested that Mr. Botiraliyev be replaced by the lawyer A. Usmanov. All of her requests were met and all investigative measures were conducted in the presence of the lawyers D. Botiraliyev and A. Usmanov. The preliminary investigation of Ms. Turayeva's case was conducted with the participation of a lawyer, in whose presence the prisoner stated that she had testified of her own free will and that she had not been subjected to any pressure. During the trial, Ms. Turayeva also confirmed that no prohibited methods had been used against her during the pretrial investigation. Since the testimony given by Ms. Turayeva during the pretrial investigation coincided with the evidence assembled, the court found her testimony plausible.

718. In accordance with article 57 of the Criminal Code (Mitigation of sentence), the court sentenced Ms. Turayeva to a fine in the amount of 648,000 sum. In accordance with article 59 (Sentences in the case of the commission of multiple crimes and multiple convictions) and 61 (Rules for calculating sentences in the case of multiple convictions), and bearing in mind the conviction of 24 April 2007, the court, on the basis of all the offences committed by Ms. Turayeva, on 7 May 2007 handed down the combined sentence of six years' deprivation of liberty and a fine in the amount of 648,000 sum. On 8 May 2007, Ms. Turayeva filed appeals against both court decisions. The appeals were considered by the appellate division of the Andijan provincial criminal court. On 12 June 2007, the appellate court amended the court sentences of 24 April and 7 May 2007, applying article 72 (Suspended sentence) of the Criminal Code. Ms. Turayeva's sentence was changed to six years' deprivation of liberty, suspended, with three years' probation, and a fine of 648,000 sum. Ms. Turayeva was released from custody in the courtroom.

#### **Urgent appeal sent on 15 August 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention**

719. On 15 August 2007, the Special Rapporteur sent jointly with the Working Group on arbitrary detention an urgent appeal to the Government concerning **Mr Jamshid Karimov**, a freelance journalist who previously worked for the Institute of War and Peace Reporting, and nephew to President Islam Karimov. According to the information received Mr Jamshid Karimov has been held against his will in a psychiatric hospital in Samarkand since

September 2006. It is reported that two weeks after his compulsory admittance upon a court order in Jizzak, it became apparent that he had been forcibly admitted there. His coerced stay has been extended by a further six months subject to a panel decision in March 2007. The Governor of Jizzak, Mr Ubaydulla Yamankulov, and officials from the National Security Bureau advised Mr Jamshid Karimov in August 2005 to leave the region and not return until after the celebration of the Uzbek independence day, because his presence was considered as interfering with the festivities. Prior to his detention, Mr Jamshid Karimov, who is allegedly an outspoken critic of the Government, had been publishing articles on a website reporting about allegations of local government corruption and the plight of peasants in the Jizzak region. Mr Karimov's health is reportedly deteriorating because of the psychotropic drugs he is being administered and the harassment he is reportedly being subjected to in the psychiatric institution: he is suffering from a memory loss and from a partial loss of vision and has difficulties to concentrate. The Special Rapporteur expressed concern that the detention of Mr Karimov might solely be connected to his reportedly legitimate exercise of his right to freedom of opinion and expression. Further concerns are expressed as regards his physical and mental integrity.

### **Follow-up to previously transmitted communications**

720. On 26 January 2007, the Government replied to the communication of 18 January 2006 concerning Mr. Saidjahon Zaynabitdinov, member of the Human Rights Group in Andijan, arrested on 21 May 2005 and held incommunicado. The government transmitted the following information. Mr. Zaynabitdinov's reports were intended to create panic among the population and foster a negative attitude towards the authorities and constitutional system of Uzbekistan. Mr. Zaynabitdinov's aims were confirmed by tape recordings and also by forensic, psychological, philosophical and religious and philological expert examinations. On 21 May 2005, during a customs inspection at the Dustlik crossing point on Uzbekistan's border with Kyrgyzstan, Mr. Zaynabitdinov was found to be in possession of materials the printing and dissemination of which are prohibited and which pose a threat to the public order and the country's security. By the verdict of the Tashkent city court of 5 January 2005 [sic], Mr. Zaynabitdinov was sentenced to seven years' deprivation of liberty under article 139, paragraph (a) and (d) (Defamation with aggravating circumstances), article 159, paragraph 3 (b) and (c) (Attacks against the constitutional order of the Republic of Uzbekistan committed by an organized group or in its interests), article 244-1, paragraph 3 (a) and (c) (Preparation or dissemination of materials constituting a threat to public safety and public order, committed by prior conspiracy or by a group of persons, with the use of financial or other material assistance received from religious organizations as well as from foreign States and nationals) and article 244-2 (Establishing, leading or participating in religious extremist, separatist, fundamentalist or other prohibited organizations), paragraph 1, of the Criminal Code. The pre-trial investigation and judicial proceedings were conducted in accordance with national legislation and international norms.

### **Observations**

721. The Special Rapporteur is grateful for the Government's response to the communications of 18 January 2006, 23 April 2007 and 9 May 2007. He regrets that he has not received a response to his communication of 15 August 2007.

### **Venezuela (Bolivarian Republic of)**

#### **Llamamiento urgente enviado el 1 de marzo de 2007 con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos**

722. El Relator Especial y la Representante Especial enviaron un llamamiento urgente en relación con el Sr. **José Luís Urbano**, presidente de Pro-Defensa del Derecho a la Educación, una organización no-gubernamental que se dedica a la promoción del derecho a la educación en Venezuela. De acuerdo con la información recibida, el 10 de febrero de 2007, cuando el Sr. Urbano y su esposa se dirigían en coche a su casa en Barcelona, en el estado septentrional de Anzoátegui, un coche Mitsubishi negro con dos hombres se paró junto a ellos. Bajándose del vehículo, uno de los individuos gritó “métele, es el tipo de Pro-defensa” y el otro introdujo el arma por la ventana y disparó al Sr. Urbano, quien resultó herido en el abdomen. Según los informes, los atacantes siguieron al Sr. Urbano y su esposa cuando se dirigían al hospital. Gracias al Defensor del Pueblo, el Sr. Urbano habría gozado de protección policial durante su estancia en el hospital. Sin embargo, dicha protección parece haber cesado el 20 de febrero de 2007, a pesar de que la esposa del Sr. Urbano habría denunciado oficialmente el ataque ante la policía y ante la Defensoría del Pueblo el día anterior.

723. El 9 de febrero de 2007, Pro-Defensa del Derecho a la Educación habría ofrecido una rueda de prensa durante la cual habría denunciado la deficiente calidad de la educación proporcionada a los menores del estado de Anzoátegui y el cobro sumas de dinero por la educación, que es gratuita. Ese mismo día, se alega que el Sr. Urbano recibió una llamada telefónica amenazándole con que algo le sucedería si no dejaba su actividad. Se temía que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Organización Pro-Defensa de el Derecho a la Educación presidida por el Sr. Urbano y se expresaba profunda preocupación por su seguridad e integridad física así como la del resto de miembros de dicha organización.

#### **Respuesta del Gobierno enviada el 28 de junio del 2007**

724. La respuesta del Gobierno notó que la información provenía de la Fiscalía General de la Republica Bolivariana de Venezuela, mediante comunicación fechada el día 20 de junio de 2007. Se indicó que por la presente investigación fue comisionada la Fiscalía Segunda del Ministerio Publico de la Circunscripción Judicial del Estado Anzoátegui, a cargo de la abogada Carmen Brito.

725. Asimismo las diligencias adelantadas por la Fiscalía Segunda eran: Acta de Entrevista al Sr. Urbano el 18 de mayo de 2007, y solicitud del Cuerpo de Investigaciones Científicas, Penales y Criminalísticas, del resultado del Examen Medico Legal Practicado a la victima; La causa se encontraba en Fase Preparatoria. Se indicó que en cuanto a las medidas de protección, la Fiscalía Segunda del Ministerio Publico de la Circunscripción Judicial del Estado Anzoátegui, el 1 de marzo de 2007, había solicitado la tutela correspondiente ante el Juzgado Quinto de Primera Instancia en Funciones de Control del Circuito Judicial Penal del referido Estado, acordándose la medida de vigilancia policial en la zona donde reside el Sr. Urbano; habiendo designado el Instituto Autónomo de Policía del Municipio Bolívar para ejecutarla.

### **Carta de alegaciones enviada el 30 de mayo de 2007**

726. El Relator Especial transmitió a la atención del Gobierno la información recibida en relación con el anuncio por el Gobierno venezolano de la decisión de no renovar la concesión de la cadena televisiva Radio Caracas Televisión (RCTV), que vence el 28 de mayo de 2007. Según parece, RCTV, fundada en 1953, es conocida por sus editoriales de oposición y crítica al gobierno. Parece ser que la decisión del gobierno estaría basada en cargos políticos graves en contra de RCTV. Se teme que la medida de no renovación de la licencia afecte directamente al pluralismo de medios de comunicación en Venezuela, menoscabando particularmente los derechos de libertad de opinión y expresión.

### **Llamamiento urgente enviado el 20 de noviembre de 2007 con el Relator Especial sobre la independencia de magistrados y abogados y la Representante Especial del Secretario-General para los defensores de los derechos humanos**

727. Los titulares de mandato de procedimientos especiales enviaron un llamamiento urgente en relación con la reforma de la **Constitución de la República Bolivariana de Venezuela**, aprobada el 3 de noviembre de 2007 por la Asamblea Nacional de la República Bolivariana de Venezuela, y que sería sometida a referéndum a principio de diciembre del 2007. Por un lado, querían destacar que, dentro de la reforma propuesta, hay importantes avances para los derechos humanos como, por ejemplo, la extensión de la prohibición, contenida en el artículo 21 de la Constitución a la discriminación por razones de salud y de orientación sexual, así como el reconocimiento al valor de la diversidad de culturas, contenido en el artículo 100 de la Constitución. Por otro lado, se había recibido información sobre los cambios sugeridos y aprobados por la Asamblea Nacional en los artículos 337, 338 y 339 referidos al estado de excepción. Según las informaciones recibidas, la reforma aprobada por la Asamblea Nacional eliminaría la obligación de presentar el decreto que declare el estado de excepción ante la Sala Constitucional del Tribunal Supremo de Justicia para que se pronuncie sobre su constitucionalidad.

728. Se habrían suprimido los límites temporales que la Constitución vigente establece para los estados de excepción. Además, la reforma eliminaría la exigencia expresa de que el decreto que declare el estado de excepción cumpla con las garantías establecidas en el Pacto Internacional de Derechos Civiles y Políticos y en la Convención Americana sobre Derechos Humanos. Asimismo, durante un estado de excepción, podrían suspenderse algunas garantías consagradas en la Constitución vigente, en particular el acceso a la información. Si bien el nuevo texto incluye, en el listado de derechos humanos intangibles, al derecho a la defensa, a la integridad personal, a ser juzgado o juzgada por sus jueces naturales y a no ser condenado o condenada a penas que excedan los treinta años, así como la prohibición a la desaparición forzosa; no menciona en forma expresa, como así lo hace el texto vigente, el derecho a un debido proceso.

729. Asimismo, dicha propuesta de reforma cambiaría las disposiciones vigentes sobre la remoción de los magistrados del Tribunal Supremo de Justicia (Artículo 265). Mientras la Constitución en vigor prevé que dichos magistrados pueden ser removidos por la Asamblea Nacional mediante una mayoría calificada de las dos terceras partes de sus integrantes, la reforma prevé que su remoción puede ser votada por solo la mayoría de los integrantes de la Asamblea Nacional. Esta disposición fragiliza la posición de los magistrado y vulnera su

independencia respecto al poder legislativo. Según las informaciones recibidas, dicha propuesta de reforma cambiaría las disposiciones vigentes sobre libertad de asociación, prohibiendo a las “asociaciones con fines políticos y que participen en el proceso electoral” recibir fondos provenientes de fuentes internacionales, tanto públicas como privadas. La definición de “asociaciones con fines políticos” podría dar lugar a incertidumbres legales que afectarían directamente a las asociaciones de defensa de los derechos humanos y otras organizaciones no-gubernamentales. De esta manera, se les impediría recibir fondos internacionales de los que, en muchos casos, dependen.

730. Los titulares de mandato expresaron su preocupación por la seguridad de los periodistas y los participantes en las manifestaciones que se suceden entre partidarios y opositores a la mencionada reforma constitucional. En este sentido, querían señalar a la atención de su Gobierno la información que hemos recibido sobre varios incidentes que han tenido lugar recientemente. Así, el 25 de octubre de 2007, Paulina Moreno, de la cadena pública Ávila televisión, habría resultado herida por un explosivo cuando cubría un foro en el Instituto Pedagógico de Caracas, y un camarógrafo del mismo medio habría sido agredido por opositores a la reforma. El 7 de noviembre de 2007, varios estudiantes habrían resultado heridos de bala por varios desconocidos armados en el campus de la Universidad Central de Venezuela, en Caracas, durante una manifestación de oposición a la reforma.

#### **Respuesta del Gobierno enviada el 30 de noviembre de 2007**

731. El gobierno venezolano respondió a la comunicación arriba. El gobierno lamentó que, a su juicio, los titulares de mandato no respetaron las pautas de conducto al no darle al Estado venezolano la oportunidad de formular sus observaciones sobre las evaluaciones hechas.

#### **Seguimiento de comunicaciones transmitidas previamente**

732. Por carta con fecha 30 de abril de 2007, el Gobierno transmitió la siguiente información en respuesta a la comunicación del 8 de septiembre de 2004 en relación con el homicidio del Sr. Mauro del Valle Marcano Ramos. Las Fiscalías Séptima y Quincuagésima del Ministerio Público de la Circunscripción Judicial del Estado Monagas se encuentran a cargo de la causa. El 7 de julio de 2005, se solicitó orden de aprehensión en contra de 5 individuos cuyos nombres son conocidos por el Relator Especial. Se solicitó orden de aprehensión en contra de un sexto individuo el 26 de julio de 2005, en conformidad con el artículo 25 del Código Orgánico Procesal Penal. El 24 de julio de 2005, se llevó a cabo en la sede del Juzgado Segundo de Primera Instancia en Funciones de Control del Circuito Judicial Penal del Estado Monagas, la Audiencia de Presentación de uno de los imputados, a quien el tribunal le decretó Medida de Privación Judicial Preventiva de Libertad. Por considerar que el individuo había aportado una serie de datos útiles para aclarar los hechos que se investigan, el 9 de diciembre de 2005 fueron decretadas Medidas Cautelares Sustitutivas de Libertad, de acuerdo a lo pautado en el artículo 256. El 30 de agosto de 2006, el Ministerio Público tuvo conocimiento que uno de los ciudadanos se encontraba detenido en Trinidad y Tobago. Se iniciaron las gestiones legales necesarias para hacer efectiva la deportación de lo mismo. En reuniones con autoridades de Trinidad y Tobago, se explicó la situación procesal pendiente de dicho individuo y la necesidad que el mismo respondiera ante el sistema de Justicia de Venezuela. Como el individuo se encontraba sometido a investigación de naturaleza penal en Trinidad y Tobago, resulta necesario esperar la determinación en dicho procedimiento para luego proceder a la deportación del mismo.

## Observaciones

733. El Relator Especial agradece al Gobierno por sus respuestas a las comunicaciones del 8 de septiembre de 2004, 1 de marzo de 2007 y 20 de noviembre de 2007. El Relator lamenta que no haya recibido respuesta a sua carta del 30 de mayo de 2007.

### Viet Nam

#### **Urgent appeal sent on 23 February 2007 jointly with the Chairperson-Rapporeur of the Working Group on arbitrary detention and the Special Rapporteur on the right to freedom of religion or belief**

734. The Special Procedures mandate holders brought to the attention of the Government information regarding **Father Nguyen Van Ly**, a Catholic priest and one of the editors of the underground magazine “Tu do Ngôn luan” (Free Speech), who was reportedly arrested on the evening of 19 February 2007 in the central city of Hue, during an administrative check at the archdiocesan building where he lives. Around 60 police officers, reportedly led by a colonel who specialises in religious matters, cut phone lines and searched the entire building, breaking open a cupboard which Ly refused to unlock. They took away six computers and mobile phones and many documents.

735. It was reported that Father Nguyen Van Ly is a member of the pro-democracy movement called Bloc 8406. He spent several years in prison in 1977 and 1978 and from 1983 to 1992 as a result of his activities in support of freedoms of opinion, expression and religion. He was sentenced again in October 2001 to 15 years in prison for activities linked to the defence of free speech. The sentence was commuted several times and he finally left prison in February 2004. The Special Rapporteur on freedom of religion or belief has already sent two communications to the Government of Viet Nam regarding Father Nguyen Van Ly (see E/CN.4/1993/62, para. 68 and A/56/253, para. 77).

736. Two others editors of “Tu do Ngôn luan”, **Father Chan Tin** and **Father Phan Van Loi**, were also put under house arrest. No information was provided about the reasons for their detention.

#### **Replies from the Government sent on 18 May 2007**

737. The Government emphasized that the State of Vietnam always respects the rights to freedom and democracy and that no one is detained on the ground of political views or religions. Only those who violate laws are handled with, conforming to Vietnamese and international laws.

738. Concerning the case of Nguyen Van Ly, the Government indicated that he in 1977 was dismissed as General Bishop’s Secretary by the Archbishop. In 1981, late Archbishop Nguyen Kim Dien issued a decision to deprive Nguyen Van Ly of his right to do missionary work because of his self-indulgent lifestyle, violating the Christian rules and damaging the credibility of the Church. In 1983, Nguyen Van Ly was convicted by the provincial People’s Court of the Binh Tri Thien Province to 10 years of imprisonment for his acts of undermining the national unity bloc and provoking serious public disorder. On 17 May 2001, Nguyen Van

Ly was arrested for repeating acts in violation of the law. He was publicly tried on 19 October 2001 by the People's court of the Thua Thien-Thue Province and sentenced to 15 years of imprisonment and another 5 years of administrative probation following the completion of his jail term. The arrest and trial were conducted in full accordance with the law.

739. On 16 July 2003, the People's Court of the Ha-Nam Province, in view of Nguyen Van Ly's repentance and redemption, reduced Ly's sentence from 15 to 10 years of imprisonment. In a letter to the US Congress dated 27 June 2003, Nguyen Van Ly had admitted that the Vietnamese Government never suppressed religion and that he was rightly imprisoned because he had committed crimes against the law which could result in creating conditions unfavourable for the common cause of building national unity. Nguyen Van Ly was released in January 2005 under the special amnesty order by the State President of Vietnam, but he still had to serve his administrative probation for another 5 years.

740. On 19 February 2007, Nguyen Van Ly was arrested again for violation of the probation sentence and other Vietnamese laws, such as inciting complaints, causing social and security disorders and establishing illegal organizations. On 30 March 2007, he was publicly tried by the People's Court of the Thua Thien Hue Province in full and strict observance of legal proceedings stipulated in the Criminal Procedures Code. The State of Vietnam allowed him to have his defence counsel but he refused to do so. He showed aggressive behaviour, defied the law, not fully respected the Court (e.g. demolishing the bar with his foot) and libelled the Court. Not any international or national legal standard could allow such deeds. Therefore, the authorities had to apply the necessary measures to restore the order of the Court. Nguyen Van Ly was sentenced to 8 years of imprisonment and 5 years of administrative probation in accordance with Article 88 of the Penal Code.

741. Regarding Mr. Chan Tin, born 15 November 1920, a priest of the Messiah, Ho Chi Minh City and Mr. Phan Van Loi, born 9 March 1951, living in Hue city, the Government stated that these are Vietnamese citizens, who fully enjoy all rights of freedom like other Vietnamese citizens. The information that they "were put under house arrest" is completely ungrounded.

## **Observations**

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

## **Yemen**

### **Urgent appeal sent on 15 August 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture**

743. The Special Procedures mandate holders brought to the attention of the Government information regarding **Mr 'Abbas al-'Assal**, aged 42, and **Mr Nasser al-'Awlaqi**, aged about 40. According to the allegations received, Mr 'Abbas al-'Assal and Mr Nasser al-'Awlaqi were arrested on 2 August 2007 by security forces together with other retired soldiers, including Brigadier Nasser al-Nouba and Mr Shallal Ali Shaya, who were released on 7 August. The arrests were carried out following a protest in form of a "sit-in" at Liberty Square in central Aden. The protesters intended to voice their concern that their pension

payments had either not been made or been significantly delayed. Security forces dispersed the protesters using tear gas, water cannons and live ammunition. Several persons were injured and it is feared that one protester was killed.

744. Mr ‘Abbas al-‘Assal and Mr Nasser al-‘Awlaqi continued to be held in incommunicado detention at Sheikh Osman police station in Aden without access to family members or lawyers at the time the communication was sent. The reason for their arrests and continued detention and whether they have been charged with any offence is still unknown. In view of the incommunicado detention of Mr ‘Abbas al-‘Assal and Mr Nasser al-‘Awlaqi, concern is expressed that they might be at risk of ill-treatment. Further concern is expressed that their arrests and continued detention might solely be connected to their exercise of their right to freedom of opinion and expression and freedom of assembly.

**Letter of allegations sent on 4 September 2007 jointly with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the question of torture**

745. The Special Procedures mandate holders brought to the attention of the Government information regarding Mr. **Abdel Karim al-Khaiwani**, former editor of the online newspaper Al-Shoura. Mr. al-Khaiwani is a harsh critic of the government’s policies, particularly in the fight against rebels in Saada. He also wrote recently an article published in Al-Needa'a which highlighted human rights violations in Yemeni prisons. According to the information received on 27 August 2007, Mr. al-Khaiwani was abducted by six gunmen wearing civilian clothes outside the offices of the weekly newspaper Al-Nedaa in central Sana’a. It appeared that at least one of his abductors was a Yemeni security service officer. Mr. al-Khaiwani was then blindfolded and forced into a vehicle. On the way to a remote area in the outskirts of Sanaa he was interrogated, kicked and beaten in his face, which caused an injury to his eye. The gunmen also put the fingers of Mr. al-Khaiwani’s writing hand into a metal finger cutter. Upon arrival he was allegedly beaten again on the face and chest.

746. The gunmen threatened to kill Mr. al-Khaiwani and his family if he continued to write “words harmful to government officials or to national unity”. They also confiscated his passport, identification card and cell phone before abandoning him, still blindfolded. Mr. al-Khaiwani’s home had been raided in June 2007, when he was last detained by the security services. According to reports, since 2005 six other journalists have been the target of assaults that were believed to be politically motivated. Serious concern was expressed that the aforementioned events may have been directly related to Mr al-Khaiwani's peaceful activities in defence of human rights in Yemen.

**Urgent appeal sent on 1 November 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the question of torture**

747. The Special Procedures mandate holders brought to the attention of the Government information regarding **Mr. Muhammad Ahmed ‘Abdullah al-Sha’wi**. According to the information received, on 12 October 2007, Mr. Muhammad Ahmed ‘Abdullah al-Sha’wi was arrested at the airport in Sana’a by officers from the National Security forces. Mr. ‘Abdullah al-Sha’wi had just returned from receiving medical treatment in Egypt, and still needed regular medical checkups. Since his arrest he was held in incommunicado detention and his

whereabouts were unknown at the time the communication was sent. The arrest of Mr. Abdullah al-Sha'wi may be directly connected with the articles he has written for the weekly newspaper Attariq, based in the city of Aden, in which he has criticized the authorities in Yemen. With a view to the fact that Mr. Muhammad Ahmed 'Abdullah al-Sha'wi was being held incommunicado at an unknown place, concern was expressed that he might be at risk of torture or ill-treatment. Further concern was expressed that his arrests and continued detention might solely be connected to his exercise of the right to freedom of opinion and expression.

### **Observations**

748. The Special Rapporteur regrets that at the time of the preparation of this report he had not received a response to his communications.

## **Zimbabwe**

### **Letter of allegations sent on 19 January 2007 jointly with the Special Rapporteur on the question of torture**

749. The Special Procedures mandate holders brought to the attention of the Government information regarding **Nyamutata Margaret**, 52 years, associated with the Movement for Democratic Change. According to the information received, on 12 December 2006, as she was reading flyers at C junction, the ZANU PF youth arrested her and took her to Makoni Police Station, where she was severely beaten by several officers. On the next day at around 6 pm she was taken to Harare Central Police Station. She was released on 14 December 2006 at 11 am. As a result of the beating, Ms Nyamutata suffers from pain in her head, shoulders, legs, feet, back, stomach and impaired concentration and sleep disturbances. She has bruises on her back, arms, face, thighs and buttocks.

750. In the same communication, the Rapporteurs bring to the attention of the Government the case of **Nzimba Kevek**, 32 years, farmer, resident in Mt Darwin, activist with the Movement for Democratic Change, who was reportedly assaulted on 7 December 2006 by members of the ZANU PF youth police, whose names are known to the Rapporteurs, with bricks and stones. The assault resulted in severe pain in his head shoulders, legs, feet, chest and back. Since the incident Mr Nzimba also suffers from sleep disturbances.

### **Response from the Government sent on 8 May 2007**

751. The Government informed that Ms. **Margaret Nyunutata** was arrested on 12 December 2006 for "Behaving in a threatening, abusive and insulting manner intending to provoke the breach of peace". The circumstances are that on 12 December 2006 at about 20.00 hours, the Ms. Nyamutata was arrested at the intersection of Unit C and Unit K roads, in Chitungwiza, for using abusive and insulting language while distributing some fliers titled "Lets All Stay Away". The accused was in the company of some Movement for Democratic Change (MDC) supporters who ran away on sight of the Police. The message on the fliers was meant to discourage people from going to work. Ms. Nyamutata paid an admission of guilt fine of \$250 at Harare Central Police Station. The Government stated that the accused person was arrested by the police and not by Zanu PF youths as alleged. She was never assaulted as claimed. She paid the admission of guilt without any undue influence.

752. Mr. **Nzimba Kelvin** of Madzivanzira Village, Chief Dotito, Mount Danvin made a report of assault at Karanda Police Base on 8 December 2006. He alleged that two persons whose names are known to the Special Rapporteur had assaulted him. This followed a dispute in which Mr. Kelvin's cattle had strayed into the two accused persons' maize field and destroyed crops. After a report had been made at the police base, investigations were instituted leading to the arrest of the two accused. They were charged of "Committing criminal nuisance". Each paid \$250 admission of guilt fines at Dotito Police Station. The two accused persons do not belong to what was termed Zanu PF youth police and such a Police unit does not exist. The assault arose as a result of a pure misunderstanding and is in no way politically motivated. The complainant did not sustain severe injuries as alleged.

**Letter of allegations sent on 7 February 2007 jointly with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers**

753. The Special Procedures mandate holders brought to the attention of the Government information regarding Mr **Arnold Tsunga**, a prominent lawyer, Director of the Zimbabwe Lawyers for Human Rights organisation, acting Secretary of the Law Society of Zimbabwe, Chairperson of the Zimbabwe Human Rights Association, and the trustee of the radio station Voice of People (VOP). Mr Tsunga is also the laureate of the 2006 international Martin Ennals Award for Human Rights Defenders which is granted annually to someone who has demonstrated an exceptional record of combating human rights violations by courageous and innovative means. Mr Tsunga, together with five other activists, was the subject of an urgent appeal by the Special Representative on 31 January 2006, to which a response from the government was received on 4 May 2006.

754. According to new information received, on 25 January 2007, Mr Tsunga was reportedly detained for a brief period at the Harare International Airport when returning from the World Social Forum in Kenya. He was stopped in the arrivals terminal by four men in civilian clothing who asked to see his passport. When Mr Tsunga enquired about their identification, they physically dragged him into an office where they demanded to see his baggage. Mr Tsunga was reportedly released without charge. Concern was expressed that the most recent detention of Mr Tsunga may be related to his legitimate and peaceful activities as a lawyer acting in defence of human rights, in particular his participation in the World Social Forum in Kenya, and may form part of a campaign of intimidation and harassment against human rights defenders in Zimbabwe.

**Urgent appeal sent on 20 March 2007 jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the question of torture**

755. The Special Procedures mandate holders brought to the attention of the Government information regarding the arrest of around **50 opposition activists** on 11 March 2007 in connection with a "prayer meeting" organized by the "Save Zimbabwe Campaign" in the nation's capital of Harare, which was declared illegal. According to information received, police had imposed a temporary ban on rallies and demonstrations on the basis of section 24 of the Public Order and Security Act (POSA). Reportedly, as citizens approached the sports field where the meeting was to be held on 11 March 2007, riot police forcefully blocked the entrance to the grounds and fired tear gas on the crowds. During these events, **Mr. Gift**

**Tandare**, the Youth Chairperson of the National Constitutional Assembly (NCA) was shot dead. It is also alleged that on 13 March 2007, police prevented and forcefully dispersed another crowd that had gathered to attend the funeral of Mr Tandare in Glen View, which also resulted in several injuries including the shooting of two MDC activists at point blank in the early hours of the morning. The two, **Mr. Nickson Magondo** and **Mr. Naison Mashambanhaka** were among a group of about 500 mourners observing a vigil, consoling the Tandare family. The two are said to be recuperating in hospital.

756. On 11 March 2007, various leaders and members of the Movement for Democratic Change (MDC) and 50 more activists were reportedly arrested and detained in different police stations in connection with the said meeting. The detainees included: **Mr. Morgan Tsvangirai** the President of MDC, **Mr. Arthur Mutambara**, senior official of MDC and **Ms Grace Kwinjeh**, MDC's Deputy Secretary for International Relations, who were allegedly beaten and seriously injured while in police custody. **Mr. Chamisa**, current spokesperson of MDC; **Mr. Tendai Biti**, the Secretary General of the Tsvangirai-led MDC and member of Parliament for Harare East constituency, **Mrs Sekai Holland**, **Mr Elton Mangoma** of MDC, and **Mr. Lovemore Madhuku**, a known civil society activist, chairperson of the NCA, were also allegedly detained. According to the information received, the latter two were severely beaten while in police custody. None of them received medical attention while in detention. **Mr. Harrison Nkomo**, the legal representative for the arrested parties, was allegedly not only denied access to his clients, but was himself assaulted for seeking to protect their rights. Reportedly all the above detainees were released following the order of the High Court on 12 March, to allow the arrested opposition leaders to be seen by medical doctors and their lawyers, to be brought to court by 13 March.

757. Several participants of the meeting were said to have sustained injuries following excessive use of force by riot police, in their attempt to disperse the demonstrators. Moreover, arrests have been reported in Masvingo and in Mutare, where 125 activists of the opposition have been picked up. In addition, student leaders at the University of Zimbabwe, **Mr. Zwelithini Viki** and **Mr. Kudakwashe Mapundu**, who were allegedly arrested for distributing fliers calling for the meeting, were allegedly still detained at Harare Central Police Station at the time the communication was sent.

758. On 13 March 2007, the vice-president of Zimbabwe National Students Union was arrested in Masvingo (ZINASU), **Lynnette Mudehwe**, Information and Publicity secretary of ZINASU, and a youth activist, **Sydney Chisi** were being held at Southerton Police Station together with others 6 activists at the time the communication was sent.

759. Finally, it is reported that on 17 March 2007, **Arthur Mutambara**, **Sekai Holland** and **Grace Kwinje** were re-arrested, the latter two being under armed guard in their hospital beds. On 18 March 2007, Mr. Chamisa was allegedly severely beaten by unknown men at Harare airport when he was on his way to attend an Africa Caribbean Pacific-EU meeting in Belgium.

#### **Letter of allegations sent on 2 May 2007 jointly with the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

760. The Special Rapporteurs brought to the attention of the Government information regarding the following cases.

761. On 29 March 2007, **Mr. Edward Chikomba**, a cameraman for the state broadcaster Zimbabwe Broadcasting Corporation (ZBC), who was reportedly abducted by armed men from his home in a township outside the capital Harare. His body was found a few days later, in bushes 50 miles west of Harare. Mr. Chikomba was a sympathizer of the opposition Movement for Democratic Change (MDC) and his murder could be linked to the dissemination, out of Zimbabwe, of television images of the opposition leader Morgan Tsvangirai after he was beaten up by police on 11 March.

762. On 1 April 2007, police reportedly arrested **Mr. Gift Phiri**, a reporter of the exiled weekly "The Zimbabwean" and beat him severely while in detention. On 5 April, he was released on bail, and immediately hospitalized for treatment. He has been charged with "practicing as a journalist without accreditation and publishing false news".

#### **Response from the Government sent on 4 September 2007**

763. In its response, the Government transmitted a memorandum that informed that the Zimbabwe Republic Police is not aware of any beatings on Mr. **Gift Phiri** while he was in police custody or the motive for the alleged kidnapping and subsequent death of **Edward Chikomba**.

764. The facts pertaining to Mr. Gift Phiri's case are that he is a stringer for a weekly newspaper "The Zimbabwean" and he wrote an article that appeared in that paper on 16-22 November 2006. The article contained false information. Part of the article had the following sentence, "Go now – Generals tell Mugabe as ZANU PF loses support". This was false as there was no time or occasion when the Generals ever said this to the State President.

765. Following the publication of the article, it was noted that Gift Phiri was practicing journalism without having been accredited by the Media and Information Commission, which is a statutory requirement under the Access to Information and Protection of Privacy Act for all practicing journalists.

766. On 1 April 2007, Gift Phiri was arrested and detained by the Police. At no time was he assaulted while in police custody. On 5 April 2007 he was taken to court where he was remanded out of custody to 4 June 2007. While in court, Gift Phiri never wised any allegations of assault by the Police while in custody. It is custom in Zimbabwe that all suspects brought to court are asked by the presiding magistrate if they have any complaints against the Police for their treatment while in custody. If such complaints had been raised at this stage, the magistrate would have, as is the norm, ordered an investigation into the allegations before the case the suspect is facing goes for trial. The charges that were preferred against Mr. Phiri are "Practicing journalism without accreditation by the Media and Information Commission" and "Abuse of journalistic privileges", in respect to the false accusation concerning the Generals. The case was remanded to 9 July 2007 for trial.

767. Concerning Mr. **Edward Chikomba**, at the time of his alleged kidnapping and subsequent death he was not a cameraman for the state Broadcaster (Zimbabwe Broadcasting Corporation) as alleged in the communication. Rather, he was retrenched together with others during the retrenchment exercise carried out by the ZBC in 2001. The Police are not aware of Mr. Chikomba's political affiliation or his alleged dissemination out of Zimbabwe of

television images of the opposition leader Morgan Tsvangirai. However, what is clear is that there was no secret about the injuries suffered by Tsvangirai and therefore any alleged smuggling of television images would only have been an act in futility as the pictures were in the public domain. Any photographer or cameraperson could take the pictures.

768. The circumstances of his disappearance are that on 29 March 2007 at around 18.00 hrs it is alleged that Mr. Chikomba was bundled into an Isuzu twin cab as he was about to get to his house in Glenview, Harare. Four men are said to have been involved in the abduction. The truck is said to have driven at a high speed towards the city center of Harare. On the same day, Mr. Chikomba's relatives who indicated that they had heard him shouting for help as he was taken away made a report at Glenview Police station, which opened a kidnapping docket. On 1 April 2007, the deceased's body was found at Old Lands farm, Darwendale. The Criminal Investigations department is carrying out an investigation of murder in connection with the case. So far no one has been arrested in connection with this case.

**Urgent appeal sent on 12 June 2007 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers**

769. The Special Procedures mandate holders brought to the attention of the Government information regarding the situation of members of the **Women and Men of Zimbabwe Association (WOZA-MOZA)**. Members of WOZA-MOZA have already been the subject of previous communications sent by mandate-holders, the most recent dated 7 December 2006, to which a reply was received on 14 December 2006. According to the new information received, on 6 June 2007, around 200 members of the Women and Men of Zimbabwe Association (WOZA-MOZA) undertook a silent and peaceful march through the city of Bulawayo to launch a document entitled "Ten steps to a new Zimbabwe". The Association was also expressing its concern that Zimbabwean civil society was excluded from the ongoing dialogue initiated by the Movement for Democratic Change (MDC) and mediated by South African President Thabo Mbeki, creating the danger that pertinent issues on civil, political, economic and social rights and democracy would be given not enough attention. After having walked one block, one group of participants was reportedly violently dispersed by the riot police. Five WOZA members, namely Ms. **Rosemary Sibiza**, Ms. **Angeline Karuru**, Ms. **Martha Ncube**, Ms. **Sangeliso Dhlamini** and Ms. Pretty Moyo, were badly beaten with baton sticks, arrested and detained at Bulawayo Central Police Station.

770. Upon hearing that five of their colleagues had been beaten, another group of women went to the police station. The police officers then assaulted the women, before arresting Ms. **Jennifer Williams**, WOZA National Co-ordinator and Ms. **Magodonga Mahlangu**, another WOZA leader. Following the arrest of the WOZA women, attorney Kossam Ncube went to the police station to represent them. At the police station, Superintendent Nsingo reportedly accused him of being "unethical" and "irresponsible" and stated that lawyers had no business at the police station as he sought to speak to his clients. He also ordered Mr. Ncube to leave and pushed him out of the station. On 7 June 2007, Mr. Ncube tried again to meet with his clients but was denied access by the police.

### **Response from the Government sent on 19 June 2007**

771. The Government informed that this was not the first time that WOZA had violated the laws of Zimbabwe with the sole intention of attracting the attention of human rights groups. They further stated that all rights had been respected and access had been granted to lawyers. The letters informed that the first group of five accused persons had been charged with contravening section 46, sub-section 2 of the Criminal Code, “criminal nuisance”. They had taken to court on 8 June 2007 where they were remanded until 21 June 2007 on \$100,000 bail each. On 21 June 2007, the police were instructed to proceed by way of summons. Jennifer Williams and Magodonga Mhlanga were charged for contravening section 37 (1) (a) (1) of the Criminal Code, “participating in an unlawful demonstration” and “criminal nuisance”. They were also released on \$100,000 bail. They appeared in court on 22 June 2007. During the court proceedings their lawyer raised the question of constitutionality in respect of the charges against them. The case had since been referred to the Supreme Court for a determination on the issues raised by the defence lawyer.

### **Letter of allegations sent on 28 August 2007**

772. The Special Rapporteur brought to the attention of the Government information received concerning the **Interception of Communications Act**, a surveillance law that will allegedly allow authorities to intercept all phone, Internet and mail communications, which was reportedly signed into law by the President on 8 August 2007. The Act will also reportedly establish a state monitoring center and require telecommunications providers to install systems supporting interception of communications. Allegedly, the law was described by the Minister of Information as intending to “protect the president, a minister, or any citizen from harm” and to target “imperialist-sponsored journalists with hidden agendas”. The law allegedly restricts Zimbabwean journalists’ ability to communicate with and send their reports to media outlets and online publications based outside the country.

### **Response from the Government sent on 5 September 2007**

773. The Government informed that the Interception of Communications Act was promulgated to protect the national security of Zimbabwe. Any transgressors will be brought to justice regardless of their profession. As far as the alleged statement by the Minister of Information is concerned, the Government is not obliged to respond to wild speculation.

### **Observations**

774. The Special Rapporteur is grateful for the Government’s replies to the communications of 19 January 2007, 2 May 2007, 12 June 2007 and 28 August 2007. He regrets that he has not received a response to the other communications sent in 2007.

### **Information transmitted to the Palestinian Authority**

### **Letter of allegations sent on 12 September 2007**

775. The Special Rapporteur sent a letter of allegations with respect to information regarding the dissolution of the Gaza Strip branch of the **Union of Palestinian Journalists**. According to that information, on 3 September 2007, the Hamas government dissolved the Union of

Palestinian Journalists, reportedly following a declaration by the deputy information minister, who allegedly stated that the “government would refuse to talk to the Union as long as the journalists are incapable of restoring order in it”. According to reports, this decision also followed a mounting trend of abusive treatment of journalists in the Gaza Strip, especially against leaders of the Union of Palestinian Journalists. In particular, on 25 August 15 armed members of the Executive Forces allegedly tried to arrest Mr. Sakher Abu el-Oun, the head of the Union’s branch in Gaza. The Rapporteur expressed concern that the dissolution of the Gaza Strip branch of the Union of Palestinian Journalists will restrict journalists’ freedom of inquiry.

#### **Letter of allegations sent on 30 November 2007**

776. The Special Rapporteur sent a letter of allegation concerning the case of Mr **Alaa Al-Titi**, reporter at Al-Aqsa TV and Mr **Ossayd Amarneh**, cameraman at the same TV station, who were reportedly detained by the Palestinian preventive security services in Hebron on 5 November, after meeting with a Hamas deputy who had been arrested earlier that week by the Israeli army. The two media professionals were taken to the al-Khalil detention centre. On 20 November, they reportedly appeared before a judge in Hebron, but the charges against them were not revealed. While in court, they were requested to pay a bail of 12,000 shekels, which their families refused. At the time of the sending of the communication, Messrs Al-Titi and Amarneh remained in detention.

#### **Observations**

777. The Special Rapporteur regrets that he has not received a reply to the communications mentioned above.

**Annex**

**COMMUNICATIONS SENT BY THE SPECIAL RAPPORTEUR ON THE  
PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION  
AND EXPRESSION**

**(January-December 2007)<sup>1</sup>**

- Total number of communications: 253
- Number of individual victims: 623
- Communications sent to 81 countries
- Government replies: 43.5%
- Further information from source: 36.4%
- Follow-up: 13.4%

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<sup>1</sup> General statistical information on communications sent by Special Procedures in 2007 is available on OHCHR website: [www.ohchr.org](http://www.ohchr.org)