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**Report submitted by the Special Representative of the Secretary-General  
on the situation of human rights defenders, Hina Jilani**

**Addendum**

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

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

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## Introduction

1. The present document is submitted by the Special Representative of the Secretary General on the situation of human rights defenders, Ms Hina Jilani, to the Human Rights Council pursuant to resolution 2003/64 of the Commission on Human Rights and resolution 5/1 of the Human rights Council. The document provides summaries of the communications on specific cases addressed by the Special Representative to Governments, as well as summaries of the replies by Governments that she has received and her observations thereon.
2. The cases raised by the Special Representative in this addendum include communications sent from 2 December 2006 to 10 December 2007. The addendum contains summaries of responses received from Governments until 10 February 2008. Although received before 10 February 2008, few replies are not included in the present report because translation is awaited. Most of the responses by Governments refer to cases raised by the Special Representative during the period December 2006 to December 2007; however, some of the responses are to cases addressed by her in earlier reporting periods. While the summaries of these responses are included in this report, the summaries of the cases to which they refer will be found in the Special Representative's reports from preceding years (see A/HRC/4/37/Add.1, E/CN.4/2006/95/Add.1, and E/CN.4/2005/101/Add.1, covering the previous three years).
3. For ease of reference, cases have been grouped by country, with countries listed alphabetically according to their names in English.

## Algeria

### Lettre d'allégations

4. Le 6 mars 2007, la Représentante spéciale, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur **l'interdiction d'un séminaire sur les disparitions forcées à Alger**. Selon les informations reçues :
5. 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.
6. La Rapporteuse Spéciale chargée de la question de la violence contre les femmes avait, à plusieurs reprises, appelé le Gouvernement à autoriser la tenue de ce

séminaire, notamment lors d'une réunion avec le Ministre de l'Intérieur le 27 janvier 2007.

7. De vives préoccupations ont été exprimées que l'interdiction de ce séminaire, au lendemain de la signature par l'Algérie de la Convention sur les disparitions forcées à Paris, aurait visé à empêcher les organisations non-gouvernementales susmentionnées de poursuivre leurs activités de défense des droits de l'homme en matière de disparitions forcées.

### **Réponse du Gouvernement à une communication antérieure**

8. Le 26 juin 2007, le Gouvernement a répondu à la lettre d'allégations du 5 octobre 2006 envoyée par la Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, sur la situation de MM. **Amine Sidhoum** et **Hassiba Boumerdassi**. Le Gouvernement informe que MM. Amine Sidhoum et Hassiba Boumerdassi ont été poursuivis le 1<sup>er</sup> août 2006 par le Parquet de la République du tribunal de Bab el oued pour avoir, dans des conditions illégales, fait parvenir des objets non-autorisés à des détenus, faits prévus et réprimés par l'article 166 du code de l'administration pénitentiaire et de la réinsertion. L'information judiciaire terminée, les deux prévenus ont été renvoyés devant le tribunal pour y être jugés. Le 25 avril 2007, MM. Amine Sidhoum et Hassiba Boumerdassi ont été relaxés par le tribunal.

### **Observations**

9. La Représentante spéciale remercie le Gouvernement de sa réponse et salue la relaxe de MM. Amine Sidhoum et Hassiba Boumerdassi. Elle regrette néanmoins l'absence de réponse à ce jour à sa lettre d'allégations envoyée le 6 mars 2007 et demande au Gouvernement de répondre aux craintes exprimées dans celle-ci.

## **Angola**

### **Letter of allegations**

10. On 6 March 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government of Angola concerning 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. Concern was expressed that the arrest and

detention of Ms Wykes might be related to her peaceful activities in defence of human rights.

### **Response from the Government**

11. In a letter dated 14 March 2007, the Government of Angola responded to the letter of allegations of 6 March 2007. The Government emphasized that the case did not fall within the purview of the executive, but rather the judiciary, and noted 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.

### **Letter of allegations**

12. On 14 August 2007, the Special Representative sent a letter of allegations to the Government of Angola concerning comments made by **Mr Pedro Walipi Calenga**, Director General of Unidade Técnica de Coordenação da Assistência Humanitária (UTCAH), the Governmental body in charge of the coordination of humanitarian affairs. UTCAH also claims coordination of non-Governmental organizations (NGOs) in Angola.

13. According to the information received, on 11 July 2007, the newspaper *Jornal de Angola* published a statement made by Mr Calenga accusing the following human rights organizations of undertaking illegal activities: Open Society, Mãos Livres, SOS Habitat, and Justice, Peace and Democracy Association. The original reads: "Há organizações, e todos nós conhecemos, porque actuam de dia, que incitam muitas vezes as populações a não abandonarem as áreas onde construíram de forma anárquica. Refiro-me concretamente à Associação Mãos Livres, à Associação SOS-Habitat, à Associação Justiça Paz e Democracia e à Open Society, constituída também por angolanos, pode ser de origem americana, mas constituída integralmente em Angola... Quanto às ONG internacionais, disse, "tendem a desenvolver acções que no contexto da legislação angolana deveriam ser desenvolvidas por partidos políticos e não por organizações não governamentais". Entre as ONG que desenvolvem acções à margem da lei o director da UTCAH citou o Instituto Republicano Internacional e o Instituto Nacional Democrático, ambos de origem americana e a Search for Common Ground de origem belga... essas, organizações alegam "violação dos direitos dos cidadãos" para justificarem a sua actividade, mas, segundo o director da UTCAH, essas ONG "desenvolvem acções contrárias à lei, de desobediência ao Governo e às instituições... Essas ONG, sobretudo as nacionais, no dizer de Calenga, "muitas vezes incitam a população a reagir em alguns casos até de forma violenta contra as instituições e contra as autoridades" (There are organizations, known to all of us because they act openly which often incite populations not to abandon the areas where they built in an anarchic way. I am referring concretely to Mãos Livres Association, SOS-Habitat Association, Justice, Peace and Democracy Association, and Open

Society, constituted also by Angolans, the origin can be American, but they are Angolan associations... International NGOs tend to develop actions, which in the context of the Angolan legislation, should be done by political parties and not by NGOs. These are the International Republican Institute and the National Democratic Institute, both from America and Search for Common Ground from Belgium. Those organizations allege “violation of citizens’ rights” to justify their activity but, they develop actions against the law, disobedience to the Government and institutions... Those NGOs, mainly the national ones, have often been inciting the population to react, in some cases in a violent manner, against the institutions and authorities).

14. On 30 April 2007, Mr Calenga repeatedly threatened to close these NGOs down. He stated to Agência Lusa “O governo angolano pretende encerrar parte das mais de cinco centenas de organizações não governamentais existentes no país cujos projectos não têm impacto junto das populações, The Angolan Government intends to close some of more than 500 NGOs in the country whose projects do not have an impact on the population. It is reported that as of today, none of the aforementioned NGOs has received any official or formal notification stating that their activities are illegal and should be ceased consequently.

15. It was expressed that it is legitimate to question the legality of activities of NGOs if there are any contraventions of the applicable laws, but concern was expressed that the statements of Mr Calenga might undermine their peaceful and legitimate work for the promotion and protection of human rights in Angola, by generating uncertainty and insecurity.

### **Observations**

16. The Special representative thanks the Government for its response of 14 March 2007. However, the Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication of 14 August 2007. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

## **Argentina**

### **Llamamiento urgente**

17. El 12 de diciembre de 2006 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con amenazas en contra de las Señoras **Maria Luz Piérola, Maria Cristina Saborido y sus hijas, y Maria Eva Arroyo**. Todas están involucradas en la búsqueda por justicia para las personas “desaparecidas” y las que sufrieron violaciones de derechos humanos bajo el gobierno militar (1976 – 1983). La Sra. Martina (“Tula”) Saborido y su novio fueron los sujetos de una comunicación conjunta dirigida al Gobierno con fecha de 10 de noviembre de 2006, del Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y de la Representante Especial del Secretario-General para los defensores de los derechos humanos. De acuerdo con la información recibida, el 9 de noviembre de 2006, vecinos y parientes de la Sra. Maria Luz Piérola habrían afirmado que dos vehículos se quedaron aparcados durante horas delante de su casa, situada en

la ciudad de Paraná, provincia de Entre Ríos. Uno de los coches le habría seguido a la Sra. Piérola cuando volvió a su casa después de trabajar. Además, el 20 de noviembre de 2006, se habrían encontrado unas notas anónimas en los lugares que ella frecuenta, con el mensaje “Maria Luz Piérola Q.E.P.D.”. Según los informes las autoridades no han proporcionado medidas protectivas a la Sra. Piérola a pesar de haber denunciado los actos de hostigamiento ante la Secretaria de Justicia, Seguridad y Derechos Humanos de la provincia y ante el juez federal de la ciudad. Además, las familiares de la Sra. Maria Cristina Saborido habrían sido víctimas de otros actos de intimidación.

18. El 5 de noviembre, el novio de Martina esperaba al autobús cuando dos desconocidos que circulaban en motocicleta, pararon ante de él y le mostraron una fotografía del Sr. Jorge Julio López, ex detenido-desaparecido a manos del gobierno militar y principal testigo y querellante en una causa judicial en contra del Sr. Miguel Osvaldo Etchecolatz, ex director de investigaciones de la Policía de Buenos Aires durante la dictadura militar que ha desaparecido el 17 de septiembre de 2006. Supuestamente, se ha asignado protección policial a la vivienda de la Sra. Saborido. El 14 de noviembre de 2006, varias amistades de la Sra. Maria Eva Arroyo habrían recibido una llamada telefónica de un desconocido diciendo, “Dígale a Eva que Lezcano esta mandando gente para hacerle algo”.

19. Lezcano era el dirigente de una comisaría en la provincia de Jujuy durante el régimen militar y supuestamente fue responsable de abusos de derechos humanos durante aquella época. La Sra. Arroyo recibe protección policial desde que denunció las amenazas ante la policía federal. Se expresó preocupación por la seguridad de las Sras. Maria Eva Arroyo, Sra. Maria Luz Piérola y la familia Saborido porque se temía que los incidentes descritos pueden estar relacionados con sus actividades en defensa de los derechos humanos, en particular la defensa de los derechos de las víctimas del régimen militar. Además se expresó temor de que las medidas de protección que las autoridades han tomado no parecen adecuadas a la luz de las amenazas descritas.

### **Respuesta del Gobierno**

20. Mediante cartas fechadas 9 de febrero de 2007, 5 de marzo de 2007 y 14 de junio de 2007 el Gobierno de Argentina transmitió la siguiente información en relación con el llamamiento urgente de 12 de diciembre de 2006:

21. Caso Sra. María Eva Arroyo: Existe una denuncia al respecto formulada ante el Juzgado Federal N 2 de Jujuy, el día 14 de noviembre de 2006. Respecto a las investigaciones iniciadas en relación al caso, y ante un dato aportado por la denunciante, se libró orden de allanamiento del lugar donde funcionaba la agencia de seguridad “Génesis”, desde donde posiblemente se habrían originado los llamados telefónicos. Al momento de realizarse el allanamiento se comprobó que el presunto responsable de dicha agencia – Jose Amerito Lezcano – se había mudado días antes llevándose todas las pertenencias. Hasta el momento se desconoce su paradero. En relación con las diligencias judiciales practicadas, éstas mismas siguen siendo investigadas en el ámbito de la Justicia Federal y, en la faz administrativa, se procedió a implementar la custodia correspondiente para con la denunciante a fin de salvaguardar su integridad física. Posteriormente, y tras la solicitud de la damnificada, la custodia personal fue extendida a su hija, quien convive con la Sra. Arroyo en el mismo domicilio. Respecto a las medidas protectivas otorgadas a la Sra. Arroyo, se



implantó un servicio especial de dos hombres vestidos de civil y un vehículo no identificable durante las veinticuatro horas del día, que acompañaban a todos los lugares donde se desplazan tanto la denunciante como su hija, brindándoles así la correspondiente seguridad.

22. Casos relativos a la Sra. María Christina Saborido y sus familiares: En relación con las amenazas sufridas por familiares y allegados de la Sra. María Christina Saborido, cabe destacar que – según obra en el Departamento Judicial de Lomas de Zamora – la Sra. Augustina Tula Saborido (hija de María Christina, ex detenida y desaparecida en el pozo de Banfield en 1977) recibió el 8 de octubre de 2006 una amenaza por correo electrónico. La denuncia de ese hecho fue presentado en la Unidad Funcional de investigación N 19 del Departamento Judicial de Lomas de Zamora por Augustina Saborido. La mencionada U.F.I. dispuso la presencia de un móvil policial en el domicilio de la denunciante. En el mes de noviembre de 2006, la Dirección de Asistencia Directa a Personas y Grupos Vulnerables, de la Secretaria de Derechos Humanos de la Nación, recibió una solicitud de asistencia y acompañamiento para la Sra. María Christina Saborido y sus dos hijas. En función de eso, se realizaron gestiones en la Dirección con la intervención del jefe de Servicio de Salud Mental del Hospital Gutiérrez de La Planta al efecto de generar las condiciones convenientes para el acompañamiento profesional.

23. Caso de la Sra. Maia Luz Pierola: Respecto a los hechos tratados en el llamamiento, cabe destacar que los mismos fueron confirmados por un informe elaborado por el comisario Oscar Fenocchio, jefe de la delegación de Delitos federales y Complejos de la ciudad de Paraná el 28 de diciembre de 2006. En dicho informe se afirma a su vez, que la Sra. María Luz Pierola posee una custodia policial permanente desde el 13 de noviembre de 2006, cuya cobertura la realiza la Policía de Entre Ríos.

24. Medidas adoptadas por el Poder Ejecutivo de la nación para proteger las personas amenazadas: La Secretaria de Derechos Humanos del Ministerio de Justicia y Derechos Humanos de la Nación adoptó el “Plan Nacional de Acompañamiento y Asistencia Integral a los Querellantes y Testigos Víctimas del Terrorismo del Estado”, el cual será implementado por la mencionada Secretaria coordinando sus acciones con los respectivos organismos de derechos humanos de las Provincias y de la ciudad Autónoma de Buenos Aires. Asimismo, cabe destacar que con motivo de la desaparición de Jorge Julio López en septiembre de 2006, el Consejo Federal de Derechos Humanos dispuso a por unanimidad adherir al mencionado “Plan Nacional de Acompañamiento y Asistencia Integral a los Querellantes y Testigos Víctimas del Terrorismo del Estado”. El 23 de abril de 2007, el Ministerio de Justicia y Derechos humanos dictó una resolución en virtud de la cual se establece que la Dirección nacional del Programa nacional de Protección a Testigos e Imputados de la Secretaria de Política Criminal y Asuntos penitenciarios de ese Ministerio brindará protección a las personas individualizadas por requerimiento de magistrado de la Justicia Nacional o del Ministerio Público Nacional, en el marco de procesos judiciales vinculados a violaciones a los derechos humanos cometidos durante el último periodo dictatorial. Dicha resolución tendrá vigencia hasta que se instrumente la creación de un programa u organismo en el que se coordinen las actividades que en la materia presten los distintos ministerios nacionales involucrados.

25. Mediante la carta fechada 5 de marzo de 2007 se incluyó: 1. Sinopsis del Contenido del Primer Informe de la Unidad de Asistencia para causas por violaciones a los derechos humanos durante el Terrorismo de Estado (Ministerio de Relaciones Exteriores, Comercio Internacional y Culto). 2. Plan Nacional de Acompañamiento y Asistencia a los Querellantes y Víctimas del Terrorismo de Estado (Ministerio de Justicia y Derechos Humanos).

### **Llamamiento urgente**

26. El 23 de febrero de 2007 la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Horacio Meguira**, abogado laboralista y miembro del Comité de Acción Jurídica (CAJ) en Buenos Aires. Además, el Sr. Meguira es Director del Departamento Jurídico de la Central de Trabajadores de la Argentina (CTA). De acuerdo con la información recibida, el 18 de febrero de 2007, el consultorio jurídico del Sr. Meguira habría sido allanado por personas desconocidas. Según se alega, estos desconocidos habrían entrado violentamente en el consultorio arrasando la puerta de ingreso y dirigiéndose directamente al despacho del Sr. Meguira y se habrían apropiado del disco duro del ordenador del Sr. Meguira y del fax que contiene la memoria de todos los intercambios de documentos enviados y recibidos. Se informa que no se habría sustraído ningún otro artículo de valor, y que no se habría allanado ningún otro despacho. Se expresó temores de que susodichos incidentes puedan estar relacionados con las actividades del Sr. Meguira en defensa de los derechos humanos, en particular los derechos humanos en el campo laboral.

### **Respuesta del Gobierno**

27. Mediante comunicación de 28 de Junio de 2007, el Gobierno proporcionó información con respecto al llamamiento enviado el 12 de enero de 2007. El Gobierno informó que de acuerdo al llamamiento en referencia, la Secretaria del Interior informa que la Comisaría No. 4 acudió el día 18 de febrero a la sede donde funciona la oficina de asesoría legal en temas laborales de la CTA. Se constató que desconocidos forzaron la puerta principal. Faltaba el CPU de la computadora conteniendo información de la actividad laboral que desarrolla. Se presentó al lugar la división "Rastros", se tomó la declaración de los damnificados y se hizo un plano a mano alzada.

### **Llamamiento urgente**

28. El 13 de marzo de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Juan Carlos González Leiva**, Dirigente del Movimiento de Trabajadores Desocupados (MTD) del Distrito de Lanús, en la provincia de Buenos Aires. Según la información recibida, el 2 de marzo de 2007, cuando el Sr. Leiva se dirigía a una reunión de delegados del MTD Frente Popular 'Diario Santillán' en la zona de Constitución, Buenos Aires, fue secuestrado por tres individuos que lo habrían subido por la fuerza a un coche con vidrios polarizados. El Sr. Leiva fue mantenido cautivo durante un periodo de siete horas, durante el cual fue atado a una silla e interrogado sobre sus actividades políticas, por los "jefes" de su organización y los "responsables" de las movilizaciones. Además, le habrían amenazado con matarle haciendo referencia a un

joven militante asesinado en la estación de Avellaneda, compañero de militancia del Sr. Leiva. Durante el interrogatorio los secuestradores habrían demostrado conocer datos de los movimientos del Sr. Leiva durante los días antes del secuestro. Tras un largo interrogatorio y la falta de respuestas, uno de los secuestradores habría forzado al Sr. Leiva a ponerse de rodillas diciéndole que iba a ser el segundo desaparecido y apretaba reiteradamente el gatillo de un arma descargada sobre su cabeza. Poco después, el Sr. Leiva fue subido al coche y tras varios minutos le habrían arrojado en las cercanías de la Villa 21 de Barracas.

29. Según los informes, el 26 de febrero de 2007, durante la última movilización del MTD, el Sr. Leiva habría discutido con dos individuos identificados como policiales vestidos de civil, que supuestamente habrían integrado en la reunión. Al preguntarles su identidad y el motivo de su presencia las dos personas se habrían alejado con un gesto amenazante. Se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos del Movimiento de Trabajadores Desocupados (MTD) dirigido por el Sr. Leiva y se expresa profunda preocupación por su seguridad e integridad física así como la del resto de miembros de dicha organización.

### **Llamamiento urgente**

30. El 18 de abril de 2007 la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. **Pablo Gabriel Salinas**, abogado defensor de derechos humanos en la provincia de Mendoza. El Sr. Salinas ha trabajado en defensa de víctimas de brutalidad policial, de ejecuciones extrajudiciales y de otras violaciones de derechos humanos cometidas durante la dictadura militar en la Argentina. El Sr. Salinas ya ha sido objeto de un llamamiento urgente enviado el 27 de diciembre de 2005 por el Relator Especial sobre la independencia de magistrados y abogados y la Representante Especial del Secretario-General para los defensores de los derechos humanos.

31. De acuerdo con la información recibida, el 9 de abril de 2007, el Sr. Salinas habría recibido una carta anónima amenazándole a él y a su familia con que algo les sucedería si no dejaba su actividad. Al día siguiente se habría presentado la denuncia de la amenaza anónima ante la Unidad Fiscal de Delitos Complejos de la Primera Circunscripción Judicial de Mendoza. Asimismo, a través de una petición presentada ante la Comisión Interamericana de Derechos Humanos, se habrían solicitado medidas cautelares para proteger al Sr. Salinas y a su familia. De acuerdo a lo informado, el Sr. Salinas habría sido víctima de reiterados actos de hostigamiento y amenazas. En el 2005 el Sr. Salinas habría recibido llamadas telefónicas amenazantes y su oficina apareció cubierta de graffitis. Se expresaron temor de que estos eventos pudieran estar relacionados con la actividad en defensa de los derechos humanos del Sr. Pablo Gabriel Salinas y se expresa profunda preocupación por su seguridad e integridad física así como la de su familia.

### **Respuesta del Gobierno**

32. Mediante comunicación de 4 de julio de 2007, el Gobierno de Argentina proporcionó información con respecto al llamamiento enviado. El Gobierno

proporcionó información suministrada por la Subsecretaria de Justicia del Ministerio de Gobierno de la Provincia de Mendoza: El Sr. Subsecretario se comunicó personalmente con el Dr. Pablo Salinas poniéndose a su disposición y ofreciéndole las medidas protectoras que creyera convenientes. Se le propuso protección policial provincial y se le indicó la posibilidad de requerir el auxilio de protección de la policía federal si lo estimara pertinente. Ante la negativa del Sr. Salinas al respecto, se le comunicaron los teléfonos celulares de las máximas autoridades provinciales en materia de seguridad y se le solicitó que tante el como su familia informaran cualquier movimiento sospechoso que entendieran que podría implicar peligro potencial o real. A pesar del ofrecimiento de colaboración del gobierno provincial, el Dr. Salinas no ha puesto en conocimiento del mismo, la existencia de nuevas amenazas telefónicas o intimidaciones. El Gobierno informó de que las medidas protectoras aludidas o cualquier otra que se considere conveniente, se encuentran a disposición del Dr. Salinas.

### **Llamamiento urgente**

33. El 3 de Mayo de 2007, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados señalaron a la atención urgente del Gobierno la información recibida en relación con el aumento de actos de hostigamiento y amenazas en contra de jueces, fiscales y abogados vinculados a la defensa de los derechos humanos, sobre todo aquellos que han participado en los procesos judiciales contra integrantes de la dictadura militar argentina por delitos de lesa humanidad cometidos entre los años 1976 y 1983. Entre ellos se destacaron:

34. I – Las amenazas dirigidas a dos jueces del Tribunal Oral que condenó a Miguel Etchecolatz, el Sr. **Norberto Lorenzo** y el Sr. **Horacio Insaurralde**, así como al despacho del juez **Arnaldo Corazza** y del fiscal **Sergio Franco**, ambos pertenecientes al Tribunal Federal de Primera Instancia de la Plata y a cargo de la instrucción de causas contra ex represores. Asimismo, el juez **Carlos Rozansky**, presidente del Tribunal Oral que condenó a Miguel Etchecolatz a reclusión perpetua, recibió dos llamados telefónicos amenazantes provenientes del Servicio Penitenciario Federal: uno de la Unidad 2 de Devoto y otro de la Unidad 27 femenino, realizados desde teléfonos que utiliza el personal a los que los internos no tienen acceso.

35. II - La escalada de amenazas y actos intimidatorios que desde marzo de 2005 vienen sufriendo en la ciudad de Córdoba, los abogados querellantes, la representante del Ministerio Público y los activistas de derechos humanos en el marco de las causas judiciales que tramita la justicia federal con asiento en esa ciudad, en donde se trata de esclarecer las violaciones a los derechos humanos ocurridas en la última dictadura militar, bajo la jurisdicción del 3º Cuerpo del Ejército. Particularmente, la amenaza realizada el 11 de marzo de 2005 contra el Sr. **Juan Martín Fresneda**, integrante de la agrupación H.I.J.O.S. y abogado querellante en las causas que tramita el Juzgado Federal Nº 3 de la ciudad de Córdoba, donde representa a familiares de desaparecidos por razones políticas de la última dictadura militar. En dicha ocasión tres personas se dirigieron al estudio jurídico del Sr. Fresneda y advirtieron a un vecino que colocarían una bomba allí si el Sr. Fresneda seguía actuando en causas judiciales contra ex represores. El hecho ocurrió al día siguiente de la detención de **Arnaldo José López**,

acusado de gravísimas violaciones a los derechos humanos. Fresneda es el abogado querellante en esas causas. A raíz de estas amenazas, se efectuó una denuncia judicial pero la misma se encontraría paralizada en la Fiscalía Federal N° 2 de Córdoba. Las intimidaciones contra abogados y fiscales en la ciudad de Córdoba se intensificaron en el año 2006. El 4 de junio de 2006 se envió un correo electrónico al periodista **Mariano Saravia**, de parte de un supuesto policía en actividad, en el que se advertía que se estaría preparando un atentado mortal contra la vida del abogado **Claudio Orosz** (abogado de las organizaciones Familiares de Desaparecidos-Detenidos por Razones Políticas de Córdoba, e H.I.J.O.S. y querellante en las causas de violaciones a los Derechos Humanos). El mensaje indicaba una serie de detalles de personas, vehículos y domicilios, los cuales habrían sido constatados como veraces por el Fiscal Federal N°1, Sr. Enrique Senestrari. El 26 de junio de 2006 se recibió una nueva amenaza contra el Sr. Orosz, esta vez en el contestador automático de su estudio jurídico, donde se le advierte: “te vamos a matar, los voy a matar”. Asimismo, el 18 de junio, en el correo electrónico del periodista Saravia se recibió otra intimidación, en este caso dirigida a la Fiscal del Juzgado Federal N° 3, Sra. **López de Filoñuk**, quien lleva adelante causas de derechos humanos en la provincia de Córdoba. Por otra parte, desconocidos ingresaron al estudio del abogado Juan Carlos Vega, el 23 de junio, y sustrajeron una computadora portátil con material relativo a la causa judicial “Mackentor”. Posteriormente, el 29 de junio, la abogada de la asociación Abuelas de Plaza de Mayo Córdoba, Sra. **María Teresa Sánchez**, recibió una nota en su estudio jurídico en la que se advertía que harían volar su auto cuando ella se encontrara manejando. Su socia, la Sra. Mariana Paramio, fue golpeada y amenazada por un individuo que entró y destruyó el estudio de ambas. Todos estos actos intimidatorios fueron denunciados en la Fiscalía Federal N° 1 de Córdoba.

36. III – En la ciudad de Mar del Plata, el Sr. César Sivo, abogado de las causas penales y de los Juicios por la verdad que se están desarrollando en Tandil, Las Flores, Azul, Olavaria y Mar del Plata, fue perseguido e intimidado en reiteradas oportunidades. También fueron interceptadas sus llamadas telefónicas y recibió en su estudio visitas de personas que se presentan como clientes y luego le informan haber participado de la dictadura militar y le advierten que emplearán con él los mismos métodos. Asimismo, recibe a diario llamadas intimidatorias de todo tenor, que van desde las amenazas directas, el silencio prolongado y la reproducción de marchas militares hasta la información de cuestiones de su vida privada y la reproducción de conversaciones sostenidas con otras personas. En muchas ocasiones, se advierten vehículos no identificados en la puerta de su estudio o gente sacando fotos al estudio o al abogado. También se registraron ingresos forzados en su estudio jurídico. Otro tanto ocurre con personas allegadas al Sr. Sivo, a las que se ha llegado a ofrecer dinero y servicios profesionales para que inicien juicios contra el abogado o hablen en su contra.

37. IV - En la provincia de Tucumán, la Sra. Laura Figueroa, abogada del Colegio de Abogados de Tucumán y querellante en las causas de Familiares de Desaparecidos en la Justicia Federal de Tucumán, ha sufrido amenazas con anterioridad y posterioridad al Caso Julio López, a consecuencia de su activa intervención en las causas vinculadas con la violación de derechos humanos durante la dictadura militar. El 20 de octubre del 2002, mientras se encontraba sola en su domicilio particular, ingresó un comando armado que la redujo violentamente, revolvió todo, le hizo saber que sus conversaciones eran escuchadas, y le efectuaron amenazas de muerte si

continuaba con las causas. En el mismo mes ingresaron nuevamente a su domicilio particular, mientras ella no se encontraba, rompiendo y revolviendo toda la casa. Durante el mismo año 2002, también sufrieron actos de persecución una de las auxiliares del GIAAT (Grupo Interdisciplinario de Arqueología y Antropología de Tucumán) y el Fiscal de la Causa del Pozo de Vargas. Se presume que estas amenazas, ataques y persecuciones estuvieron vinculadas a la profundización en la investigación de la causa judicial del “Pozo de Vargas” en el año 2002. Desde el año 2003 la Sra. Laura Figueroa tiene una guardia permanente en su domicilio particular. En Enero del 2006, dejaron una amenaza en el contestador telefónico de su estudio jurídico. La investigación de esta amenaza está en curso. En Octubre del 2006, recibió un nuevo mensaje en el contestador telefónico que decía “ya no te llamaremos más...” Por su parte, el Fiscal Federal N°1 de Tucumán, Sr. Emilio E. Ferrer, interviniente en causas por violaciones a los derechos humanos, recibió amenazas anónimas por carta en la que se le advierte que será juzgado por un tribunal particularmente imparcial y que volverán a comunicarse con él.

38. V – La Sra. Ana María Figueroa, abogada defensora de los derechos humanos, miembro de la Asamblea Permanente por los Derechos Humanos y actual Directora General de Jurídicos de la Secretaría de Derechos Humanos de la Nación recibió amenazas contra su vida y la de sus hijos.

39. VI – El Sr. Ciro Annicchiarico, abogado y miembro de la Comisión de Política Criminal de la Asociación de Abogados de Buenos Aires fue amenazado y su esposa, Nora Cerviño, fue atacada y golpeada por un sujeto que le dijo “esto es para Ciro”. Asimismo, en dos oportunidades aparecieron inscripciones intimidatorias dentro de su domicilio. También los miembros de la Comisión de Derechos Humanos de la Asociación de Abogados de Buenos Aires, Sr. Manuel Justo Gaggero y Sra. Liliana Beli, recibieron llamados y mensajes en sus contestadores telefónicos en los que se escuchaban marchas militares que solían difundirse con frecuencia durante la dictadura militar.

40. VII – El Fiscal Federal del Chaco, Sr. Jorge Auat, quien interviene en varias causas por violaciones a los derechos humanos durante la última dictadura militar, entre ellas la investigación de la causa Margarita Belén, recibió una carta amenazante en su oficina por su actuación en la investigación de crímenes de lesa humanidad.

41. VIII – En la provincia de Neuquén, el abogado del Centro de Profesionales por los Derechos Humanos (CEPRODH), Sr. Leopoldo Denaday, fue detenido sin causa por efectivos de la policía neuquina cuando participaba pacíficamente de un evento cultural. Fue llevado a la Comisaría 1° y mantenido en un calabozo durante varias horas en las que a sus abogados se les impidió acceder a información alguna sobre su situación.

42. XIX - El juez Marcos Quinteros y el Fiscal Neri Roberto López de la provincia de Formosa, recibieron cartas intimidatorias tras la desaparición del testigo Jorge Julio López.

43. XX - En la provincia de San Luis, el defensor de derechos humanos y representante de víctimas de la dictadura, Sr. Enrique Ponce, recibió un mensaje telefónico intimidatorio. El Relator Especial y la Representante Especial expresaron

temores de que las sucesivas amenazas e intimidaciones de diversa índole dirigidas contra jueces, fiscales y abogados en diferentes regiones del país estén directamente vinculadas al ejercicio de su profesión por el esclarecimiento de la verdad y la búsqueda de justicia, en particular en los casos en los que se investigan las violaciones a los derechos humanos durante la dictadura militar.

### **Llamamiento urgente**

44. El 20 de julio de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con los supuestos actos de hostigamiento en contra del **Comité de Defensa de la Salud, la Ética Profesional y los Derechos Humanos (CODESEDH)** y el **Centro de Profesionales Por Derechos Humanos (CEPRODH)**, organizaciones no gubernamentales que se dedican a los casos de las violaciones de derechos humanos cometidas durante la última dictadura militar en Argentina.

45. De acuerdo con la información recibida, el 26 de junio de 2007, hacia las 20.00 horas, dos personas armadas habrían entrado en la Comisión directiva del CODESEDH en Buenos Aires, con la aparente finalidad de realizar robo con violencia contra tres profesionales que se encontraban allí presentes. Una vez que los ladrones se fueron, se habría constatado el robo de una computadora de la Secretaría de programas de la institución que contenía pruebas y archivos relevantes para los juicios contra la dictadura que se están llevando a cabo actualmente en Argentina. El 2 de junio de 2007, otro acto de hostigamiento habría ocurrido en contra del COPREDEH. Cruces svásticas habrían sido pintadas en la oficina. Esas pintadas serían prácticamente idénticas a las aparecidas en la Iglesia Santa Cruz donde fueron secuestradas las fundadoras de Madres de Plaza de Mayo durante la dictadura. Se expresó temor de que el robo de la oficina del CODESEDH y el acto de intimidación contra el COPREDEH están relacionado con el trabajo en defensa de los derechos humanos. Me preocupa que estos hechos ocurran en el marco de juicios contra los crímenes de la dictadura donde los testigos y los profesionales que luchan contra la impunidad siguen siendo víctimas de hostigamiento y de desaparición. Asimismo se expresa profunda preocupación por la seguridad e integridad física de los miembros de las mencionadas organizaciones.

### **Respuesta del Gobierno**

46. Mediante comunicación de 15 de octubre de 2007, el Gobierno de Argentina proporcionó información con respecto al llamamiento enviado. El Gobierno informó de lo siguiente: 1. Con fecha 26 de junio de 2007, se labraron actuaciones sumariales en la Comisión 6ta. Caratuladas: Robo a mano armada y privaciones ilegales de la libertad, con intervención No. 10 a cargo del Dr. Marcelo Roma, Secretaria No. 1 del Dr. Juan José Taboada Areu, en un hecho que ocurriera a las 20 hs, donde dos personas armadas habrían entrado a las oficinas correspondientes a la Comisión directiva del CODESEDEH situadas en la calle Pte. Luis Saenz Pena 611 de esta Ciudad Autónoma con la aparente finalidad de realizar un robo con violencia contra tres profesionales que se hallaban allí presentes. Una vez que se fueron los delincuentes se comprobó los faltantes de una cpu con programas, pruebas, y archivos de juicios contra la dictadura. Con fecha 2 de junio de 2007 se instruyeron actuaciones sumariales en jurisdicción de la Comisaría (va. Caratuladas: Dano, con la intervención

de la Fiscalía Correccional No. 1 a cargo del Dr. Ranole, por ante la Secretaria del Dr. Sole, donde se investiga el hecho de hostigamiento ocurrido en contra del COPREDEH sito en la calle Jujuy 550 también de esta Ciudad Autonoma, tratándose de pintadas en la oficina con cruces esvásticas y otros mensajes intimidarlos. 2. De los registros obrantes en el Departamento Unidad de Investigaciones Antiterroristas no surge que se halla presentado queja alguna. 3. Se desconocen informes o resultados de las investigaciones a cabo.

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

#### **Respuesta del Gobierno**

47. Mediante comunicaciones con fecha de 9 de enero de 2007, 14 de febrero de 2007, y 5 de marzo de 2007, el Gobierno de Argentina proporcionó información con respecto al llamamiento enviado el 10 de noviembre de 2006 en relación con aumento de actos de hostigamiento en contra defensores de derechos humanos desde el inicio del proceso contra Miguel Osvaldo Etchecolatz, ex director de investigaciones de la Policia de Buenos Aires durante la dictadura militar, y de manera particular, desde la desaparicion del Sr. Jorge López, ex detenido - desaparecido a manos del gobierno militar y principal testigo y querellante en dicha causa judicial. El Gobierno informó de lo siguiente:

48. Caso Julio Jorge López: A partir del momento en que se conocieron los hechos, se comenzaron a articular las acciones dentro del Gobierno de la Provincia de Buenos Aires. Después de radicar la denuncia, desde el Ministerio de Seguridad de la Provincia de Buenos Aires se recabaron testimonios de las personas allegadas y vecinos que pudieron haberlo visto en los momentos previos a su desaparición. Se han puesto varias fuerzas en la búsqueda del señor Julio Jorge López. El mismo día en que se conocieron los hechos se solicitó cooperación a los periódicos y a varios hospitales. Se realizaron, y se continúan llevando a cabo, amplios rastrillajes por parte de efectivos de las Policías de Seguridad, de Investigaciones en Función Judicial y de Información para la prevención del Delito en la zona de Los Hornos. Se coordina el trabajo con todas las fuerzas de seguridad nacionales. El Gobernador de la Provincia de Buenos Aires ofreció recompensa pública a quien aporte datos que permitan dar con el paradero de López. Se llevó a cabo una reunión especial del C.A.I.C.O (Comité de Análisis de Información sobre el Crimen Organizado) que fue presentada por el Ministro de Seguridad de la Provincia de Buenos Aires. El Secretario de Derechos Humanos se reunió con organizaciones sociales y de derechos humanos para articular acciones de búsqueda. Se ha analizado el armado de una red de solidaridad y protección de aquellos que pudieran estar amenazados, para que los futuros testigos de juicios se desenvuelvan en un clima de seguridad. A través de la Superintendencia de investigaciones de Delitos Complejos y Crimen Organizado y de la Superintendencia de Información para la Prevención del Delito del Ministerio de Seguridad de Buenos Aires se trabaja con los sistemas VAIC e 1-2. Se analiza información relacionada con causas penales vinculadas con personas desaparecidas, con pedidos de capturas pendientes. Se recuperaron testimonios en causas judiciales de los nombres de sujetos implicados en hechos de tortura denunciados por López.

49. Diligencias judiciales y administrativas practicadas: La denuncia por la desaparición Jorge Julio López fue presentada en la Comisaría 3 de la ciudad de la



Plata, capital de la Provincia de Buenos Aires. A partir de la presentación de la denuncia se inició la investigación judicial ante la justicia penal de la Provincia de Buenos Aires, la cual, originalmente tramitó ante el Juzgado de Garantías N 4 del Departamento Judicial de La Plata a cargo de la Dra. Garmendia, con intervención de la Unidad Funcional de Instrucción N 3 a cargo del Dr Marcelo Martín. Sin embargo, ante el incidente de inhibitoria promovido por la jueza a cargo de la investigación ante la Corte Suprema de Justicia de la Nación, este Tribunal resolvió el 14 de diciembre de 2006, que la justicia federal era competente para intervenir en la investigación por la desaparición de Jorge Julio López, en tanto ante ese fuero se sustancian los juicios por violaciones a los derechos humanos cometidas por agentes del Estado durante la última dictadura militar. Al día de hoy no existen personas imputadas en la causa judicial mencionada.

50. Medidas adoptadas para proteger a las personas amenazadas: El Gobernador de la Provincia de Buenos Aires aprobó el “programa de Vigilancia y Atención de Testigos en Grados de Exposición”, implementado a partir del convenio suscripto entre la Provincia de Buenos Aires y el Ministerio del Interior de la Nación. Por su parte, la Secretaria de Derechos Humanos del Ministerio de Justicia y Derechos Humanos de la Nación aprobó por Resolución el “Plan Nacional de Acompañamiento y Asistencia Integral a los Querellantes y Testigos del Terrorismo de Estado”, el cual será implementado por la mencionada Secretaria coordinando sus acciones con los respectivos organismos de derechos humanos de las Provincias y de la Ciudad Autónoma.

51. Caso hermanos Montes: En relación con los actos de hostigamiento y amenazas sufridas por los hermanos Ariel Gustavo y María Liz Cecilia Montes el día 9 de octubre de 2006, y tomando nota de un informe al respecto elaborado por la Policía Federal Argentina, cabe destacar que aquellos se produjeron a raíz de la detención de Francisco Luis Ramírez por parte de personal de la Comisaría Alte. Brown 5, involucrado en un hecho caratulado “robo calificado de mercadería en tránsito”. El mencionado Ramírez es conocido de los hermanos Montes, por lo que estos salieron en su defensa, exigiendo la liberación del detenido, provocándose un altercado con personal policía agredido físicamente. Tras dichos episodios, los hermanos Montes fueron detenidos por “resistencia a la autoridad” con intervención de la Unidad Funcional de Investigaciones N 2 del Departamento Judicial de Lomas de Zamora. Se les realizó el correspondiente reconocimiento médico, y una vez que se les tomó declaración, fueron dejados en libertad. Los hechos fueron denunciados en la Fiscalía N3 del Juzgado de Lomas de Zamora. Se inició una investigación por parte del Departamento de Asuntos Internos del Ministerio de Seguridad de la Provincia de Buenos Aires. Hasta el momento continúan las investigaciones judiciales iniciadas en la Unidad Funcional de Investigaciones N 3, del Juzgado de Lomas de Zamora, y por parte del Departamento de Asuntos Internos del Ministerio de Seguridad de la provincia de Buenos Aires, no conociéndose los resultados de la investigación.

52. Casos relativos a la Sra. María Cristina Saborido y sus familiares. En relación con las amenazas sufridas por familiares y allegados de la Sra. María Christina Saborido, la Sra. Augustina Tula Saborido recibió el 8 de octubre de 2006 una amenaza por correo electrónico. La denuncia de ese hecho fue presentada en la Unidad Funcional de Investigación (UFI) N 19 del Departamento Judicial de Lomas

de Zamora por Augustina Saborido. UFI dispuso la presencia de un móvil policial en el domicilio de la denunciante.

53. Casos relativos a amenazas a magistrados: Respecto a las amenazas sufridas por los magistrados del Tribunal Oral N 1, los Dres. Norberto Lorenzo y Horacio Insaurralde, y las sufridas por el presidente de ese Tribunal, el Dr. Carlos Rosansky, existen denuncias al respecto en el Juzgado Federal N3. Respecto a las presuntas amenazas sufridas por el juez Amaldo Corazza y el fiscal Sergio Franco, no se conocen denuncias. En la denuncia efectuada por el juez Rosansky, éste hizo alusión a que recepcionó en su despacho amenazas telefónicas. En tal sentido, el juzgado a cargo de la investigación ordenó la intervención de los teléfonos correspondientes al Tribunal aludido, a la vez que se envió un oficio al Ministerio del Interior para que se disponga una amplia investigación en el área de su competencia con el objeto de esclarecer las amenazas recibidas por el presidente del Tribunal Oral N 1. Según el informe remitido por el Ministerio del Interior, es inexacta la información que obra en el llamamiento, relativa a las amenazas que el Dr. Rozanzky habría recibido provenientes del Servicio penitenciario federal.

54. Caso Eloy: Respecto al caso de la Sra. Nilda Eloy, el Juzgado federal N3 dispuso custodia durante las 24 horas del día en su domicilio desde el 21 de septiembre de 2006.

55. Casos Sra. Demiryi y Sabai de Castro/Universidad de Quilmes: Entre los días 28 de septiembre de 2006 y 30 de noviembre del mismo año, la comisaría N 8 de Quilmes y el juzgado Federal de esa localidad han recibido denuncias sobre amenazas telefónicas que indicaban que en la Universidad nacional de Quilmes (UNqui) habrían artefactos explosivos. Sin perjuicio de ello, tales amenazas fueron desestimadas debido a que no se han hallado tales artefactos explosivos. Con respecto a las Sras Milagros Demiryi y Argentina Sabaj de Castro, las mismas realizaron denuncias sobre tales amenazas en la Comisaría que le compete a la Universidad. Cabe señalar que según información proporcionada por la UNqui, tal establecimiento se encuentra por seguridad privada.

56. Caso Razzeti: En relación con el graffiti con mensajes amenazadores que apareció el 14 de octubre de 2006 en la casa del ex desaparecido Carlos Razzeti, existe una denuncia al respecto ante el Juzgado Federal N3 de los Tribunales Federales de Rosario, Santa Fe. Asimismo, el denunciante, Carlos Razzeti, reclamó el inmediato esclarecimiento de los hechos ante autoridades del Ministerio de Gobierno y a la Subsecretaria de derechos Humanos del Gobierno de la Provincia de Santa Fe, que intervinieron en el caso. Actualmente, la cause se encuentra en el Juzgado en lo Penal de instrucción de la 12. Tal juzgado inició las investigaciones correspondientes, las cuales se encuentran en su etapa de instrucción. Con respecto a las diligencias judiciales que vienen practicando referente al hecho, hasta el momento no hay personas u organizaciones a las que se les pueda atribuir el hecho. Tampoco se han adoptado hasta el momento sanciones de carácter penal o disciplinario. Por disposición del juzgado interventor, el Sr. Razzeti posee custodia personal. Mediante carta fechada 5 de marzo de 2007 se proporcionó información elaborada por el ministerio público fiscal de la nación y por la secretaría de derechos humanos de la nación que complementa la enviada de 9 de enero de 2007 y de 17 de febrero de 2007. Se incluyó: 1. Sinopsis del Contenido del Primer Informe de la Unidad de Asistencia para causas por violaciones a los derechos humanos durante el Terrorismo de Estado

(Ministerio de Relaciones Exteriores, Comercio Internacional y Culto). 2. Plan Nacional de Acompañamiento y Asistencia a los Querellantes y Víctimas del Terrorismo de Estado (Ministerio de Justicia y Derechos Humanos).

### **Respuesta del Gobierno**

57. El 13 de febrero de 2006 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho de la libertad de opinión y de expresión, había enviado un llamamiento urgente en relación al supuesto reiterado acoso y repetidas amenazas recibidas por parte del Sr. Mariano Saravia desde la publicación de su libro “La Sombra Azul” en marzo de 2005, en el cual denunció diversos casos de tortura por parte de la policía provincial durante y después del régimen militar. Mediante carta fechada 31 de enero de 2007 el Gobierno de Argentina proporcionó información en relación con el llamamiento urgente. El Gobierno remitió una carta del Ministerio de Relaciones Exteriores, Comercio Internacional y Culto dirigida al Sr. Gobernador de la provincia de Córdoba en la cual se pide información sobre el caso mencionado. Asimismo se remitió una respuesta del secretario de inspección del tribunal de conducta policial de Córdoba el la cual se señala que a la fecha el caso se encuentra en etapa investigativa.

### **Observaciones**

58. La Representante Especial agradece la información proporcionada por el Gobierno de Argentina en relación con cuatro de sus comunicaciones. Sin embargo, lamenta no haber recibido respuesta a su comunicación de 13 de marzo de 2007 y 3 de Mayo de 2007 en el momento de finalización del presente informe. La Representante Especial expresa preocupación por varios casos de supuestas amenazas dirigidas en contra de defensores cuyo trabajo esta enfocado en violaciones a los derechos humanos durante la dictadura militar, especialmente el esclarecimiento de la verdad y la búsqueda de justicia.

## **Bahrain**

### **Urgent appeal**

59. On 2 February 2007, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent a letter of allegations concerning **Mr Abdulhadi Alkhawaja**, President of the Bahrain Center for Human Rights, and **Mr Hassan Mushaima**, Secretary-General of the Haq Democracy Movement, reportedly a movement seeking greater rights for the Shiite Muslims as well as further democratic reform.

60. According to the information received, on Mr Abdulhadi Alkhawaja and Mr Hassan Mushaima were arrested on 2 February 2007 in Manama by members of the security services in two separate police raids. The exact reasons for their detention are not yet known. Mr Alkhawaja was previously arrested in September 2004 after he gave a public lecture in which he criticized the Government. Concern was expressed that the arrest of Mr Alkhawaja and Mr Mushaima may be related to their legitimate and peaceful activities in defence of human rights.

### **Response from the Government**

61. In letters dated 15 February 2007 and 7 March 2007, the Government of Bahrain responded to the urgent appeal of 2 February 2007. On 15 May 2007 the Government sent a letter containing additional information to the case. In the mentioned communications, the Government stated that Hassan Ali Mohammed Mushaima, Abd al-Hadi Abdullah Habil al-Khawajah and Shakir Mohammed Abd al-Husain Abd al-Al delivered statements and talks in public places, and that the talks contained propaganda aimed at overthrowing and changing the political regime of the State, publicly inciting hatred and contempt for the Government, spreading false reports and information, disseminating seditious messages and inciting public disobedience of the law. They also expressed contempt for the King. Mr Abdulhadi Alkhawaja and Mr. Hassan Mushaima were arrested on 2 February 2007, pursuant to an investigation by the public prosecutor pointing to crimes of hatred, spreading of deliberate and malicious falsehoods and incitement to break the law, contrary to specific articles of the 1976 Penal Code. Mr. Hassan Mushaima confirmed that he had made a statement as referred in the investigation report. He said that it was his constitutional right to express his opinion. Mr. Hassan Mushaima was also questioned in the presence of two lawyers. He denied the charges against him. The public prosecutor's office took testimony from witnesses who confirmed the findings of the investigation report. The public prosecutor's office concluded its investigations and ordered the release of the two men on bail. Mr. Hassan Mushaima and Mr. Abd al-Hadi al-Khawajah and Shakir Mohammed Abd al-Husain Abd al-Al were charged with publicly inciting hatred and contempt for the Government, in a public place in Bahrain. They were also charged with deliberately spreading false and tendentious information and propaganda and with disseminating seditious messages about the country's internal situation with a view to disrupting public security and damaging the public interest. In addition, they were charged with inciting public disobedience, resistance of the authorities and the organization of illegal demonstrations and protests in a public place. The Government maintained that they were not arrested for expressing their opinion, but rather for committing offences that are punishable under the Criminal Code. The arrest of the two individuals was not connected with any human rights activities they may undertake. The Government objected to the use of the term "victims" in the communication from the Special representative, and affirmed that all aspects of the arrest, detention and subsequent proceedings involving to these individuals had been legal. No complaint has been lodged by or on behalf of either individual in relation to the case (including as to their arrest, detention or court appearances). The Government urged the Special Representative to be aware of claims emanating from Mr Al-Khawaja, and referred to other communications from the Government where it has been stated that Mr Al-Khawaja is seeking to instigate confrontation, and for attempting to engage international human rights bodies for political purposes.

### **Letter of allegations**

62. On 25 October 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegations concerning Ms **Ghada Jamsheer**, a women's rights activist and president of the Bahrain Women's Petition.

63. 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.

64. 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.

65. Concern was expressed that the ban imposed on Ms. Jamsheer might be directly linked to her non-violent activities in defence of women's rights in the Kingdom of Bahrain.

#### **Responses from the Government to communications sent before 2 December 2006**

66. In a letter dated 13 June 2007, the Government of Bahrain submitted additional information in regard to the urgent appeal sent 1 October 2004 by the 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 and the Special Rapporteur on the question of torture, regarding the Bahrain Centre for Human Rights (BCHR) and its executive director **Abdul-Hadi Al-Khawaja**. Concern had been expressed that Abdul-Hadi Al-Khawaja might have been detained as a direct result of his human rights work with BCHR and in particular his criticism, during the symposium, of Government policy on poverty in Bahrain. In view of his alleged incommunicado detention, concern was expressed that he might be at risk of torture or other forms of ill-treatment. Further concern was expressed for all members of the BCHR following reports that the Ministry of Labour was leading an effort aimed at "taking legal and punitive actions against the BCHR" and which could lead to the organization's closure. The Government has previously responded to the letter of allegations in communications dated 6 October 2004 and 1 December 2004.

67. The Government informed that Mr. Abd al-Hadi al-Khawaja delivered a statement 12 June 2007 at a session of the Human Rights Council. The Government of Bahrain refutes the thrust of the statement that Mr. Abd al-Hadi al-Khawaja made. The Government maintained that there is no secret about the extensive contribution that His Highness Sheikh Khalifa Bin Salman Al Khalifa, the distinguished Prime Minister, has made to the achievement of progress and development, in the housing, economic and social domains, in Bahrain. Nor is there any secret about his role in alleviating the burden of poverty and providing decent homes for the poor and the

needy. It was also informed that Mr. Abd al-Hadi al-Khawaja does not represent any official, human rights, or civil society, organization.

### **Observations**

68. The Special Representative thanks the Government for its detailed replies to the urgent appeal of 2 February 2007. However, in its replies, the Government did not indicate how the legal basis of the arrests was compatible with international norms and standards. The Special Representative would be grateful for information on the outcome of the case, and how the measures were compatible with international norms and standards. She reiterates her concern that the charges are related to Mr Abdulhadi Alkhawaja and Mr Hassan Mushaima's legitimate and peaceful activities in defence of human rights. The Special Representative regrets that at the time of her finalization of this report, she did not received a response from the Government to her communication of 25 October 2007.

69. The Special Representative wishes to refer to the fundamental principles set forth in the Declaration on human rights defenders, and in particular articles 1 and 2 which state that everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. She would like to remind the Government that article 5 of the Declaration, especially points b) and c) which provides that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-Governmental organizations, associations or groups, and to communicate with non-Governmental or interGovernmental organizations.

## **Bangladesh**

### **Urgent appeal**

70. On 5 February 2007, the Special Representative, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government the concerning Mr **Shahidul Islam**, Executive Director of Uttaran, a non-Governmental organization which promotes the rights of landless people in the Satkhira region. Mr Islam has also been involved in campaigning against the Khulna Jessore Drainage Rehabilitation Project (KJDRP) project, funded by the Asian Development Bank (ADB).

71. According to the information received, on 27 January 2007, Mr Islam was apprehended by military personnel at the Uttaran training centre in Tala Upazilla. He was then escorted to a joint forces interrogation cell where he was beaten all over his body before being transferred to the local Tala Police Station later that afternoon. As a result of the beating, he suffered a broken toe and might also have suffered injury to internal organs. Subsequently he was taken to a prison hospital and later transferred to a general hospital in Satkhira district town. On 28 January 2007, he was ordered to remain in detention for one month under the Special Powers Act which provides for the detention of individuals who might commit prejudicial acts against the State.

However, no official charges have been brought against him. Mr Shahidul Islam has not had access to his family or lawyers since his arrest.

72. Concerns were expressed that the aforementioned events might be an attempt to prevent Mr Shahidul Islam from carrying out his legitimate activities in defence of human rights, in particular the land rights of the people in the Satkhira area. Further concern was expressed with regard to the physical and mental integrity of Mr Islam in view of his incommunicado detention and the alleged state of his health.

### **Response from the Government**

73. In letters dated 6 February 2007 and 14 May 2007, the Permanent Mission of Bangladesh to the United Nations Office and Other International Organizations in Geneva replied to the communication sent by the Special Representative. The letter informed that Mr Shahidul Islam had been working with the impoverished population of Tala Upazilla under Satkhira District in various social projects on poverty alleviation. "Ensuring People Access and Rights to Resources in Southwest Bangladesh" was one of such projects. The NGO had organized local landless people and patronized to hold meetings and processions against local administration. This is in sharp contrast to the principles and objectives of an NGO working in the social field. Mr. Islam instigated the landless people to be violent, and this created disturbances in the local environment. On 27 January 2007, Mr Islam was arrested by the security joint forces on specific information of his link with party activity, which is currently banned under Emergency Ordinance promulgated by the Caretaker Government. After apprehension, Mr. Islam was taken to the Tala Joint Forces Camp. He was interrogated according to existing procedure and subsequently handed over to the Tala Police Station. The allegation of torture was thoroughly rejected. As some of Mr. Islam's activities went against the interest of the public safety, security and peaceful environment, the Court of Satkhira ordered one-month detention according to the Special Power Act 1974 since the date of his apprehension. The case is now under investigation and Mr. Islam has full access to seek legal recourse.

### **Urgent appeal**

74. On 8 March 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people sent an urgent appeal to the Government concerning **Mr Ranglai Mro**, an indigenous leader of the Mro indigenous community from Bandarban, in the Chittagong Hill Tracts. 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.

75. 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.

76. 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.

77. Concern was expressed that Mr Ranglai Mro's alleged detention and torture could be linked to his activities in defence of human rights of the Mro indigenous people, including his efforts in claiming land rights for the indigenous communities and protesting against the taking away of their lands. In particular, there was concern 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 Bandardan, 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 the Government**

78. In a letter dated 12 March 2007, the Permanent Mission of Bangladesh to the United Nations Office and Other International Organizations in Geneva acknowledged receipt of the communication sent by the Special Representative and reiterated the full support of the Government of Bangladesh the mandates and work of the Special Procedures. By letter dated 26 April 2007 the Government provided information on the arrest of Ranglai Mro.

79. The Government reported that Ranglai Mro was apprehended in the morning of 23 March 2007. According to the Government, 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**

80. On 20 April 2007, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Mr **Aminul Islam** and Mr **Abdul Kashem Palash**, Director and Chairperson of the Association of Development Agencies in Bangladesh (ADAB).

81. According to the information received, on 12 January 2007, Mr Palash and Mr Islam were arrested from their respective homes in Dhaka city, by members of the Rapid Action Battalion (RAB). The RAB failed to produce a warrant for either arrest. The arrests were carried out the day after a state of emergency was declared. According to reports, both men were transferred to Dhaka Central Prison, where they



were issued with a 30 day preventive detention under Section 3(1) of the Special Powers Act 1974 for "prejudicial acts". On 20 January 2007, Mr Palash and Mr Islam received a document from the Home Ministry which outlined reasons for their arrests under Section 8 of the Special Powers Act-1974. Under the Act they were considered as posing a threat to State Security. On 5 February 2007, in an order signed by the Senior Assistant Secretary of the Home Ministry's Security Cell-3, Mr Palash and Mr Islam had their sentence extended by a further 30 days. On 26 February 2007 the High Court Bench of the Supreme Court ordered the immediate release of Mr Palash and Mr Islam claiming that their detention was unlawful. However on 28 February, following an application by the Government, the Appellate Division passed an order staying the High Court judgment. On 12 March 2007 the order of stay was extended until 29 March with the Appellate Division of the Supreme Court having granted the Government of Bangladesh leave to appeal and requested that an appeal be prepared by 3 May 2007. Mr Palash and Mr Islam are due to have their cases reviewed by the Advisory Board, comprising of two sitting High Court judges and a Government official, on 19th April 2007. This process of review by the Board is carried out pursuant to Section 10 of the Special Powers Act 1974. Mr Palash and Mr Islam are currently being detained at Dhaka Central Prison, and both men are being denied access to legal representation.

82. Concern was expressed that the apparent arbitrary arrest and detention of Mr Palash and Mr Islam might be related to their legitimate work in the defence of human rights and may form part of an ongoing pattern to silence human rights defenders in Bangladesh. Further concern was expressed regarding reports received indicating that Mr Palash and Mr Islam had not been granted neither a fair trial nor access to a legal representative.

### **Response from the Government**

83. On 5 October 2007, the Permanent Mission of Bangladesh in Geneva replied to the urgent appeal sent 20 April 2007. The letter stated that Mr. Aminul Islam was arrested and brought before the court on 12 January 2007 because of his involvement in acts subversive to the State. According to the information from the Government, Mr. Islam had organized local slum dwellers and other people in the Dhanmondi area and tried to create hostility between people. He supported acts of violence, which endangered public safety and security in the Dhanmondi area. This led to accusations in four cases. Of the four, one case ended in framing prima-facie charge against Mr. Islam and others on completion of investigation, while the rest of the cases are still under investigation as evidences are impeding. After the arrest, Mr. Islam was initially given one-month detention under the Special Power Act. Later on it was extended for another month. However, he challenged the verdict in the High Court. The High Court ruled in his favour and he was freed from Dhaka Central Jail on 27 April 2007.

84. Mr. Abul Kashem Polash is the central coordinator of Proshika. He played a vital role in bringing forth people for political programmes of the Awami League. He was arrested on the 12 January 2007 by the Joint Forces for his alleged role in utilizing the NGO activists for anti-state activity and creating unrest in the society. He was arrested by Rapid Action Battalion (RAB)-2. Later on, he was handed over to the Mohammadpur Thana Police. There was one general diary and two cases against him at Mohammadpur Police Station and one case at Dhanmondi Police Station. Charge

sheet was given against him on 7 July 2005 in the case filed with Dhanmondi Police Station. Mr Abul Kashem was sent to jail for one month's detention under the Special Power Act. It was extended for another three months up to 11 May 2007. However, Mr Abul Kashem challenged the decision in the High Court. After the hearing the High Court ordered him to be released on bail. On 23 May 2007 he was released

85. Mr Aminul Islam and Mr Abul Kashem Polash were arrested for their alleged role in creating unrest in the society. They violated the law of the country as NGO representatives and got involved in internal political activities, which were subversive to the State. However, they were given proper opportunity to fight their cases in the court.

86. The Permanent Mission reiterates its full support and cooperation of the Government of Bangladesh to the work of the human rights special procedures and wishes to reassure that the cases in reference would proceed according to the law of the land. The legal proceedings against Mr Abul Kashem Polash and Mr. Abul Kashem Polash respectively will be conducted impartially and their rights to a fair trial and due process of law will be respected.

### **Urgent appeal**

87. On 20 April 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal to the Government bringing attention to allegations received from the Government regarding the situation of Mr. **Bikram Marma** and other indigenous activists in the Chittagong Hill Tracts, in south-eastern Bangladesh. The situation of members of indigenous communities in the Chittagong Hill Tracts has been the subject of previous communications sent by the Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people on 4 September 2004 (AL BGD 17/2004), 20 April 2006 (UA G/SO 214 (42-3) G/SO 214 (69-15) G/SO 214 (89-11) BGD 4/2006) and 8 March 2007 (UA G/SO 214 (67-14) G/SO 214 (107-6) Indigenous (2001-5) BGD 7/2007).

88. According to the information received, the Joint Forces, consisting of the military, the Rapid Action Battalion (RAB), the Bangladesh Rifles (BDR), the police and intelligence servicemen, have been given special power to control corruption and crimes in the country, in the context of the state of emergency that was declared by the President on 11 January 2007, under articles 141A (1), (2), (3), 141B, 141C (1), (2) and (3) of the Constitution. It has been reported that the Joint Forces are allegedly taking advantage of the state of emergency to carry out suppressive actions against the indigenous Jumma people in the Chittagong Hill Tracts and that indigenous political leaders have been especially targeted for political motives. Particularly, the Joint Forces have been arresting activists from the PCJSS (Parbartya Chattagram Jana Samhati Samiti, the political organization representing the indigenous people of the Chittagong Hill Tracts), and the PCP (Hill Students' Council), allegedly charging them with false accusations in connection with criminal activities.

89. In this context, reports have been received regarding the alleged arrest of at least eleven indigenous activists. According to these reports, on 4 February 2007, at mid-night, members of the army and the police (the Joint Forces) arrested Mr. Bikram

Marma, President of the Kaptai upazila branch of the PCJSS, at his home in the Chandraghona Christian Missionary Hospital area under Rangunia upazila in the Chittagong district. He was accused of illegal possession of weapons and led to the Chandraghona police station. He was brought before the magistrate court in Rangamati district and sent to the Rangamati prison.

90. On 6 February 2007, around 4:00 p.m., Mr. **Sumit Chakma**, Assistant General Secretary of the Rangamati district branch of the Hill Students Council from Dhaka, was arrested by the Joint Forces, along with another Jumma youth from the Ghachichar area under Saver in Dhaka district. They were allegedly subject to torture during army custody. They were brought before the magistrate court in Rangamati district and sent to the Rangamati prison.

91. On 11 February 2007, at midnight, Mr. **Saimong Marma**, Organising Secretary of the Kaptai branch of the PCJSS was arrested by the Joint Forces at his home in the Raikhali of Chandraghona area under Kaptai upazila in Rangamati district. He was allegedly subject to torture during army custody. A case of illegal possession of weapons was presented against him at the Chandraghona police station. He was brought before the Magistrates' Court in the Rangamati district and sent to the Rangamati prison.

92. On 18 February 2007, at around 4:30 a.m. Mr. **Satyabir Dewan**, General Secretary of the PCJSS, was arrested at his home by the Joint Forces led by Lt. Kazi Mustafizur Rahman of the Rangamati army region and Md. Osman Goni, PSI of the Kotowali police station of the Rangamati district. A country-made pipe-gun was allegedly placed under the bed of Mr. Satyabir Dewans' son, Mr. Polo Dewan. During the same night, the military forces arrested four other PCJSS leaders from Jurachari upazila in the Rangamati district: Mr. Bimal Kanti Chakma, Central Member of the PCJSS from Jurachari, Mr. Ranjit Kumar Dewan, President of the Jurachari branch of the PCJSS, Mr. Udayjoy Chakma, General Secretary of the Jurachari branch of the PCJSS and Mr. Mayachan Chakma, Organising Secretary of the Jurachari branch of the PCJSS. The five members of the PCJSS were placed in custody for three days at the Rangamati police station on 24 February 2007. They were allegedly brought before the Court on 28 February 2007 after completing custody and were charged for possession of illegal weapons, extortion and in connection with the killing of Kina Mohan Chakma, a supporter of the organization Sama Odhikar Andolan. The Court ordered three additional days of custody. Mr. Satyibar Dewam was brought again before the Magistrates' Court on 1 March 2007, and was placed again in two days custody. It is alleged that he was not supplied adequate food, was interrogated continuously, and was prevented from sleeping during his detention. Mr. Satyabir Dewan and his colleagues have been assisted by a group of lawyers led by Fani Bhusdan Das, former President of the Rangmati Bar Association. On 28 February 2007, before Mr. Satyabir Dewan was brought to court for the first time, a major from the Rangmati army zone allegedly met with the magistrate in charge of the case with whom he talked alone for half an hour. All visitors were driven out of the courtroom before Mr. Satyabir Dewan was sentenced. Moreover, on 25 February 2007, the joint forces along with a magistrate searched the house of Satyabir Dewan and allegedly seized bank account documents of Mr. Satyabir Dewan, his son Mr. Polo Dewan and his wife, as well as other personal belongings.

93. On 5 March 2007, the Joint Forces reportedly arrested Mr. **Balabhadra Chakma** and Mr. **Manubha Ranjan Chakma**. Mr. Balabhadra Chakma, Vice President of the Dighinala upazila branch of the PCJSS was arrested at the house of Ms. Jarita Chakma (Central Member of the PCJSS) at Mahajan Para in the Khagrachari municipality, where he had been staying for treatment he underwent after a kidney stone operation. He was first taken into the Khagrachari army zone and then handed over to the Khagrachari police station. He was allegedly not given any medicine while in army and police custody. Mr. Manubha Ranjan Chakma, President of the Baghaichari upazila branch of the PCJSS was arrested at Baghaichari upazila in the Rangamati district after being called by the BDR (Bangladesh Rifles) zone commander to meet at his zone office on that day. On the next day (6 March 2007) he was handed over to Baghaihat army zone under Dighinala cantonment in the Khagrachari district, where he was allegedly subject to torture. He was brought before the Magistrate Court in the Khagrachari district on 7 March 2007.

94. The facts described above would seem to follow the similar pattern of the case of Mr. **Railai Mro**, Chairman of Sualok mouza and Headman of Sualok mouza from Bandarban, who was subject of the aforementioned communication sent by the Special Rapporteur and the Representative of the Secretary General on 8 March 2007.

95. Concerns were expressed that the alleged facts described above could be linked to the indigenous leaders and activists' peaceful work in defence of human rights of the indigenous communities of the Chittagong Hill Tracts, including their efforts in claiming land rights for the indigenous communities. In particular, there was concern that the aforementioned persons were being targeted by the army-led security forces for their vocal role in favour of the implementation of the Accord signed by the PCJSS and the Awami League Government on 2 December 1997, which provided limited autonomy to the indigenous peoples and addressed, among others, the demilitarization of the Chittagong Hill Tracts.

### **Response from the Government**

96. In a letter dated 24 April 2007, the Permanent Mission of Bangladesh in Geneva replied to the urgent appeal of 20 April 2007. The letter acknowledged the receipt of the urgent appeal and indicates that it has been duly noted and forwarded to the concerned authorities of Bangladesh for necessary inquiry and action and that the request will be carefully and appropriately considered.

### **Urgent appeal**

97. On 9 May 2007, the Special Representative sent an urgent appeal to the Government concerning Mr **Nasruddin Elan**, Acting Director of Odhikar; a human rights organization based in Dhaka, Bangladesh.

98. According to reports, on 26 April 2007, Mr Elan received a phone call requesting that he appear at the headquarters of the Naval Intelligence Services in Banan, for a meeting with Captain Zubayer, in order to discuss two cases which had been investigated by Odhikar. The cases in question referred to the death of two men whilst in custody at Bhola, in February and March 2007. On 2 May 2007, Mr Elan received a number of phone-calls throughout the day again demanding that he go to

the Naval Headquarters in Banan to discuss the cases. Mr Elan refused the request saying that an official letter would be required.

99. On 3 May 2007, an individual in civilian dress came to Odhikar and requested that Mr Elan accompany him to the Naval Headquarters in Banan. The same morning, Mr Elan was escorted to Captain Zubayer's office where two officers from the Directorate General of Forces Intelligence (DGFI) joined the meeting. The two officers reportedly subjected Mr Elan to a barrage of verbal abuse and threatened to kill him. They also stated that they would interrogate Mr Hassan Arif, President of Odhikar, if necessary, and suggested that the organization would be well advised to cease its human rights work. Mr Elan was also informed that should he report the incident, he would be arrested.

100. Concern was expressed that the afore-mentioned events were directly related to Mr Elan's work in human rights, and in particular his involvement in investigating allegations of human rights abuses within the Naval Headquarters in Banan. Further concern was expressed for the physical and mental integrity of Mr Elan and other members of Odhikar.

### **Response from the Government**

101. In a letter dated 7 August 2007, the Permanent Mission of Bangladesh in Geneva replied to the urgent appeal of 9 May 2007. Related to the case, the letter stated that on 21 March 2007, a known criminal, Mr Farid, died while in naval custody in Tazmuddin of Bhola District. Mr Elan's report on this matter was in some respects contradictory to the findings of the Naval investigation report and therefore Mr Elan was invited to discuss this with the Director of Naval Intelligence. On 3 May 2007, Mr Elan informed the Director of Naval Intelligence that he did not have a vehicle to travel to the Naval Headquarters. As such, Naval authorities sent a vehicle to bring him. He arrived at 12.10 pm. After the meeting Mr Elan returned to his office at 12.25 pm. Mr Elan was not intimidated and no abusive words were used. The allegation that two officers from the Director General of Force Intelligence were present is not true. The report published by the Odhikar on the issue is exaggerated and appears to have been done with the intention to defame Bangladesh navy.

102. The Government maintained that since the country is in a state of emergency, some restrictions on civil liberties cannot be ruled out. Notwithstanding, the Government is committed to providing for the fundamental rights of its people and institutional reform is underway.

### **Urgent appeal**

103. On 14 May 2007, the Special Representative, 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 and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning 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.

104. Concern was expressed that the arrest and detention of Mr Khalil might be directly related to his peaceful work in defence of human rights and in particular his involvement in conducting research on allegations of torture and extra-judicial killings by security forces, as well as the publishing of reports of alleged cases of corruption. Further concern was expressed for Mr Khalil's physical and psychological integrity in light of reports of ill-treatment of detainees since a state of emergency was declared in Bangladesh on 11 January 2007.

#### **Response from the Government**

105. By letters dated 15 May 2007 and 31 October 2007, 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**

106. On 22 May 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning Mr **Jahangir Alam Akash**, journalist with CSB News Bangladesh and human rights defender.

107. 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'. Concern was expressed that the afore-mentioned events may be directly related to Mr Akash's work in defence of human rights.

#### **Response from the Government**

108. In a letter dated 26 November 2007, the Permanent Mission of Bangladesh in Geneva replied to the urgent appeal of 22 May 2007. According to information from the Government, on 2 May 2007, RAB raided the house of Benjir Ahmed. Mr. Ahmed got a bullet injury and RAB immediately brought him to the hospital for treatment. According to the Government, Mr. Ahmed is a criminal and an arms cadre of AL. 30 minutes after this incident, journalist Mr. Akash visited the house of Mr. Ahmed and telecasted the interview of Mr. Ahmed's wife, where he tried to present Mr. Ahmed as a political leader instead of a terrorist.

109. The Government stated that Mr. Akash has a record of toll collection, black mailing and reporting false and fabricated stories, and therefore he was boycotted by his colleagues and was avoided by local people. The Government maintained that Mr. Akash has launched an international campaign to draw sympathy in his favour in order for the Government to refrain from taking action against him according to national law.

### **Urgent appeal**

110. On 15 June 2007, the Special Representative sent an urgent appeal to the Government concerning the reported arrest and detention of Mr **Santoshito Chakma**, alias "Bakul", General Secretary of the Chittagong Hill Tracts Jumma Refugees Welfare Association. As part of his work for this organization, Mr. Chakma has played a vocal role in the defence of the rehabilitation of the Jumma indigenous refugees following their return from India. The situation of members of organizations working for the defence of the rights of the Jumma people in the Chittagong Hill Tracts has been the subject of previous communications sent by the Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people and the Special Representative on the situation of human rights defenders on 20 March 2007, and by the Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people on 4 September 2004, 20 April 2006 and 8 March 2007.

111. According to information received, on 3 June 2007, Mr. Chakma was reportedly arrested by police officers from Chengi Square police station, in Khagrachari Town, while returning home from a meeting with the Task Force on the rehabilitation of returnee Jumma refugees. Mr. Chakma was arrested under section 16/2 of the Emergency Powers Rules-2007, which empowers all personnel of the law and order maintaining forces to arrest any person on suspicion without a warrant. Mr. Chakma was reportedly informed that he had been arrested on charges of extortion and disturbance of communal harmony. According to reports, Mr. Chakma was presented before Khagrachari Court and is currently being detained at Khagrachari prison. Neither his family nor the members of his organization have been able to establish direct contact with Mr. Chakma while in prison.

112. Concern was expressed that the arrest and detention of Mr. Chakma might be directly related to his peaceful work in defence of the rights of the returned Jumma refugees in the Chittagong Hill Tracts, including recent rallies and blockades aimed at drawing the attention of the Government of Bangladesh to the difficult conditions currently faced by the refugees.

### **Response from the Government**

113. In a letter dated 26 November 2007, the Government of Bangladesh responded to the above mentioned urgent appeal. The Government stated that Mr. Chakama was arrested on 3 June 2007 due to his involvement in three murder cases. According to information from the Government, there were also reports, allegations and charges against Mr. Chakama stating that he was obstructing government activities, misusing cooperative funds and creating communal unrest.

114. The Government stated that Mr. Chakama was first arrested under section 16 (2) of the emergency power rule 2007. After his arrest, the local police made an enquiry against him and he was arrested according to section 385/386 of the penal code. The case regarded extortion. After his arrest he was brought before the Court of a local Magistrate, and the court ruled that he was to remain in jail.

115. The Government maintained that Mr. Chakama was arrested under specific allegations brought against him and on the basis of evidence. The arrest did not violate international standards on freedom of expression and assembly.

### **Urgent appeal**

116. On 11 July 2007, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal to the Government concerning the reported arrest and detention of Mr. **Milton Chakma**, Assistant Coordinator of the Hill Watch Human Rights Forum and member of the United Peoples Democratic Front, an organization representing the Jumma people of the Chittagong Hill Tracts.

117. The situation of members of organizations working for the defence of the rights of the Jumma people in the Chittagong Hill Tracts had been the subject of previous communications sent by the Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people and the Special Representative on the situation of human rights defenders on 20 March 2007 and 15 June 2007, and by the Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people on 4 September 2004, 20 April 2006 and 8 March 2007.

118. According to information received, on 29 May 2007, at around 11.30 am, Mr. Milton Chakma and his wife, Ms. Sumana Chakma were waiting for a bus near Chengi Bridge, one kilometre west of Khagrachari bazaar, on their way to Chittagong for Ms. Chakma's medical treatment. While at the bus station, a Bangladesh army lorry reportedly came near them, and one of the army personnel asked Mr. Milton to identify himself. When Mr. Chakma told his name, the lorry went towards the direction of Khagrachari town. The lorry returned after a few minutes, and the military personnel arrested Mr. Chakma and took him away. No reason for his arrest was allegedly given at that time.

119. In the afternoon of the same day, Mr. Chakma's relatives proceeded to Khagrachari zone army headquarters to seek information on his whereabouts. The



army personnel allegedly refused to provide information on the grounds that their offices were closed at 2.00 pm. When Mr. Chakma's relatives returned again to the headquarters the next day, the zone commander told them that Mr. Chakma was picked up by army personnel from Mahalchari zone. However, they went to Mahalchari zone army headquarters, the army officials denied having arrested Mr. Chakma.

120. On 31 May 2006, Mr. Chakma was produced before the Court in Rangamati. The Court reportedly granted a 7-day police remand for interrogation on 6 June 2007. On 12 June 2007, he was reportedly transferred secretly in an army vehicle to the Rangamati jail, allegedly with the intention to prevent his lawyer from appealing for bail. On that date, the Court of Rangamati granted an additional remand for 4 days. Since the end of this remand, Mr. Chakma has been reportedly held in judicial custody at Rangamati jail and, to date has not been produced before the Court.

121. According to information subsequently received, Mr. Chakma was arrested on the basis of an First Information Report (FIR) filed by Md. Shadihul Islam, Sergeant (No. 3998686) of 24 Bengal Regiment. As per this report, Mr. Chakma has been charged in relation to the alleged murder of an army officer in Ghilachari, Rangamati district, in December 2006 (Case No. GR 304/06). The officials' records reportedly show that this case was originally filled on 27 December 2006 under Sections 302-304 of the Bangladesh Penal Code. However, in the original FIR Mr. Milton Chakma was not reportedly included. It was alleged that the assassination charges brought against Mr. Chakma are manifestly unfounded, and that they may be related to his peaceful work in defence of the rights of the rights of the Jumma people in the Chittagong Hill Tracts. Concern was expressed concerning the personal integrity of Mr. Chakma. Concern was also expressed that Mr. Chakma might not have been given due process according to the relevant international standards.

### **Response from the Government**

122. By letter dated 13 July 2007, the Permanent Mission of Bangladesh to the United Nations Office and Other International Organizations in Geneva acknowledged receipt of the communication sent by the Special Representative and reiterated the full support of the Government of Bangladesh for her mandate and work.

### **Urgent appeal**

123. On 10 August 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent an urgent appeal to the Government concerning **Mr Rabindra Ghosh**. Mr Rabindra Ghosh is the President of the Dhaka Chapter of the Human Rights Congress for Bangladesh Minorities (HRCBM). The HRCBM is a non-Governmental organisation dedicated to the promotion of human rights that has special consultative status with the United Nations. 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.

124. According to information received, on 7 August 2007, police officers came to the home of Mr Ghosh in the Western Bazaar area of Moulovibazar 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. Concern was expressed that the warrant for the arrest of Mr Rabindra Ghosh may be related to his non-violent and legitimate work in the defence of human rights. Further concern was expressed for the physical and psychological integrity of Mr Rabindra Ghosh and his colleagues at the HRCBM.

### **Response from the Government**

125. In a letter dated 15 January 2008, the Government responded to the above mentioned urgent appeal. The Government informed that Mr. Gosh was not present during the eviction carried out by the Joint Forces in the Bhabanipur Temple areas in February 2007. A case was filed against the eviction activities of the joint forces at the Court of the Assistant Judge, and the case was subsequently dismissed by the Court after proper examination. There was no mention of torture against Mr. Ghosh in the case. No case has been filed regarding the allegations. Mr. Ghosh was arrested in connection with another incident. An investigation was carried out on the basis of the allegations. On completion of the investigation, a Non-FIR prosecution was submitted to the Court. As a result of that prosecution, Mr. Ghosh appeared before the court voluntarily and the Court granted him bail on his appeal.

### **Urgent appeal**

126. On 7 November 2007, the 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 and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning 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 Rajsh. 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.

127. 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**

128. In a letter dated 26 November 2007, the Government responded to the above mentioned urgent appeal. The Government referred to its previous communications dated 2 May 2007 and 7 November 2007. The Government informed that Mr. Akash has a record of toll collection, black mailing and reporting false and fabricated stories, and therefore he was boycotted by his colleagues and was avoided by local people. The Government maintained that Mr Akash has launched an international campaign to draw sympathy in his favour in order for the Government to refrain from taking action against him according to national law.

### **Observations**

129. The Special Representative thanks the Government of Bangladesh for responding to all of her communications. This indicates the Government's willingness to cooperate with the mandate. However, she regrets not having received more information on the allegations submitted on 11 July 2007 and on 20 April 2007 and the measures undertaken by the Government of Bangladesh to investigate these cases.

130. The Special Representative is concerned that certain rights under the Declaration for human rights defenders might have been curtailed under the emergency regulations in Bangladesh. She is particularly concerned about freedom of assembly and association, and she is worried that some of the restrictions on these rights exceed what is permissible by international law. The responses from the Government of Bangladesh do not entirely dispel her concern related to reports on allegations of torture and ill-treatment of defenders in custody. The Special Representative wishes to remind the Government of Bangladesh that certain basic rights, such as the right to life and the prohibition on torture and other cruel, inhuman or degrading treatment, may not be restricted at any time, according to International law.

131. The Special Representative refers to the recommendations in her 2003 report to the General Assembly (A/58/380) in which she examines the impact of security legislation on human rights defenders and looks at the role and situation of human rights defenders working in the context of emergencies.

## **Bolivia**

### **Llamamiento urgente**

132. El 9 de marzo de 2007 la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con los miembros de la Asamblea Permanente de los Derechos Humanos (APDH) y en particular el Presidente de la organización, el Sr. **Adalberto Rojas**. La APDH es una organización que trabaja en defensa de los derechos humanos de la población campesina, los pueblos indígenas y otras personas de la comunidad de Santa Cruz de la Sierra, departamento de Santa Cruz, que sufren discriminación.

133. Según la información recibida, el 21 de enero de 2007, varios miembros del Comité Cívico Pro Santa Cruz habrían entrado en las oficinas de la APDH. Dichos individuos habrían amenazado al personal de la APDH diciéndoles que volverían con armas y dispararon contra el edificio antes de marcharse. Según los informes, el 7 de diciembre de 2006, el Sr. Rojas habría sido golpeado por ocho miembros de la Unión Juvenil Cruceñista, conocido como el grupo armado del Comité Cívico Pro Santa Cruz, en las afueras de las oficinas del ADPH. Se alega que uno de los miembros del grupo habría acercado al Sr. Rojas amenazándole con muerte. Otros miembros de la organización resultaron heridos en el ataque. Se informa que tras haber denunciado el incidente a la policía los miembros de la APDH habrían gozado de protección policial hasta el 7 de enero de 2007. Desde 2003 miembros de la APDH, en Santa Cruz habrían sido víctimas de amenazas de muerte, así como al hostigamiento y agresiones violentas. Durante los últimos meses, la sociedad civil en el departamento de Santa Cruz habría sufrido un incremento en los atentados y amenazas después de que el Sr. Rojas se ha visto obligado a abandonar su casa, ante el temor por su seguridad y la de su familia.

134. Se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Asamblea Permanente de los Derechos Humanos (APDH) presidida por el Sr. Rojas y se expresó profunda preocupación por su seguridad e integridad física así como la del resto de miembros de dicha organización.

### **Observations**

135. La Representante Especial lamenta que, al finalizar este informe, no había recibido una respuesta a la comunicación de 9 de marzo de 2007, ya que considera que responder a las comunicaciones representa un elemento fundamental cooperación de los Estados con el mandato. En este contexto, la Representante insta al gobierno boliviano a que le proporcione una respuesta, tratando los asuntos mencionados

## **Brazil**

## Letter of allegations

136. On 12 January 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on the right to food, sent a letter of allegations concerning the plans to construct a tourist resort in the municipality of Itapipoca, in the state of Ceará. According to the information received, the proposed resort will be constructed in areas that indigenous Tremembé communities consider to be part of their traditional lands, without previously consulting the communities concerned, and while the formal procedure for the delimitation, demarcation and titling of these lands is still ongoing.

137. According to information received, the Tremembé indigenous communities, who represent approximately 5,000 individuals, live in the municipalities of Itarema, Acaraú and Itapipoca, in the State of Ceará. On 5 May 2003, the Córrego João Pereira indigenous land, in the municipalities of Itarema e Acaraú, was granted legal recognition by presidential decree. The area covered by the Presidential Decree does not include the lands of the Tremembé communities of São José and Buriti, in the municipality of Itapipoca, which reportedly migrated into their current lands during the 1980s, as a result of increased drought and population pressure. According to the information received, the lands belonging to these communities have not yet been officially demarcated and titled.

138. The procedure for the demarcation of the Tremembé of São José and Buriti reportedly started in 2004, when the National Foundation on Indigenous Affairs (FUNAI) established an inter-disciplinary working group to conduct a study of the area, the first step in the procedure of tiling of indigenous lands under the 1973 Indian Statute. The study carried out by the FUNAI working group reportedly concluded that there was no indigenous population in the area. This conclusion was challenged by an independent expert research carried out in December in 2004 by specialists of the Ceará State University, which concluded that the Tremembé indigenous community of São José and Buriti depend highly on the land and natural resources in the area for their subsistence activities. The publication of this independent research allegedly led FUNAI to the decision to conduct a new official study on the area. Officials from FUNAI and the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA) visiting the Tremembé communities in November 2006 reportedly stated that the new study will be undertaken in 2007.

139. While the Tremembé still await the legal recognition of their lands, a large tourist scheme, known as Cidade Nova Atlântica, has reportedly started to be built in areas belonging to the lands that the Tremembé occupy and use for their traditional subsistence activities. The planned scheme will reportedly include as many as 28 hotels and resorts, several golf courses and other leisure area, covering an area of 3,200 hectares. According to an independent assessment, the proposed scheme will have an important environmental impact, and it will seriously limit the Tremembés' capacity to access and use the lands and natural resources they depend on for their traditional subsistence economies. For instance, the construction of the tourist resort will allegedly cause the extinction of the streams leading to the Mundaú River, on which the Tremembé depend on for water, fishing and traditional mining, further causing the depletion of lagoons and the destruction of the vulnerable mangrove

system. The affected communities claim that they have not been consulted on this project and that various petitions that they have issued have remained unanswered.

140. The construction company has reportedly been operating in contravention of an injunction lodged by the Federal Public Prosecutor's Office in 2004, subsequently upheld by a decision of 9 May 2006 of the Regional Federal Court of the 5th Region. The Court decision suspended the company's license to build until an evaluation of the Tremembé's claims over their lands has been completed by the FUNAI. It is alleged that despite the Court's order, the company has continued to prepare the land for construction, fencing off areas they intend to build on, burning vegetation and cutting down numerous trees.

141. Moreover, the plans to construct the Cidade Nova Atlântica tourist scheme have led to increased tension in the area, and members of the São José and Buriti communities have reportedly been object of numerous threats and intimidation by private security guards working for the construction company, as well as local police officers. On 4 November 2006, after approximately 200 members of the Tremembé communities led a peaceful blockade at an access road to the construction site, preventing trucks from delivering materials and equipment, a group of armed men reportedly came to threaten the Tremembé, stating that they came to drive them off the land and kill them. Two off-duty police officers were allegedly part of this group. It is further reported that company security guards and local police have repeatedly blocked the well which the Tremembé depend on for water, have cut down numerous trees, and have threatened to kill them if found fishing in the nearby river. Armed police have reportedly been seen driving around the Tremembé village in company cars, intimidating them. According to the information received, the Tremembé have lodged formal complaints at the local police station and at the Office of the Ceará State Attorney of Ceará, but have received no response.

142. Concerns were expressed that the members of the Tremembé communities of São José and Buriti might suffer human rights violations as a result of the activities carried out by the construction company and its private security guards as well as the local police. It was also alleged that the construction of a tourist resort in areas claimed to be part of indigenous lands while they are still in process of being demarcated and titled may contravene the existing constitutional and legal provisions protecting the rights of indigenous peoples to their lands and natural resources, as well as various provisions of the International Labour Organisation (ILO) Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, of which Brazil is a party, and other international standards. Finally, concerns were expressed that the various acts of harassment and intimidation against the Tremembé were linked to their activities in defence of human rights, in particular their efforts to secure their right to live on the land they consider theirs.

### **Letter of allegations**

143. On 22 January 2007, the Special Representative sent a letter of allegations concerning the killing of the juvenile Mr. **Andreyson Santos Silva**, 16 years old, an agricultural worker and member of the Landless Workers Movement (Movimento dos Trabalhadores Rurais Sem Terra, MST). Members of MST were the subject of previous communications by the Special Representative of the Secretary-General on

the situation of human rights defenders. Mr Josias de Barros and Mr Samuel Ferreira, two of the main national coordinators of the MST in Pernambuco, killed in August 2006, were the subject of an allegation letter sent on 29 September 2006, and Jaime Amorim, National Coordinator of the MST and prominent labour activist in Pernambuco, was the subject of an allegation letter sent on 4 October 2006.

144. According to the information received, on 17 December 2006 in the early afternoon, the juvenile Andreyson Santos Silva was reportedly killed by a machete blow while bathing in a stream located on the Sítio Cachoeirinha dos Carvalhos estate, a farm which is a neighbouring property of the Paulista Farm, both located in the city of Garanhuns, Pernambuco state. The police investigation is reportedly being undertaken by the 135 Police station of Garanhuns, under the responsibility of police chief Débora Bandeira de Melo Tenório.

145. Concern was expressed that the killing of Mr. Andreyson Santos Silva might be linked to his membership of the MST, and might be the latest incident of a long series of threats and intimidations against the landless workers by landowners. Numerous conflicts between the owner of the Paulista Farm, a ranch neighboring the smaller farm Cachoeirinha dos Carvalhos where the lethal attack occurred, and the landless workers took place over the past years.

#### **Letter of allegations**

146. On 2 July 2007, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the right to food, sent a letter of allegations concerning Mr. **Antonio Santos do Carmo**, rural worker and member of the Movimiento de los Trabajadores Sin Tierra (MST), a movement which works for land rights and agrarian reform in Brazil.

147. 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.

148. Concern was expressed that the killing of Mr. Santos do Carmo along with the attack on members of MST might be directly related to their work in defence of human rights, and in particular the rights of rural workers in Brazil. Further concern was expressed for the safety of members of the Movimiento de los Trabajadores Sin Tierra.

### **Letter of allegations**

149. On 19 July 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the Special Rapporteur on the right to food, sent a letter of allegations concerning attack against members of indigenous communities of the Surumú region, in Terra Indígena Raposa Serra do Sol (RSS), in the state of Roraima.

150. The case of RSS, including the traditional lands of over 16,000 Ingariko, Makuxi, Patamona, Taurepang and Wapichana people, was the subject of a recent letter addressed to your Excellency's Government on 24 May 2007. In this communication, we expressed our concern about the legal actions brought before the Supreme Federal Court (Supremo Tribunal Federal, STF), seeking the suspension of the Presidential Decree of 15 April 2005, which ratified the demarcation of RSS and called for the removal of "non-indigenous occupants present in the area." At this time, we would like to express our appreciation for the recent STF decision of 4 June 2007, overturning its earlier injunction and thus allowing the removal process to move forward. We note, however, that the recent STF decision did not resolve all of the other pending legal challenges that are still before the Court in relation to the demarcation, titling, and removal process in RSS. Moreover, we note that, in spite of this favourable STF decision, the Government has not publicly announced a new expected date for the total removal of non-indigenous occupants pursuant to the Presidential Decree of 15 April 2005.

151. In addition, we have received worrying information concerning new threats and attacks against members of the RSS indigenous communities reportedly perpetrated by non-indigenous occupants who are opposing the process of demarcation and titling of the indigenous land. According to the new information received, on 14 June 2007, seven members of the indigenous communities of the Surumú region initiated an action of peaceful reoccupation of a traditional place known as Paruwani, part of the ancestral lands of the Makuxi indigenous people, located in the proximities of the rice farm "Depósito e Canadá." As part of this action, they initiated the construction of housing structures in the area. Since the beginning of the reoccupation, they started to receive threats from agricultural workers from the neighbouring farm.

152. On 17 June 2007, at approximately 12.00, while on his way to pick up a group of students of the Renascer Community, Mr. Anselmo Dionísio Filho, Tuxaua (traditional chief) from the Barro Community, was followed by a white car (L200) on the road accessing the Municipality of Uiramutã. When he stopped at the road to the community, the white car also stopped, its passengers got out of the vehicle, and started filming. The passengers were identified as Mr. Paulo César Quarteiro (former prefect of the municipality of Paracaima), Mr. Márcio Junquiera (representative of the State of Roraima at the Federal Congress), and three other individuals. Tuxaua Anselmo asked these persons to leave the place and stop filming. After a tense discussion, they came back to their vehicle and moved to a distance of 50 m., where they continued filming, and eventually left.



153. On the same day, at approximately 14.00, two individuals, identified as Mr. Paulo César Quarteiro and Mr. Anísio Pedrosa, driving the same white car, entered the indigenous communities' settlement into the Paruwani area, observed the situation, and left. A few minutes after, the white car, followed by a white 3/4 truck, carrying a group of men wearing balaclava helmets, and armed with guns, clubs, and knives broke into the settlement. They left the two vehicles and pointed their guns at them, shouting that, if they did not leave the area immediately, they would open fire; some of the gunmen fired their guns at the air. The members of the indigenous communities were forcibly taken into the truck, where they were made bow their heads and detained. While in detention, the gunmen reportedly turned around and burned the housing structures built by the indigenous communities in the location, along with their possessions.

154. Subsequently, the gunmen drove the indigenous people to the proximities of the Municipality of Uiramutã, took them out of the truck and left. While on the road, they were pejoratively treated as "lazy" and "invaders," and they were threatened that if they returned to the Paruwani area, they would "not be able to tell their story." Concern was expressed for the security of the members of RSS indigenous communities as a result of their peaceful defence of their traditional lands and their continuous calls for the demarcation and titling of their lands pursuant to the Presidential Decree of 15 April 2005, and that the continuous presence of rice-growers in the area may lead to additional violations of the rights of the communities living in the area. Particular concern was also expressed by the reported direct involvement of local and national authorities in the attack of 14 June 2007, which would support the powerful economic groups opposing the demarcation and titling of RSS lands.

### **Urgent appeal**

155. On 31 October 2007, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal to the Government concerning **Tomé Guajajara, Madalena Paulino, Antonio Paulino** as well as the threat of imminent violence against 50 families of the Guajajara indigenous community of Lagoa Cumprida, in the Araribóia reservation, Maranhão state. According to the information received, the reservation of Araribóia, one of the oldest indigenous reservations in Brazil, covers an area of 413 thousand hectares across six municipalities of Maranhão state. Since the beginning of the 1980s, the region has reportedly been subject to repeated incursions from illegal loggers, resulting in violent conflict with indigenous peoples and widespread environmental damage, including deforestation, forest fires and water drainage. According to the reports, ninety per cent of the traditional lands of the Guajajara people is said to be affected by logging, hunting and land invasions, threatening indigenous livelihoods. The Guajajara have been campaigning for the protection of the reservation's borders and the expulsion of illegal settlers.

156. On 15 October 2007, at about 6.00 am, a group of 15 armed men -five of them masked- allegedly invaded the Lagoa Cumprida indigenous community. According to the reports, six indigenous people were grouped on a football field and threatened, with the gunmen firing in the air. After trying to defend himself against the attack,

sixty year old Tomé Guajajara was reportedly shot six times and killed. Two other community members, Madalena Paulino, Antonio Paulino were allegedly wounded. The gunmen reportedly stated that they would return and some residents are reported to have fled to hide in the forest or nearby towns.

157. The attack has been interpreted as revenge against the mobilization of indigenous organizations against illegal logging in the reservation. In particular, it is alleged that the attack may be related to the seizure of a logging truck by the Guajajara in September 2007, when passing illegally through the indigenous reservation, and after a long but fruitless campaign to get the authorities to act against repeated incursions from the loggers. When the loggers offered money for the return of the vehicle, the indigenous community refused to negotiate, informing the National Indian Foundation of the situation.

158. Even though Federal police agents visited the reservation in the aftermath of the attack on 15 October, the reports that we have received indicate that the community is in a state of fear and feels abandoned by the authorities, and some of the community members have reportedly fled to neighbouring towns or hid in the forest. It is reported that the community has still not been visited by representatives from the National Indigenous Foundation (Fundação Nacional do Índio FUNAI), and that no measures have so far been taken to protect the community.

159. Serious concern was expressed regarding the safety of the leaders and other members of the Guajajara indigenous community of Lagoa Cumprida. It was further feared that leaders and members of the community might be targeted because of their activities in defence of their human rights.

### **Urgent appeal**

160. On 26 October 2007, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal to the Government concerning one incident of an extrajudicial execution, and multiple incidents of attempted extrajudicial executions by an armed militia group on 21 October 2007, at the Via Campesina encampment at the GMO field of Syngenta Seeds, Santa Tereza do Oeste, Paraná, Brazil.

161. According to allegations received, at 1.30 pm on 21 October 2007, an armed militia of approximately 40 persons arrived at the entrance of the Via Campesina encampment and began shooting at the rural workers. The militia broke down the gate to the encampment, and invaded the site. They shot and killed **Valmir Mota de Oliveira** (42 years old), a leader of the Movimento dos Trabalhadores Rurais Sem Terra (MST). Five other farmers were also shot and seriously wounded: Gentil Couto Vier, Jonas Gomes de Queiroz, Domingos Barretos, Isabel Nascimento de Souza, and Hudson Cardin.

162. It is alleged that Isabel Nascimento de Souza was also beaten. Two other MST leaders, Celso Barbosa and Célia Aparecida Lourenço, were chased by gunmen, but escaped. Allegations received suggest that the militia's actions indicate that the intent was to specifically kill the MST leadership.

163. According to the allegations, the background to the attack is that 150 MST members peacefully occupied the Syngenta Seeds field at 6.00 am on 21 October 2007. At that time, there were 4 private security guards in the area. A gun belonging to one of the guards was fired, injuring a worker. The MST then sought to disarm the guards, who subsequently left the area. It is alleged that the Syngenta Seeds company employed the armed militia which subsequently returned at 1.30 pm, and that the militia acted through a front company called NF Security, in conjunction with the Rural Society of the Western Region (SRO) and the Movement of Rural Producers (MPR).

164. Allegations received also indicate that during a public hearing on 18 October 2007, with the Commission for Human Rights and Minority Rights (CDHM) of the Federal Chamber of Congressional Representatives, in Curitiba Paraná, it was communicated that MST leaders, including Valmir Mota de Oliveira, had been threatened for the previous 6 months by militia who were employed by the Syngenta-SRO-MPR group. According to allegations received, Brazilian authorities had opened an inquiry into allegations against Syngenta and NF Security, but had taken no actions to protect MST leaders.

165. Regarding the alleged extrajudicial execution of Valmir Mota de Oliveira, we would like to bring to your attention the Government's duty to thoroughly, promptly and impartially investigate suspected cases of extrajudicial execution, and to prosecute and punish all violations of the right to life. As reiterated by the 61st Commission on Human Rights in Resolution 2005/34, all States have "the obligation ... to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions", and "to identify and bring to justice those responsible".

166. With respect to the prior death threats against Valmir Mota de Oliveira, and the continuing death threats to other members of the MST leadership, we would like to bring to your attention that Article 6(1) of the ICCPR requires States to provide effective protection to those whose lives are in danger. As expressed in Principle 4 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, this requires that individuals in danger of such executions, including those who receive death threats, be guaranteed effective protection through judicial or other means. We urge your Government to immediately take all necessary steps, as required under international law, to protect the right to life of the members and leaders of the MST, especially Celso Barbosa and Célia Aparecida Lourenço, who are in particular danger.

### **Observations**

167. The Special Representative regrets that by the time of finalizing this report, the Government of Brazil had not responded to any of her communications sent since 1 December 2006. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken as well as protective measures taken. She reiterates her concern at attacks against the life and personal integrity of Brazilian human rights defenders, and she is particularly concerned of the continuing violations committed

against human rights defenders working to promote the rights related to land ownership and the rights of indigenous peoples, and labour rights.

168. The Special Representative visited Brazil from 5 to 21 December 2005 and reiterates the recommendations made in her report on visit (A/HRC/4/37/Add.2).

## **Cambodia**

### **Letter of allegations**

169. On 12 March 2007, the Special Representative sent a letter of allegations concerning **Mr Hy Vuthy**, president of the Free Trade Union of Workers in the Kingdom of Cambodia (FTUWKC) at the Suntex garment factory, in Phnom Penh's Dangkao district.

170. According to the information received, on 24 February 2007, Mr Hy Vuthy was shot dead by two unidentified assailants on a motorbike whilst returning home from work at the Suntex factory. The attack took place one kilometre from the factory. According to reports, Mr Hy Vuthy's death marks the third killing of an FTUWKC official during the last three years, since the Union's president Mr Chea Vichea was killed in January 2004. Four months later FTUWKC leader and President of the Trinunggal Komara, Mr Ros Sovannareth was also killed.

171. Furthermore, during 2006 FTUWKC officials at Suntex and the neighbouring Bright Sky factory, including Mr Chey Rithy, FTUWKC vice-president at Suntex, Mr Chi Samon, FTUWKC president of the Bright Sky factory, Mr Yeng Vann Yuth, member of FTUWKC of the Bright Sky factory, Mr Lem Samrith, FTUWKC treasurer of the Bright Sky factory, Mr Choy Chin, union secretary-general at Suntex and Mr Em Chhay Tieng, FTUWCK vice-president of the Bright Sky factory were the subjects of ongoing violent attacks and intimidation.

172. Grave concern was expressed that the killing of Mr Hy Vuthy formed part of an ongoing campaign to silence human rights defenders in Cambodia and that the continuous harassment and intimidation of FTUWKC officials might be related to their legitimate activities in the defence of human rights.

### **Urgent appeal**

173. On 7 May 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning 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 of 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.

174. On the 16 of February 2007, 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”.

175. On the 9 of March 2007, 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 of March 2007, 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.

176. Regarding the other issue of concern, namely, the decision of the BAKC to impose fees for the international lawyers who wish to represent defendants before the ECCC, according to the information received, the BAKC wants foreigners to pay a membership fee of ... US\$500 as well as an additional US \$2,000 and a monthly fee of ... US\$200 if chosen to work with a client. The tribunals’ four international judges have threatened to boycott the preparations for the tribunal over the BAKCs’ decision to impose the fees, as they believe these very high fees severely limit the rights of the accused and of the victims to select a counsel of their choice.

177. The international judges believe that the failure to fix an appropriate fee places an obstacle to adopting the Internal Rules, which were drafted during a ten day session on the 16 of March 2007 in Phnom Penh. The national judges consider that it is a matter outside the scope of the draft rules and should therefore not be an obstacle to their adoption. The judges are ready to hold a plenary at the end of April. For the

international judges, this will only be possible if a satisfactory resolution of this issue is reached.

### **Urgent appeal**

178. On 29 June 2007, the Special Representative sent an urgent appeal to the Government concerning alleged threats against Mr. **Lem Piseth**, a journalist with Radio Free Asia, a private, non-profit corporation broadcasting news and information in 9 languages to listeners throughout Asia.

179. According to the information received, on 16 June 2007, whilst returning to Kampong Seu, in the south of the country, Mr Piseth received a threatening call on his mobile phone from an unknown individual. The caller allegedly insulted Mr Piseth, referring to him as 'insolent', before threatening him with death 'because of the story about the forest' and suggested that there would not be 'enough land to bury (him) in'. Mr Piseth attempted to call the number back but was only able to reach a call centre. According to reports, Mr Piseth had recently published four articles highlighting the damage being caused as a result of illegal deforestation in Kompong Thom province. Following the publication of the reports, Mr Piseth was allegedly followed by members of the police and military.

180. On 1 June 2007, Global Witness, a non-Governmental organization which works to expose the links between the exploitation of natural resources, conflict and corruption, published a report on the destruction being caused by illegal logging in Cambodia. Two days later the report was allegedly banned by the Cambodian authorities and on 8 June 2007, Khieu Kanharith, Minister of Information allegedly announced that "newspapers [could] refer to [the report] but not reproduce it". However Radio Free Asia, as well as other media, continued to broadcast on the report, before being reportedly ordered to cease any broadcasting on the issue by a police official. Mr. Lem Piseth also quoted the report in a radio broadcast. As a result of the threats received, Mr. Lem Piseth has reportedly gone into hiding. Concern was expressed that the afore-mentioned events are directly related to Mr Piseth's legitimate activities in defending human rights, in particular his involvement in publicising the damaging effects of illegal deforestation in Cambodia. Grave concern was also expressed for Mr Piseth's safety in light of the alleged threats he has received.

### **Response from the Government**

181. On 17 July 2007, the Government of Cambodia replied to the urgent appeal sent 29 June 2007. The Government stated that there was no threat against Mr. Lem Piseth, and that this was a false and provocative allegation. Mr. Lem Piseth is working freely in Cambodia. As State Party to the international human rights instruments, the Kingdom of Cambodia recognizes and respects the rights of expression in the media.

### **Letter of allegations**

182. On 19 July 2007, the Special Representative sent a letter of allegations concerning the killing of Mr Seng Sarorn, a community activist from Sre Kor village in Sesan district, Stung Treng province. Mr Seng was active in community networks

on forestry, fisheries and land issues, and campaigned against illegal logging and fishing in the area. He was also involved in discussions about the impact of economic land concessions on local communities, and in negotiations with a concession company to mitigate its impact. A large number of economic land concessions have been granted in Sesan district, which is a densely forested area with a large indigenous population. Illegal logging is reportedly taking place within the district, in addition to illegal fishing and hunting.

183. According to the information received, on 4 July 2007, Mr Seng Sarorn was with family members at a hut next to their rice field when an unidentified person fired a shot from below the hut, mortally wounding the victim.

184. Serious concern was expressed that the killing of Mr Seng Sarorn might be related to his peaceful activities in defence of human rights, in particular his work in rising concerns about land and natural resources in the region.

### **Urgent appeal**

185. On 31 July 2007 the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Sath Savuth**, a human rights defender working for the protection of forests and the land rights of the inhabitants of Thlath Commune, Anglong Veng District, Oddar Meanchey Province.

186. According to the information received, on 21 July 2007, Mr Sath Savuth was subject to a grenade attack by unknown assailants at his home in Anglong Veng. Mr Sath Savuth's life was similarly threatened in July 2005 when he was attacked while working in Tumring Commune, Sandan District, Kampong Thom Province. No arrests were made and, according to reports, no investigation into the attack in July 2005 has yet been carried out.

187. Concern was expressed that the attack against Mr Sath Savuth may have been related to his peaceful work in defence of human rights, in particular the rights of local communities to land and local resources. Further concern was expressed for the physical and psychological integrity of Mr Savuth and his family.

### **Urgent appeal**

188. On 2 August 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on freedom of religion or belief, sent an urgent appeal concerning the following case.

189. According to information received, on 8 June 2007, the Ministry of Cult 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.

190. 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 Viet Nam 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 Viet Nam 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 Viet Nam to be respected.

191. 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 Viet Nam.

### **Urgent appeal**

192. On 30 November 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on freedom of religion or belief, sent an urgent appeal concerning 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.

193. According to the information received, in 2002, Mr. Tim Sa 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. Tim Sa Khorn, accusing him of conducting activities that were harmful to the Cambodia-Viet Nam 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. Tim Sa Khorn “had returned to Viet Nam” 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.

194. Concern was expressed that the enforced disappearance and the illegal deportation of Mr Tim Sa Khorn to Viet Nam might be directly linked to his non-violent activities in defence of human rights.

### **Response from the Government**

195. In a letter dated 30 January 2008, the Government of Cambodia responded to the above mentioned urgent appeal. The Government informed that Monk Tim Sakhon had used the location of the Pagoda to distribute bulletins of the Khmer



Kapuchea Krom union. Each bulletin contained the content of inspiration propaganda aimed to create conflicts between Cambodia and Viet Nam.

196. According to the Government, Monk Tim Sakhorn does not respect the rules of Buddhism and did not participate in religious activities as required. He propagated monks and followers to support activities of the foreign based Khmer Kampuchea Krom Federation movement. Monk Tim Sakhorn organized illegal demonstrations twice in order to inspire anti-sentiment against the relationship between Cambodia – Viet Nam. The demonstrations created extreme confrontation and violence against the Buddhism disciplines, monk students and Buddhism followers. The monk demonstrators used axes and wooden sticks against the other monks which caused many injured. The Supreme Patriarch Buddhism Monk of Cambodia organized a special meeting participated by 10 high ranking Monks officials to review his case. As a result, the cases on his violations against disciplines, monk Tim Sakhorn's status was removed. Mr. Tim Sakhorn was then detained by Vietnamese authority. According to the Government, Mr. Tim Sakhorn is now under the legal prosecution of the present laws of the Socialist Republic of Viet Nam.

### **Observations**

197. The Special Representative thanks the Government of Cambodia for its replies to the communication sent 29 June 2007 and 30 November 2007. She regrets however that at the time of the finalization of the report she has not received replies from the Government concerning the other cases sent since the establishment of her mandate. The Special Representative is gravely concerned about the letter of allegations sent on 12 March 2007 and on 19 July 2007 concerning the killings of the trade unionist Mr Hy Vuthy and the killing of the community activist Mr Seng Sarorn. The allegations are serious, and the Special Representative urges the Government to provide her with detailed substantive responses to assure her that investigations have been undertaken what steps have been taken to bring the perpetrators to justice.

## **Cameroon**

### **Appel urgent**

198. Le 29 août 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, de Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, a envoyé un appel urgent sur la situation des **éleveurs Mbororos Fulanis dans la province du Nord-Ouest du Cameroun**, en particulier relativement à des événements récents ayant entraîné la destitution du chef traditionnel des Mbororos, Lamido Adamu K. Buba. Ces événements semblent se dérouler dans un contexte plus large de violations des droits de la population Mbororo, violations entraînées par la dépossession de leurs terres traditionnelles au profit d'un entrepreneur privé.

199. La situation décrite met en évidence l'interférence supposée de M. Baba Danpullo dans le système de l'autorité traditionnelle de la communauté Mbororo, débouchant sur des persécutions et arrestations de chefs traditionnels et d'autres membres de la Communauté.

200. Selon les allégations reçues, le chef spirituel de la communauté Mbororo, Lamido Ahmadu Sabga, serait décédé le 13 juin 2007. En accord avec la loi coutumière de la communauté, le Conseil traditionnel Mbororo aurait élu, le 15 juin 2007, à la majorité des votes, M. Adamu Kawuyel Buba en tant que nouveau chef traditionnel.

201. Il est allégué que la nomination de M. Adamu K. Buba aurait été explicitement objectée par Mr Baba Danpullo, qui, depuis la mort de l'ancien Lamido, aurait essayé d'influencer le processus et nommé un de ses collaborateurs. Dans ce contexte, lors des condoléances de l'ancien Lamido Ahmadu Sabga, M. Adamu K. Buba aurait, selon les informations rapportées, menacé un des membres du Conseil traditionnel avec les mots suivants : « Je vous conseille de choisir un bon chef et si vous choisissez une personne qui ne me convient pas, je ne l'accepterai pas ».

202. En accord avec leur pratique, après l'élection du nouveau Lamido, les autorités des Mbororos auraient envoyé une lettre au Chef Provincial de Mezam, informant de l'intronisation. Cependant, le 19 juin 2007, ce dernier aurait publié une Décision Préfectorale (n° 129 PD/E29/PS) déclarant la nullité de l'intronisation de M. Adamu K. Buba, interdisant toutes les réunions et les assemblées de la communauté Mbororo et fermant le palais traditionnel du Lamido. Un Recours Gracieux (Réf. MLF/RG/001/07) aurait été présenté le 28 juin 2007 par les leaders de la communauté contre cette décision préfectorale. Sans tenir compte de cette plainte en cours, et, négligeant les pratiques traditionnelles des Mbororos, le Chef Provincial de Mezam aurait, selon les informations reçues, annoncé la vacance du poste du Lamido traditionnel.

203. Le 12 juillet 2007, tous les membres du Conseil traditionnel Mbororo auraient été convoqués à la Direction Générale de la Recherche Extérieure du Poste de Liaison du Nord-Ouest-Bamenda. Pour n'avoir reçu aucune information officielle sur les motifs de cette convocation, et par crainte de représailles pour l'intronisation du nouveau Lamido, les membres du Conseil traditionnel auraient choisi de ne pas se rendre à la gendarmerie.

204. Le 13 juillet 2007, aux alentours des 5h00 du matin, approximativement 500 personnes de la communauté Mbororo, y compris le Lamido récemment élu, Adamu K. Buba, ainsi que les membres du Conseil traditionnel, auraient manifesté contre la décision préfectorale annulant l'intronisation du nouveau Lamido. Au cours de cette manifestation, les protestataires auraient paisiblement bloqué la route principale qui traverse la communauté de Sagba. Tous les membres du Conseil traditionnel, y compris Lamido Adamu K. Buba, auraient à nouveau été convoqués à la Direction Générale de la Recherche Extérieure du Poste de Liaison du Nord-Ouest-Bamenda, interrogés, puis libérés. Selon les allégations, le 8 août 2007, Lamido Adamu K. Buba aurait à nouveau été interrogé avant d'être libéré.

205. Selon les allégations, le Chef Provincial de Mezam aurait informé la population de Sagba qu'au cours de la journée du 20 août 2007, après dépôt de nouvelles candidatures, une nouvelle intronisation serait discutée. Cependant, aux alentours des 6h00 du matin du 20 août, une troupe de plus de 100 soldats aurait été déployée dans le village de Sabga, le Chef Provincial de Mezam aurait intronisé

Mamuda Sagba, supposément par défaut d'autres candidatures. Vers 16h00, M. Baba Danpollo et le Lamido de Banyo du département d'Adamawa seraient entrés dans Sagba. L'arrivée de M. Baba Danpollo aurait accentué la révolte des membres de la Communauté Mbororo.

206. Une utilisation abusive de la force aurait alors été employée par les soldats, avec utilisation de gaz lacrymogène et coups de fusil. Les suivantes personnes sont rapportées comme étant blessées : Madame Maimouna Dawuh, âgée de 29 ans ; Madame Fatimatou Manjo, âgée de 22 ans ; Monsieur Abdou Moussa, 31 ans ; Monsieur Yakubu Alim, 22 ans, Monsieur Kabiru Oumarou, 21 ans ; ainsi qu'un bébé de quelques mois. Par ailleurs, des chevaux auraient été tués.

207. Un total de 21 personnes, comprenant des membres du Conseil traditionnel ainsi que de l'organisation MBOSCUDA auraient été inscrites sur une liste d'individus à arrêter. Plus de vingt Mbororos auraient quitté le village ce même soir pour Yaoundé. D'autres les auraient rejoint ultérieurement, et, actuellement, 34 personnes seraient réfugiées devant l'ambassade des Etats-Unis.

208. Des craintes sont exprimées sur le fait que la destitution du Lamido nouvellement élu puisse répondre à une stratégie plus large de M. Baba Danpollo, avec l'appui ou la connivence allégué des autorités locales, pour exercer à son propre avantage le contrôle de la communauté Mbororo. Des inquiétudes sont également exprimées concernant la sûreté personnelle des autorités traditionnelles Mbororos, notamment le Lamido Adamu K. Buba, de même que le reste des membres du Conseil traditionnel et des membres de la MBOSCUDA, susceptibles d'être victimes de représailles en conséquence de leur rôle dans la défense des droits des Mbororos.

209. Selon l'information reçue, en 1985, M. Alhadji Baba Ahmadou Danpollo, propriétaire de ranchs et membre du Comité de direction du Mouvement Démocratique du Peuple Camerounais (CPDM), et tiers à la communauté Mbororo, aurait sollicité en 1985 au Ministère de l'élevage, des pêches et des industries animales une concession en vue de la création d'un ranch privé, le « Elba Ranch », à Ndawara, dans la sous-division de Fundong (département de Menchum). L'aire réclamée pour ce ranch englobe des villages Mbororos et des secteurs traditionnels d'élevage.

210. En décembre 1986, une Commission d'enquête fut établie par les autorités de Fundong avec l'objectif d'étudier cette requête. La Commission organisa des réunions dans le secteur qui serait affecté par le ranch, avec la participation des autorités locales et des membres de la communauté Mbororo. Au cours de ces réunions, Mr. Baba Danpollo aurait promis une compensation aux familles qui seraient affectées par l'établissement de son ranch privé, perdant leurs résidences et leurs terres de pâturage.

211. Par Décision (n° 056) du 18 juillet 1986, le Ministre de l'élevage, des pêches et des industries animales a approuvé la création de l'Elba Ranch pour l'élevage de bovin à Ndawara. Les limites du ranch ont été reconnues par un titre foncier n° 140 (Menchum) du 1er décembre 1989, avec une superficie de 4.726 hectares. En outre, une concession de 1.335 hectares sur une zone contiguë de transhumance a été assignée au ranch par Décret n° 89/351 du 2 mars 1989.

212. Depuis la mise en place du ranch, 63 familles Mbororo (comprenant un total de 739 personnes ainsi que 1730 troupeaux de bétail) sont estimées avoir été déplacées de leurs terres traditionnelles de pâturage. La zone affectée comprend 20.000 hectares de terres occupées traditionnellement par les Mbororos dans la région de Mezam, dans les départements de Bamessing, Boyo, Menchum et Ngokentungia, conséquence de l'établissement des deux Elba Ranchs et de l'extension illégale de leurs limites originelles sur des terres voisines. Selon les allégations, les familles affectées de la communauté Mbororo seraient désormais dépourvues de logements avec les commodités appropriées et rencontreraient de sérieux problèmes en ce qui concerne l'accès à l'eau et à la nourriture, en conséquence de l'afflux d'étrangers et du manque de terres de pâturage pour leur bétail. D'après les informations en notre possession, les personnes affectées n'ont jamais été compensées pour les déplacements ou les pertes encourues.

213. En outre, il nous est rapporté que l'établissement du Ranch Elba aurait entraîné une situation générale d'abus contre des membres de la communauté Mbororo, supposément perpétrés par le personnel du propriétaire du ranch, M. Baba Danpollo, avec l'appui ou la connivence des autorités locales. Selon les rapports dont nous disposons, M. Baba Danpollo aurait établi son propre tribunal, appelé Cour Alkadi de Ndawara, dans sa résidence à l'Elba Ranch, avec ses propres lieux de détention. Cette Cour aurait été reconnue par les autorités locales comme une Cour de droit traditionnel musulman et serait assistée par la police nationale.

214. Selon les informations à notre disposition, depuis 1993 approximativement, 150 membres de la communauté Mbororo auraient été condamnés par la Cour Alcali de Ndawara dans l'Elba Ranch, sans respect des règles du procès équitable. Les jugements incluraient des emprisonnements à la prison centrale de Bafoussam, sous juridiction militaire, ainsi que dans d'autres prisons d'autres provinces. Des arrestations arbitraires à la prison privée du ranch sont également rapportées, où de nombreux cas de torture et de mauvais traitements de la communauté Mbororo sont allégués. De plus, les arrêts de la Cour Alcali de Ndawra dans l'Elba Ranch auraient, selon les allégations, entraîné des dépossessions de plus de 400 têtes de bétail ainsi que d'importantes amendes.

215. Nous avons également reçu des allégations de harcèlements, détentions, tortures, y compris tentatives d'assassinats contre des membres de l'Association Camerounaise de Développement Social et Culturel des Mbororos (MBOSCUDA). Il est allégué que ces faits seraient liés au rôle de MBOSCUDA dans la dénonciation de violations supposément commises par M. Baba Danpollo, avec l'appui ou le laxisme présumé des autorités locales.

216. Il nous a été fait part de la création, par Décision Ministérielle (n° 164) du 2 juillet 2003 et ultérieurement modifiée par Décision (n° 230) du 13 août 2003, d'une Commission d'enquête interministérielle chargée de mener les investigations sur les nombreuses plaintes déposées par les Mbororos du Nord-Ouest contre M. Baba Danpollo. Une copie du rapport final de la Commission, daté du 12 août 2004, est en notre possession.

217. Le rapport final de la Commission interministérielle a relevé des irrégularités dans la situation légale des terres de l'Elba Ranch, y compris des expropriations

irrégulières et des empiétements sur des terres adjacentes; des destructions et obstructions par des employés de l'Elba Ranch de projets communaux hydrauliques; ainsi que des problèmes dérivés des indemnités. Par ailleurs, le rapport relève l'influence de M. Baba Danpollo dans la nomination et la destitution d'autorités traditionnelles; la tentative de privatiser la Cour Alcali de Ndawara ainsi que sa transformation irrégulière en une juridiction pénale; et enfin l'utilisation d'influences politiques pour faire passer les auteurs des irrégularités pour des victimes.

218. Afin de remédier à la situation, le rapport de 2004 de la Commission interministérielle recommande, notamment, de tracer et de délimiter à nouveau les frontières légales de l'Elba Ranch ; le paiement par M. Baba Danpollo des intérêts sur les réparations auxquelles ont droit les anciens propriétaires ; ainsi qu'un suivi régulier de la situation.

### **Réponse du Gouvernement**

219. Le 18 décembre 2007, le Gouvernement a répondu à l'appel urgent du 29 août 2007. Le Gouvernement informe que sa réponse au sujet de la destitution du Chef traditionnel des Mboros sera communiquée dans les meilleurs délais. Par ailleurs, le Premier Ministre a mis sur pied le 31 avril 2007 une commission ministérielle ad hoc chargée de recueillir sur le terrain toute information relative à la crise de succession à la tête de la chefferie Sagba. Cette commission a mené du 23 au 25 septembre 2007 une enquête administrative dans le département concerné. Ses conclusions seront communiquées aux trois mandataires dans la réponse qui leur sera transmise.

### **Observations**

220. La Représentante spéciale remercie le Gouvernement de sa réponse mais regrette qu'au moment de la finalisation du présent rapport des clarifications n'aient toujours pas été reçues. Elle regrette également l'absence de réponse à ce jour à ses communications en date des 7 mars 2006, 7 septembre 2005 et 4 juin 2004 et presse le Gouvernement de répondre aux craintes exprimées dans celles-ci.

## **Central African Republic**

### **Appel urgent**

221. Le 24 janvier 2007, la Représentante spéciale a envoyé un appel urgent sur le cas de Mme **Bernadette Sayo Nzale**, présidente de l'Organisation pour la compassion et le développement des familles en détresse (OCODEFAD), et de sa fille. L'OCODEFAD, basée à Bangui, regroupe plus de 2 000 adhérents, victimes des graves violations des droits de l'Homme et du droit international humanitaire commises à l'occasion des conflits qui se sont succédés entre troupes loyalistes et rebelles depuis 2002. L'OCODEFAD a pour objectifs statutaires d'apporter un soutien économique, social et médical aux victimes et de les aider dans la constitution de plaintes auprès de la justice centrafricaine et de la Cour pénale internationale pour faire valoir leur droit à la justice et à réparation. Mme Bernadette Sayo Nzale a été l'objet d'un appel urgent envoyé par la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 15 août 2006 et qui reste sans réponse à ce jour. Selon les informations reçues :

222. Depuis le 17 janvier 2007, les menaces de mort proférées à l'encontre de Mme Sayo en août 2006 se seraient aggravées. En effet, ce même jour, Mme Sayo aurait reçu plusieurs appels anonymes la menaçant de mort, à la fois sur son téléphone portable ainsi que sur celui de sa fille.

223. Le 18 janvier 2007, une journaliste de Radio Centrafrique aurait reçu un appel anonyme annonçant la mort de Mme Sayo. La gendarmerie mobile aurait reçu un appel similaire indiquant que « Mme Sayo a été mise à mort, vous pouvez aller ramasser son corps chez elle ». Les gendarmes se seraient alors déplacés au domicile de Mme Sayo pour constater que celle-ci était saine et sauve.

224. Ces graves menaces auraient pour origine l'organisation par l'OCODEFAD, le 13 janvier 2007, d'une journée de sensibilisation autour du thème : « un modèle de partenariat efficace entre le gouvernement et les organisations des sociétés civiles pour la consolidation de la paix en Centrafrique ». Plusieurs représentants d'ambassades étrangères et du Bureau des Nations unies en RCA (BONUCA) avaient participé à cette journée.

225. Il est également allégué que Mme Sayo aurait été victime une nouvelle fois d'actes de harcèlement en raison de ses activités de défense des droits des victimes de crimes internationaux commis en RCA depuis 2002. Ainsi, la fille de Mme Sayo aurait été enlevée pendant plusieurs heures dans la nuit du 1er décembre 2006, et aurait fait l'objet d'une tentative de viol. Enfin, le propriétaire du local abritant le siège de l'OCODEFAD serait contraint d'expulser l'organisation en raison de pressions exercées contre celui-ci.

226. De vives craintes ont été réitérées que les actes relatés auraient eu pour but d'entraver le travail de l'OCODEFAD, notamment dans ses activités de consolidation de la paix en République Centrafricaine et sa lutte contre l'impunité des auteurs des crimes les plus graves perpétrés depuis 2002 sur le territoire centrafricain.

## **Observations**

227. La Représentante spéciale regrette l'absence, au moment de la finalisation du présent rapport, de réponse à la communication du 24 janvier 2007 ainsi qu'aux communications en date du 15 août 2006 et 1<sup>er</sup> février 2006. Elle presse le Gouvernement d'apporter des réponses détaillées aux craintes exprimées dans ces communications.

## **Chile**

### **Llamamiento urgente**

228. El 24 de Enero de 2007 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, 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.

229. 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.

230. 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 Temucucui, en la que diez miembros de esta comunidad habrían resultado heridos, entre ellos una mujer embarazada y un menor de ocho años.

231. Se expresaron temores de que estos eventos puedan estar relacionados con las actividades del Observatorio de Derechos de los Pueblos Indígenas en defensa de derechos de los pueblos indígenas de Chile, y que pudieran constituir un intento de frenar esta labor.

### **Respuesta del Gobierno**

232. Mediante comunicación del 5 de febrero de 2007, la Misión Permanente de Chile remitió nota del Gobierno de Chile de fecha de 2 de febrero, proporcionando información con respecto al llamamiento enviado el 24 de enero de 2007. 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.

233. 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.

### **Llamamiento urgente**

234. El 10 de Julio de 2007, la Representante Especial, junto con Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas señalaron a la atención urgente del Gobierno la información recibida en relación con el supuesto ataque dirigido en contra del Sr. **Jorge Huenchullan Cayul**,

werken (vocero) de la Comunidad mapuche de Temucuicui, en la Comuna de Ercilla, Provincia de Malleco, Región de la Araucanía.

235. De acuerdo con la información recibida, el 20 de junio del año 2007, alrededor de las 12.00 horas, una camioneta de color blanco, de marca Toyota, que circulaba a alta velocidad, intentó arrollar al Sr. Jorge Huenchullán Cayul mientras caminaba por el camino público que separa a la Comunidad de Temucuicui y el Fundo Montenegro. Al intentar esquivar el impacto de dicho vehículo, el Sr. Huenchullán habría caído a varios metros del lugar, quedando en estado de semi inconsciencia. El Sr. Huenchullán habría sido encontrado y auxiliado posteriormente por otro miembro de la comunidad que pasaba por el lugar.

236. Se alega que la camioneta que habría intentado arrollar al Sr. Huenchullán era conducida por el Sr. Héctor Urban Astete, hijo del dueño del Fundo Montenegro, que viajaba en compañía de un funcionario de carabineros no identificado. Se da el hecho de que la Comunidad de Temucuicui y su comunidad colindante, Ankapi Ñancuchew, mantendrían un contencioso sobre la titularidad de las tierras que ahora forman parte del Fundo Montenegro, propiedad de la familia Urban, que son reclamadas como parte de sus tierras ancestrales. En el marco de este contencioso, varios miembros y dirigentes de estas comunidades habrían sido objeto de procesos penales siguiendo denuncias realizadas por la familia Urban. A pesar de que en todos estos procesos los acusados habrían sido absueltos, muchos de ellos habrían debido pasar períodos prolongados de prisión preventiva. Las denuncias de la familia Urban habrían llevado asimismo al despliegue de un contingente de las fuerzas especiales de los Carabineros de la Prefectura de Malleco para llevar a cabo la protección del Fundo Montenegro, así como al allanamiento en reiteradas ocasiones de la Comunidad de Temucuicui.

237. Según las alegaciones, el ataque sufrido por el Sr. Huenchullán no constituiría un hecho aislado, sino que se uniría a otros ataques sufridos por el Sr. Huenchullán y otros miembros de la Comunidad de Temucuicui y de la Comunidad colindante de Ankapi Ñancuchew por parte de miembros de la familia Urban, en relación con las demandas realizadas por estas comunidades en defensa de sus tierras tradicionales. Dichos ataques no habrían sido impedidos por los carabineros desplegados en los predios de la familia Urban.

238. Se expresaron preocupación por la integridad del Sr. Huenchullán y de los otros dirigentes de las comunidades arriba mencionadas en sus actividades de defensa de las tierras tradicionales del pueblo mapuche. Se expresa asimismo preocupación por la supuesta implicación de un miembro de las fuerzas de seguridad en el atentado sufrido por el Sr. Huenchullán.

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

Mediante comunicación del 12 de abril de 2007, la Misión Permanente de Chile propuso información con respecto los llamamientos urgentes del 27 de octubre de 2006 y 1 de diciembre de 2006 sobre el caso del Sr. **Waikilaf Cadín Calfuno**. El Gobierno informó de que el señor Waikilaf Cadín Calfuano permanece en prisión preventiva desde el 17 de agosto de 2006, fecha en la que ingresó al centro de Cumplimiento Penitenciario de Temuco por orden del Juzgado de Garantía por los delitos de secuestro, desórdenes públicos y daños calificados. La medida de traslado



desde el recinto penitenciario de Temuco a la Unidad Especial de Alta Seguridad de Santiago, obedeció a razones que aseguraran y resguardaran su salud, ya sea agresiones por parte de otros reclusos como por acciones irresponsables del propio señor Cadín. El señor Cadín Calfuano inició una huelga de hambre el día 09 de octubre de 2006, por disconformidad procesal, la que duró hasta el 22 de octubre de 2006, dando inicio en términos verbales, de otra huelga de hambre líquida por estar en contra de las medidas judiciales del Tribunal, desistiendo de dicha huelga el día 27 de diciembre de 2006. Al día 19 de enero de 2007 el señor Cadín se encuentra orientado en el tiempo y en el espacio sin referir molestias y con un estado de salud estable.

### **Observaciones**

La Representante Especial agradece al Gobierno por la rápida respuesta a su comunicación del 24 de enero de 2007, y agradecería contar con informaciones adicionales respecto al resultado de las investigaciones llevadas a cabo en relación con el allanamiento de las oficinas del Observatorio de Derechos de los Pueblos Indígenas. La Representante Especial lamenta no haber recibido respuesta a su comunicación de 10 de julio de 2007, en el momento de finalización del presente informe.

### **China (People's Republic of)**

#### **Urgent appeal**

239. On 21 December 2006, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Mr **Chen Guangcheng**, a 34 year old blind self-taught human rights lawyer in Linyi, Shandong province, and his wife Ms **Yuan Weijing**, his lawyers Mr **Li Jinsong** and Mr **Li Fangping**, a member of his defence team, Dr **Teng Biao**, and witnesses to his trial, - Mr **Chen Gengjiang**, Mr **Chen Guangdong**, Mr **Chen Guangyu** and Mr **Chen Guanghe**.

240. Mr Chen Guangcheng has a long history of campaigning for the rights of farmers and the disabled. He assisted villagers in solving drinking water pollution problems when he was attending Najing Chinese Medicine University in 2000. He created and ran the "Rights Defence Project for the Disabled" under the auspices of the Chinese Legal Studies Association between 2000 and 2001. Since 1996, he has provided free legal consultation to farmers and the disabled in rural areas. In 2004, he ran a "Citizen Awareness and Law for the Disabled Project". In April 2005, Mr Chen Guangcheng and Ms Yuan Weijing began to investigate villagers' claims that Linyi City authorities were employing extensive violence in implementing Government birth quotas. The first report was published by them on 10 June 2005 through the Citizens Rights Defence Network (gongmin weiquan wang) and they brought law suits against officials involved.

241. Mr Chen Guangcheng has been the subject of four previous communications to your Government, the most recent of which were 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 dated 1 December 2006, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 14 July 2006. Previous communications were also sent on 7 April 2006 by the Special Representative 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, on 31 October 2005 by the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and Special Representative of the Secretary-General on the situation of human rights defenders, and on 19 September 2005 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 violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders.

242. We are also in receipt of your Government's replies dated 12 December 2005, 14 June 2006 and 3 October 2006 (awaiting translation). Your Excellency's Government states that "(i)n dealing with Chen and his associates, the public security authorities acted in compliance with the law, in remanding them in custody or holding them for questioning. Throughout this period their lawful rights were fully protected and there is no substance to the allegation that Chen Guangcheng was subjected to beatings and placed under house arrest." While we welcome your Government's observations, we are afraid that they do not alleviate our concerns with respect to this case, particularly so in the light of consistent reports that a number of individuals involved in his trial have allegedly been targeted by the security forces including his wife, his lawyers, a member of his defence team and witnesses to his trial.

243. According to the new information received, on 27 November 2006, Chen Guangcheng's retrial before the Yinan County People's Court lasted approximately 10 hours. It is reported that on 1 December 2006, he was sentenced to four years and three months' imprisonment for "gathering crowds to disrupt traffic" and "intentional destruction of property".

244. According to reports, Chen Guangcheng's wife, Yuan Weijing, has been under de facto house arrest from 12 August 2005 until 25 November 2006. Since then, she had been continuously followed by local security personnel and persons in civilian clothes believed to have been hired by the police. On 28 November 2006, around midday, she was arrested by members of the Yinan County Public Security Bureau and detained for questioning. Their one-year-old child was also taken but was sent home later that day. Approximately eight hours later, Yuan Weijing, was dragged out of police car and left in a barely conscious state on the side of the road near her village. She was taken to the Mengyin County Menglianggu Hospital where she was treated for extreme trauma however she was accompanied by up to 20 policemen as an order of "residential surveillance" had been issued while she was in detention. She

is also suspected of committing “gathering crowds to disrupt traffic” and for “intentional destruction of property”.

245. Furthermore it is reported that the local authorities have intimidated witnesses and allegedly withheld evidence in order to prejudice Chen Guangcheng’s retrial.

246. It was further reported that four other key witnesses in the aforementioned trial have been subject to police harassment in relation to the most recent trial and were subjected to torture in order to provide false testimony against Mr Chen Guangcheng in his previous trial. According to reports, Mr Chen Gengjiang was detained on 26 November 2006 and held until after the hearing had taken place. He was allegedly forced to sign papers in which he agreed not to participate in the case. On the same day, Mr Chen Guangdong and Mr Chen Guangyu reportedly disappeared after they had agreed to testify on behalf of the defence. Later the same evening, Mr Chen Guanghe was allegedly abducted by undercover police officers as he was on his way to meet with Mr Li Fanping regarding the upcoming trial in which he was scheduled to testify the following day. He was reportedly formally arrested on 28 November but his family was not informed of his arrest or his whereabouts until 3 December 2006. Previously, it is alleged that Mr Chen Guanghe was detained and tortured before the first trial by members of the Yinan police in order to procure a false confession and to testify against Mr Chen Guangcheng. He was convicted on the basis of the false confession but granted a suspended sentence. It is feared that his recent detention may be related to the fact that he has submitted written testimony stating that his prior evidence had been coerced through torture.

247. Members of Chen Guangcheng’s defence team have also allegedly been harassed, including his lawyers Mr Li Jinsong, Mr Li Fangping and Dr Teng Biao. The two lawyers were apparently prevented from interviewing witnesses and obtaining further evidence for the retrial. On 27 November 2006, as the trial was taking place, Dr Teng Biao was reportedly detained for five hours during which he was allegedly pushed to the ground by six or seven policemen who held him down while they searched him. They also apparently searched his bags and computer and confiscated his mobile phone.

248. Previously it had been reported: on 12 August 2005, Mr Chen Guangcheng and his wife Yuan were put under de facto house arrest. On 25 August 2005, Chen Guangcheng evaded the police surrounding his village and went to Shanghai and Nanjing, then Beijing to seek help from lawyers. On 6 September 2005 he was detained at the house of a friend in Beijing by six men who said they were public security bureau (PSB) officers. He was held overnight in a hotel and the head of the Linyi PSB and the Deputy Mayor of Linyi came to see him in the morning. The Linyi PSB head told Mr Guangcheng he was suspected of violating Article 111 of the CCC (illegally providing intelligence to foreign countries), for which the maximum sentence is life. However, no one produced an arrest warrant justifying his detention and the Linyi PSB men coercively took Chen Guangcheng back home.

249. Mr Guangcheng was placed under house arrest without any order to that effect. On 9 September 2005 his landline and mobile phone services were cut off, and his computer was seized. On 23 September 2005, PSB officials searched his house without producing a search warrant.

250. On 4 October 2005, Beijing law lecturer Xu Zhiyong and lawyers Li Fangping and Li Subin attempted to visit Chen Guangcheng but they were stopped on their way to his house. Mr Guangcheng reportedly managed to leave his house and spoke with them briefly but was then forcibly returned and beaten by men surrounding his house. The lawyers tried to approach Chen Guangcheng's house but were physically prevented. Xu Zhiyong and Li Fangping were also beaten. The three lawyers were then taken to Shuanghou Township Police station where they were interrogated until the following morning. They were advised that Chen Guangcheng's case involved "State secrets" and were escorted back to Beijing.

251. On 24 October 2005, two other friends of Chen Guangcheng from Beijing went to visit him. As Mr Guangcheng tried to greet them, he was stopped and beaten by around 20 men surrounding his house. They beat Chen Guangcheng with fists and sticks, knocked him down several times and kicked him. Chen Guangcheng's request to seek medical attention was denied by the men who beat him and surveil his house. There were a number of eye witnesses on the scene. The visitors were escorted away.

252. Chen Guangcheng's wife, Ms Yuan Weijing, had also been prevented from leaving the house. It is also reported that she was beaten when she left the house to greet visitors on 27 December 2005.

253. On 30 October 2005, Chen Guangcheng's lawyer filed a lawsuit on his behalf at the People's Court of Yinan County against two Shuanghou Township officials with intentional injury for their involvement in beating him outside his house on 24 October 2005. The two officials are alleged to head the group of more than 20 men who surveil Chen Guangcheng and Yuan Weijing's house. It is reported that to date the court has ignored Mr Guangcheng's suit.

254. With respect to the 'traffic' incident about for Chen Guangcheng was eventually charged, on 11 March 2006, Chen Guangcheng reportedly marched with other villagers to protest the beating of a villager. Several dozen police blocked their way and surrounded them on national highway 205, thereby causing a traffic disruption. Chen Guangcheng was taken by Yinan County police from his house to the Yinyan Detention Centre without an arrest warrant. There he was held incommunicado for 89 days until 10 June 2006.

255. According to reports, Chen Guangcheng's lawyers collected written testimonies from village witnesses, who were also detained and then released on bail. These villagers were reportedly forced to confess or provide incriminating false information against Chen Guangcheng. They have stated that police used various torture methods at the detention centre in order to elicit confessions, such as tying them up to chairs with chains, depriving them of sleep for up to 15 days and withholding food and water.

256. On 10 June 2006, Chen Guangcheng was formally detained on suspicion for "gathering crowds to disrupt traffic" and "intentional destruction of property". On 21 June 2006, the Yinan PSB issued an arrest warrant for Chen Guangcheng No. 193 (2006). On the same day, Chen Guangcheng's lawyers were allowed to visit him for the first time in three months. However, when they asked where he had been detained

during those three months, the prison guards interrupted their discussion, preventing Mr Guangcheng from answering the question. His family has not been allowed to visit. His wife remained under house arrest.

257. On 22 June 2006, one of Mr Guangcheng's lawyers, Mr Li Jinsong, was taken into police custody for questioning. On 24 June 2006, two lawyers, Li Jinsong and Li Subin tried to visit Ms Yuan but were stopped outside their house and beaten by men enforcing the residential detention of Ms Yuan Weijing.

258. On 27 June 2006, lawyers Mr Li Jinsong and Mr Li Subin attempted again to see Ms Yuan Weijing (to seek medical parole for Chen Guangcheng), but were also harassed by persons in the village, while the police refused to intervene. Around 20 men turned over their car (while Mr Li Jinsong was still inside) and smashed their cameras. Li Jinsong was then taken to the police station for questioning. He resigned as Chief Counsel for Mr Chen's case.

259. On 18 August 2006, the day before Mr Guangcheng's trial, his lawyers were detained by police. Xu Zhiyong who replaced Li Jinsong was allegedly beaten and taken into police custody and not released until 22 hours later after Chen Guangcheng's trial had ended. Similarly, it is alleged that Li Jinsong and another lawyer, Mr Zhang Lilhui were detained by police the night before the trial then released after the trial without charge.

260. On 24 August 2006, the Yinan County People's Court convicted Chen Guangcheng under Article 291 of the Chinese Criminal Code (CCC) for "gathering crowds to disrupt traffic" and "intentional destruction of property". Article 291 CCC provides that "[w]here people are gathered to disturb order at railway stations or bus terminals, ferry landings, civil airports, market places, parks, theatres and cinemas, exhibition halls, sports grounds or other public places, or to block traffic or disrupt the movement of traffic, or to resist or obstruct public security officials from carrying out their duties according to law, if the resulting situation is serious, the ringleaders shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or surveillance." Chen Guangcheng was sentenced to four years and three months imprisonment.

261. However, the Linyi City Intermediate People's Court, when reviewing the appeal by Chen Guangcheng's lawyers, overturned this verdict on 30 October 2006 on the basis of insufficient evidence for convicting Chen Guangcheng for the offence under Article 291 CCC. Instead of declaring Chen Guangcheng to be innocent and releasing him, the Intermediate Court referred the case back to the lower court for re-trial. He continued to be held in detention at the Yinan County Detention Centre.

262. Grave concerns were expressed that the charges against Chen Guangcheng and his wife Yuan Weijing are fabricated and are solely related to their legitimate activities in defence of human rights, in particular their defending villagers' rights. Serious concern was expressed that Chen Guangcheng did not receive a fair trial as his lawyers were obstructed in all aspects of their work from collecting evidence from witnesses to meeting with their client. Concern is also expressed by the allegations his lawyers were subjected to physical abuse and detention to prevent them from representing their client at trial. Similar concerns were then expressed for the fate of

his wife, Yuan. Further concern was expressed for the physical and psychological integrity of any witnesses for the defence as it is feared that they have been subjected to acts of torture or brutality by the Yinin County PSB

### **Response from the Government**

263. In a letter dated 14 February 2007, the Government informed that on the evening of 5 February 2006, because Chen Guangcheng was unhappy with the work of poverty alleviation officials sent to his village, guided by his wife Yuan Weijing and others, he stormed into the offices of the Dongshigu village committee in Shuanghou township, Yinan county, and started smashing the glass panes in the doors and windows. Shortly after this, upon returning to Chen Guangyu's home in his village, he called on Chen Guanghe, Chen Guangdong, Chen Gengjiang and other villagers and urged them to go and smash up police cars in service at the Yinan county police station and minibuses belonging to the Shuanghou township local authority. Chen Guanghe, Chen Guangdong and their associates went round the village, shouting and urging people to go and smash up cars, set on local officials, chasing them to the municipal offices, and then charged across to the east end of the village, bearing wooden clubs, rocks and other implements, and proceeded to smash the windows in three police cars belonging to the Shuanghou police station, rolled these vehicles over into the roadside ditch, and then set about attacking and beating up police officers on duty at the Yinan county public security bureau.

264. In the evening of 11 March 2006, Chen Guangyu, who had been drinking, claimed to have been beaten up in Dongshgu village and burst into the offices of the local village committee, where he started smashing office property. Claiming to be seeking an explanation for Chen Guangyu's beating, Chen Guangcheng seized the opportunity to gather together Chen Guangyu, Chen Guangjun, Yuan Weijing and others and, at 6 p.m. that same evening, they charged over to the Yinghou village section of State highway 205, where they proceeded to block the movement of traffic. First Chen Guangcheng took up a position in the middle of the road and stopped the traffic, then he directed Chen Guangjun, Chen Guangyu and the others to stand and shout in the middle of the road and to block the passage of all vehicles. Police officers from the public security bureau arrived on the scene to direct the traffic and instructed Chen Guangcheng to halt what he was doing, namely, urging a crowd of people to block the passage of vehicles. Chen Guangcheng totally ignored their instructions and continued calling on Chen Guangjun, Chen Guangyu and the others to block the traffic. This had the consequence that more than 290 motor vehicles, including ambulances attending to pregnancy and childbirth emergencies, were unable to move and that a section of State highway 205 was blocked for a period of three hours.

265. On 10 June 2006, Chen was arrested, in accordance with the law, by the Yinan county public security bureau in Shandong province on suspicion of the offences of wilful damage to property and assembling a mob to disrupt the flow of traffic and, on 21 June, he was taken into custody with the approval of the procuratorial authorities. After his case had been referred to the Yinan county people's court, Chen's wife assigned as his defence counsel the lawyers Li Jinsong, from the Yitong law firm in Beijing, and Zhang Lihui, from the Beijing office of the Xingyun law firm, also known as the "Astorhyme" law firm, based in Zhejiang province. Before the proceedings opened at first instance, Chen requested the replacement of his defence

lawyers by one Xu Zhiyong, a lecturer at the State Posts and Telecommunications College. In accordance with the provisions of the Chinese Code of Criminal Procedure, only a lawyer, person recommended by a civic organization or the defendant's or suspect's work unit and duly nominated by him or her, or the defendant's or suspect's legal guardian or close relative or friend, may act in his or her defence. Xu Zhiyong, however, only had his office pass and personal identity document and was unable to produce any official letter of introduction or other credentials; the court had no means of verifying his identity or his relationship to Chen and for that reason was unable to approve his attorneyship. The court appointed Li Jiasheng, a lawyer from the Yangdu law firm in Shandong, and Zhu Baolun, a lawyer from the Shandong Tonglixing State law office, as defence counsel for Chen, but Chen refused their services.

266. On 19 August 2006, the Yinan county people's court, meeting at first instance, found Chen guilty of the offence of causing wilful damage to property and sentenced him to seven months' fixed term imprisonment; it also found him guilty of the offence of gathering a mob to disrupt the flow of traffic and sentenced him to serve four years' fixed term imprisonment; the court decided that he should serve a combined sentence of four years and three months' fixed term imprisonment. Following his sentencing at first instance, Chen refused to accept the court's verdict and lodged an appeal. The Linyi city people's high court in Shandong province, meeting at second instance, found that the court of first instance had restricted Chen's right to defence (the assigned defence counsel had not been accepted by Chen), a factor which might have adversely influenced the fairness of the proceedings, and, on 31 October 2006, it quashed the original judgement and sent the case back to the court of first instance for retrial. The allegations in the letter that we have received that the case was sent back to the original court because there had been insufficient evidence to convict Chen Guangcheng for the offence of gathering a mob to disrupt the flow of traffic are unfounded.

267. On 27 November 2006, sitting at a reconstituted bench, the Yinan county people's court reopened the case in open proceedings, Chen's brother attended the court in the public gallery, and Chen's defence was conducted by the lawyers Li Fangping from the Beijing Ruifeng law firm and Li Jinsong from the Beijing Yitong law firm. During the proceedings, Chen's rights in litigation were fully upheld: he exercised his own rights to defence and the lawyers appointed by him also made submissions in his defence. On 1 December 2006 the court ruled at first instance and made public its verdict: for the offence of wilful damage to property, it sentenced Chen to seven months' fixed term imprisonment and, for the offence of gathering a mob to disrupt the flow of traffic, it sentenced him to four years' fixed term imprisonment, ruling that he should serve a combined term of four years and three months. After sentencing at first instance, Chen refused to accept the court's verdict and once again lodged an appeal. The Linyi city intermediate people's court, after hearing the case at second instance, ruled that Chen, as a means of giving vent to personal grievances, had caused and incited others to cause wilful damage to property, the amount of which was considerable, and that his conduct had infringed public and private ownership rights and constituted the offence of wilful damage to property; it found further that Chen, with the aim of influencing and exerting pressure on the Government, had assembled a mob in order to block the flow of traffic, that the circumstances of his offence had been particularly serious, that he had been

responsible for organizing the process of assembling a mob to block traffic, that he had directed the operation and had served as the ringleader and that his conduct had therefore constituted the offence of assembling a mob for the purpose of disrupting traffic. As the original court judgement had been based on clear facts, the conviction had been correct, the sentence had been commensurate with the offence and the trial proceedings had followed due process, the court dismissed the appeal and ruled that the original judgement should stand. This ruling was published on 12 January 2007. During the proceedings at second instance, the court also heard the views of Chen's defence counsel and, in accordance with the applicable evidence, found that the facts set out in the accusation by the procuratorial authorities and the charges brought against the defendant were sound and accordingly handed down the judgement referred to above. In their conduct of the proceedings against Chen, the public security authorities fully upheld his rights in litigation and those of his family members, acted in strict compliance with the law and applied the law in a civilized manner. The proceedings in this case were all conducted in accordance with the law, the facts underlying the court's judgement were clear, the evidence was ample and conclusive, the sentence was commensurate with the offence and the trial proceedings followed due process.

268. With regard to the allegations in the letter which we have received to the effect that, on 30 October 2005, Chen's lawyers endeavoured to lay charges with the Yinan county court against public security officials from Shuanghou township for having caused intentional bodily harm to Chen, but that the court ignored this suit, it is our understanding that the Yinan county court did indeed receive an application from the lawyers to bring charges, but because the lawyers did not have Chen's power of attorney, following an investigation the court determined that the lawyers were not authorized to act for the plaintiff and rejected the application. With regard to the allegations in the letter to the effect that Li Jinsong and Li Fangping filed an administrative and civil action with the Linyi city intermediate people's court against the Linyi city public security bureau (including the bureau chief, Liu Jie) and other Government agencies, it is our understanding that the court did indeed receive such an application from the lawyers, in December 2006, which had been sent by expedited mail service, and that the matter is currently being investigated and no conclusion has been reached as yet. The allegations in the letter that public security officials have been harassing members of Chen's family, his lawyers and other persons are entirely without substance.

### **Urgent appeal**

269. On 5 January 2007, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning **Mr Li Jinsong and Mr Li Fangping, the lawyers of Mr Chen Guangcheng**, a 34 year old blind self-taught human rights lawyer in Linyi, Shandong province.

270. Mr Li Jinsong and Mr Li Fangping have been the subject of three previous communications to your Government, the most recent of which were 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, the Special Rapporteur on the question of torture, the Special Rapporteur



on violence against women, its causes and consequences and the the Special Representative of the Secretary-General on the situation of human rights defenders dated 21 December 2006. Previous communications were sent on behalf of Mr Li Fangping on 7 April 2006 by 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 and Special Representative on the situation of human rights defenders and on behalf of Mr Li Jinsong on 1 December 2006 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.

271. We are also in receipt of your Government's reply dated 14 June 2006. While we appreciate Your Government's reply, we regret that it does not contain any information regarding Mr Li Fangping.

272. According to the new information received, on 26 to 27 December 2006, Mr Li Fangping and Mr Li Jinsong were travelling on an overnight bus from Beijing to Linyi. On the highway in Linyi, Shandong, in the early morning, around 4:30 am, on 27 December 2006, the bus was stopped by unmarked cars. Unidentified men pulled Mr Li Jinsong out off the bus and attacked him. When Mr Li Fangping went off the bus trying to stop the attack, the men attacked him as well.

273. Mr Li Fangping was hit on the head and has received emergency care. Initial diagnosis shows that he suffers from a 3cm-long wound on his head, but x-ray does not show any fracture on the skull. Mr Li Jinsong has swollen bruises on his left eye and left arm.

274. The attack occurred when the lawyers were on their way to a meeting with Mr Chen Guangcheng. This meeting was supposed to take place at the Yinan County detention center, where Mr Chen Guangcheng is being detained.

275. On 8 December 2006, Mr Li Jinsong handed in Mr Chen Guangcheng's appeal against the decision rendered by the Yinan County People's Court to the Linyi Municipal Court. The Yinan County People's Court reportedly sentenced Mr Chen Guangcheng to four years and three months' imprisonment for "gathering crowds to disrupt traffic" and "intentional destruction of property". Mr Li Jinsong also visited Mr Chen Guangcheng at the Yinan detention center that day. In addition, on 6 December 2006, Mr Li Jinsong and Mr Li Fangping filed administrative and civil lawsuits against the Linyi Municipal Public Security Bureau including its chief Mr Liu Jie and other Government bodies. These lawsuits were also submitted to the Linyi Court on 8 December 2006.

276. Mr Li Fangping and Mr Li Jinsong were informed by a judge at the Linyi Municipal Court handling Mr Cheng Guangcheng's appeal of Mr Chen Guangcheng's request for the meeting with his lawyers on 27 December 2006 at the Yinan County detention center. It is unclear whether Mr Chen Guangcheng had actually requested the meeting with his lawyers.

277. Concern was expressed that the attack against Mr Li Jinsong and Mr Li Fangping might be directly related to their legitimate work acting on behalf of Mr Chen Guangcheng's appeal. Further concern was expressed that this attack might intimidate or deter current or future lawyers from representing clients in cases dealing with human rights issues.

### **Urgent appeal**

278. On 12 January 2007, the Special Representative, together with the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, sent an urgent appeal concerning Mr **Sun Xiaodi**, a Gansu-based activist who has spent more than a decade petitioning the central authorities over radioactive contamination from the No. 792 Uranium Mine in the Gannan Tibetan Autonomous Prefecture in Gansu Province. On 1 December 2006, Mr Sun Xiaodi had received the Nuclear-Free Future Award delivered by a jury of international environmentalists, activists, scholars and journalists.

279. According to the information received, since the receiving of his award, Mr Sun Xiaodi's home had reportedly been raided at night by unknown persons throwing stones at his door and windows. It is alleged that Mr Sun Xiaodi reported the attacks to local state security officers who did not take any action, instead telling him: "You're free to leave if you want to!". Moreover, since being detained briefly in early 2006, Mr Sun Xiaodi has reportedly had his water and electricity shut off numerous times for no apparent reason. It is further reported that Mr Sun was under residential surveillance for an unspecified period. Although he is no longer officially under surveillance, in practice each of his movements is allegedly monitored, and if he leaves the area for any reason, he is followed and interviewed by security personnel upon his return.

280. Mr Sun Xiaodi has also been unable to obtain official permission to seek medical treatment in Beijing for a tumor, a potentially life-threatening health condition. It is reported that residents of the area where Mr Sun Xiaodi lives suffer an unusually high rate of cancer and other health conditions which may be associated with radioactive contamination. Given the limitations of local medical facilities, Mr Sun Xiaodi put in a request with local public security officials for permission to go to Beijing for further diagnosis and treatment, but after nearly two months he has received no reply. Mr Sun Xiaodi is reportedly currently experiencing such physical discomfort that he has difficulty sleeping, and in addition to the tumor, he suffers from gall stones and coronary heart disease.

281. Concerns were expressed that the harassment against Mr Sun Xiaodi and the absence of response from local authorities to allow him to seek medical treatment in Beijing might be in retaliation for his legitimate activities in the defence of human rights, i.e. his work denouncing radioactive contamination in Gansu Province, and for his acceptance of an international environmental award.

### **Response from the Government**

282. On 26 February 2007, the Government informed that on 29 April 2005, Mr Sun was taken into criminal detention, in accordance with the law, by the Gansu public security authorities on suspicion of commission of the offence of providing State secrets to bodies outside the country. On 4 June, his arrest warrant was approved by the procuratorial authorities and, on 19 September, the measure of restraint implemented against him was amended to residential surveillance. On 9 March 2003, he was released from residential surveillance. At the current time, the public security authorities are not applying any restraint measures against Sun.

### **Urgent appeal**

283. On 10 January 2007, the Special Representative, together with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal concerning restrictions on events and human rights defenders promoting human rights in the context of HIV/AIDS, and to information concerning **access to treatment for haemophiliacs infected with HIV through blood products.**

284. According to information received, a number of activists have recently been detained in relation to activities to promote human rights in the context of HIV/AIDS. On 24 October 2006, three haemophiliacs, Mr. Zhao Chenyang, Mr. Wang Xinyang and Mr. Yang Shoufu were reportedly arrested in front of a hospital in Shanghai. The following day, the leader of the Chinese Haemophilia Association, Mr. Kong Delin, was detained by the Shanghai authorities. Each of these individuals had recently raised issues regarding the protection of the human rights of haemophiliacs. While Kong Delin was released on 30 November, the remaining three haemophiliacs are reportedly still detained, and there has been no update on their condition and whereabouts.

285. Furthermore, on 24 November 2006, Dr Wan Yanhai, founding member and director of the Beijing ZHIAIXING Information and Counselling Centre (commonly known as the AIZHIXING Institute), an organization which promotes and defends the rights of individuals living with HIV/AIDS, was questioned by four individuals claiming to be members of the Beijing Public Security Bureau (PSB) in relation to the activities of the AIZHIXING Institute, specifically a workshop on “Blood Safety, AIDS, Law and Human Rights”, scheduled to take place on 25 November 2006. It is reported that Dr Wan was initially interrogated at the AIZHIXING Institute’s office where, in the presence of the police, he instructed staff members to cancel the workshop. He was then reportedly taken into police custody in an undisclosed location. On 27 November 2006, Dr Wan was reportedly released after having remained in detention without being charged, for more than 48 hours, in breach of both the PRC Public Order Management Punishment Law and the Regulations on Procedures of Processing Administrative Detention by Public Security Authorities under which an individual cannot be held for more than 8 hours or in more complicated cases, 24 hours. The detainee’s family or employer must be informed of the reason for the detention and the location where the detainee is held.

286. Furthermore, it is reported that Dr Wan has been threatened on previous occasions in relation to his work on HIV/AIDS and health rights. In August 2002 he was reportedly detained for a month on suspicion of “illegally leaking state secrets”

after he electronically distributed a Government document online to the organization's mailing list which dealt with the HIV/AIDS epidemic in Henan Province. The AIZHIXING Institute was allegedly prevented from registering as a non-profit non-Governmental organization and was required to register as a for-profit business.

287. We would like to express our concern about the detention of these individuals in relation to their activities in defence of human rights, in particular the right to the highest attainable standard of health, in the context of HIV/AIDS and haemophilia.

288. Concern was expressed regarding the information received which alleges that haemophiliacs infected with HIV/AIDS and hepatitis do not receive satisfactory treatment and compensation. The free medication and treatment made available to HIV/AIDS patients by the Government since 2003 is reportedly not suitable to haemophiliacs. Haemophiliacs are prone to develop various syndromes such as malformation, impaired mobility and bleeding. Free and appropriate treatment for these conditions is not available. This means that the burden of those haemophiliacs is greater than that of the average person living with HIV/AIDS.

### **Response from the Government**

289. On 9 March 2007, the Government informed that, on 17 August 2002, Mr Wan unlawfully gained possession of Government documents containing material marked as classified, which he unlawfully transmitted to persons and bodies outside the country and placed on foreign websites. In accordance with the Criminal Code, the Confidentiality Act, the State Security Act and other relevant laws and regulations of the People's Republic of China, on 25 August 2002 the Beijing city public security bureau took Wan into custody for investigation on suspicion of having provided State secrets to bodies outside the country. Following the investigation, Mr Wan made a candid confession of his unlawful actions, voluntarily acknowledged his guilt and rendered positive assistance to the State security authorities in tracing other persons who had unlawfully provided secrets to third parties. In view of the good attitude shown by Mr Wan in admitting his offence and being prepared freely to confess, constituting the legally prescribed preconditions for lenient treatment, the Beijing city public security bureau decided that he should receive an admonition.

290. On 20 September 2002, in accordance with the law, he was instructed to provide a written acknowledgement of his repentance and he was duly released from custody. Mr Wan was taken into criminal custody not because of any work he was performing to protect the rights of persons with HIV and AIDS, but because he had violated the country's law and was suspected of having transmitted State secrets to bodies outside the country. Chinese law clearly stipulates that, before an internal report of a Government agency is made public, access to the report is controlled in accordance with its level of confidentiality. Even if, at some suitable juncture, the agency decides to make public the content of the report, it still may not be transmitted to bodies outside the country if possession has been gained of it by unlawful means or if it has not yet been declassified. According to the provisions of articles 4 and 61 of the Chinese Code of Criminal Procedure, the action by the Beijing city public security bureau in taking Wan into custody, as prescribed by law, for the purposes of investigation was both in accordance with due process and effected within the requisite time limits. According to relevant provisions of the Chinese Code of

Criminal Procedure, it is possible to withhold notification to a detainee's family of his or her detention for an interim period and within the time limits set for remand in custody (under law, the maximum period for such custody is 30 days), if the exigencies of the investigation so dictate or the detainee so requests. In the present case, the public security authorities were guided primarily by Wan's own written request that his family should not be notified of the fact of his having been taken into custody.

291. In November 2006, in Beijing, Mr Wan organized the second symposium on Blood Safety, AIDS, the Law and Human Rights. On 24 November, when they learned of this event, the public security authorities sought further information about the symposium from Mr Wan, but did not take any coercive measures against him, nor was he taken into custody in an undisclosed location, as alleged. Inquiries with the Chinese public security department and other security authorities have established that none of the persons mentioned in the communication, namely, Zhao Chenyang, Wang Xinyang, Yang Shoufu and Kong Delin, has been arrested or taken into custody.

### **Urgent appeal**

292. On 31 January 2007, the 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, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr **Jamyang Gyatso**, a monk at Bora Monastery in Xiahe, Northwest Gansu. Mr Gyatso's work as a human rights defender was carried out by peaceful means. According to information received:

293. On 8 January 2007, Mr Jamyang Gyatso was arrested by plain clothed Chinese security officials outside Bora Monastery in Xiahe. Officials at the Monastery later discovered that Mr Jamyang Gyatso's room had been searched and that a bag full of religious scriptures, including CD's, 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 Jamyang Gyatso's whereabouts. Mr Jamyang Gyatso is currently being detained at an unknown location.

294. Before his arrest Mr Jamyang 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.

295. Concerns were expressed that the arrest and detention of Mr Jamyang Gyatso might form 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 was expressed that Mr Jamyang Gyatso might be at the risk of ill-treatment.

### **Response from the Government**

296. On 23 March 2007, the Government informed that on 9 January 2007, in accordance with the law, Mr Jamyang 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, the Chinese security authorities ordered that he be placed under restricted freedom of movement, on his own recognizance, pending trial.

### **Urgent appeal**

297. On 13 March 2007, the Special Representative, together with 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, sent an urgent appeal concerning information we have received regarding **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.

298. 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".

299. 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.

300. 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.

301. 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.

302. Concern was expressed that the arrest and detention of Mr Ablikim Abdiriyim might form part of an ongoing campaign against Ms Rebiya Kadeer and her family and were directly linked to Ms Kadeer's high profile work in advocating for the human rights of the minority Uighur community in the northwest region of Xinjiang in China. Serious concern was also expressed for the physical integrity of Mr Abdiriyim.

### **Response from the Government**

303. On 17 July 2007, 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.

304. 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.

305. 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.

306. 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.

### **Letter of allegations**

307. On 10 May 2007, the Special Representative, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations concerning Mr **Liu Dehuo**, Mr **Cui Yongfa**, Ms **Shao Xiaobing**, Mr **Chen Ningbiao**, Mr **Chen Zhibiao**, Mr **Shao Xixia** and Mr **Guo Jianhua**, human rights defenders working to protect their land from forced annexation.



308. According to the information received, on 10 April 2007, the District Court of Sanshan, in Nanhai County, Guangdong province sentenced Mr Dehuo, Mr Ningbiao and Mr Zhibiao to four years in prison, Mr Yongfa, Mr Xixia and Mr Jianhua received a sentence of three years and six months, whilst Ms Xiaobing was sentenced to two years and six months in prison. They were all charged with illegally obstructing an approved construction project in Sanshan District. Upon hearing the verdict all of the defendants announced that they would appeal the sentence.

309. According to reports, the seven defendants were detained by Nanhai police in June 2006 and have been in detention since then. They were charged with extortion and blackmailing the Yingshun Tank Farm, a gas and petrochemical company, which had reportedly taken over 1 hectare of land in Sanshan without official approval for use as a construction site. The company was reportedly requested by villagers to hand over 50,000-yuan to compensate them or the plan to develop a construction site on the land would be exposed. However the company filed a complaint for blackmail against the defendants before making any payment.

310. Mr Liu Dehuo, Ms Shao Xiaobing, Mr Chen Ningbiao, Mr Chen Zhibiao, Mr Shao Xixia and Mr Guo Jianhua were tried on 6 December 2006 without legal counsel. Mr Yongfa's wife acted as his legal representative.

311. Concern was expressed that the aforementioned events might form part of an ongoing campaign against human rights defenders in China. Concern was also expressed at reports that Mr Liu Dehuo, Mr Cui Yongfa, Ms Shao Xiaobing, Mr Chen Ningbiao, Mr Chen Zhibiao, Mr Shao Xixia and Mr Guo Jianhua did not receive a fair trial.

### **Response from the Government**

312. In a letter dated 31 July 2007, the Government informed that the case of extortion brought against Chen Ningbiao and other persons, numbering seven in all, was considered by the Nanhai district people's court in Foshan city, Guangdong province, and on 10 April 2007, in accordance with the law, the court rendered its judgement in criminal case Nan Xing Chu Zi (Nanhai criminal court of first instance) No. 1913. The court found that the facts of the case were as follows:

313. At about 6 a.m. on 16 May 2006, Liang Mingji, a driver employed by Fanghua elementary school in the Liwan district of Guangzhou city, was driving the school bus (registration Guangdong A24695), transporting schoolchildren, when, at the Yidong Market intersection in the Sanshan area of Pingzhou, Guacheng neighbourhood, Nanhai district, he encountered Chen Ningbiao, sitting on his motorcycle, registration Y61470, and blocking the road. Liang sounded his horn and proceeded slowly forward, but Chen would not let him through, whereupon Liang brought his vehicle to a stop with a space of more than 10 centimetres between it and Chen's motorcycle. Chen picked up a rock and used it to threaten Liang, preventing him from leaving, and, claiming that his motorcycle had been struck, demanded that Liang pay him 200 yuan compensation. When Liang refused to pay, Chen made telephone calls to Chen Zhibiao, Liu Dehuo and other residents of Sanshan village, totalling 10 in all, summoning them to his assistance. When Chen Zhibiao and Liu Dehuo arrived at the scene, they saw that Chen Ningbiao's motorcycle had sustained no damage, but the

three men still gathered round the school bus and started making a commotion, pushing and shoving Liang Mingji and demanding that he pay the compensation, and also blocking the path of the traffic police who had come to investigate the incident. Following this, the owners of the bus, Zhao Jiandong and Zhao Jiannan, made their way to the scene, to find out what was going on. At this point, Chen Ningbiao let the air out of the bus's tyres, to prevent it from proceeding into Sanshan, and threatened to smash it up, demanding 5,000 yuan in damages from the bus owners, while Chen Zhibiao and Liu Dehuo noisily repeated his threats. Under duress, Zhao Jiandong and Zhao Jiannan agreed to pay 3,500 yuan in compensation. On the suggestion of Chen Zhibiao and Liu Dehuo, Chen Ningbiao used a false name, "Chen Yidong", on the receipt slip.

314. The plot of land situated in the area called "Meichong" in Pingzhounan village on Guacheng Street in the Nanhai district of Foshan city had been expropriated as State land on December 1997 by the Guangdong province cadastral office and was managed by the Nanhai district land resource centre. At a later date, because the land was not yet developed, it was allocated to the Nanhai farmer Li Bin for his use. In April 2006, Li Bin was granted permission to rent the piece of land to the Shunying fuel depot in Nanhai district. The general manager of the depot, Chen Zhujia, hired a digger to excavate a pond on the land for use as a fish farm.

315. At about 9 a.m. on 20 May 2006, Chen Ningbiao, Chen Zhibiao, Cui Yongfa, Liu Dehuo, Guo Jianhua and other villagers from Sanshan, numbering more than 10 in all, gathered at the fuel depot and started creating a disturbance, claiming that damage had been caused to the piece of land in "Meichong", threatening to set fire to the digger and demanding compensation from the person who had rented it for the excavation of a fish-pond. The defendant Zhao Xiaobing then went up to a motor vehicle parked in front of the depot gates and threatened to let the air out of its tyres. Chen Zhujia was worried that the villagers might damage the fuel depot, so he pretended that the piece of land in question had been leased to someone else and undertook to go and call that person. All 10 and more of the defendants, Chen Ningbiao, Chen Dehuo, Cui Yongfa, Guo Jianhua and the other villagers from Sanshan, forced their way on three separate occasions into the fuel depot and urged Chen Zhujia to go and fetch the person who had rented the land for use as a fish-farm.

316. At about 3 p.m. that afternoon, Chen Zhujia realized that the safety of the fuel depot was under threat and was therefore constrained to try and find the depot's legal adviser, Lin Jiaqing, and ask him to masquerade as the person who had rented the land for use as a fish farm and to enter into discussions with the villagers. Chen Zhibiao, Liu Dehuo, Cui Yongfa, Shao Xixia and other persons, claiming to be acting on behalf of the village, went up to Lin Jiaqing, standing on the embankment nearby, and demanded payment of damages. Basing the claim on the damage which Lin Jiaqing had allegedly caused to the plot of land, Liu Dehuo demanded that he pay 150,000 yuan in compensation. Chen Zhibiao and the other persons took up the same demands, but were met with refusal from Lin Jiaqing. Undeterred, Liu Duhuo, Cui Yongfa and the others, arguing that Lin had allegedly signed an "illegal agreement", demanded that he pay them at least 75,000 yuan. In the meantime, Shao Xiaobing and a group of villagers dragged over some water pipes which they found lying around in the vicinity and used them to block the main gate into the fuel depot. They then continued creating a disturbance, shouting and threatening. Chen Ningbiao and Guo Jianhua

then joined the other villagers on the embankment, demanding payment of damages. Chen Zhujia realized what consequences all this might have for the safety of the fuel depot and its operation and, under duress, suggested to Lin Jiaqing that he pay 50,000 yuan in compensation. After Chen Zhibiao and the other persons had received the payment of 50,000 yuan, the villagers present at the scene were each paid out an amount of 200 yuan by Shao Xixia.

317. It has been ascertained in addition that, before this piece of land in “Meichong” was expropriated, it had been the property of the Nanshan village collective and none of the seven defendants belong to that village collective.

318. The Nanhai district people’s court in Foshan city, Guangzhou province, determined that Chen Ningbiao, Chen Zhibiao and Liu Dehuo had engaged in two acts of extortion, to an amount of 53,500 yuan; that the defendants Cui Yongfa, Shao Xixia, Guo Jianhua and Shao Xiaobing had engaged in one act of extortion, to an amount of 50,000 yuan, and that the amounts obtained by extortion were substantial. In the course of jointly committing the offence of extorting money from the Shunying fuel depot, Chen Ningbiao, Chen Zhibiao, Liu Dehuo, Cui Yongfa, Shao Xixia and Shao Jianhua had played the main role and were therefore the primary culprits: they should be punished in a manner commensurate with the commission of the full offence; Shao Xiaobing had played a secondary role and was an accessory to the offence: in accordance with the law she should receive a lighter punishment. In accordance with the provisions of article 274, article 26, paragraphs 1, 3 and 4, and article 27 of the Criminal Code of the People’s Republic of China, for the offence of extortion the defendants Chen Ningbiao, Chen Zhibiao and Liu Dehuo were sentenced to four years’ fixed-term imprisonment, the defendants Cui Yongfa, Shao Xixia and Shao Jianhua were sentenced to three years’ and six months’ fixed-term imprisonment and the defendant Shao Xiaobing received a sentence of two years’ and six months’ fixed-term imprisonment.

319. In the course of these proceedings, the court, acting in accordance with the law, informed the defendants of their right to receive the services of court-assigned defence lawyers or to appoint their own defence lawyers. Of the seven defendants in the case, Liu Dehuo, Cui Yongfa and Shao Xiaobing separately appointed defence lawyers (Cui Yongfa appointed two defence lawyers). After being notified by the court as required by law, Zhang Jiankang and Wang Quanzhang, the lawyers appointed by Liu Dehuo and Cui Yongfa, respectively, still failed to appear in court. Huang Liuxiao, the other lawyer appointed by Cui Yongfa, and Zhu Daohua, the lawyer appointed by Shao Xiaobing, did appear in court and participated in the proceedings. The other defendants did not appoint their own defence lawyers but, in court, in accordance with the law, all fully exercised their right to conduct their own defence. Article 34 of the Code of Criminal Procedure of the People’s Republic of China stipulates as follows: “In the event that the defendant is blind, deaf or mute or is a minor, and has not appointed a defence lawyer” or “may incur the death penalty and has not appointed a defence lawyer, the people’s court shall designate a lawyer, who shall be duty-bound to provide legal assistance in that person’s defence”. The above-named defendants did not fall into the categories specified as necessitating the appointment or assignment by the court of defence lawyers.

320. After the Nanhai district people's court in Foshan city, Guangdong province, had passed sentence at first instance, the seven defendants lodged appeals within the time limit set by law. The case is currently being heard at second instance by Foshan city people's intermediate court in Guangdong province.

### **Letter of allegations**

321. On 27 April 2007, the Special Representative sent a letter of allegations concerning Mr **Ablikim Abdiriyim**, third son of the human rights defender for the minority Uighur community in the northwest region of Xinjiang, Ms Rebiya Kadeer. 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. Mr Abdiriyim was also the subject of an urgent appeal sent by the on 13 March 2007 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and the Special Representative of the Secretary-General on the situation of human rights defenders.

322. According to information received, on 17 April 2007, the Intermediate People's Court in Urmchi, capital of Xinjiang Uighur Autonomous Region, sentenced Mr Abdiriyim to nine years in prison on charges of 'instigating and engaging in secessionist activities', which he allegedly pleaded guilty to during the trial. The court also issued a ruling which will deny Mr Abdiriyim all political rights for a period of three years when he is released from prison. In practice such a decision could effectively subject Mr Abdiriyim to house arrest. The courts verdict also claimed that Mr Abdiriyim had been responsible for requesting that two articles, entitled 'Issues to be aware of and prohibited in Jihad' and 'Struggle towards independence' be published on the Uighur-language Yahoo website. Reports claim however that such a website does not exist. Mr Abdiriyim was also charged with attempting to distribute materials 'in an attempt to stir up public protest against the local Government'. In addition, at the beginning of April the authorities initiated a process to assess and liquidate the Kadeer family business. Mr Abdiriyim was reportedly denied access to a lawyer and did not have legal representation during the trial.

323. Mr Abdiriyim was arrested on 13 June 2006, along with his brothers Mr Alim Abduriyim and Mr Kahar Abduriyim. Mr Ablikim Abdiriyim was allegedly 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. He is currently being detained at Tianshan Detention Centre in Urumchi, the capital of the Xinjiang Uighur Autonomous Region (XUAR).

324. Concern was expressed that the arrest and detention of Mr Ablikim Abdiriyim was directly related to his legitimate and peaceful work in advocating for the human

rights of the minority Uighur community in the northwest region of Xinjiang in China, and might form part of an ongoing campaign against the Kadeer family, in particular his mother Ms Rebiya Kadeer. Grave concern was expressed for the physical and psychological integrity of Mr Abdiriyim.

### **Letter of allegations**

325. On 10 May 2007, the Special Representative, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent a letter of allegations concerning Ms **Mao Hengfeng**, a well-known petitioner against family planning policies and forced evictions in Shanghai since 1989. Ms Hengfeng was the subject of a letter of allegations sent by the Special Rapporteur on the question of torture together with the Special Representative to the Secretary-General on the situation of human rights defenders on 9 June 2005.

326. According to information received, on 16 April 2007, Ms Hengfeng was informed by the Municipal No.2 Intermediate People's Court in Shanghai that her original sentence of two and half years was to be upheld. The court session lasted 10 minutes during which time the judgment was read out. Neither Ms Hengfeng nor her lawyer was authorized to present an argument in her defence and only family members were allowed to attend the hearing.

327. On 12 January 2007, Ms Hengfeng was sentenced to two and a half years in prison by Shanghai Yangpu District Court for allegedly damaging hotel property whilst in detention by Shanghai's Yangpu Public Security Bureau at a guest house in Beijing. It was alleged that Ms Hengfeng had broken two table lamps in the guesthouse and she was subsequently arrested on 30 June 2006 on charges of 'intentionally destroying property'. During the trial Ms Hengfeng was prevented by prison guards, from verbally protesting against the mistreatment and abuse which she was subjected to whilst in detention.

328. According to reports, prior to her trial on 16 April Ms Hengfeng was detained in a small cell in which the floor was covered with excrement with the smell preventing her from sleeping. Reports also claim that prison guards had covered the only window in the cell. Ms Hengfeng's current conditions of detention are unknown.

329. Concerns were expressed that the arrest and detention of Ms Hengfeng were directly related to her work in defence of human rights in China and might form part of an ongoing campaign against human rights defenders in the country. Further concern was expressed at reports that Ms Hengfeng is being detained in poor conditions which might prove detrimental to her health.

### **Letter of allegations**

330. On 31 May 2007, the Special Representative sent a letter of allegations concerning Mr **Hu Jia**, a pro-democracy campaigner and HIV-Aids activist. Mr Jia is co-founder of the Beijing Aizhixing Institute of Health Education and an outspoken

advocate for people with HIV/AIDS; he has publicly criticised the authorities over their treatment of people with AIDS and other issues. According to reports received:

331. On 18 May 2007, Mr Jia was detained by police as he prepared to take a flight from Hong Kong to Europe. He was informed by domestic security officials at the airport that he was forbidden from leaving the country. Mr Jia and his wife were then interrogated by officials and told they were suspected of threatening state security. Mr Jia had been invited by organisations in several European countries to speak about human rights violations in China. Reports claim that Mr Jia's home is currently under police surveillance.

332. According to reports, in 2006 Mr Jia was kept under house arrest for a period of 168 days and was allegedly interrogated for 41 days. In 2004, Mr Jia was detained as he attempted to lay a wreath on Tiananmen square in memory of the victims of the 1989 massacre.

333. Concern was expressed that the decision by the Chinese authorities to prevent Mr Jai from travelling abroad might form part of an ongoing campaign against human rights defenders in China.

### **Urgent appeal**

334. On 27 June 2007, the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning Mr **Chen Guangcheng**, a human rights lawyer who was sentenced to four years and three months of imprisonment after taking legal action against Linyi city authorities for their practice of forcing women to have abortions in order to meet the national birth quotas. Mr Chen Guangcheng has previously been the subject of the following communications sent by Special Procedures: a joint urgent appeal sent on 19 September 2005 by the Chairperson 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 Violence against Women, its causes and consequences and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, a joint allegations letter sent on 31 October 2005 by the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on Violence against Women, its causes and consequences and the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, a joint urgent appeal sent by the Chairperson 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 Independence of judges and lawyers and the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment on 7 April 2006, a joint urgent appeal 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, the Special Rapporteur on the Independence of judges and lawyers and the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment sent on 14 July 2006 and a joint urgent appeal 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, the Special Rapporteur on the Independence of judges and lawyers, and the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on Violence against Women, its causes and consequences sent on 21 December 2006.

335. According to the information received, on 16 June 2007, several fellow prisoners of Mr Chen Guangcheng were ordered by the prison guards to beat him. As a result of the beatings, one of his ribs broke and he suffered from severe pain in the area of his thorax. However, he was denied medical treatment. That same day, he began a hunger strike to protest against the beatings and the lack of medical treatment.

336. The beatings presumably aimed at punishing him for having requested to file an appeal with the provincial high court. Being blind from birth, Mr Chen Guangcheng needs the assistance of a lawyer to draft an appeal, but is now unable to do so, since he is has not been allowed to meet with him for more than 30 minutes per month.

337. Serious concern was expressed with regard to the alleged denial of medical treatment and the insufficient amount of time Mr Chen Guangcheng is allowed to meet with his legal counsel. Concern was also expressed in relation to the unfair trial that led to his prison sentence, allegedly for his peaceful activities in defence of human rights.

### **Urgent appeal**

338. On 12 July 2007, the Special Representative, together with 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, the Special Rapporteur on violence against women, sent an urgent appeal concerning Ms **Mao Hengfeng**, a well-known petitioner against family planning policies and forced evictions in Shanghai since 1989. Ms Mao Hengfeng was the subject of joint appeals sent on 10 May 2007, 1 February 2006 and on 5 January 2006. We note Government responses received in this regard, including those dated 18 April and 14 June 2006.

339. According to recent information received, on 15 May 2007 at approximately 6am, Ms Mao Hengfeng was transferred from the police detention centre to prison. She was given inadequate clothing which left her virtually naked. When protesting at this treatment, she was beaten by police officers and placed in solitary confinement upon her arrival at the prison. Ms Mao Hengfeng embarked upon a hunger strike as a gesture of protest against her situation. She was subsequently subjected to forced feeding on three occasions by prison guards who tied her hands and forced a tube down her throat. She was placed under constant surveillance by inmates that had been assigned the task by prison guards. These prisoners seem to have also been ordered to harass Ms Mao Hengfeng and they proceeded to verbally abuse her.

340. Ms Mao Hengfeng is currently in poor health, suffering from high blood pressure and arthritis. These conditions are further aggravated by her inadequate living conditions. She has neither been provided with chairs, nor a bed. As such, she has no choice but to lie on the floor, often in cold and damp conditions. Ms Mao Hengfeng was visited by her husband on 28 June 2007. At this time her husband

reported her ill-treatment and requested that the prison officials grant Ms Mao Hengfeng's lawyers access to visit her in order to prepare for her upcoming appeal.

341. Serious concern was expressed at reports that Ms Hengfeng is being detained in poor conditions which may prove detrimental to her health. Further concern was expressed that the reported ill-treatment of Ms Mao Hengfeng in prison might be directly related to her peaceful work in defence of human rights in China, and might form part of a pattern of harassment of human rights defenders in the country.

### **Response from the Government**

342. On 15 August 2007, the Government informed that on 16 April 2007 Ms Mao Hengfeng was sentenced by the Yangpu district people's court to two years and six months' fixed-term imprisonment for the offence of causing malicious damage to property, to run from 30 May 2006 to 29 November 2008. She is currently serving her sentence in the Shanghai women's prison. Upon being admitted to prison, Mao underwent a physical examination which showed that, apart from an inclination to high blood pressure, all other indications were within the normal range. Mao is currently sharing a cell with two other women prisoners, she has not been sent to the punishment cells nor has she been placed in solitary confinement. Her eating and sleeping arrangements are normal. With regard to the issue of appeal, to date Mao has not submitted any written application, nor has she applied to see her lawyer, so there is no case here of the prison not allowing her to lodge an appeal. The prison officers, acting in accordance with the law, treat the prisoners in a civilized manner. Mao enjoys her rights on the same footing as the other prisoners, including the right to health and the right to appeal. The allegation that Mao has been subjected to ill-treatment is not supported by the facts.

### **Urgent appeal**

343. On 27 July 2007, the Special Representative, together with 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, sent an urgent appeal concerning Mr **Zheng Enchong** and his wife Mrs **Jiang Meili**. Mr Zheng Enchong is a human rights lawyer in Shanghai. Mr Enchong was sentenced to three years' imprisonment on charges of 'illegally providing state secrets overseas'. He was released on 5 June 2006 and has been under house arrest and subject to police surveillance ever since.

344. On 5 July 2007, Mr Enchong signed a petition, along with 100 other evicted house-owners from the neighbourhood of Dongbakuai. The petition called for a public trial of Mr Zhou Zhengyi, the former president of Nongkai, a property development firm in Shanghai, who has been detained and faces charges of fraud and bribery. The petition also called for evictees to be allowed to attend the trial and testify as affected parties. Mr Enchong was the subject of two communications sent respectively 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 Representative of the Secretary-General on the situation of human rights defenders on 16 March 2004 and by the Special Rapporteur on the



independence of judges and lawyers and Special Representative of the Secretary-General on the situation of human rights defenders on 20 July 2006.

345. According to information received, on 24 July 2007 at approximately 7.30am, Mr Zheng Enchong went to the Shanghai Municipal Higher People's Court with his wife, Mrs Jiang Meili, in order to register to attend the trial of Mr Zhou Zhengyi, to be held at the end of July 2007.

346. On their arrival at the courthouse Mr Zheng Enchong and Mrs Jiang Meili were reportedly surrounded by six police officers, namely Mr Tang Wei, Mr Wu Yanan, Mr Qian Guoqiang, Mr Wang Zhenlin, Mr Li Wei and Mr Feng Jianping. Mr Tang Wei and Mr Wu Yanan, with the help of the other officers, then proceeded to knock Mr Enchong to the ground. They dragged Mr Enchong along the ground for a distance of almost 200m while they subjected him to an assault which lasted for an hour. Mr Enchong sustained injuries to his left hand in the course of the assault which was observed by hundreds of residents in the vicinity.

347. The police officers then allegedly forced Mr Zheng Enchong and Mrs Jiang Meili into a taxi. They went directly to the home of Ms Jiang Zhongli, the sister of Mrs Jiang Meili, on the Baochang Road. Here they were met by five police vehicles and more than 30 police officers who prevented them from leaving. That same day, at approximately 9.00am, more than 50 displaced residents from the neighborhood of Dongbakuai presented themselves at the Shanghai Municipal Higher People's Court in order to register to attend the trial of Mr Zhou Zhengyi. Security guards and police officers prevented them from entering the building.

348. Concern was expressed that the aforementioned alleged harassment of Mr Zheng Enchong might be as a result of his peaceful and legitimate human rights activities as a human rights lawyer in Shanghai. Further concern was expressed for the physical and psychological integrity of Mr Zheng Enchong and Mrs Jiang Meili.

### **Response from the Government**

349. In a letter dated 18 December 2007, the Government informed that in March 2001, because Mr Zheng Enchong had conducted activities in breach of relevant provisions of the Lawyers' Act of the People's Republic of China, the Shanghai Judicial Bureau decided to revoke his licence. On 28 October 2003, for the offence of unlawfully providing State secrets to bodies or persons outside the country, he was sentenced by the Shanghai intermediate people's court No. 2 to three years' fixed-term imprisonment (to run from 6 June 2003 to 5 June 2006) and stripped of his political rights for one year. Zheng refused to accept the verdict and lodged an appeal. On 18 December 2003, after hearing the case at second instance, the Shanghai people's high court dismissed the appeal and upheld the original verdict. On 5 June 2006, Zheng was released from custody on completion of his sentence (his sentence of one year's deprivation of his political rights expired on 5 June 2007).

350. Following his release from custody, Zheng was emphatically not placed under house arrest. If he had been placed under house arrest, how could he have attended proceedings in court? The two statements are mutually contradictory. Second, the allegations in the letter that "on 24 July 2007 at approximately 7.30 a.m., Mr Zheng

Enchong went to the Shanghai Municipal Higher People's Court ..., in order to register to attend the trial of Mr. Zhou Zhengyi", that he was dragged 200 metres along the ground by Tang Wei and five other police officers, and subjected to an assault which lasted for one hour and that he was then forced to leave, and that, on that same day, at approximately 9 a.m., "more than 50 displaced residents ... presented themselves ... in order to attend the trial of Mr. Zhou Zhengyi" but that "security guards and police officers prevented them from entering the building" are simply not true. Enquiries have shown that the second division of the Shanghai city people's procurator's office only filed charges against Zhou Zhengyi with the Shanghai people's intermediate court on 17 August 2007: thus it was not possible for anyone to have attended the trial at the Shanghai people's high court on 24 July. The six persons named in the letter are not to be found among the judicial police of the Shanghai people's high court. At about 9 a.m. on 24 July, dozens of people claiming to be forcibly relocated residents from "Dongbakuai" ("Lot East 8") demanded to attend the trial of Zhou Zhengyi. But following a perusal of the schedule of court hearings, and confirmation and notification that the Shanghai people's high court was not holding any hearings that day, the people that had gathered promptly withdrew, no one tried to gain entry to the court and the security guards and police did not need to take any preventive action.

### **Letter of allegations**

351. On 21 August 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations 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 State and the United Kindom, 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.

352. Concern was expressed that the arrest of the eight aforementioned persons was related to their peaceful and legitimate activities in defence of human rights, in particular the right of Tibet to self-determination.

### **Response from the Government**

353. At the time this report was finalized, the reply of the Government of 20 November 2007 had not been translated.

### **Urgent appeal**

354. On 23 August 2007, the Special Representative, together with the special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment on human rights, sent an urgent appeal concerning Mr **Wu Lihong**, an environmental activist and human rights defender from the Zhoutie Township, Yixing City, in the province of Jiangsu. Mr Wu Lihong regularly reports to the authorities cases of environmental violations in the form of illegal dumping of industrial waste into the Tai Hu (Tai Lake). According to information received:

355. On 10 August 2007, the Yixing City Court sentenced Mr Wu Lihong to three years' imprisonment and a fine of 500 RMB for the crime of extortion. Mr Wu Lihong has reportedly stated his intention to appeal this sentence. It is alleged that only four of Mr Wu Lihong's family members were allowed entry to the courtroom to be present at the trial, while other supporters and members of the press were denied entry.

356. Mr Wu Lihong was arrested on 13 April 2007 by the Yixing City police on suspicion of extortion. He was transferred to a detention centre in Yixing where he was allegedly subject to violent treatment, resulting in injury. His lawyer requested that a physical examination be conducted by a doctor. It is as yet unconfirmed whether or not an examination was carried out.

357. Concern was expressed that the aforementioned sentence imposed upon Mr Wu Lihong might be related to his peaceful and legitimate activities in the defence of human rights, in particular his work to report environmental violations in the form of illegal dumping of industrial waste. Further concern was expressed for the physical and psychological integrity of Mr Wu Lihong while imprisoned.

### **Response from the Government**

358. At the time this report was finalized, the reply of the Government of 20 November 2007 had not been translated.

### **Letter of allegations**

359. On 30 August 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 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,

360. 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.

361. 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.

362. 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.

363. 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.

364. Concern was expressed that the aforementioned incidents might have been directly related to the peaceful and legitimate activities carried out by the aforementioned organisations in the defence of human rights of people living with HIV and their relatives.

### **Response from the Government**

365. At the time this report was finalized, the reply of the Government of 20 November 2007 had not been translated.

### **Urgent appeal**

366. On 30 August 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr. **Lu Gengsong**, a well-known writer who has published several pro-democracy articles on the internet and books on political reform.

367. According to the information received, on 24 August 2007, Mr. Lu 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.

368. Concern was expressed that the arrest and detention of Mr. Lu may be related to his peaceful work in defence of human rights in China.

### **Response from the Government**

369. In a letter dated 20 November 2007, the Chinese government responded to the above communication. The letter stated that Mr Lu had, on many occasions, published articles on websites outside the country containing incitements to the subversion of State power and disclosing details of the situation regarding the armed forces, some of the content of which, following appraisal by the Official Secrets Office, had been deemed to be confidential material

370. On 24 August 2007, the Xihu (West Lake) public security sub-office of the Hangzhou public security bureau, acting in accordance with the law, remanded Mr Lu in custody on suspicion of the offences of incitement to the subversion of State power and the illegal possession of State secret. On 22 September, the Hangzhou city public security bureau applied to the procuratorial authorities for Lu Gengsong to be placed in detention. His case was being investigated at time of writing

### **Urgent appeal**

371. On 5 September 2007, the Special Representative, 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, sent an urgent appeal concerning the situation of Mr **Yang Chunlin**, a resident of Jiamusi City, Heilongjiang Province.

372. 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.

373. 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.

374. Concern was expressed that the arrest and detention of Mr Yang under the charge of “subversion of state power” might be related to his peaceful work in defence of human rights, in particular housing rights of affected populations in China.

### **Response from the Government**

375. In a letter dated 20 November 2007, the Government informed that Mr 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**

376. On 28 September 2007, the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning Mr. **Gao Zhisheng**, a human rights lawyer. Mr. Gao was the subject of a joint allegations letter 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 1st December 2006; a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders on 30 November 2006; a joint allegation letter sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders on 21 December 2005 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 25 November 2005. According to the information received:

377. On 22 September 2007, Mr. Gao Zhisheng was taken from his apartment in Beijing by plain-clothes policemen, and his whereabouts remain unknown as of today. Reportedly, Mr. Gao's arrest is directly related to an open letter he sent to the United States Congress last week expressing his deep concerns over the worsening deterioration of human rights in China ahead of the 2008 Beijing Olympics. It has also been reported that prior to that letter, the police had threatened Mr. Gao with jail if he released any more open letters or statements.

378. Concern was expressed that the arrest of Mr. Gao might be related to his peaceful activities in defence of human rights. Further concern was expressed for his physical and mental integrity in view of his incommunicado detention.

### **Response from the Government**

379. At the time this report was finalized, the reply of the Government of 18 December 2007 had not been translated.

### **Urgent appeal**

380. On 5 October 2007, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning Mr **Li Heping**, a human rights lawyer practicing at the Gaobo Longhua law firm in Beijing.

381. According to information received, on 29 September 2007, at approximately 5.30pm, Mr Li was abducted in the car park of the offices of his law firm by twelve men in civilian clothes. The men allegedly put a hood over his head and forced him into an unregistered car. After about an hour's drive, the men stopped at an unknown location and took Mr Li to a basement where they beat him and tortured him using electric rods. While torturing Mr. Li the men demanded that he promise to stop practising law and leave Beijing. If he refused, they threatened him with systematic attacks. At approximately midnight, they drove Mr. Li to the woods at Xiao Tang mountain in the suburbs of Beijing and left him there. Mr Li managed to get a taxi to the Beijing hospital where he was treated for his injuries.

382. Days prior to his abduction and assault, Mr Li was reportedly approached by policemen from the National Security Protection Unit of the Beijing Public Security Bureau and instructed that he and his family were to leave Beijing. When Mr Li refused to leave the city, the policemen proceeded to follow him, keeping him under constant surveillance. According to Mr Li, the policemen who followed him witnessed his abduction as he had just talked to them.

383. Upon his return home, Mr Li discovered that his lawyer's identification card as well as some other personal belongings had been taken. In addition, all of the files saved on his computer had been erased.

384. Concern was expressed that the aforementioned abduction and assault of Mr Li might be related to his peaceful human rights activities, in particular his work as a human rights lawyer to defend those suffering human rights violations in China. Further concern was expressed for the physical and psychological integrity of Mr Li and his family.

### **Urgent appeal**

385. On 9 October 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr **Zheng Dajing**, a petitioner and human rights defender.

386. 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 Yanco Station in Hongtai Yuansigou Village, where he has been beaten and subjected to other forms of ill-treatment. Yanco 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.

387. 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.

388. 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.

389. 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.

390. Concern was expressed that the arrest and detention of Mr Zheng might solely be connected to his reportedly peaceful activities in defense of human rights. In view of his custody at a reportedly unofficial place of detention, further concern was expressed as regards his physical and psychological integrity.

### **Response from the Government**

391. At the time this report was finalized, the reply of the Government of 15 January 2008 had not been translated.

### **Urgent appeal**

392. On 25 October 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning Ms Liu Jie, human rights defender and pro-democracy activist, and Mr. Fu Jingjiang, her husband.

393. 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.

394. 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.

395. 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.

396. 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.

397. Concern was expressed that the arrest and detention of Ms Liu Jie might be directly related to her non-violent human rights activities, in particular her work to campaign for democracy and the rule of law in China. Further concern was expressed that the arrest and detention of Mr Fu Jingjiang might be linked to the aforementioned work of his wife. Finally, concern was expressed for the physical and psychological integrity of both of them while in detention.

### **Urgent appeal**

398. On 5 November 2007, the Special Representative, together with 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 Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Ms **Mao Hengfeng**, a well-known petitioner against family planning policies and forced evictions in Shanghai since 1989. Ms Hengfeng was the subject of previously transmitted communications. According to information received, on 13 September 2007, prison authorities reportedly ordered a fellow inmate to beat Ms Mao Hengfeng in punishment for revealing that she had been held in solitary confinement for 70 days in July and August 2007. This was in violation of Article 15 of the Chinese Prison Law which stipulates a maximum of 15 days for the solitary confinement of prisoners. Ms Mao was badly bruised as a result of the beating.

399. On 24 September 2007, prison authorities allegedly sent Ms Mao to the Nanhui Prison Hospital. She had previously refused to undergo a medical examination for fear that she would be forcibly injected with drugs, as had happened when she was held in a psychiatric institution in the 1980s. At the Nanhui Prison Hospital Ms Mao's clothes were removed and she was tied to a bed and force-fed by other inmates.

400. Ms Mao's husband, Mr Wu Xuwei, was prevented from visiting her at the Shanghai Women's Prison until 26 October 2007. During his supervised visit Ms Mao was repeatedly silenced by prison guards when she attempted to inform him of having been force-fed.

401. Concerns were expressed that the arrest, detention and aforementioned ill-treatment of Ms Mao Hengfeng might be directly related to her peaceful work in defense of human rights in China, and might form part of an ongoing campaign against human rights defenders in the country. Further concern was expressed for the physical and psychological integrity of Ms Mao whilst she is in detention.

### **Response from the Government**

402. At the time this report was finalized, the reply of the Government of 15 January 2008 had not been translated.

### **Letter of allegations**

403. On 30 November 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning Mr Ronggyal Adrak, a Tibetan nomad of the Yonru nomadic group, and 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 allegations 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.

404. 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.

405. 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."

406. Concern was expressed that the sentencing of Mr Ronggyal Adrak and Mr Adruk Lopoe may be linked to their peaceful activities in defence of human rights in China.

### **Response from the Government**

407. At the time this report was finalized, the reply of the Government of 15 January 2008 had not been translated.

### **Urgent appeal**

408. On 30 November 2007, the Special Representative, together with Special Rapporteur on the human rights of migrants, sent an urgent appeal concerning the Dagongzhe Centre for Migrant Workers (DGZ) and Mr Huang Qingnan. The DGZ is a non-Governmental organisation that provides migrant workers in Shenzhen with free legal advice. Mr Huang Qingnan is the license-holder of the organisation.

409. According to information received, on 20 November 2007, at about 3.30pm, Mr Huang Qingnan was walking in Longhu New Village when he was attacked from behind by two men armed with knives. He was repeatedly stabbed, particularly in the

back and legs. The men escaped on a motorbike. Mr Huang Qingnan was taken to hospital and remains in a serious condition.

410. On 14 November 2007, at approximately 4.30pm, four men armed with steel water pipes broke the doors of the Dagongzhe Centre and proceeded to destroy equipment inside the offices, including the furniture and the water machine. The men escaped in a white mini-van, its registration plates were obscured, with only “Guangdong BMXXXX” visible. According to staff members, there were three policemen on patrol outside the offices at the time of the attack who looked on without taking any action against the attackers. Staff members then reported the attack to the local Tongle police station. When they inquired about the CCTV on the street outside the offices, they were informed by the police that it did not have a “recording function”.

411. On 11 October 2007 at approximately 7.00pm, a similar attack occurred when the Dagongzhe Centre’s glass doors were broken by several men armed with steel water pipes while staff members were inside the offices. After they broke the doors, the men reportedly left on motorcycles parked outside.

412. Concern was expressed that the aforementioned attacks against Mr Huang Qingnan and the offices of the Dagongzhe (DGZ) Centre for Migrant Workers might be directly related to the human rights activities of the Centre, in particular their work to defend workers’ rights and their recent promotion of labour law reform in China. Further concern was expressed for the physical and psychological integrity of Mr Huang Qingnan and rest of the staff of DGZ.

### **Letter of allegations**

413. On 30 November 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 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.

414. 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.

415. 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.

416. Concern was expressed that the aforementioned sentence against Mr. Yang Maodong might be directly related to his human rights activities, in particular his work to apply his legal expertise to the fight against corruption in China. Further concern was expressed for the physical and mental integrity of Mr. Yang Maodong while imprisoned.

### **Response from the Government**

417. At the time this report was finalized, the reply of the Government of 15 January 2008 had not been translated.

### **Letter of allegations**

418. On 30 November 2007, the Special Representative sent a letter of allegations concerning **Mr Hu Jia**. Mr Hu Jia is a pro-democracy campaigner and HIV-Aids activist. He is co-founder of the Beijing Aizhixing Institute of Health Education and an outspoken advocate for people with HIV/AIDS. Mr Hu Jia was the subject of an allegation letter sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 31 May 2007.

419. According to information received, on 9 November 2007, Mr Hu Jia, on his way to visit his pregnant wife at Zhaoyang Hospital, was reportedly beaten by officers of the National Security Unit (Guo Bao) of the Beijing Public Security Bureau (PSB) in the building where he lives. The officers, who were dressed in plain clothes, had been assigned to conduct surveillance on Mr Hu Jia since 18 May 2007. Mr Hu Jia suffered injuries to his mouth. Following the beating, the officers permitted him to visit his wife. They reportedly followed him there and remained outside the hospital room during his visit.

420. Concern was expressed that the aforementioned surveillance and physical abuse of Mr Hu Jia might be directly related to his human rights activities, in particular his work to defend the rights of those living with HIV/AIDS in China.

### **Urgent appeal**

421. On 4 December 2007, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **Mr Li Guohong**. Mr Li Guohong is a representative of former workers of the Zhongyuan Oil Field.

422. According to information received, on 31 October 2007, Mr Li Guohong went to Puyang City, Henan Province, where the headquarters of the Zhongyuan Oil Field are located, in order to gain information with regard to a lawsuit being taken by dismissed workers against the oil field company. When Mr Li Guohong went to Zhongyuan Oil Field Public Security Bureau (PSB) to investigate the detention of Zhongyuan Oil Field workers, he was placed in administrative detention for fifteen

days. On 16 November 2007, when he was due to be released, he was instead sent to a “Re-education Through Labor” (RTL) camp for one and a half years by the Zhongyuan Oil Field PSB.

423. Since 2001, the Zhongyuan Oil Field has reportedly unfairly carried out the dismissal of 10,000 workers without providing them with adequate compensation.

424. According to the regulations in place for RTL camps, there is no the right to have the decision ordering the transfer to such a camp be reviewed by a judicial body.

425. Concern was expressed that the aforementioned treatment of Mr Li Guohong may be related to his peaceful human rights activities, in particular, his work to defend workers’ rights. Further concern was expressed for Mr Li Guohong physical and psychological integrity while in the RTL camp.

### **Responses from the Government to communications sent before 2 December 2006**

426. In letter dated 3 October 2006, the Government replied to the urgent appeal sent on the situation of Mr **Chen Guangchen** and Mr **Guo Qizhen**. The Government informed that Mr Guo Qizhen was sentenced in 1995, in accordance with the law, to one year’s fixed-term imprisonment, suspended for one year, for the offence of assault and battery. Since 2000, Guo has been using the Internet to foment subversion of the political power of the State. On 12 May 2006, he was taken into police custody, in accordance with the law, for breach of the provisions of articles 105, paragraph 2, and 106 of the Criminal Code of the People’s Republic of China and on suspicion of having committed the offence of fomenting subversion of the political power of the State. On 6 June his remand in detention was approved by the procuratorial authorities and his case is currently under consideration. Article 105, paragraph 2, of the Chinese Criminal Code provides: “Persons fomenting subversion of the political power of the State and the overthrow of the socialist system by spreading rumours, propagating slander or in any other way shall incur penalties of not more than five years’ fixed-term imprisonment, criminal detention, surveillance or deprivation of political rights.” Section 2 of the decision of the Standing Committee of the National People’s Congress on the safeguarding of Internet security stipulates: “In order to safeguard State security and social stability, in the event of any of the following acts which constitute an offence, the persons responsible shall incur criminal liability, under the relevant provisions of the Criminal Code: (1) Using the Internet to spread rumours or slander, to publicize or disseminate other harmful information, to foment subversion of the political power of the State and the overthrow of the socialist system, or to instigate division of the country and the destruction of national unity.” Through his conduct, Guo is suspected of having committed the offence of fomenting subversion of the political power of the State.

427. The Government further informed that in the evening of 5 February 2006, because Chen Guangcheng objected to the work of poverty alleviation officials sent to his village, guided by his wife Yuan Weijing, he stormed into the offices of the local village committee and starting smashing the glass in the doors and windows. Shortly after this Chen incited Chen Guanghe and other villagers to smash up a motor vehicle belonging to the local authorities and three police cars and to roll these cars over into

the roadside ditch, then to assail and beat up staff of the Yinan county police station. In the evening of 11 March, Chen Guangcheng's cousin Chen Guangyu, who had been drinking, claimed to have been beaten up and barged into the offices of the local village committee where he started smashing things. Taking this as his pretext, Chen Guangcheng gathered together Chen Guangyu, Chen Guangjun, Yuan Weijing and others and from 6 p.m. that same evening, on the Yinghou village section of State highway No. 205, they obstructed the movement of traffic, barring the passage of more than 290 motor vehicles, including ambulances, and blocking a major arterial road for a period of three hours. On 10 June 2006, the public security authorities, acting in accordance with the law, took Chen into police custody and launched an investigation into his actions. On 21 June his remand in detention was approved by the procuratorial authorities and, on 26 June, the matter was referred to the procuratorial authorities for review and prosecution. On 4 July, the Yinan county procurator's office referred his case to the Yinan county people's court for prosecution for the offences of wilfully causing damage to property and assembling a crowd for the purpose of disrupting traffic. On 24 August, the Yinan county people's court instituted proceedings in this case. The court found that Chen Guangchen, as a means of giving vent to personal grievances, had caused and incited others to cause wilful damage to property, the amount of which was considerable, that his conduct had infringed public and private ownership rights and constituted the offence of wilful damage to property; it found further that Chen, on account of his cousin having been beaten up after drinking, had gathered together a crowd with a view to blocking traffic, causing a three-hour stoppage of traffic on the Yinghou village section of State highway No. 205 in Shuanghou township, that the circumstances of his offence had been particularly serious, that he had been responsible for organizing, planning and carrying out the actions in question and had therefore been the principal culprit, and that his conduct had therefore constituted the offence of gathering a crowd for the purpose of disrupting traffic. As the offender in this case is blind, leniency could be applied in his case. That same day, the Yinan county people's court decided as the court of first instance to sentence Chen to seven months' fixed-term imprisonment for the offence of wilfully causing damage to property and to four years' fixed-term imprisonment for the offence of gathering a crowd to disrupt traffic and ordered him, accordingly, to serve a sentence of four years' and three months' fixed-term imprisonment. Article 275 of the Chinese Criminal Code stipulates: "The offence of wilfully damaging public or private property, where the amount involved is considerable and the other circumstances of the offence are serious, shall incur a penalty of not more than three years of fixed-term imprisonment, criminal detention, or a fine; where the amount involved is very large and the other circumstances are particularly serious, the penalty shall be not less than three years but not more than seven years of fixed-term imprisonment." Article 291 stipulates: "Where a crowd is assembled to disturb order at railway stations of bus terminals, ferry landings, civil airports, market places, parks, theatres and cinemas, exhibition halls, sports grounds or other public places, or to block traffic or disrupt the orderly movement of traffic, or to resist or obstruct public security officials from carrying out their duties according to law, if the resulting situation is serious, the ringleaders shall be sentenced to fixed-term imprisonment, criminal detention or residential surveillance of not more than five years." During the legal proceedings in this case, the court fully upheld the defendant's rights in litigation and in the courtroom his two defence lawyers were able to provide full defence services.

428. In a letter dated 12 February 2007, the Government replied to the urgent appeal sent on the situation of Mr **Gao Zhisheng**. The Government informed that on 15 August 2006, Gao was placed under investigation by the Beijing public security authorities, in accordance with the law, on suspicion of the commission of a criminal offence, and, on 21 September, his arrest warrant was approved by the procurator's office. Beijing people's procurator's office No. 1 laid charges against Gao for the offence of fomenting subversion of the authority of the State and instituted proceedings against him with Beijing people's intermediate court No. 1. Beijing people's intermediate court No. 1 determined, following its consideration of the case in open proceedings, that: from December 2005 to May 2006, Gao had composed and published on websites such as "dajiyuan.com", "kanzhongguo.com" and others, nine articles with such titles as "Three open letters from Gao Zhisheng to Hu Jintao and Wen Jiabao" and "This administration never stops killing people". In these articles, Gao engages in rumour mongering and slander, vilifying the current Chinese State political and social system and inciting his readers to overthrow the authority of the State. At the same time, on 10 separate occasions, both from his home and in other places, Gao had given interviews to foreign media, such as "Radio Free Asia", "Voice of Hope", and other outlets, which held discussions with him and recorded his incitements to subvert the authority of the State. Those had been recorded by the foreign media as audio files and placed on their websites, for other people to listen to or download. During the investigation, Gao made a candid confession to the facts of his offences, and of his own initiative provided information about other people who had committed extensive offences. This information contained important leads which checked out and helped in solving other criminal cases. On 22 December 2006, the Beijing city people's intermediate court No. 1 ruled that Gao's conduct constituted the offence of incitement to subversion of the authority of the State, but, in view of his meritorious conduct in denouncing the offences of other culprits, decided, in accordance with the law, that his penalty should be rendered more lenient and to reduce it below the statutory level. Thus, for the offence of incitement to subversion of the authority of the State, he was sentenced to three years' fixed term imprisonment, to be suspended for five years, and stripped of his political rights for one year. After the court handed down its judgement at first instance, Gao declared himself willing to accept the verdict and did not lodge an appeal. The judgement has since become enforceable.

429. In the course of the proceedings against Gao on the charge of incitement to subversion of the authority of the State, the public security authorities fully upheld his rights in litigation and those of his family and conducted the proceedings in strict compliance with the law, applying the law in a civilized manner. Three days before proceedings opened in this case, the court of first instance, in accordance with the stipulation of the law, notified the procurator's office and the defence counsel and published in advance the dates and venue of the trial. When the court rendered its judgement, Gao's family were present in the public gallery. When serving papers on Gao, the court expressly informed him of his rights in litigation to appoint a lawyer to conduct his defence. Gao indicated that, as he was himself a lawyer, he did not need to assign a lawyer to conduct his defence and he did not agree to his family appointing a lawyer for him. For that reason, the lawyers Mo Shaoping and Ding Xikui, from the Mo Shaoping law firm in Beijing, appointed by his brother Gao Zhiyi, were unable to act in his defence. Under these circumstances, the court decided, in order to ensure that Gao's rights in litigation were fully upheld, that it should still appoint two

lawyers to defend him, Qian Lieyang, from the Tianda law firm in Beijing (which goes by the English name “East Associates”), and Yang Xiaohong, from the Chao Yang law firm in Beijing, and Gao agreed to this appointment. In the course of the trial, in addition to conducting his own defence, Gao also received full defence services from his two defence lawyers. The allegations in the letter that we have received that the police harassed Gao’s family members and others are unfounded.

430. In a letter dated 26 February 2007, the Government replied to the letter of allegations sent on the situation of **Gao Zhisheng, Guo Feixiong and Yang Maodong**. The Government informed that the allegations in the letter which we have received that the Chinese Criminal Code and the Chinese Code of Criminal Procedure have been misused by authorities in order to undermine lawyers’ defence and that there are procedural obstacles to the exercise by lawyers of their profession, especially with regard to the gathering of evidence and conduct of investigations, have no substance in fact. China attaches high priority to upholding the right of lawyers to exercise their profession and in the enacting of legislation and administration of justice is constantly endeavouring to improve the operation of the legal profession and providing comprehensive safeguards to enable lawyers to exercise their profession in accordance with the law. The Constitution of the People’s Republic of China expressly stipulates that defendants have the right to defence; the Chinese Code of Criminal Procedure, the Code of Civil Procedure and the Code of Administrative Procedure set out specific provisions on all aspects of the right of lawyers to engage in litigation; the Lawyers Act gives detailed provisions on all aspects of the lawyers’ right to exercise their profession; the People’s Supreme Court, the People’s Supreme Procuratorate and other bodies have also issued various normative instruments guaranteeing the right of lawyers to exercise their profession, which set out special provisions on the participation of lawyers in criminal proceedings, clearly stipulate what is meant, in the Code of Criminal Procedure, by the term “cases involving State secrets”, and also set out clear provisions guaranteeing, in criminal proceedings, the right of lawyers, in accordance with the law, to meet their clients, to have access to files, to conduct investigations, to obtain evidence and to conduct other procedures, thus providing effective guarantees of the right of lawyers fully to exercise their profession. In recent years, a total of 1.5 million litigious cases are conducted by Chinese lawyers every year, and some 800,000 non-contentious legal procedures, and through measures to give effect, in accordance with the law, to the rights of proxies and of defenders, the lawful rights and interests of parties to proceedings are effectively upheld and the proper application of the law is ensured. In the performance of their professional services, effective safeguards are provided to lawyers, and in this way the development of a State democratic legal system is effectively promoted.

431. Yang Maodong, male, born August 1966, resident of Gucheng county in Hubei province, non-practising lawyer. In January 2006, the Guangdong province public security authorities learned that Yang, who in 2001 in Guangzhou had unlawfully published a book entitled Political Upheaval in Shenyang, as a special 2001 issue of the Chinese legal journal Falü Zongheng, was the prime culprit in a case involving the operation of an unlawful business under investigation by the Liaoning public security authorities and was currently on the run. Following a thorough investigation, conclusive evidence was gathered against him. In September 2006, the Guangzhou public security authorities, working together with the department responsible for comprehensive enforcement of administrative law in cultural



activities, launched its city-wide programme to counter pirated publications. In the course of this undertaking it apprehended Yang Maodong, who, in collusion with Jiang Wei, Zhang Zhitao and others, had set up a counterfeit publication outfit, misappropriating lawful publications and publication numbers, and illegally publishing, printing and distributing more than 20,000 separate books and pamphlets. On 14 September 2006, the Guangzhou province public security authorities, acting in accordance with the law, took Yang into criminal detention on suspicion of the offence of operating an illegal business, on 28 September his arrest warrant was approved by the procuratorial authorities and his case is currently in progress.

432. Li Baiguang, male, born 1968, resident of Beijing, formerly head of the legal centre (as a non-practising lawyer) of Modern Civilization Pictorial, published by the Chinese Academy of Social Sciences, currently unemployed. In December 2004, Li was arrested by the Fujian province public security authorities, in accordance with the law, on suspicion of the offence of fraud; in January 2005 he was released on his own recognizance with restricted freedom of movement pending trial and in January 2006, the restriction order against him was lifted. The public security authorities are not currently applying any measures against Li.

433. There does not appear to be any lawyer by the name of Ma Guanjun, as mentioned in the letter that we have received. Following a verification of the circumstances in question, it would appear that the person intended is Ma Guangjun, a lawyer from the Songyuan law office in Inner Mongolia. In December 2002, Ma took on the responsibility of representing a suspect, Xu Wensheng, in a rape case. On 22 August 2003, the Ningcheng county procuratorial office took Ma into custody on suspicion, as the counsel for the defence, of the offence of interfering with the giving of testimony and, on 5 January 2004, instituted proceedings against him with the courts. On 10 March, the Ningcheng county people's court tried Ma on the charge of interfering with the giving of testimony and found him not guilty. On 23 March, the Ningcheng procurator's office challenged the court's verdict. On 24 May, the Chifeng city intermediate people's court delivered its final ruling in the case: the challenge was dismissed and the original judgement stood. Ma was acquitted of the charges against him.

### **Observations**

434. The Special Representative thanks the Government of China for responding to most of her 29 communications which indicates the Government's continuous willingness to cooperate with the mandate. She looks forward to receiving the remaining responses. She regrets that at time of finalizing the report, a number of replies are being translated.

435. However, in the light of the responses received, the Special Representative reiterates the observations she made in her 2007 communications report, i.e. that the Government has consistently challenged the alleged facts in every communication, especially those concerning allegations of beatings or torture, which the Government say are unfounded. From the very detailed responses provided by the Government and the heavy reliance on Chinese law, the Government concludes in every case there is no connection between the criminal charges imposed on the alleged victims because of their human rights activities. It would also seem that Chinese human rights

defenders often attract traffic offenses for disturbing the peace, assembling crowds, disrupting movement of traffic, and at times hinder officials in the discharge of their duties. According to the Government, these defenders are detained, arrested and charged because they manifest criminal behaviour in breach of Chinese law and not because of their human rights activities. In every case, the Chinese judicial authorities and the public security bureau have acted in strict compliance with the Chinese Criminal Code, the Chinese Code of Criminal Procedure and other laws and regulations and in every case, the alleged victim's lawful rights are said to have been upheld.

436. The Special Representative notes that saying a person's lawful rights were upheld is not the same as saying a person's human rights were upheld, and the question is really one of whether the Chinese Criminal Code, the Chinese Code of Criminal Procedure and other laws and regulations such as the Chinese Lawyers Act are compatible with international human rights norms and standards such as those on the right to freedom of opinion and expression and the Declaration on Human Rights Defenders. The Special Representative would be more willing to accept the Government's explanation that human rights defenders tend to be traffic offenders, if she was aware of any examples of human rights defenders being granted legal permission by the authorities to hold a peaceful demonstration that might challenge or question the Government. She would welcome further information from the Government of China that demonstrates that human rights defenders are able to freely conduct their work, disseminate information, present a petition, criticize the Government publicly or conduct other peaceful activities without the likelihood of attracting criminal charges.

## Colombia

### Carta de alegaciones

437. El 6 de diciembre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con el Doctor **Rafael Palencia**, abogado defensor que trabaja con el Comité Permanente por la Defensa de los Derechos Humanos (CPDH) en el campo de asistencia jurídica.

438. De acuerdo con la información recibida, el 20 de noviembre de 2006, la casa del Dr. Palencia fue allanado por los agentes de la Fiscalía General de la Nación y miembros del Departamento Administrativo de Seguridad (DAS), supuestamente de acuerdo con un orden del Fiscal 5° Seccional, adscrito a la Unidad de Reacción Inmediata de Barranquilla. Según los informes, los funcionarios se llevaron dos computadores y también documentos de trabajo y personales. Además, desde el 9 de julio de 2006, el Dr. Palencia supuestamente fue el objeto de vigilancia, entonces debió cambiar de domicilio.

439. El Dr. Palencia habría sido víctima de otros actos de hostigamiento desde el año 2003 cuando habría sido acusado del delito de rebelión y habría sido detenido en las oficinas del Ministerio de Trabajo, donde trabajaba. Habría sido liberado después de catorce meses debido a la ausencia de pruebas adecuadas.

440. Se expresó temor de que los actos de hostigamiento en contra del Dr. Rafael Palencia pudieran estar relacionados con sus actividades en defensa de los derechos humanos, en particular su participación en la coordinación de un ciclo de talleres de formación sobre la Corte Penal Internacional.

### **Llamamiento urgente**

441. El 8 de diciembre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con actos de hostigamiento y amenazas en contra de los integrantes de la Unión Sindical Obrera (USO), entre ellos el Señor **Rodolfo Vecino Acevedo**, dirigente nacional de la USO y su esposa, la Señora **Martha Cecilia Marrugo Ahumada** y el Señor **Fernando Ramírez**. La USO es sindicato miembro de la Central Unitaria de los Trabajadores (CUT).

442. De acuerdo con la información recibida, el 25 de noviembre de 2006, el vehículo del Sr. Vecino Acevedo en el que la Sra. Martha Cecilia Marrugo Ahumada viajaba junto con sus dos guardias de seguridad, los Sres. Edward Martínez Martínez y Álvaro Marrugo, fue atacado por dos hombres que circulaban en moto. Los dos desconocidos habrían disparado al coche, sin que los pasajeros resultaran heridos gracias al blindaje del coche. El ataque habría sido denunciado a las autoridades policiales y al a Fiscalía General de la Nación.

443. Además, según los informes, el 27 y 28 de noviembre de 2006, el Sr. Fernando Ramírez, otro integrante de la USO, recibió llamadas amenazantes. Supuestamente, el 27 de noviembre de 2006, la CUT y la USO recibieron un comunicado de prensa sobre los hechos descritos, enviado por correo electrónico por el Bloque Norte de las Autodefensas Unidas de Colombia (AUC).

444. Se expresó preocupación por el ataque armado descrito y las amenazas en contra de los miembros de la USO y se expresó temor de que pudieran estar relacionados con sus actividades en defensa de los derechos humanos, en particular los derechos de los trabajadores.

### **Respuesta del Gobierno**

445. Mediante carta fechada 28 septiembre de 2007 el Gobierno de Colombia transmitió información en relación con el llamamiento urgente anteriormente mencionado. El Gobierno informó de que la Fiscalía adelanta investigación penal por los hechos de que fuera víctima la Sra. Martha Cecilia Marrugo. La Policía Nacional informó que realizó una reevaluación del estudio técnico y del nivel de riesgo y grado de amenaza del Sr. Rodolfo Vecino Acevedo, de modo que se han adelantado varias medidas de protección a favor de esta persona, tales como la asignación de una unidad policial para su protección; visitas esporádicas al lugar de residencia y sede sindical; y la entrega de una cartilla de recomendaciones de autoprotección y seguridad, con el fin de que sean puestas en práctica y difundidas en el núcleo familiar. El Ministerio del Interior y Justicia, precisó que el Sr. Rodolfo Vecino Acevedo es beneficiario del esquema colectivo de protección asignado a la Subdirectiva de la USO en Cartagena. En febrero de 2007 se analizó su situación y recomendó asignar un esquema

protectivo individual antibalas, medios de comunicación y armamento, el cual estaría en proceso de implementación.

### **Llamamiento urgente**

446. El 12 de diciembre de 2006 la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con actos de intimidación en contra del Señor **Iván Cepeda Castro** y de la Señora **Claudia Girón Ortiz**, dirigentes de la Fundación “Manuel Cepeda Vargas”, e integrantes del Movimiento Nacional de Víctimas de Crímenes de Estado.

447. De acuerdo con la información recibida, el 24 de noviembre de 2006, un grupo de desconocidos que portaban armas, detuvieron el vehículo asignado para la seguridad de la Fundación “Manuel Cepeda Vargas” y encañonaron al conductor. Supuestamente los desconocidos se identificaron como miembros de la Sección de Policía Judicial e Investigación (SIJIN) y procedieron a verificar la presencia de otros pasajeros dentro del coche. Ese día el conductor viajaba solo, pero el Sr. Iván Cepeda Castro y la Sra. Claudia Girón Ortiz se desplazan normalmente en dicho vehículo.

448. Según los informes, los supuestos miembros de la SIJIN huyeron después de que el conductor les mostrara su carné de identificación del Departamento Administrativo de Seguridad (DAS). La SIJIN habría declarado que ese día no tenía asignados operativos en la zona donde ocurrió el incidente descrito.

449. El 25 de noviembre de 2006, se señala que varios miembros del Movimiento Nacional de Víctimas de Crímenes del Estado acompañaron a residentes de San Onofre, departamento de Sucre, a una audiencia pública ante la Comisión de Derechos Humanos del Senado de la República. Según los informes, muchos habitantes de la zona habrían sido víctimas de actos de intimidación por parte de paramilitares, con el fin de obligarles a transferir el título de sus tierras al Sr. Rodrigo Antonio Mercado Peludo, un paramilitar conocido como “Cadena”. Además el 23 de noviembre de 2006, el Sr. **Juvenal Escudero**, un residente de San Onofre que denunció los actos de intimidación, habría recibido un disparo en la espalda, que le causó graves lesiones, por parte de dos conocidos que circulaban en moto.

450. Anteriormente, el 30 de abril de 2006, el Sr. Iván Cepeda Castro habría recibido un mensaje amenazante en su correo personal y en el “foro del lector”, columna que escribe para el periódico “El Espectador”. El mensaje habría declarado “Nuestra razón de ser hoy esta mas (sic.) vigente que nunca, la defensa de la libertad y la democracia Colombiana (sic.) y hasta que no cese el ultimo (sic.) fusil guerrillero opresor del pueblo Colombiano (sic.) seguiremos en armas combatiendo la guerrilla utilizando todos los medios que estén a nuestro alcance. Por una Colombia libre, digna, justa y en paz. Autodefensas somos todos. Estado Mayor Autodefensas Campesinas Nueva Generación, ACNG”.

451. Se expresó preocupación por los actos de intimidación en contra del Sr. Iván Cepeda Castro y la Señora Claudia Girón Ortiz porque se temía que pudieran estar relacionados con sus denuncias de los crímenes cometidos por los paramilitares y su defensa del derecho de las víctimas a la justicia, la verdad y la reparación.

## Respuesta del Gobierno

452. Mediante cartas con fechas 3 de abril de 2007 y 7 de septiembre de 2007 el Gobierno proporcionó información con respecto al llamamiento urgente anterior. El Gobierno informó de que el 26 de junio de 2006, la Comisión Interamericana de Derechos Humanos otorgó medidas cautelares a favor de los miembros de la Fundación Manuel Cepeda Vargas. Se cursa una investigación penal por el delito de amenazas en contra del señor Cepeda. El Ministro de Relaciones Exteriores solicitó a la Procuraría General de la Nación la asignación de una agencia especial, con el fin de que actúe dentro del proceso en mención. La Policía Nacional se reunió con el señor Cepeda, a quien se solicitó aportar copia de los correos electrónicos amenazantes, con el fin de que la policía realizara un seguimiento a las direcciones de origen de los referidos mensajes. Sin embargo, no recibieron respuesta por parte de la víctima.

453. La Policía Nacional presta seguridad al señor Ivan Cepeda. El Programa de protección del Ministerio del Interior y de Justicia informó que desde el 1 de abril del 2004, el Comité de Reglamentación y Evaluación de Riesgo (RER) recomendó la asignación de un esquema de protección a favor del Señor Cepeda. Ambas personas cuentan con medios de comunicación. Igualmente se encuentra en trámite la realización de un estudio de seguridad con el fin de determinar su grado de vulnerabilidad y de ampliar el blindaje con el que cuenta las mismas.

454. Se asignó a la Fiscalía Quinta Seccional de Vida en Sincelejo, Departamento de Sucre, la iniciación de la pertinente investigación penal, la cual se encuentra en etapa de indagación preliminar. La Fiscalía general de la nación informó que se había ordenado desde 30 de mayo de 2007, la apertura de investigación previa en contra del señor Rodrigo Antonio Mercado Pelufo, paramilitar conocido como “Cadena”, por el delito de desplazamiento forzado. En relación con las lesiones de él que fuera víctima, Juvenal Escudero, se encuentra en curso investigación penal previa y el 6 de febrero de 2007 se ordenó práctica de pruebas, asignando una misión de trabajo dentro del caso. El Gobierno informó que las autoridades realizan rondas policiales perimetrales, cubriendo la entrada y salida del municipio de San Onofre, como medida de protección colectiva a favor de la comunidad general. La Policía Nacional ha instalado una Unidad Investigativa en el municipio, con el fin de brindar una mayor seguridad a los habitantes.

## Llamamiento urgente

455. El 13 de Diciembre de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión señalaron a la atención urgente del Gobierno la información recibida en relación con las amenazas de muerte en contra de la **Señora Marqueza Arrieta**, la madre del Señor **Domingo Tobar Arrieta**, Director del Departamento de Derechos Humanos del Comité Ejecutivo Nacional de la Central Unitaria de los Trabajadores (CUT).

456. De acuerdo con la información recibida, el 4 de diciembre de 2006, por la mañana, individuos no identificados habrían amenazado de muerte a la Sra. Marqueza Arrieta, diciéndole, “la vamos a matar esta advertida”. Según los informes, el día siguiente denunció el incidente ante la Fiscalía del municipio de Corozal y el Cuerpo Técnico de Investigaciones (CTI).

457. Además, se señala que el Sr. Domingo Tovar Arrieta y sus familiares, así como todos los otros integrantes de la CUT, siguen estar víctimas de actos de hostigamiento desde hace varios años.

458. Se expresó preocupación por las amenazas en contra de la Sra. Marqueza Arrieta porque se temía que representa una represalia por las actividades de su hijo, el Sr. Domingo Tobar Arrieta, en defensa de los derechos humanos. Además se expresó temores que los actos de hostigamiento en contra de la CUT pueden representar un intento de disuadir a todos sus miembros de continuar con su trabajo.

### **Respuesta del Gobierno**

459. Mediante comunicación de 1 de octubre de 2007, el Gobierno proporcionó información con respecto al llamamiento enviado. En el marco del Comité de Reglamentación y Evaluación de Riesgos – CRER, del Programa de Protección a Líderes Sindicales a cargo del Ministerio del Interior y de Justicia, se revisaron las medidas de protección existentes y el refuerzo de medidas complementarias a favor del Sr. Domingo Tovar Arrieta.

460. El Sr. Tovar es beneficiario de un esquema duro de protección compuesto de la siguiente manera: vehículo blindado, varias unidades de escolta, chalecos antibalas, medios de comunicación y armamento. Adicionalmente, el referido ciudadano es beneficiario de tres tiquetes aéreos mensuales nacionales. De igual forma, se otorgó un mes de apoyo de reubicación temporal y un medio de comunicación celular para una de sus hijas. Por otra parte, la Policía Nacional se encuentra a cargo de la prevención contra cualquier acción en contra del referido ciudadano.

461. En lo que respecta a la Sra. Márquez Arrieta, la referida institución se encuentra realizando acciones constantes de protección especial, con el fin de salvaguardar su vida e integridad. Por otra parte, la Dirección Nacional de Fiscalizas de la Fiscalía General de la Nación se encuentra en conocimiento de los presuntos hechos por amenazas en contra de la Sra. Arrieta. El Programa Presidencial de Derechos Humanos, conjuntamente con la Dirección de Policía Judicial (DIJIN) de la Policía Nacional, se encuentra coordinando el impulso de una investigación eficiente que permita esclarecer el origen de las ya citadas amenazas. La Procuraduría Delegada para la Defensa de los Derechos Humanos, se encuentra en conocimiento de los referidos hechos, con el fin de evaluar la inclusión de la situación denunciada dentro de una investigación disciplinaria, de considerarlo pertinente.

### **Carta de alegaciones**

462. El 16 de febrero de 2007, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con la Sra. **Yolanda Izquierdo**, líder de la Organización Popular de Vivienda (OPV) en el Departamento de Córdoba. La OPV es una organización que provee viviendas a numerosas familias desplazadas. Además la Sra. Izquierdo luchaba por la recuperación de tierras usurpadas por paramilitares.

463. Según la información recibida, el 31 de enero de 2007, la Sra. Yolanda Izquierdo habría sido asesinada al salir de su casa en el barrio Rancho Grande de Montería, Córdoba. Dos hombres en motocicleta se habrían acercado a la Sra. Izquierdo y a su esposo, Sr. Francisco Torreglosa. Uno de los hombres habría disparado contra la pareja provocando la muerte de la Sra. Izquierdo. El Sr. Torreglosa se encuentra gravemente herido en una clínica de Montería.
464. Según los informes, durante el mes de enero de 2007, la Sra. Izquierdo habría denunciado amenazas en contra de su integridad personal y el 25 de enero de 2007, habría recibido una llamada anónima y le habría dicho: “Yolanda y Manuel, piérdanse que los van a matar”. A causa de las amenazas recibidas, la Sra. Izquierdo habría dirigido a la Fiscalía General y al Defensor del Pueblo para pedir protección.
465. La Sra. Izquierdo era conocida como representante de por lo menos 700 campesinos que habrían denunciado la obligación a vender sus tierras por presión de los paramilitares.
466. Se expresó profunda preocupación por el asesinato de la Sra. Yolanda Izquierdo, y se temía que susodichos incidentes pudieran estar relacionados con sus actividades en defensa de los derechos humanos. Además se manifestó temores por la seguridad y por la integridad física y psicológica de los defensores de derechos humanos en Colombia, en particular los líderes de movimientos de antiguas víctimas de grupos paramilitares.

### **Respuesta del Gobierno**

467. Mediante cartas con fechas 2 de abril, 25 de junio, 8 de agosto y 15 de agosto de 2007, el Gobierno respondió a la carta de alegaciones. El Gobierno informó que el día siguiente de ocurrencia del reprochable crimen, el Presidente de la República expresó su rechazo por el asesinato de la Señora Yolanda Izquierdo.
468. El Gobierno manifestó que la Policía nacional se había desplazado a la zona de los hechos y concertó medidas de protección a favor de varios líderes de la OPV y para el Abogado de la organización de las víctimas. La Fiscalía General incluyó al Señor Francisco Torreglosa y dos personas más allegadas de la precitada víctima dentro del Programa de Protección, a quienes se les ha brindado como medida protectiva su reubicación y la de su núcleo familiar.
469. La investigación penal por el crimen en contra de la señora Izquierdo es adelantada por la Unidad nacional de Derechos Humanos y Derecho Internacional de la Fiscalía General de la Nación. Se abrió etapa de instrucción y se libró orden de captura en contra de la presidenta de la Fundación para la Paz de Córdoba (Funpazcor), organización a través de la cual, grupos paramilitares presuntamente habrían forzado a pobladores de regiones del Departamento de Córdoba a entregar tierras a los mencionados grupos ilegales, de acuerdo con fuentes periodísticas. A la fecha las autoridades judiciales de policía judicial continúan en la búsqueda de la persona en mención.
470. El 4 de febrero de 2007 el fiscal ordenó la vinculación y orden de captura en contra de un presunto paramilitar no desmovilizado, quien está siendo localizado por

las autoridades judiciales. La investigación penal por el crimen en contra de la señora Izquierdo es adelantada por el Despacho 9 de la Unidad nacional de Derechos Humanos y Derecho Internacional Humanitario de la Fiscalía General de la Nación.

471. Han sido vinculados a la investigación penal dos personas más, a quienes se les resolvió su situación jurídica, imponiendo en su contra medida de aseguramiento consistente en detención preventiva sin beneficio de excarcelación, por los delitos de homicidio agravado, tentativa de homicidio, amenazas y concierto para delinquir. El Gobierno manifestó que dentro del proceso por el referido crimen, se han constituido una agencia especial. Adicionalmente, el Gobierno informó que se encuentra en estudio una queja por eventual responsabilidad disciplinaria por omisión de funcionario público en el otorgamiento de medidas de protección para la señora Izquierdo.

### **Llamamiento urgente**

472. El 20 de febrero de 2007, la Representante Especial, junto con Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. **Jesús Javier Dorado Rosero**, Director del Comité Permanente por la Defensa de los Derechos Humanos (CPDH) en el Departamento de Nariño e integrante de la Junta Directiva del Sindicato del Magisterio (Profesores) de Nariño (SIMANA). Según la información recibida, el Sr. Jesús Javier Dorado Rosero fue detenido el 13 de febrero de 2007 en la ciudad de Pasto, por agentes del Departamento Administrativo de Seguridad (DAS) quienes le condujeron a las instalaciones de la Fiscalía en donde permanece detenido en un calabozo, en etapa de indagatoria.

473. Se informó además que el Sr. Dorado Rosero habría sido víctima de varias amenazas desde el año 1999. Por tal razón, en abril de 2001, fue integrada al Programa de Protección del Ministerio del Interior y de Justicia. En 2003 se le asignó un esquema reforzado de protección, el cual le fue retirado en abril de 2004. El Sr. Dorado Rosero fue detenido el 26 de mayo de 2005 y posteriormente encarcelado durante cuatro meses, acusado de rebelión. Se alega que durante dicho período pudo acreditar la presión ejercida por funcionarios del DAS sobre varias personas para obtener declaraciones en su contra. En noviembre de 2006 se informó de la existencia de un plan para asesinar a esta persona elaborado por miembros de organizaciones paramilitares.

474. Se afirmó, por último, que la reciente detención de esta persona se inscribe en un contexto de hostigamiento y amenazas en contra de los miembros del CPDH. Las medidas cautelares de protección concedidas por la Comisión Interamericana de Derechos Humanos (CIDH) en febrero de 2004 en favor de los miembros de la Junta Directiva de esta institución no se han hecho efectivas. Se recuerda, en este contexto, que el Sr. Gregorio Izquierdo Meléndez, Directivo de la Junta Departamental del CPDH en Arauca, y Presidente del Sindicato de las Empresas Públicas de Arauca (SINTRAEMSERPA), fue asesinado el 13 de septiembre de 2006 en la ciudad de Arauca. Se expresó temores de que estos eventos pudieran estar relacionados con sus actividades en defensa de los derechos humanos.

### **Respuesta del Gobierno**



475. Mediante comunicaciones de 26 julio de 2007 y 5 noviembre 2007 el Gobierno proporcionó información con respecto al llamamiento enviado. El Gobierno informó que la Procuraduría General de la Nación constituyó una agencia especial dentro de la investigación penal. En ese sentido, el precitado agente de la Procuraduría, precisó que en el transcurso de la investigación se cumplió con los requisitos señalados en el ordenamiento jurídico procesal colombiano, en lo referente a la captura, vinculación, diligencia de indagatoria y finalmente definición de la situación jurídica del ciudadano en mención dentro del termino de ley, dictada por el Fiscal 2 Especialización de Pasto – Departamento de Nariño, autoridad que se abstuvo de proferir medida de aseguramiento de detención preventiva contra el Sr. Dorado, ordenando de la consecuencia su libertad inmediata. Igualmente mencionó, que dentro de la comentada investigación, le fueron respetadas a esta persona sus derechos y garantías fundamentales.

476. Finalmente, en lo concerniente a la protección del Sr. Dorado, el Ministerio del Interior y de Justicia informó que el Comité de Reglamentación y Evaluación de Riesgos (CRER), en sesión del 4 de julio de 2007, recomendó la aprobación de las varias medidas protectivas a favor del mencionado ciudadano. El Gobierno Colombiano seguirá atento al resultado de las investigaciones que se adelantan, respecto de lo cual informará oportunamente a Su Excelencia.

### **Llamamiento urgente**

477. El 23 de marzo de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con la Sra. **Katherine González Torres**, hermana de la defensora de derechos humanos e integrante del equipo directivo de la Organización Femenina Popular (OFP), la Sra. Sandra Gutiérrez Torres.

478. De acuerdo con la información recibida, a finales de diciembre de 2006, integrantes de la OFP habrían recibido mensajes a través de correo electrónico amenazándoles con que algo sucedería a sus familias si no dejaban su actividad.

479. El 12 de marzo de 2007, hacia las 4:00 de la mañana, la Sra. González Torres habría sido abandonada, con los ojos vendados, en los alrededores de la Terminal de Transporte de la ciudad de Bucaramanga, tras casi un mes de haber sido desaparecida. Los secuestradores de la Sra. González Torres, le habrían dicho que esperara un buen tiempo antes de contactarse con su familia y que no avisara a la policía.

480. Según se informa, la Sra. González Torres, habría sido secuestrada en Barrancabermeja, Departamento de Santander, el 13 de febrero de 2007. Desde el mismo día que se la llevaron fue mantenido cautiva en un cuarto oscuro y frío, y fue torturada psicológicamente por medio del terror. Se alega que se habría escuchado conversaciones de sus captores en las cuales hablaban de la OFP y del escándalo internacional que se había desatado.

481. Se expresó temor de que estos eventos pudieran estar relacionados con la actividad en defensa de los derechos humanos de la Sra. Sandra Gutiérrez Torres

integrante de la Organización Femenina Popular (OFP) y hermana de la Sra. Katherine González Torres. Se expresa profunda preocupación por la seguridad e integridad física de Sra. Sandra Gutiérrez Torres y su familia así como la del resto de los integrantes de dicha organización.

### **Respuesta del Gobierno**

482. Mediante comunicación de 11 octubre de 2007, el Gobierno proporcionó información con respecto al llamamiento enviado. El Gobierno manifestó que el Programa de Derechos Humanos de la Presidencia solicitó que se activaran los mecanismos de búsqueda urgente de la señorita Katherine González. En virtud de lo anterior, el 15 de febrero de 2007, se libraron órdenes de la policía judicial al comandante de la Policía del Magdalena Medio y a la Jefe del Cuerpo Técnico de Investigación de la Fiscalía y al Departamento Administrativo de Seguridad.

483. Por su parte, la Fiscalía de la Unidad de Derechos Humanos, asumió el conocimiento de la investigación penal pertinente, la cual cursa contra sindicatos en averiguación, por el delito de Desaparición Forzada.

484. En desarrollo de lo anterior, desde el día en que se conoció el hecho delictivo, el Comando de Policía del Magdalena Medio en Barrancabermeja de la Policía Nacional, conformó un grupo de trabajo con organismos de seguridad, con el fin de coordinar la recolección de información e investigación criminal, que dieran con el paradero de la señorita González, adelantando de este modo labores de búsqueda de información a través de familiares, amigos y vecinos de la víctima, que permitieran consolidar datos para orientar la investigación. En ese sentido, el 14 de febrero de 2007, se realizó un plan de búsqueda a nivel nacional por intermedio de las seccionales de inteligencia e investigación judicial, con la fotografía de la víctima, difundiendo los mensajes por los medios de comunicación internos y externos de la Policía Nacional. Así mismo, el 20 de febrero de 2007, en la reunión de seguridad semanal que lidera a la Alcaldía del Municipio de Barrancabermeja, se difundió la información sobre la desaparición de la señorita González con las agencias y organismos de seguridad del Estado.

485. El 12 de marzo de 2007, la víctima fue liberada en uno de los exámenes de un puente el Bueno sobre la autopista que comunica de Girón a Bucaramanga, departamento de Santander.

486. Por su parte, la Procuraduría General de la Nación, adelanta la investigación No. 008157209 – 2007, por la presunta desaparición de Katherine González, con implicados por averiguar, la cual se encuentra en estudio preliminar de la queja.

487. Medidas de Protección implementadas a favor de los miembros de Organización Femenina Popular (OFP): El Ministerio del Interior y de Justicia, informó que la Señora Sandra Gutiérrez, es beneficiaria del esquema colectivo de protección asignado a la OFP, compuesto de apoyo de transporte fluvial, equivalente a ciento noventa y dos horas mensuales, el cual fue prorrogado por doce meses adicionales en la sesión 01 del Comité de Reglamentación y Evaluación de Riesgos CRER, para Dirigentes Sociales y ONG's, llevada a cabo el 3 de febrero de 2007, así como un medio de comunicación a ventel.

488. Asimismo, las sedes de la OFP en los municipios de Barrancabermeja, Yondo, San Pablo, Puerto Wilches y Cantagallo se encuentran blindadas. Adicionalmente, se otorgaron 6 tiquetes aéreos nacionales mensuales y las directivas de la Organización recibieron talleres de autoprotección, autoseguridad manejo de equipos.

489. Finalmente, el Comando de Policía del Magdalena Medio en Barrancabermeja de la Policía Nacional, prosigue con las medidas de seguridad y revistas perimetrales prestadas a las instalaciones de la OFP, así como a los lugares de residencia de sus integrantes. De igual manera, la referida autoridad mantiene establecidos los canales de comunicación con la OFP, con el fin de prestar apoyo oportuno de ser requerido.

### **Llamamiento urgente**

490. El 13 de abril 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con la Sra. **Jahel Quiroga Carrillo**, Directora de REINICIAR, una organización que trabaja en defensa de los derechos humanos en Colombia.

491. De acuerdo con la información recibida, el 30 de marzo de 2007, REINICIAR habría recibido información de parte de un individuo a quien le habría constado que se estaría desarrollando un plan para asesinar a la Sra. Carrillo. Se manifestó que el grupo paramilitar, autodenominado 'Bloque Capital', que opera en Bogotá, habría encargado el acto criminal, a un hombre conocido como 'Diego'.

492. Según se informa, estos hechos habrían sido puestos en conocimiento, desde el día 4 de abril, del Vicepresidente de la República, de la Embajadora Directora de Derechos Humanos y del Derecho Humanitario (DIH) del Ministerio de Relaciones Exteriores, del Director del Programa de Protección del Ministerio del Interior y de Justicia, del Coordinador de la Unidad de DDHH y DIH de la Fiscalía General de la Nación y del Director del Departamento Administrativo de Seguridad (DAS).

493. El 15 de Marzo de 2002, la Comisión Interamericana de Derechos Humanos otorgó que la Corporación REINICIAR beneficie de Medidas Cautelares. Desde esa fecha, la CIDH habría solicitado al Gobierno de Colombia la adopción de medidas para proteger la vida e integridad personal de los integrantes de REINICIAR así como la investigación efectiva de los orígenes de las amenazas y actos de hostigamiento.

494. Se expresó temor de que estos eventos pudieran estar relacionados con la actividad en defensa de los derechos humanos de REINICIAR presidida por la Sra. Carrillo y se expresa profunda preocupación por su seguridad e integridad física así como la del resto de miembros de dicha organización.

### **Respuesta del Gobierno**

495. Mediante comunicaciones de 25 de junio de 2007 y 28 de septiembre de 2007, el Gobierno proporcionó información con respecto al llamamiento enviado. El Gobierno informó de que la Sra. Jahel Quiroga Carrillo posee un esquema de seguridad consistente en un carro blindado y dos unidades de escolta.

496. En relación con el presunto plan de asesinato de la Sra. Jahel Quiroga Carrillo, se informó que se adelanta la pertinente investigación penal en la Fiscalía 239 Seccional, la cual se encuentra en etapa de indagación preliminar. El Ministerio del Interior y de Justicia informó que la Sra. Jahel Quiroga Carrillo posee un esquema de seguridad consistente en un carro blindado y dos unidades de escolta.

497. Se informó también que se implementen las alianzas estratégicas de seguridad y las rondas policiales alrededor de la sede de REINICIAR, durante las veinticuatro horas del día. El Gobierno manifestó que estará atento al desarrollo de las investigaciones que por estos hechos vienen adelantando las diferentes autoridades nacionales, de cuyos resultados informaremos oportunamente a Su Excelencia.

498. Mediante la comunicación de 25 de junio de 2007, el Gobierno adjuntó una nota conteniendo información respecto a las gestiones adelantadas por el Programa Presidencial de Derechos Humanos y DIH de la Republica de Colombia en el marco del seguimiento de las medidas cautelares solicitadas por la CIDH.

### **Llamamiento urgente**

499. El 26 de abril de 2007, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con **13 organizaciones civiles que trabajan por el respeto, la protección y la promoción de los derechos humanos en el departamento de Nariño**, incluyendo el Pastoral Social de la Diócesis de Tumaco; la Unidad Indígena del Pueblo Awa (UNIPA); el Comité Permanente por la Defensa de Derechos Humanos (CPDH – Nariño); la Fundación Comité de Solidaridad con los Presos Políticos (FCSPP); el Movimiento por la Defensa de los Derechos del Pueblo (MODEP) y la Federación Universitaria Nacional (FUN).

500. De acuerdo con la información recibida, el 20 de marzo de 2007, 13 organizaciones que trabajan en defensa de los derechos humanos en el departamento de Nariño, habrían recibido vía correo electrónico amenazas de muerte, acusándolas de ser “terroristas en estafetas de derechos humanos”. Se alega que las amenazas habrían sido enviadas por un grupo paramilitar autodenominado Nueva Generación.

501. Además, en el mes de febrero de 2007, varias organizaciones sociales que trabajan en Nariño, tales como el Consejo Regional de Indígenas del Cauca (ACIN) y la Organización Campesina (CIMA), fueron amenazadas por las Fuerzas Armadas Revolucionarias de Colombia (FARC-EP) con que serían consideradas como “objetivo militar” si no dejaba su actividad.

502. Se expresó temor de que estos eventos pudieran estar relacionados con la actividad en defensa de los derechos humanos de las 13 organizaciones que trabajan en el departamento de Nariño y se expresa profunda preocupación por la seguridad e integridad física de los miembros de dichas organizaciones.

### **Respuesta del Gobierno**

503. Mediante carta con fecha 14 de diciembre de 2007 el Gobierno transmitió la siguiente información en relación con el llamamiento urgente. El Gobierno informó que la Fiscalía General de la Nación había adelantado varias investigaciones penales

en relación con las amenazas, y que las investigaciones fueron unificadas, en consideración a que los hechos investigados conciernen a varias presuntas amenazas, de las que serían víctimas algunas ONGs de Nariño. La fiscalía del caso señaló que está trabajando para lograr obtener la dirección concreta de la computadora de donde se envió el correo amenazante. Actualmente, las autoridades están pendientes de la respuesta de la empresa Colombia Telecomunicaciones relacionada con una nueva orden de búsqueda selectiva de datos, con el fin de obtener toda la información biográfica del Protocolo de Internet (IP).

### **Llamamiento urgente**

504. El 25 de junio de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con varias organizaciones civiles e indígenas que trabajan en la promoción y protección de los derechos humanos en el Departamento de Nariño, y en particular sus directivos, incluyendo el Sr. **Javier Dorado**, del Comité Permanente de Derechos Humanos - Nariño (CPDH); el Sr. **William Girón Cruz**, de la Pastoral Social de la Diócesis de Tumaco; el Sr. **Gabriel Bisbicus Pascal**, de la Unidad Indígena del Pueblo Awa (UNIPA); el Sr. **Jesús Arciniegas**, de la Fundación Desarrollo y Paz (FUNDEPAZ); la Sra. **Martha Delgado**, miembro del CPDH y de la Federación Universitaria Nacional (FUN) y del Movimiento por la Defensa de los Derechos del Pueblo (MODEP); el Sr. **Harold Montufar**, de la Alcaldía de Samaniego, defensor de los derechos humanos que lucha desde hace varios años contra las minas antipersonales y por el desminado de las mismas en la zonas de uso civil en Nariño; la Sra. **Gloria Amparo Camilo**, de la Corporación de Apoyo a Víctimas de Violencia Sociopolítica pro-Recuperación Emocional (AVRE), así como de los dirigentes y miembros de la Unidad Indígena del Pueblo Awá (UNIPA). El 26 de abril de 2007, la Representante Especial para los defensores de derechos humanos envió un llamamiento urgente al Gobierno pidiéndole que tomara medidas de protección para garantizar la seguridad de los integrantes de dichas organizaciones ante las amenazas de muerte que habrían recibido. A fecha de hoy, dicha comunicación no ha recibido respuesta por parte del Gobierno.

505. De acuerdo con la nueva información recibida, el 6 de junio de 2007, hacia el mediodía, los señores Javier Dorado, William Girón Cruz, Gabriel Bisbicus Pascal, Jesús Arciniegas, Martha Delgado, Harold Montufar y Gloria Amparo Camilo habrían recibido por medio de correo electrónico un mensaje amenazante titulado “2DA ADVERTENCIA” en donde una presunta organización armada ilegal autodenominada Nueva Generación les habría declarado objetivo militar. El mensaje contenía supuestamente el siguiente texto: “Dado que no ha sido atendida nuestra última advertencia, declaramos objetivo militar a las siguientes organizaciones y personas colaboradoras de comunistas: por un Nariño libre de escoria guerrillera... Viva la libertad no a las viejas opresiones terroristas en estafetas de derechos humanos”.

506. El 12 de junio de 2007, la sede de la organización Unidad Indígena del Pueblo Awá (UNIPA), en la ciudad de Pasto, Departamento de Nariño, habría recibido supuestamente una llamada telefónica de un desconocido, con el siguiente contenido: “Se advierte una vez más de la amenaza dirigida a la UNIPA, por ser colaboradores de la guerrilla ya estaban advertidos, deben atenderse a las consecuencias”.

507. Se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de las organizaciones civiles e indígenas que trabajan en el departamento de Nariño y se expresa profunda preocupación por la seguridad e integridad física de los señores Javier Dorado, William Girón Cruz, Gabriel Bisbicus Pascal, Jesús Arciniegas, Martha Delgado, Harold Montufar, y Gloria Amparo Camilo, así como de los miembros de la UNIPA y de las otras organizaciones arriba mencionadas.

### **Llamamiento urgente**

508. El 18 de mayo de 2007, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Gabriel González Arango**, coordinador Seccional Santander de la Fundación Comité de Solidaridad con los Presos Políticos (FCSPP), una organización independiente que se dedica a la defensa de las víctimas de detenciones arbitrarias, torturas, malos tratos o condiciones inhumanas en los centros de detención y penitenciaras del país. El 18 de enero de 2006, la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, y la Representante Especial para la situación de los defensores de derechos humanos envió un llamamiento urgente al Gobierno sobre la detención del Sr. González.

509. De acuerdo con la información recibida, el 4 de abril de 2007, el Sr. González fue dejado en libertad luego que fue emitida la absolución del delito de rebelión proferida por el Juzgado octavo penal del circuito de Bucaramanga el 30 de marzo de 2007. Se alega que el Juez decidió que las acusaciones de rebelión contra el Sr. González se hicieron sin pruebas y fueron basadas en evidencia de testigos e informes gubernamentales que carecían de credibilidad e imparcialidad. Ambos testigos en el caso supuestamente fueron miembros de las FARC y habrían afirmado que el Sr. González fue un comandante de las FARC. Sin embargo, uno de los testigos no pudo nombrar ni identificar al Sr. González previo a su detención y el otro había confesado que había prestado su declaración bajo coacción de las autoridades.

510. Según se informa, el 4 de enero de 2006, el Sr. González habría sido detenido por miembros de la fiscalía en la ciudad de Pamplona, departamento del Norte de Santander. Fue encarcelado en Bucaramanga departamento de Santander, acusado de rebelión y de ser miembro de las FARC. Se informa que el señor González Arango habría sido acogido dentro del Programa de Protección del Ministerio del Interior, previo a su detención.

511. Se expresó temor de que estos eventos pudieran estar relacionados con la actividad en defensa de los derechos humanos del Sr. Gabriel González Arango y se expresa profunda preocupación por su seguridad e integridad física ya que el procedimiento le haya estigmatizado como miembro de una guerrilla y que se podría encontrar en alto riesgo de represalias por parte de fuerzas paramilitares.

### **Respuesta del Gobierno**

512. Mediante cartas fechadas 29 de agosto de 2007 y 26 noviembre de 2007 el Gobierno transmitió la siguiente información en relación con el llamamiento urgente. El Gobierno señaló que, de conformidad con la información por el Departamento

Administrativo de Seguridad DAS, había asignado para su protección un esquema individual de un escolta, en la ciudad de Bucaramanga. El Gobierno manifestó que desde el mes de enero de 2006, el Sr. Gabriel González Arango se encontraba recluido en el Instituto nacional Penitenciario y Carcelario – INPEC, en el Patio No. 4, por cuenta del juzgado Octavo Penal del Circuito de Bucaramanga sindicado del delito de rebelión. No obstante lo anterior, el día 30 de marzo de 2007, se profirió sentencia absolutoria a favor del Sr. Gonzalez Arango. De conformidad con lo anterior, la Procuraduría General de la Nación ha informado que un procurador Judicial en calidad de agente especial del proceso penal impugnó la sentencia en mención. Por otra parte, en relación con las presuntas amenazas de que habría sido víctima el Sr. González Arango, la Procuraduría General de la Nación informó que no cursa investigación disciplinaria alguna sobre el particular.

### **Llamamiento urgente**

513. El 23 de mayo de 2007, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias 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.

514. 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.

515. 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.

516. Se teme que el asesinato del Sr. Puerta y las amenazas en contra de los miembros de la Comunidad de Paz de San José de Apartadó estén relacionados con sus respectivas actividades en defensa de los derechos humanos. Así mismo se expresa profunda preocupación por la seguridad e integridad física de los miembros de la mencionada comunidad.

## Respuesta del Gobierno

517. Por carta con fecha 14 de diciembre de 2007 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**. La Unidad de Apartado del cuerpo técnico de investigación –CTI, asumió la indagación, realizando de manera urgente 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 Procuraduría 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.

518. 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. Tropas de Batallón de Infantería trabajan para garantizar las condiciones de seguridad necesarias en el área. Se señala que debido a estas medidas de seguridad, se han evitado acciones de grupos armados ilegales en contra de personas civiles permitiendo la movilización de los productos en la ruta que cubre Apartado - San José de Apartado. Las fuerzas militares señalan su disposición para escuchar a los representantes de la Comunidad de Paz para adoptar las medidas de protección que se deben adoptar para asegurar sus derechos.

519. 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.

520. Se elaboró por parte del Comando del Departamento de Policía de Urabá la orden de servicios denominada “*Medidas Preventivas para contrarrestar Acciones de Grupos Delincuenciales Emergentes en San José de Apartado*”, la cual establece dispositivos especiales en el Distrito Uno de Apartado, y la jurisdicción que se extiende hasta el corregimiento de San José de Apartado con el fin de preservar la seguridad ciudadana y contrarrestar acciones terroristas y delincuencias por los grupos armados emergentes. Así mismo se realicen coordinaciones de seguridad, aunadas entre la Policía nacional y el Ejército Nacional.

521. 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.



522. 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. Se ha activado planes de búsqueda de información y se activaron y alertaron los frentes de seguridad de los sectores de la salida de Apartado hacia San José de Apartado, con el fin de que se informe cualquier actividad sospechosa o acción por parte de los integrantes de grupos ilegales. 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 divulgación del respeto por los Derechos Humanos de la población y de la comunidad de Paz.

### **Llamamiento urgente**

523. El 8 de Junio de 2007, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas señalaron a la atención urgente del Gobierno la información recibida en relación con las amenazas recibidas por el Sr. **Darío Edgardo Tapasco**, dirigente indígena y alcalde del municipio de Riosucio, en el departamento de Caldas; del Sr. Carlos Alberto González, líder sindical y dirigente indígena, residente en este mismo municipio; y del Sr. Héctor Jaime Vinasco, dirigente indígena y gobernador de la reserva indígena de Cañamono.

524. De acuerdo con la información recibida, el 5 de mayo de 2007, hacia las 12:20 pm, un individuo identificado como “Jonatan”, presunto comandante del Frente Cacique Pipintá (FCP), organización que forma parte del grupo armado ilegal Autodefensas Unidas de Colombia (AUC), habría llamado a la oficina del Sr. Darío Edgardo Tapasco, pidiendo comunicarse con él. Al ser informado que el Sr. Tapasco se encontraba ocupado, el individuo habría proferido las palabras siguientes: “Dícales a esos hijueputas, él y los concejales, que tienen hasta el lunes [7 de mayo] para que renuncien y si no les vamos a llenar la barriga de plomo”.

525. Según se informa, el 8 de mayo de 2007, hacia las 7:30 am, cuatro hombres y una mujer, supuestamente vinculadas a grupos armados ilegales, se habrían presentado en la casa del Sr. Carlos Alberto González, en el municipio de Riosucio, y le habrían interrogado sobre los movimientos del Sr. Tapasco.

526. Asimismo, se alega que un grupo de personas vinculadas a grupos paramilitares habría entrado en la reserva indígena de Cañamono el 9 de mayo de 2007 pidiendo a un miembro de la comunidad que llevara engañado al Sr. Héctor Jaime Vinasco a un lugar aislado donde pudieran secuestrarlo.

527. La Representante Especial y Relator Especial expresaron la preocupación de que estos eventos pudieran estar relacionados con las actividades del Sr. Vinasco, del Sr. González y del Sr. Tapasco en defensa de los derechos humanos, y en particular de los derechos indígenas en el municipio de Riosucio.

### **Respuesta del Gobierno:**

528. Mediante carta de 2 de octubre de 2007, la Misión Permanente de Colombia remitió nota de 14 de septiembre de 2007 mediante la cual la Dirección de Derechos Humanos y Derecho Internacional Humanitario del Ministerio de Relaciones Exteriores de Colombia dio respuesta a la comunicación de 8 de junio de 2007.

529. El Gobierno informó de la investigación que se estaba llevando a cabo por el fiscal segundo seccional de Riosucio por la presunta comisión de amenazas en contra del Sr. Dario Edgardo Tabasco, alcalde del municipio de Riosucio. Igualmente, en relación con las presuntas amenazas que habrían recibido Héctor Jaime Vinasco y Carlos Alberto González, el Gobierno manifestó que la Fiscalía estaba llevando a cabo una investigación. Además, unidades de la Seccional de Inteligencia del Departamento de Policía de Caldas entraron en contacto con dichas personas con el fin de conocer sus problemas de seguridad y en consecuencia orientar las medidas pertinentes.

530. Según informó el Gobierno, Dario Edgardo Tabasco señaló a la Policía Nacional que el día 5 de mayo, la secretaria ejecutiva recibió una llamada telefónica en la cual le manifestaron que el alcalde tenía hasta el 7 de mayo para renunciar a su cargo. No obstante, se informó de que el amenazado pensaba que se trataba de una estrategia intimidatoria, dada la cercanía de los comicios electorales.

531. Héctor Jaime Vinasco informó de que nunca había sido víctima de amenazas en forma directa, a pesar de que en varias ocasiones comuneros indígenas de las comunidades El Rodeo y Tamayo, y el municipio de Supia, manifestaron que habían sido abordados por sujetos desconocidos, quienes manifestaron pertenecer a las autodefensas, solicitando hablar con el gobernador.

532. Por su parte, el Sr. Carlos Alberto González negó, según informa el Gobierno, haber sido víctima de amenazas, aunque hubiera señalado que el día 8 de mayo de 2007, llegaron a su residencia cinco personas preguntándole su opinión sobre el alcalde de Riosucio, y si conocía sus propiedades y su situación económica.

533. En lo concerniente al Sr. Gersain de Jesús Díaz, éste habría informado, según informa el Gobierno, no haber sido víctima de amenazas.

534. El Gobierno, el Consejo de Seguridad Regional llevado a cabo en el municipio de Riosucio, el 8 de mayo, decidió revisar los esquemas de seguridad del alcalde de Riosucio, de los líderes y gobernadores indígenas y de todos los funcionarios que cuenten con esquemas de seguridad del Estado. Por su parte, el Comando del Departamento de Policía de Caldas puso en efecto un esquema de seguridad permanente, reforzado en caso de incrementarse el riesgo con el fin de garantizar el libre ejercicio de sus funciones.

535. Asimismo, se llevaron a cabo varias reuniones de las Juntas de Inteligencia Preelectoral, en las cuales se tratan temas referentes a las últimas informaciones de inteligencia sobre amenazas a candidatos e informaciones sobre las perspectivas armadas de los grupos terroristas, en atención a las elecciones; así como del Comité Interinstitucional de Seguridad Ciudadana, las cuales han contado con la participación de diferentes autoridades del orden municipal, autoridades indígenas, representantes de la Defensora del Pueblo, del Programa de comunidades en alto riesgo del

Ministerio del Interior y de Justicia, delegaciones de la Oficina para Colombia de la Organización de las Naciones Unidas.

### **Llamamiento urgente**

536. El 4 de junio de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con amenazas en contra de los líderes de la Federación Agro-minera del Sur de Bolívar, principalmente las recibidas por el Sr. **Teofilo Manuel Acuña**, presidente de dicha Federación y las organizaciones nacionales e internacionales que acompañan las comunidades del Sur de Bolívar en sus procesos sociales en defensa del territorio.

537. De acuerdo con la información recibida, el 12 de mayo de 2007, se habría recibido en uno de los correos electrónicos de la Red Solidaridad de Hermandad y Solidaridad con Colombia (una coordinación de organizaciones que trabaja en defensa de los derechos humanos) un mensaje amenazante. Según se informa, este mensaje habría amenazado la vida y la integridad física de los líderes de la Federación Agro-minera del Sur de Bolívar, en particular la del Sr. Acuña, acusándoles de haber desviado ‘los recursos de las minas para mantener y fortalecer a las organizaciones narcoterroristas como el ELN’. Asimismo, se amenaza a las organizaciones nacionales e internacionales que acompañan las comunidades del Sur de Bolívar, con que algo les sucedería si no cesaban sus actividades.

538. Según se informa, los líderes de la Federación Agro-minera del Sur de Bolívar, habrían sido víctimas de amenazas y hostigamientos constantes. El 26 de abril de 2007, el Sr. Acuña fue detenido por miembros del Batallón Antiaéreo Nueva Granada de la V Brigada, en las oficinas de la Federación Agro-minera del Sur de Bolívar, en el casco urbano de Santa Rosa. Según los informes, en el momento de la detención, el Sr. Acuña fue golpeado por uno de los efectivos militares. El Sr. Acuña fue detenido durante 10 días en las instalaciones de la base militar del Batallón Antiaéreo Nueva Granada, ubicado en el casco urbano del municipio de Santa Rosa. Fue liberado el 5 de mayo de 2007 por una orden de la Fiscalía Seccional 28 Seccional de Simití.

539. Se teme que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Federación Agro-minera del Sur de Bolívar, presidida por el Sr. Acuña, y se expresa una profunda preocupación por su seguridad e integridad física así como por la de los otros miembros de dicha organización.

### **Respuesta del Gobierno**

540. Mediante comunicaciones de 13 de noviembre de 2007 y 18 de diciembre de 2007, el Gobierno proporcionó información con respecto al llamamiento urgente. El Gobierno informó que la Fiscalía 28 Seccional de Simití, Departamento de Bolívar, adelanta el proceso número 138050, en la cual se investiga al Sr. Acuña Ribón por el presunto delito de Rebelión. El 12 de abril de los corrientes, se libró orden de captura en contra del Sr. Acuña Ribón, la cual se hizo efectiva por miembros del Batallón Nueva Granada del Ejército Nacional el 26 de abril de 2007, en las instalaciones de la Federación de Mineros del Sur de Bolívar. No obstante lo anterior, en providencia de fecha 4 de mayo de 2007, se resolvió la situación jurídica del sindicato, absteniéndose

la Fiscalía encargada, de imponerle medida de aseguramiento, y en consecuencia se ordenó su libertad.

### **Llamamiento urgente**

541. El 22 de junio de 2007 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, 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).

542. 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.

543. 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.

### **Llamamiento urgente**

544. El 28 de junio de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. Iván Cepeda Castro, dirigente de la Fundación Manuel Cepeda Vargas, representante del Movimiento Nacional de Víctimas de Crímenes del Estado y columnista con el semanario El Espectador. El 12 de diciembre de 2006, la Representante Especial para los defensores de derechos humanos, envió un llamamiento urgente al Gobierno pidiéndole que tomara medidas de protección para garantizar la seguridad del Sr. Cepeda ante las amenazas de muerte que había recibido.

545. De acuerdo con la nueva información recibida, el 3 de Mayo de 2007, el despacho del Fiscal 64 de la Unidad de Delitos Contra el Orden Económico, Derechos de Autor y otros, mediante el oficio 086-07, habría intentado realizar una diligencia de inspección judicial a la Comisión de Derechos Humanos del Senado de la Republica. Este procedimiento se habría justificado por parte del Fiscalía General de la Nación con motivo de la búsqueda de información relacionada al Sr. Cepeda actualmente investigado por dicha entidad oficial.

546. Según se informa, el 27 de noviembre de 2006, el Sr. Cepeda habría participado en una Audiencia Pública, convocada por la Comisión de Derechos Humanos del Senado de la República en el municipio de San Onofre, departamento de Sucre. En dicha Audiencia miembros de la comunidad en la zona habrían

denunciado los presuntos vínculos de autoridades locales con el paramilitarismo. Al escuchar estas denuncias el Sr. Cepeda habría solicitado la dimisión del Alcalde del municipio de San Onofre, el Sr. Jorge Blanco. El Sr. Cepeda fue denunciado penalmente por los delitos de calumnia e injuria.

547. Se teme que estos eventos puedan estar relacionados con las actividades del Sr. Iván Cepeda Castro en defensa de los derechos humanos, y en particular sus denuncias sobre el vínculo entre las autoridades y el paramilitarismo.

### **Respuesta del Gobierno**

548. El Programa Presidencial de Derechos Humanos y Derecho Internacional Humanitario de la Vicepresidencia de la República, conformó Comités de Evaluación de Riesgos en los que se analizó el caso de los integrantes de ANTHOC, así como reuniones individuales para la revisión de las medidas existentes de protección a favor de los mismos.

549. La Policía Nacional realizó seguimiento a los mensajes amenazantes recibidos el 13 de junio del 2006 en la sede de ANTHOC en Bogotá, D.C., logrando establecer, a través de la Empresa de Telefonos de Bogota – ETB, que la dirección IP de los mismos corresponde a un usuario de Internet con el nombre “ANTHOC”, determinándose así que este correo electrónico tuvo su origen en uno de los computadores de propiedad de la precitada asociación.

550. Lo anterior se pudo corroborar mediante inspección realizada a las instalaciones de ANTHOC. Estas actuaciones se encuentran soportadas dentro de la investigación penal que adelanta la Fiscalía 241 Seccional en Bogotá, de la Unidad de Libertad individual y otras garantías.

### **Llamamiento urgente**

551. El 29 de junio de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con la **Corporación Jurídica Libertad (CJL)**, institución fundada por abogadas y abogados de distintas universidades que luchan por los derechos humanos en Colombia.

552. De acuerdo con la información recibida, el 25 de mayo de 2007 se habría entregado una carta a la portera del edificio donde tiene su sede la CJL, en la ciudad de Medellín. En dicha carta, de tono amenazante, se habría declarado objetivo militar a los integrantes de la CJL, advirtiéndoles de las consecuencias de no renunciar a las defensas penales que ellos representan. La carta supuestamente contenía el siguiente texto: “no ensucien sus hojas de vida ni sus conciencias y sobre todo no hagan que nosotros ensucemos las nuestras además de nuestras manos con la sangre de ustedes”.

553. Según se informa, en marzo de 2007, la CJL Colombia-Europa-Estados Unidos, junto con el Colectivo de Derechos Humanos Semillas de Libertad – (CODEHSE), habría publicado un informe titulado “Ejecuciones extrajudiciales: caso Oriente antioqueño”, en el cual se denuncian los homicidios de 110 personas, presuntamente por parte de miembros de la IV Brigada del Ejército, que luego fueron presentadas ante la opinión pública como “guerrilleros dados de baja en combate”.

554. Se teme que estos hechos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Corporación Jurídica Libertad y se expresa profunda preocupación por la seguridad e integridad física de los miembros de dicha organización.

### **Llamamiento urgente**

555. El 27 de julio de 2007 la Representante Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias señalaron a la atención urgente del Gobierno la información recibida en relación con **Dairo Torres Sepúlveda**, líder campesino de la Comunidad de Paz de San José de Apartadó y coordinador de la Zona Humanitaria de Alto Bonito desde el año 2004.

556. De acuerdo con la información recibida, el 13 de julio de 2007, hacia las 12.00, en la carretera entre Apartado y San José, Dairo Torres Sepúlveda fue asesinado por dos paramilitares reconocidos. Fue interceptado el vehículo de servicio público en que viajaba el Sr. Torres Sepúlveda. Los dos paramilitares pararon el vehículo y con armas cortas le dijeron al Sr. Torres Sepúlveda que bajara del vehículo y que el chofer del vehículo siguiera. Luego le asesinaron.

557. El asesinato ocurrió muy cerca del retén de policía pero no había presencia policial en los alrededores. Según se informa, ese mismo día el 13 de julio de 2007 hacia las 09:10, se habrían visto los dos paramilitares sentados y conversando con la policía en el retén en el Mangolo. Además el día anterior, el 12 de julio de 2007, se habrían visto los dos paramilitares, supuestamente miembros de las “Águilas Negras” en la localidad del asesinato amenazando a la comunidad.

558. Se teme que el asesinato del Sr. Dairo Torres Sepúlveda está relacionado con su trabajo en defensa de los derechos humanos en la Comunidad de Paz de San José de Apartado. Así mismo se expresa profunda preocupación por la seguridad e integridad física del resto de los miembros de la mencionada comunidad.

### **Respuesta del Gobierno**

559. Por carta con fecha 30 de agosto de 2007 el Gobierno de Colombia transmitió la siguiente información en relación con el llamamiento urgente. El Gobierno informó que se han adelantado varias entrevistas con las hermanas del Sr. Torres y se habría conocido que el Sr. Torres pertenecía a la Comunidad de Paz de San José de Apartado, de donde salió hace un año, debido a que la Comunidad no le permitía el consumo de licor. Las hermanas del Sr. Torres desconocían si lo estaban amenazando y otra persona entrevistada señaló que la víctima venía bajando de la Vereda Caracoli, cuando fue investido por unos hombres que le dispararon y huyeron, sin precisar el número de victimarios o la persona que le habría suministrado esta información.

### **Llamamiento urgente**

560. El 16 de agosto de 2007, la Representante Especial, junto con Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, señalaron a la atención urgente del Gobierno la información recibida en relación con

el Sr. **Hector 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.

561. De acuerdo con la información recibida, el 31 de julio de 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.

562. Según la información recibida, el 26 de junio de 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.

563. 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. La CND fue una de las instituciones que participaron en la conferencia.

564. Se expresó profunda preocupación por la seguridad e integridad física y psicológica del Sr. Héctor Torres y el Sr. Rigoberto Jiménez. Se expresó temor de que estos eventos pudieran estar relacionados con sus actividades en la defensa de los derechos humanos, en particular con el trabajo que llevan a cabo en la investigación y la denuncia de violaciones de derechos humanos en la Coordinación Nacional de Desplazados (CND) y del Movimiento Nacional de Víctimas de Crímenes de Estado.

### **Llamamiento urgente**

565. El 29 de agosto de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con Sr. Isaías López. El Sr. Isaías López es un agricultor y un miembro de la Junta de Acción Comunal (JAC), una organización comunitaria de la vereda la Floresta en el municipio de El Castillo. La JAC se dedica a la protección de los derechos humanos de los miembros de la comunidad de El Castillo que en los últimos años han sido víctimas de desplazamientos y desapariciones forzadas, supuestamente cometidas por grupos paramilitares.

566. Según la información recibida, el 19 de agosto de 2007, aproximadamente a las 9.15pm, el Sr. Isaías López fue víctima de un ataque cometido por hombres desconocidos armados en la zona de Medellín del Ariari. Se alega que los hombres le

habrían disparado al menos ocho veces y en este momento se encuentra en estado grave en un hospital del municipio de Granada.

567. Se teme que el mencionado suceso pueda estar relacionado con las actividades del Sr. Isaías López en la defensa de los derechos humanos, en particular de los derechos de los miembros de las comunidades de El Castillo. Se expresa profunda preocupación por la integridad física y psicológica del Sr. Isaías López, los miembros de su familia y de los miembros de la comunidad del El Castillo.

### **Llamamiento urgente**

568. El 19 de septiembre de 2007 la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Andrés Gutiérrez Baldovino**. El Sr. **Andrés Gutiérrez Baldovino** es integrante de la Fundación Franciscana Santo Tomás Moro, organización no gubernamental que se dedica a la protección y la promoción de los derechos humanos en la ciudad de Sincelejo, departamento de Sucre.

569. Según la información recibida, el 10 de septiembre de 2007, aproximadamente a las 10 de la mañana, un individuo que se identificó como miembro del Bloque Central de las “Águilas Negras”, llamó a la sede de la Fundación Franciscana Santo Tomás Moro. Durante dicha llamada el individuo habría acusado al Sr. Andrés Gutiérrez Baldovino de ser colaborador de las Fuerzas Armadas Revolucionarias de Colombia (FARC) y lo habría amenazado con declararlo objetivo militar si no asistía a una reunión con otros informantes el martes 11 de septiembre de 2007 a las 3:00 pm, en la carretera que conduce de Sincelejo al municipio de Chocó.

570. Se teme que la amenaza de muerte contra el Sr. Andrés Gutiérrez Baldovino pueda estar relacionada a su trabajo en la defensa de los derechos humanos, así como el trabajo que realiza la Fundación Franciscana Santo Tomás Moro en la ciudad de Sincelejo. Se expresa profunda preocupación por la integridad física y psicológica del Sr. Andrés Gutiérrez Baldovino y todos los integrantes de la Fundación Franciscana Santo Tomás Moro.

### **Respuesta del Gobierno**

571. Mediante carta fechada 15 de enero de 2008, el Gobierno de Colombia respondió al llamamiento urgente arriba mencionado. El Gobierno informó de que los hechos son de conocimiento de la Fiscalía Sexta ante los Juzgados del Circuito de Sincelejo. A través del Comando de Policía nacional en el departamento de sucre, adelantó el estudio de riesgo y grado de amenaza del señor Gutiérrez Baldovino, el cual fue enviado al comité Técnico de Evaluación de Nivel de Riesgo Departamento de Sucre, para su pertinente revisión y análisis. Con base en los resultados de los estudios de riesgo en mención, la policía quedó encargado de ordenar a su personal bajo mando la realización de revistas periódicas al lugar de residencia y de trabajo del señor Gutiérrez, así como la creación de canales de comunicación, con el fin de atenderle de manera inmediato. Se le entregaron por escrito algunas medidas de autoprotección. La precitada autoridad informó que adelanta las investigaciones pertinentes, tendientes a capturar a las personas responsables.



### **Llamamiento urgente**

572. El 24 de septiembre de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con Sr. **José Manuel Gómez** y el Sr. **José Ramiro Orjuela Aguilar**. El Sr. José Manuel Gómez y el Sr. José Ramiro Orjuela Aguilar son miembros del Comité Permanente por la Defensa de los Derechos Humanos (CPDH)

573. Según la información recibida, el 11 de septiembre de 2007, el Sr. José Manuel Gómez recibió en Barranquilla una amenaza a través de su correo electrónico. El mensaje, firmado por las “Águilas Negras”, un conocido grupo paramilitar, supuestamente acusaba al Sr. José Manuel Gómez de ser colaborador de las Fuerzas Armadas Revolucionarias de Colombia (FARC) y lo amenazaba con declararlo objetivo militar. El mensaje igualmente decía: “No hay paso suyo que no conozcamos. Los terroristas como usted merecen es la muerte”. Según nuestras fuentes, el Sr. José Manuel Gómez ha sido objeto de actos de hostigamiento y amenazas por parte de organismos de inteligencia oficial y por miembros de grupos paramilitares. Adicionalmente, se nos informa que su nombre se mencionaba en una lista de presuntas personas afiliadas a las FARC, lista que se habría encontrado en el computador de un miembro de un grupo paramilitar el 11 de marzo de 2006.

574. El 12 de septiembre de 2007, aproximadamente a las 7.45 pm, el Jurista José Ramiro Orjuela Aguilar, se dirigía al Servicio Seccional de Investigaciones de la Policía Judicial (SIJIN) en Bogotá para visitar una persona detenida, cuando notó que dos taxis lo venían siguiendo. Los dos taxis lo habrían esperado 45 minutos en frente de las oficinas de la SIJIN y habrían continuado siguiéndolo después de que él saliera de las oficinas. El Sr. José Ramiro Orjuela Aguilar decidió denunciar este hecho al Departamento Administrativo de Seguridad (DAS). Luego de que uno de los taxis lo siguiera hasta la sede del DAS, un agente del DAS obligó al chofer a que entrara al parking y le mostrara su identificación. Según los informes, el chofer del taxi afirmó ser un agente de la SIJIN O DIJIN y dijo que estaba “cumpliendo con su deber” al seguir al Sr. José Ramiro Orjuela Aguilar. Los agentes del DAS lo habrían dejado ir al no encontrar nada irregular en sus documentos y le habrían asegurado al Sr. José Ramiro Orjuela Aguilar que iban a comunicar los detalles del caso a su superior.

575. Se teme que la amenaza de muerte contra el Sr. José Manuel Gómez y los actos de hostigamiento contra el Sr. José Ramiro Orjuela Aguilar puedan estar relacionados a sus actividades en la defensa de los derechos humanos. Se expresa profunda preocupación por la integridad física y psicológica del Sr. José Manuel Gómez, del Sr. José Ramiro Orjuela Aguilar y todos los miembros del CPDH en Colombia.

### **Llamamiento urgente**

576. El 4 de octubre 2007 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, señalaron a la atención urgente del Gobierno la información recibida en relación con la situación siguiente:

577. De conformidad con las informaciones recibidas, 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; y el Sr. **Evaristo Mena**, miembro de la ACVC y de la Junta de Acción Comunal de la vereda La Poza.

578. 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 actualmente se encontrarían.

579. 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.

580. Se ha expresado preocupación por la seguridad y la integridad física y psicológica de las cuatro personas mencionadas, por los campesinos miembros de la ACVC y por los actuales actos de hostigamiento contra la Asociación.

### **Repuesta de Gobierno**

581. Mediante carta con fecha de 8 de enero de 2008, el gobierno respondió a la comunicación más arriba. La respuesta afirmó que las detenciones mencionadas se efectuaron en virtud de varias órdenes de captura por el delito de rebeldía, relacionadas con una investigación penal, iniciada el 4 de mayo de 2005 y a la fecha en curso en la Fiscalía 3 de Barrancabermeja, contra algunos integrantes de la Asociación Campesina del Valle del Río Cimitarra (ACVC) el 29 de septiembre de 2007, se le detuvo al Sr Andrés Gil, junto con otra persona, en cumplimiento de órdenes judiciales de captura. El gobierno quiso aclarar que en ningún momento durante la detención los agentes policiales realizaron tiros al aire. Además los detenidos no fueron trasladados al Batallón Nueva Granada de Barrancabermeja, sino a las instalaciones del Departamento Administrativo de Seguridad (DAS) en esta ciudad, donde les visitaron la Defensora del Pueblo, un abogado, y un representante de la ONG CREDHOS de la ciudad. En relación con la detención del Sr Oscar

Enrique Duque, el DAS aclaró que sus agentes no participaron en la captura del susodicho.

582. La carta informó que el 29 de septiembre de 2007, se efectuó la detención del Sr Mario Martinez Mahecha en cumplimiento de una orden judicial de captura por el delito de rebelión. Por otra parte, el 1 de octubre de 2007, detectives del DAS allanaron las oficinas de la Asociación Campesina del Valle del Río Cimitarra (ACVC), con el acompañamiento del Ejército Nacional, que prestó seguridad en el perímetro del primer piso del edificio. En el curso del registro, se incautó material importante para la investigación y el DAS informó que no había recibido queja ninguna relacionada con el procedimiento mencionado.

### **Llamamiento urgente**

583. El 4 de octubre de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con los Sres. Miguel Hoyos y Hoyos. Los Sres. Miguel Hoyos y Ualberto Hoyos son miembros de la Comisión Intereclesial de Justicia y Paz (CIJP), en la Zona de Curbaradó, Chocó.

584. Según la información recibida, el 17 de septiembre de 2007, aproximadamente a las 9.00 pm, entró una persona no identificada en la casa de Miguel Hoyos y Ualberto Hoyos que se encuentra en Belén de Barija. Después de haber verificado la identidad de los dos hombres, esta persona les habría disparado varias veces, hiriéndolos gravemente.

585. Este atentado contra la vida de los Sres. Miguel Hoyos y Ualberto Hoyos ocurrió al mismo tiempo que la finalización de las audiencias del proceso judicial sobre el asesinato del líder comunitario Orlando Valencia, de Curbaradó. Los Sres. Miguel Hoyos y Ualberto Hoyos participaron como testigos en dicho proceso. Además en el mes de agosto de 2007, los dos estuvieron muy involucrados en un proyecto para el regreso de 80 familias que fueron forzadas a desplazarse en 1997 por grupos paramilitares en el caserío de Cano Manso, en jurisdicción de Carmen del Darién.

586. Se teme que el atentado contra la vida de los Sres. Miguel Hoyos y Ualberto Hoyos pueda estar relacionado con sus actividades en la defensa de los derechos humanos, en particular los derechos de las comunidades en Colombia y su trabajo con las víctimas del desplazamiento forzado. Se expresa profunda preocupación por la integridad física y psicológica de los Sres. Miguel Hoyos y Ualberto Hoyos, los miembros de su familia, y los otros integrantes de la CIJP.

### **Respuesta del Gobierno**

587. Mediante comunicación de 10 de enero de 2008, el Gobierno de Colombia proporcionó información con respecto al llamamiento urgente anteriormente mencionado. El Gobierno informó que el personal de la Policía de Belén de Bajirá, inició las actividades operativas tendientes a la identificación del agresor, dirigiéndose una patrulla al lugar de los hechos a realizar labores de vecindario y recolección de información y saliendo otra al Centro de Salud a complementar los elementos de información necesarios para esclarecer los hechos. De igual modo, se concertó con el

comandante del distrito para que se efectuara el desplazamiento desde el Corredimiento de Belén de Bajirá hacia el municipio de Mutatá, Departamento de Antioquia con todas las medidas de seguridad, en coordinación con el Comando de la Brigada XVII del Ejército Nacional, y sus tropas del Batallón Bejarano Muños con 10 unidades. En la actualidad, se mantiene comunicación permanente con los lesionados a quienes se les ofrece apoyo. Por su parte, la Fiscalía inició indagación penal por el delito de tentativa de homicidio contra los señores Walberto y Miguel Ángel Hoyos Rivas, la cual se encuentra en etapa de indagación.

### **Llamamiento urgente**

588. El 11 de octubre de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Javier Correa** y el menor **Andrés Damián Flores Rodríguez**. El Sr. Javier Correa es el Presidente del Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL) y el menor Andrés Damián Flores Rodríguez es el hijo de dieciséis años del Sr. José Domingo Flores, dirigente del SINALTRAINAL en el departamento de Santander.

589. Según la información recibida, el 27 de septiembre de 2007, alrededor de las 3.00 de la tarde, el menor Andrés Damián Flores Rodríguez habría sido secuestrado y atacado por tres hombres armados no identificados. Después de recibir instrucciones por radio, los hombres lo habrían golpeado y habrían amenazado de muerte a su padre, el Sr. José Domingo Flores. El menor Andrés Damián Flores habría sido dejado en libertad dos horas después de su secuestro en la vía Lebrija, en un sitio conocido con el nombre de El Palenque.

590. De acuerdo a nuestras fuentes, El Sr. José Domingo Flores ya había sido amenazado de muerte el 20 de septiembre de 2007, fecha en la que recibió una amenaza firmada por un grupo paramilitar conocido como las “Águilas Negras”, en Bucaramanga, departamento de Santander.

591. El 25 de septiembre de 2007, se habría recibido otra amenaza de muerte en las oficinas del SINALTRAINAL. Dicha amenaza iba dirigida al Sr. Javier Correa, también estaba firmada por las Águilas Negras e incluía el acrónimo AUC (Autodefensas Unidas de Colombia). La amenaza contenía el siguiente texto: “Javier Correa, callen el discurso ideológico guerrillero – se van del departamento – de lo contrario nos veremos obligados a cumplir el objetivo [sic] militar y le entregamos en Navidad a sus familias los cadáveres en una fosa común”.

592. Los integrantes de SINALTRAINAL habrían recibido amenazas de muerte con anterioridad. Se informa que SINALTRAINAL habría denunciado las amenazas ante las autoridades competentes.

593. Se expresó temor de que el secuestro y el ataque contra el menor Andrés Damián Flores Rodríguez y las amenazas de muerte contra los Sres. José Domingo Flores y Javier Correa pudieran estar relacionados con las actividades en defensa de los derechos humanos del SINALTRAINAL, y en particular de los Sres. José Domingo Flores y Javier Correa. Asimismo, se expresó profunda preocupación por la integridad física y psicológica de los Sres. José Domingo Flores y Javier Correa, los miembros de sus familias, así como los integrantes de SINALTRAINAL.

### **Llamamiento urgente**

594. El 22 de octubre de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con los Sres. **Luis Javier Correa Suárez** y **Luis Eduardo García**. El Sr. Luis Javier Correa Suárez es el Presidente Nacional del Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL) y el Sr. Luis Eduardo García es integrante de SINALTRAINAL, Seccional Bucaramanga, en el departamento de Santander. El Sr. Luis Javier Correa Suárez fue objeto de una comunicación enviada el 11 de octubre de 2007 al Gobierno colombiano por la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos.

595. Según la información recibida, el 12 de octubre de 2007, alrededor de las 10.00 de la mañana, se habría recibido una amenaza de muerte en las oficinas de SINALTRAINAL en Bucaramanga. Se informa que dicha amenaza estaba firmada por las Águilas Negras e iba dirigida al Sr. Nelson Pérez, trabajador de la embotelladora de Coca Cola y Presidente de SINALTRAINAL, Seccional Bucaramanga. La amenaza incluía el siguiente texto: “Los desmovilizados fuimos reconocidos por el gobierno de Álvaro Uribe en el progra de justicia y paz – comunistas – guerrilleros – Javier Correa – Luis García...en Navidad tus familias los reconocerán en una fosa común...Las Águilas Negras cumplimos porque existimos – ya lo demostramos – los queremos a ustedes los dos que joden tanto contra las multinacionales y viven de ellas...serán descuartizados – no lo duden paz en la tumba – frente Águilas Negras”.

596. Adicionalmente se informa que los trabajadores de Coca Cola afiliados a SINALTRAINAL, Seccional Bucaramanga, así como sus familiares, habrían venido recibiendo recientemente amenazas de muerte.

597. Se teme que las amenazas de muerte contra los Sres. Luis Javier Correa Suárez y Luis Eduardo García puedan estar relacionadas con las actividades en defensa de los derechos humanos de SINALTRAINAL. Se expresa profunda preocupación por la integridad física y psicológica de los Señores arriba mencionados, de sus familiares y de los otros integrantes de SINALTRAINAL.

### **Llamamiento urgente**

598. El 6 de noviembre de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Oscar Maussa**, dirigente de la Cooperativa de Trabajadores Agropecuarios de Blanquicet (COOTRAGROBLAN). Dicha cooperativa se dedica a la protección de los derechos humanos de los trabajadores de la granja La Esperanza, en el departamento de Antioquia.

599. Según la información recibida, el 6 de octubre de 2007, un desconocido le habría informado a un miembro de COOTRAGROBLAN que el dirigente del grupo paramilitar las “Águilas Negras” buscaba al Sr. Oscar Maussa con la intención de matarlo.

600. El Sr. Oscar Maussa ha sido anteriormente sujeto de amenazas y actos de intimidación por parte de algunos miembros de grupos paramilitares. En marzo de 2007, la Comisión Interamericana de Derechos Humanos (CIDH) habría exhortado al Gobierno colombiano a que tomara medidas para garantizar la seguridad del Sr. Oscar Maussa, de su familia, y de las otras tres familias que componen COOTRAGROBLAN.

601. Se teme que la amenaza de muerte contra el Sr. Oscar Maussa pueda estar relacionada con sus actividades en defensa de los derechos humanos, en particular su trabajo para proteger los derechos de los trabajadores y sus denuncias sobre las violaciones de derechos humanos cometidas por los grupos paramilitares.

### **Llamamiento urgente**

602. El 8 de noviembre de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con la Sra. **Diana Teresa Sierra**. La Sra. Diana Teresa Sierra trabaja como abogada para la Comisión Intereclesial de Justicia y Paz en Bogotá.

603. Según la información recibida, el 29 de octubre de 2007, a las 21.15pm, la Sra. Diana Teresa Sierra salía de las oficinas de la Comisión Intereclesial de Justicia y Paz cuando se dio cuenta que un desconocido la estaba siguiendo. La Sra. Sierra habría sido seguida durante una hora mientras se dirigía en autobús hacia su casa, situada al sur de la ciudad de Bogotá. Cuando se bajó del autobús la Sra. Sierra habría escuchado al desconocido decirle a alguien por teléfono: “Sí, la estoy siguiendo”. Temiendo por su seguridad, la Sra. Sierra habría decidido refugiarse en un supermercado hasta que el desconocido desapareciera.

604. La Sra. Diana Teresa Sierra trabaja por la defensa de los derechos humanos de las comunidades afrocolombianas de las cuencas de los ríos Jiguamiandó y Curvaradó en el departamento de Chocó. En octubre del 2005, el Sr. Orlando Valencia, uno de los líderes de dichas comunidades, habría sido asesinado por grupos paramilitares.

605. Los miembros de la Comisión Intereclesial de Justicia y Paz han sido anteriormente sujeto de amenazas de muerte y actos de intimidación por parte de paramilitares. En agosto y septiembre de 2007, en cuatro ocasiones diferentes, se habrían observado desconocidos tomando fotos al frente de las oficinas de la Comisión.

606. Se teme que el seguimiento de la Sra. Diana Teresa Sierra pueda estar relacionado con sus actividades en defensa de los derechos humanos, en particular su trabajo para proteger los derechos de las comunidades afrocolombianas en Colombia. Se expresa preocupación por la integridad física y psicológica de la Sra. Diana Teresa Sierra, así como la de los otros miembros de la Comisión Intereclesial de Justicia y Paz.

### **Llamamiento urgente**

607. El 14 de noviembre de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con la Sra. **Yolanda**

**Becerra Vega**, la Sra. **Jackeline Rojas Castañeda** y el Sr. **Juan Carlos Galvis**. La Sra. Yolanda Becerra Vega es la Directora de la Organización Femenina Popular (OFP) en la ciudad de Bucaramanga y es una reconocida y premiada defensora de derechos humanos; la Sra. Jackeline Rojas Castañeda es miembro del Equipo de Dirección de la OFP; y el Sr. Juan Carlos Galvis es Vicepresidente Nacional del Sindicato Nacional de Trabajadores de las Industrias de los Alimentos (SINALTRAINAL). La Sra. Yolanda Becerra Vega y la Sra. Jackeline Rojas Castañeda han sido objeto de comunicaciones enviadas por la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos el 5 de febrero de 2004 y el 7 de julio de 2006 (véanse los informes de la Representante E/CN.4/101/Add.1, párrafos 141 y 170 y A/HRC/4/37/Add.1, párrafos 185 y 201).

608. Según la información recibida, el día 4 de noviembre de 2007, aproximadamente a las 7.30 de la mañana, dos hombres armados, encapuchados y vestidos de civil, habrían entrado al apartamento de la Sra. Yolanda Becerra Vega en Bucaramanga. Los hombres habrían empujado a la Sra. Becerra contra una pared, la habrían golpeado y la habrían amenazado con un arma de fuego diciéndole: “hijueputa el cuento se le acabó, tiene 48 horas para que se vaya, sino, vamos a acabar con su familia y usted no se nos escapa”. Se informa que los hombres se fueron a los 15 minutos, después de desordenar con violencia el apartamento y destruir varias posesiones de la Sra. Becerra. Ese mismo día la puerta del apartamento de la Sra. Jackeline Rojas Castañeda y de su esposo, el Sr. Juan Carlos Galvis, habría sido bloqueada desde el exterior, impidiendo que salieran.

609. Se informa que los integrantes de la OFP ya habían sido objeto de varias amenazas y actos de intimidación. Desde hace varios años, la OFP es beneficiaria de medidas cautelares de protección otorgadas por la Comisión Interamericana de Derechos Humanos. El grave incidente ocurrido revela la urgencia de que se adopten medidas adicionales de parte de las autoridades competentes para garantizar la vida de las y los integrantes de la OFP y del SINALTRAINAL.

610. Se teme que los actos de intimidación contra la Sra. Yolanda Becerra Vega, la Sra. Jackeline Rojas Castañeda y el Sr. Juan Carlos Galvis, puedan estar relacionados con sus actividades en defensa de los derechos humanos, en particular con su trabajo en la promoción de los derechos humanos de las mujeres y de los trabajadores en Colombia. Se expresa profunda preocupación por la integridad física y psicológica de la Sra. Yolanda Becerra Vega, de la Sra. Jackeline Rojas Castañeda y del Sr. Juan Carlos Galvis, así como de los otros integrantes de la OFP y de SINALTRAINAL.

### **Carta de alegaciones**

611. El 29 de noviembre de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **José Jesús Marín Vargas**. El Sr. José Jesús Marín Vargas era miembro del Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL), El SINALTRAINAL fue objeto de comunicaciones enviadas al Gobierno colombiano por la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos el 11 y el 22 de octubre de 2007.

612. Según la información recibida, el 22 de noviembre de 2007, aproximadamente a las 2:20pm, el Sr. José Jesús Marín Vargas, fue asesinado por desconocidos que le habrían disparado con un arma de fuego, mientras se desplazaba de su lugar de trabajo, la Comestible de la Rosa, una fabrica filial de Nestlé en el Municipio de Dosquebradas Risaralda, hacia su casa en el barrio Los Naranjos, ubicado en el mismo Municipio.

613. Se teme que el asesinato del Sr. José Jesús Marín Vargas pueda estar relacionado con sus actividades en la defensa de derechos humanos, en particular su trabajo en la defensa de los derechos de trabajadores en Colombia.

### **Llamamiento urgente**

614. El 30 de noviembre de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con la Sra. **Jahel Quiroga Carrillo**. La Sra. Jahel Quiroga Carrillo es la Directora de REINICIAR, una corporación que se dedica a la defensa y promoción de los derechos humanos en Colombia.

615. Según la información recibida, el 26 de noviembre de 2007, aproximadamente a las 9:30am, tres desconocidos habrían disparado tres veces al edificio donde reside la Sra. Jahel Quiroga Carrillo en Bogotá, desde una camioneta de color gris con vidrios polarizados.

616. Se informa que minutos más tarde llegaría al edificio una patrulla de la policía, sin embargo, ésta no habría iniciado ninguna investigación acerca de los responsables del ataque.

617. La Sra. Jahel Quiroga Carrillo, así como los otros miembros de la corporación REINICIAR habrían sido anteriormente objetos de amenazas de muerte y actos de intimidación. El 6 de noviembre de 2007 las oficinas de la corporación habrían sido allanadas y se habría robado información relacionada al trabajo de dicha institución. Además, el grupo paramilitar llamado “Bloque Capital”, habría informado el 30 de marzo de 2007 acerca de un plan para asesinar a la Sra. Jahel Quiroga Carrillo.

618. Se teme que este ataque en contra de la Sra. Jahel Quiroga Carrillo pueda estar relacionado con sus actividades en defensa de los derechos humanos y el trabajo que hace en la corporación REINICIAR en defensa de los derechos humanos en Colombia. Se expresa profunda preocupación por la integridad física y psicológica de la Sra. Jahel Quiroga Carrillo, así como de la de los otros miembros de REINICIAR.

### **Llamamiento urgente**

619. El 4 de diciembre de 2007 la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, señalaron a la atención urgente del Gobierno la información recibida en relación con la Corporación Jurídica Yira Castro (CJYC) y la Coordinación Nacional de Desplazados (CND), la Sra. **Blanca Irene López** y el Sr. **Rigoberto Jiménez**. La CJYC es una institución que se dedica a la defensa de los derechos humanos en Colombia, en particular, desarrolla actividades dirigidas a la protección de las víctimas del desplazamiento forzado y de



las organizaciones que las representan, como la CND. La Sra. Blanca Irene López es la abogada de la CJYC y el Sr. Rigoberto Jiménez es el dirigente de la CND y fue objeto de un llamamiento urgente enviado por el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario-General para los defensores de los derechos humanos el 16 de agosto de 2007.

620. Según la información recibida, el 15 de octubre de 2007, la Sra. Blanca Irene López habría recibido un mensaje en su casa que le amenazaba de muerte: “Bas a morir, disiembre 24 firma el popo” [sic].

621. El 2 de octubre de 2007, se habría enviado al correo electrónico de la CND un mensaje amenazante contra el Sr. Rigoberto Jiménez y los integrantes de la CJYC, advirtiéndoles que se les habían declarado objetivo militar. El mensaje habría sido firmado por un grupo paramilitar conocido, las “águilas negras”. y contenía el texto siguiente: “Señor Rigoberto Jiménez creemos que usted avia echo caso de las arbertencias hechas por nosotros asia días que no lo beimos por Bogotá es que usted sigue ablando mierda del gobierno ya basta no siga haciéndole daño a la sociedad este se le orbido que esta declarado objetivo militar por las aguilas negras de Bogotá usted y sus asesoras de la yira castro...” [sic].

622. Desde el mes de junio del 2006, la CYJC habría sido objeto de actos de intimidación, que conllevaran al traslado de la sede de la Corporación a otro lugar que actualmente comparte con la CND. Sin embargo, los actos de hostigamiento contra los integrantes de dicha organización continúen y se siguen recibiendo con frecuencia llamadas y visitas sospechosas.

623. Se teme que los actos de intimidación y las amenazas de muerte contra el Sr. Rigoberto Jiménez, la Sra. Blanca Irene López, y los integrantes de la CJYC puedan estar relacionados con las actividades desarrolladas por la CND y la CJYC en la defensa de los derechos de las víctimas del desplazamiento forzado en Colombia.

### **Carta de alegaciones**

624. El 30 de noviembre de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con los Sres. **Leonidas Silva Castro** y **Jairo Giraldo Rey**, y la Sra. **Mercedes Consuelo Restrepo Campo**. El Sr. Leonidas Silva Castro era dirigente sindical de los educadores y Presidente de la Subdirectiva de la Asociación Sindical de Institutores Nortesantandereanos, del municipio de Villacaro, en el Norte de Santander; el Sr. Jairo Giraldo Rey, era Presidente de la Subdirectiva del Sindicato Nacional de Trabajadores de la Industria Frutera, Agroindustrial, Pecuaria, Hotelera y Turística del Grupo empresarial Grajales, (SINALTRAIFRUT), en el Valle del Cauca; y la Sra. Mercedes Consuelo Restrepo Campo, era profesora de la Institución Educativa “Hernando Botero O’Byrne”, y miembro de la Subdirectiva del Sindicato Único de Educadores del Valle, en el municipio de Cartago.

625. Según la información recibida, el 7 de noviembre de 2007 la Sra. Mercedes Consuelo Restrepo Campo fue asesinada cerca de las instalaciones de la Escuela de San Juan Bosco, en el barrio San Vicente de Cartago, Departamento del Valle de

Cauca. Se informa que dos hombres habrían llegado en una moto y le habrían disparado cinco veces. La Sra. Mercedes Consuelo Restrepo Campo falleció inmediatamente.

626. El 3 de noviembre de 2007 el Sr. Jairo Giraldo Rey fue asesinado en el municipio de Torro, en el Departamento del Valle de Cauca.

627. El 2 de noviembre de 2007, entre las 19.00 y 20.00 de noche, el Sr. Leonidas Silva Castro fue asesinado en su lugar de residencia en el Barrio Prados del Norte. Luego de asistir en las instalaciones de Villa Silvana, con la delegación del municipio de Villacaro, a la inauguración de las 13 Olimpiadas Departamentales de la Asociación Sindical de Institutores Nortesantandereanos (Asinort), y habría estado solo en la calle donde hacía reparaciones a su vehículo cuando varios hombres le habrían disparado. El Sr. Leonidas Silva Castro falleció un poco después.

628. Se teme que los asesinatos de los Sres. Leonidas Silva Castro y Jairo Giraldo Rey, y de la Sra. Mercedes Consuelo Restrepo Campo puedan estar relacionados con sus actividades en defensa de los derechos humanos, en particular su trabajo en defensa de los derechos de trabajadores en Colombia. Se expresa preocupación por los miembros de la Asociación Sindical de Institutores Nortesantandereanos; el Sindicato Nacional de Trabajadores de la Industria Frutera, Agroindustrial, Pecuaria, Hotelera y Turística del Grupo empresarial Grajales; y Sindicato Único de Educadores del Valle, en el municipio de Cartago.

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

629. Mediante llamamiento urgente de 31 de mayo de 2006, la Representante Especial, junto con el Relator Especial sobre la cuestión de la tortura, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, señalaron a la atención urgente del Gobierno la información recibida en relación con una serie de incidentes ocurridos con motivo de una serie de manifestaciones celebradas en los departamentos del Cauca, Nariño, Neiva y Huila en el marco de la “Gran Cumbre de organizaciones sociales en defensa de la vida, del territorio, la dignidad, la autonomía y la soberanía nacional”.

630. Mediante carta de 26 de julio de 2007, la Misión Permanente remitió nota del Ministerio de Relaciones Exteriores de 5 de julio de 2007. 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.

631. Según la nota del Gobierno, 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.

632. 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.

633. 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.

634. 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.

635. 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.

### **Respuesta del Gobierno**

636. Mediante llamamiento urgente de 23 de junio de 2006 la Representante Especial señaló a la atención urgente del gobierno de Colombia la información recibida en relación con la Sra. **Gloria Amparo Suárez**, integrante desde hace 15 años de la Organización Femenina Popular (OFP) y miembro del Equipo Directivo. En respuesta fechada 4 de enero de 2007 el Gobierno informó de que la Fiscalía adelanta investigación penal, por el delito de amenazas en contra de la señora Suárez, por parte de desconocidos. Hasta el momento no se cuenta con elemento alguno que permita determinar el origen de amenazas, así como los presuntos agresores y móviles teniendo en cuenta que de acuerdo con lo manifestado por la víctima no se tiene conocimiento sobre la existencia de persona alguna que pueda servir como testigo de los hechos. La Procuraduría de la Nación solicitó protección de la Señora Suárez, así como adelantar el proceso penal en relación con las presuntas amenazas. El 26 de mayo de 2000, la Comisión Interamericana de Derechos Humanos otorgó medidas cautelares a favor de los miembros de la Organización Femenina Popular (OFP). La Señora Suárez es beneficiaria de estas medidas cautelares. El Ministerio del Interior y

de Justicia solicitó a la Policía Nacional la realización del Estudio de Nivel de Riesgo y Grado de Amenaza. Al respecto, el Departamento de Policía del Magdalena Medio concluyó que la Señora Suárez presenta un tipo ordinario de riesgo. El caso de la Señora Suárez fue presentado ante el Comité de Reglamentación y Evaluación de riesgos (CRER), quien el 8 de octubre de 2006 recomendó no aprobar un apoyo de transporte a favor de la Señora Suárez teniendo en cuenta el resultado del referido Estudio. La Señora Suárez tiene asignado como medida de protección un medio de comunicación avante.

### **Respuesta del Gobierno**

637. Mediante comunicación de 2 de octubre de 2007, el Gobierno de Colombia proporcionó información con respecto al llamamiento urgente enviado el 28 de Junio de 2006 en relación con miembros de la **Asociación Nacional de Trabajadores de Hospitales y Clínicas (ANTHOC)**. El Gobierno informó de que el Programa de Derechos Humanos y Derecho Internacional Humanitario de la Vicepresidencia de la República, conformó Comités de Evaluación de Riesgos en los que se analizó el caso de los integrantes de ANTHOC, así como reuniones individuales para la revisión de las medidas existentes de protección a favor de los mismos. Por su parte, la Policía Nacional realizó seguimiento a los mensajes amenazantes recibidos el 13 de junio de 2006 en la sede de ANTHOC en Bogotá. Lo anterior se pudo corroborar mediante inspección realizada a las instalaciones de ANTHOC. Estas actuaciones se encuentran soportadas dentro de la investigación penal que adelanta la Fiscalía 241 Seccional en Bogotá, de la unidad de Libertad individual y otras garantías.

### **Respuesta del Gobierno**

638. El 9 de agosto de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con hechos ocurridos en la sede del **Comité Permanente por la Defensa de los Derechos Humanos (CPDH)**, situada en Bogotá, Colombia.

639. Mediante carta fechada 2 de abril de 2007 el Gobierno transmitió información en relación con el llamamiento urgente. El Gobierno informó que la policía Metropolitana de Bogotá D.C. constató que el 2 de agosto de 2006 una patrulla realizó una visita a la sede de CPDH, la cual fue atendida y autorizada por la Señora Andrea Barrera Valencia. Los miembros de la policía solo ingresaron el día relacionado en la comunicación, dando cumplimiento a la orden de servicio. Los policías entraron en contacto el 16 de noviembre de 2006 con el señor Luis Jairo Ramírez Hernández. Las acciones de la policía correspondieron a un registro voluntario, con el fin de verificar que varios lugares no resultaran vulnerables frente a actividades terroristas, actividad realmente preventiva realizada por la Policía Nacional, con el fin de implementar medidas de seguridad para la celebración de 20 de julio de 2006, y día de la posesión del Presidente de la República. El grupo de Procesos disciplinarios de la Inspección General de la Policía Nacional informó que no se encontró registro disciplinario alguno en relación con los hechos referidos. La Fiscalía General de la Nación informó que en relación con los hechos en mención la Fiscalía 214 de la unidad segunda de delitos contra la Administración pública adelanta una indagación por el delito de abuso de función pública. El Programa de Protección del Ministerio del Interior y de Justicia informa que el CPDH cuenta con varias medidas de protección asignadas y

entregadas, entre las cuales se encuentran la entrega de varios medios de comunicación avatales y celulares a favor de sus miembros.

### **Respuesta del Gobierno**

640. Mediante carta con fecha de 21 de diciembre de 2008, el gobierno de Colombia respondió a un llamamiento urgente enviado por la Representante Especial el 7 de julio de 2006 en relación con la Sra **María Jackeline Rojas Castañeda**, miembro de la Organización Feminina Popular (OFP).

641. El gobierno afirmó que la Fiscalía de Bucaramanga adelantaba investigación penal por el delito de amenazas en contra de la susodicha, por parte de desconocidas, encontrándose la investigación en etapa de indagación. La Procuraduría General de la Nación solicitó al Ejército Nacional, al Departamento de Policía, al Departamento de Administrativo de Seguridad (DAS) y a la Fiscalía de Barrancabermeja, llevar a cabo la protección de la Sra Rojas, recordando las medidas cautelares otorgadas el 26 de mayo de 2000 a los miembros de la OFP por la Comisión Interamericana de Derechos Humanos. La Procuraduría pidió a éstos también que adelanten el proceso penal relacionado con las amenazas en contra de ella. En este contexto, el Ministerio del Interior y Justicia solicitó a la Policía Nacional la realización de un estudio de nivel de riesgo y grado de amenazas.

642. El Departamento de Policía del Magdalena Medio informó acerca de las actividades desarrolladas a su cargo: El 6 de julio de 2006, personal del Grupo de Análisis de Riesgo se entrevistó con a Sra Rojas a fin de evaluar su nivel de riesgo. Se le recomendó medidas de autoprotección en las actividades que realiza diariamente, con el fin de mejorar su seguridad y la de sus familia. Se le dieron a conocer números telefónicos de la entidad para poder reaccionar de forma inmediata ante situaciones que puedan vulnerar su integridad física. Se le recomendó no atender citas con personas desconocidas en lugares lejos del casco urbano o deshabitados.

643. De acuerdo con la información recibida por el Ministerio, la Sra Rojas manifestó telefónicamente no necesitar medidas de protección adicionales. No obstante, el Ministerio reiteró el 5 de octubre de 2006 su disposición frente a su caso, remitiendo de este modo las recomendaciones de protección. La Sra Rojas tiene como medio de protección un medio de comunicación avatantel.

644. El gobierno añadió que en cuanto recibiera información acerca de la citada investigación, la pondría a la disposición de la Representante Especial.

### **Respuesta del Gobierno**

645. Mediante carta fechada 20 junio de 2006 el Gobierno de Colombia proporcionó información en relación con el llamamiento urgente del 15 de agosto de 2006, concerniente a las presuntas amenazas en contra de los señores **Orlando Raúl Flórez Orjuela**, dirigente de la Asociación Juvenil de Ibagué y trabajador de la Corporación Nuevo Arco Iris, **Carlos Alberto Castaño Martínez**, integrante del Proyecto Planeta Paz de la Corporación Derechos para la Paz (CDPAZ), **Jhon Jairo Nieto Rodríguez**, y las organizaciones no gubernamentales **la Corporación Colectivo Jose Alvear Restrepo (CCAJAR)**, **la Consultoría para los Derechos Humanos y Desplazamiento (CODHES)**, **Minga**, **Compromiso**, **Medios para la**

**Paz, Movimientos de Víctimas de Crímenes de Estado, Organización Nacional Indígena de Colombia (ONIC), Etnias de Colombia y las agencias de la prensa Voz y Prensa Rural.**

646. El Gobierno informó de lo siguiente:

647. Orlando Raúl Flórez Orjuela y Jhon Jairo Nieto Rodríguez: Investigaciones: Se encuentra adelantada investigación penal, la cual se encuentra en etapa previa, en practica de pruebas tendiente al esclarecimiento de los hechos y la individualización e identidad de los presuntos responsables.

648. Medidas de protección: Los referidos ciudadanos son beneficiarios del Programa de Protección del Ministerio del Interior y de Justicia. En septiembre de 2006 se aprobó un apoyo de reubicación temporal, a favor de cada una de estas personas. Se encuentra bajo coordinación de la Policía nacional el establecimiento de rondas policiales preventivas permanentes con el fin de disminuir cualquier situación de riesgo.

649. Sobre presuntos allanamientos de inmuebles de su propiedad: Al respecto, la Fiscalía ordenó la práctica de varios allanamientos a diferentes inmuebles en dos de los cuales se encontraban como moradores los precitados ciudadanos. Los precitados allanamientos fueron practicados por la referida Fiscalía y en presencia de los mencionados ciudadanos quienes suscribieron las actas en las que se expresó no haber maltratados ni objeto de daños o perjuicios, ni vulnerado derecho fundamental.

650. Carlos Alberto Castaño Martínez: No se encontró solicitud por parte del señor Carlos Alberto Castaño Martínez con el fin de ser incluido en el precitado Programa de Protección. Se encuentra en trámite la asignación de la investigación de los hechos a cargo de una Fiscalía delegada.

651. Acción Genérica del Gobierno de Colombia en relación con las presuntas amenazas de vía Internet contra varias ONG: La Dirección Central de Policía Judicial ha realizado visitas a las sedes de diferentes organizaciones amenazadas para validar a la información recibida.

652. Corporación Colectivo José Alvear Restrepo (CCAJAR): Se adoptó la revisión de las medidas de protección existentes y el refuerzo de otras complementarias a favor de la misma. Se esta coordinando acciones con el fin de impulsar una investigación eficiente que permita esclarecer el origen de las amenazas, en conjunto con la Fiscalía General de la Nación. Algunas medidas actuales que existen a favor de los ONG son: dos identificadores de llamadas, blindaje de la sede, varios radios avénteles, un teléfono celular, dos blindajes de residencias, cinco esquemas duros de protección individual, así como varias medidas de protección a favor de algunos de sus miembros.

653. Consultoría para los Derechos Humanos y Desplazamiento (CODHES): Se ha realizado acciones preventivas con el fin de prevenir cualquier acción en contra de la integridad de estas organizaciones logró localizar un café de Internet desde cual habrían sido enviados los mensajes amenazantes. El Gobierno toma todas las acciones necesarias para dar garantías reales y efectivas para el manejo de correos electrónicos a través de un grupo de inteligencia informática, de la mejor capacidad en

Latinoamérica. El Ministerio del Interior y de Justicia informó de que desde 1999 se han realizado gestiones especiales para garantizar la seguridad de los integrantes de CODHES. En 2006 fueron otorgadas varias medidas protectivas.

654. MINGA: Se revisó las medidas protectivas con que cuenta MINGA desde hace varios años, con el fin de reforzarlas. La Policía Nacional viene adelantando acciones en conjunto con la Fiscalía General de la Nación, con el fin de establecer el origen de las amenazas y proceder a judicializar a los perpetradores los hechos delictivos.

655. COMPROMISO: La Policía Nacional ha realizado de manera permanente visitas y patrullajes por la sede de COMPROMISO, así como por los lugares de residencia de algunos de sus directivos, a los cuales se les ha realizado estudio técnico de seguridad, nivel de riesgo x grado de amenaza. LA DIJIN de la Policía Nacional se encuentra realizando las averiguaciones pertinentes para establecer el presunto autor de las amenazas. El Ministerio del Interior y de justicia informó que fueron otorgados varios medios de comunicación a favor de todos los directivos de la organización. Se realizó la revisión de seguridad de la sede, con el fin de reforzar las medidas que cuenta COMPROMISO actualmente.

656. ONIC: La Policía Nacional se encuentre realizando rondas preventivas y revistas permanente en la sede de ONIC de Bogota, para evitar cualquier situación que perjudique la seguridad de los integrantes de esta organización.

### **Respuesta del Gobierno**

657. El 26 de febrero de 2007 el Gobierno proporcionó información adicional en relación con el llamamiento urgente del 6 de octubre de 2006, en relación con las amenazas y actos de intimidación en contra de los señores **Luz Adriana González Correa, Walter Álvarez Ossa, Martha Sofía Castaño y Guillermo Castaño Arcila**, integrantes del Comité Permanente por la Defensa de los Derechos Humanos (CPDH) en varias partes a lo largo de Colombia.

658. El Gobierno hizo referencia a la información proporcionada en su carta del 9 de enero de 2007. Además, el Gobierno informó que para proteger a la vida del señor Castaño se realizaron los siguientes procedimientos: Entrevistas con el afectado con el objeto de realizar un estudio de riesgo y grado de amenazas, alianzas estratégicas de seguridad con otras autoridades de seguridad del Estado; planes permanentes de vigilancia y patrullaje en los sitios aledaños a la residencia y lugar de trabajo al afectado. De igual modo, en aquella oportunidad se solicitó a la víctima contactarse de inmediato con la Policía en el evento de recibir nuevas amenazas, con el fin de realizar las investigaciones tendientes a la individualización identificación y judicialización de los responsables.

### **Respuesta del Gobierno**

659. Mediante comunicación de 7 de febrero de 2007, el Gobierno de Colombia proporcionó información con respecto al llamamiento urgente enviado 20 octubre de 2006 en relación con el presunto homicidio del señor **Julián Andrés Hurtado Castillo**. El Gobierno informó de que tan pronto conoció que el señor Castillo había denunciado presuntas amenazas contra su vida, solicitó a la Fiscalía General de la

Nación la iniciación de las investigaciones y gestiones pertinentes para dar con el paradero de los responsables, y a la Policía nacional la adopción de medidas de prevención y seguridad. La Procuraduría de la Nación informó que debido a la muerte del señor Castillo, revisó las gestiones adelantadas por el Ministerio del Interior y de justicia, en punto a las medidas de seguridad adoptadas y solicitó al Procurador Delegado para la Vigilancia Administrativa, evaluar dichas gestiones para los efectos disciplinarios a que haya lugar. La Defensoría del Pueblo remitió el caso a la Oficina Regional del Departamento del Valle del Cauca, con el fin de que suministre la información que tenga sobre los hechos. La Fiscalía General de la Nación informó que la Dirección Seccional de Fiscalías de la ciudad de Cali adelanta investigación penal, por el homicidio del Señor Hurtado, la cual se encuentra en etapa previa, en práctica de pruebas tendientes al esclarecimiento de los hechos y a la identificación de los autores o partícipes del crimen.

### **Respuesta del Gobierno**

660. Mediante comunicación de 26 de febrero de 2007, el Gobierno proporcionó información con respecto al llamamiento enviado el 10 de noviembre de 2006 en relación con las amenazas de muerte en contra de varios miembros del Movimiento Nacional de Víctimas de Crímenes de estado, entre ellos **Arnold Gomez, Carmelo Agamez, Juan David Diaz, Adolfo Berbel, Roberto Serpa, Amauri Vidual y Jackeline Moguea**.

661. Se menciona que el 8 de noviembre de 2006 la CIDH otorgó medidas cautelares a favor de las personas mencionadas. Dichas medidas conllevaron: Reuniones de concertación de medidas de protección: con fecha 29 de noviembre del 2006 se realizó una reunión en la cual se asumieron compromisos tales como brindar sistemas de comunicación y seguridad para los miembros de dicho movimiento. Igualmente se adelantó una reunión el 12 de diciembre de 2006 en el municipio de San Onofre, con la concurrencia de varios miembros del movimiento, en la cual se discutieron temas relativos a los esquemas de seguridad, frecuencia de las reuniones de seguimiento, se establecieron canales de comunicación directas para casos necesarios y se dieron recomendaciones para el uso de celulares y auxilios extraordinarios de transporte aéreo.

662. Medidas de protección: El Departamento Administrativo de Seguridad (DAS) informó que las personas en mención tienen la posibilidad de ser aspirantes a conformar su esquema de seguridad luego del proceso de selección requerido y la posibilidad de cupos. También este mismo Departamento informó que el 27 de noviembre del 2006 ordenó la evaluación de riesgo de dichas personas. La Seccional de la Policía departamental de Sucre obtuvo datos de teléfonos y direcciones para los Estudios de Nivel de Riesgo de dichas personas con los siguientes resultados:

663. Juan David Díaz Chamorro: Coordinador de dicho Movimiento, con un nivel de riesgo extraordinario por lo cual cuenta con un esquema compuesto por dos policías fijos las 24 horas del día en su vivienda, dos escoltas del Departamento Administrativo de Seguridad, vehículo y celular del Ministerio del Interior y medidas de auto protección y seguridad a ser aplicadas en sus actividades diarias y la asignación de un vehículo a su disposición pendiente de la aceptación de los miembros de dicho movimiento.



664. Carmelo Agamez Berrio: Riesgo ordinario, revistas periódicas a su residencia, equipo celular para situaciones de emergencia. Jaqueline Moguera Berrio: Riesgo ordinario, revistas periódicas a su residencia, equipo celular para situaciones de emergencia. Adolfo Verbel Rocha: Riesgo ordinario, revistas periódicas a su residencia, equipo celular para situaciones de emergencia. Arnold Gomez Ayala: Riesgo ordinario, revistas periódicas a su residencia, equipo celular para situaciones de emergencia. Roberto Serpa Berrio: Riesgo ordinario, revistas periódicas a su residencia, equipo celular para situaciones de emergencia.

665. El 29 de diciembre del 2006 la Seccional de Policía realizó una revista de verificación a la aplicación de las medidas de seguridad en San Onofre con los siguientes resultados: Red de comunicación: funcionando en niveles 1 y 2. Las llamadas han sido atendidas de inmediato por el encargo en el primer nivel. Rondas periódicas de Seguridad: realizadas a solicitud de los beneficiarios alrededor de las cuadras de los sectores donde habitan y no directamente en sus residencias, adelantándose periódicamente desde el 20 de noviembre del 2006 a la fecha. Entradas y salidas del municipio: Patrullajes semanales conjuntos con la primera brigada de infantería marina y la policía comunitaria en actividades de acercamiento con la comunidad y peticioneros del Movimiento de Víctimas. Control Perimetral Pajonal: Acciones de control perimetral para seguridad colectiva del municipio y la finca El Palmar. Información sobre el contexto de la Comunicación: No se ha logrado determinar la existencia de la lista de exterminio en contra de dichas personas según el DAS.

666. Referente al rearme de grupos emergentes de autodefensas en Sucre, la Seccional informó que en San Onofre no se han presentado casos de este tipo. Solo acciones de neutralización contra una banda criminal con interés de narcotráfico y finanzas. Dicha Seccional informó de acciones adicionales de seguridad: Instalación de tres subestaciones de Policía en zona rural de San Onofre con 40 policías profesionales, dispositivos rurales con Escuadrón de Carabineros controlando las 24 horas los ejes viales. Instalación de una Red Investigativa para labores investigativas del caso en coordinación con la Fiscalía. Acción para tender la recuperación del orden público a través de la búsqueda, verificación e investigación para esclarecer las denuncias sin perjuicio de los dispositivos de seguridad implementados y los esquemas asignados a favor de las personas mencionadas. Respecto a la alianza entre autodefensas y líderes políticos locales, se han producido capturas de particulares y un funcionario público por delitos de concierto para delinquir, testaferrazo, falsedad en documento público y desplazamiento forzado, junto a otros funcionarios de San Onofre vinculados penalmente por este tipo de hechos delictivos.

### **Respuesta del Gobierno**

667. El 15 de noviembre de 2006 la representante Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, señaló a la atención urgente del Gobierno la información recibida en relación con las amenazas de muerte en contra de los Señores **Medardo Cuesta** y **Oswaldo Cuadrado**, integrantes de la junta directiva del Sindicato Nacional de Trabajadores de la Industria Agropecuaria (SINTRAINAGRO); así como de las muertes de los Señores Carlos Arciniegas Niño, miembro de SINTRAINAGRO, y Jesús Marino Mosquera, líder de

dicho sindicato y miembro de la Comisión Obrero Patronal en Urabá. SINTRAINAGRO promueve y protege los derechos de los trabajadores agropecuarios.

668. Mediante cartas fechadas el 26 de febrero de 2007, 2 de abril de 2007 y 24 de agosto de 2007 el Gobierno transmitió información en relación con el llamamiento urgente. El Gobierno informó de lo siguiente:

669. Medardo Cuesta y Oswaldo Cuadrado: El Ministerio del Interior y Justicia informó que estas personas cuentan con un esquema de seguridad colectivo, medios de comunicación y protección a cargo de la Policía Nacional. La Fiscalía de la Nación informó que cursa investigación penal previa por el delito de amenazas en el despacho del Fiscal 97 Seccional del municipio de Apartadó, quien se dispone a escuchar a los ofendidos en declaración, diligencia que no ha sido posible llevar a cabo, a pesar de que los referidos ciudadanos han sido citados en varias ocasiones. En relación con estos hechos no se ha constituido parte civil alguna dentro del proceso.

670. José Marino Mosquera: Desde el 17 de octubre de 2006 la investigación penal previa por el delito de homicidio en contra de imputados por determinar, la cual se encuentra en práctica de pruebas. En la actualidad ninguna persona se ha constituido en parte civil dentro de la investigación.

671. Carlos Arciniegas Niño: La Unidad Nacional de Derechos Humanos y Derecho Internacional Humanitario de la Fiscalía General de la Nación, con sede en Bucaramanga, Santander, adelanta investigación penal por el delito de homicidio en contra de la mencionada persona. La investigación se encuentra en etapa previa. El Fiscal de conocimiento del caso verifico que el Sr. Carlos Arciniegas Niño no pertenecía al SINTRAINAGRO al momento de su muerte. Trabajo hasta el 15 de noviembre de 2004 y su retiro laboral fue de carácter voluntario.

### **Respuesta del Gobierno**

672. Mediante cartas fechadas 22 de enero de 2007 y 2 de febrero de 2007 el Gobierno respondió a la carta de alegaciones de 23 de noviembre de 2006 en relación con la muerte del Señor **Juan Daniel Guerra Camargo**, líder comunitario y miembro del Comité de Integración Social del Catatumbo (CISCA). Según el Gobierno la Fiscalía Tercera Seccional del municipio de Ocaña informó que se encuentra adelantada una investigación penal por los hechos, la cual se encuentra en práctica de pruebas. El Comando de Policía de Norte de Santander remitió un informe al Programa Presidencial de Derechos Humanos de la Vicepresidencia de la República, iniciando que de acuerdo con las investigaciones adelantadas dichos homicidios fueron cometidos por el grupo armado ilegal FARC. Conforme a la información recibida hasta el momento todo indica que el homicidio del Señor Camargo fue cometido por miembros de las FARC. La Procuraduría General de la Nación informó que no cursa investigación disciplinaria alguna por estos hechos. Finalmente, el Programa de protección del Ministerio del Interior y de Justicia informó que en lo que respecta al Señor Camargo, el Ministerio no encontró registro ninguno, ni solicitud de protección a esta persona. El lo referente al señor José Trinidad Torres, el Comité de Reglamentación y Evaluación de Riesgos recomendó el 22 de julio de 2002 tres apoyos de reubicación temporal, pagaderos mes a mes, y un apoyo de trasteo a favor

de la persona en mención, el cual fue notificado por el medio de oficio del 12 de agosto del mismo año.

### **Respuesta del Gobierno**

673. Mediante comunicación de 2 de abril de 2007, el Gobierno de Colombia proporcionó información con respecto al llamamiento urgente enviado el 30 de noviembre de 2006 por parte de la representante especial sobre la información recibida en relación con supuestas actos de hostigamiento en contra de **Willington Cuero Solis, Astolfo Aramburo y Elizabeth García Carrillo**, miembros del Proceso de Comunidades Negras en Colombia (PCN).

674. Sobre este caso el Gobierno de Colombia responde que la Comisión Interamericana de Derechos Humanos otorgó medidas cautelares el 7 de marzo del 2003 a favor de siete miembros del PCN pero que las personas arriba citadas no son beneficiarias de las mismas. No obstante informa que el 31 de octubre del 2006 analizaron la situación de las personas mencionadas y el 3 de noviembre del 2006 el Ministerio del Interior asignó un celular a Elizabeth Carrillo y otra persona no referida en el llamado del Alto Comisionado. Así mismo se dio un medio de comunicación Avantel para Wahington Vladimir Anglo Cuero y Willington Cuero Solis, dos apoyos de reubicación para Willington Cuero Solis y dos apoyos de traslado a Washibgton Vladimir Angulo Cuero Y Willington Cuero Solis junto a otras dos personas no referidas. Agrega que la entrega de dicho equipo es para la comunicación oportuna en situaciones de emergencia. Los procesos de apoyo todavía no han sido utilizados.

675. En lo referente al caso de PCN se dio un apoyo de transporte terrestre durante cierto número de horas al mes, tiquetes aéreos nacionales mensuales, medios de comunicación y el blindaje de la sede. Respecto a los hechos de los cuales fuera víctima Washington Vladimir Angulo Cuero: se le ofreció acompañamiento, presencia y apoyo de transporte y se encuentra en curso la investigación penal. También se cursa investigación por los hechos en contra de la Sra. Elizabeth García Carrillo. Informa también que luego de revisar sus sistemas de información se determinó que no existe antecedentes del caso y que estará atento al desarrollo de las investigaciones e informará en su oportunidad de los resultados.

### **Observaciones**

676. La Representante Especial agradece las respuestas detalladas que el Gobierno de Colombia ha proporcionado y expresa su satisfacción por el hecho de que se hayan iniciado investigaciones en varios casos en cuestión. Expresa también su satisfacción por los procesos de protección que se han iniciado en varios casos.

677. Sin embargo, la Representante Especial insta al Gobierno que proporcione información adicional y resultados concretos de las investigaciones mencionadas en las respuestas enviadas, incluyendo las medidas que se hayan impuesto para sancionar a los responsables y para indemnizar a los familiares de las víctimas, refiriéndose especialmente a los casos del asesinato de la Sra. Yolanda Izquierdo y el Sr. Francisco Puerta. También, la Representante Especial urge al gobierno proporcionar una respuesta en los casos de asesinato de los Sres Leonidas Silva Castro y Jairo Giraldo Rey, la Sra. Mercedes Consuelo Restrepo Campo y el Sr. José Jesús Marín Vargas.

678. La Représentante Spécial reitère sa préoccupation par les violations contre le droit à la vie et l'intégrité physique (tant les assassinats que les menaces de mort, ainsi que les disparitions forcées) et les actes de harcèlement et d'intimidation contre les défenseurs des droits humains de Colombie. Elle est spécialement préoccupée par divers cas d'assassinat et de menaces de mort en contre de défenseurs des droits humains acaecidos récemment.

679. La Représentante Spécial exprime également sa grave préoccupation par des actes de hôte qui se sont déroulés depuis plusieurs années contre les membres de l'Organisation Fémelle Populaire (OFP), et elle remercierait de recevoir du Gouvernement une réponse sur les actions entreprises pour protéger les droits de la Sra. Yolanda Becerra Vega, Sra. Jackeline Rojas Castañeda et du Sr. Juan Carlos Galvis, ainsi que ceux des autres membres de l'OFP et de SINALTRAINAL, (voir l'appel urgent envoyé le 14 novembre 2007).

## Congo

### Appel urgent

680. Le 16 janvier 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a 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.

681. 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 Mounzé 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 Mounzé 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 à une communication envoyée avant le 2 décembre 2006

682. Le 29 janvier 2007, le Gouvernement a répondu à l'appel urgent du 13 avril 2006 envoyé par la Représentante spéciale au sujet de la situation de MM. **Christian Mounzeo** et **Brice Makosso**. 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 le 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**

683. La Représentante spéciale remercie le Gouvernement de sa réponse. Elle regrette néanmoins l'absence de réponse à ce jour à sa communication en date du 16 janvier 2007 et demande au Gouvernement de répondre aux craintes exprimées dans celle-ci.

## **Cuba**

### **Carta de alegaciones**

684. El 8 de diciembre de 2006 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con los actos de hostigamiento en contra de los Señores Miguel Valdés Tamayo, presidente de la asociación Hermanos Fraternalistas por la Dignidad y integrante de la Asamblea para Promover la Sociedad Civil en Cuba y Juan Carlos González Leiva, abogado y presidente de la Fundación Cubana de Derechos Humanos.

685. De acuerdo con la información recibida, el 27 de octubre de 2006, el Sr. Valdés Tamayo fue víctima de ataques verbales y físicos cuando una multitud se reunió frente a su casa situada en La Habana. Cuando el Sr. Valdés Tamayo habría intentado a salir de su casa, miembros de la multitud le habrían golpeado en la cabeza, el pecho y la espalda. Según los informes la mayor parte del grupo consistía en mujeres, presuntamente integrantes de las Brigadas de Respuesta Rápida, un grupo armado de voluntarios que lucha contra la delincuencia y la oposición política.

686. Por otra parte, el 2 de noviembre de 2006, el Sr. González Leiva, que es ciego, habría sido sujeto de un "acto de repudio" cuando una muchedumbre habría congregado afuera de su domicilio en Ciego de Ávila, en el centro de Cuba. Supuestamente el Sr. González Leiva ha sido víctima de varios de los denominados "actos de repudios" que son reuniones de partidarios del gobierno afuera de las casas de activistas u oponentes políticos, organizadas en muchos casos por las autoridades.

687. Además se señala que en enero de 2006, el Sr. González Leiva no podía salir de su casa durante cinco días debido a un "acto de repudio" y presuntamente los culpables le cortaron la electricidad, el agua y el teléfono y no permitieron a ninguno

de entrar en la casa y al mismo tiempo gritaban eslóganes progubernamentales y ponían música a gran volumen.

688. Según los informes, el Sr. González Leiva ha sido amenazado, acosado y detenido en el pasado, supuestamente debido a sus actividades en defensa de los derechos humanos. El 26 de abril de 2004 habría sido condenado a cuatro años de prisión en régimen de arresto domiciliario por causa de su participación en una protesta en contra del mal trato del periodista Jesús Álvarez Castillo presuntamente por la policía.

689. Igualmente, el 19 de marzo de 2006, el Sr. Valdés Tamayo habría sido condenado a 15 años de prisión por “actos contra la independencia o la integridad territorial del Estado”, sin embargo, el 9 de junio de 2006 habría sido puesto en libertad condicional por motivos de salud.

690. Se expresó preocupación de que los actos de hostigamiento en contra de los Sres. Miguel Valdés Tamayo y Juan Carlos González Leiva pudieran estar relacionados con sus actividades en defensa de los derechos humanos, en particular su participación en las organizaciones no gubernamentales que promuevan los derechos humanos en Cuba.

### **Llamamiento urgente**

691. El 1 de febrero de 2007, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, 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.

692. 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.

693. 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.

694. Se expresó profunda preocupación por la seguridad del Sr. Juan Carlos González Leiva. Se expresó temor de que los incidentes descritos pudieran estar relacionados con sus actividades en defensa de los derechos humanos en Cuba.

## Respuesta del Gobierno

695. Mediante comunicación del 28 de marzo de 2007, el Gobierno de Cuba remitió una respuesta con respecto al llamamiento urgente. 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.

696. 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 último 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.

## Llamamiento urgente

697. El 26 de junio de 2007, la Representante Especial, junto con el Relator Especial sobre la tortura y el Relator Especial sobre la independencia de magistrados y abogados señalaron a la atención urgente del Gobierno la información recibida en relación con la situación del Sr. **Francisco Chaviano Gonzalez**, ciudadano cubano de 50 años de edad quien está cumpliendo una sentencia en la prisión del Combinado del Este en La Habana, luego de haber sido condenado el 15 de abril de 1995 por “revelar secretos concernientes a la Seguridad del Estado”. El Sr. Chaviano González fue el fundador de la organización llamada Consejo Nacional por los Derechos Civiles en Cuba. De acuerdo a los informes recibidos:

698. El estado de salud del prisionero se ha agravado seriamente en los últimos días. Los reportes indican que sufre de un tumor en el pulmón de crecimiento alterado, de serios problemas de circulación sanguínea, hipertensión, cardiopatía isquémica, artrosis, y de graves problemas estomacales a raíz de una úlcera duodenal que padeció durante su primer año en la cárcel. Se alega que el prisionero no recibe la atención médica apropiada y que vive en condiciones insalubres, abusivas y negligentes que deterioran aún más su estado de salud. Los reportes sostienen que desde diciembre 2005, fecha en que le diagnosticaron el tumor pulmonar, no se le ha hecho una nueva tomografía para evaluar el crecimiento del mismo. Además, se alega que las condiciones de prisión durante estos 13 años de encarcelamiento ha tenido un fuerte impacto negativo sobre la salud física y mental del Sr. Chaviano González.

699. Por otra parte, se alega que desde su encarcelamiento, el 7 de mayo de 1994 y hasta ser juzgado por un tribunal militar en abril de 1995, el Sr. Chaviano González fue mantenido en detención incomunicada y sin tener acceso a un abogado.

700. Al momento de ser arrestado, el Sr. Chaviano González tenía a su cargo la compilación de información, conducción de entrevistas y documentación de casos de personas desaparecidas en Cuba para el Consejo Nacional por los Derechos Civiles en Cuba.

## **Respuesta del Gobierno**

701. Mediante carta fechada el 9 de julio de 2007, el Gobierno informó que el Sr. Francisco Chaviano disfrutaba de todas las garantías procesales establecidas en la Ley de procedimiento Penal. Según el Gobierno, el Sr. Chaviano fue declarado culpable de los delitos de revelación de secretos concernientes a la seguridad del Estado y falsificación de documentos. El Sr. Chaviano fue sancionado a 15 años de privación de la libertad. Su sanción extingue el 2 de mayo del 2009. El Gobierno informa que el estado de salud del Sr. Chaviano es perfectamente compatible con sus condiciones de internamiento. Se menciona que el Sr. Chaviano ha beneficiado de servicios de salud de calidad y ha sido atendido sistemáticamente y de modo gratuito por especialistas que cuentan con todos los medios técnicos y los medicamentos necesarios. Según el Gobierno, en febrero de 2007 el Sr. Chaviano recibió la atención de un médico especialista en medicina interna, quien confirmó mediante Rx de Tórax que se mantiene la imagen nodular calcificada diagnosticada con anterioridad, descartando cualquier posibilidad de tumoración asociada, sin otras alteraciones y con buen estado general. Se informa que en el presente año se le han realizado varias consultas médicas, en las que se le ha indicado el tratamiento médico adecuado dirigido a revertir la sintomatología respiratoria que presenta. e afirma que el Sr. Chaviano no ha sido objeto de castigo alguno. También se menciona que durante el año 2006 recibió visitas cada 21 días y que se le ha permitido visitar su residencia en el periodo de extinción de su sanción.

702. El Gobierno informa que desde noviembre del 2006 el Sr. Chaviano se encuentra cumpliendo su sanción en un centro de rehabilitación, en el que tiene la posibilidad de laborar en un huerto agrícola.

## **Seguimiento de comunicaciones transmitidas previamente**

703. El 1 de diciembre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con **Lazaro Evelio Gonzales Sufo**, miembro de la Asociación de los Derechos Humanos en Boyeros.

704. Mediante comunicación 28 de marzo de 2007 el Gobierno respondió al llamamiento urgente. El Gobierno informó de que las alegaciones de hostigamiento y totalmente infundados los temores de supuesto asesinato mencionados en la citada carta.

705. El ciudadano Lazaro Evelio Gonzalez Sufo no tenía vínculo con ninguna organización de promoción de los derechos humanos. Tampoco pertenecía a ningún grupo contrarrevolucionario. La organización Asociación de los Derechos Humanos en Boyeros no existe. A partir de las investigaciones realizadas, se pudo comprobar que Lazaro Evelio Gonzalez, alias "El loco", nació el 18 de enero del 1961 y era mecánico de profesión. Al momento de su muerte, se encontraba desocupado y residía en el municipio de Boyeros.

706. Durante la investigación después de encontrar su cuerpo sin vida el día 4 de julio de 2006 en el puente del ferrocarril de la desembocadura de la Presa del Parque Lenin, no se encontró indicio alguno de hecho criminal. Pareció suicidio por causa de las contradicciones con su esposa.



707. Sr. Camilo Cairo, mercenario en la nomina de la Sección de Intereses se Estados Unidos en La Habana, se ha pretendido fabricar un supuesto caso de asesinato, en el que se intenta involucrar a las autoridades cubanas. Nada más lejos de la realidad.

### **Observaciones**

708. La Representante Especial agradece al Gobierno de Cuba las respuestas proporcionadas y solicita información sobre las comunicaciones que siguen sin respuesta.

### **Democratic Republic of Congo**

#### **Appel urgent**

709. Le 26 octobre 2007, la Représentante spéciale, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a envoyé un appel urgent sur la situation de Mme **Justine Masika Vihamba**, défenseur des droits de l'homme et coordinatrice de l'organisation non-gouvernementale Synergie des Femmes contre les Violences Sexuelles, basée à Goma au Nord-Kivu. Selon les informations reçues:

710. Dans la soirée du 18 septembre 2007, six hommes armés en tenue militaire à la recherche de Mme Masika Vihamba se seraient rendus à son domicile, en vain. Ils auraient alors tenté de violer ses deux jeunes filles et leur auraient porté des coups ainsi qu'aux garçons qui habitent la maison. Les assaillants auraient menacé de mort avec leurs fusils tous les occupants de la maison.

711. Les forces de l'ordre auraient identifié les assaillants comme appartenant à la garde rapprochée d'un officier militaire résidant dans les environs de la résidence de Mme Masika Vihamba. Celle-ci aurait déposé une plainte à l'auditorat militaire de Goma.

712. Des craintes ont été exprimées que les menaces à l'encontre de Mme Masika Vihamba et sa famille seraient liées aux activités non-violentes de Mme Masika Vihamba en matière de promotion et protection des droits de l'homme. Des craintes ont été également exprimées quant à l'intégrité physique et morale de Mme Masika Vihamba et de sa famille.

#### **Appel urgent**

713. Le 29 octobre 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent 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 :

714. 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.

715. 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.

716. Des craintes ont été exprimées que les menaces proférées à l'encontre de M. Kitenge Senga seraient liées à ses activités non-violentes en matière de promotion des droits de l'homme en RDC.

### **Lettre d'allégations**

717. Le 2 novembre 2007, la Représentante spéciale a envoyé une lettre d'allégations sur la situation de M. **René Kabala Mushiya**, ancien Directeur de cabinet à l'Observatoire national des droits de l'homme et secrétaire général du Comité pour la démocratie et les droits de l'Homme, ainsi que les membres de sa famille. Selon les informations reçues :

718. Le 2 septembre 2007, M. Kabala Mushiya aurait été interpellé à son arrivée à l'aéroport de N'djili à Kinshasa par six agents de la Direction générale des migrations. Il aurait été interrogé sur les activités de droits de l'homme qu'il venait de mener au Royaume-Uni et sur les contacts qu'il avait eus lors de son séjour en Europe avec M. Paul Nsapu, secrétaire général de la Fédération internationale des droits de l'homme chargé de la zone Afrique, aujourd'hui en exil en Belgique. Lors de cet interrogatoire, M. Kabala Mushiya aurait été accusé d'avoir nuit à l'image du pays à l'étranger et d'avoir critiqué les institutions de la RDC.

719. Dans la nuit du 5 septembre 2007, trois agents en civil se seraient rendus au domicile de M. Kabala Mushiya dans le but de l'arrêter, en vain. Ils auraient alors proféré des menaces de mort à l'encontre des membres de sa famille. Depuis, des visites régulières seraient conduites par les agents au domicile de M. Kabala Mushiya, qui aurait de ce fait décidé d'entrer en clandestinité.

720. Des craintes ont été exprimées que les actes d'intimidation contre M. Kabala Mushiya et sa famille seraient liés à ses activités non-violentes de promotion et protection des droits de l'homme.

### **Lettre d'allégations**

721. Le 2 novembre 2007, la Représentante spéciale, conjointement avec le

722. Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations 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 :

723. 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.

724. 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".

725. 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.

726. 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 ».

727. Des craintes ont été exprimées que les menaces proférées contre MM. Mbaya Tshimanga et Tshivuadi seraient liées à leurs activités non-violentes de promotion des droits de l'homme et de protection des journalistes en RDC. Des craintes ont également été exprimées que ces événements s'inscriveraient dans un contexte de répression contre les défenseurs.

### **Lettre d'allégations**

728. Le 12 novembre 2007, la Représentante spéciale a envoyé une lettre d'allégations concernant les **membres de l'Association africaine de défense des droits de l'homme, section du Katanga (ASADHO/Katanga)**, organisation non-gouvernementale qui œuvre pour la promotion et protection des droits de l'homme en RDC. Selon les informations reçues :

729. Dans un communiqué de presse en date du 18 septembre 2007, l'ASADHO/Katanga aurait dénoncé les abus allégués de pouvoir du Ministre des affaires humanitaires de la RDC dans l'affaire qui l'oppose à M. Mpulu, condamné le 15 avril 2007 par le tribunal de paix de Kamalondo suite à une plainte déposée par celui-ci pour « spoliation de Maison d'Etat », et incarcéré à la prison centrale de Kasapa à Lumbashi.

730. Le 20 septembre 2007, un tract intitulé « L'ASADHO/Katanga induite en erreur par Cituka Mpulu » et signé par le « Cabinet » dans lequel l'ASADHO/Katanga

aurait été accusée de partialité, aurait été publié à Lubumbashi, ainsi que sur le site de Solidarité katangaise, organisation présidée par le Ministre des affaires humanitaires.

731. Le 21 septembre 2007, une lettre de menace aurait été adressée à l'ASADHO/Katanga par le directeur de cabinet du Ministre des affaires humanitaires. Cette lettre aurait fait notamment état de la détermination du Ministre « d'aller jusqu'au bout avec tous les délinquants qui doivent répondre de leurs faits car l'honneur et la dignité de sa personne doivent être respectés ».

732. Le 5 octobre 2007, des membres de Solidarité katangaise, certains armés de bâtons, se seraient rendus devant le siège de l'ASADHO/Katanga en proférant des menaces.

733. Des craintes ont été exprimées que les actes d'intimidation contre les membres de l'ASADHO/Katanga seraient liés à leurs activités non-violentes de promotion et protection des droits de l'homme.

### **Observations**

734. La Représentante spéciale regrette l'absence, au moment de la finalisation du présent rapport, de réponse à toutes ses communications envoyées en 2007 ainsi que celles en date du 28 novembre 2006, 20 novembre 2006, 4 octobre 2006, 16 juin 2006, 9 mai 2006, et 18 avril 2006. Elle presse le Gouvernement de coopérer avec le mandat en apportant des réponses détaillées aux communications susmentionnées.

## **Djibouti**

### **Appel urgent**

735. Le 14 mars 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a 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 :

736. 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.

737. Le 10 mars, M. Abdi aurait été emmené à la prison de Gabode sur décision du Ministère public.

738. 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.

739. Des préoccupations ont été exprimées que l'arrestation et la détention de M. Abdi ainsi que l'enquête diligentée à son encontre seraient liées à ses activités de défense des droits de l'homme et ne viseraient à empêcher celui-ci de se rendre à Ouagadougou (Burkina Faso) afin de participer les 14 et 15 mars 2007 à la conférence régionale de presse organisée par l'Observatoire pour la protection des défenseurs des droits de l'homme à l'occasion de la sortie de son rapport annuel 2006, et au congrès de l'Union interafricaine des droits de l'Homme.

### **Réponse du Gouvernement**

740. Le 23 mars 2007, le Gouvernement a répondu à l'appel urgent, en informant 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/92/2<sup>ème</sup>L/ du 15 septembre 1992 sont suffisamment clairs et explicites.

### **Observations**

741. La Représentante spéciale remercie le Gouvernement de sa réponse. Toutefois, celle-ci ne dissipe pas entièrement ses inquiétudes quant à la situation de M. Abdi et rappelle au Gouvernement que l'Article 6 alinéas b) et c) dispose que chacun a le droit, individuellement ou en association avec d'autres, conformément aux instruments internationaux relatifs aux droits de l'homme et autres instruments internationaux applicables, de publier, communiquer à autrui ou diffuser librement des idées, informations et connaissances sur tous les droits de l'homme et toutes les libertés fondamentales; d'étudier, discuter, apprécier et évaluer le respect, tant en droit qu'en pratique, de tous les droits de l'homme et de toutes les libertés fondamentales et, par ces moyens et autres moyens appropriés, d'appeler l'attention du public sur la question.

## **Dominican Republic**

### **Carta de alegaciones**

742. El 5 de Marzo de 2007 la Representante Especial, señaló a la atención urgente de su Gobierno la información recibida en relación con la Sra. **Sonia Pierre**,

defensora de derechos humanos y ganadora del Premio a los Derechos Humanos JFK en el 2006. La Sra. Pierre es fundadora y directora del Movimiento de Mujeres Domínico-Haitianas, MUDHA, una organización que trabaja en favor de las personas de ascendencia haitiana en la República Dominicana.

743. De acuerdo con la información recibida, el 30 de marzo de 2007, el Gobierno de la República Dominicana habría amenazado con despojar de la ciudadanía a la Sra. Pierre y a la de sus hijos. Una investigación realizada por la Junta Central Electoral (JCE) y organismos de inteligencia del país, habría solicitado la nulidad del acta de nacimiento de Sra. Pierre.

744. En 2005, Sra. Pierre llevó al Estado a la Corte Interamericana de los Derechos Humanos, en Costa Rica, por la retención de actas de nacimiento a hijos de inmigrantes nacidos en la República Dominicana. La Corte ordeno a la Republica Dominicana con sentencia vinculante de reformar su sistema de registro civil para garantizar el derecho a la nacionalidad dominicana a los niños con ascendencia haitana nacidos en territorio dominicano.

745. Se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Sra. Pierre, en particular su trabajo en favor de las personas de ascendencia haitiana en la República Dominicana. Además se expresa preocupación por la seguridad de la Sra. Pierre y de su familia.

### **Observaciones**

746. La Representante Especial lamenta no haber recibido respuesta a su comunicación de 5 de marzo de 2007 en el momento de finalización del presente informe e insta al Gobierno a que proporcione una respuesta a las alegaciones resumidas.

## **Ecuador**

### **Llamamiento urgente**

747. El 17 de Septiembre de 2007 la Representante Especial, junto con Relatora Especial sobre la violencia contra la mujer y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas señalaron a la atención urgente de su Gobierno la información recibida en relación con el supuesto ataque sufrido por la Sras. **Gloria Ushigua** y **Rosa Gualinga**. La Sra. Gloria Ushigua es una lideresa del pueblo indígena zapara e integrante de la organización Nacionalidad Zapara de la Amazonia Ecuatoriana (NAZAE), que se dedica a la protección de los derechos humanos y los recursos naturales de las comunidades zapara. La Sra. Gualinga es lideresa de las comunidades indígenas andoas, que trabajan conjuntamente con las comunidades zaparas en la defensa de sus derechos humanos y sus territorios tradicionales.

748. Según la información recibida, el 26 de agosto de 2007, en la ciudad de Puyo, en el transcurso de los Juegos Indígenas, la Sra. Eliza Nango se acercó a la Sra. Gloria Ushigua en la calle, invitándola a ella y a la Sra. Rosa Gualinga a su casa para hablar sobre la posibilidad de colaboración en su trabajo con las comunidades indígenas.

749. Aproximadamente a las 9.00 pm del mismo día, estando reunidas las Sras. Ushigua y Gualinga en el patio de la casa de la Sra. Nango, en la calle Santo Domingo, un hombre habría entrado y les habría atacado con gas lacrimógeno. En ese momento, otros tres hombres habrían entrado en el patio y habrían golpeado a ambas con los puños, con los pies y con porras. La Sra. Ushigua habría sido también golpeada en la cabeza con una piedra. Posteriormente, los asaltantes habrían encerrado a las Sras. Ushigua y Gualinga en el maletero de un auto y las habrían abandonado en la carretera durante la madrugada. Las dos mujeres habrían sido supuestamente violadas durante su secuestro.

750. Dos de los asaltantes habrían sido identificados por las víctimas como los Sres. Nelson Santander Viteri y Juan Carlos Freire, quien es miembro de la policía.

751. Se alega que las Sras. Ushigua y Gualinga habrían tratado de denunciar el incidente a la policía en Puyo, pero que su denuncia habría sido ignorada. Se alega asimismo que no habrían recibido un tratamiento médico adecuado en relación con las graves secuelas físicas del ataque.

752. Según las informaciones, las Sras. Ushigua y Gualinga habrían recibido amenazas de muerte en los últimos meses después de que NAZAE iniciara acciones legales para la defensa de sus comunidades frente a intereses comerciales.

753. Se teme que el ataque en contra de la Sras. Gloria Ushigua y Rosa Gualinga pueda estar relacionado con sus actividades en la defensa de los derechos humanos, y en particular de los derechos de las comunidades indígenas. Se expresa profunda preocupación por su integridad física y psicológica, así como la de otros miembros de la NAZAE.

### **Llamamiento urgente**

754. El 14 Noviembre de 2007 la Representante Especial, junto con El Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos señalaron a la atención urgente de su Gobierno la información recibida en relación con sobre la supuesta ejecución sumaria del Sr. Segundo Francisco Loor Intriago y supuestos malos tratos inflingidos al Sr. Juan Carlos Esmeraldas Alcívar, en hechos ocurridos en las instalaciones de la empresa Petrobell en la Parroquia de Tigüino.

755. De acuerdo con las informaciones recibido, desde 2002, la compañía Petrobell lleva a cabo actividades de explotación petrolífera gracias a una concesión otorgada por el Gobierno, en el área conocida como Campo Marginal Tigüino, en el sur de la provincia de Orellana, en la Amazonía ecuatoriana.

756. El día 28 de septiembre de 2007 se habría producido una fuga en la plataforma Tigüino 3, conduciendo al derrame accidental de grandes cantidades de petróleo y

agua de formación en el río Cristal. Más de 40 fincas pertenecientes a las comunidades indígenas de Cristalino, Loma del Tigre y Tigüino se vieron afectadas por la contaminación ambiental. Además, dichas comunidades se vieron privadas del acceso al agua de la que dependen para su subsistencia y de la de su ganado. Desde entonces, las comunidades afectadas habrían presentado una serie de denuncias ante la Dirección Nacional de Protección Ambiental y ante las autoridades locales.

757. El 2 de octubre, ante la supuesta negativa por parte de la empresa de proceder a la reparación del daño causado al medioambiente de las comunidades arriba mencionadas, éstas habrían decidido bloquear la carretera de ingreso a la plataforma Tigüino 3 como forma de protesta pacífica, impidiendo el ingreso de un taladro de perforación petrolera a la plataforma, e interrumpiendo así las actividades de extracción.

758. El día 4 de octubre, aproximadamente a las 12.00 del mediodía, el Ejército habría procedido al levantamiento forzoso del bloqueo, con el uso de gas lacrimógeno y disparos al aire, generando el enfrentamiento entre los comuneros y las fuerzas del orden. Según las informaciones, en dicho operativo habrían actuado también guardas privados contratados por la compañía Petrobell, al mando del general retirado del Ejército Sr. Fausto Bravo.

759. En el curso del operativo, a las 14.30, el Sr. Segundo Francisco Loor Intriago, de 37 años de edad, originario de Quinindé (Esmeraldas) habría fallecido instantáneamente como resultado de un disparo de arma de fuego en el abdomen. Se alega que la bala que costó la vida del Sr. Loor era de la cartuchera repetidora mosbert, calibre doce, usado normalmente por el Ejército ecuatoriano. El cuerpo sin vida del Sr. Loor habría sido trasladado posteriormente en helicóptero hasta la morgue del cementerio de la ciudad de Coca. Las autoridades habrían presentado ante la Fiscalía de Coca una denuncia formal por su muerte.

760. Asimismo, durante el operativo de retirada de los manifestantes, el Sr. Juan Carlos Esmeraldas Alcívar, de 29 años de edad, habría sido detenido por el Ejército, bajo la acusación de haber disparado una pistola de 9 mm, siendo trasladado posteriormente a la Comisaría de Policía de Orellana. Según las alegaciones, durante su detención el Sr. Esmeraldas fue objeto de malos tratos por parte de miembros del Ejército y de guardias privados de la compañía Petrobell. Según las informaciones, el Sr. Esmeraldas habría sido puesto en libertad luego que la autoridad municipal, la alcaldesa de Orellana, otorgara un hábeas corpus a su favor.

761. Se alega que la muerte de Sr. Loor Intriago y los supuestos malos tratos inflingidos al Sr. Esmeraldas Alcívar son el resultado de un uso excesivo de la fuerza por parte de las Fuerzas Armadas en contra de civiles no armados. Se alega asimismo que los hechos que tuvieron lugar en las instalaciones de la compañía Petrobell forman parte de una dinámica más amplia de intervención del Ejército en casos de conflicto ambiental entre empresas petroleras transnacionales y comunidades indígenas o locales afectadas por la explotación petrolera, dando lugar a serias acusaciones de agresión física, malos tratos y tortura por parte de miembros del Ejército y de miembros de las compañías de seguridad empleadas por las empresas petroleras. A este respecto, los Relatores Especiales y la Representante Especial del Secretario-General se refieren a las comunicaciones enviadas al Gobierno de Su



Excelencia con fechas de 19 de junio de 2006 (ECU 3/2006) y de 10 de noviembre de 2006 (ref. ECU 10/2006), relativas a supuestas violaciones de los derechos humanos o amenazas contra las comunidades indígenas afectadas por las industrias extractivas en sus territorios tradicionales o contra sus organizaciones de apoyo.

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

762. Mediante comunicación 5 de abril de 2007 el Gobierno respondió a un llamamiento urgente enviado 28 de junio de 2006. El Gobierno informa que la comunicación de 28 de junio 2006, señalada en el párrafo 206 del informe del período anterior, nunca fue recibida por la Misión Permanente.

763. 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.

764. El día 19 de junio del 2006, mientras el Estado de Emergencia se encontraba vigente, el Sr. Jiménez Salazar participó 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.

765. Durante el proceso se observó estrictamente la suspensión de garantías que contempla la propia Convención Americana de Derechos Humanos, Artículo 27. El Sr. Jiménez Salazar fue trasladado de 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.

766. El 7 de julio se comunicó oficialmente de la liberación del Sr. Jiménez Salazar por parte de las autoridades militares.

767. 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**

768. La Representante Especial lamenta que en el momento de finalizar este informe, el Gobierno no le haya remitido información en respuesta a las comunicaciones de 17 de Septiembre de 2007 y del 14 Noviembre de 2007. Insta al gobierno a que adopte todas las medidas necesarias para proteger los derechos y las libertades de las personas mencionadas en estos casos e investigar, procesar e imponer las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas.

769. La Representante señala el artículo 12, párrafos 2 y 3, de la Declaración de los defensores de los derechos humanos, que estipula que el Estado garantizará la protección, por las autoridades competentes, de toda persona, individual o colectivamente, frente a toda violencia, amenaza, represalia, discriminación, negativa de hecho o de derecho, presión o cualquier otra acción arbitraria resultante del ejercicio legítimo de los derechos mencionados en la presente Declaración. A este respecto, toda persona tiene derecho, individual o colectivamente, a una protección eficaz de las leyes nacionales al reaccionar u oponerse, por medios pacíficos, a actividades y actos, con inclusión de las omisiones, imputables a los Estados que causen violaciones de los derechos humanos y las libertades fundamentales, así como a actos de violencia perpetrados por grupos o particulares que afecten el disfrute de los derechos humanos y las libertades fundamentales.

## Egypt

### Letter of allegations

770. On 30 April 2007 the Special Representative sent a letter of allegations concerning the **Centre for Trade Union and Worker Services (CTUWS)**, an independent civil society organization which supports the establishment of an independent labour movement and assists vulnerable groups. The CTUWS is also a member of the National Civil Society Alliance to Monitor the Elections.

771. According to information received, on 22 April 2007, the CTUWS headquarters in Helwan, Cairo, was visited by police officers who ordered the closure of the office. The decision for such action was based on an administrative decree issued by the Ministry of Social Affairs. Previously, on 10 April 2007, the CTUWS city branch in Mahalla was closed by order of the Governor of El-Gharbiya. On 29 March 2007, Administrative Decision No. 44, was issued by General Al-Sherbeeney Hasheesh, Chairman of the City of Naj Hamadi, Southern Egypt, to shut down the CTUWS branch of the city.

772. According to reports, the authorities have accused the Naj-Hamedi branch of CTUWS of inciting workers to strike and organizing demonstrations which took place in December 2006 and January 2007. In recent months, the Egyptian Trade Union Federation (ETUF) has reportedly been targeting the CTUWS in a campaign to discredit the organization by claiming that it is responsible for provoking workers' strikes.

773. The CTUWS monitored the results of the constitutional referendum which took place on 26 March 2007. An independent report was issued by the organization on the results of the referendum, including the alleged infringements and the interventions that occurred during the course of the referendum.

774. Concern was expressed that the afore-mentioned events might be directly related to the work of the CTUWS in its legitimate defence of human rights in Egypt, in particular labour rights. Further concern was also expressed at reports that the action against CTUWS might be related to its role in monitoring the constitutional referendum in March 2007.

## Response from the Government

775. In letter dated 3 of July 2007, the Egyptian Government responded to the above mentioned letter of allegations. The Government informed that the Centre for Trade Union and Worker Services is a civil undertaking founded in 1990 and restructured in 1993. The statutes of the undertaking were registered with the land registration office on 21 March 1995. The Centre carries out studies, provides legal assistance, promotes and protects workers' rights and raises legal, trade union and social awareness. Article 4 of Act No. 84 of 2002, regulating civil society associations, lays down the criteria for the establishment of associations and institutions in accordance with the Act. In 2003, representatives of the Centre applied to the Department of Social Solidarity in Cairo to register the Centre as a civil society institution. Apparently, the application was rejected, because the object of the institution included trade-union activities, which is contrary to Act No. 74 of 2002.

776. On 8 February 2007, a committee from the Ministry of Social Solidarity visited the headquarters of the Centre in Helwan in order to verify its legal status, in light of allegations of incitement of workers which had been made against the Centre. The committee recommended that the Centre's status be regularized in accordance with the law. A meeting was held in April last with a number of the Centre's representatives and agreement was reached on regularizing the Centre's legal status by eliminating the contested activities. In furtherance of that agreement, the Centre's legal representative submitted registration papers on 29 April 2007. The registration procedures are moving forward on the basis of the agreement reached at the aforementioned meeting. The above-mentioned Egyptian Act provides the legal framework for the activities of civil society organizations, catering for all areas relating to the protection of workers' rights, the development of legal and trade-union awareness and the protection of human rights defenders. The following are the activities of the Centre on which agreement was reached:

- (a) Raising awareness of constitutional and legal rights;
- (b) Conducting studies and research into economic rights and translating materials about these rights;
- (c) Promoting and advocating economic and social rights and improving social awareness;
- (d) Organizing training seminars to develop awareness and skills in the areas of economic and social rights;
- (e) Producing publications, printed matter and leaflets drawing attention to constitutional rights and to international treaties and norms relating to economic and social rights;
- (f) Following up on, and disseminating information about, international activities relating to economic, social and workers' rights.

## Letter of allegations

777. On 8 November 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations concerning 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.

778. According to information received, on 11 October 2007, Mr Kamal Abbas and Mr Mohamed 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

779. Concern was expressed that the aforementioned sentence imposed upon Mr Kamal Abbas and Mr Mohamed Helmy may be related to their non-violent human rights activities, in particular their work in the defence of workers' rights in Egypt.

### **Letter of allegations**

780. On 19 September 2007, the Special Representative sent a letter of allegations concerning the **Association for Human Rights and Legal Aid (AHRLA)** in Cairo. The AHRLA is a non-Governmental organisation dedicated to the provision of legal assistance to victims of human rights violations in Egypt.

781. According to information received, on 7 September 2007, a decree was issued by the Egyptian Government calling for the closure of the offices of the AHLRA in Cairo. This decree was allegedly issued as a result of suspicions that the AHLRA was receiving foreign funding without state authorisation. The AHRLA has denied these allegations however, affirming that they have consistently requested approval from the authorities concerning financial contributions from international sources.

782. Concern was expressed that the decree calling for the closure of the offices of AHLRA in Cairo may be directly related to the association's peaceful work in the defence of human rights, in particular its provision of legal assistance to the victims of human rights violations in Egypt.

### **Urgent appeal**

783. On 11 October 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding 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.

784. 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.

785. 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.

786. 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.

### **Observations**

787. The Special Representative thanks the Government of Egypt for its reply of 3 July 2007. She regrets, however, that the Government has not replied to the three other communications sent. She remains concerned by the alleged restrictions of freedom of association affecting human rights defenders, and she wishes to remind the Government of Article 5 of the Declaration of Human rights defenders, which provides that "For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully; (b) To form, join and participate in non-Governmental organizations, associations or groups; (c) To communicate with non-Governmental or interGovernmental organizations."

### **El Salvador**

#### **Llamamiento urgente**

788. El 17 de Julio de 2007 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, 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.

789. 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.

790. Se expresaron temor de que dichas detenciones puedan estar relacionadas con las actividades de la Sra. María Haydee Chicas en defensa de los derechos humanos, en particular, con su trabajo de documentación sobre el supuesto uso excesivo de la fuerza empleado durante la protesta.

### **Respuesta del Gobierno**

791. Mediante comunicación de 17 de agosto de 2007, el Gobierno de El Salvador proporcionó información con respecto al llamamiento enviado el 12 de enero de 2007. El Gobierno informa que en ninguna manera puede catalogarse que fue una “protesta pacífica”, realizada por “campesinos”, ya que se trataba de grupos organizados, algunos pertenecientes al Sindicato Empresa de Trabajadores de ANDA-SETA otros a organizaciones no gubernamentales, entre ellas CRIPDES, a la que pertenece la señora María Haydee Chicas, y personas vinculadas al partido FMLN, quienes relaizaron dicha actividad policitca en forma organizada y emplearon métodos violentas para protestar en contra de la actividad publica que realizara el Presidente.

792. El Gobierno 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.

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

793. Mediante carta con fecha de 4 de junio de 2007, la Misión Permanente de El Salvador en Ginbra respondió a un llamamiento urgente emitido por la Representante el 14 de junio de 2006 en relación con el Sr David Ernesto Morales Rivera, Secretario de Prensa y Propaganda de la Confederación Sindical de Trabajadores Salvadoreños (CSTS), y otros miembros de la CSTS y supuestos malos tratos sufridos por éstos a manos de agentes policiales.El gobierno respondió que las alegaciones de malos tratos no eran ciertas, y que el registro que se efectuó en las oficinas de la CSTS no era ni ilegal ni arbitrario.

794. El registro estuvo autorizado con una Orden de Registro de Allanamiento por el Juzgado 8° de Paz. El allanamiento y posterior detención del Sr Morales Rivera estaban relacionados con disturbios callejeros ocurridos el 5 de julio de 2006, en los cuales resultaron heridos dos agentes de la Policía Nacional, Rogelio Antonio Meléndex Castillo y José Joel Argueta Campos y murieron otros dos, Miguel Angel Argueta Rubi y José Pedro Misael Rivas Navarrete, por disparos de una arma, en particular por un Sr Ramón Belloso, quien se encuentra a la fuga.

795. El 5 de julio la Policia recibió información que en la citada oficina, se encontraban objetos relacionaods con los incidentes del 5 de julio, a consecuencia de que, se pidió el orden de registro y al día siguiente, se efectuó el allanamiento. El Sr

Morales Rivera trató de darse a la fuga pero se le identificó, y en un armario del cuarto en que se encontraba, se halló una arma de fuego con cargador y cartuchos. Se le detuvo al Sr Morales Rivera por Tenencia, Portación y Conducción Ilegal o Irresponsable de Armas de Fuego, previsto en el Art. 346-B de Código Penal.

796. El Sr Morales Rivera presentó queja ante la Fiscalía General de la República el 6 de julio de 2006 en contra de los agentes policiales por el delito de Actos Arbitrarios en perjuicio de la Administración Pública y la CSTD. Se había concluido que no existió arbitrariedad policial en los hechos citados. Los fundamentos jurídicos para la detención del Sr Morales Rivera están establecidos en los Artículos 1, 6, 17, 18 y 346-B del Código Penal de El Salvador.

797. Se reiteró que la detención de Sr Morales Rivera no estaba vinculada ni tenía motivaciones en que hacer sindical. Asimismo la detención no llevó a cabo a fin de restringir la libertad de opinión ni de expresión consagradas en la Constitución de la República y en los distintos instrumentos internacionales de Derechos Humanos. La detención tenía su fundamento jurídico en un ilícito común tipificado como tal en el Código Penal al que debía responder el Sr Morales Rivera como cualquier persona.

### **Observaciones**

798. La Representante Especial agradece al Gobierno por las respuestas a sus comunicaciones del 17 de agosto de 2007 y 14 de junio de 2006, sin embargo quiere recordar al Gobierno el Artículo 5 de la Declaración sobre los defensores de los derechos humanos que señala que “A fin de promover y proteger los derechos humanos y las libertades fundamentales, toda persona tiene derecho, individual o colectivamente, en el plano nacional e internacional: a) A reunirse o manifestarse pacíficamente; b) A formar organizaciones, asociaciones o grupos no gubernamentales, y a afiliarse a ellos o a participar en ellos; c) A comunicarse con las organizaciones no gubernamentales e intergubernamentales.

799. En este respecto se refiere también a los informes anuales de la Representante Especial a la Asamblea General, A/61/312 y A/62/225 en los cuales se examinan el derecho de los defensores de los derechos humanos a la libertad de reunión.

## **Ethiopia**

### **Urgent appeal**

800. On 9 January 2007 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning 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 Rapporteur on the independence of judges and lawyer sent an urgent appeal 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.

801. 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.

802. 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.

803. In view of their incommunicado detention, concern was expressed as to the physical integrity of Messrs Tilahun Ayalew, Anteneh Getnet, and Meqcha Mengistu. Further concern was expressed that their arrest and detention of may be related to their legitimate activities in defence of human rights, in particular the promotion of labour rights of teachers.

### **Response from the Government**

804. By letter dated 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**

805. On 5 July 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning 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.

806. 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".

807. 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.

808. Serious concern was expressed that the conviction of the aforementioned persons might be related to their activities in defence of human rights.

### **Urgent appeal**

809. On 6 July 2007, the Special Representative sent an urgent appeal concerning Mr **Daniel Bekele**, Head of the Policy Research and Advocacy Department for Action Aid International in Ethiopia, and Mr **Netsanet Demissie**, human rights and environmental lawyer based in Addis Ababa. 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.

810. 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; 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. I/we regret that the last communication is left unanswered as of today.

811. According to new information received, on 12 July 2007, Mr Bekele and Mr Demissie will begin their defence to try to secure their acquittal. Serious concern was reiterated that Mr Bekele and Mr Demissie may not get a fair trial because of their legitimate and peaceful activities in defence of human rights.

### **Urgent appeal**

812. On 20 November 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning 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.

813. 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. We regret that the last two communications are left unanswered as of today.

814. 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.

815. 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.

816. 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.

817. Serious concern was reiterated that Mr Bekele and Mr Demissie might not enjoy a fair trial because of their legitimate and peaceful activities in defence of human rights and because of their refusal to sign a statement admitting that their activities had been unconstitutional.

## **Observations**

818. The Special Representative thanks the Government for its reply of 24 January 2007. The Special Representative remains concerned about the case of Mr Daniel Bekele and Mr Netsanet Demissie, subjects to several communications by her. She received further information indicating that on 26 December 2007, Mr Daniel Bekele

and Mr Netsanet Demissie were sentenced to two and a half years' imprisonment each - which is expected to be completed at the beginning of May 2008. Because they have already spent more than two thirds of their sentence in prison, they have reportedly applied for a release on parole. The Special Representative urges the Government to apprise her on the fate of such application.

## Fiji

### Urgent appeal

819. On 25 January 2007, the Special Representative, together with the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning **Ms Imrana Jalal** and **Ms Virisilia Baudromoa**. Ms Jalal is an international lawyer and Human Rights Advisor for the United Nations Development Programme (UNDP) / Regional Rights Resource Team (RRRT) in Fiji. She is also a former Commissioner of the Fiji Human Rights Commission and Commissioner of the Geneva-based International Commission of Jurists. She is a Board member of the Geneva-based International Council of Human Rights Policy and the Fiji Women's Rights Movement (FWRM). Ms Baudromoa is the Executive Director of FWRM. She was one of six pro-democracy activists who were arrested by the military on the night of 24 December 2006.

820. According to information received, on 15 December 2006, Commodore Voreqe Bainmarama, reportedly issued a warning against Ms Jalal and Ms Virisilia Baudromoa, to 'stop saying things that could incite civil unrest', and further implied that if they did not heed his warning the military would take action against them.

821. Furthermore, on 14 December 2006, Ms Jalal's husband, Mr Ratu Sakiusa Tuisolia, was informed that his contract as Chief Executive Officer (CEO) of Air Fiji Limited (AFL) would be terminated as of 31 December 2006, under a Directive issued by Commodore Bainmarama. In the same Directive, Commodore Bainmarama announced that Ms Jalal was to be removed from the Board of Post Fiji (PSL). Ms Jalal refused to accept the legitimacy of her termination as Board member of PFL, and responded on 20 December 2006, by conveying her apologies to the Chief Executive for not attending board meetings, as she would be out of the country. However, on 11 January 2007, Ms Jalal was informed through the FWRM that a travel ban had been issued against her and Ms Baudromoa, preventing both women from leaving Fiji.

822. On 4 December 2006, whilst participating in the annual National Judicial Conference, Ms Jalal reportedly received a call to her mobile phone during which the caller warned her to be careful and threatened to rape her. According to reports the call was traced to a phone booth outside the military barracks in Nabua, Suva. It is believed that the call was in response to a report published by Ms Jalal in the Fiji Times on 30 November 2006, which criticized the military coup in the country.

823. Concerns were expressed that the series of acts of intimidation and harassment including the dismissal of Ms Imrana Jalal's husband, as outlined above, form part of an ongoing campaign against human rights defenders in Fiji, and in particular Ms Imrana Jalal, Ms Virisilia Baudromoa and members of the FWRM, the Fiji Women's Crisis Centre (FWCC) and the Pacific Centre for Public Integrity (PCPI). Serious

concerns were expressed that the afore-mentioned events, in particular the threat of sexual violence may be the latest attempts to silence women human rights defenders because of their legitimate activities in monitoring the human rights situation in Fiji.

### **Urgent appeal**

824. On the 29 January 2007 the Special Representative, together with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, sent an urgent appeal to the Government 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". According to information received:

825. 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.

826. 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.

827. 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).

828. Previously on 9 December 2006, a group of armed men broke into the pro-democracy shrine, tearing down banners and damaging the property.

829. 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.

830. Concerns were expressed that the series of acts of intimidation and harassment, as outlined above, form part of a growing campaign against human rights defenders in Fiji. Serious concerns were expressed that the afore-mentioned events may be the latest attempt to silence Ms Digitaki because of her human rights activities, in particular her pro-democracy stance and defending the right to freedom of expression in Fiji.

### **Urgent appeal**

831. On 29 January 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning 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.

832. 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.

833. 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.

834. Concerns were expressed that acts of intimidation and harassment, as outlined above, form part of a campaign against human rights defenders in Fiji including Ms Heffernan. Further concerns were expressed that the afore-mentioned events and in particular threats of sexual violence, may be the latest attempt to silence women

human rights defenders because of their legitimate activities in monitoring the human rights situation in Fiji.

### **Observations**

835. The Special Representative regrets that the Government of Fiji did not respond to any of her communications. She urges the Government to provide her with detailed responses on investigations undertaken on these cases and the measures taken to bring the perpetrators to justice.

## **Finland**

### **Urgent appeal**

836. On 23 October 2007 the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people sent an urgent appeal to the Government concerning Mr. **Kalevi**, Mr. **Eero** and Mr. **Veijo Paadar**, traditional Saami indigenous herders (collectively organized in a Saami cooperative known as the “Nellim Group”).

837. According to information received, since 2005, the Nellim Group has been vocal in opposing the logging activities by the State-owned forestry company Metsähallitus in the forests traditionally used by Saami reindeer-herders in Lappi district. The case has been the subject of several domestic court proceedings, as well as of an individual petition filed before the Human Rights Committee, which on 14 November 2005 addressed the Government requesting that the logging operations cease. According to the reports, the opposition by the Nellim Group and other traditional Saami reindeer herders to the logging activities has resulted in great tension in the area, leading to numerous cases of harassment against members of the Saami community by the local population of Finish origin. It was reported that the Major of the Inare Municipality, the capital of the province, has publically called for a boycott of Saami reindeer herders’ products. In addition, the Chairperson of the Ivalo Reindeer Herding Cooperative has publically supported Metsähallitus’ logging in the region and has criticized the Saami position with regard to these plans.

838. On 7 October 2007, the General Assembly of the Ivalo Reindeer Herding Cooperative decided that most of the reindeer herds belonging to the Nellim Group should be slaughtered by force to cull the growing herd. According to the information received, the decision contradicted existing reports, which asserted that the number of reindeer in the Nellim area had actually decreased during the last 20 years, while the reindeer of Finnish herders in other parts of the Ivalo Reindeer Herding Cooperative had increased significantly. The round-up of the slaughter of the reindeer herds belonging to the Nellim Group was initially scheduled for 11 October 2007, but was delayed for technical reasons. On 12 October, the Administrative Court of Rovaniemi, following an injunction filed by the petitioners, called for a halt of the forced slaughter of the reindeer until it had had the opportunity to rule on the Nellim Group’s appeal. On 19 October, the Administrative Court reportedly dismissed the appeal by the Nellim Group. On the same day, the petitioners filed an urgent request for interim measures of protection as well as an appeal to the Administrative Supreme Court.

839. On Saturday 20 October 2007, even though the issue was still pending before the Administrative Supreme Court, the Ivalo Reindeer Herding Cooperative reportedly re-started the round up and slaughter of the reindeer. Faced with the opposition of the Saami local community, the Ivalo Reindeer Herding Cooperative summoned the local police. The operation continued on Sunday 21 October, when up to 10% of the reindeers belonging to the Nellim Group were slaughtered. According to the latest reports received, new slaughtering operations had been scheduled for the following days. Concern was expressed that the decision to forcefully slaughter the reindeers belonging to the Nellim Group may be linked to the active role played by its members in the defence of traditional Saami herding grounds and against the logging operations in the area. Concern was also expressed that, if the forced slaughter persists, it will result in the extinction of the traditional reindeer herding by the Saami herders belonging to the Nellim Group, who would hence be deprived of their traditional livelihoods and their cultural identity.

### **Response from the Government**

840. In a letter dated 12 December 2007, the Government of Finland responded to the above communication. The letter stated that on 23 October 2007, the Supreme Administrative Court prohibited the implementation of the decision to slaughter reindeer by force and that this decision would remain in force until the Court had ruled on the merits of the case or until otherwise ordered.

841. The letter further stated that all obligations related to fundamental and human rights must, in any case, be taken into account *ex officio* by the Court, whether or not the appellants invoke circumstances on the basis of which they consider themselves victims of violations of their rights as members of an indigeneous people within in the Constitution of Finland and/or obligations based on international conventions. The Government reponse also observed that the cases pending in the Supreme Court concerned the three Saami reindeer owners mentioned in the appeal as well as a Finnish reindeer owner and that the appeal regarding the forced reindeer slaughter had thus been submitted by these four individuals.

842. The letter proceeded to state that the Parliamentary Ombudsmen had taken up this case on his own initiative and that the relevant Ministry had been asked to provide him with information in this regard. The letter also noted that according to Sections 108 and 109 of the Constitution, the Chancellor of Justice of the Government and the Parliamentary Ombudsman also monitor the implementation fundamental rights and freedoms and human rights and human rights in the performance of their duties.

843. With regard to the judicial proceedings at hand the Supreme Court would, in due course, make its final ruling on the legal question of whether the decision made by the Ivalo Reindeer Herding Co-operative is an appealable administrative decision and whether the prerequisites set out in the Reindeer Husbandry Act for making such a decision exist.

### **Observations**



844. The Special Representative thanks the Government of Finland for its detailed response and looks forward to receiving further information on this case, upon conclusion of judicial proceedings.

## France

### Appel urgent

845. Le 30 novembre 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, de Rapporteur spécial sur le droit à l'alimentation, a envoyé une lettre d'allégations concernant la situation **des autochtones Wayanas et Emerillons des villages Kayodé (Cayodé) et Elahé (Elae)**, sur les rives de la rivière Waki-Tampok, dans la commune de Maripasoula en Guyane. Ces populations seraient confrontées, selon les allégations, à des problèmes causés par les activités illégales d'orpailleurs, principalement à la pollution de leur environnement par le mercure (A). En outre, les orpailleurs clandestins auraient récemment intensifié leurs violences à l'encontre des populations s'opposant à ces activités (B). Nous avons aussi reçu des allégations selon lesquelles les zones d'habitat de ces populations auraient été exclues du cœur du Parc amazonien de Guyane récemment créé, alors que la protection prévue pour le centre du Parc pourrait être un moyen de protection de l'environnement des populations autochtones (C).

#### A. Pollution des rivières par le mercure

846. Depuis la fin du XIX<sup>ème</sup> siècle, les activités illégales d'orpaillage qui seraient exercées dans différents sites en Guyane seraient responsables de rejets de mercure dans l'environnement, estimés à plusieurs centaines de tonnes. Les sites d'orpaillage illégaux seraient de plus en plus nombreux depuis la publication en 1995 d'un inventaire des richesses minières du sous-sol guyanais. Les cours d'eau à l'ouest de la commune de Maripasoula, le fleuve Maroni et ses affluents, seraient particulièrement touchés par ces activités.

847. Dans cette commune de Maripasoula se trouvent les villages Kayodé et Elahé, appartenant aux peuples Wayanas et Emerillons, avec une population estimée à 1.400 et 300 personnes respectivement. Ces populations habitent sur les rives de la rivière Waki-Tampok (affluent du fleuve Maroni), en aval des sites d'orpaillage illégaux.

848. Selon les allégations, ces populations autochtones seraient grandement affectées par les activités des chercheurs d'or. Un premier impact des activités d'orpaillage sur ces populations aurait comme conséquence la difficulté de pratiquer la pêche qui constitue leur principale activité traditionnelle de subsistance et une source importante pour leur alimentation. Pour cause de pollution des eaux, la rivière se viderait rapidement des poissons qui migreraient vers des zones moins polluées. Par ailleurs, le gibier qui est aussi vital pour ces populations devant trouver des protéines de substitution au poisson, se ferait de plus en plus rare dû à la pratique de la chasse par les orpailleurs.

849. Une autre conséquence des activités illégales d'orpaillage serait l'intoxication des membres de ces communautés, causée par la consommation des quelques

poissons restants infectés au mercure. Des études réalisées dans les villages de Kayodé et Elahé auraient mis en évidence un niveau d'imprégnation de quelques familles de ces villages qui se situerait entre 17 et 20 microgrammes par gramme ( $\mu\text{g/g}$ ), très au-dessus des seuils tolérables fixés par l'Organisation Mondiale de la Santé. De même, chez les moins de 2 ans, le taux demeurerait 5 fois supérieur aux normes de l'Autorité Européenne de Sécurité des Aliments (et 10 fois supérieur à la moyenne mondiale). Les conséquences seraient particulièrement néfastes chez les jeunes enfants, chez qui des lésions importantes seraient observées. Des études menées par les instances de santé des pouvoirs publics auraient révélé des retards psychomoteurs, dans la marche et dans l'acquisition du langage chez les enfants, ainsi que des altérations des fonctions visuelles et motrices. Par ailleurs, selon les allégations, des maladies intestinales auraient été responsables de la mort de plusieurs bébés. Un nombre anormal de malformations néonatales et de grossesses non abouties aurait été observé dans ces villages.

### **B. Récents actes de violences à l'encontre des amérindiens de Kayodé**

850. La tension entre les orpailleurs et les autochtones du village de Kayodé essayant de se défendre des conséquences de la présence des chercheurs d'or dans leurs zones d'habitat, serait, depuis le mois de septembre, de plus en plus grande. En ce sens, nous aimerions attirer l'attention de votre Gouvernement sur les allégations que nous avons reçues relatives à des actes de violence à l'encontre des membres du village de Kayodé.

851. Le 25 septembre 2007, la chef coutumier du village de Kayodé, Mélanie Aliman He, aurait choisi d'empêcher, avec des membres du village, la montée des pirogues d'orpailleurs sur le Haut de la rivière Waki-Tampok. Ceux-ci auraient alors tiré en direction du village lors de leur passage en force devant le village, blessant un membre de la communauté. Par ailleurs, au début du mois d'octobre, un membre du même village aurait reçu des coups de fusil alors qu'il était en train de pêcher.

852. Aux vues de la montée du climat d'insécurité, le Rectorat de la Guyane, en charge des services départementaux de l'Éducation aurait pris la décision de fermer les écoles du village et de rapatrier les enseignants à Maripasoula afin de ne pas leur faire prendre de risques. De plus, les autorités coutumières, en accord avec les villageois, auraient réclamé un poste fixe de gendarmerie dans leurs villages pour pallier à l'absence de communication possible avec la gendarmerie la plus proche, car selon les informations reçues, il n'y aurait pas de téléphone satellite.

### **C. L'exclusion de Kayodé et Elahé du cœur du Parc amazonien de Guyane**

853. De plus, les amérindiens des villages de Kayodé et Elahé ne bénéficieraient pas d'une protection juridique effective vis-à-vis des activités d'orpaillage responsables de la pollution de l'environnement dans leur terres traditionnelles. Dans ce contexte, ces villages auraient réclamé l'intégration de leurs zones d'habitat dans le centre du Parc de Guyane, de façon à bénéficier de la conservation de la nature tout en poursuivant leurs activités de subsistance, protection qui serait prévue pour le centre du Parc.

854. Un Décret n° 2007- 266 publié au Journal Officiel le 27 février 2007 aurait officialisé la création d'un parc national en Guyane dénommé « Parc amazonien de Guyane ».

855. Ce Parc comprendrait une surface de 3.390.000 hectares et concernerait cinq des 22 communes de la Guyane : Saul, Maripasoula, Papaïchton, Camopi et Saint-Elie.

856. Les « cœurs de parc », définis comme les espaces terrestres et maritimes à protéger, seraient constitués de 2.030.000 hectares de forêts primaires. En l'espèce, ce centre du Parc viserait notamment à protéger les sources des fleuves de la Guyane ; à permettre « aux communautés d'habitants tirant traditionnellement leurs moyens de subsistance de la forêt » de maintenir et valoriser leurs cultures sous leurs aspects matériels et immatériels, à garantir la pérennité de leurs pratiques de subsistance ; et à associer les autorités coutumières à la gestion du territoire.

857. Sur la commune de Maripasoula, « le cœur » engloberait, sur 814.600 hectares, les sources du Maroni et de ses affluents (Waki-Tampock, Marouini). En revanche, les zones des villages Kayodé et Elahé, en aval, n'auraient pas été retenues pour faire partie de ce « cœur » du Parc, malgré les demandes de ces peuples autochtones ainsi que les conclusions de la Commission d'Enquête Publique sur la création du Parc National de Guyane, qui indiquaient pourtant, selon les allégations, la nécessité d'intégrer les zones d'habitat des populations amérindiennes de cette zone dans le centre de Parc.

858. Ces zones d'habitat des communautés autochtones des villages Kayodé et Elahé ne feraient par conséquent que partie de la « zone maximale des territoires ayant vocation à faire partie du parc national », une zone définie en raison de sa continuité géographique et écologique avec le centre du Parc, mais ne bénéficiant pas des protections reconnues pour le cœur. Cette exclusion laisserait ainsi ces populations vulnérables face à l'activité minière qui ne serait interdite que dans le centre du Parc.

### **Observations**

859. La Représentante spéciale espère recevoir prochainement une réponse du Gouvernement à cette communication.

## **Gambia**

### **Urgent appeal**

860. On 11 October 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government 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.

861. 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.

862. Concern was expressed that the arrest and detention of Ms Bernath, Mr Ayodele, and Mr Dampha may be directly linked to their peaceful activities in defence of human rights in the Gambia, i.e. their fact-finding mission in the Gambia.

### **Observations**

863. The Special Representative regrets that by the time of finalizing this report, the Government of Gambia had not responded to her communication of 11 October 2007. She would urge the Government to respond to whether the allegations are accurate and provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case.

## **Georgia**

### **Urgent Appeal**

864. On 15 June 2007 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government concerning Messrs. **Jaba Jishkariani, Davit Dalakishvili and Levan Gogichaishvili**, members of the “Egalitarian Institute”, a newly-established Georgian non-Governmental organization composed of human rights defenders, writers and intellectuals.

865. According to the information received, Messrs. Jaba Jishkariani, Davit Dalakishvili and Levan Gogichaishvili were arrested on 12 June 2007 in Tbilisi on the road in front of the General Prosecution Office by members of the Police. The arrests were carried out while the three aforementioned persons were painting their requests on the street and writing slogans regarding the detention of Mr. Irakli Batiashvili, the leader of the political organization “Tsin Sakartvelo” (“Forward Georgia”). Mr. Batiashvili was sentenced on 23 May 2007 to seven years of imprisonment for “participation in riots against the State” under articles 25 and 315 of the Georgian Criminal Code.

866. The three detained were taken to the Administrative Court, where, on the same day, they were charged with “violating public order” and “disobedience to the Police”, and sentenced to 25 days’ imprisonment according to article 173 of the

Georgian Administrative Code. They were being detained at the pre-trial detention centre at the Ministry of Internal Affairs. It was further reported that Mr. Jaba Jishkariani had already been arrested twice in 2006 and in March 2007. It was feared that the three above-mentioned persons were arrested in connection with their legitimate activities to defend human rights.

### **Response from the Government**

867. In a letter dated 11 August 2007, the Government of Georgia responded to the above communication. The letter stated that the information in possession of the mandate-holders was not entirely correct and that the subjects of the urgent appeal had not been arrested for writing slogans or painting their requests on the street in front of the General Prosecutor's Office, but rather for disobedience to lawful demands of police and violation of public order in accordance with Article 25 of the Georgian Constitution and Article 9 of the Georgian Law on 'Assemblies and Manifestations' which outline the institutions whose uninterrupted functioning is of pivotal importance to the wellbeing of society and the maintenance of public order.

868. In the Government's view the obstruction of the entrance to the General Prosecutor's office was in contravention of the legislation mentioned. The Government added that judicial proceedings were conducted in full compliance with requirements laid down in the Constitution. The original verdict of Tbilisi City Court was appealed and the verdict was upheld by the Tbilisi Court of Appeal on 27 June 2007.

### **Urgent appeal**

869. On 13 November 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 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.

870. 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.

871. 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.

872. 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**

873. The Special Representative thanks the Government of Georgia for its response to the communication of 15 June 2007 and hopes to receive a response to the communication of 13 November 2007, particularly in light of the gravity of the incidents in question and the number of people involved.

874. She reiterates her concern that legislative restrictions of the right to freedom of expression and assembly may limit the exercising of said rights in Georgia.

## **Guatemala**

### **Llamamiento urgente**

875. El 25 de enero de 2007 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, 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.

876. 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.

877. 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.

878. 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

879. 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.

880. 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.

881. Se expresó profunda preocupación por la seguridad de los miembros del comité ejecutivo del Sindicato de Trabajadores de la Empresa Portuaria Quetzal (STEPQ). Se expresó temor que susodichos incidentes puedan estar relacionados con sus actividades en defensa de los derechos humanos. Además se expresó preocupación por la necesidad de llevar a cabo una investigación rápida y detallada en relación con el asesinato reciente del Sr. Pedro Zamora Álvarez.

### **Respuesta del Gobierno**

882. Por carta con fecha de 7 de diciembre de 2007, el Gobierno informó de otras amenazas en contra de los sindicalistas de la Empresa Portuaria Quetzal-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**.

883. Se informa que el 4 de septiembre de 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.

884. 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.

### **Observaciones**

885. La Representante Especial agradece al Gobierno de Guatemala y a COPREDEH la información proporcionada. Sin embargo, lamenta que las medidas cautelares se adoptaron unos 9 meses después su comunicación y sólo en consecuencia de la solicitud de la Comisión Interamericana y no por una voluntad propia del Gobierno de proteger a los sindicalistas amenazados. En relación con la

lucha contra la impunidad por los delitos en contra de los defensores de derechos humanos, la Representante Especial toma nota de la identificación de dos presuntos responsables de los hechos y de la orden de detenerlos. Sin embargo, no hay información sobre la continuación de la parte penal de este expediente. La Representante Especial espera tener más información sobre las medidas adoptadas para que los responsables sean procesados y condenados y para que estos delitos no queden impunes.

### **Llamamiento urgente**

886. El 30 de enero de 2007 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, señalaron a la atención urgente del Gobierno la información recibida en relación con **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 Tzalá, 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.

887. 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.

888. 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.

889. Se expresan temores de que estos eventos puedan ser relacionados con las actividades del Sr. Flaviano Bianchini en defensa de los derechos humanos, y en particular su investigación sobre los presuntos efectos de la minería sobre el medio ambiente en Guatemala.

### **Carta de alegaciones**

890. El 8 de febrero de 2007 la Representante Especial señaló a la atención urgente de su Gobierno la información recibida en relación con el **Movimiento Nacional por los Derechos Humanos (MNDH)**, una coordinación de organizaciones de derechos humanos que se organizan a su vez a través de coordinaciones departamentales, la **Asociación Comunicación para el Arte y la Paz (COMUNICARTE)** una organización no gubernamental que se dedica a la generación de comunicación alternativa sobre la memoria histórica y la memoria visual de derechos humanos en Guatemala, y la **Unidad de Protección de Defensoras y Defensores de Derechos Humanos**, una organización que observa la situación de derechos humanos en Guatemala.



891. Según la información recibida, el 5 de febrero de 2007, el Sr. Manuel Cogoux, consultor independiente para varias organizaciones de derechos humanos en materia publicitaria, al llegar a las oficinas centrales que comparten el Movimiento Nacional por los Derechos Humanos (MNDH), COMUNICARTE, y la Unidad de Protección de Defensoras y Defensores de Derechos Humanos, habría descubierto el allanamiento de dichas oficinas por personas desconocidas.

892. Según se alega, estos desconocidos habrían forzado las puertas del segundo piso de las oficinas y se habrían apropiado de once ordenadores de la organización y un equipo de filmación de COMUNICARTE. También se habría sustraído dinero. Dentro de todas las oficinas se habrían realizado registro de documentos y se habrían revisado los escritorios. Las oficinas del MNDH, donde está el registro de todas las organizaciones de derechos humanos, evidencian mayor registro de archivos.

893. Según los informes, los autores habrían dejado heces fecales humanas en la terraza de las oficinas y afuera de las puertas de COMUNICARTE y de la Unidad de Defensores habrían quedado señalados con un cable amarrado a la puerta. Además, hacia las 8:30 del mismo día 5 de febrero de 2007, un Toyota Corolla rojo, habría pasado enfrente de las oficinas filmando los exteriores. Las organizaciones habrían denunciado el robo a las autoridades competentes.

894. Anteriormente, durante el mes de mayo, miembros de la Unidad de Protección de Defensoras y Defensores de Derechos Humanos habrían recibido llamadas telefónicas anónimas amenazándoles de muerte.

895. La Unidad por los Derechos Humanos estaba por presentar su informe para el año 2006 sobre la situación de los defensores de derechos humanos y además sigue investigando los casos que han ocurrido a principios de 2007, tal como el asesinato del sindicalista el Sr. Pedro Zamora, el 15 de enero de 2007.

896. Se expresaron temores por la seguridad de los miembros del Movimiento Nacional por los Derechos Humanos (MNDH), la Asociación Comunicación para el Arte y la Paz (COMUNICARTE) y la Unidad de Protección de Defensoras y Defensores de Derechos Humanos porque se teme que estas susodichos incidentes puedan estar relacionados con sus actividades en defensa de los derechos humanos y que puedan constituir un intento de frenar esta labor.

### **Respuesta del Gobierno**

897. El Gobierno de Guatemala proporcionó información sobre este caso por cartas con fechas de 30 de marzo de 2007, 1 de mayo de 2007 y 11 de septiembre 2007. El Gobierno informa que el caso se encuentra en fase de investigación por parte del Ministerio Público con el objeto de dar con los presuntos responsables de los allanamientos.

898. El Núcleo Central de Reacción proporcionó medidas de protección con una duración de 3 meses pero el 5 de marzo de 2007 el Movimiento para los Derechos Humanos (MNDH) informó que renunciaban a la seguridad de puesto fijo que le fue asignada.

## Observaciones

899. La Representante Especial agradece al Gobierno sus respuestas y las medidas de protección adoptadas. Solicita más información sobre los resultados de las investigaciones al fin de asegurarse que estos delitos no queden impunes.

## Llamamiento urgente

900. El 13 de febrero de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Francisco Soto**, la Sra. **Angélica González**, el Sr. **Otto Navarro** y la Sra. **Jennifer Echeverría**, miembros del Programa de Justicia y Reconciliación (DEJURE), del Centro para la Acción Legal para los Derechos Humanos (CALDH), con sede en la Ciudad de Guatemala. El programa DEJURE da acompañamiento a la Asociación de Justicia y Reconciliación como querellante adhesivo en las dos causas por genocidio abiertas en la jurisdicción nacional.

901. De acuerdo con la información recibida, el 5 de febrero de 2007, al salir de una reunión con la Comisión Presidencial de Derechos Humanos (COPREDH), la Sra. González habría encontrado una nota en el windshield delantero de su coche con el siguiente mensaje amenazador: “deja de fastidiar con protección, protégete vos misma que no entiendes con tanto aviso, decíle al Pancho que se cuide y los hijos y la mujer que siempre están solos, siempre los vemos y ustedes aboganster de mierda que solo dinero quieren, busquen otro trabajo sino un día de estos saldremos a almorzar juntos como siempre nosotros invitamos entienden hijos de puta”.

902. Según informes, el 3 de febrero de 2007, el Sr. Morales, habría sido atacado por hombres desconocidos en la puerta de su casa en la Ciudad de Guatemala. Los autores le habrían secuestrado en el pick-up de la oficina, durante unos veinte minutos antes de dejarle en el barrio de Colonia del Primero de Julio. Al denunciar el incidente, se habría localizado el pick-up con GPS en el centro de la ciudad con todas las pertenencias del Sr. Morales dentro, e incluso su lap-top y chequeras. Una hora después, el Sr. Navarro, habría encontrado a su coche en un parking con la llanta cortada con un cuchillo.

903. En el año 2004, CALDH habría logrado una sentencia en el Corte Interamericana de Derechos Humanos en cuanto al caso del Plan Sánchez. Desde entonces, la organización habría sido víctima de una serie de amenazas, intimidaciones y allanamientos.

904. Se expresó profunda preocupación por la seguridad de los miembros de CALDH, y se teme que susodichos incidentes puedan estar relacionados con sus actividades en defensa de los derechos humanos.

## Respuesta del Gobierno

905. Mediantecarta con fecha de 17 de septiembre de 2007 el Gobierno proporcionó información sobre el caso. De acuerdo con los recientes informes de la Policía Nacional Civil de fecha 18 de Julio de 2007, a 6 de agosto de 2007, se establece que las medidas de protección a favor del **Sr. Juan Francisco Soto Fomo**

se están efectuando conforme a los compromisos asumidos por el Estado de fecha 16 de julio de 2007 y 6 de agosto de 2007, situación que se ha hecho de conocimiento del Sistema Interamericano de Derechos Humanos.

906. Hasta la presente fecha, las autoridades no han logrado determinar el origen de los hechos; por lo que “se presume que estas personas estén relacionadas con grupos de personas que se oponen el acceso a la justicia, en virtud de los hechos que estos hubiesen perpetrado durante el conflicto armado interno en Guatemala”.

907. Ante las condiciones de inseguridad de la organización CALDH, la COPREDEH en coordinación con el Ministerio de Gobernación y la Policía Nacional Civil han efectuado acciones urgentes con el fin de proteger la vida, integridad personal de los trabajadores de la organización CALDH, como parte de las medidas cautelares dictadas por la Comisión Interamericana de Derechos Humanos.

### **Observaciones**

908. La Representante Especial agradece al Gobierno su respuesta y las medidas cautelares adoptadas para garantizar la seguridad de los y las defensores/as amenazados/as. Espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes.

### **Llamamiento urgente**

909. El 8 de Marzo de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Leonardo Ramírez**, Presidente de la Asociación Nueva San José las Lágrimas (ANSJL) y el Sr. **Vicente Ramírez López**, responsable de la Comisión de Seguridad y miembro de la Junta Directiva. La Asociación Nueva San José las Lagrimas es una organización formada por trabajadores rurales que viven en las tierras de la hacienda San José las Lágrimas, en Esquipulas, departamento de Chiquimula. La Asociación trabaja por la legalización de la tenencia de la tierra de los trabajadores rurales y gestiona proyectos de desarrollo.

910. De acuerdo con la información recibida, el 24 de febrero de 2007, un individuo, con supuestos vínculos militares, se habría acercado a un familiar del Sr. Ramírez para decirle que se estaban ofreciendo 500 quetzales a quien matara al Sr. Ramírez y presentara su cabeza. Además, el 19 de febrero de 2007 un individuo de otra comunidad le habría comunicado al Sr. Ramírez que tuviera cuidado porque había oído que algo le sucedería si no dejaba su actividad.

911. Según los informes, el 13 de febrero de 2007, el Sr. Ramírez, el Sr. López y otros cuatro miembros de ANSJL fueron atacados por individuos empuñando armas de fuego. Los agresores habrían empezado a disparar matando al Sr. López. Los trabajadores rurales habrían conseguido capturar a dos de los hombres, quienes que se habrían entregado a la policía al día siguiente.

912. El 9 de febrero de 2007 varios individuos armados habrían llegado a la casa del Sr. Ramírez en la aldea El Chapulín. Se alega que uno de los hombres habría entrado en la casa para preguntar a su esposa dónde se encontraba éste mientras los

otros individuos habrían permanecido fuera de la casa. Asimismo el 6 de enero de 2007, unos desconocidos habrían prendido fuego a tres casas en la aldea El Chapulín, que pertenecían a miembros de ANSJL.

913. Se alega que los miembros de ANSJL habrían sido intimidados constantemente por el ejército y el 15 de febrero de 2007, el ejército y la policía se habrían presentado a la hacienda para ejecutar el desalojo, en una actuación que sólo pudo evitarse en el último momento cuando se consiguió una orden judicial. Según se informa los procedimientos judiciales continúan.

914. Se expresó profunda preocupación por la seguridad e integridad física del Sr. Ramírez así como por los otros miembros de la Asociación Nueva San José las Lágrimas (ANSJL). Además se expresó temor de que estos eventos puedan estar relacionados con la actividad de dicha organización en defensa de los derechos humanos, en particular con el trabajo que lleva a cabo por la legalización de la tenencia de la tierra de los trabajadores rurales.

### **Respuesta del Gobierno**

915. Por carta con fecha de 19 de septiembre de 2007, el Gobierno proporcionó información sobre el caso indicando que el Ministerio Público había individualizado a los supuestos autores del ataque del 9 de febrero.

### **Observaciones**

916. La Representante Especial agradece al Gobierno su respuesta y espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes. El Gobierno no proporcionó información sobre las medidas adoptadas para garantizar la seguridad de los defensores a riesgo.

### **Carta de alegacione**

917. El 22 de marzo de 2007, la Representante Especial señaló a la atención del Gobierno la información recibida en relación con el Sr. **Israel Carias Ortiz**, dirigente local del Comité de Unidad Campesina (CUC) y de la Asociación Campesina Integral de Desarrollo Los Achiotes (ACODEA). El CUC es un grupo de 150 familias que luchan por recuperar unas tierras ocupadas por otras personas en forma ilegal.

918. Según la información recibida, el 6 de febrero de 2007, mientras el Sr. Ortiz se dirigía a su casa en la comunidad de los Achiotes desde Zacapa fue asesinado junto a sus dos hijos Robin Aroldo Ramírez, de 11 años y Leswin Alexis Ramírez, de 9 años.

919. Se alega que el Sr. Ortiz habría recibido cuatro impactos de bala, mientras que sus dos hijos fueron muertos por un tiro a la cabeza cada uno. La madre del Sr. Ortiz falleció de un infarto al conocer lo sucedido. El Sr. Ortiz habría denunciado varias amenazas en su contra en el pasado.

920. Se expresó temor de que estos eventos puedan ser relacionados con las actividades del Sr. Ortiz en defensa de los derechos humanos, en particular en defensa

de las tierras y recursos naturales. Se expresó profunda preocupación por la seguridad de los miembros del Comité de Unidad Campesina (CUC) y de la Asociación Campesina Integral de Desarrollo Los Achiotes (ACODEA).

### **Respuesta del Gobierno**

921. Por carta con fecha de 7 de diciembre de 2007 el Gobierno informó que el caso se encuentra en fase de investigación por parte del Ministerio Público. El Gobierno informó sobre las investigaciones iniciales que se están llevando a cabo. Se tomaron una serie de declaraciones testimoniales, se realizó un allanamiento en una residencia en la cual se secuestraron evidencias, y se remitieron al laboratorio balístico los cascabillos encontrados en la escena del crimen.

922. En cuanto a las medidas de protección para los miembros del CUC y ACODEA, el Gobierno informó que no existe ninguna solicitud de medidas cautelares otorgada del sistema jurídico nacional a favor de dichas organizaciones ni se ha recibido ninguna comunicación por parte de la Comisión Interamericana de Derechos Humanos para implementar medidas cautelares.

### **Observaciones**

923. La Representante Especial agradece al Gobierno su respuesta y espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes.

### **Llamamiento urgente**

924. El 13 de abril de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con En este contexto, quisiera señalar a la atención urgente de su Gobierno la información que he recibido en relación con las organizaciones no gubernamentales que trabajan en defensa de los derechos humanos: **Trocaire** una organización irlandesa que trabaja para reducir la pobreza y promover la justicia, la **Asociación para la Cooperación con el Sur (ACSUR las Segovias)** un organización española con el fin de contribuir al desarrollo de la conciencia crítica de la ciudadanía, acompañando procesos de participación democrática y organización social, desde la perspectiva de la solidaridad y la cooperación internacional **Colectivo Poder y Desarrollo Local (CPDL)** y la organización **CARE Internacional en Ciudad de Guatemala**.

925. De acuerdo con la información recibida, el 5 de abril de 2007, en horas de la madrugada, las oficinas centrales que comparten las ONG Trocaire, ACSUR y la CDPL habrían sido allanadas por personas desconocidas. Ese mismo día las oficinas de CARE Internacional también fueron allanadas. Según se alega, estos desconocidos se habrían apropiado de ordenadores, cámaras fotográficas digitales, un scanner, llaves USB, un teléfono móvil, CD's y un monitor que contenían información importante relacionada con el trabajo de las cuatro organizaciones. Sin embargo, no se habría sustraído ningún otro artículo de valor. Las mencionadas organizaciones habrían denunciado el robo a las autoridades competentes.

926. Se informa que en enero de 2007 se habrían robado vehículos pertenecientes a Trocaire así que al CPDL. Además en Marzo de 2007 se habría atacado a un miembro de CPDL a unos metros de la oficina.

927. Se expresó temores por la seguridad de los miembros de Trocaire, ACSUR las Segovias, CPDL y la organización CARE Internacional porque se temía que estos susodichos incidentes puedan estar relacionados con sus actividades en defensa de los derechos humanos y que puedan constituir un intento de frenar esta labor.

### **Llamamiento urgente**

928. El 7 de mayo de 2007 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión 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.

929. 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.

930. 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.

931. 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.

932. 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 ICCPG habría denunciado oficialmente los susodichos incidentes ante el Ministerio Público y se habría solicitado de medidas cautelares ante la Comisión Interamericana de Derechos Humanos.

933. Se expresó profunda preocupación por la seguridad de los miembros del ICCPG. Se expresó temor de que susodichos incidentes puedan estar relacionados con sus actividades en defensa de los derechos humanos.

### **Respuesta del Gobierno**

934. Por carta con fecha de 19 de septiembre de 2007, el Gobierno informó que se está realizando la investigación de mérito sobre los hechos cometidos los días 24 y 25 de abril de 2007.

935. El Ministerio Público informó que la persona que fue víctima de los hechos del día 12 de abril no presentó la denuncia de mérito. El Ministerio Público informó que la persona que fue víctima de los hechos del día 25 de abril tampoco presentó la denuncia de mérito.

936. 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.

### **Observaciones**

937. La Representante Especial agradece al Gobierno su respuesta y espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes. Con respecto a las medidas cautelares, la Representante Especial solicita al Gobierno seguir informando sobre las medidas adoptadas para remediar a las deficiencias señaladas por el personal del Instituto de Estudios Comparados en Ciencias Penales de Guatemala.

### **Llamamiento urgente**

938. El 16 de mayo de 2007 la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Jorge Fernando Campo Morales**, miembro de la Consejería en Proyectos (PCS), una organización que trabaja para fortalecer las capacidades de las poblaciones afectadas por el desplazamiento, el refugio y otras formas de desarraigo en Guatemala.

939. De acuerdo con la información recibida, el 7 de mayo de 2007, hacia las 1:30pm, mientras el Sr. Morales se aparcaba el pick-up de la PCS, dos individuos con apariencia de militares le habrían encañonado. Los dos agresores le hicieron trasladarse a la parte de atrás del vehículo donde uno de ellos le habría golpeado para que le diera dinero y su arma. El habría negado que no poseyera un arma e indicó que el dinero estaba en la mochila. Al no encontrar suficiente dinero los agresores le habrían agredido sexualmente antes de dejarle en la zona 7 de la ciudad, con nada más de 10 quetzales. Se alega que, unos veinte minutos después, una persona en la oficina habría recibido varias llamadas procedentes del móvil del Sr. Morales, ya en posesión de los agresores. El incidente habría sido denunciado oficialmente ante la Policía Nacional Civil.

940. Según se informa, el mismo día se habría iniciado en la Posada Belén, Antigua Guatemala, el Encuentro Internacional de PCS ‘Compartir la Memoria Colectiva: el acompañamiento psicosocial y justicia integral para mujeres víctimas de violencia sexual en conflictos armados’.

941. Se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos del Sr. Morales y la Consejería en Proyectos. Se expresa profunda preocupación por la seguridad e integridad física del Sr. Morales y los demás integrantes de dicha organización.

### **Respuesta del Gobierno**

942. Por carta con fecha de 19 de septiembre de 2007, el Gobierno informó que se está realizando la investigación de mérito.

943. Desde el día 28 de mayo el personal de Consejería en Proyectos, Regional Guatemala, la sede de la organización goza de medidas de protección por parte de la Policía Nacional Civil a través del mecanismo de seguridad perimetral.

944. Adicionalmente el 14 de junio de 2007, la Comisión Interamericana de Derechos Humanos otorgó medidas cautelares para el personal de la organización antes mencionada, la cuales fueron implementadas desde el día 2 de agosto de 2007.

945. Según informó el personal de dicha organización, el Sr. Morales está fuera del país, por lo que al momento de regresar el Estado de Guatemala le proporcionara, si él lo requiere, protección.

### **Observaciones**

946. La Representante Especial agradece al Gobierno su respuesta y espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes.

### **Carta de alegaciones**

947. El 29 de mayo de 2007, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con el allanamiento de las oficinas de **ActionAid**, ubicadas en la ciudad de Guatemala. ActionAid es una organización internacional comprometida en la lucha contra la pobreza y la injusticia en las comunidades de 43 países en África, Asia, América y Europa.

948. De acuerdo con la información recibida, el 20 de mayo de 2007, en horas de la madrugada, las oficinas de ActionAid fueron allanadas. Según se informa, los autores se habrían apropiado de dos computadoras portátiles que contenían información importante relacionada con el trabajo de ActionAid. Sin embargo, no se habría sustraído ningún otro artículo de valor. Según los informes se habría denunciado oficialmente éste allanamiento ante el Ministerio Público y ante la Policía Nacional Civil (PNC).



949. Cabe mencionar que ActionAid forma parte de la Junta Directiva del Foro de ONG Internacionales (FONGI) y, según informes, es la cuarta organización miembro del Foro que ha sido allanada durante el último mes.

950. Se expresó temor de que estos susodichos incidentes puedan estar relacionados con las actividades de ActionAid en defensa de los derechos humanos. También quiero expresar mi preocupación por las recurrentes agresiones y actos de hostigamiento en contra de defensores de derechos humanos en Guatemala.

### **Llamamiento urgente**

951. El 15 de junio de 2007 la Representante Especial, junto con la Relatora Especial sobre la violencia contra la mujer señalaron a la atención urgente del Gobierno la información recibida en relación con los asesinatos de la **Sra. Maria Cristina Gómez**, encargada de Pastoral de la Mujer para las comunidades de Santa Ana y El Chal, en el departamento de Petén y sus hijos y del **Sr. José Corado Gómez** (24 años), los ataques en contra de la **Sra. Edith Corado Gómez** (18 años), miembros del Equipo de sensibilización de la Asociación de Mujeres Ixqik de Petén (AMPI), y las amenazas en contra de **Olga Urizar** y otros miembros/as de dicha asociación. AMPI es una organización que coordina con la Pastoral Social del Vicariato de Petén (Iglesia Católica) y brinda asistencia jurídica a mujeres víctimas de violación. La Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias y la Representante Especial del Secretario-General para los defensores de los derechos humanos enviaron un llamamiento urgente a favor de esta asociación el 18 de noviembre de 2005.

952. De acuerdo con la información recibida, el 3 de junio de 2007, hacia las 5:30pm, dos hombres armados se habrían acercado en coche a la tienda ubicada en la casa de las Sras. Edith Corado Gómez y Maria Cristina Gómez, en El Chal, presuntamente para comprar bebidas. Uno de los desconocidos habría entrado en el domicilio de la familia y habría disparado por la espalda al Sr. José Corado Gómez, quien falleció en el lugar. El otro individuo se habría acercado a la Sra. Edith Corado Gómez y le dispararía, hiriéndola en el brazo. Al darse cuenta de lo sucedido, la Sra. Maria Cristina Gómez corrió y abrazó a su hija, por lo que recibió el resto de disparos, falleciendo en el lugar.

953. Según se informa, la Sra. Olga Urizar, integrante de Ixqik, habría denunciado que el 1 de junio de 2007, hacia las 10:00pm, un individuo haciéndose pasar por borracho empezó a gritar enfrente de su casa, amenazando con tener una bomba con él. Asimismo, durante el mes de mayo de 2007, varios miembros del equipo de sensibilización habrían recibido mensajes de texto amenazantes, uno de los cuales decía 'Nosotros vamos adelante...ya vas a ver qué te va a pasar'.

954. Además, en el 2005, Ixqik, habría sufrido una serie de amenazas y actos de intimidación, entre los que se incluyen varios allanamientos y un intento de asesinato.

955. Se condenaron los asesinatos del Sr. José Corado Gómez y de la Sra. María Cristina Gómez y se expresó profunda preocupación por la seguridad e integridad física de la Sra. Edith Corado Gómez así como por la del resto de los miembros de la Asociación de Mujeres Ixqik de Petén (AMPI). Además se expresó temor que estos

eventos puedan estar relacionados con la actividad de dicha organización en defensa de los derechos humanos, en particular con el trabajo que lleva a cabo para lograr una democracia en Guatemala.

### **Respuesta del Gobierno**

956. Por carta con fecha de 7 de diciembre de 2007, el Gobierno informó que el Ministerio Público está realizando la investigación sobre los hechos ocurridos el 3 de junio de 2007. El Gobierno proporciona mucha información sobre las investigaciones llevadas a cabo en relación con las amenazas recibidas por los integrantes de la Asociación de Mujeres de Petén IXQIK aún dichas investigaciones no han resultado en la identificación de los responsables de las amenazas.

957. El Gobierno informa que los miembros de la Asociación de Mujeres de Petén IXQIK son beneficiarias de medidas de seguridad de parte del Estado a través de la Policía Nacional Civil a partir de que ellas solicitaron medidas cautelares ante la Comisión Interamericana de Derechos Humanos, las cuales no han sido otorgadas. Sin embargo, el Estado decidió brindar protección preventivamente e independientemente de que la Comisión Interamericana las otorgue.

### **Observaciones**

958. La Representante Especial agradece al Gobierno su respuesta y espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes. La Representante Especial evalúa positivamente la decisión de otorgar medidas cautelares a favor de los miembros de la Asociación de Mujeres de Petén IXQIK aún sin la intervención de la Comisión Interamericana.

### **Carta de alegaciones de carácter general**

959. El 5 de Julio de 2007, la Representante Especial, señaló a la atención urgente del Gobierno en relación con sobre el aumento de denuncias de amenazas y ataques contra miembros de organizaciones de derechos humanos registrados durante los primeros meses del año 2007.

960. La Representante Especial hizo referencia a su visita a Guatemala del 26 de mayo al 1 de junio de 2002. En el informe de dicha misión presentado ante la Comisión de Derechos Humanos (E/CN.4/2003/104/Add.2), había expresado su preocupación sobre el deterioro de la situación de los derechos humanos en el país y el aumento de los casos de ataques contra defensores de los derechos humanos. La Representante Especial comentó con preocupación que los presuntos ataques o recientemente confirmados a defensores de los derechos humanos incluyendo amenazas de muerte, actos de intimidación, violaciones de la integridad física y violaciones del derecho a la vida, han ido aumentando de forma constante.

961. Los principales blancos de estos atentados son individuos y organizaciones que trabajan con víctimas del conflicto armado; individuos y organizaciones que intervienen en procesos judiciales por violaciones a derechos humanos, ocurridas durante el conflicto armado interno o en tiempos recientes (abogados, fiscales, forenses, personal de la Procuraduría y las víctimas mismas); organizaciones de

mujeres; organizaciones que trabajan en el ámbito de los derechos económicos, sociales y culturales, y especialmente, en relación a la denuncia de actividades de exploración y explotación de los recursos naturales. Uno de los factores que más ha llamado la atención entre las organizaciones de la sociedad civil, radica en que en este último período, los ataques y amenazas también han estado dirigidos en contra de organizaciones internacionales que financian proyectos ejecutados por las organizaciones nacionales.

962. Asimismo, expresó profunda preocupación sobre las graves denuncias relativas a la presunta participación de la Policía Nacional Civil y los militares en ataques contra defensores de los derechos humanos. Según se informa, la falta de control de la inteligencia militar y la ausencia de un servicio nacional de inteligencia civil dificultan aún más la tarea de investigar la supuesta participación de agentes del Estado en los atentados contra defensores de los derechos humanos.

963. En el periodo entre enero y junio de 2007, se han transmitido 11 comunicaciones a su Gobierno expresando preocupación sobre las violaciones de derechos humanos contra los defensores de derechos humanos. Los siguientes casos han sido llevados a la atención de su Gobierno desde principios de 2007:

- 25.01.2007- Asesinato del dirigente sindical, el Sr. Pedro Zamora Álvarez y temor por la seguridad del resto de los miembros del Sindicato de Trabajadores de la Empresa Portuaria Quetzal (STEPQ)
- 31.01.2007 – amenazas en contra del activista ambientalista el Sr. Flaviano, Bianchini
- 08.02.2007 – Allanamiento de las oficinas de la Asociación Comunicación para el Arte y la Paz (COMUNICARTE), Movimiento Nacional por los Derechos Humanos (MNDH), y la Unidad de Protección de Defensoras y Defensores de Derechos Humanos
- 13.02.2007 – Amenazas y hostigamiento contra el Sr. Francisco Soto, la Sra. Angélica González, el Sr. Otto Navarro la Sra. Jennifer Echeverría, integrantes del Centro para la Acción Legal para los Derechos Humanos (CALDH)
- 08.03.2007 – Hostigamiento del Sr. Leonardo, Ramírez y el Sr. Vicente Ramírez López, integrantes de la Asociación Nueva San José las Lagrimas
- 22.03.2007 – Asesinato del Sr. Israel Carías Ortiz, miembro de la Comité de Unidad Campesina (CUC)
- 13.04.2007 – Allanamiento de las oficinas de las ONGs internacionales: Trocaire, la Asociación para la Cooperación con el Sur (ACSUR las Segovias), el Colectivo Poder y Desarrollo Local (CPDL) y CARE International en la ciudad de Guatemala.
- 07.05.2007 – Intimidación y hostigamiento de los Sres. David Dávila y Oswaldo Samayoa y la Sra. Paula Barrios - miembros del Instituto de Estudios Comparados en Ciencias de Guatemala (ICCPG)
- 16.05.2007 – Ataque contra el Sr. Jorge Fernando Campo Morales, integrante de la Consejería en Proyectos (PCS)

964. La Representante Especial tomó nota con aprecio de las diversas medidas positivas adoptadas por el Estado para mejorar la situación de los derechos humanos, incluyendo el establecimiento de instituciones y órganos para que se ocupen de las

violaciones de esos derechos. Sin embargo, la Representante Especial reiteró su preocupación por el deterioro de la situación de los derechos humanos en el país y los consiguientes efectos en la seguridad de los defensores de los derechos humanos. De este modo, instó al Gobierno de Guatemala a que adopte nuevas medidas para granjearse la confianza de la sociedad civil, en particular de los defensores de los derechos humanos tomando en cuenta los Artículos 12.2 y 12.3 de la Declaración sobre el derecho y el deber de los individuos, los grupos y las instituciones de promover y proteger los derechos humanos y las libertades fundamentales universalmente reconocidos.

### **Carta de alegaciones**

965. El 12 de Septiembre de 2007, la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **José Emmanuel (“Pepe”) Méndez**. El Sr. Méndez es hijo del Sr. Amílcar Méndez Urizar, el Director de la organización no gubernamental Comunidades Etnicas Runujel Junam (CERJ) que se dedica a la protección de los derechos de las comunidades indígenas.

966. Según la información recibida, el 17 de agosto de 2007 por la tarde, dos hombres armados habrían asesinado al Sr. José Emmanuel (“Pepe”) Méndez en la ciudad de Guatemala. Se alega que el Sr. Méndez habría trabajado con su padre en la protección de los derechos de las comunidades indígenas y durante el mes de julio de 2007, los dos habrían recibido amenazas de muerte, las cuales denunciaron a la Fiscalía General de la Nación. Además, la Corte Inter-Americana de Derechos Humanos habría solicitado al gobierno que asegurara la protección del Sr. Méndez y de su padre.

967. Se expresó temor que el asesinato del Sr. José Emmanuel (“Pepe”) Méndez podía estar relacionado con sus actividades en la defensa de los derechos humanos, en particular, de los derechos de las comunidades indígenas en Guatemala. Se expresó profunda preocupación por la integridad física y psicológica del Sr. Amílcar Méndez Urizar.

### **Respuesta del Gobierno**

968. Por carta con fecha de 14 de noviembre de 2007, el Gobierno informó sobre las medidas cautelares así como sobre las investigaciones realizadas sobre el caso.

969. En relación con las medidas cautelares, el 11 de septiembre de 2007 la Comisión Interamericana de Derechos Humanos instó al Estado de adoptar las medidas cautelares a favor del **Sr. Amilcar Méndez Urizar** y familia como consecuencia “del contexto de violencia por lo que atraviesa Guatemala desde agosto de 2007”. Asimismo la Comisión Interamericana establece que las medidas cautelares son motivadas como consecuencia de los hechos suscitados el día 17 de agosto de 2007. La Comisión Interamericana decidió ampliar las medidas cautelares a fin de proteger las siguientes personas: **Amilcar Méndez Urizar, María Dardón de Méndez (esposa), Ana María Méndez Dardón (hija), Miriam Rocío Méndez Dardón (hija), Gabriela Surgey Méndez Hernández (nuera), Andrea Surgey Méndez Hernández (nieta) y Amilcar José Méndez Hernández**. El Sr. Amilcar Méndez Urizar es beneficiario de medidas cautelares brindadas por la Policía

Nacional Civil desde el año 2003. A partir del 23 de octubre de 2007, se amplió la seguridad de la familia del Sr. Amilcar Méndez Urizar asignándose un total de ocho elementos a disposición de la familia beneficiaria.

970. Con relación a las investigaciones, el Gobierno informó que se ha logrado individualizar a un posible responsable del ataque en contra del Sr. Méndez Dardón y que la persona está aprehendida. El Gobierno informó que no tiene elementos para determinar el móvil del crimen ni de establecer su posible vinculación con la labor realizada en defensa de los derechos humanos.

### **Observaciones**

971. La Representante Especial agradece al Gobierno su respuesta y nota con apreciación que el posible responsable del crimen ha sido aprehendido. También expresa su apreciación de las medidas cautelares adoptadas para proteger el Sr. Méndez Urizar y su familia. Espera más información sobre los resultados de las investigaciones y de los resultados del proceso para que estos delitos no queden impunes.

### **Llamamiento urgente**

972. El 30 de noviembre de 2007 la Representante Especial, señaló a la atención urgente del Gobierno la información recibida en relación con el Sr. **Marco Tulio Ramírez Portela**. El Sr. Marco Tulio Ramírez Portela era Secretario de Cultura y Deportes del Comité Ejecutivo del Sindicato de Trabajadores Bananeros de Izabal (SITRABI).

973. Según la información recibida, el Sr. Marco Tulio Ramírez fue asesinado el 23 de septiembre de 2007, aproximadamente a las 5:45am por varios hombres armados y enmascarados, mientras se desplazaba de su casa a su trabajo en la Finca Yuma. Se informa que hombres fuertemente armados habrían sido observados cerca de la Finca Yuma, supuestamente con la intención de intimidar a la familia del Sr. Marco Tulio Ramírez y a los otros miembros del SITRABI.

974. En el mes de julio de 2007, miembros del ejército guatemalteco habrían entrado ilegalmente en la sede del SITRABI para interrogar a los presentes sobre la identidad de los directivos sindicales.

975. Se teme que el asesinato del Sr. Marco Tulio Ramírez pueda estar relacionado con sus actividades en la defensa de los derechos humanos, en particular su trabajo en la defensa de los derechos de los trabajadores y trabajadoras en Guatemala. Se expresa preocupación por la integridad física y psicológica de los miembros de la familia del Sr. Marco Tulio Ramírez y por los otros miembros del SITRABI.

### **Respuesta del Gobierno a una comunicación precedente**

976. Por cartas con fecha de 8 de marzo de 2007 y 4 de abril de 2007 el Gobierno contestó al llamamiento urgente del 24 de octubre de 2005 relativo al caso del Sr. **Romeo Monterrosa Orellana** y su familia.

977. El Gobierno informó que el caso se encuentra en fase de investigación por parte del Ministerio Público para esclarecer los hechos denunciados. El 5 de febrero de 2007 el Ministerio Público informó que se solicitó información a la empresa Comunicación de Celulares (COMCEL) relacionada a los mensajes de texto recibidos y COMCEL respondió que no era posible remitir la información ya que no cuenta con espacio suficiente para guardar los mensajes de texto.

### **Observaciones**

978. La Representante Especial agradece al Gobierno su respuesta y espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes.

### **Respuesta del Gobierno a una comunicación precedente**

979. Por cartas con fechas de 19 de julio de 2006 y 28 de julio de 2007, el Gobierno contestó al llamamiento urgente transmitido conjuntamente con la Relatora Especial sobre la violencia contra la mujer el 9 de junio de 2006 relativo a allanamientos ocurridos en las sedes de la **Unión Nacional de Mujeres Guatemaltecas (UNAMG) y Organización Sector Mujeres**.

980. El Gobierno informó que el caso se encuentra en fase de investigación por parte del Ministerio Público. En relación con las medidas cautelares a favor de la organización, el Gobierno informó que el día 9 de junio del 2006 se inició con la prestación del servicio de protección con la modalidad de puesto fijo en la sede de la Organización Sector Mujeres a cargo de agentes del Núcleo Central de Reacción de la Policía Nacional Civil.

### **Observaciones**

981. La Representante Especial desea excusarse por no haber incluido esta respuesta en el informe del año pasado (A/HRC/4/37) y rectifica su observación al párrafo 300.

### **Respuesta del Gobierno a una comunicación precedente**

982. Por carta con fecha de 23 de abril de 2007 el Gobierno contestó a un llamamiento urgente enviado el 14 de junio de 2006, relacionado a los señores **René Guzmán Quiñónez, Oscar Humberto Duarte Paiz, y David Alarcón**

983. Con fecha 14 de septiembre de 2006, el Ministerio Público emitió un informe a la Comisión Presidencial de Derechos Humanos, con relación a las diligencias hasta ahora efectuadas por parte de la Agencia Fiscal número cuatro, de la Unidad Contra Secuestros de la Fiscalía Contra Crimen Organizado, el cual establece que:

(a) Se investiga el secuestro del Sr. Oscar Humberto Duarte Paiz, ocurrido el 24 de mayo de 2006, en el municipio de San Juan Sacatepequez, por cuya liberación se exige la cantidad de veinticinco mil quetzales.

- (b) La fiscalía a cargo del caso ha practicado diversas diligencias de investigación que incluyen declaraciones, solicitudes a empresas de telefonía, trabajo de campo, análisis de informes, etc.
- (c) Entre las instituciones a cargo de la investigación se encuentran investigadores de la Dirección de Investigaciones Criminalísticas del Ministerio Público, investigadores de la Policía Nacional Civil, oficina de enlace División de Investigación Criminológica (DINC-MP) entre otras.
- (d) Hasta la fecha, el caso se encuentra en etapa de investigación y la agencia fiscal a cargo del mismo trabaja en la individualización de los responsables del hecho, axial como para dar con el paradero de la víctima.

984. El Gobierno informó que la Policía Nacional Civil se encuentra brindando protección perimetral en las colonias aledañas de Ciudad Quetzal, con la finalidad de proteger a los miembros de la Junta Directiva de ASIDEQ y que se está implementando la protección de puesto fijo en la residencia de la esposa del Sr. **Oscar Humberto Duarte Paiz**.

985. Asimismo el Gobierno informó que el Estado de Guatemala se encuentra en la fase de aprobación a través del Congreso de la República del Acuerdo para la creación de una Comisión Internacional Contra la Impunidad en Guatemala (CICIG), cuyo fin es el de apoyar al Estado de Guatemala para determinar la existencia de cuerpos ilegales de seguridad y los aparatos clandestinos de seguridad.

### **Observaciones**

986. La Representante Especial agradece al Gobierno su respuesta y espera más información sobre los resultados de las investigaciones para que estos delitos no queden impunes. Toma nota con interés de la creación de la CICIG y espera más información sobre este tema y los resultados de la lucha a la impunidad.

### **Observaciones de carácter general**

987. La Representante Especial agradece al Gobierno sus respuestas y solicita información sobre las comunicaciones que se quedan sin respuestas. En relación con la situación de los defensores y defensoras de los derechos humanos, la Representante Especial reitera las consideraciones hechas en su carta del 5 de julio de 2007.

## **Greece**

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

988. On 29 August 2007, the Government of Greece replied to the allegation letter sent on 2 June 2006 by the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia related intolerance, concerning the case of Mr. **Theo Alexandridis**, legal counsel with the *Greek Helsinki Monitor (GHM)*, and other staff members of the GHM. The GHM is an organization that monitors and reports on human rights violations in Greece, including violations against the Roma community (see A/HRC/4/19/Add.1, par. 74-77).

989. In its reply, the Government indicated his sensitiveness on human rights issues and in particular regarding the Roma people. It stressed that Roma living in Greece are an integral part of the Greek population, they are Greek citizens and they are protected against all forms of discrimination by the Greek laws and the Constitution. It was further noted that they enjoy the same civic and political rights, they participate in the Greek society, they organize themselves in associations, political parties etc.

990. The Government noted that, due to their community particular lifestyle and needs, Roma are recognized as a socially vulnerable group of the Greek population and special measures and policies have been adopted to facilitate their integration in the modern Greek society.

991. Regarding the detention of Mr. Alexandridis, the Government indicated that at the beginning of the 2005 school year among the 360 Greek children attending the 10<sup>th</sup> and 11<sup>th</sup> primary Schools of Aspropyrgos, there were 24 Roma children. A large number of parents had objected to the attendance of the Roma Children.

992. On October 13 2005 about 60 persons assembled to prevent the entry of 8 Roma pupils in the school, who were accompanied by the representative of the Greek Helsinki Monitor Mr. Theodoros Alexandridis. Half an hour later, following consultations between those assembled and the school Direction and the intervention of Greek police, the Roma pupils entered the schools and attended classes.

993. Later that day, Mr. Alexandridis went to the Police station of Aspropyrgos and filed charges against the President of the Parents and Guardians Association of the aforementioned Primary Schools, Mrs. Eleni Panda, who was consequently arrested. Charges were also filed against unnamed men, for violation of articles 330, 361 and 33 of the Greek Penal Code. Three persons were also arrested for violation of article 330 of the Penal Code (illegal violence), because along with others, they tried to prevent the access of pupils in the school.

994. At the Police Station of Aspropyrgos, Mrs. Eleni Panda filed charges, as well, against Mr. Theodoros Alexandridis, for insult and false complaints and, as a result of that action, Mr. Alexandridis was also arrested. Later that day, the Public Prosecutor of Criminal Proceedings was informed by phone and ordered the Police not to initiate the "flagrante delicto" procedure. Therefore, the arrested persons were released after registering their pleas. The brief was submitted to the Public Prosecutor of the Magistrate Court of Athens for follow up action.

995. The Government stressed that following that incident, the Officers of Aspropyrgos Police Station, whenever so requested by representatives of the Greek Helsinki Monitor, have always provided assistance so that registered Roma pupils could enter their schools and attend classes, despite reactions of some parents. Moreover, police officers have been at the school on a daily basis and took appropriate measures to protect Roma pupils when they enter and leave the schools.

996. Regarding the statement made by the Public Prosecutor at the Patras Court of Appeals (16/09/2004-4/09/2006), the Government's reply indicated that Mr. Anastassios Kanellopoulos received numerous complaints and communications by inhabitants of the city of Patras and particularly those living in the areas of



«Makrygianni» and «Rodopoulou» describing in details the "deplorable" living conditions they encountered due to the arbitrary settlement of the Roma population.

997. The Government noted that the Roma settled in those areas had been constructing shanty houses on the left bank of Glafkos River near the suburbs of the Municipality of Patras without fulfilling the appropriate and necessary sanitary conditions. As a result, the whole area has been transformed to a permanent infectious site with an elevated degree of pollution. Moreover, it was underlined that the inhabitants of Patras had also denounced the persistent climate of fear and insecurity, prevailing in their neighborhood as a result of unlawful acts allegedly committed by Roma. Specifically, it was noted that it was impossible for the children to play around as well as for the rest of the people to circulate at night. It was also indicated that the local Authorities of Patras have been blamed of being unacceptably tolerant to the constant infringements of law committed by the Roma. Moreover, the Patras Public Prosecutor Office had also been receiving numerous complaints on the same matter, both orally and in writing, filed by the inhabitants of the abovementioned areas.

998. The Government also noted that in April 2006, 637 inhabitants living in the areas of Makrygianni and Rodopoulou filed a complaint and consequently the Patras Public Prosecutor's Office initiated criminal proceedings for nine misdemeanors, the majority of which was related to violation of sanitary provisions. At the same time, the Public Prosecutor ordered the initiation of preliminary investigation. According to the complaints, members of the Greek Helsinki Monitor had been inducing the Roma to commit punishable acts. Mr. Kanellopoulos as the Head of Patras Public Prosecutor's Office ought to examine those allegations, by ordering preliminary investigation.

999. Furthermore, the Government underlined that Mr. Anastassios Kanellopoulos denied that he ever stated that «all Roma are criminals» and considers those allegations groundless and unsubstantiated. Regarding the alleged involvement of the Greek Helsinki Monitor to the commitment of punishable acts, it was indicated that Mr. Kanellopoulos stated that nobody is above the law and since there was a complaint by 637 Greek citizens it was absolutely reasonable to initiate an investigation which should also include alleged activities of members of the Greek Helsinki Monitor.

1000. The Government finally noted that it believed that the above mentioned facts clearly show that in the first case the Greek authorities did their utmost to facilitate the inclusion of Roma children in the Greek society and to protect them from any discrimination, whereas in the second case the Public Prosecutor's Office acted according to the Greek laws in order to investigate allegations made by other Greek citizens. A 2007 updated report on the Integrated Action Plan for the social inclusion of Greek Roma was attached to the reply.

## **Observations**

1001. The Special Representative thanks the Government of Greece for its response to the communication sent on 2 June 2006.

**Haiti**

### **Lettre d'allégations**

1002. Le 7 février 2007, la Représentante spéciale a envoyé une lettre d'allégations sur le meurtre de M. **Jean-Rémy Badio**, défenseur des droits de l'homme, photographe freelance et membre de SOS Journalistes, une organisation qui œuvre pour la promotion de la liberté de la presse et pour la protection des journalistes en Haïti. Selon les informations reçues :

1003. Dans l'après-midi du 19 janvier 2007, M. Badio aurait été abattu chez lui, dans le district de Martissant, dans le sud de Port-au-Prince. Les meurtriers seraient des membres d'un gang armé local que M. Badio aurait photographié quelques jours plus tôt. M. Badio aurait reçu des menaces de mort de la part de gangs armés par le passé.

1004. De vives préoccupations ont été exprimées que le meurtre de M. Badio serait en représailles à ses activités légitimes de défense des droits de l'homme, en l'occurrence son travail de promotion et protection de la liberté d'opinion et d'expression en Haïti.

### **Réponse du Gouvernement**

1005. Le 9 février 2007, le Gouvernement a répondu à la lettre d'allégation du 7 février 2007. Le Gouvernement informe que la lettre de la Représentante spéciale a été acheminée au Ministère des Affaires Etrangères pour les suites nécessaires.

### **Observations**

1006. La Représentante spéciale remercie le Gouvernement de sa réponse mais regrette qu'au moment de la finalisation du présent rapport des clarifications n'aient toujours pas été reçues. Il en va de même de l'appel urgent envoyé le 23 octobre 2006 par la Représentante spéciale concernant le meurtre de M. Bruner Esterne et des actes d'intimidation contre M. Evel Fanfan et sa famille, M. Colin Reginal et M. Montes Plaisimé. La Représentante spéciale presse le Gouvernement de répondre aux craintes exprimées dans les communications susmentionnées.

## **Honduras**

### **Llamamiento urgente**

1007. El 5 de diciembre de 2006 la Representante Especial, junto con el Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación, se refrieron a una comunicación conjunta de la Representante Especial y el Relator Especial sobre la independencia de magistrados y abogados, dirigida al Gobierno de su Excelencia en torno al caso descrito abajo, con fecha de 13 de octubre de 2006.

1008. El Grupo de Trabajo tuvo información adicional en relación con las amenazas recibidas por vía telefónica y por mensajes textuales, en contra de los empleados de la "Asociación para una Sociedad más Justa" (ASJ), entre ellos la Señora **Dina**

**Meetabel Meza Elvir y el Señor Dionisio Díaz García** Según los informes, las amenazas fueron hechas por los individuos de la empresa de seguridad privada “Seguridad Técnica de Honduras” (SETECH), empresa filial de la empresa de seguridad privada “Delta Security”. Mientras se preparaba esta comunicación se tuvo conocimiento que el Señor **Dionisio Díaz García**, un abogado con la ASJ, fue asesinado por dos hombres que circulaban en motocicleta, cuando se dirigía a la Corte Suprema de Justicia el día 4 de diciembre de 2006.

1009. Por otra parte, algunos ex empleados de la SETECH y sus parientes, habrían recibido amenazas después de iniciar querellas en contra de la SETECH en relación con conflictos laborales, incluyendo el no cumplimiento de los contratos sin compensación. Presuntamente, al menos un individuo tuvo que salir de Honduras debido a las amenazas recibidas, y otros habrían sido intimidados para que no continuaran haciendo denuncias con relación a esta situación.

1010. Reiteraron su profunda preocupación ya que el personal de la ASJ sigue recibiendo amenazas directas o disfrazadas de estas empresas de seguridad privadas, que supuestamente han presionado a los empleados de la ASJ para que interrumpan el consejo legal y apoyo a los doce empleados despedidos de la SETECH que representan. Se teme que estos incidentes pueden estar relacionados con sus actividades en defensa de los derechos humanos, y en particular su trabajo en la defensa de los derechos económicos y sociales. Además se expresa un urgente llamado por la necesidad de llevar a cabo una investigación rápida y detallada en relación con el asesinato reciente del Sr. Dionisio Díaz García.

### **Respuesta del gobierno**

1011. Mediante carta con fecha de 6 de febrero de 2007, el gobierno hondureño respondió a la comunicación más arriba. El gobierno afirmó que se habían iniciado investigaciones del caso a través de la Fiscalía de la Dirección General de la República para asegurar un proceso penal y que hasta la fecha no disponía de información sobre dicha situación. La empresa de seguridad privada, Delta Security está legalmente registrada en Honduras a través de su empresa matriz, Seguridad Técnica de Honduras SETECH, ambas entidades que teniendo actualizadas sus respectivas licencias.

1012. El gobierno informó que las investigaciones acerca de las empresas de seguridad privada se encontraban en proceso de realización, y que por lo tanto, no se podía brindar un informe detallado de la mismas, mas se proporcionaría un informe en forma general una vez que concluyan las mismas y se instruyan los procesos penales correspondientes.

1013. Se habían intensificado las diligencias investigativas dirigidas a determinar los hechos denunciados por miembros de la Asociación para una Sociedad Más Justa, previo a incoar las acciones penales que correspondieran en este caso. Asimismo se habían implementado las medidas de protección para asegurar la integridad personal y la vida de los miembros de dicha organización, decretadas el 20 de diciembre de 2006 por la Comisión Interamericana de Derechos Humanos

### **Llamamiento urgente**

1014. El 12 de diciembre de 2006, la Representante Especial, junto con el Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación señalaron a la atención urgente del Gobierno la información recibida en relación con las nuevas amenazas en contra de los miembros de la asociación para una Sociedad mas Justa (ASJ) entre ellos el Señor Carlos Hernández, Presidente de dicha organización, la Señora Dina Meetabel Meza Elvir, directora de proyecto de la ASJ y el Señor Robert Marín García, la Señora Claudia Mendoza, y la Señora Rosa Morazán, periodistas de investigación de la ASJ. Como es del conocimiento de Su Excelencia, el caso de la ASJ ha despertado nuestra preocupación en dos ocasiones anteriores y en este sentido, nos permitimos referirnos a los llamamientos urgentes conjuntos dirigido a Su Gobierno, el primero del Relator Especial sobre la independencia de magistrados y abogados y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 13 de octubre de 2006 y el otro de la Presidenta del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 5 de diciembre de 2006.

1015. De acuerdo con la información adicional recibida, el 6 de diciembre de 2006, dos hombres permanecieron vigilando a la residencia del Sr. Carlos Hernández. Supuestamente el 7 de diciembre, un hombre en motocicleta le dio seguimiento y el mismo día por la mañana, recibió un mensaje textual en inglés que dijo, “You are the next because you are the heat (sic. Head)”. Anteriormente, el 4 de diciembre de 2006 el Sr. Dionisio Díaz García., abogado con la ASJ, habría sido asesinado después de que un colega habría recibido un mensaje de texto que dijo en inglés, “The life of Dionisio Garcia could be in danger!!! Take care, look for someone closer to your enemies!!!”

1016. Según los informes, el 31 de octubre de 2006, la ASJ recibió una respuesta amenazante después de haber publicado un informe de investigación en un boletín electrónico sobre las empresas de seguridad privadas, en particular las empresas “Delta Security” y “SETECH”. El mensaje amenazante supuestamente dijo, “(...) al final de cuentas la justicia ha tomado su propio sendero en el cual se han cruzado los de ASJ, a sabiendas de que serán ajusticiados por las malas acciones que llevan sobre sus hombros”.

1017. Por otra parte, el Sr. Robert Marín García habría recibido un aviso en el que le dijo, “Te tenemos bien vigilado” y que se conocían el lugar de su vivienda familiar y los movimientos de su familia.

1018. La Representante Especial, junto con el Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación reiteraron su profunda preocupación por la seguridad del personal de la ASJ porque se teme que las amenazas directas o disfrazadas de las empresas de seguridad privadas pueden estar relacionadas con su trabajo en defensa de los derechos humanos, en particular su consejo legal y apoyo a los doce empleados despedidos de la empresa de seguridad privada SETECH que representan.

### **Llamamiento urgente**

1019. El 11 de enero de 2007 la Representante Especial, junto con el Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación, señalaron a la atención urgente del Gobierno la información recibida en relación con las nuevas amenazas en contra del Señor **Carlos Hernández**, Presidente de la Asociación para una Sociedad más Justa (ASJ). Otros miembros de la ASJ, e incluso, la Señora **Dina Meetabel Meza Elvir**, directora de proyectos de la ASJ y el Señor **Robert Marín García**, la Señora **Claudia Mendoza**, y la Señora **Rosa Morazán**, periodistas de investigación de la ASJ han sido víctimas de amenazas.

1020. El caso de la ASJ había despertado la preocupación de los titulares de mandato en tres ocasiones anteriores y en este contexto, se permitieron referirse a los llamamientos urgentes conjuntos dirigido a Su Gobierno, el primero del Relator Especial sobre la independencia de magistrados y abogados y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 13 de octubre de 2006, otro de la Presidenta del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 5 de diciembre de 2006, y el más reciente, también de la Presidenta del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 13 de diciembre de 2006.

1021. De acuerdo con la información adicional recibida, el 18 de diciembre de 2006 un hombre en motocicleta se aparcó por detrás de la casa del Sr. Carlos Hernández, donde se permaneció durante un tiempo antes de irse. Se alega que cinco días antes, se vio por el barrio a dos hombres en motocicleta que preguntaron por Sr. Carlos Hernández.

1022. Además, el 15 de diciembre de 2006 fuentes vinculados con la inteligencia militar revelaron, al Sr. Roberto Marín, un supuesto plan, organizado por empresas de seguridad privadas, para matar a los miembros de la ASJ. También se alega que a los periodistas de la ASJ recibieron amenazas.

1023. Reiteraron una vez más su profunda preocupación por la seguridad del personal de la ASJ, sobre todo la del Sr. Carlos Hernández, porque se teme que las amenazas directas o disfrazadas de las empresas de seguridad privadas pueden estar relacionadas con su trabajo en defensa de los derechos humanos, en particular su consejo legal y apoyo a los doce empleados despedidos de la empresa de seguridad privada SETECH que representan.

### **Llamamiento urgente**

1024. El 20 de febrero de 2007 la Representante Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias señalaron a la atención urgente del Gobierno la información recibida en relación con los asesinatos del Sr. **Heraldo Zuñiga** y Sr. **Roger Ivan Cartagena**, miembros del movimiento ambientalista de Olancho que tuvieron lugar el 20 de diciembre de 2006 en el departamento de Olancho. Se teme que estos asesinatos estén relacionados con sus actividades en defensa de los derechos humanos.

1025. De acuerdo con la información recibida, el 20 de diciembre, el Sr. Heraldo Zuñiga y el Sr. Roger Ivan Cartagena fueron asesinatos por agentes de la policía nacional afuera de la oficina del Mayor de Guarizama, delante de varios residentes del barrio. Según los informe, días ante de su muerte, el Sr. Heraldo Zúñiga había expresado preocupación por las amenazas de los madereros que explotan el bosque en el sector de Salamá. Se teme que la policía pueda estar involucrada con las compañías de maderero y que esté implementando una campaña de hostigamiento en contra de los ambientalistas en la región.

1026. Se expresó temores de que los asesinatos del Sr. Heraldo Zuñiga y Sr. Roger Ivan Cartagen pudieran estar relacionados con sus actividades en defensa de los derechos humanos, en particular su trabajo con el movimiento ambientalista de Olancho.

### **Llamamiento urgente**

1027. El 5 de abril de 2007 la Representante Especial, junto con el Relator Especial sobre la tortura señalaron a la atención urgente del Gobierno la información recibida con respecto a la Sr. **Donny Reyes**, miembro de la asociación Arcoiris, asociación que trabaja por la defensa de los derechos de lesbianas, gays, bisexuales y personas transgénero (LGBT). De acuerdo con las informaciones recibidas, el 18 de marzo, hacia las tres de la madrugada, el Sr. Donny Reyes salió de las oficinas de la asociación Arcoiris y mientras esperaba un taxi, seis agentes de policía en dos autos de patrulla se detuvieron junto a él y le pidieron que subiera a uno de los autos. Cuando Donny Reyes se negó los agentes empezaron a golpearle y le insultaron diciendo “a estos maricones hay que desaparecerlos de aquí”. El Sr. Donny Reyes fue trasladado a la comisaría de Comayagüela, donde lo encerraron en una celda con otros 57 hombres. Donny Reyes fue golpeado, desnudado y violado por cuatro detenidos, después de que un agente de policía gritara “miren, aquí les traigo a una princesita, ya saben lo que tienen que hacer”. El Sr. Reyes fue dejado en libertad al día siguiente después de pagar un soborno de 200 lempiras.

1028. Tres días después el Sr. Donny Reyes denunció lo sucedido ante la fiscalía y desde entonces viene siendo objeto de intimidaciones por parte de la policía. Desde el 27 de marzo autos de patrulla se estacionan varias veces al día durante periodos de cinco minutos frente a las oficinas de la asociación Arcoiris, en un aparente intento por presionar al Sr. Donny Reyes para que abandone sus denuncias. Igualmente, se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos del Sr. Reyes, en particular su trabajo por la defensa de los derechos de lesbianas, gays, bisexuales y personas transgénero (LGBT).

### **Respuesta del Gobierno**

1029. Mediante carta con fecha de 13 de Junio de 2007, el Gobierno informó que la Fiscalía General de la República sigue realizando investigaciones con relación al caso del Sr. Donny Reyes. Con el fin de esclarecer los hechos la Secretaría de Seguridad procedió a la conformación de una Comisión Especial, creada mediante acuerdo ministerial N° 0525-07 de fecha 16 de abril de 2007. La Secretaría de Seguridad ha suspendido temporalmente a 10 oficiales de la Escala Básica de la Cuarta Estación Policial de la Jefatura Metropolitana N° 3, involucrados en el incidente con el Sr. Donny Reyes. Los 10 oficiales se encuentran concentrados temporalmente en el Comando de Operaciones Cobras para evitar que interfieran en las acciones de investigación. El Gobierno informa que el Sr. Reyes no es beneficiario de medidas cautelares y que no ha recibido ningún tipo de compensación a modo de indemnización, en vista de que para tal fin debe acudir a las instancias jurisdiccionales correspondientes. Se menciona que el Gobierno enviará un segundo informe que refleje el resultado de las investigaciones en relación al caso del Sr. Donny Reyes.

### **Llamamiento urgente**

1030. El 1 de Mayo de 2007 la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con **Keydi Jorleny Marín, Yerli Isolina Ellis, Yanaira Briyed Lambert, Eusebia Guillén y Joselyn Lizet Rivas**, todas entre 15 y 20 años de edad y miembros de la Comunidad garífuna de San Juan Tela en el departamento de Atlántida. La Comunidad lleva años involucrada en la defensa de sus tierras ancestrales en contra de diversos proyectos de desarrollo. El 17 de agosto de 2006 la Representante Especial del Secretario-General para los defensores de los derechos humanos junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas había enviado un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con amenazas dirigidas a varios miembros de la Comunidad.

1031. De acuerdo con las informaciones recibidas, el 14 de abril de 2007, Marín, Ellis, Lambert, Guillén y Rivas, habrían sido objeto de una emboscada en la entrada de la Comunidad de San Juan Tela, donde dos individuos no identificados habrían disparado al taxi en el cual se dirigían las cinco jóvenes. Ninguna persona habría resultado herida a causa del ataque. Según se informa, aunque los miembros de la Comunidad habrían denunciado oficialmente el ataque ante la Dirección General de Investigación Criminal de Atlántida, la policía no habría tomado hasta la fecha ninguna medida para investigar el incidente.

1032. Se informa asimismo que el Gobierno hondureño no ha tomado acciones suficientes para implementar las medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos a favor de la Comunidad de San Juan Tela el 7 de julio de 2006.

1033. Se expresó preocupación por la seguridad e integridad física de los miembros de la Comunidad, y se teme que el ataque del pasado 14 de abril de 2007 pueda estar relacionado con las actividades de los líderes de dicha Comunidad en defensa de su derecho a la tierra.

### **Respuesta del gobierno**

1034. Mediante carta con fecha de 18 de junio de 2007, el gobierno hondureño respondió a la comunicación más arriba. El gobierno informó que las investigaciones de la Fiscalía General de la República no habían concluido y que no era posible confirmar los hechos mencionados.

1035. La denuncia había sido presentada por medio de correo electrónico ante la Fiscalía Especial de Etnias y Patrimonio Cultural el 16 de abril de 2007, del mismo modo fue remitida el 17 de abril mediante Oficio a la Coordinadora de la Fiscalía de Tela, solicitando intruir las diligencias de investigaciones correspondientes y solicitándole remitir la información que se obtenga sobre este case. Acerca de la identidad de los responsables del asalto no había sido posible la detención de sospechoso alguno pero la investigación seguía por Daños y Tentativa de Homicidio, ya que la denuncia fue presentada por el chófer del tazi, el Sr Cacho, y que las demás personas mencionadas sólo colaboraron con la policía en su calidad de testigos.

1036. El gobierno había solicitado al Jefe de la Policía de Tela, un informe del cumplimiento de las medidas de protección proporcionadas, el que a la fecha no había sido enviado.

### **Llamamiento urgente**

1037. El 22 de Mayo de 2007 la Representante Especial, junto con el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y la Relatora Especial sobre la violencia contra la mujer señalaron a la atención urgente del Gobierno la información recibido en relación con en relación con **Josef Fabio Estrada** (también conocido como Débora), coordinador del grupo de travestís Arcoiris, asociación que trabaja por la defensa de los derechos de lesbianas, gays, bisexuales y personas transgénero (LGBT) y profesional del sexo en Tegucigalpa. El 5 de abril de 2007, la Representante Especial sobre los defensores de derechos humanos y el Relator Especial sobre la cuestión de la tortura enviaron un llamamiento urgente al Gobierno de su Excelencia respecto a Donny Reyes, tesorero de la Asociación antes mencionada.

1038. De acuerdo con la información recibida, el 20 de abril de 2007, hacia las 22:00 horas, Josef Fabio Estrada fue agredido por cinco desconocidos mientras trabajaba en el barrio rojo habitado por gays y travestís en Comayagüela, Tegucigalpa. Según informes, uno de los individuos habría intentado quitarle la peluca antes de arrojarle al suelo y golpearle. Según se informa, un auto patrulla de la policía se habría estacionado al lado del lugar donde se ubicaban los profesionales del sexo minutos antes de las 22:00 horas. Los agentes policiales no solamente habrían sido testigos de la golpiza propinada al Sr. Estrada, sino que habrían alentado a los agresores gritando "¡Maten a este maricón, golpéenlo!". El Sr. Estrada utilizó un objeto afilado, posiblemente una botella rota, que habría encontrado en el suelo, para defenderse, hiriendo a uno de sus agresores y recién en ese momento los agentes policiales intervinieron.

1039. El Sr. Estrada fue arrestado y acusado de intento de homicidio en segundo grado y de robo. Sus agresores quedaron en libertad. El 27 de abril de 2007 se celebró la vista preliminar y los cargos fueron elevados a intento de homicidio en



primer grado. Actualmente se encuentra encarcelado en una celda de la Penitenciaría estatal, normalmente reservada a convictos, denominada “celda de la muerte” en la que suelen ubicarse a presos que sufren tuberculosis, VIH/Sida y enfermedades mentales. No se le habría brindado atención médica.

1040. Se expresó temor de que estos hechos estén relacionados con la actividad en defensa de los derechos humanos, particularmente de los derechos de lesbianas, gays, bisexuales y personas transgénero (LGBT), realizada por el Sr. Estrada. Se recuerda que otro miembro de la Asociación Arcoiris, el Sr. Donny Reyes, fue arrestado el 18 de marzo de 2007 durante 24 horas en la estación de policía de Comayagüela. Según la información recibida, los agentes le golpearon y luego le llevaron a otra estación donde le dejaron durante más de seis horas en una celda con otros detenidos. Donny Reyes fue golpeado y violado repetidamente por otros detenidos, instigados, según se afirma, por un agente policial. Se afirma también que miembros de la policía vienen intimidando y hostilizando al Sr. Reyes por haber denunciado los hechos ante la Fiscalía.

### **Respuesta del Gobierno**

1041. Mediante comunicación de 29 de octubre de 2007, el Gobierno de Honduras proporcionó información con respecto al llamamiento enviado. El Gobierno informó de que La Dirección General de Servicios Especiales Preventivos dependiente de la Secretaria de Seguridad informa que no son ciertos los hechos alegados por el Sr. **José Fabio Estrada**. Mediante el Informe Médico practicado por la Dirección General de Servicios Especiales Preventivos, prescribe que el Sr. José Fabio Estrada Varela de 26 años de edad, ingreso a la Penitenciaría Nacional “Marco Aurelio Soto” el día 27 de abril de 2007, por el supuesto delito de Homicidio en el grado de Ejecución de Tentativa. En su declaración refiere que el día 21 de abril de 2007, fue agredido en horas de la noche por cuatro personas que ingerían bebidas alcohólicas en un bar en la Ciudad de Comayagua; agregando, que en el lugar donde lo agredieron se encontraba estacionada una patrulla con varios agentes policiales y en vez de protegerlo, los policías alentaban a estas personas para que continuaran golpeándolo, uno de los agresores le dio un golpe en la frente (región frontal derecha) produciéndole una herida y él en su defensa rápidamente saco un cuchillo e hirió a su atacante. En ese momento sí actuó la policía, capturando y llevando al Sr. Estrada a una Estación de Policía (CORE 7). Se le practico al Sr. Estrada el examen físico respectivo, presentando buen estado de Salud. Por cuatro meses no solicito atención médica, pero a partir del 12 de julio de 2007 solicito y continúa recibiendo asistencia médica.

1042. Al llegar a la Penitenciaría Central fue trasladado al modulo de diagnostico, durante tres días reubicándolo el 30 de abril fue ubicado en el modulo de procesados 1, hogar 17; lugar donde se encuentran los grupos vulnerables. En un principio vivió en compañía de otro homosexual, posteriormente le fue asignado una celda en la que vive hasta la fecha. Admitió que sí recibió malos tratos físicos y psíquicos por parte de personas cuyo nombre se reserva por temor a represalias, pero dejó entrever que se trata de personas que se encuentran internas en la Penitenciaría Nacional. No se recibió información sobre Medidas Cautelares.

### **Llamamiento urgente**

1043. El 31 de Mayo de 2007 la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados y el Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación, señalaron a la atención urgente del Gobierno la información recibida en relación con las nuevas amenazas en contra del Sr. **Felix Antonio Cáceres Alveranga**, abogado que trabaja para la organización de derechos humanos Asociación para una Sociedad más Justa (ASJ). El Sr. Cáceres Alveranga ha estado trabajando en casos de conflictos laborales en empresas de seguridad privadas. Desde diciembre de 2006 otros miembros de la ASJ habrían sido víctimas de amenazas, incluyendo et Sr. Carlos Hernández, Presidente de la ASJ, la Sra. Dina Meetabel Meza Elvir, directora de proyectos y et Sr. Robert Marín García, la Sra. Claudia Mendoza, y la Sra. Rosa Morazán, periodistas de investigación. Como es del conocimiento de su Excelencia, el caso de la ASJ ha despertado nuestra preocupación en cuatro ocasiones anteriores y en este sentido, nos permitimos referirnos a los llamamientos urgentes conjuntos dirigido a Su Gobierno, el primero del Relator Especial sobre la independencia de magistrados y abogados y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 13 de octubre de 2006, otro del Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 5 de diciembre de 2006, otro del Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 13 de diciembre de 2006 y el más reciente también del Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación y de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 11 de enero de 2007.

1044. De acuerdo con la información adicional recibida, el 17 de mayo de 2007, hacia las 15:00, et Sr. Cáceres Alvarenga habría recibido un mensaje de texto amenazante en su teléfono móvil, lo cual decía 'Será mejor que se retire de (nombre de una empresa de seguridad privada) o lo dejamos como a Dionisio'. El Sr. Dionisio Díaz García, también abogado de la ASJ, fue asesinado el 4 de diciembre de 2006.

1045. Según se informa, desde el asesinato del Sr. Díaz García, otros miembros de la ASJ, incluyendo los arriba mencionados, habrían recibido amenazas mediante mensajes de texto y habrían sido seguidos y vigilados por desconocidos. Además, se ha denunciado la presencia de individuos en vehículos aparcados delante de sus casas. El 15 de diciembre de 2006, fuentes vinculadas a la inteligencia militar, revelaron al Sr. Roberto Marín un supuesto plan organizado por empresas de seguridad privadas para matar a los miembros de la ASJ.

1046. Reiteraron una vez más su profunda preocupación por la seguridad del personal de la ASJ, sobre todo la del Sr. Cáceres Alvarenga, porque se teme que las amenazas directas o disfrazadas de las empresas de seguridad privadas pueden estar

relacionadas con su trabajo en defensa de los derechos humanos, en particular su consejo legal y apoyo a los doce empleados despedidos de la empresa de seguridad privada SETECH.

### **Observaciones**

1047. La Representante Especial agradece al Gobierno las respuestas proporcionadas en relación con los llamamientos enviados el 5 de diciembre de 2006, el 5 de abril de 2007, el 1 de mayo de 2007 y el 22 de Mayo de 2007. Sin embargo, la Representante Especial sigue preocupada por la seguridad y la integridad física y psicológica de los defensores de los derechos humanos en Honduras y está especialmente preocupada por las alegaciones de que agentes policiales hayan estado directa o indirectamente implicados en atentados contra los derechos de activistas de los derechos humanos.

1048. La Representante Especial urge al Gobierno que transmita repuestas a los demás casos con informaciones respecto al resultado de las investigaciones llevadas a cabo. La Representante Especial agradecería recibir del Gobierno el segundo informe mencionado en la respuesta del Gobierno con fecha 13 de junio de 2007 al llamamiento urgente con fecha 5 de abril de 2007 sobre las investigaciones con relación al caso del Sr. Donny Reyes.

## **India**

### **Urgent appeal**

1049. On 8 December 2006 the Special Representative sent an urgent appeal to the Government concerning threats against Mr. **Gopan Sharma**, a staff member of non Governmental organisation MASUM based in West Bengal, which works to create awareness of human rights violations in rural areas and promotes the rights of agricultural workers.

1050. According to the information received, on 15 November 2006, Mr Gopan Sharma had drafted a written complaint on behalf of an agricultural worker, Mr Mohammad Sayab Ali Mondal, who was allegedly beaten by members of the Border Security Force (BSF) because he apparently witnessed the smuggling of goods across the border with Bangladesh. It was reported that when Mr Sharma accompanied Mr Mondal to lodge the complaint they were told by Mr Somnath Banerjee, Officer in Charge of the Jalangi police station, that he could not entertain complaints against the BSF. Reportedly the police officer then verbally insulted the two men and disposed of the written complaint.

1051. It was further reported that Mr Sharma contacted the Additional Superintendent of Police (ASP) of the Murshidabad district in relation to the complaint. The ASP reportedly instructed the Jalangi police to accept the complaint without further delay. However sources indicated that the aforementioned Officer in Charge continued to refuse to act on the complaint and had allegedly threatened that Mr Sharma will face serious consequences if he continues to defend victims of human rights violations carried out by the BSF. It was also reported that Mr Mondal had been harassed by the Jalangi police because he has involved human rights activists in his case.

1052. Concern was expressed for the safety of Mr Gopan as it is feared that the threats and acts of intimidation against him are related to his activities in relation to human rights, in particular his defence of the rights of agricultural workers in the West Bengali area.

### **Letter of allegations**

1053. On 9 January 2007, the Special Representative sent a letter of allegations to the Government concerning a search of the premises of Manabdhikar Suraksha Mancha (MASUM), and harassment of its members including Mr **Kirity Roy**, Secretary General of the organisation and a national executive member of the Indian branch of Amnesty International. MASUM is an organization which promotes the rights of agricultural workers, based in Kolkota. Mr Kirity Roy was the subject of a joint communication sent to your Government on 14 December 2005 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, and a subsequent urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 25 January 2006.

1054. According to the information received, on 21 November 2006, an officer from the District Intelligence Branch Department (DIB) searched the headquarters of MASUM apparently in search of information relating to the activities of the organisation. The police officer allegedly failed to produce a search warrant when requested to do so by Mr Kirity Roy, responding that he was acting on orders issued by Mr Raj Konjia, the West Bengal General Inspector of Police (Law and Order). The officer reportedly asked for the organisation's registration certificate and took a note of Mr Roy's address.

1055. A short time after the officer left, it is reported that Mr Roy received a phone call in which he was summoned to the DIB office in Howrah to meet with the Deputy Superintendent of Police. When Mr Roy asked for notification in writing, the officer allegedly hung up. Furthermore, it is reported that MASUM's headquarters were previously subjected to a search on 10 November 2006 by the same officer. It is alleged that he also asked on that occasion about the activities of the organisation and requested to see the registration certificate, as well as personal details of leading members including their names, addresses and phone numbers. The only employee who was present at the time apparently refused to divulge this information.

1056. Concern was expressed that the arbitrary searches of the MASUM headquarters and harassment of its staff, in particular Mr Kirity Roy, may represent an attempt by the authorities to prevent the organisation from carrying out its legitimate activities in defence of human rights, in particular the promotion and protection of the rights of farm workers in West Bengal.

### **Urgent appeal**

1057. On 16 February 2007 the Special Representative, 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, sent an urgent appeal to the Government 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.

1058. 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.

1059. 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.

1060. 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 allegations 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.

1061. 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. Concern was expressed that the charges issued against Mr Sharma may be false and may be directly related to his legitimate work as a District Human Rights Officer with the National Project on Prevention of Torture's in Murshidabad District

of West Bengal. Further concern was expressed that such actions may represent an attempt to warn and deter other human rights defenders and particularly, the NPPT's fact finding mission from investigating human rights violations committed by the BSF or the police.

### **Letter of allegations**

1062. On 26 January 2007 the Special Representative, together with the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, sent a letter of allegations to the Government concerning an attack against Mr **Ravikumar**, Member of the Legislative Assembly of the Kaaumannarkoil constituency, owing allegiance to the Vidudalai Chruthaiga, Dalit Panthers of India (DPI), in Sedapalayam village of Cuddalore District, in the State of Tamil Nadu. Mr Ravikumar also served as state president of the People's Union for Civil Liberties, Tamil Nadu-Pondicherry and was elected as a Member of the Tamil Nadu Legislative Assembly in 2006. He is also a well known Dalit writer, social activist and co-publisher of a publishing house which focuses on caste issues.

1063. According to information received, on 2 January 2007, Mr Ravikumar sustained injuries to his hands and legs during an alleged attack by a contingent of approximately 100 police officers, including Delta police personnel, in Sedapalayam village during a funeral procession for Mr Siva, a Dalit youth murdered on 1 January 2007. Twenty-eight other Dalit Panthers of India (DPI) members were also injured in the attack. Mr Ravikumar was admitted to the Sri Ramachandra Medical College in Chennai on 3 January 2007 and discharged three days later. According to reports, the funeral procession was attacked by police officers in response to an attempt by some individuals attending the funeral to set fire to houses belonging to the alleged perpetrators of Mr Siva's murder. Dalit youths who later attended the hospital for medical treatment were reportedly arrested by police on charges of attempted murder.

1064. Prior to the events of 2 January 2007, Mr Ravikumar had reportedly been in contact with Mr Gagandeep Singh Bedi, District Collector, Cuddalore, and Mr M Karunanidhi, Chief Minister of Tamil Nadu urging them to ensure that an immediate investigation be carried out in relation to Mr Siva's murder on 1 January 2007, and that the perpetrators be brought to justice. He also made an appeal to the police and district administration to ensure that law and order be maintained during the funeral. Concern was expressed that the funeral procession of Mr Siva was violently suppressed by authorities and that excessive police force may have been used against peaceful attendees of the funeral. Concern was also raised that Mr Ravikumar may have been targeted due to his high profile work in defence of the human rights of Dalits.

### **Urgent appeal**

1065. On 26 January 2007, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government concerning Mr **Hebal Abel Koloy**, Chairperson of the Borok People's Human Rights Organisation (BPHRO), a non Governmental organisation that promotes and protects the rights of the indigenous peoples of Tripura.

1066. According to the information received, Mr. Hebal Abel Koloy was rearrested on 19 January 2007 in Kamalpur District on charges related to the National Security Act (NASA). Mr Hebal Abel Koloy had been granted bail on 17 January 2007 by the Agartala Bench of the Gauhati High Court, in respect of four different legal cases, on the grounds that evidence did not exist for his detention. Furthermore, the Court ruled that his arrest had been arbitrary and that the repeated attempts to prosecute him constituted a type of political harassment, so therefore ordered his immediate release. However, when his family travelled to Kamalpur District Jail to collect him, they found that he had been rearrested.

1067. It was further reported that Mr. Hebal Abel Koloy, a respected teacher working in a school set up by the Government of Tripura, was previously detained during the night from 26 to 27 October 2006 at the West Tripura District police station. A case was registered against him under s.27 of the Arms Act and 120(b) of the Penal Code. He was brought before the Chief Judicial Magistrate of Kailashar, who found no evidence to support the charges brought against him. Despite this ruling, he was reportedly remanded in custody for three days. On 29 October 2006, in addition to a search being carried out on his residence, the premises of the BPHRO were raided and identity card forms, donors' registrar books, membership fee books and other documents relating to the organisation were removed by the police, as well as a personal computer. I

1068. It was alleged that this person was being held in detention as a consequence of his human rights work and that his detention may represent an attempt by the local authorities to deter him and other defenders from carrying out their legitimate activities in defence of the indigenous peoples of Tripura.

### **Letter of allegations**

1069. On 5 April 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Ram Prasad Bharati**, member of the Peoples Vigilance Committee on Human Rights (PVGHR). The PVCHR is an organisation based in Uttar Pradesh which promotes civil and democratic rights and in particular the rights of minority groups, including the rights of the Dalit community. According to information received, on 6 March 2007, whilst travelling from Sonbadra to Varanasi, Mr Bharati was arrested by members of the local police stationed at Naugarh police outpost, Chgandauli district, Uttar Pradesh. Prior to his arrest Mr Bharati was allegedly followed by two individuals known to be feudal leaders before being intercepted at the Naugarh police outpost.

1070. Mr Bharati contacted the PVCHR at midday on 6 March 2007 to inform the organisation of his arrest. He was subjected to verbal abuse whilst in detention but later released without charge. Mr Bharati has been the subject of previous harassment by members of the Naugarh police force. On 15 September 2005 he was detained at Majhgavan police station for a number of hours for questioning during which time senior police officers allegedly threatened him by implying that he would be the victim of a staged murder.

1071. Furthermore, on 6 February 2005 a senior officer visited Mr Bharati's home asking for his whereabouts. Mr Bhratai was not at home at the time and the officer asked his son to inform Mr Bahrati that a bullet had been reserved for him and would be used in the near future. Mr Bahrati reported the aforementioned incidents to the local authorities and to the National Human Rights Commission however no action was taken to investigate the matter. Concern was expressed the arrest and detention of Mr Ram Prasad Bharati forms part of an ongoing campaign against human rights defenders in India, in particular those working on behalf of the Dalit community and minority groups. Further concern was expressed for the safety of Mr Bharati given the alleged threats he was subjected to in the past by members of the police force.

### **Letter of allegations**

1072. On 20 April 2007, the Special Representative sent a letter of allegations to the Government concerning Mr **Phani Gopal Battacharaya**, Vice-President of Banglar Manabadhikar Suraksha Manch (MANSUM). Mr Battacharay is also Secretary of the Indo Japan Steels Limited Employees Union and Working President of Belur Sramajibi Sasthya Prakalpa Samity (Sramajibi Hospital) in West Bengal. The hospital was established by ex-factory workers and provides treatment for torture victims.

1073. According to information received, on 10 March 2007, Mr Bhattacharya was charged under sections 34, 427 and 447 of the Indian Penal Code for alleged mischief causing damage (427), criminal trespassing (447) and common intention to commit any crime with others (34) and was subsequently detained at the Bally Police Station, West Bengal. On 20 March 2007 Mr Bhattacharya was granted bail by the Chief Justice Magistrate of Howrah, West Bengal.

1074. According to reports, Mr Bhattacharya was employed by the Indo Japan Steels Ltd, and Secretary of the Employees Union until 1996 when the factory closed. Since then, Mr Bhattacharya along with the other trade union members, have been involved in working for the rights of employees at the factory including making demands for the payment of salaries due, redundancy, repayment of workers' contributions to Co-Operative Fund and Provident Fund. The business was then in the final stages of its liquidation process. Since the closure of the factory, employees have had legal control over a room adjacent to the factory premises, which had been used as a workers' co-operative. The Indo Japan Steels Ltd had no legal rights over the factory premises as it was a leasehold property and the lease had been terminated. The Calcutta High Court had previously ordered, in other cases, that the peaceful workers could remain in the premises of the closed factory. Mr Bhattacharya, along with other workers, was reportedly trying to prevent the illegal taking of valuable machinery that had been left since the factory's closure.

1075. Concern was expressed that the charges against Mr Phani Gopal Bhattacharya form part of an ongoing campaign against human rights defenders in India. Concern was also expressed that the charges brought against Mr Battacharaya along with 25 other trade union workers are may be related solely to their legitimate and peaceful work in defence of human rights, and in particular workers' rights and may form part of an ongoing campaign against human rights defenders in India.

### **Letter of allegations**



1076. On 10 May 2007 the Special Representative sent a letter of allegations to the Government concerning Ms **Subhajit Dey**, a transgender Peer Educator at the AIDS Prevention and Control Society, West Bengal State. Ms Dey is also a member of the Pratyay Gender Trust, an organisation which works to defend the rights of those marginalized due to their sexual orientation in India. She has been involved in the Targeted Intervention Project for Communities at risk of HIV/AIDS, in Calcutta.

1077. According to information received, on 24 April 2007, at approximately 22:45, Ms Dey, along with an outreach client, were entering Sealdah train station in Calcutta when they were accosted by two plain-clothes police officers from the Railway Protection Force. The police officers allegedly attempted to persuade Ms Dey to meet them in a secluded part of the station. However, when Ms Dey and her companion refused, they were forcefully brought to the nearby police station. The police officers proceeded to beat Ms Dey and the outreach client outside the police station when the latter managed to escape.

1078. According to reports, Ms Dey was then brought inside the police station where she was met by 8 to 9 police officers, the majority of whom were in civilian clothing. The officers accused Ms Dey of being a criminal before subjecting her to a barrage of verbal abuse and sexual assault. After her ordeal, Ms Dey was permitted to leave the police station on the condition that she would never return to Sealdah again. Concern was expressed that the aforementioned events may be directly related to Ms Subhajit Dey's work in the defence of human rights in India, in particular her work defending the rights of those marginalised because of their sexual orientation in the country.

### **Response from the Government**

1079. In a letter dated 20 November 2007, the Permanent Mission of India in Geneva responded to the above communication, stating that no FIR/complaint had been lodged by Ms Dey or on her behalf. However, an enquiry had been conducted by the Office of the Superintendent of Police, Government Railway Police, Sealdah, which established the allegation of misbehaviour by two police officers; namely Mr Soumen Nandi and Mr Ranjit Mondal. Consequently, departmental action against both officers was being initiated.

### **Letter of allegations**

1080. On 1 June 2007, the Special Representative sent a letter of allegations to the Government concerning Dr **Binayak Sen**, medical doctor and General Secretary of the People's Union for Civil Liberties, Chhattisgarh, and Vice-President of PUCL National. Dr Sen has been involved in working on access to health for adivasi communities in the state of Chhattisgarh, and he has been instrumental in highlighting alleged human rights abuses against the adivasi including unlawful killings, sexual abuse and forced disappearances. Dr Sen has also publicly criticized Salwa Judum, the armed anti-Maoist campaign reportedly sponsored by the state Government.

1081. According to information received, on 14 May 2007, Dr Sen returned from a two week break in Kolkotta to attend his medical clinic in Bilaspur when he was informed by the Superintendent of Police to go to the TarBahar local police station, as

he was required to give a police statement. On arrival at the station, Dr Sen was arrested and charged with allegedly 'aiding and abetting Naxal activity in the State' thus violating the Chhattisgarh Special Public Security Act, 2006 (CSPSA) and the Unlawful Activities (Prevention) Act 1967 (amended in 2004). The CSPSA and UAPA reportedly allow for detention of persons suspected of belonging to an unlawful organization or participating in its activities or giving protection to any member of such an organization. On 15 May 2007, Dr Sen was transferred to Raipur Central Prison, Chhattisgarh, whilst police officials reportedly conducted a search of his residence and medical clinic.

1082. According to reports, authorities had also accused Dr Sen of passing letters from Mr Narayan Sanyal, a detained leader of the banned Communist Party of India (CPI), whom he had met at Raipur prison in April 2007, to Mr Piyush Guha, an alleged member of CPI who was arrested on 1 May 2007. At the time of his arrest, Dr Sen claimed that the charge had no basis as he had been authorized to visit Mr Sanyal by the Superintendent of Police in Raipur and prison officials were present during the meeting.

1083. On 22nd May 2007, Raipur District Court issued an order to have Dr Sen's computer examined by a Government expert in the presence of the District Head of the National Informatics Centre. A decision was also taken to detain Dr Sen on judicial remand, until 5 June 2007; so at time of writing, Dr Sen remained in detention at Raipur Central Prison. Concern was expressed that the arrest and detention of Dr Sen were directly related to his activities in defending the rights of the adivasi communities in Chhattisgarh state and his open criticism of the Salwa Judum.

### **Letter of allegations**

1084. On 28 June 2007, the Special Representative sent a letter of allegations to the Government concerning the arrest and detention of Mr **Gopen Sharma**, District Human Rights Monitor (DHRM) with the National Project on Preventing Torture in India: From Public Awareness to State Accountability, in the Murshidabad District, West Bengal. Mr Sharma was the subject of an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 8 December 2006. He was also the subject of a joint urgent appeal sent by 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 promotion and protection of the right to freedom of opinion and expression on 16 February 2007.

1085. According to reports received, on 12 June 2007, at approximately 12:30pm, Mr Sharma was taking note of the name of a judge that was displayed on a notice-board outside a courtroom at the '2nd Fast Track Court', Baharampur, Murshidabad. He was collecting the information as part of a project administered by the United Nations Development Programme (UNDP) and the Ministry of Law and Justice in India entitled "Strengthening Access to Justice in India" (SAJI). Contact details for all the judges and magistrates in the district are required as part of the project.

1086. Whilst outside the courtroom, Mr Sharma was approached by a police officer who questioned him as to the reasons for his actions. Mr Sharma was then reportedly

arrested and brought before the court of the aforementioned judge who asked him in open court, why he had recorded his name. Mr Sharma provided details of the project to the judge and was released later that afternoon without charge. Concern was expressed that the afore-mentioned events are directly related to Mr Sharma's legitimate activities in defence of human rights and may have been an attempt to prevent him from continuing his investigative work as part of the SAJI project.

### **Letter of allegations**

1087. On 11 July 2007, the Special Representative, together with the Special Rapporteur on the right to food, sent a letter of allegations to the Government concerning the arrest and detention of human rights activists Mr **Medha Paktar**, head of Narmada, **Bachao Andolan**, Mr **Gutam Bandhopadhyay** and Mr **Yogini Khanolkar** of Nadi Ghati Morcha (NGM), Mr **Simpreet Singh** and Mr **Mukta Srivastava** of the National Alliance of Peoples Movements (NAPM), Sr **Celia** of the Domestic Workers Union, based in Bangalore, Ms **Nidhi Agarwal** of the Saheli Women's Collective and 55 other individuals. The aforementioned organisations campaign for water rights and mobilise tribal people, Adivasi, farmers, environmentalists and human rights activists against the construction of the Sardar Sarovar Dam across the Narmada River in Gujarat. Mr **Santhosh Patel**, a member of the People's Vigilance Committee on Human Rights (PVCHR) since 2000 and PVCHR fellow, is also an active campaigner for the right to water and supporter of villagers living in Varanasi district who have been deprived of water since 2004.

1088. According to information received, in the afternoon of the 22 March 2007, 62 individuals gathered outside the Planning Commission Office (Yojana Bhavan), New Delhi, in order to speak with the Deputy Chair of the Planning Commission on World Water Day. The event was organised by Action 2007 (a civil movement fighting for justice and equality in India) as part of a peaceful protest against the privatisation and appropriation of water resources leading to water scarcity. At approximately 14:00pm, police and members of the Rapid Action Force (RAF) dispersed the crowd, arresting 62 peaceful protesters including the afore-mentioned individuals. It is reported that the police used excessive force whilst conducting the arrests tearing some of the female protesters' clothing. Those arrested were detained at Parliament Police Station where they were obliged to sign blank arrest memos.

1089. Later that evening, all of the male detainees and two females were presented before the judicial magistrate and remanded in custody until 5 April 2007. They were then taken to Chanakyapuri Police Station before being transferred to Tihar Jail at 11:00am the following morning. All were released a short time later and no charges were brought against them. On the morning of 26 March 2007, in a separate incident, Mr. Patel was arrested and detained by officers from the Phulpur Police station in the Varanasi district in the village of Badepur. No reason was given for his arrest however it is believed that his detention was related to his support of rural residents of the villages of Badepur, Dhebhuaha, Nagapur under Badagaon Block and Pindra, Chuppepur, Aswalpur under Pindra Block in the Varanasi district who have allegedly been deprived of water for the last three years and as a result have been unable to irrigate their crops. This has allegedly affected the villagers' usual access to sufficient and adequate food. According to reports, the authorities have reportedly insisted that

the farmers pay water tax, threatening them that if they do not pay they will be arrested and imprisoned.

1090. As a result of the situation in the area farmers organized various protests in November 2006, and on 12 December 2006, villagers submitted a request to the District Magistrate of Varanasi to exempt them from paying water tax. A second request was submitted on 2 January 2007 and again the following day. The District Magistrate allegedly forwarded the complaint to the concerned executive engineer of the irrigation department. On 10 January 2007, an Amin (an official who collects revenue in the district) went to Chuppepur village of Pindra Block to collect the water tax, where he was met by individuals who told him to leave the village. The Amin reportedly responded by threatening the villagers that he would ask the police to beat them before arresting them.

1091. He subsequently lodged a complaint with the police about some of the villagers including Mr Patel. Mr Patel was later released on bail on 29 March 2007, and no charges were brought against him. Concern was expressed that the aforementioned events were directly related to the work of Mr Medha Paktar, Mr Gutam Bandhopadhyay, Mr Yogini Khanolkar, Mr Simpreet Singh, Mr Mukta Srivastava, Sister Celia, Ms Nidhi Agarwal and Mr Santhosh Patel in defence of human rights and in particular, the right to food and water.

### **Letter of allegations**

1092. On 27 July 2007, the Special Representative sent a letter of allegations to the Government concerning the alleged arbitrary arrest and charges brought against Mr **Subash Mohapatra**, director of the Forum for Fact-Finding Documentation and Advocacy (FFDA), a non-Governmental organisation which monitors the human rights situation in Raipur, Chhattisgarh. In his capacity as director of the FFDA, Mr Mohapatra has had cause to file in excess of 300 complaints to the Chhattisgarh State Human Rights Commission and has publicly expressed his concerns with regard to the Commission's shortcomings, particularly in the areas of inefficiency and corruption.

1093. According to information received, on 17 July 2007, at approximately 3.50pm, Mr Subash Mohapatra was allegedly arrested in the office of the Chhattisgarh State Human Rights Commission. According to reports, he was arrested while attempting to file a response to an investigation undertaken by the Commission on the case of a Dalit student that had been submitted to the Commission by the FFDA. Although the Commission had expressly requested that Mr Mohapatra file this response to their investigation of the aforementioned case, Mr Mohapatra was allegedly asked to pay a bribe by Mr Binod Agrwal, a clerical employee with the Commission, in order to file his response. When he refused, he was physically and verbally abused by seven individuals, who spoke to him using offensive language and repeatedly dealt him blows to the back of the neck. Mr Mohapatra was firstly detained in the office of the Joint Secretary of the Commission for thirty minutes, before being forcefully taken to Gol Bazar Police Station by two police officers where he was placed in police custody. The police officers did not show a warrant for his arrest prior to detaining him, nor did they grant Mr Mohapatra the right to inform his family and/or lawyer of his whereabouts. After three hours, he was brought to City Kotwali Police Station

where he was subject to an interrogation which lasted until 9pm that evening. Mr Mohapatra was particularly questioned about his alleged involvement with the militant Naxalite movement.

1094. Mr Mohapatra was then taken back to Gol Bazar Police Station and released on bail at 10.30pm. Mr Subash Mohapatra was charged under Sections 186, 353, 294, and 506 of the Indian Penal Code for “obstructing a public servant in the performance of his public functions”; “assault or criminal action deterring a public servant in the performance of his public functions”; “obscene acts and songs”; and “punishment for criminal intimidation”, respectively. He was due to appear before Raipur’s Judicial Magistrate’s Court on 6 August 2007.

1095. Despite the fact that Mr Mohapatra filed a formal complaint to the Gol Bazar Police in relation to the abuse he suffered in the office of the Chhattisgarh State Human Rights Commission, thus far no investigation into this complaint had yet been carried out by the authorities. Concern was expressed that the aforementioned arrest and charges brought against Mr Mohapatra may be related to his peaceful human rights activities. Further concern was expressed for the physical and psychological integrity of Mr Mohapatra, his family, and his colleagues at FFDA.

### **Urgent appeal**

1096. On 23 August 2007, the Special Representative, together with the Special Rapporteur on violence against women and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent an urgent appeal to the Government concerning attacks on Dalit communities, particularly women, in Somebhadra District, Uttar Pradesh, India. On 3 August 2007, Ms **Roma** and Ms **Shanta Bhattacharya** were arrested in Robertsganj under charges of provoking Dalits and Tibals to encroach forest lands. They were arrested under section 120 (B) and 447 of Penal Code; they were in Mirzapur jail and their bail applications had been rejected at the Circle Judicial Magistrate.

1097. On 5 August 2007, **Lalita Devi** and **Shyamlal Paswan** were arrested from a local market in Rangarh and were also in Mirzapur jail. As a consequence of these imprisonments, people have been staging a protest since 4 August in front of the District Magistrate (DM) office in Sonebhadra demanding the immediate release of the activists. New charges were brought against Ms. Roma under article 4 of the National Security Act on 10 August. Reports also indicated that on 10 August 2007, at around 9 p.m., the police attacked Dalit women in Chanduli Village, in Sonebhadra District, leaving fifteen women seriously injured. Two trucks loads of Police along with Upper Caste representatives of the locality descended on Chanduli village in Sonebhadra district. They were allegedly heavily armed, and demanded to see Bachchalal, an active member of the local organisation Kaimoor Kshetra Mahila Mazdoor Kisan Sangharsh Samiti (KKMMKSS).

1098. According to information received, when they did not find Bachchalal in the village, they started attacking women present in the village. Police and upper caste representatives barged into the house of Bachchalal and attacked his pregnant sister and sister-in-law; pulling them out and attacking them. In three hours, the police and upper caste representatives beat up around 15 women and destroyed their houses. At

the time of the incident, there were very few male members in the village as most of them were staging a protest in front of the DM's office in Sonebhadra against the arrest of Ms. Roma, Ms. Shanta Bhattacharya, Lalita Devi and Shyamlal Paswan. This was allegedly the third attack of this kind against Dalits in less than two weeks and reportedly a consequence of the Dalits families' requests for land that started in the last two years, as a response to the forest department's Government Resolution of 2002-3 to clear forest lands from any encroachments. During the events, the police reportedly left the village giving an ultimatum to remove the bricks of the houses by 11 August 2007, or they would come back with the administrative order to destroy the houses.

### **Letter of allegations**

1099. On 2 November 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Vasanth SR**, a staff member of People's Watch, a non-Governmental human rights organisation based in India.

1100. According to information received, on 8 March at approximately 1.00pm, Mr Vasanth SR was detained while carrying out human rights monitoring activities at the Medikeri Town Police Station in the Kodagu District of Karnataka State. While there, Mr Vasanth SR reportedly witnessed policemen torturing two men. When Mr Vasanth SR questioned the policemen as to why they were doing this, they detained him. At 6.00pm that same day, the Head Constable of the Medikeri Town Police Station, Mr Devaiah, called People's Watch and the South India Cell for Human Rights Education and Monitoring (SICHEM) to inform them that Mr Vasanth SR had been taken to hospital for a medical examination. Mr Devaiah reportedly said that this examination was required due to an assault between Mr Vasanth SR and a police inspector which occurred when Mr Vasanth SR allegedly intervened in an official interrogation and attacked the police inspector. Mr Devaiah also informed People's Watch and SICHEM that Mr Vasanth SR had been charged under Section 353 of the Indian Criminal Code, for "assault or criminal force to deter a public servant from the discharge of his duty".

1101. Mr Vasanth SR has been released on bail prior to his trial and is reportedly receiving threats from the policemen who detained him. On 9 March 2007, People's Watch and SICHEM lodged a formal complaint regarding the detention and physical assault of Mr Vasanth SR with the National Human Rights Commission (NHRC) of India. On 18 July 2007, the NHRC deferred the complaint to the Medikeri Town Police Station.

1102. At the time of his detention, Mr Vasanth SR was carrying out human rights monitoring activities as part of an ongoing project entitled the "National Project on the Prevention of Torture in India" (NPPT). In the state of Karnataka, People's Watch is working on the NPPT in collaboration with SICHEM. On 8 March 2007, Mr Vasanth SR was carrying out the aforementioned activities on behalf of his wife, Ms Shyla, who is the District Human Rights Monitoring Coordinator with People's Watch, and who was pregnant at the time. Concern was expressed that the aforementioned detention, alleged physical assault and ongoing threats, as well as the charges that were filed against Mr Vasanth SR may be directly related to his human rights activities, in particular his work in the defense of victims of torture in India.

## Letter of allegations

1103. On 29 November 2007 the Special Representative sent a letter of allegations to the Government concerning concerning Mr **Evert de Boer**, Ms **Ineke Zeldenrust**, Ms **Esther de Haan**, Ms **Christa de Bruin**, Mr **Gerard Oonk**, Mr **Hans Maas** and Ms **Pauline Overeemand**. Mr **Evert de Boer** is Chair of the Clean Clothes Campaign (CCC) and Ms **Ineke Zeldenrust**, Ms **Esther de Haan** and Ms **Christa de Bruin** are all members of the CCC. The CCC is an organisation campaigning for the improvement of working conditions in garment industries. Mr. **Gerard Oonk**, Mr. **Hans Maas** and Ms. **Pauline Overeemand** are members of the India Committee of the Netherlands (ICN), a non-Governmental organisation dedicated to raising awareness with regards to human rights issues in India.

1104. According to information received, on 26 September 2007, arrest warrants were issued by the Indian VII Additional Chief Metropolitan Magistrate in Bangalore against Mr Evert de Boer, Ms Ineke Zeldenrust, Ms Esther de Haan, Ms Christa de Bruin, Mr Gerard Oonk, Mr Hans Maas and Ms Pauline Overeemand. The warrants were reportedly issued following a complaint filed by Fibres and Fabrics International (FFI) and its subsidiary company, Jeans Knit Pvt Ltd (JKPL) on 9 February 2007. The aforementioned human rights defenders have been accused of having committed crimes under Articles 499 and 500 of the Indian Criminal Procedure Code as well as under the Additional Protocol to the Convention on Cybernetic Crime, including “cybernetic crimes”; “racist and xenophobe acts” and “criminal defamation”. If arrested they face a sentence of two years’ imprisonment.

1105. Furthermore, local trade unions the Garment and Textile Workers’ Union (GATWU); the New Trade Union of India (NTUI); the Civil Initiative for Development and Peace (CIVIDEP); the Textile Industry Workers’ Front (Munnade); and the task-force of the CCC based in Tamil Nadu, all of which reported violations of FFI/JKPL workers’ rights, have all been sued by the FFI for defamation. A court order issued in Bangalore on 28 July 2006 by the Court of the IV Additional City Civil Judge and extended on 19 February 2007, denies the aforementioned trade unions the right to report information regarding the working conditions of FFI/JKPL workers. This ruling was expected to be challenged before the High Court although no date had yet been confirmed. According to reports, the aforementioned had returned to the Netherlands. Concern was expressed that the arrest warrants against the aforementioned may have been issued as a result of their human rights activities, in particular their work to promote workers’ rights in India.

## Observations

1106. The Special Representative thanks the Government of India for their response to the communication of 10 May 2007, but regrets the lack of response to the other fourteen communications sent in the time-period covered by this report.

1107. The Special Representative reiterates her concerns for the situation of human rights defenders representing vulnerable groups, such as lesbians, gays, bisexual and transgender (LBGT) persons and members of caste groups facing discrimination. The

situation of the Dalit community is of particular concern as human rights defenders advocating their rights face entrenched prejudice from many sectors of society.

1108. The Special Representative hopes that the Government of India will continue in its efforts to work for the improvement of conditions for those belonging to such communities and those working in defence of their rights.

## **Indonesia**

### **Urgent appeal**

1109. On 11 July 2007 the Special Representative sent an urgent appeal to the Government concerning the situation of Ms **Frederika Korain**, Rev **Perinus Kogoya**, and Mr **Barthol Yomen**, members of the Peace and Justice Commission for the Diocese of Jayapura (SKP Jayapura), Mr **Yan Christian Warinussy**, Director of LP3BH (Lembaga Penelitian, Pengkajian dan Pengembangan Bantuan Hukum or Institute of Research, Analysis and Development of Legal Aid) of Manokwari - West Irian Jaya, and Mr **Albert Rumbekwan**, Head of the National Commission on Human Rights in West Papua province ("Komnas HAM"). The Special Representative met with all the aforementioned persons during her visit to Indonesia from 5 to 12 June 2007.

1110. According to the information received, on 8 June 2007, Ms Korain, Rev Kogoya, and Mr Yomen flew back to Jayapura after attending a public hearing with the Special Representative in Jakarta on 7 June. After leaving the airport, their vehicle was followed by a blue Kijang car with police license plate number DS 1693 AF, and was hit by this car at the Post 7 Sentani in Ifar. As a result of the crash, the SKP vehicle was damaged and the passengers were in shock. The driver of the police car came out and introduced himself as FX Subangun, Commander of Intelligence of the Military Regional Command of Trikora (Komandan Intel Kodam XVII Trikora). He apologized and said that it was an accident, before driving away. The police, who witnessed the entire incident, allowed him to leave the scene of accident without being questioned. The occupants later checked the identity of FX Subangun, but it turned out that there is no military officer known by that name. It is believed that this incident was not accidental, but was perpetrated by an intelligence official who monitored the Special Representative's visit to West Papua, with the direct purpose of intimidating the occupants of the car.

1111. On 9 June 2007, Mr Warinussy returned to Manokwari after meeting with the Special Representative the day before in Jayapura. At around 8pm that day, he noticed a black Kijang Innova car with tinted windows parked in front of his house for about 20 minutes. The car returned at around 11pm that same night. On 11 June 2007, at around 7pm, two Kijang cars parked in front of the LP3BH office on Gunung Salju St for about 30 minutes. Mr Warinussy requested protection from the non-Governmental organization Peace Brigade International (PBI) and asked them to accompany him from 15 June 2007 onwards.

1112. On 16 June 2007, at around 8pm, two PBI activists and Mr Warinussy saw a metallic-coloured Kijang diesel car and police license plate number DD 546 PD parked in front of Mr Warinussy's house for some 20 minutes. The car left and then



passed by twice that night without stopping. On 18 June 2007, at 11pm, that same car was parked in front of the LP3BH office. The car was reportedly owned by the Manokwari Telkomsel telephone company. However, the car is often borrowed by a member of the Indonesian Navy named Hery, who was believed to be working as an intelligence officer for the Armed Forces Strategic Intelligence Agency (BAIS) in Manokwari. It was reported that Mr Hery, introducing himself as a journalist, tried on several occasions to know from Mr Warinussy whether he intended to meet with the Special Representative.

1113. On 11 June 2007, Mr Rumbekwan received a text message from a cell phone number that said "You who are reporting about the human rights situation in Papua are trying to destroy the people. You want evidence of people being killed, I will kill your tribe, your family and your children will become only bones to show that there is only a zone of peace in Papua. On 12 June 2007, I urged the Chief of National Police to grant police protection to Mr Rumbekwan, and was informed later that day that such protection had been provided. On 14 June 2007, Mr Rumbekwan reportedly received five more text messages from the same number, again containing death threats. At around 8am on the same day, unidentified persons parked three cars some 20 meters from Mr Rumbekwan's office. The perpetrators were shouting, allegedly to get Mr Rumbekwan to come outside and see them, but he ignored them, as a result of which they remained in the area and monitored his offices until around 4pm. According to Mr Rumbekwan, the persons involved came from two particular tribal groups, who may be being used by the authorities to conduct surveillance on their behalf. When Mr Rumbekwan left the office in a Komnas HAM Papua car, he was followed to his home by these persons.

1114. During the afternoon, Mr Rumbekwan received a telephone call from the same cell phone number, asking him to meet with the caller at Swissbell Hotel at 7pm that night, however, he decided not to go to this meeting. On the night of 17 June 2007, a car was reportedly engaged in the surveillance of Mr Rumbekwan's house for about two and a half hours. Serious concern was expressed that the reprisals against Ms Korain and Rev Kogoya, Mr Yomen, Mr Warinussy, and Mr Rumbekwan are directly linked to the meetings they had with the Special Representative during her visit to Indonesia.

### **Response from the Government**

1115. In letters dated 16 August and 27 September 2007, and 8 February 2008, the Government of Indonesia responded to the above communication, stating that it was their understanding that Ms. Frederika Korain and Rev Perinus Kogoya had been in a car accident. It was reported that two men stepped out of the car apologizing and claiming that they were officers from the military regional command of the Komandan Intel Kodam XVII Trikora (KODAM). This incident was evidently a misunderstanding that left no injuries. However, the perpetrators fled the scene with only a weak excuse to exonerate culpability, but apparently not before one of them had given his name and telephone number.

1116. Subsequently, in an unrelated event, Mr Yan Christian Warinussy claimed to have been under surveillance on the evening of 8 June 2007 and later in the month, with an unconfirmed suspicion of a possible connection to a Navy official with links

to the Armed Forces Strategic Intelligence Agency (BAIS) in Manokwari. On 22 June 2007 at 8.30am, after the first Mass of the day at the Cathedral of the Christ the King Church in Jayapura, the Lieutenant Colonel Pratiknyo and Lieutenant Colonel Gusta met with Bishop Leo Labalajar to discuss the accident. The Bishop said that he accepted that it was an unintentional accident and that they should not politicise the matter. Before the Lieutenant left he gave the Bishop his contact details should he or any of the three passengers wish to make contact with him.

1117. For this reason, he was surprised when he received an intimidating report on the incident from the Foreign Ministry as he had not been informed prior to the report of any damage to the car or that any of the three passengers wished to make contact with him. The passengers should have contacted the Lieutenant for damages or filed a report with the Police and not with the OHCHR. In the case of Mr Albert Rumbekwan, it was reported that he received several text messages from a particular telephone number from 11 June 2007 onwards, threatening him and his family. He also complained of being followed and placed under surveillance by suspicious and unidentified persons who later disappeared without threatening him or causing him any harm.

### **Urgent appeal**

1118. On 2 August 2007 the Special Representative, together with the Special Rapporteur on freedom of religion or belief sent an urgent appeal to the Government concerning Rev **Socratez Sofyan Yoman**, President of the Communion of Baptist Churches in West Papua. He is also an active spokesman on the issue of human rights, in particular relating to human rights violations allegedly committed by Indonesian police and military forces in West Papua.

1119. According to information received, on 29 July 2007 at approximately 5.30pm, following the Sunday service of the Baptist Church in Jayapura, Rev Socratez Sofyan Yoman was allegedly subject to threats and intimidation at gunpoint by members of the Indonesian police force, Brimob, and members of the military intelligence service. The policeman holding the gun was reported to have been a member of Abepura local police force whose name is known to the Special Representative and the Special Rapporteur.

1120. According to some reports, this behaviour represents part of a campaign to force Rev Socratez Sofyan Yoman's resignation from his position as the President of the Communion of Baptist Churches in West Papua. Rev Socratez Sofyan Yoman was reported to have stated that military intelligence has infiltrated the Baptist church and are trying to subvert the work of the church in relation to protecting the human rights of the West Papuan people. Concern was expressed that the aforementioned threatening behaviour and intimidation against Rev Socratez Sofyan Yoman may be related to his activities in the defence of human rights, in particular his criticism of the Indonesian police and military forces in relation to alleged abuses of human rights in West Papua. Further concern was expressed for the physical and psychological integrity of Rev Socratez Sofyan Yoman.

### **Response from the Government**

1121. In a letter dated 27 September 2007, the Indonesian Government responded to the above communication, stating that the precise details of the attack remained unclear insofar as at that time, they only suggested a deliberate attempt on the part of the local police to intimidate this man. The letter stated that the Reverend claimed that a police officer going by the name of Abiddin Zainal came up to him and threatened him at gunpoint.

1122. Furthermore it was alleged that this officer was a member of the local police in Abepura and that he had the support of the Brimob as well as that of the members of the Indonesian military (TNI) intelligence who were reportedly present at the time of the alleged altercation. The Government also stated that while this matter was being investigated to determine the facts, it was important that the responsible authorities be allowed the space to establish who was responsible and the facts regarding the events which led up to the allegations.

### **Urgent appeal**

1123. On 10 August 2007 the Special Representative sent an urgent appeal to the Government concerning Mr **Albert Rumbekwan**, Head of the National Commission on Human Rights (“Komnas HAM”) in West Papua province. Mr Rumbekwan was the subject of an urgent appeal sent by the Special Representative of the Secretary General on the situation of human rights defenders on 11 July 2007, regarding reprisals against him following his meeting with the Special Representative during her visit to the country in early June 2007.

1124. According to the new information received, on 17 July 2007, a car was reportedly parked outside Mr Rumbekwan’s house with occupants watching and waiting continuously for approximately two and a half hours. On 24 July, unknown persons went to Mr Rumbekwan’s house and tried to see inside through a window holding electronic equipment. Police officers were present in the house at the time, but reportedly felt afraid and warned Mr Rumbekwan to prepare himself with traditional weapons like a stone or a knife. Finally, according to reports, phone text messages were sent lately to people in West Papua urging them to raid police and military premises in the province so as to achieve a free Papua. These messages were purportedly sent by Mr Rumbekwan; however, he strongly denied being the author and feared being mistaken by law enforcement authorities as the author of these messages.

1125. Serious concern was expressed at the repetition of acts of harassment and intimidation against Mr Rumbekwan, despite the police protection granted to Mr Rumbekwan, demonstrating the ineffectiveness of such protection. Further concern was expressed for the physical and mental integrity of Mr Rumbekwan and his family.

### **Response from the Government**

1126. In a letter dated 26 September, the Indonesian Government responded to the above communication, stating that Mr Rumbekwan had alleged that from 11 June 2007 onwards he had been receiving threatening text messages from a particular phone. He had also complained that he was followed by suspicious and unidentified individuals who later disappeared without threatening him or causing him any harm.

He was however, able to take down the make and model of the cars in question and he thereafter reported the incident to the authorities, who took action to determine the identity of the perpetrators. It was also reported that there were text messages sent from his phone to certain people in West Papua inciting people to raid police and military premises as well as to cause separatist tensions in the region. Mr Rumbekwan had denied any wrongdoing and reports that he was the sender of these text messages had since been dismissed.

### **Urgent appeal**

1127. On 28 August 2007, the Special Representative sent an urgent appeal to the Government concerning Mr **Yan Christian Warinussy**, Director of LP3BH (Lembaga Penelitian, Pengkajian dan Pengembangan Bantuan Hukum or Institute of Research, Analysis and Development of Legal Aid) of Manokwari, West Papua. Mr Warinussy was the subject of an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 11 July 2007 concerning reprisals against a number of human rights defenders from West Papua, including Mr Warinussy, following meetings they had had with the Special Representative in early June 2007. The Special Representative was grateful to His Excellency for his response to the urgent appeal received on 22 August 2007. However, it did not dispel her concern as the harassment against Mr Warinussy seemed to be continuing, as evidenced by the new information received.

1128. Since 29 July 2007, Mr Warinussy had received threatening text messages on his mobile phone linking his human rights work to the separatist movement in West Papua. On 15 August 2007, a Kijang Avansa car had reportedly followed Mr Warinussy and his driver, and parked outside the office of the Institute for Investigation, Research and Human Rights where Mr Warinussy entered. It was believed that one of the occupants of the car was a detective with the Manokwari Regional Police. Serious concern was reiterated that the harassment of Mr Warinussy may have been solely related to the meeting he had had with the Special Representative of the Secretary General on the situation of human rights defenders in early June 2007. Further concern was expressed for the physical and mental integrity of Mr Warinussy and his colleagues.

### **Response from the Government**

1129. In a letter date 8 February 2008, the Government further stated that it found the allegations that Mr Warinussy had been followed by a police officer to be unfounded and requested that the the mandate-holders ensure that information included in appeals be checked and substantiated as much as possible. The Government reiterated its commitment to human rights promotion and protection and its appreciation of the work of those individuals who are dedicated to promoting fundamental freedoms. As such, the government was very concerned by any suggestion that human rights defenders who continue to successfully advocate for the rights of others in Indonesia should be in any way impeded in their duties due to acts of intimidation.

### **Urgent appeal**

1130. On 4 October 2007 the Special Representative sent an urgent appeal to the Government concerning Pastor **Johanes Djonga**, human rights activist in Papua province. According to the information received, on 22 August 2007, Pastor Djonga was reportedly threatened to be killed by the Commander of the Army Special Forces (Kopassus) in Waris District, and soldiers under his command. He was accused of making false allegations on the human rights situation in Waris district to local and international NGOs, and of being a “provocateur” who was selling the State.

1131. On 18 September, Pastor Djonga reported the death threats to the Head of Papua police who stated he could not grant protection if the author of the threats was a soldier. Pastor Djonga then reported the threats to the Chief of Military Regional Command in Papua province who assured him that he would act on this case, but would sue the pastor should the accusations turn out to be groundless. Concern was expressed that the threats made by the military commander against Pastor Djonga were directly linked to his activities in defence of human rights, in particular to the submission of a report to the Governor of Papua and the military commander of Jayapura in which Pastor Djonga criticized the actions of the military at the border between Waris and Papua New Guinea.

#### **Response from the Government**

1132. In a letter dated 25 October 2007, the Indonesian Government responded to the above communication, stating that the alleged politically motivated threats were made to Pastor Djonga by officials of the Army Special Forces (Kopassus). On 18 September 2007, as a result of these threats, Pastor Djonga filed a complaint to the head of the Papua Police. The police chief referred him to the military command as he said that this was in effect a military matter. He deemed that the latter were more capable of handling his case and assigning disciplinary action as and when they found there to be any truth behind the grievous accusations. To further clarify the nature of the allegations, Pastor Djonga reportedly accused First Lieutenant Usman, head of the Army Special Forces (Kopassus) in the Waris District of the Papua province, along with certain other soldiers under his command, of threatening to kill him and dispose of his body in a 700 metre deep gorge.

1133. In order to make an official complaint, he had reported these allegations to the Chief of the Regional Military Command for the Papua province as well as to the Sub-regional Military Commander of Jayapura. He was thereafter informed that they would investigate these allegations. A direct link between the report the Pastor had written and sent to the military commander of Jayapura, Colonel Burhanuddin Siagin, and to the Governor of Papua, Mr Barnabas Suebu, criticizing activities of the military on their border between Waris and Papua New Guinea and the alleged threats to his life thus far remained unproven.

1134. Since 18 September 2007, various steps had been taken to find and question the alleged perpetrators, and subsequently, conclusively resolve this matter. In this connection, the Jayapura District Military Commander, lieutenant Colonel A. H. Napoleon made a public statement that no member of the armed forces is immune from the law if they were proven guilty. Local law enforcement officials had assured Pastor Djonga that they would endeavour to determine the veracity of these allegations.

## Observations

1135. The Special Representative thanks the Government for the detailed responses to all her communications sent, and hopes that sustained efforts will be made to improve the situation of human rights defenders under threat in the country. She calls on the Government to ensure the physical and psychological integrity of human rights defenders she met with during her visit in June 2007, especially in West Papua (see her report on her visit to Indonesia from 5 to 12 June 2007, A/HRC/7/28/add.2).

### Islamic Republic of Iran

#### Urgent appeal

1136. On 4 December 2006 the 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, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning Mr. **Mansour Ossanlu**, Head of the Union of Workers of the Tehran and Suburbs Bus Company, currently detained at Evin Prison. Mr. Ossanlu's case was already the subject of an urgent appeal to your Excellency's Government 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.

1137. According to the information received, Mr. Mansour Ossanlu was arrested at his home by police on 22 December 2005 and eventually released on bail amounting to 1.5 billion Rials on 9 August 2006. Mr. Ossanlu was awaiting trial on charges, the exact nature of which are not known, but which may include "propaganda against the the Islamic Republic" through leaflets and interviews with foreign anti-Government radio stations, and "acting to disturb internal state security by establishing links with hostile opposition groups and foreign countries". Although he had received a court summons ordering him to attend Branch Four of the Special Court for Government Employees on 20 November 2006, he had already been re-arrested on the day before, 19 November 2006, outside his home by plainclothes members of the security forces and detained incommunicado at Evin Prison, Section 209. He was suffering from a serious eye complaint, but was not receiving medical treatment in prison.

1138. On 26 November 2006, Mr. Ossanlu appeared at Branch 14 of the Revolutionary Court for initial investigations by the Prosecutor. No specific charges were made in the court. Mr. Ossanlu's lawyer could not attend the court session, because Mr. Ossanlu had not had access to him. Concern was expressed that his re-arrest and detention may form a further attempt to deter him from peacefully exercising his legitimate right to freedom of association, including the right to form and join trade unions, and the right to freedom of opinion and expression and may also represent an attempt by the authorities to prevent him from carrying out his peaceful activities in defence of human rights, in particular labour rights. Further

concern was expressed as to his state of health and his physical integrity while in detention.

### **Urgent appeal**

1139. On 15 December 2006 the 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, the Special Rapporteur on the question of torture sent an urgent appeal to the Government concerning Mr. **Sherko Jihani**, correspondent of the Turkish news agency Euphrat in Mahabad and a member of the Human Rights Organization of Kurdistan (HROK).

1140. According to the information received, on 27 November 2006, Mr Jihani was reportedly arrested and detained in Mahabad Central Prison after being summoned to appear before Branch 2 of the Revolutionary Prosecutor's Office in Mahabad. It is reported that Mr Jihani was interrogated about forming an investigative committee on the kidnapping on 8 January 2006 of a woman human rights activist, Ms. Sarveh Komkar (Kamkar), and for giving interviews to foreign media about the killing by Iranian security forces of Kurdish activist, Showan (Shivan) Qaderi on 9 July 2005. Mr. Qaderi was the subject of an allegation letter sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions on 10 August 2005. On 30 November, Mr. Jihani reportedly went on a hunger strike in protest against his detention after refusing to pay a 50 million Rials bail. On 4 December, Mr. Jihani began refusing to speak. On the same day, his family was reportedly able to visit him. On 6 December, Mr. Jihani was moved from Mahabad Prison to an unknown location, possibly Oromieh prison.

1141. On 12 December, Mr. Jihani's family reportedly received a phone call from an alleged member of the Mahabad branch intelligence services who told them that Mr. Jihani had died of a heart attack after falling into a coma. On 13 December, the family was relieved to receive a phone call from Mr. Jihani but he was unable to tell them anything about his whereabouts and sounded very weak. Mr. Jihani had reportedly been arrested nine times since 1999, and was said to have been tortured while previously in detention.

1142. Concerns were expressed that the arrest and detention of Mr Jihani may be in relation to his legitimate activities in defence of human rights, in particular his work in seeking the truth behind the kidnapping of a human rights activist, and his public denunciation of the killing of a Kurdish activist by State agents. Further concerns were expressed that Mr Jihani was at risk of torture or ill-treatment, also in view of the fact that he was reportedly held incommunicado at an unknown location.

### **Response from the Government**

1143. In a letter dated 22 May 2007, the Iranian Government responded to the above communication, stating that Mr. Sherko Jihani had been charged with "dissemination of false information" and "participation in illegal demonstrations." A preliminary hearing in court had been taken place and he had been released on bail pending completion of investigations.

### **Letter of allegations**

1144. On 6 February 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning 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.

1145. 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.

1146. 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. Concern was expressed that the arrest of Ms. Mansoureh Shojaei, Ms. Sedigheh Taghinia and Ms. Farnaz Seifi and the subsequent search of their houses and seizure of some of their personal belongings were related to their legitimate and peaceful activities of promotion and protection of women's human rights in Iran.

### **Response from the Government**

1147. In a letter dated 23 February 2007, the Permanent Mission of the Islamic Republic of Iran in Geneva responded to the above communication, stating 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**

1148. On 7 March 2007 the 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 and the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning at least 24 women human rights defenders reportedly arrested while holding a peaceful demonstration in front of the Islamic Revolutionary Court in Tehran.



1149. 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.

1150. 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. Serious concern was expressed that the arrest and detention of the aforementioned women human rights defenders may have been related to their peaceful and legitimate activities in defence of women's human rights.

### **Urgent appeal**

1151. On 16 March 2007 the 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 and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning 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.

1152. 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.

1153. 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.

1154. 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**

1155. On 5 April 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning 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.

1156. 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**

1157. On 16 May 2007 the Special Representative, 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, sent an urgent appeal to the Government concerning 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.

1158. 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.

1159. 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.

1160. 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**

1161. On 31 May 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning 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.

1162. 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.

1163. 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.

1164. 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.

1165. 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.

### **Urgent appeal**

1166. On 1 June 2007 the Special Representative, together with the Special Rapporteur on the question of torture, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal to the Government concerning the possibly imminent execution of Mr. **Hossein Forouhideh, a/k/a Khatibi**, an advocate of linguistic and social rights for Iranians of Azerbaijani ethnicity from the Khoy region.

1167. According to the information received, Hossein Forouhideh had been sentenced to death by Bench One of the Revolutionary Court in the city of Urumiye. While neither the date of his reportedly secret trial nor the precise charges on which he was convicted were known, they were apparently connected to accusations of spying for the Turkish Government. After an initial period of detention in an Etelaat (Ministry of Intelligence) detention facility in Khoy, Hossein Forouhideh had spent more than nine months incommunicado in an Etelaat detention facility in the city of Urumiye, where he was allegedly tortured, leaving him with extensive bruising to his torso and a number of broken ribs. He was subsequently transferred to a third Etelaat facility, Doqiz Pille prison in Urumiye, where he was then being detained.

1168. In March 2007, the authorities informed Hossein Forouhideh's mother that he had been executed, and that she should collect his body from the detention facility. When she went there from Khoy, where she lives, the guards told her that her son had not yet been executed. She recently visited the detention facility again, but was not allowed to visit her son. Hossein Forouhideh's wife is a Turkish citizen who lives in eastern Turkey. She had reportedly stated that she had not been able to obtain information about her husband since at least September 2006. Serious concern was expressed that the criminal charges and death sentence against Hossein Forouhideh may be linked to his legitimate activities in defence of human rights, i.e. his advocacy of linguistic and cultural rights for Iranians of Azerbaijani ethnicity.

### **Urgent appeal**

1169. On 7 June 2007 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Sa'id Metinpour** and Mr **Jalil Ghanilou**, residing in Zenjan, who had been advocating Azerbaijani linguistic and cultural rights in the Islamic Republic of Iran, including the use of the Azerbaijani Turkic language in Iran's schools.

1170. According to the information received, Mr Metinpour, together with his wife, Mrs **Atiye Taheri**, was arrested in Zenjan on 25 May 2007 at around midnight at his residence by plain clothes officials from the Iranian Ministry of Intelligence. The officers stated that they held arrest warrants for both of them. However, the arrest warrants produced did not carry the usual official stamp and signature. Mr Metinpour and Mrs Taheri were then forced into a vehicle and blindfolded. Later, they were separated and Mr Metinpour was removed in one car, while Mrs Taheri was returned to their home in another. At around 5 am on 26 May 2007, Ministry of Intelligence officials arrived to search the couple's residence. They removed notebooks, tapes and albums containing family photos before searching the home of Mr Metinpour's father, located on a higher floor.

1171. Mr Metinpour's current whereabouts were unknown. His wife had sought information regarding his location from the State Prosecution authorities (Dadsara) and the judiciary (Dadgostari), but was told by both authorities that they were unaware of his status and that no file existed with his name. Mr Ghanilou was arrested in Zenjan by security officials at around 10 pm on 27 May 2007 and was being detained at an unknown place of detention.

1172. In view of their incommunicado detention at an undisclosed place grave concerns were expressed that Mr Metinpour and Mr Ghanilou are at risk of ill-treatment. Further concern was expressed that their arrests and detention might be connected to their legitimate activities as human rights defenders and their exercise of the rights to freedom of opinion and expression and to enjoy their own culture and to use their own language, in community with other members of their group.

### **Urgent appeal**

1173. On 12 June 2007 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur

on the question of torture, sent an urgent appeal to the Government concerning Mr. **Keyvan Rafiee**, human rights activist.

1174. According to the information received, on 9 July 2006 he was arrested for having participated in an event commemorating an earlier crackdown on a large student demonstration (“18 Tir”) and having reported on other students’ demonstrations. Since then he had been held in Section 209 of Evin prison, run by the Intelligence Ministry, where he spent more than 9 months in solitary confinement. He had been subjected to ill-treatment and was suffering from several illnesses. Like other prisoners in Section 209 he was also handcuffed and blind-folded most of the time. It was unclear whether he had access to medical treatment. With a view to the detention conditions described above and the long periods that Mr. Keyvan Rafiee had spent in solitary confinement, concern was expressed for his physical and mental integrity.

### **Urgent appeal**

1175. On 5 July 2007, the Special Representative, together with 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 Rapporteur on violence against women, sent an urgent appeal to the Government concerning Ms. **Delaram Ali**, a women's rights defender from Tehran University.

1176. 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.

1177. In an urgent appeal dated 16 June 2006, to which the Iranian Government responded by letter, dated 15 August 2006, we already expressed our concern that Iranian security forces had arrested Ms. Delaram Ali and others during the demonstration of 12 June 2006. Concern was reiterated that the conviction 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 may be imminent.

### **Urgent appeal**

1178. On 9 July 2007 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Ali Shakeri**, a peace activist and founding board member of the University of California,

Irvine, Center for Citizen Peacebuilding, and Dr **Kian Tajbakhsh**, a social scientist at the New School in New York who had worked as a consultant for the Open Society Institute and the World Bank. According to the information received, since early May 2007, Mr Shakeri and Dr Tajbakhsh had been held in section 209 of Evin Prison in Tehran on charge of “acting against national security by engaging in propaganda against the Islamic Republic through spying on behalf of foreigners”. Both men were being detained incommunicado and denied access to their lawyers and families.

1179. With a view to Mr Shakeri and Dr Tajbakhsh’s incommunicado detention, concern was expressed for their physical and mental integrity. Further concern was expressed that their arrest and detention may have been related to their peaceful activities in defence of human rights, and may form part of a pattern of harassment against human rights defenders who promote respect for human rights norms in the country.

### **Urgent appeal**

1180. On 10 July 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning 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.

1181. 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.

1182. With a view to Mr Sadiq Kabudvand’s incommunicado detention, concern was expressed for his physical and mental integrity. Further concern was expressed that his arrest and detention may have been related to his peaceful activities in defence of human rights, in particular Kurds’ rights in the Islamic Republic of Iran.

### **Urgent appeal**

1183. On 12 July 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning 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.

1184. 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.

1185. 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**

1186. On 13 July 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning 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.

1187. 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.



1188. 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**

1189. On 24 July 2007, the Special Representative, together with the Special Rapporteur on the question of torture sent an urgent appeal to the Government concerning the alleged abduction of Mr Loghman Mehri and his wife. Mr Mehri is a member of the Kurdistan Human Rights Organisation (RMMK). According to reports received, on 18 July 2007, Mr Mehri and his wife were kidnapped while entering the East Bus Terminal in Tehran. Three men in plainclothes, presumed to be national security agents, beat Mr Mehri before forcing he and his wife into a car. Their whereabouts were unknown.

1190. Mr Mehri had been arrested in August 2005 on charges of acting against internal security; membership of an illegal group; and incitement to riot. He was released on bail and was due to appear in court at Sanandaj Prison the following week. Concern was expressed that the alleged abduction of Mr Mehri and his wife may have been related to his work in the defence of human rights. Moreover, in view of the alleged detention of Mr Mehri and his wife at an undisclosed or unconfirmed location, concern was expressed that they may have been at risk of torture or other forms of ill-treatment.

### **Urgent appeal**

1191. On 26 July 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal to the Government concerning **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.

1192. 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.

1193. 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.

1194. 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).

1195. 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 Motirijjad 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.

1196. 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**

1197. In a letter dated 23 August 2007, 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.

### **Urgent appeal**

1198. On 4 September 2007 the Special Representative, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government concerning Mr **Amir Abbas Banayi Kazimi**.

1199. According to the information received, on 14 May 2007, Mr. Amir Abbas Banayi Kazimi was arrested at his home in Tabriz and was taken to a Ministry of Intelligence detention centre. He was transferred on or around 1 August to Tabriz's central prison. He was then once again transferred to a Ministry of Intelligence detention centre somewhere in Tabriz, where he was being detained. He had not been formally charged with any offence.

1200. According to reports, Mr. Banayi Kazemi was beaten in the course of his arrest and had been the subject of other forms of ill-treatment during his detention. This had resulted in his teeth being broken, hair being pulled from his scalp and blue bruising marks all over his face and body. He had also initiated a hunger strike. Serious concern was expressed that the arrest and detention of Mr. Banayi Kazemi may be solely related to his reportedly peaceful and legitimate activities in defence of human rights, in particular Iranian Azerbaijanis' rights to use their language. In view of his incommunicado detention, further concern was expressed for the physical and mental integrity of Mr. Banayi Kazemi.

### **Urgent appeal**

1201. On 17 October 2007 the Special Representative, together with the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government concerning Ms **Ronak Safazadeh**, a campaigner for women's rights and a member of the One Million Signatures campaign, which calls for an end to discriminatory laws against women in Iran.

1202. According to information received, on 8 October 2007, Ms Ronak Safazadeh participated in an event to mark the International Day of the Child during which she collected signatures for the One Million Signatures campaign. On 9 October 2007, nine agents of the security forces entered the home of Ms Ronak Safazadeh and seized literature pertaining to the One Million Signatures campaign, her computer as well as some other personal belongings. Ms Ronak Safazadeh was arrested shortly afterwards and placed in detention at the local Office of Information and Security Ministry in

Sanandaj, Kurdistan. It was alleged that she was being held in incommunicado detention as all efforts on the part of family members to contact her had failed.

1203. Concern was expressed that the arrest and detention of Ms Ronak Safazadeh may have been directly related to her peaceful human rights activities, in particular her work to defend and promote women's rights in Iran. In view of her incommunicado detention, further concern was expressed with regard to her physical and psychological integrity.

### **Letter of allegations**

1204. On 24 October 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegations to the Government concerning 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.

1205. 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.

### **Urgent appeal**

1206. On 26 October 2007 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government concerning Dr **Sohrab Razzaghi**, President of the non-Governmental organization Volunteer Activists (Koneshgaran-e Davtaleb), a former high official at the Ministry of the Interior under President Khatami and a former Professor at the Allameh University. According to the information received, Dr Razzaghi was arrested on 24 October 2007 at 2.00 p.m. at his Tehran home by State security officers, and removed to Section 209 of Evin prison, a Prison Unit under the administration of the Ministry of Intelligence.

1207. Serious concern was expressed for Dr. Razzaghi's physical and psychological integrity. It was alleged that Dr. Razzaghi had been arrested as a result of his peaceful and legitimate human rights activities. He had recently written a report on the current status of Iranian civil society and was due to attend a forthcoming NGO meeting in Dublin, Ireland.

1208. It was further reported that this was not the first time that Dr. Razzaghi had been interrogated by the authorities on his human rights activities. On 15 March 2007, he was interrogated during several hours by security officials, who confiscated personal documents at his home as well as the Centre's main computer server. On the same day, officers from the Ministry of Intelligence and from the Tehran Revolutionary Court closed down three NGOs: The Volunteer Activists; the Raahi Legal Centre and the Training Centre.

### **Letter of allegations**

1209. On 15 November 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning 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.

1210. 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.

### **Response from the Government**

1211. In a letter dated 7 February 2008, the Government of Iran responded to the above communication. The letter stated that Mr Soltani had been charged with espionage in the past and that the court of appeal had acquitted him, after which he was duly released. Therefore, in the view of the Government, Mr Soltani enjoyed all his social rights. At time of writing, the Government stated that there was no verdict prohibiting him from making trips out of the country and advised that he could refer to the Passport Department to obtain a passport if he so wished.

### **Letter of allegations**

1212. On 30 November 2007, the Special Representative, together the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, sent an allegation letter to the Government concerning 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.

1213. 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.

### **Response from the Government**

1214. In a letter dated 7 February 2008, the Government of Iran responded to the above communication. The letter stated that Ms Maryam Hosseinkhah had been charged and, as she was unable to provide bail, was apprehended. Upon payment of bail on 2 January 2008, she was released on bail.

1215. The letter further stated that, in accordance with Article 128 of the Criminal Procedure Law, Ms Hosseinkhah enjoyed her right of access to attorney, and that Ms Shirin Ebadi had been introduced as her lawyer. The case was still under investigation at time of writing.

### **Response from the Government**

1216. Furthermore, in a letter dated 8 February 2007, the Iranian Government responded to an urgent appeal sent by the Special Representative on 30 August 2006, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture concerning the arrest, detention and alleged ill-treatment and torture of **Ali Khodabakhshi**, (also known as **Elyaz Yekanli**), an activist defending the economic, social and cultural rights of the Azeri Turkish minority in Iran. The Government alleged that no record of detention of the aforementioned could be found in the database of the legal system, but stated that reinvestigation would be possible upon receipt of complete details of the alleged victim.

### **Observations**

1217. The Special Representative thanks the Government of the Islamic Republic of Iran for its responses to six communications, but regrets that twenty communications remain unanswered to date and calls on the Government to respond to these communications and address the concerns raised. The Special Representative wishes to reiterate her grave concerns regarding the situation of human rights defenders in Iran.

1218. These concerns are particularly serious in relation to reports of widespread arbitrary detention and most serious allegations of ill-treatment and torture of detainees. It is sincerely hoped that the rights to legal representation are observed by the authorities. It is also sincerely hoped that urgent efforts will be made to ensure that treatment of individuals in detention is in full compliance with Article 5 of the Universal Declaration of Human Rights and the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment and that the treatment of the human rights defenders in custody adheres to all those conditions set out in the '*Basic Principles for Treatment of Prisoners*, adopted by General Assembly resolution 45/111 of 14 December 1990;

1219. The Special Representative also wishes to underline the challenges faced by women human rights defenders and requests that they be permitted to exercise their rights to freedom of assembly and freedom of expression. She considers that the arrest and detention of the members of the One Million Signatures Campaign may form a systematic attempt to curb these rights and urges the Government of Iran to observe women's right to exercise their freedom to assemble peacefully.

1220. In addition, she notes with concern the situation of human rights defenders representing ethnic and linguistic minorities in Iran and intellectuals and academics whose freedom of expression is curtailed through arrest and detention. She hopes that the Government will in the future be able to readily furnish the legal basis of continuing detentions.

## **Iraq**

### **Letter of allegations**

1221. On 4 July 2007 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning Mr **Said Mustafa Said**, who was representing detainees who were the subject matter of a joint urgent appeal sent by several mandate-holders on 13 June 2007. While the Special Representative appreciated that all the detainees mentioned in this urgent appeal were released on 18 June 2007 from the detention facility at the Serious Crime Unit – Eastern Canal/al-Hakimiyah, she remained gravely concerned about Mr Said's killing on or after 21 June 2007.

1222. According to information received, on 21 June 2007, Mr Said left his office and was reportedly been last seen in the Serious Crime Unit – Eastern Canal. On 24 June, Mr Said's body was found by his family in the Medical Legal Institute in Baghdad. He had previously received death threats for representing his clients. Grave concern was expressed that the death of Mr Said Mustafa Said was related to his activities in defence of human rights.

### **Letter of allegations**

1223. On 6 November 2007, the Special Representative sent a letter of allegations to the Government concerning the killing of Mr **Ali Sabih Hassan Al-Saadiy**, professor at the Myssan University College of Education at Amara city and member of the Basra office of the International Coalition for the International Criminal Court, who

had also worked with the Independent Electoral Commission in Iraq. According to the information received, on 4 October 2007, Mr Ali Sabih Hassan Al-Saadiy was kidnapped from his house by unknown individuals and was found dead two days later on 6 October. He had been shot five times, four times in the chest and once in the head.

1224. The family of Mr Ali Sabih Hassan Al-Saadiy reported his killing to the police, but no police investigation had reportedly been undertaken. Serious concern was expressed that the kidnapping and killing of Mr Ali Sabih Hassan Al-Saadiy may have been linked to his human rights activities in Iraq.

### **Response from the Government**

1225. In a letter dated 21 June 2007, the Iraqi Government responded to a letter of allegations sent by the Special Representative on 20 November 2006, together with the Special Rapporteur on violence against women concerning the late Ms. **Faliha Ahmed Jubori**, a women's rights activist from Haweeja and head of the women's rights organization Maternity and Childhood, shot dead on 27 October 2006.

1226. The Government letter stated that on 2 November 2006, formal statements had been taken from the complainants, namely, the victim's husband Abd al-Sahab Salah Hilal and her brother Muhammad Amin Husayn. They requested that the charges against the suspects in detention, Khalid Kalil Ibrahim and Yousif Naif Ali, be dropped and that a complaint against the perpetrators of the offence be brought as soon as their identities were known. The investigating judge decided to release the two above-mentioned suspects due to lack of evidence and to continue the investigation with a view to identifying the authors of the crime. The case remained under investigation at time of writing.

### **Observations**

1227. The Special Representative thanks the Government for their response to the communication of 20 November and hopes that efforts continue within Iraq to create a space for civil society and human rights defenders to carry out their work.

## **Israel**

### **Urgent appeal**

1228. On 16 March 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government concerning 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).

1229. 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.

1230. 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.

1231. Concern was expressed that the decision by Israeli authorities to prevent Mr Jabarin from travelling abroad may form part of an ongoing pattern of harassment of human rights defenders in the Occupied Palestinian Territory. Further concern was expressed that in light of the above, Mr Jabarin might be prevented from travelling to Geneva to attend the Human Rights Council from 18 to 30 March 2007, and to the Congress of the International Federation of Human Rights (FIDH) in Portugal on 19 April 2007.

### **Urgent appeal**

1232. On 31 August 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government concerning 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.

1233. 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 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**

1234. On 21 September 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegations to the Government concerning Mr **Raji Sourani**, Director of the Palestinian Centre for Human Rights, a non-Governmental human rights organization.

1235. 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.

1236. Concern was expressed that the ban imposed on Mr Sourani to travel outside the Gaza Strip, preventing him from attending the UN Conference of Civil Society in Support of Israeli-Palestinian Peace, may be related to his peaceful work in defense of human rights and his critical stance denouncing human rights violations in the OPT.

## **Reponses from the Government to communications sent before 2 December 2006**

### **Response from the Government**

1237. 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.

1238. 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.

### **Response from the Government**

1239. In a letter dated 20 March 2007, the Israeli Government further responded (following an initial response on 1 May 2006) to a letter of allegations sent by the Special Representative on 11 April 2006 concerning the physical assault of Mr **Brian**

**Morgan**, an American human rights defender who volunteered with the Tel Rumeida project in Hebron, which accompanies Palestinian families and their children to and from school in order to protect them from harassment by settler children.

1240. The letter stated that a police file had been opened to investigate the 25 March 2006 incident described in the communication. Information provided by the relevant authorities had confirmed that the incident had occurred about 100 metres from a military post, which at the time had two soldiers manning it. The police had interviewed these two soldiers, one of whom reported that he witnessed the incident and could, to a certain degree, verify Mr Morgan's complaint; however, military regulations did not allow him to leave his post. A police patrol vehicle which had scanned the area was not able to locate any suspects in the case.

1241. The case remained open but had been filed as offender unknown. Furthermore, the letter stated that the police did not carry out investigations as to soldiers' conduct in the field, and that only cases which established grounds for suspicion of criminal conduct by soldiers were forwarded to the Criminal Investigations Division of the Military Police.

#### **Response from the Government**

1242. In a letter dated 20 March 2007, the Israeli Government further responded (following an initial response on 5 May 2006) to a letter of allegations sent by the Special Representative on 28 April 2006 concerning concerning the assault by settlers of Sister **Anne Montgomery**, a 79 years old member of the *Christian Peacemakers Team (CPT)*, **Tore Ottesen** (29) from Norway, and **Karien Laier** (46) from Germany and two members of the *International Solidarity Movement (ISM)*, **Brian Larsen** from Denmark and **Anna Svensson** (20), and the alleged inaction of Israeli soldiers during the incident.

1243. In the letter, the Government stated that a police file had been opened to investigate the incident. However, the activists had been unable to identify the attackers and it had been impossible to identify anyone on the videotape filmed by the activists on location since it had been filmed from a distance, with the camera lens partly facing the ground. At the time of writing, although the case remained open, it had been archived on the grounds of the offender being unknown.

#### **Response from the Government**

1244. In a letter dated 7 February 2007, the Israeli Government further responded (following an initial response on 30 October 2006) to an urgent appeal sent by the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, on 17 October 2006 regarding the search of the house of Mr **Munir Mansour**, Chairperson of Ansar Al-Sajeen (Prisoners Friends' Association) and the closing down of the organisation's offices in Israel and the West Bank.

1245. In the letter, the Government stated that Munir Mansour was a former security prisoner and that Ansar Al-Sajeen was outlawed and closed down because it operated as a 'well-oiled apparatus' for the transfer of funds, principally from Hamas to security prisoners in Israeli prisons and their families. In the view of the Government,

this constituted a system whereby security prisoners were rewarded for committing acts of terrorism and served as encouragement to others to follow suit.

### **Response from the Government**

1246. In a letter dated 9 August 2007, the Israeli Government further responded (following an initial response on 4 December 2006) to an urgent appeal sent by the Special Representative on 25 October 2006, 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, and the Special Rapporteur on the independence of judges and lawyers concerning the arrest and detention of Mr **Ahmad Abu Haniya**.

1247. The Government stated that, following Mr Haniya's arrest, his detention order had been extended three times for consecutive six-month periods until 13 November 2006, when it was reviewed by a military court and upon appeal from the prosecution, extended for a further six months, on the basis of information described by the Government as of 'substantial severity' supporting the continued detention of Mr Haniya. Upon the expiration of this administrative detention order on 14 May 2007, Mr Haniya was released.

### **Response from the Government**

1248. In a letter dated 5 November 2007, the Israeli Government further responded (following initial responses on 7 and 18 December 2006) to a letter of allegations sent by the Special Representative on 1 December 2006 concerning threats against **participants in a proposed Gay Pride Parade**, which had been scheduled to take place in Jerusalem on 10 November 2006. In the letter the Government stated that resistance to the holding of the parade from ultra-orthodox members of the Jewish community, Muslims, and Christians has been particularly strong, following violence at the previous year's parade, including the stabbing of three participants by an ultra-orthodox man.

1249. Following protracted negotiations between the Parade organisers and the authorities a route had been agreed for the parade scheduled for 10 November 2006; however some days beforehand, the security situation in Jerusalem deteriorated and the city's District Commander informed the organisers that there would not be sufficient police forces available to guarantee security at the parade. The Government letter also stated that the authorities suggested postponing the event for one week but that the parade organisers elected to instead hold a rally at the Hebrew University's Stadium of Givat Ram in Kiryar Ha'leom. This event, approved by police, was attended by thousands of people and passed off peacefully.

### **Observations**

1250. The Special Representative thanks the Israeli Government for its responses to six communications sent in this and previous years. With regard to the detention of individuals, the Special Representative trusts that the Government will ensure that arrests and detentions are conducted in compliance with international norms and

standards and that the specific legal basis for the arrest and detention of an individual is made known to all parties concerned.

1251. In relation to the communication of 1 December 2007, the Special Representative acknowledges the level of cooperation and hopes that every effort will be made to ensure that those defending and advocating the rights of minority groups are able to exercise their right to freedom of expression and assembly.

## Ivory Coast

### Lettre d'allégations

1252. Le 7 juin 2007, la Représentante spéciale a envoyé une lettre d'allégations sur la situation de la **Ligue Ivoirienne des Droits de l'Homme (LIDHO)** et **d'Action pour la Protection des Droits de l'Homme (APDH)**, 2 organisations non-gouvernementales qui œuvrent pour la promotion et protection des droits de l'homme en Côte d'Ivoire. Selon les informations reçues :

1253. Dans la matinée du 21 mai 2007, 2 groupes de militants de la Fédération Estudiantine et Scolaire de Côte d'Ivoire (FESCI) auraient saccagé les bureaux de la LIDHO et de l'APDH à Abidjan et auraient dérobé le matériel informatique, les fournitures de bureau ainsi que les biens personnels des membres des 2 organisations et des visiteurs alors présents sur place (argent, téléphones portables, etc.). Les dégâts seraient estimés à plusieurs dizaines de milliers d'euros. Ces événements se seraient produits en présence de policiers qui, alertés par les 2 organisations, n'auraient cependant procédé à aucune interpellation. La LIDHO et l'APDH auraient déposé plainte contre le secrétaire général de la FESCI et le secrétaire de la section « Cité Rouge » : le premier aurait publiquement incité les militants de la FESCI à saccager les locaux des deux organisations ; quant au second, il aurait mené les opérations susmentionnées.

1254. Des préoccupations ont été exprimées que ces actes de vandalisme et de pillage contre la LIDHO et l'APDH se seraient inscrits en représailles à leurs activités de défense des droits de l'homme, notamment leur dénonciation d'exactions commises par la FESCI sur les campus universitaires ivoiriens.

### Réponse du Gouvernement

1255. Le 4 juillet 2007, une délégation du Gouvernement s'est rendue au Haut-Commissariat aux Droits de l'Homme à Genève afin d'apporter des premiers éléments de réponse à la lettre d'allégations du 7 juin 2007 au sujet de la **Ligue Ivoirienne des Droits de l'Homme (LIDHO)** et **d'Action pour la Protection des Droits de l'Homme (APDH)**. Selon la délégation, le Ministère de la Justice et le parquet d'Abidjan ont été saisis au sujet de cette affaire et aucune interpellation n'a encore été effectuée. En revanche, les lieux de l'incident ont été sécurisés par les forces de l'ordre, l'accès à ces lieux par les membres des organisations concernées étant garanti. Quant à la question de l'inaction des forces de l'ordre, les vues divergent : certains avancent qu'il y avait une présence policière, mais pas en nombre suffisant pour procéder à des interpellations ; d'autres arguent qu'il n'y avait aucune présence policière. La délégation a conclu en indiquant que des éclaircissements

venant de la capitale sont attendus prochainement et seront transmis au bureau de la Représentante spéciale.

### **Observations**

1256. La Représentante spéciale remercie le Gouvernement de ces premiers éléments de réponse, mais regrette néanmoins l'absence, au moment de la finalisation du présent rapport, de réponse détaillée par écrit à la communication en question et demande au Gouvernement d'apporter une telle réponse.

## **Jordan**

### **Urgent appeal**

1257. On 24 May 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning 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".

1258. 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**

1259. In a letter dated 22 June 2007, the Permanent Mission of the Hashemite Kingdom of Jordan in Geneva replied to the above communication. The letter stated that the case of Dr. Ahmad Oweidi Abbadi involved a criminal suit filed by an individual, and 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.

1260. 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.

1261. 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.

1262. 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**

1263. The Special Representative thanks the Jordanian Government for its response of 22 June 2007, and trusts that efforts will continue to be made so that the right to freedom of expression may be freely respected in Jordan.

## **Kenya**

### **Urgent appeal**

1264. On 17 September 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal to the Government concerning an attack against **Mr. Ben Ole Koissaba**, Chairman of the Maa Civil Society Forum, an organization working for the promotion of the rights of the Maasai community in Kenya.

1265. According to the information received, on the evening of 7 September 2007, Mr. Ben Ole Koissaba was participating, together with other members of the Maa Civil Society Forum, in a meeting in a hotel in the Ongata Rongia suburb of Nairobi, where they had also booked rooms to spend the night. At approximately 10.00 pm, when Mr. Koissaba was entering his room, he was reportedly attacked by two unidentified men and a woman, who sealed his mouth and injected him with an unknown substance. As a result of this injection, Mr. Koissaba allegedly lost consciousness, waking up in his hotel room at 4.30 pm the next day. Mr. Koissaba then discovered that a flash disc, a digital camera, and several compact discs, containing relevant information of different legal cases in which the Maa Civil Society Forum was involved, were missing. Apart from his wrist watch, cash and other personal valuables carried by Mr. Koissaba were not taken from him. Mr. Koissaba continued

to experience physical pain as a result of the injection and was receiving medical treatment at time of writing. He had reported the events to the Ongata Rongei police station on 11 September 2007.

1266. Concern was expressed that the attack suffered by Mr. Koissaba may have been directly related to his vocal role in defense of the Maasai community as Chairman of the Maa Civil Society Forum, and particularly to legal action in which the organization is currently involved.

### **Observations**

1267. The Special Representative regrets that, to date, no response to the above communication has been received from the Kenyan Government and calls on the Government to address the concerns raised in the communication and respond to it at its earliest convenience.

## **Kyrgyzstan**

### **Letter of allegations**

1268. On 2 May 2007, the Special Representative, together with the Special Rapporteur on the question of torture, sent a letter of allegations to the Government concerning the death of Mr **Bektemir Akunov**, member of the movement Incorporated Front "For the Worthy Future of Kyrgyzstan", based in Naryn.

1269. According to information received, on 13 April 2007, at approximately 7.30pm, Mr Akunov was arrested by police, without a warrant, and taken to the Naryn Department of Internal Affairs where he was subsequently detained. The following day, Mr Akunov was found dead in his cell, having allegedly committed suicide by hanging himself with his shirt. On 16 April 2007, the preliminary results of a postmortem examination conducted at Naryn Hospital, revealed that Mr Akunov had died as a result of asphyxiation. However, it was also reported that there were wounds on his body and that he showed signs of brutal beatings. Mr Akunov was reportedly arrested for his alleged involvement in persuading heads of local authorities to move to the opposition side. He had also participated in a hunger strike along with 50 to 80 other individuals calling for constitutional reforms from 5 April to 10 April 2007.

1270. Grave concern was expressed that the afore-mentioned events may be directly related to Mr Akunov's work in defence of human rights in Kyrgyzstan. Further concern was expressed at reports that Mr Akunov had been subjected to inhumane and degrading treatment whilst in detention.

### **Letter of allegations**

1271. On 21 September 2007, the Special Representative sent a letter of allegations to the Government concerning Mr **Ramazan Dyrlydaev**, chairman of the Kyrgyz Committee for Human Rights (KCHR), a non-Governmental organisation dedicated to the protection and promotion of human rights in Kyrgyzstan. Mr Ramazan Dyrlydaev was the subject of an allegation letter sent by the Special Representative on 10 February 2005, to which the Kyrgyz Government responded on 4 March 2005.



1272. According to information received, on 13 September 2007, Mr Ramazan Dyrlydaev arrived at the offices of the KCHR in Bishkek to find that they had been destroyed in a fire. The previous day, neighbours had allegedly heard an explosion from within the offices at approximately 7pm. In addition, two unidentified objects, which appeared to have been placed through the ventilation duct, were discovered burnt-out in the bathroom. Mr Ramazan Dyrlydaev and his family had reportedly been increasingly subject to harassment in recent months. On 6 April 2007, he had been attacked by unidentified persons who threw stones at him. The attack followed Mr Ramazan Dyrlydaev's public criticism of the Kyrgyz authorities on a television programme in which he had accused prominent figures of corruption.

1273. Concern was expressed that the aforementioned attack against the offices of the KCHR and the harassment against Mr Ramazan Dyrlydaev and his family may have been related to Mr Ramazan Dyrlydaev's peaceful work in defence of human rights in Kyrgyzstan. Further concern was expressed for the physical and mental integrity of Mr Ramazan Dyrlydaev and his family.

### **Letter of allegations**

1274. On 23 October 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning Mr **Maxim Kuleshov**, Coordinator of the Tokmok Human Rights Resource Centre.

1275. 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.

1276. 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.

## Observations

1277. The Special Representative regrets the lack of response to any of the three communications sent.

1278. With particular regard to the case of Bektemir Akunov, she would appreciate any further information the Kyrgyz Government may be able to provide, and urges the Government to undertake an investigation into the Mr Akunov's death with the objective of preventing such serious incidents in which deaths occur in detention in the future.

1279. The Special Representative also calls on the Kyrgyz Government to ensure that the right to freedom of assembly and expression is respected in any legislative reform at local and national level.

## Libyan Arab Jamahiriya

### Urgent appeal

1280. On 21 February 2007, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning Dr. **Idriss Aboufaied**, Secretary-General of an organization called "National Union of Reform", his brother, Mr. **Jum'a Aboufaied**, and Mr. **al-Mahdi Saleh Hmeed**. Dr. Aboufaied was the subject of an urgent appeal sent by these mandate-holders on 28 November 2006, which at time of writing remained without a response from the Government.

1281. According to further information received, Dr. Aboufaied was arrested at his home at around 1 am on 16 February 2007 by officers from the Internal Security Agency. The arrest was made in relation to Dr. Aboufaied's involvement in the organization of a peaceful demonstration on the following day in Tripoli. This demonstration was meant to commemorate the first anniversary of a demonstration in the city of Benghazi, during which the police opened fire resulting in the killing of at least twelve demonstrators and the injuring of many others. Authorities announced in 2006 that ten senior officials had been charged in connection with the incident. However, none of them have so far been brought to trial. Dr. Aboufaied's brother Jum'a was arrested a few hours later on 16 February 2007 after he had revealed information about the arrest of Dr. Aboufaied, inter alia, to a foreign news website.

1282. Mr. al-Mahdi Saleh Hmeed, who had also participated in the organization of the demonstration, was arrested in the afternoon of 16 February 2007. Earlier that day, his father's house had been set on fire and members of his family had been assaulted by a group of young men who allegedly acted with the knowledge and consent of the authorities. Dr. Aboufaied is the co-founder of the "National Union of Reform". He had been granted refugee status in Switzerland where he had lived and worked as a surgeon until September 2006 when he decided to return to his home country.

1283. Upon request from the authorities, Dr. Aboufaied went to the headquarters of the Internal Security Services in Tripoli on 5 November 2006 and was arrested. He was detained incommunicado until 29 December 2006 and released without charge.

Concern was expressed that the arrest and detention of Dr. Idriss Aboufaied, Mr. Jum'a Aboufaied, and Mr. al-Mahdi Saleh Hmeed might solely have been connected to their peaceful and legitimate activities in defence of human rights.

### **Response from the Government**

1284. The Special Representative acknowledges receipt of a letter dated 5 November 2007, in which the Libyan Government responded to the above communication. The response from the Government is awaiting translation and will be dealt with in the next report.

### **Observations**

1285. The Special Representative thanks the Government for its response of 5 November and hopes that peaceful demonstration by human rights defenders will be considered as an integral part of a functioning civil society in Libya.

## **Malaysia**

### **Letter of allegations**

1286. On 14 December 2006, the Special Representative, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent a letter of allegations to the Government concerning the detention of a number of activists and villagers who were arrested while protesting against the demolition of houses in Kampong Berembang including **S. Arutchelvan, Chang Lih Kang, Lechumy Devi Doraisamy, Kumaraveel, Mohan, Parames Elumalai, Ramachanthiran Ananthan, Ramalingam Thirumalai, Sevan, Thevarajan Ramasamy, V. Wani, Sugmaran, Ebrahim Haris Awalluddin and Fiqtriy bin Al Hakimi**, and **Lee Huat Seng**, all members of human rights and civil society organisations in Malaysia and villagers **Adli Abdul Rahman, Ahmad Tamrin, Awalluddin Sharif, Azman Mohd, Faezae Ramzi, Mohd Rajis and Sabariah Ayoub**.

1287. According to the information received, on 20 November 2006, the aforementioned individuals were arrested as they protested against the demolition of houses in Kampong Berembang, Jalan Ampang. Sources indicate that the police, supported by the Ampang Jaya local council enforcement unit, the Majlis Perbandaran Ampang Jaya (MPAJ) used force to disperse the crowd at the demolition site and one villager, Norhasliana binti Osman, was reportedly beaten unconscious. The police allegedly proceeded to arrest some of the activists and villagers present and brought them to Ulu Kelang police station from where they were released on police bail at approximately 11:30 that night. However, it was reported that they would have to attend the Ampang Magistrate Court on 4 December 2006.

1288. In addition, on 22 and 23 November 2006, the agents of the MPAJ allegedly tried to demolish the praying room; the last structure to remain intact in the village where the former residents continue to live in tents and makeshift houses. According to reports, 50 families who had lived on the disputed land for more than 30 years were forcefully evicted before their alternative homes were completed under Selangor's

policy of “Zero Squatters”. Furthermore, it was reported that the land in question was still the subject of an ongoing court case which the Shah Alam High Court recently postponed until April 2007. Concern was expressed that the aforementioned activists and villagers may have been arrested and detained on the basis of their legitimate activities in the defence of human rights and in particular the right to adequate housing and against forced evictions.

### **Urgent appeal**

1289. On 21 June 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning the arrest and detention of Mr **Nyam Kee Han**, Coordinator and Mr **See Siew Min**, member of the secretariat of Suara Rakyat Malaysia (SUARAM) in Johor. SURAM is a well known human rights organization which monitors and documents human rights violations.

1290. 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.

1291. 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. Concern was expressed that the arrest and detention of Mr Nyam and Mr See are directly related to their legitimate work in defence of human rights in the country.

### **Response from the Government**

1292. In a letter dated 8 August 2007, the Malaysian Government replied to the above communication, stating that the aforementioned 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.

### **Responses from the Government to communications sent before 2 December 2006**

1293. Furthermore, in a letter dated 13 February 2007 the Malaysian Government responded to an urgent appeal sent by the Special Representative on 23 August 2006, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on freedom of religion or belief, concerning death threats

made against Mr **Malik Imtiaz Sarwar**, a lawyer representing Ms Lina Joy, a woman who had converted from Islam to Christianity. The Government letter stated that Mr Sarwar had lodged a complaint and that an investigation was being conducted to ascertain the origin of the threatening e-mails being circulated to incite action against him. The letter also stated that Mr Sarwar had expressed satisfaction with the level of cooperation extended to him by the Malaysian police force in finding a resolution to the case.

1294. In a letter dated 29 May 2007 the Malaysian Government responded to an urgent appeal sent by the Special Representative on 30 June 2005, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning the arrest and detention of a group of people following a **gathering of citizens of Myanmar** outside the embassy of the latter state. The Government letter stated that the demonstration of 16 June was held without a permit and that when police officers arrived they spoke with the leader of the protest and told him that the demonstrators had twenty minutes to submit a note of protest to the Embassy. When this time had elapsed, the police officers ordered the protesters to disperse and warned that if they did not do so, they would be arrested. As those gathered did not comply, instead wishing to remain a further one or two hours, they were duly arrested.

1295. The letter further stated that as the police were unable to complete their investigations in 24 hours, they were granted a fortnight order extending the detention period until 30 June 2005. On 28 June 2005, 64 protesters were charged with offenses under the Police and Immigration Acts, of which 27 pleaded guilty to all three charges on 21 December 2005, and were sentenced to three months imprisonment from date of arrest. The remaining protesters were charged on 7 March 2006 with two minors charged before the juvenile court. No information was given in the Government letter regarding the outcome of these judicial proceedings.

## **Observations**

1296. The Special Representative thanks the Malaysian Government for its responses to three communications and urges that it make every effort to respect and support the right to freedom of expression and assembly, and in particular that law enforcement agents exercise restraint when dealing with gatherings of people assembled for the purposes of peaceful protest.

## **Mexico**

### **Llamamiento urgente**

1297. El 5 de diciembre de 2006, la Representante Especial, junto con la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria señalaron a la atención urgente de su Gobierno la información recibida en relación con el Sr. **Alberto Tacume Cilia Ocampo**, miembro de la organización Centro de Derechos Humanos Yaxkin, con sede en Ciudad de México, y dos personas no identificadas que le acompañaban, la organización Servicios para una Educación Alternativa (EDUCA), una organización que trabaja en la promoción de los derechos humanos y el desarrollo comunitario y también el sacerdote **Carlos Franco Pérez Méndez**.

1298. Según la información recibida, el 27 de noviembre de 2006, el Sr. Alberto Tacume Cilia Ocampo y otras dos personas no identificadas que le acompañaban, fueron detenidas en Oaxaca por agentes de la Policía del Estado y conducidas a la prisión Santa María Ixcatel. El Sr. Cilia Ocampo se encontraba investigando alegaciones de posibles violaciones a los derechos humanos perpetradas durante las manifestaciones que tuvieron lugar en torno al recinto universitario de Oaxaca durante el 25 y 26 de noviembre de 2006. Se les habría negado recibir visitas de sus familiares y de sus abogados. Se ha afirmado que estas personas fueron detenidas mientras realizaban un trabajo legítimo de defensa y protección de los derechos humanos.

1299. Se informa también que locutores de Radio Ciudadana, una radioemisora pro-gobierno estatal pirata que transmite desde un lugar desconocido, habrían incitado a la población, el mismo día 27 de noviembre, a atacar e incendiar la sede de la organización EDUCA, Locutores de la mencionada radiodifusora estarían señalando que en la sede de EDUCA se fabrican artefactos incendiarios caseros conocidos como "cócteles Molotov".

1300. Las informaciones señalan también que el sacerdote Carlos Franco Pérez Méndez estaría siendo víctima de una serie de actos de intimidación y atentados alentados por los locutores de la mencionada Radio Ciudadana. Su furgoneta habría sido objeto de disparos de armas de fuego mientras se encontraba estacionada frente a la iglesia de Siete Príncipes, en la ciudad de Oaxaca. Previamente, tres individuos no identificados realizaron disparos al aire frente a la fachada de la Iglesia. Se afirma que estos actos estarían motivados por la asistencia que el Padre Franco Pérez Méndez prestó a los heridos durante las últimas manifestaciones y enfrentamientos callejeros.

1301. Se afirma por último que locutores de Radio Ciudadana continúan alentado a la población de Oaxaca a cometer atentados y actos de agresión contra diversas figuras públicas, representantes de organizaciones sociales y eclesiales así como contra simpatizantes de la organización Asamblea Popular del Pueblo de Oaxaca (APPO). Pese a ello, las autoridades no habrían todavía iniciado una investigación de estos hechos ni adoptado las medidas necesarias para impedir que continúen.

1302. Se expresó preocupación por los actos de hostigamiento en contra de las personas y las organizaciones arriba mencionadas porque se temía que pudieran estar relacionados con sus actividades en defensa de los derechos humanos, en particular su trabajo documentando las violaciones de los derechos humanos.

### **Respuesta del Gobierno**

1303. Mediante comunicación de 31 de enero de 2007, el Gobierno de México proporcionó información con respecto al llamamiento enviado el 5 de diciembre de 2006. El Gobierno informó que los hechos referidos en el llamamiento no eran ciertos. Sr. Alberto Tacume Cilia Ocampo y otras dos personas (Omar Cruz Rodríguez Camarena y Sarah Ilith Weldon) fueron detenidos el 28 de noviembre de 2006, por elementos de la policía preventiva del Estado de Oaxaca, pero no fue en las condiciones referidas en el llamamiento urgente.

1304. La detención obedeció a que las tres personas incitaron a la gente a violencia mientras prendían fuego a una motocicleta y agredirían a quien intentaba detenerlos, lanzándoles canicas, piedras y botellas. Se procedió a poner a las tres personas de la autoridad menestral por su participación en la comisión de los delitos de sedición, rebelión, conspiración y daños por incendio.

1305. Se inició la averiguación previa y fueron internados en el Reclusorio de Ixcotel. El 28 de noviembre de 2006, Sarah Ilith Weldon fue excarcelada y puesta a disposición del Instituto Nacional de Migración (INAMI) por ser de nacionalidad francesa. La autoridad migratoria determinó que había realizando actividades políticas, que eran diversas a las autorizadas para su ingreso y estancia en el país. Por ello, se le inició el procedimiento administrativo correspondiente. De conformidad con el debido proceso legal, la normativa vigente en México se le concedió el derecho de contactar a su representación diplomática y de poder pedir refugio en México en caso de enfrentar un riesgo para regresar a su país de origen. Durante 20 de noviembre de 2006 la Sra. Weldon fue presentada ante del Consulado en la ciudad de México D.F. El 1 de diciembre 2006 se le notificó su expulsión de los Estados Unidos Mexicanos.

1306. El Gobierno informó de que el 7 de diciembre de 2006, el Sr. Alberto Tlacacl Cilia Ocampo, obtuvo su libertad bajo fianza. Por lo que se refiere a las supuestas amenazas y actos de hostagamiento cometidas por “Radio Ciudadana”, en particular los hechos de los que supuestamente fue víctima el Sacerdote Carlos Franco Pérez Méndez, las autoridades de Oaxaca han informado que no tienen registro de ninguna denuncia, lo cual impide afirmar o negar tal aservación. El Gobierno “solicita a esos mecanismos internacionales conminen a los afectados a presentar su denuncia ante las autoridades correspondientes para que se investiguen los hechos que les aquejan y en su caso se sancione a los responsables.”

### **Llamamiento urgente**

1307. El 21 de diciembre de 2006, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, señalaron a la atención urgente de su Gobierno la información recibida en relación con la Señora **Yésica Sanchez Maya**, abogada y Presidenta de la Liga Mexicana por la Defensa de los Derechos Humanos (LIMEDDH) filial Oaxaca, y la Señora **Aline Castellanos Jurado**, ex-Presidenta de dicha organización y miembro del Consorcio para el Dialogo Parlamentario y la Equidad AC. La LIMEDDH fue sujeto de una comunicación enviada a Su Gobierno, de la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 3 de noviembre de 2006.

1308. De acuerdo con la información recibida, el 7 de diciembre de 2006, las Sras. Yésica Sanchez Maya y Aline Castellanos Jurado habrían recibido una orden de aprehensión del juzgado primero penal de primera instancia del distrito judicial de Etna, Oaxaca. Supuestamente las dos activistas fueron acusadas del delito de despojo agravado contra la Corporación Oaxaqueña de Radio y Televisión, Canal 9, en hechos ocurridos el 1 de agosto de 2006.

1309. Según los informes, la LIMEDDH ha presentado varios informes y acciones urgentes sobre graves violaciones de derechos humanos llevadas a cabo durante la represión de las protestas sociales que han tenido lugar desde mayo de 2006 en Oaxaca. También, el 27 de octubre de 2006, la Sra. Yésica Sanchez Maya denunció estas mismas violaciones ante de la Comisión Interamericana de Derechos Humanos (CIDH) en Washington, durante una audiencia requerida por la LIMEDDH.

1310. Se expresó preocupación sobre la orden de aprehensión en contra de las Sras. Yésica Sanchez Maya y Aline Castellanos Jurado que puede representar un intento de disuadir a todos los miembros de LIMEDDH de continuar con su trabajo en defensa de los derechos humanos, y en particular de su labor en su calidad de observadores, supervisando y documentando las violaciones de los derechos humanos.

### **Llamamiento urgente**

1311. El 16 de enero de 2007 la Representante Especial señaló a la atención urgente de su Gobierno la información recibida en relación con los actos de hostigamiento en contra de los defensores de derechos humanos en Oaxaca, en particular el Señor **Artemio Desiderio**, integrante de la organización de derechos humanos dominada Comité Cerezo y la Señora **Yésica Sánchez Maya**, Presidenta de la filial Oaxaca de la Liga Mexicana por la Defensa de los Derechos Humanos (LIMEDDH). Integrantes del Comité Cerezo fue objeto de una comunicación enviada a Su Gobierno, por la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 14 de septiembre de 2006 y la LIMEDDH fue objeto de una comunicación enviada a Su Gobierno, por la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 3 de noviembre de 2006. La situación de la Sra. Yésica Sanchez Maya fue asimismo objeto de un llamamiento urgente enviado por Relator Especial sobre la independencia de magistrados y abogados y la Representante Especial del Secretario-General para los defensores de los derechos humanos, con fecha de 21 de diciembre de 2006.

1312. De acuerdo con la información recibida, el 8 de enero de 2007, a las 10 de la noche, un desconocido vestido de civil se habría quedado observando al Sr. Artemio Desiderio y una compañera, frente a la Iglesia de los Pobres en la ciudad de Oaxaca hasta que el Sr. Artemio Desiderio tomó el autobús a su domicilio.

1313. Anteriormente, el 29 de diciembre de 2006, otro individuo vestido de civil, habría seguido al Sr. Artemio Desiderio, tomando el mismo autobús y bajando en la misma parada frente a la Iglesia de los Pobres. Después de bajar del autobús el desconocido habría seguido la vigilancia durante media hora.

1314. Según los informes, el 8 de diciembre de 2006 el Sr. Desiderio y una compañera aparcaron el vehículo utilitario de la LIMEDDH afuera del Tribunal Federal donde acudieron en relación con algunos casos de individuos encarcelados en el penal de Tlacolula de Matamoros. Según los informes, cuatro personas no identificadas y vestidas de civil les habrían adelantado y uno de ellos apuntó al Sr. Desiderio con la mano simulando una pistola y fingió dispararla. Supuestamente cuando la compañera del Sr. Desiderio tomó su celular, el mismo individuo les gritó “llamen a quien quieran, los va a cargar la chingada, del plomazo no se salvan” antes de mirarles algunos minutos y marcharse.



1315. Además, el 10 de noviembre, a las 8.30 de la noche, el Sr. Desiderio fue supuestamente víctima de un ataque armado. Según los informes, al salir de las oficinas de la LIMEDDH, dos desconocidos que viajaban en motocicleta, se acercaron al Sr. Desiderio y le encañonaron una pistola. El Sr. Desiderio se lanzó al piso cuando dispararon y escuchó dos disparos más. Los agresores se habrían ido lentamente y el Sr. Desiderio habría llamado a sus parientes que vivían cerca del barrio donde tuvo lugar el incidente y vinieron a acompañarle a su casa.

1316. Por otra parte, según adicional información recibida, en una carta dirigida al Gobernador Ulises Ruiz Ortiz, cinco detenidos del Penal de Tlacolula de Matamoros habrían acusado a la Sra. Yésica Sánchez Maya de “protagonizar actos violentos y de obligarlos a respaldar a la APPO (Asamblea Popular de los Pueblos en Oaxaca)”. Además habrían declarado que fueron “engañados por organizaciones defensoras de derechos humanos”. El 31 de diciembre de 2006 los presos habrían dicho, durante una conferencia de prensa, que fueron obligados a firmar la carta por parte de un grupo de abogados dirigido por el Sr. José Juárez. Según los informes, hasta la fecha, las autoridades no habrían tomado medidas para proteger al Sr. Artemio Desiderio ni a la Sra. Yésica Sánchez Maya.

1317. La Representante Especial reiteró preocupación por los actos de intimidación en contra de los defensores de derechos humanos en Oaxaca porque se teme que pueden representar un intento de disuadirles de llevar a cabo su trabajo en defensa de los derechos humanos. Además se expresa preocupación por la seguridad del Sr. Artemio Desiderio porque se teme que los actos de intimidación que habría sufrido pueden estar relacionados con sus actividades en defensa de los derechos de las personas encarceladas en México por razones políticas. También se teme que los hostigamientos en contra de la Sra. Yésica Sánchez Maya pueden estar relacionados con su trabajo con la LIMEDDH, y en particular su labor en su calidad de observadores, supervisando y documentando las violaciones de los derechos humanos.

### **Llamamiento urgente**

1318. El 8 de marzo de 2007, la Representante Especial, junto con Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con supuestas amenazas y actos de hostigamiento en contra de los integrantes del **Centro de Investigaciones Económicas y Políticas de Acción Comunitaria A.C. (CIEPAC)**, una organización dedicada a la defensa de los derechos de los pueblos indígenas con sede en San Cristóbal de Las Casas, Chiapas. De acuerdo con la información recibida, el pasado 26 de febrero, los integrantes del CIEPAC encontraron una nota escrita en una hoja de cuaderno que habría sido arrojada por encima de la puerta de sus oficinas, aproximadamente entre las 9.20 y las 9.30 horas. Dicha nota contenía el siguiente mensaje: “Disfruta tu último día. Te mataremos, estoy buscándote y ya te encontramos”.

1319. Se daba la circunstancia de que el CIEPAC ha sido objeto de distintas amenazas y actos de hostigamiento en los últimos meses. El 31 de diciembre de 2006, a las 9 horas, la oficina del CIEPAC habría sido objeto de un intento de allanamiento por un desconocido (cabello negro, estatura mediana y chamarra negra con las letras

“INFINITUM” escritas en la espalda). Dicho individuo habría abierto una de las dos cerraduras del portón de entrada gracias a una copia que obraba en su poder, pero no habría logrado entrar al no haber conseguido forzar la segunda chapa. Dicha persona se habría dado finalmente a la fuga, sin conseguir su propósito, en un vehículo marca Volkswagen sedán de color rojo que se habría encontrado estacionado junto a la oficina, donde le habría esperado una segunda persona.

1320. El 3 de febrero, una integrante del CIEPAC se percató de que su nombre en el portón de la casa se encontraba marcado, borrándolo inmediatamente. El 13 de febrero, frente a la misma casa se habría encontrado un sujeto (de bigotes, estatura mediana, moreno, aproximadamente 40 años) con el uniforme azul característico de la Policía Preventiva. Al verla llegar y empezar a abrir su puerta, el uniformado se le habría acercado para preguntar si podía entrar en su casa para inspeccionar el portón desde el interior, con el pretexto de que estaba construyendo uno y que le gustaba ése en particular. Frente a la negativa de la integrante del CIEPAC, el uniformado habría contestado “No importa, ya lo vi por fuera”, y se habría marchado.

1321. El día 24 de febrero, a la 1.30 horas, saliendo de una cena del equipo CIEPAC en casa de una de sus integrantes, varios miembros del centro habrían sido interceptados en el momento de subir a sus vehículos por seis uniformados de la Policía Preventiva, dos de ellos encapuchados, a bordo de la patrulla PS-344, portando armas de gran calibre. Mientras solicitaban documentos de identidad a dos miembros de la organización, uno de los uniformados habría abordado físicamente a otro miembro, exigiéndole agresivamente que se diera vuelta en contra del vehículo para ser cateado. Mientras solicitaban documentos de identificación de dos integrantes de la organización, uno de los uniformados habría abordado físicamente a otro integrante, exigiéndole agresivamente que se diera vuelta en contra del vehículo para ser cateado.

1322. El Relator Especial y la Representante Especial expresaron su preocupación por la posible relación entre las amenazas y actos de hostigamiento reportados con la labor realizada por el CIEPAC en relación con el fortalecimiento de los procesos sociales de los pueblos indígenas de Chiapas y para la promoción y la defensa de sus derechos humanos.

1323. El Relator Especial y la Representante Especial instaron al Gobierno a que adopte todas las medidas necesarias para proteger los derechos y las libertades de los integrantes del CIEPAC, investigar, procesar e imponer las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas. Instaron también al Gobierno a que tome las medidas eficaces para evitar que se repitan tales hechos.

### **Observaciones**

1324. La Representante Especial lamenta no haber recibido respuesta a su comunicación de 8 de marzo de 2007 en el momento de finalización del presente informe.

### **Llamamiento urgente**

1325. El 19 de marzo de 2007, la Representante Especial, junto con la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento

urgente al Gobierno señalando informaciones recibidas en relación con la situación en la que se encuentre el Sr. **Jesús Emiliano García**. Sr. Jesús Emiliano García, dirigente de la organización denominada Frente Democrático Campesino (FDC), organización con presencia en el Estado de Chihuahua, fue arrestado el 9 de marzo de 2007, hacia las 13h00 horas, por agentes de la Agencia Federal de Investigaciones (AFI) quienes no presentaron orden de captura alguna. El Sr. García fue detenido en las afueras de las oficinas del FDC, ubicadas en la calle Coronado de la ciudad de Chihuahua, en presencia de su esposa, Sra. Victoria Hernández Olmos, que se encuentra en estado de siete meses de embarazo. Se afirma que al igual que su marido, la Sra. Hernández Olmos fue amenazada y maltratada por los agentes.

1326. El operativo de la Agencia federal de Investigaciones contó con el apoyo de agentes de la policía municipal y de la policía del Estado. El Sr. García fue conducido esposado a un vehículo sin placas de identificación. Inmediatamente después del arresto, la esposa del Sr. García se dirigió a las oficinas de la Procuraduría General de la República (PGR) con el fin de verificar su paradero y si realmente las personas que realizaron la aprehensión eran agentes de dicha institución. El Subdelegado le informó que su marido estaba detenido en el Centro de Rehabilitación Social (CERESO) de Chihuahua y que su caso sería llevado ante el Décimo Juzgado de lo Federal. Al día siguiente, personal judicial se trasladó al CERESO para tomar la declaración del Sr. García. Dicha diligencia se realizó sin la presencia de abogado defensor. El Sr. García se negó a hablar.

1327. Se afirma también que esta persona, al igual que los dirigentes del FDC, Sres. Rogelio Ruelas, Francisco Escalante, Javier Castillo y Víctor M. Quintana, habrían sido denunciados por sabotaje por la delegación en Chihuahua de la Secretaría de Agricultura, Desarrollo Rural, Pesca y Alimentación (SAGARPA). El sabotaje está considerado como un delito grave, sin derecho a fianza, tipificado por el Código Penal del Estado Federal. La acusación habría sido presentada luego de la movilización realizada por el FDC el 19 y 20 de febrero para solicitar la puesta en marcha de un programa emergente para la preparación de tierras para la siembra de maíz y frijoles. La denuncia de la SAGARPA habría sido tramitada con extrema rapidez y celeridad, no habiéndose notificado a los denunciados. La denuncia sería desproporcionada, sin mayor fundamento, de carácter político y habría sido formulada con el objeto de amedrentar a quienes protestan contra funcionarios de la delegación SAGARPA de Chihuahua. Se afirma también que anteriormente la SAGARPA se limitaba a interponer denuncias por daños, pero esta vez ha denunciado sabotaje.

1328. Se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos del Frente Democrático Campesino en particular su trabajo en atender las demandas de los campesinos pobres.

### **Respuesta del Gobierno**

1329. Mediante comunicación de 17 de agosto de 2007, el Gobierno de México proporcionó información con respecto al llamamiento enviado el 19 de marzo de 2007. El Gobierno informó de que al momento de la detención del Sr. García y hasta lo que va del procedimiento que se sigue en su contra, en ningún momento se agredió a ninguna persona, menos aun a la esposa del Sr. García, la Sra. Victoria Hernández Olmos. Además, la detención del Sr. García se llevo a cabo en apego a la

normatividad y los derechos humanos, respetando en todo momento su integridad física.

### **Llamamiento urgente**

1330. El 21 de marzo de 2007 la Representante Especial, señaló a la atención urgente de su Gobierno la información recibida en relación con la Sra. **Elena López Hernández**, miembro de la Red Solidaria Década Contra la Impunidad (RSDCI). La RSDCI es una organización conformada por familiares y víctimas de violaciones de derechos humanos y también por organizaciones no gubernamentales y defensores de derechos humanos.

1331. De acuerdo con la información recibida, el 7 de marzo de 2007, al regresar a su casa, la Sra. López Hernández habría recibido una llamada telefónica anónima durante la cual le habría dicho, en tono amenazante, 'ya se donde vives'. Más tarde, mientras estaba reunida con varios compañeros de la organización para evaluar la situación, el teléfono sonó tres veces. Nadie lo habría contestado y las llamadas habrían sido enviadas al buzón de un móvil. Se informa que actualmente se está preparando una denuncia por las nuevas amenazas ante el Ministerio Público.

1332. Anteriormente, el 12 de enero de 2007, la Sra. López Hernández habría recibido una llamada telefónica anónima en la que le dijeron "escucha perra lo que les pasa a los que defienden guerrilleros" al término de este mensaje le habrían producido dos sonidos de cohetes, aproximadamente a los 20 minutos después, volvieron a llamarle dejándole el mismo mensaje.

1333. Se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Sra. López Hernández, en particular su participación en la defensa de los derechos indígenas. Se expresó profunda preocupación por la seguridad e integridad física de la Sra. López Hernández y su familia así como la del resto de los miembros de la Red Solidaria Década Contra la Impunidad (RSDCI).

### **Respuesta del Gobierno**

1334. Mediante comunicación de 16 de junio de 2007, el Gobierno de México proporcionó información con respecto al llamamiento enviado el 21 de marzo de 2007. El Gobierno informó de que el Ministerio Público inició la averiguación previa con motivo de la denuncia de hechos presentada por el Señor Javier Enríquez Sam, Coordinador del Colectivo contra la Tortura y la Impunidad, derivada de una llamada telefónica que consideraron amenazante en perjuicio de la señora Elena López Hernández.

1335. Una vez practicadas las diligencias correspondientes dentro de la citada indagatoria, el Ministerio Público se declaró incompetente en razón de la materia, remitiendo el 23 de mayo de 2007 las actuaciones a la Procuraduría General del Distrito Federal, a fin de que se continúe con las investigaciones. Por el momento se está en espera de recibir mayores elementos.

### **Llamamiento urgente**

1336. El 24 de Mayo de 2007 la Representante Especial, junto con Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, de Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias señalaron a la atención urgente de su Gobierno la información recibida en relación con la Sra. **Lydia Cacho Ribeiro**, periodista y defensora de derechos humanos. La Sra. Ribeiro es la directora y fundadora del Centro Integral de Atención a las Mujeres (CIAM) en Cancún, una organización no-gubernamental que se dedica a la provisión de refugio y apoyo para las víctimas de violencia familiar, violencia sexual, y trata. En 2007 recibió el premio Ginetta Sagan para la protección de los derechos de mujeres, niñas y niños. La Sra. Cacho Ribeiro fue el objeto de un llamamiento urgente enviado por el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario-General para los defensores de los derechos humanos el 29 de diciembre de 2005, y de dos llamamientos urgentes enviados por el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias y la Representante Especial del Secretario-General para los defensores de los derechos humanos el 18 de julio de 2005 y el 23 de febrero de 2005.

1337. De acuerdo con la información recibida, el 7 de mayo de 2007, hacia las 12:20 horas, la Sra. Cacho Ribeiro llegó de Ciudad Juárez al Aeropuerto Internacional de la Ciudad de México acompañada de tres personas de la Agencia Federal de Investigaciones (AFI) que la escoltan a raíz de las amenazas de muerte que habría recibido por su trabajo. La Sra. Cacho Ribeiro, tres periodistas y los tres agentes viajaban del aeropuerto en un vehículo Suburban, propiedad de la Procuraduría General de la República. Después de viajar cinco kilómetros, entre Viaducto y Eje Central (Ciudad de México), el vehículo comenzó a perder el control y el chofer tuvo que detenerlo. Al bajar del vehículo los agentes habrían encontrado que la llanta y la rueda estaban a punto de salirse. Según la información recibida, los agentes de AFI consideraron que el problema del vehículo habría sido provocado deliberadamente para causar un accidente. La Sra. Cacho Ribeiro habría denunciado oficialmente el incidente ante la policía, exigiendo una investigación exhaustiva en lo sucedido.

1338. La Sra. Ribeiro es autora del libro “Los demonios de Eden: El poder detrás de la pornografía infantil”, en el cual denuncia a la mafia de la pederastia en México, implicando a varios personajes públicos. En 2004, la Sra. Cacho Ribeiro habría sido acusada de difamación y a raíz de estas acusaciones fue detenida en diciembre de 2005. En 1999 fue víctima de una violación, un acto de intimidación con la intención de advertirle de los peligros de seguir con sus investigaciones sobre los crímenes de violencia sexual en México.

1339. Se expresa profunda preocupación por la seguridad e integridad física de la Sra. Ribeiro y se teme que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Sra. Ribeiro, en particular su participación en la protección de los derechos de las mujeres y de los niños en México.

### **Llamamiento urgente**

1340. El 4 de junio de 2007 la Representante Especial señaló a la atención urgente de su Gobierno la información recibida en relación con el Sr. **Idelfonso Zamora** y sus dos hijos, el Sr. **Aldo Zamora** y el Sr. **Misael Zamora**, defensores del medio ambiente de San Juan Atzingo, en la zona del Parque Reserva Ecológica Lagunas de Zempoala, ubicado en los estados de México y Morelos.

1341. De acuerdo con la información recibida, el 15 de mayo de 2007, el Sr. Aldo Zamora y su hermano, el Sr. Misael Zamora fueron emboscados mientras se dirigían en coche hacia el pueblo de Santa Lucia, cerca de su casa en la aldea de San Juan Atzinga, municipio de Ocuilán. Según se informa, cuatro individuos, presuntamente taladores ilegales, les habrían atacado. Al parecer, el Sr. Aldo Zamora fue asesinado de un disparo mientras que el Sr. Misael Zamora resultó gravemente herido en el ataque y fue llevado al hospital. El Sr. Misael Zamora habría reconocido a los agresores y habría denunciado oficialmente el ataque ante la policía y ante la Defensoría del Pueblo.

1342. Según se informa, entre junio de 2006 y mayo de 2007 el Sr. Aldo Zamora y el Sr. Misael Zamora colaboraron con Greenpeace en la recolecta de datos para llevar a cabo un estudio que permitiera evaluar los impactos de la tala ilegal en los bosques de San Juan Atzingo. Desde el 2004, el Sr. Idelfonso Zamora fue objeto de múltiples amenazas, presuntamente por parte de los miembros de estas bandas de talamontes ilegales.

1343. Se teme que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos del Sr. Idelfonso Zamora y sus dos hijos, el Sr. Aldo Zamora y el Sr. Misael Zamora, y se expresa una profunda preocupación por la seguridad e integridad física de los otros miembros de la familia Zamora.

### **Respuesta del Gobierno**

1344. Mediante comunicación de 17 de septiembre de 2007, el Gobierno de México proporcionó información con respecto al llamamiento enviado el 4 de junio de 2007. El Gobierno informó de que a partir del 28 de mayo de 2007, se designó una auto patrulla con dos policías municipales para la seguridad de la familia Zamora Baldomero. La patrulla se encuentra permanentemente en el exterior de su domicilio. El 4 de junio de 2007, la Comisión de Derechos Humanos del Estado de México inicio de oficio una investigación relacionada con la tala de árboles en los Bosques del Izta-Popo. En virtud del ataque que sufrió la familia Zamora, el 6 de junio de 2007, la Comisión solicitó al Comisionado de la Agencia Seguridad Estatal que se implementaran medidas cautelares precautorias a fin de garantizar y proteger la integridad física del Sr. Idelfonso Zamora y su familia.

1345. En respuesta a la solicitud de la Comisión, se llevan a cabo recorridos de patrullaje constantes sobre la zona para reforzar la seguridad de todos los habitantes del municipio. El gobierno estatal ha implementado cuatro operativos en los que han participado entre 200 y 250 elementos, con el propósito de salvaguardar el orden en el municipio de Ocuilán y erradicar la tala clandestina de árboles, teniendo para ello una estrecha coordinación con las Dependencias Federales, Estatales y Municipales. En seguimiento a lo anterior, la Dirección General de la Protectora de Bosques del Estado

de México informo que se crearon grupos especificados de inspección y vigilancia forestal del Estado de México, que realizan recorridos operativos, para inhibir la tala ilegal.

### **Llamamiento urgente**

1346. El 8 de junio de 2007 la Representante Especial señaló a la atención urgente de su Gobierno la información recibida en relación con la Sra. **Mayem Pilar Arellanes Cano**, defensora de los derechos humanos y abogada. La Sra. Arellanes Cano es miembro de un movimiento de defensa de los presos políticos de 25 de noviembre de 2006, denominado “Comité de Liberación 25 de Noviembre” así como también integrante del Colectivo de Abogados y Abogadas Víctimas y Representantes de Víctimas de Detenciones Arbitrarias.

1347. De acuerdo con la información recibida, el 28 de mayo de 2007, hacia las 13:15 horas, la Sra. Arellanes Cano, se dirigía a la Facultad de Derecho de la Universidad Autónoma Benito Juárez de Oaxaca, de la cual es licenciada. Al llegar a la oficina de dirección se habría encontrado con seis hombres desconocidos que le habrían gritado insultos como: “pinches activistas y su pendejo comité”, “mueran los appos, muera la uj y todos esos péndejos” y también “(...) nosotros podemos gritar y hacer lo que queramos y si no te gusta, te jodes”. La Sra. Arellanes Cano, decidió retirarse de inmediato ante el temor de que la agredieran físicamente.

1348. Según se informa, el 1 de mayo de 2007, hacia las 13:00 horas, la Sra. Arellanes Cano se dirigía a su domicilio cuando se encontró con una camioneta negra con franja roja, sin placas y con vidrios polarizados frente a su casa. La Sra. Arellanes Cano logró observar a un hombre, el cual, al ver que ella se estacionaba enfrente de su vehículo, agachó la cabeza. La Sra. Arellanes Cano se retiró unas cuadras esperando que dicho vehículo se fuera. Sin embargo el vehículo se quedó estacionado por lo que ella decidió no volver a su casa ese día.

1349. Asimismo, a finales del mes de febrero de 2007, la Sra. Arellanes Cano habría tenido una cita en el Hotel del Magisterio, ubicado en el barrio del Ex-marquesado, con un individuo que tomaría testimonio de su detención arbitraria. Al salir del hotel, la Sra. Arellanes Cano fue seguida durante un cuarto de hora por un hombre desconocido. Este desconocido habría seguido el mismo recorrido que ella y se habría apeado en las mismas estaciones que ella. Cuando la Sra. Arellanes Cano entró en una tienda, la persona la esperaba observándola y después caminó despacio tras de ella a una distancia de una cuadra. Finalmente, la Sra. Arellanes Cano entraría en un café Internet donde permanecería hasta que viniera una persona de confianza para que se retirasen juntos.

1350. Se teme que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Sra. Mayem Pilar Arellanes Cano, en particular su actividad en defensa de los presos políticos. Se expresa profunda preocupación por su seguridad e integridad física.

### **Llamamiento urgente**

1351. El 18 de Julio de 2007 la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, señalaron a la atención urgente de su Gobierno la información recibida en relación con las supuestas amenazas en contra de la Sra. **Maria Luisa García Andrade** y la Sra. **Marisela Ortiz Rivera**, miembros de la organización Nuestras Hijas de Regreso a Casa con sede en Ciudad Juárez, y de los miembros de la Asociación Nacional de Abogados Democráticos (ANAD). La organización Nuestras Hijas de Regreso a Casa y ANAD trabajan para pedir justicia para las mujeres secuestradas y asesinadas en Ciudad Juárez, estado de Chihuahua.

1352. De acuerdo con la información recibida, el 22 de junio de 2007, la Sra. Ortiz Rivera habría recibido un mensaje de texto amenazante en su teléfono móvil lo cual supuestamente decía lo siguiente: ‘Disfruta de la vida mientras puedas’. Asimismo, el 20 de junio de 2007, desconocidos habrían forzado el coche de la Sra. García Andrade, sustrayendo documentación sobre el asesinato de su hermana, la Sra. Lilia Alejandra García Andrade, perpetrado en el 2001. Según se informa, cuando la Sra. García Andrade denunció el incidente en la Procuraduría General de Justicia del Estado de Chihuahua uno de los funcionarios le habría preguntado por qué no dejara las cosas por las paz advirtiéndole que ‘total mañana apareces muerta, o yo muerto!’.

1353. Además, el 10 de junio de 2007, una abogada de ANAD habría recibido un mensaje en el móvil que contenía el siguiente texto ‘Tú serás eliminada’. Según se informa, desde el 10 de junio de 2007, tanto los miembros de la organización Nuestras Hijas de Regreso a Casa como los abogados y abogadas de ANAD habrían estado recibiendo mensajes vía correo electrónico amenazándoles con que les sucedería algo si no dejaban su actividad. La Sra. Ortiz Rivera, ha sufrido presuntas intimidaciones desde el 2003. De hecho, el 24 de octubre de 2003, dos individuos encañando armas de fuego le habrían atacado mientras viajaba en coche con sus dos hijas. Se alega que los perpetradores, le habrían apuntado un arma a la cabeza y otra en la boca, amenazándole con que iba a conocer lo que sufriesen ‘las muertas de Juárez’. Después de un tiempo los agresores le dejaron marchar.

1354. Se expresó temor de que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la organización Nuestras Hijas de Regreso a Casa, y en particular la de la Sra. Maria Luisa García Andrade y de la Sra. Marisela Ortiz Rivera y se expresa profunda preocupación por su seguridad e integridad física así como la del resto de los miembros de dicha organización y los abogados de la Asociación Nacional de Abogados Democráticos (ANAD).

### **Respuesta del Gobierno**

1355. Mediante carta fechada 17 de septiembre el Gobierno de México proporcionó información con respecto al llamamiento enviado 18 de julio de 2007.

1356. El Gobierno informó de que en virtud de estas denuncias, el estado mexicano ha solicitado la intervención de la Comisión Interamericana de Derechos Humanos para que se convoque a una reunión con los familiares de las víctimas y los representantes de la Asociación “Nuestras Hijas de regreso a casa”, a fin de expongan sus necesidades y de manera conjunta se acuerden las medidas a implementar para salvaguardar su seguridad e integridad física. Se esta en espera de que la Comisión Interamericana responda a esta propuesta.



1357. De manera simultanea, el 18 de julio de 2007, la Comisión para prevenir y erradicar la violencia contra las mujeres en la Ciudad Juárez, dependiente de la Secretaria de Gobernación, solicito al Secretario de Seguridad Publica del municipio de Ciudad Juárez que proporcionara vigilancia policíaca en los domicilios de las Sras. Ortiz y Andrade y en la oficinas de la asociación de “Nuestras Hijas de regreso a casa”. A partir de esta solicitud, la policía municipal ha otorgado vigilancia policíaca a las presuntas afectadas. La Procuraduría General de Justicia del estado de Chihuahua, ha informado que se reunió con las Sras. Ortiz y Andrade y ya se encuentra investigando los hechos denunciados por ellas.

### **Llamamiento urgente**

1358. El 20 de julio de 2007 la Representante Especial, junto con el Relator Especial sobre el derecho a la alimentación señalaron a la atención urgente de su Gobierno la información recibida en relación con **Santiago Pérez Alvarado**, defensor de derechos humanos y abogado de derechos humanos quien ha encabezado la resistencia de campesinos e indígenas del sur del estado de México contra proyectos hidráulicos del Cutzamala.

1359. De acuerdo con la información recibida, el 5 de julio de 2007, Santiago Pérez Alvarado fue detenido alrededor de las 19.40 horas mientras estaba conduciendo. Según testigos, cuatro hombres vestidos de civil rompieron el vidrio del vehículo del Sr. Pérez Alvarado y procedieron a darle golpes.

1360. Al día siguiente de su detención, la jueza lo puso en libertad, pero al salir aparecieron agentes de la Agencia de Seguridad Estatal (ASE) que le detuvieron de nuevo por otra causa pendiente en el distrito de Temascaltepec. El Sr. Pérez Avarado fue llevado por los agentes a Temascaltepec donde lo acusaron de secuestro, supuestamente cometido en el año 1999.

1361. En el momento de la detención, el Sr. Pérez Avarado estaba apoyando a los habitantes que forman parte del Comité por la Defensa de los Recursos Naturales del Río Temascaltepec en sus negociaciones para resolver el conflicto relacionado con las obras de construcción de la presa El Temascaltepec. A través de dicha presa, se podría ver dañada la vida productiva y económica de la región.

1362. El Sr. Pérez Avarado también ha apoyado las luchas de los campesinos e indígenas en el Valle de Toluca y suroeste del Estado de México contra el desarrollo de un centro de sky en el Parque Nacional Nevado de Toluca, sitio de culto para los indígenas y zona importante para las reservas de agua.

1363. Se teme que estos susodichos incidentes puedan estar relacionados con las actividades de Santiago Perez Alvarado en defensa de los derechos humanos, en particular los derechos de los campesinos e indígenas del sur del estado de México. También se quiere expresar preocupación por la integridad física y psicológica del Sr. Perez Alvarado mientras está encarcelado.

### **Llamamiento urgente**

1364. El 30 de agosto de 2007 la Representante Especial junto con el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos y el Relator Especial sobre el derecho a la alimentación, señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. **Jair Pineda** y el Sr. **Armando Mendoza Ponce**. Los Srs. Pineda y Mendoza Ponce son miembros del Frente Amplio Opositor (FAO), una agrupación de organizaciones ecologistas locales que está en contra de un proyecto minero en el Cerro San Pedro, en el estado de San Luís Potosí. El mencionado proyecto está supuestamente contaminando el agua local con cianuro y destruyendo la montaña de San Pedro por el uso de explosivos.

1365. Según la información recibida, el 5 de agosto de 2007, el Sr. Jair Pineda habría hablado con dos empleados de la empresa minera del Cerro San Pedro. A la una de la madrugada cuando iba en su automóvil habría sido seguido por los dos trabajadores que conducían un vehículo de la empresa minera. Según los informes, los hombres lo habrían alcanzado y le habrían ordenado que saliera del auto. Cuando el Sr. Pineda se negó, los dos hombres lo habrían seguido hasta las afueras del pueblo donde el Sr. Pineda pudo escapar.

1366. La misma noche, un grupo de hombres armados habrían llegado a la casa del Sr. Mendoza Ponce en Cerro San Pedro. Los hombres habrían disparado cuatro veces al vehículo del Sr. Mendoza Ponce que estaba estacionado en frente de la casa. Al denunciar el ataque a las autoridades, el Sr. Mendoza Ponce les habría informado que los hombres eran conocidos, y que eran los mismos hombres que habrían disparado contra los vehículos de otros activistas unos meses antes.

1367. Se expresó profunda preocupación por la seguridad e integridad física del Sr. Jair Pineda y del Sr. Mendoza Ponce, así como por la de los demás miembros del Frente Amplio Opositor. Además se teme que estos eventos puedan estar relacionados con la actividad de los miembros de dicha organización en la defensa de los derechos humanos, en particular con el trabajo que llevan a cabo en la protección de los recursos naturales de la comunidad de Cerro San Pedro.

### **Llamamiento urgente**

1368. El 7 de Septiembre de 2007 la Representante Especial, junto con Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre la tortura y la Relatora Especial sobre la violencia contra la mujer, señalaron a la atención urgente del Gobierno la información recibida en relación con el Sr. **Fortunato Prisciliano**, miembro del pueblo indígena tlapaneca, quien ha sido supuestamente víctima de golpes e intimidaciones por parte de personas presuntamente al servicio del Ejército. Dichas agresiones ocurrieron después de que el Sr. Fortunato se presentara en audiencia ante la Comisión Interamericana de Derechos Humanos (CIDH) para denunciar la violación sexual de su esposa, la Sra. Inés Fernandez Ortega, por parte de tres miembros del Ejército en marzo del 2002.

1369. Según la información recibida, el 30 de junio de 2007, el Sr. Fortunato Prisciliano habría sido golpeado por los Sres. Hilario y Alfonso Morales Silvino al frente de la Comisaría Municipal de Ayutla de los Libres, estado de Guerrero.

Mientras el Sr. Fortunato Prisciliano se encontraba tendido en el suelo, uno de los hombres le mostró un arma que llevaba oculta bajo la ropa y le habría dicho: “Si intentas decir algo aquí te traigo tu comida...lo que estás denunciando con tu esposa Inés en contra de los guachos es mentira, y ya sabemos que hasta Estados Unidos vas a ir, pero no te va a servir de nada porque es mentira lo que estás diciendo”.

1370. El 27 de julio de 2007, según las informaciones, cuando el Sr. Fortunato se dirigía a su domicilio, se le acercó el tío de los dos hombres que lo habían agredido frente a la Comisaría Municipal de Ayutla, y le habría dicho: "deja de chingar a los guachos, sabemos que quieres ir hasta Estados Unidos a denunciar, y si no paras algo feo te puede pasar". El 1 de agosto, el mismo individuo lo volvió a amenazar con las siguientes palabras: “Hijo de tu chingada madre, ya deja de decir que a tu esposa la violaron los guachos. Ya te dije que te vamos a partir tu madre”.

### **Llamamiento urgente**

1371. El 12 de Septiembre de 2007 la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas señalaron a la atención urgente de su Gobierno la información recibida en relación con supuestos actos de hostigamiento contra los miembros del **Corporativo de Estudios y Asesoría Jurídica A.C.**, organización que trabaja para la defensa de los derechos laborales y contra las violaciones graves a los derechos humanos. Según las informaciones recibidas:

1372. En la mañana del 3 de septiembre, los abogados del equipo del Corporativo de Estudios y Asesoría Jurídica A.C. se habrían percatado de que la chapa de la puerta de sus oficinas había sido forzada y los archiveros que normalmente se encuentran cerrados bajo llave, habían sido también abiertos y rebuscados. Según las informaciones recibidas, debido al desorden, aún no se habría podido determinar con exactitud qué documentos o expedientes habrían sido sustraídos. A excepción de una computadora portátil y dos memorias usb, ningún otro objeto de valor habría sido robado a pesar de que se habrían abierto cajones cerrados con llave donde había dinero en efectivo.

1373. Ese mismo día, el equipo de abogados que integra el Corporativo habría presentado una denuncia penal ante la cuarta Agencia del Ministerio Público de la Procuraduría General de Justicia del Distrito Federal.

1374. Existe la preocupación de que estos supuestos actos cometidos contra el Corporativo de Estudios y Asesoría Jurídica A. C. estén directamente vinculados a las actividades profesionales que en el mismo se desarrollan.

### **Respuesta del Gobierno**

1375. Mediante comunicación de 12 de noviembre de 2007, el Gobierno de México proporcionó información con respecto al llamamiento urgente.

1376. El 3 de septiembre de 2007, la Procuraduría General de Justicia del DF (PGJ DF), inicio una averiguación previa FCH/CUH-8T3/2863/07-09 con motivo de una

denuncia presentada por el Sr. Manuel Eduardo Fuentes Muniz por el delito de robo ocurrido en las oficinas del **Corporativo de Estudios y Asesoría Jurídica A.C.**

1377. Para dar con los probables responsables, el Ministerio Público desahogó las siguientes diligencias:

- inspección ocular
- periciales en materia de evaluación
- citatorios girados al denunciante para la recepción de su ampliación de declaración y, en su caso, presentación de testigos.

1378. Las investigaciones no tuvieron resultados conclusivos. Por ello, la averiguación previa se encuentra en proceso de ser remitida al archivo de concentración de la PGJDF, a menos que pudieran recibirse mayores elementos a través de la ampliación de la declaración, y con ello, ayudar al desarrollo de la investigación.

### **Llamamiento urgente**

1379. El 8 de octubre 2007 la Representante Especial, señaló a la atención urgente de su Gobierno la información recibida en relación con el Sr. **José Francisco Paredes Ruiz**. El Sr. José Francisco Paredes Ruiz es un miembro de la Fundación “Diego Lucero A.C”, una organización que se dedica a la protección y la promoción de los derechos humanos de los detenidos desaparecidos en México.

1380. Según la información recibida, el Sr. José Francisco Paredes Ruiz se encontraría desaparecido desde el 26 de septiembre de 2007, fecha en la que salió de su casa en Morelia, aparentemente con la intención de lavar su camioneta. La camioneta fue encontrada dos días después, el 28 de septiembre, estacionada en la carretera que se dirigía hacia Salamanca. La camioneta, de marca Nissan Pick-up, habría sido encontrada con las ventanas abajo, las puertas abiertas y el radio prendido. Se alega que el Sr. José Francisco Paredes Ruiz fue visto el 26 de septiembre vestido con ropa de deporte negra.

1381. El 29 de septiembre, la familia del Sr. José Francisco Paredes Ruiz habría tratado de denunciar la desaparición ante la Delegación de la Procuraduría General de la República en Michoacán, pero su denuncia no habría sido aceptada por falta de personal competente. Debido a esto el 30 de septiembre de 2007, los familiares del Sr. Paredes se trasladaron hasta Ciudad de México para presentarse ante la Unidad Especializada en Delincuencia Organizada (SIEDO) de la Procuraduría General de la República (PGR). Allí solo les habrían permitido llegar hasta la recepción y los agentes les habrían notificado que no había personal para recibir los datos de su denuncia. Los agentes llamaron a la Policía Federal Preventiva (PFP) para que la familia del Sr. Paredes procediera a hacer una denuncia por vía telefónica ante el Registro Nacional de Personas Extraviadas.

1382. Luego, los mismos agentes avisaron a la familia que se presentara a la PGR en Ciudad de México. Sin embargo un agente de guardia no les permitió entrar. Cuando fueron a la Delegación Metropolitana de la PGR, el personal les habría dicho que no podían aceptar la denuncia por la presunta desaparición del Sr. José Francisco Paredes

Ruiz, porque solo aceptaban casos del Distrito Federal y este era un caso procedente de Morelia.

1383. Se alega que la Liga Mexicana por la Defensa de los Derechos Humanos (LIMEDDH) ha presentado una queja ante la Secretaría de Gobernación, la Procuraduría General de la República, la Comisión Nacional de los Derechos Humanos (CNDH) y que estas autoridades les han asegurado que una investigación sobre la presunta desaparición del José Francisco Paredes Ruiz ya ha sido iniciada.

1384. Se teme que la presunta desaparición del Sr. José Francisco Paredes Ruiz pueda estar relacionada con sus actividades en la defensa de los derechos humanos, en particular su trabajo por los derechos de los detenidos desaparecidos en México.

### **Llamamiento urgente**

1385. El 14 de noviembre de 2007 la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados y el de Relator Especial sobre la tortura, señalaron a la atención urgente de su Gobierno la información recibida en relación con el Sr. **Pedro Alvarado Delgado**.

1386. Según las informaciones recibidas, el 4 de mayo de 2006, Pedro Alvarado Delgado, defensor de derechos humanos, mexicano y de 59 años de edad, se encontraría tomando fotos e imágenes en video de la operación policial llevada a cabo en San Salvador Atenco, en la que resultaron detenidas y agredidas más de 150 personas cuando habría sido detenido de forma arbitraria por agentes de la policía.

1387. Según fuentes, al ser detenido, el Sr. Alvarado alegó su condición de observador de derechos humanos. Los agentes de la policía lo habrían golpeado repetidas veces en diversas partes de la cabeza y le habrían propinado patadas hasta arrojarlo al suelo, donde habrían vuelto a golpearlo y lo habrían amenazado de muerte. Al igual que a otros detenidos, después de esposarlo y obligarlo a taparse la cabeza, lo habrían obligado a permanecer acostado boca abajo, encima de las otras personas detenidas, durante las cinco horas que duró el trayecto en autobús hasta la prisión de Santiaguito. Según las informaciones recibidas, durante el trayecto, le habrían golpeado y amenazado. El Sr. Alvarado habría escuchado a la policía amenazar a las mujeres detenidas con violarlas, así como los gritos de dolor de las otras personas que se encontraban a su alrededor.

1388. Posteriormente, en la cárcel, se le habría denegado el acceso a una atención médica adecuada, a pesar de las heridas que presentaba, así como también se le habría denegado el derecho a un abogado defensor elegido por él. Según las informaciones que hemos recibido, tampoco se le habría informado de los motivos de su detención.

1389. El 5 de mayo de 2006, representantes de la Comisión Nacional de los Derechos Humanos habrían documentado las lesiones físicas que había sufrido el Sr. Alvarado. El 8 de mayo el Sr. Alvarado habría prestado declaración judicial pero sin la presencia de un juez.

1390. El 10 de mayo de 2006, en una audiencia conjunta de más de 200 personas detenidas en San Salvador Atenco, se le habría acusado formalmente del delito de

ataques a las vías de comunicación y medios de transporte. El juez no habría tenido en cuenta las pruebas de malos tratos de que fue objeto el Sr. Alvarado, las cuales constan en un certificado médico, ni su declaración, según la cual, en el momento de la detención, llevaba a cabo actividades legítimas de derechos humanos. El 13 de mayo de 2006, quedaría en libertad bajo fianza. El proceso en su contra continúa abierto.

1391. La defensa presentó una solicitud para dar vista del caso al Ministerio Público, a efectos de investigar la alegación de torturas sufridas por Pedro Alvarado, que ha sido denegada por el juez.

1392. Según las informaciones recibidas, la defensa habría pedido juicio de amparo. En el fallo, el juez federal de amparo no habría reconocido la obligación del juez estatal de informar a la Procuraduría General de Justicia del Estado, de las pruebas sobre las supuestas torturas sufridas por el Sr. Alvarado. El tribunal federal habría resuelto que los tribunales estatales no están obligados a informar al Ministerio Público sobre la necesidad de iniciar una investigación por tortura.

1393. Según las informaciones que hemos recibido, no existirían pruebas que vinculen al Sr. Alvarado con los delitos que se le imputan. El juez habría sostenido que corresponde al Sr. Alvarado probar su negativa de haber participado en el delito que se le imputa, lo cual podría transgredir sus derechos a un debido proceso y a la presunción de inocencia. En tal virtud, inconforme con su procesamiento, el Sr. Alvarado promovió un juicio de amparo contra la resolución del 10 de mayo de 2006. El Sr. Alvarado ganó dicho juicio, en el que el juez federal habría reconocido la ausencia de pruebas en la acusación formal y habría ordenado que el juez competente precisara los elementos de prueba que acreditaran su responsabilidad y dictara una nueva resolución sobre el formal procesamiento.

1394. Sin embargo, el juez estatal habría dictado una nueva resolución el 28 de noviembre de 2006, ordenando de nuevo el procesamiento de Pedro Alvarado, sin precisar las pruebas de la imputación como lo ordenaba la autoridad federal. El Sr. Alvarado habría vuelto a presentar un recurso de amparo contra esa resolución, volviendo a ganar dicho juicio. La autoridad federal habría ordenado al juez estatal, por segunda vez, precisar las circunstancias específicas que demostraran la supuesta responsabilidad del Sr. Alvarado. No obstante, el 10 de mayo de 2007, el juez estatal habría emitido una resolución en la que se ordenaba el formal procesamiento de Pedro Alvarado, omitiendo nuevamente precisar los elementos probatorios que acreditaban su supuesta responsabilidad.

1395. En contra de dicha resolución, el Sr. Alvarado habría acudido a un tribunal federal, por considerar que el juez estatal omitió dar cumplimiento a la sentencia de amparo en la que se ordenaba precisar las circunstancias específicas de la conducta que se le imputa. Sin embargo, el tribunal federal declaró improcedente tal inconformidad.

1396. El Sr. Alvarado, por tercera vez, habría presentado una demanda de amparo por no existir prueba que acreditara su participación en el delito que se le imputa. Dicho juicio se encontrara pendiente de resolver.

1397. Tras haber transcurrido más de un año desde que tuvo lugar la detención, acusación y torturas del Sr. Alvarado, los responsables aún no han sido enjuiciados y no existe una investigación al respecto.

1398. Sin implicar, de antemano, una conclusión sobre los hechos, quisiéramos llamar la atención del Gobierno de su Excelencia sobre el artículo 14 (3) del Pacto Internacional de Derechos Civiles y Políticos, el cual fue ratificado por su Gobierno, y que prescribe que: Durante el proceso, toda persona acusada de un delito tendrá derecho, en plena igualdad, a las siguientes garantías mínimas: c) A ser juzgado sin dilaciones indebidas.

### **Llamamiento urgente**

1399. El 26 de noviembre de 2007 la Representante Especial junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión 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.

1400. Según la información recibida, el día 14 de noviembre de 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.

1401. 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.

1402. Según fuentes, 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.

1403. Se teme que el uso de fuerza excesivo de la policía, así como la detención de seis de los manifestantes, puedan estar relacionados con las actividades de los manifestantes en la defensa de los derechos humanos, en particular su trabajo en la defensa de los derechos de los estudiantes y de los campesinos en México.

### **Observaciones**

1404. La Representante Especial agradece las respuestas proporcionadas por el Gobierno de México y expresa su satisfacción por el hecho de que se hayan iniciado investigaciones en varios casos en cuestión. La Representante Especial expresa también su satisfacción por los procesos de protección que se han implementado en varios casos.

1405. A pesar de estos progresos positivos, la Representante Especial está preocupada por el hecho de que sigue recibiendo información en relación con graves violaciones contra los defensores de derechos humanos, y especialmente por los casos recibidos por la Representante Especial que se refieren a hechos que han tenido supuestamente lugar en el estado de Oaxaca.

1406. La Representante Especial insta al Gobierno a que proporcione información adicional y resultados concretos de las investigaciones mencionadas en las respuestas enviadas, y solicita información sobre las comunicaciones que quedan sin respuestas.

### **Moldova (Republic of)**

#### **Letter of allegations**

1407. On 8 May 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning 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.

1408. 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."

1409. 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. Concern was expressed that the above events were related to the activities



of Information Center GenderDoc-M in defence of human rights, in particular its work in defence of the rights of sexual minorities in Moldova.

### **Observations**

1410. The Special Representative regrets that, to date, no response has been received from the Moldovan Government to the above communication. She urges the Government to respond and address the concerns raised.

## **Montenegro**

### **Urgent appeal**

1411. On 11 May 2007, the Special Representative sent an urgent appeal to the Government concerning Mr **Aleksandar Sasa Zekovic**, member of the Council for Civic Control of the Police in Montenegro and human rights researcher. Mr Zekovic was also involved in investigating allegations of police torture during the 'Eagles Fight' anti-terrorism campaign in the country.

1412. According to reports, on 19 April 2007, Mr Zekovic received a phone-call during which the caller threatened to expose photographs from his personal life and alleged that he was homosexual. While on his way to the police station to report the incident, Mr Zekovic received another threatening call which he managed to record on his cell phone. On presenting the recording to the police he was informed that it could not be used as evidence as the police did not have the technological equipment necessary to process it. Mr Zekovic's neighbours also noted that he had been continuously followed by a car without license plates, from which the passenger had been recording his movements on camera.

1413. On the evenings of 4 and 5 May 2007, Mr Zekovic received phone calls from the same number with the same voice as previously. The caller reportedly stated that Mr Zekovic faced imminent assassination and that there would be no further calls until then. Mr Zekovic was provided with police protection on request between the hours of 9:00am and 5:00pm each day. The protection was offered after he made the first complaint regarding the threats. Mr Zekovic reported the latest threats to the police; however at time of writing an investigation had not been initiated and he had not received any information from the police as to what measures had been taken to identify the authors of the alleged threats. Grave concern was expressed for the physical and psychological integrity of Mr Zekovic and other members of the Council for Civic Control of the Police in Montenegro. Further concern was expressed that the authorities had reportedly failed to take action on Mr Zekovic's case because of his work in human rights in the country.

### **Response from the Government**

1414. In a letter dated 29 June 2007, the Government of Montenegro replied to the above communication. According to the Government, on 20 April 2007, Mr Zekovic telephoned the Podgorica Regional Police Office voicing suspicions that he was being followed by unknown persons. He stated that he did not wish to file a written complaint, a precondition for launching an official investigation. That night Mr

Zekovic was given, at the insistence of the police, a police escort to his place of residence. A search of the car park was also carried out and his building was kept under surveillance.

1415. That same day Mr Zekovic telephoned a Police Directorate Officer, informing him of another telephone call that he had received with harassing content. On this occasion, Mr Zekovic also requested further information with regard to filing a written complaint. After he had received further telephone calls on 21-22 April and 4 May, he was called to the Podgorica Regional Office of the Police Directorate by the Head of the Regional Office for questioning. The police undertook a series of actions; following the filing of a written complaint, Mr Zekovic was given a police escort on 23 April. Measures were also taken to identify the vehicles that Mr Zekovic refers to in his complaint and after the CD containing the voice recording was produced, an expert examination was conducted.

1416. In addition, on two occasions, Mr Zekovic raised suspicions to the Police Directorate regarding the involvement of specific police officers. These officers have been subject to interrogation and polygraph-testing. These individuals denied any involvement and the results of their polygraphs did not prove anything which would bring their denial into question. Efforts continued to be made to resolve the case, and shortly after the launch of an official police investigation, all threats and harassment stopped. The investigation was complicated however, by communication that Mr Zekovic had with the media and the broadcasting of the recording of the telephone conversation. As the case was still being investigated, all information pertaining to the case was in the hands of the Police Directorate.

### **Observations**

1417. The Special Representative thanks the Government of Montenegro for its response and acknowledges the protection granted to Mr Zekovic. She remains concerned for situations in which a human rights defender comes under direct threat and police involvement is suspected and hopes that the Government will continue its efforts to conclude this investigation.

## **Morocco**

### **Appel urgent**

1418. Le 1<sup>er</sup> février 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la torture, a envoyé un appel urgent 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 :

1419. 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.

1420. 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.

1421. Des craintes ont été exprimées quant à l'intégrité physique des prisonniers et, plus particulièrement quant à l'état de santé de M. Sabbar, comme il n'est pas clair s'il avait accès au traitement médical après la fracture de sa jambe. Des craintes ont aussi été exprimées que la persécution dont seraient victimes Brahim Sabbar et Ahmed Sbai serait en lien direct avec leurs activités de défense des droits humains au Sahara occidental.

### **Réponse du Gouvernement**

1422. Le 17 août 2007, le Gouvernement a répondu à l'appel urgent envoyé le 1<sup>er</sup> février 2007. Le Gouvernement informe 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**

1423. Le 23 mai 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations sur le cas 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 :

1424. 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.

1425. Des craintes ont été exprimées que l'arrestation et la condamnation de MM. Barbouchi et Karrad seraient liées à leurs activités de promotion des droits de l'homme.

### **Appel urgent**

1426. Le 21 août 2007, la Représentante spéciale a envoyé un appel urgent sur les cas de M. **Mohamed Tahlil** et M. **Sadik Boullahi**, membres du bureau exécutif de l'Association Sahraouie Des Victimes des Violations Graves des Droits Humains (ASVDH). Selon les informations reçues :

1427. Le 16 juillet 2007, M. Tahlil aurait été arrêté au point de contrôle à la frontière entre la Mauritanie et le Sahara Occidental au sud du Dakhla par des gendarmes et policiers. L'arrestation de M. Tahlil ferait suite à un avis de recherche lancé contre les membres de l'ASVDH. M. Tahlil serait incarcéré à la prison de Layoune dans des conditions très difficiles et se verrait refuser le droit de visite par sa famille.

1428. Le 27 juillet 2007, M. Boullahi aurait été arrêté au commissariat de police à Guelmime où il s'était rendu pour effectuer une déclaration de perte de ses papiers. Son arrestation serait également intervenue dans le cadre de l'avis de recherche lancé contre les membres de l'ASVDH. Il aurait été ensuite transféré vers la prison de Layoune, puis aurait été présenté devant un juge d'instruction qui l'aurait inculpé de constitution d'une association non-autorisée. M. Boullahi devrait comparaître devant la cour de première instance le 11 octobre 2007 pour répondre de ce titre.

1429. Des craintes ont été exprimées que les arrestations de MM. Tahlil et Boullahi seraient en représailles à leurs activités légitimes de défense des droits de l'homme.

### **Appel urgent**

1430. Le 30 août 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la torture, un appel urgent sur la situation de MM. **Benamar Idir**,

**Ettahery Brahim, Hachami Rachid et Oulhadj Mohamed** ; actuellement détenus à la prison d'Errachidia ; MM. **Addouch Hamid, Ait Lbacha Youssef, Ait-Lkaid Idir, Chami Mohamed, Hjjja Younes, Nouri Mohamed, Oussay Mustapha, Ouddi Amer, Taghlaoui Amer et Zaddou Mohamed**; actuellement détenus à la prison de Meknes ; tous membres du Mouvement Culturel Amazigh (MCA), un mouvement étudiant pacifique et démocratique qui milite pour les droits fondamentaux du peuple amazigh. Selon les informations reçues :

1431. Tous les individus mentionnés ci-dessus auraient été arrêtés au mois de mai en relation avec deux meurtres dont ils seraient accusés. Ceux qui étaient détenus dans les locaux de la police de Meknes auraient fait l'objet de violences physiques durant leur séjour.

1432. Tous les 14 étudiants seraient depuis détenus en prison. Les accusations seraient basées sur des aveux arrachés par la police sous la menace et auraient été reniés par leurs auteurs devant les juges d'instruction lors des audiences du 27 juin et du 3 août 2007.

1433. Par ailleurs, les 14 étudiants seraient régulièrement insultés, frappés et piétinés en prison et les gardiens confisqueraient la nourriture apportée par leur famille.

1434. Des craintes ont été exprimées que la détention et le traitement des étudiants amazighs auraient été motivés par le seul fait de leur appartenance au MCA. De plus, des craintes ont été exprimées quant à leur intégrité physique et mentale.

### **Lettre d'allégations**

1435. Le 12 novembre 2007, la Représentante spéciale a envoyé une lettre d'allégations sur le cas de Mme **El Ghalia Djimi**, vice-présidente de l'Association Sahraouie des Victimes des Violations Graves des Droits Humains Commises par l'Etat Marocain (ASVDH). Selon les informations reçues :

1436. Le 12 octobre 2007, Mme El Ghalia Djimi se serait vue refuser la délivrance d'un certificat d'autorisation de quitter le territoire par le directeur de la Direction provinciale de l'Agriculture à El-Ayoune qui l'emploie. En effet, tout fonctionnaire est dans l'obligation d'obtenir ce titre afin de pouvoir voyager à l'étranger. Mme El Ghalia Djimi envisageait en effet de se rendre en Irlande afin de participer à la quatrième Plateforme de Dublin sur les défenseurs des droits de l'homme organisée par Front Line du 22 au 24 novembre 2007, ainsi qu'en France à l'invitation de la section française d'Amnesty International. La décision du directeur n'aurait pas été justifiée et tous les documents que Mme El Ghalia Djimi aurait remis en soutien de sa demande auraient été confisqués.

1437. Des craintes ont été exprimées que le refus de délivrer à Mme El Ghalia Djimi un certificat d'autorisation de quitter le territoire aurait été lié à ses activités non-violentes en matière de promotion et protection des droits de l'homme.

### **Lettre d'allégations**

1438. Le 30 novembre 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur le droit à l'éducation, a envoyé une lettre d'allégations sur la situation de M. **Ali Salem Tamek**, membre du secrétariat et Président du Comité Préparatoire du Collectif des Défenseurs des Droits de l'Homme Sahraoui. M. Ali Salem Tamek a été l'objet d'un appel urgent envoyé par la Représentante Spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme le 28 octobre 2004. Selon les informations reçues :

1439. M. Ali Salem Tarek se serait vu refuser l'inscription à l'Université Hassan II de Mohamedia alors même que, titulaire du baccalauréat obtenu à Assa, au sud du Maroc, il aurait remis tous les documents nécessaires au titre de l'inscription. M. Ali Salem Tarek se serait entretenu avec le Doyen de l'Université qui lui aurait dit qu'une décision émanant de fonctionnaires haut-placés serait à l'origine de ce refus.

1440. Des craintes ont été exprimées que le refus d'inscrire M. Ali Salem Tamek à l'Université Hassan II de Mohamedia serait lié à ses activités de promotion et protection des droits de l'homme.

### **Réponses du Gouvernement aux communications envoyées avant le 2 décembre 2006**

1441. Le 2 mars 2007, le Gouvernement a répondu à l'appel urgent envoyé le 27 octobre 2006 par la Représentante spéciale, conjointement avec le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, au sujet de la situation de M. **Ahmed Adghirni**. Le Gouvernement informe que le 28 septembre 2006, à 16 heures, un usager de la route informait une patrouille de la Gendarmerie royale d'un accident intervenu près de la ville de Témara. La patrouille se serait immédiatement rendue sur les lieux, où elle aurait remarqué qu'une Renault Dacia était tombée dans un fossé après avoir quitté la chaussée. Le conducteur de la voiture, M. Adghirni, qui était sorti indemne de l'accident, se tenait à côté du véhicule. La patrouille a également trouvé sur les lieux un camion Mitsubishi arrêté au bord de la route. Le conducteur du camion se tenait devant son véhicule. Un examen du camion n'a révélé aucune trace d'accrochage. À l'issue de l'enquête, au cours de laquelle le conducteur du camion, M. Abdelkader Al-Bali, a été interrogé, la patrouille de la Gendarmerie royale a établi le procès-verbal n° 5062 en date du 28 septembre 2006. Le conducteur du camion a déclaré que, venant de la ville de Meknès, au niveau de l'échangeur de la Cité Erriadh, point d'accès à l'autoroute de Casablanca, il a vu dans son rétroviseur une voiture blanche quitter la chaussée et tomber dans un fossé sur le côté droit de la route. Il s'est arrêté et s'est dirigé vers la voiture accidentée pour porter secours à son conducteur. Ce dernier lui a déclaré qu'il y avait eu un accrochage entre sa voiture et son camion. Le chauffeur du camion s'est dirigé vers son véhicule pour vérifier s'il y avait la moindre trace d'accrochage mais n'a rien remarqué. Sur ces entrefaites, un autre camion s'est à son tour arrêté. Son conducteur est descendu du véhicule pour demander au conducteur du premier camion, qu'il connaissait, s'il avait besoin d'aide. Ce dernier lui a répondu qu'il s'était arrêté pour aider le conducteur de la Renault Dacia qui avait dérapé. Le 29 septembre 2006, l'intéressé a adressé une plainte au Procureur général du Roi près le tribunal d'appel de Rabat affirmant qu'il avait fait l'objet d'une tentative d'assassinat sur la route, un véhicule l'ayant obligé à quitter la chaussée et l'ayant fait tomber dans le fossé. Le Gouvernement a finalement fait savoir qu'après avoir

examiné les procès-verbaux relatifs à l'accident, le Procureur général près le tribunal de première instance de Témara a décidé de classer l'affaire sans suite dans la mesure où il ne s'agissait que d'un simple accident de la route. Le plaignant a été informé de cette décision.

1442. Le 29 mars 2007, le Gouvernement a répondu à l'appel urgent envoyé le 13 avril 2006 par la Représentante spéciale, conjointement avec le Vice-Président-Rapporteur du Groupe de Travail sur la détention arbitraire, de Rapporteur spécial sur la torture, au sujet de M. **Brahim Dahane**, M. **Hammud Iguilid**, Mme **Djimi el Ghalia**, et M. **Dah Mustafa Dafa**. Le Gouvernement informe que dans le cadre des opérations de maintien de l'ordre qu'effectuent habituellement les services de police de Lâayoune, il a été procédé dans la soirée du 18 mars 2006 à l'interpellation de M. Iguilid, qui a été conduit aux locaux de la police pour vérification d'identité. L'intéressé a été relaxé dans la même soirée. Le Gouvernement ajoute que suite à une intervention des éléments de la police de Lâayoune pour disperser un groupe de personnes qui ont tenté le 24 mars 2006 d'organiser un rassemblement illégal sur la voie publique, Mme El Ghalia et M. Mustafa, qui se trouvaient sur les lieux du rassemblement, ont été arrêtés et soumis à examen de situation sur les circonstances de leur présence aux alentours du lieu du rassemblement, puis relaxés le lendemain dans la matinée. Enfin, le Gouvernement précise que les allégations de pratiques de violence, de mauvais traitement et de torture à l'encontre des nommés susmentionnés, ne se basent sur aucun fondement, ces personnes n'ont fait l'objet d'aucun acte de torture ou de mauvais traitement lors de leurs interpellations par les services de police de Lâayoune. Le Gouvernement affirme qu'aucune requête n'a été déposée par les intéressés à ce sujet et que chaque fois que des présomptions sérieuses sur ces cas de torture existent, les autorités marocaines entreprennent les investigations nécessaires à leur sujet et, le cas échéant, leur donnent suite, sur le plan administratif d'abord, judiciaire ensuite.

### **Observations**

1443. La Représentante spéciale remercie le Gouvernement de ses réponses mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 23 mai 2007, 21 août 2007, 30 août 2007, 12 novembre 2007 et 30 novembre 2007 et demande au Gouvernement de répondre aux craintes exprimées dans celles-ci. La Représentante spéciale reste notamment préoccupée du sort des défenseurs des droits de l'homme opérant au Sahara Occidental et presse le Gouvernement de respecter leurs activités.

## **Myanmar**

### **Urgent appeal**

1444. On 24 April 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal to the Government concerning Mr **Ko Myint Naing** and Mr **Ko Maung Maung Lay**, members of Human Rights Defenders and Promoters (HRDP), a network established in 2006 to carry out human rights education activities in Myanmar. According to information received, on 18 April 2007, at approximately 12.30pm, Mr Myint Naing and Mr Maung Maung Lay, along with Mr Ko Tin Maung Oo, and Mr Ko Yin Kyi,

residents of Henzada Township, were returning from a human rights awareness training session in Oat Pho village in the Irrawaddy township of Henzada when they were attacked by a crowd of 100 wielding sticks and clubs. It was alleged that the crowd had been waiting for them in a monastery and along the main road in the village. Both Mr Myint Naing and Mr Maung Maung Lay were admitted to Rangoon General Hospital to treat serious head injuries. However reports claimed that on 24 April 2007 Mr Maung Maung Lay was forcibly discharged from the hospital, whilst Mr Myint Naing was due to be discharged on 25 April. Both men were reportedly still in need of medical attention due to their injuries.

1445. According to reports, senior members of the village police and administration were present when the attack took place, as well as the Secretary of the Hinthada Township, Union for Solidarity and Development Association (USDA), who was holding a walkie-talkie at the time and was allegedly awaiting orders from his superior. In March 2007, two HRDP members were temporarily detained in Prome police station, Pegu division for distributing text from the UN Universal Declaration of Human Rights (UDHR). Concern was expressed that the aforementioned events form part of an ongoing campaign against human rights defenders in Myanmar. Further concern was expressed at reports that members of the police and local officials failed to intervene to protect Mr Myint Naing and Mr Maung Maung Lay during the attack.

### **Response from the Government**

1446. In a letter dated 6 June 2007, the Government of Myanmar responded to the above communication. The letter stated that most incidents occurring in the area were as a result of disagreements between groups of disciples of two Buddhist monks from separate monasteries in the village of Ok Pho. The letter alleged that Mr Ko Myint Naing had estranged himself from other villagers due to his allegiance to one of these monks and that the attack of 18 April took place as a result of this ill-feeling, without the involvement of police or local administration. The letter further stated that the subjects of the appeal were in fact returning from a religious ceremony in Ok Pho, and that both parties in the attack had filed complaints against the other, both of which are still pending.

### **Urgent appeal**

1447. On 18 May 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar, 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, sent an urgent appeal to the Government concerning 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.”

1448. 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.

1449. 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**

1450. In a letter dated 9 July 2007, the Government of Myanmar responded to the above communication. The letter 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.

1451. 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**

1452. On 2 July 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar, 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, sent an urgent appeal to the Government concerning 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.

1453. 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**

1454. On 18 July 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar sent an urgent appeal to the Government concerning Mr **Ko Min Min**, a former tutor from Prome. According to the information received, on the evening of 9 July 2007, in Pyay Township, Western Bago region, human rights activists from the non-Governmental organization Human Rights Defenders and Promoters gave a training session to a group of 25 persons, including Mr Ko Min Min, on international human rights mechanisms. This session was held in Mr Ko Min Min's home. On 10 July, Mr Ko Min Min was arrested on the charge of operating as a private tutor without a license. However, it was reported that Mr Ko Min Min had not taught for some time.

1455. On 11 July, Mr Ko Min Min was sent to Prome prison where he was being held on remand for two weeks at time of writing. Concern was expressed that the arrest and detention of Mr Ko Min Min may be related to his peaceful activities in defence of human rights in Myanmar, and may form part of an ongoing pattern of intimidation against human rights defenders in the country.

### **Letter of allegations**

1456. On 16 August 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar sent a letter of allegations to the Government concerning Messrs. **Ko Myint Naing, Ko Kyaw Lwin, U Hla Shien, U Mya Sein, U Win** and **U Myint**, six members of the Burmese-based non-Governmental organisation Human Rights Defenders and Promoters (HRDP)

dedicated to the promotion of human rights in Burma. Mr Ko Myint Naing was the subject of an urgent appeal sent by the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders on 24 April 2007.

1457. According to the information received, on 24 July 2007, the Henzeda Township Court sentenced Messrs. Ko Myint Naing, Ko Kyaw Lwin, U Hla Shien, U Mya Sein, U Win and U Myint to four to eight years' imprisonment for "intent to cause public disturbance under the Criminal Procedure Code of Myanmar". The six human rights defenders were being held in prison and were due to lodge an appeal to the Higher Court. On 17 April 2007, they had participated in the organisation of a human rights education seminar that led to the assault the following day, of HRDP members attending this seminar. Serious concern was expressed that the sentencing of the six aforementioned human rights defenders is related to their peaceful and legitimate activities in defence of human rights. Further concern was expressed for their physical and mental integrity while in detention.

### **Urgent appeal**

1458. On 28 August 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar, 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, sent an urgent appeal to the Government concerning **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.

1459. 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.

1460. 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.

1461. 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.

1462. 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**

1463. On 28 September 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning reports received indicating that, in the course of the previous week or more, the military has dispersed demonstrations, peacefully initiated by **Buddhist monks**, in Yangon and other cities by use of force, including teargas and beatings.

1464. According to the information received, the armed forces also have fired indiscriminately into the crowds, thereby killing and injuring a significant number of persons. The mandate holders had also received allegations that raids on at least six monasteries had resulted in numerous monks being beaten and arrested. About 200 monks were said to be detained in two monasteries in Yangon alone.

1465. In light of these allegations, the mandate holders appealed to the Government not to use excessive force on the protesters. Excessive or disproportionate use of force can amount to cruel and degrading treatment and could, under certain circumstances, also amount to torture. The mandate holders also appealed to the Government to adhere to international human rights norms when arresting persons. In particular, they sought clarification regarding allegations of beatings of monks in the recent raids on a number of monasteries.

1466. Additionally, in light of the allegations, concern was expressed over the well-being of the arrested monks. In this context, the mandae-holders stressed that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights.

### **Urgent appeal**

1467. On 17 October 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar, 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, sent an urgent appeal to the Government concerning 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.

1468. 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.

1469. 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.

1470. 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**

1471. On 21 November 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and

the Special Rapporteur on freedom of religion or belief, sent an urgent appeal to the Government concerning **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.

1472. 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.

1473. 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**

1474. On 10 December 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights in Myanmar, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning **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.

1475. 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.

### **Observations**

1476. The Special Representative thanks the Government of Myanmar for its response to the communications of 24 June 2007 and 18 May 2007 but deeply regrets the lack of response to the other eight communications sent this year. The Special Representative reiterates her most grave concern for the situation of human rights defenders in Myanmar, which has so rapidly deteriorated since they began to exercise their legitimate rights to freedom of expression and assembly in August 2007 through peaceful protest.

1477. The violent dispersal of these protests and the arrest and detention of many of the human rights defenders involved represent a most serious challenge to international norms and standards and the Special Representative urges the Government of Myanmar to permit peaceful protest and to refrain from excessive or disproportionate use of force against peaceful exercise of the rights to protest against human rights violations.

1478. She also calls for the immediate cessation of intimidation and harassment of non-violent human rights defenders such as the members of the 88 Generation Students group and the Buddhist monks. In addition, she remains gravely concerned for the welfare of those human rights defenders who remain in detention and requests that the Government provide further information regarding these cases at the first available opportunity.

## **Nepal**

### **Urgent appeal**

1479. On 12 June 2007 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning alleged threats against Mr **Jitman Basnet**, a lawyer, journalist and human rights defender. Mr Basnet has been involved in working for the victims of conflict in Nepal for a number of years and in September 2006 he filed a writ of mandamus before the Supreme Court, requesting that a High Level Committee be established to investigate human rights abuses that took place during the recent conflicts in the country. Mr. Basnet was the subject of an allegation letter sent by 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 the right to freedom of opinion and expression on 26 January 2005.

1480. According to information received, on 21 May 2007, at approximately 18:15pm, Mr Basnet received a threatening phone-call in which the caller informed him that he would “bear the consequences” of his work in defence of human rights in Nepal. The call was allegedly made from a public phone booth in Swayambhu, Kathmandu. In March 2007, Mr. Basnet had published a book entitled 258 Dark Days, in collaboration with Advocacy Forum Nepal and the Asian Human Rights Commission (AHRC). The book provides an account of the 258 days he spent in incommunicado detention and the alleged torture and mistreatment he was subjected to during his time at Bhairabnath Battalion’s facilities. He was arrested in Kathmandu by members of the Bhairabnath Army Battalion on 4 February 2004.

1481. The book also refers to allegations of torture, rape, killings and/or disappearances at the hands of the Bhairabnath Barracks’ personnel. Concern was expressed that the threats against Mr. Basnet may have been directly related to his work in defense of human rights in Nepal, in particular his involvement in campaigning for the rights of conflict victims and the publication of the book 258 Dark Days.

### **Response from the Government**

1482. In a letter dated 19 June 2007, the Permanent Mission of Nepal in Geneva acknowledged receipt of the above communication. It was noted that the letter had been forwarded to relevant authorities in Kathmandu for investigation.

### **Letter of allegations**

1483. On 14 June 2007 the Special Representative sent a letter of allegations to the Government concerning the **Advocacy Forum (AF)**, a non-Governmental organisation (NGO) that has been providing legal aid to detainees in police detention centres since 2001. AF lawyers regularly visit 35 police detention centers in 12 Districts throughout Nepal.

1484. According to the information received, on 29 May 2007, lawyers from AF were denied access to detainees at the police detention centre, Banke district by the District Police Office (DPO). A representative from the Regional Office of AF contacted the Chief of the DPO and the Superintendent of Police (SP), Mr Uttam Kark later that day to request that access be granted to the lawyers as they wished to conduct a routine visit. However Mr Kark informed AF that the organization was denied access as they had allegedly “made unnecessary reports stating that Bablu Rai was tortured by the police”.

1485. The comments were made in relation to a complaint lodged by the AF, on 22 May 2007, on behalf of Mr. Bablu Rai, who was being detained at the District Police Office (DPO) of Banke and who had allegedly been subjected to acts of torture and ill-treatment whilst in detention, and had been denied medical attention. According to reports, on 31 May 2007, lawyers from the Regional Office of AF in Nepalgunj met with Mr Kark and the Deputy Superintendent of Police (DSP) to discuss the issue. During the meeting, Mr Kark reportedly questioned the relationship between AF lawyers and detainees, suggesting that a written request would be required by AF



from the detainees in order for access to be granted to them. Mr Kark also stated that AF was creating “unnecessary burdens” for the DPO and implied that Mr. Bablu Rai’s claim had been fabricated by the Forum and that he “would continue to work on his own terms”. On 3 June 2007, representatives from AF in Kathmandu met Mr. Manoj K.C., of the Human Rights Police Cell in the city’s Police Headquarters, to discuss a possible solution. However, no progress had yet been made.

1486. Concern was expressed that the aforementioned events were directly related to the work of the Advocacy Forum (AF) in defence of human rights in Nepal, in particular the rights of those detained in prisons throughout the country. Grave concern was also expressed at the situation of Mr Bablu Rai and the allegations of torture and ill treatment against him as conveyed to his Excellency’s Government in an urgent appeal sent by the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on arbitrary detention on 7 June 2007.

### **Response from the Government**

1487. In a letter dated 19 June 2007, the Permanent Mission of Nepal in Geneva acknowledged receipt of the above communication. It was noted that the letter had been forwarded to relevant authorities in Kathmandu for investigation.

### **Urgent appeal**

1488. On 20 June 2007 the Special Representative, together with the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning concerning human rights defenders Ms. **Rita Mahato** and Ms **Dev Kumari Mahara**, members of the Women’s Rehabilitation Centre (WOREC), in the Siraha district. WOREC is a non-Governmental organization working on social justice and human rights, specifically women’s rights, and the rights of marginalized groups in Nepal such as the Dalits. Ms Mahato and Ms Mahara have been involved in documenting cases of violence against women and providing support to victims for several years.

1489. According to reports received, on 14 June 2007, at approximately 13:00pm, the offices of WOREC were surrounded by between 60 to 70 men who warned staff working at the time that if they did not leave the village within five days they would be raped and killed. According to reports, on 2 June 2007, at approximately 11:50pm, unidentified assailants had attacked the WOREC office with sharp bricks. Staff working at the centre at the time, went outside to investigate and were met with a barrage of bricks before the assailants left. No serious injuries were sustained in the attack; however staff claimed they felt their lives were being threatened. The police were called after the attack but allegedly maintained that they could not come to the scene of the attack for security reasons but assured staff that they would investigate the case the following morning.

1490. A few days later, the main gate of WOREC was dismantled and thrown onto the road. Those responsible were identified as the alleged perpetrators in the rape cases mentioned below. During the months of April and May 2007, Ms Mahato and Ms Mahara documented two cases involving the attack and rape of two local women. They also assisted the women in registering their claims with the police and obtaining

legal and medical advice. Ms Mahato and Ms Mahara had been challenged on numerous occasions by members of the Govindapur community, in the Siraha district, for their activities in defence of human rights, however since April their situation has deteriorated considerably. Ms Mahato had reportedly been threatened with death, rape and kidnapping, and in one incident an alleged perpetrator in one of the aforementioned rape cases, threatened her by saying that he 'had unleashed a man who would rape any woman and who will raise sensitive issues so the women should stay alert'.

1491. The Govindapur community has also strongly criticised Ms Mahato and Ms Mahara for taking the cited cases to the police instead of settling them within the community. Concern was expressed that the aforementioned events are directly related to the work of Ms Mahato and Ms Mahara in defence of human rights, in particular their involvement in making public the cases of two female rape victims in the Govindapur community. Further concern was expressed at reports of a lack of response from the police in investigating the alleged threats against Ms Mahato and Ms Mahara, and the attack on the office of WOREC.

### **Letter of allegations**

1492. On 31 July 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Alex Chimling** (called Juli), a meti and HIV/AIDS outreach worker with The Blue Diamond Society (BDS), a community-based sexual health advocacy service for local networks of lesbian, gay, bisexual, transgender and intersex groups in Kathmandu, Nepal.

1493. According to information received, on the evening of 14 July 2007, Mr Chimling was approached for help by an acquaintance who informed him that herself and four other transgender persons or 'metis' were subject to beatings and sexual abuse by three policemen from Janasewa Police Station in Ratna Park, Kathmandu. Mr Chimling called the emergency number to alert the police. When two policemen from Durbar Marg Police Station arrived, they, together with Mr Chimling, continued to the park where the three policemen from Janasewa Police Station, including the Sub-Inspector Pradeep Chand, were beating the four remaining metis. However, the policemen only watched the incident without wanting to intervene. The Sub-Inspector recognised Mr Chimling and started searching his bag while simultaneously beating him with batons, and kicking him on the back, legs and face. When the Sub-Inspector found that Mr Chimling was carrying condoms in his bag, he proceeded to verbally abuse him and said that he was behaving in an immoral and illegal manner. The Sub-Inspector then instructed the two policemen from Durbar Marg Police Station to take Mr Chimling and one of the other metis into custody.

1494. The policemen then put both of them into the police van which was parked outside the Ratna Park. However, after a while the policemen let the metis go, arguing that Ratna Park was not within their duty area. The other three metis were taken to Janasewa Police Station there they were held for a short while before being ordered to run away in three different directions. That same evening, Mr Chimling and the other metis went to Durbar Marg Police Station where they attempted to file a complaint in relation to the assault. However, they were told that they could not file a complaint without a 5 rupees stamp.

1495. On 15 July 2007, Mr Chimling returned to Durbar Marg Police Station, this time accompanied by three staff members of BDS and two representatives from Human Rights Watch (HRW). They were told that Ratna Park was not within their jurisdiction, but rather was the responsibility of Janawesa Police Station. At Janawesa Police Station, they spoke with Police Inspector U. P. Chaturbedi and Sub-Inspector Pradeep Chand, as well as the driver of the police van including one of the policemen who was involved in the previous night's assault. A representative from HRW asked if they had found any evidence of illegal behaviour, to which Sub-Inspector Chand responded that the metis had been carrying condoms and that it was regular police practice to keep the public order, which in this case, he admitted, had included beating Mr Chimling and the other metis.

1496. Concern was expressed that the aforementioned mistreatment of Mr Alex Chimling may have been in relation to his human rights activities in defence of the rights of the lesbian, gay, bisexual, transgender and intersex persons. Further concern was expressed for the physical and psychological integrity of Mr Chimling and other staff members of the BDS.

### **Response from the Government**

1497. In a letter dated 10 September 2007, the Permanent Mission of Nepal in Geneva acknowledged receipt of the above communication. It was noted that the letter had been forwarded to relevant authorities in Kathmandu requesting further information.

### **Urgent appeal**

1498. On 7 August 2007 the Special Representative sent an urgent appeal to the Government concerning Mr **Madan Rimal**, a peace activist with the human rights non-Governmental organization Informal Sector Service Centre (INSEC) in the Bardiya district of the Midwest region. He had notably been working as facilitator in the "Campaign for Peace" programme run by INSEC. According to information received, on 27 July 2007, Mr Madan Rimal was ambushed by six unidentified persons on his way home from Taparabazar of Manpur. They allegedly forced him to follow them to the nearby Chediya forest of Rajapur VDC where they beat him. They then reportedly took Mr Rimal to his home where he was subjected to ill-treatment with a stick and a sickle before being left unconscious.

1499. Mr Rimal and his organization were accused of acting against the interests of his attackers. It was alleged that the same group of assailants had attempted to attack Mr Rimal on 20 July 2007 in the Khallajayur area of Badalpur VDC, but he managed to escape. Concern was expressed that the aforementioned attack against Mr Madan Rimal may have been related to his non-violent and legitimate work in the defence of human rights. Further concern was expressed for the physical and psychological integrity of Mr Rimal as well as for other staff members of INSEC who may also be at risk.

### **Response from the Government**

1500. In a letter dated 10 September 2007, the Permanent Mission of Nepal in Geneva acknowledged receipt of the above communication. It was noted that the letter had been forwarded to relevant authorities in Kathmandu requesting further information.

### **Urgent appeal**

1501. On 24 August 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning 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.

1502. 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.

1503. Concern was expressed that the aforementioned incidents may have been directly related to Mr Jitman Basnet's legitimate and non-violent human rights work, in particular his work to investigate the human rights violations allegedly committed during times of recent conflict in Nepal. Further concern was expressed for the physical and psychological integrity of Mr Jitman Basnet and his family.

### **Response from the Government**

1504. In a letter dated 10 September 2007, the Permanent Mission of Nepal in Geneva acknowledged receipt of the above communication. It was noted that the letter had been forwarded to relevant authorities in Kathmandu requesting further information.

### **Letter of allegations**

1505. On 25 September 2007 the Special Representative, together with the Special Rapporteur on violence against women, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent a letter of allegations to the Government concerning 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.

1506. 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.

1507. 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.

1508. 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.

### **Response from the Government**

1509. In a letter dated 23 October 2007, the Permanent Mission of Nepal in Geneva acknowledged receipt of the above communication. It was noted that the letter had been forwarded to relevant authorities in Kathmandu requesting further information.

### **Letter of allegations**

1510. On 9 November 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning the reported killing 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.**

1511. 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.

1512. 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.

1513. 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.

### **Response from the Government**

1514. In a letter dated 15 November 2007, the Permanent Mission of Nepal in Geneva acknowledged receipt of the above communication. It was noted that the letter had been forwarded to relevant authorities in Kathmandu requesting further information.

### **Response from the Government to a communication sent before 2 December 2006**

1515. Furthermore, in a letter dated 5 June 2007, the Nepalese Government responded to a letter of allegations sent by the Special Representative, together with

the Special Rapporteur on violence against women on 1 December 2006. The urgent appeal sent was concerning alleged verbal abuse of and threats made by police officers against a group of people, including Ms **Madan Rai Chamling**, a human rights outreach worker and member of the Blue Diamond Society, a non-Governmental organization working with sexual minorities lesbian, gay, bisexual and transgender (LGBT) persons.

1516. The Government response stated that, the location of the alleged incident, Thamel, was one of the most crowded areas in Kathmandu, and as such was the scene of regular clashes and arguments. The letter further stated that the police were merely engaged in facilitating the smooth flow of traffic and had not been involved in taking photographs or filming the activities of the aforementioned, nor had they verbally abused or harassed them.

### **Observations**

1517. The Special Representative thanks the Permanent Mission of Nepal in Geneva for its acknowledgement of receipt of the communications sent and hopes that the further information requested from the Government by the Permanent Mission will be provided at the first available opportunity.

1518. She is particularly concerned by the cases involving allegations of harassment, intimidation or ill-treatment of human rights defenders by members of the Police Force and trusts that the Government will acknowledge the seriousness of these allegations through comprehensive investigation.

## **New Zealand**

### **Letter of allegations**

1519. On 29 November 2007, the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on the promotion and protection of human rights while countering terrorism sent a letter of allegations to the Government concerning the arrest of **17 Maori social activists** suspected of terrorism-related offenses.

1520. According to the information received, on 15 October 2007, the police began a series of raids and home searches which resulted in the arrest of 17 Maori people as suspects of terrorism-related offenses in the cities of Auckland, Wellington, Christchurch, Palmerstan North, Hamilton, Whakatane and Ruatoki. The 17 individuals, described as social activists, are members of Maori organizations and other social and environmental support groups. It is reported that search warrants were obtained under the Summary Proceedings Act to search for evidence of the commission of offences against the Arms Act and the Terrorism Suppression Act. Information was obtained that the police were searching for items “of which there is reasonable ground to believe will be evidence as to the commission of an offense of participating in a terrorist group, unlawful possession of firearms and unlawful possession of restricted weapons”. Initially, all but one of the 17 individuals were denied bail.

1521. It was further alleged that the police operations leading to the arrest of the 17 individuals involved unnecessary disturbance of the life of one Maori community. According to the reports, blockades were set up by the police in the small township of Ruatoki, where all drivers and passengers were questioned by police officers. This also included the reported search of school buses of children on their way to pre-school by armed police officers. These disturbances, as well as the search of several homes, led to the claim that the operations targeted the entire Maori community.

1522. According to article 67 paragraph 1 of the Terrorism Suppression Act, the consent of the Attorney-General is required to bring charges against any person for alleged offences against this Act. On 8 November 2007, the Solicitor-General, to whom this competence is currently delegated, announced that he could not authorise charges to be laid under the Terrorism Suppression Act since there was not sufficient evidence that a group or an entity was planning or preparing to carry out a terrorist act. The police stated that these searches and arrests were carried out in the interest of public safety. Investigations commenced in December 2005 when a camp, in which armed men were training, was discovered in north eastern New Zealand. This camp and others were then put under surveillance. The police reportedly also intercepted telephone calls and monitored a number of computer accounts. It was in this context that information was received by the mandate-holders about the Government's intention to amend the Terrorism Suppression Act.

1523. It had been reported that the Government was particularly looking at broadening the definition of a terrorist act, reducing judicial oversight, allowing courts to consider classified information without giving it to defendants, and giving the Prime Minister sole responsibility for designating groups and individuals as terrorists. Information was also received that the third reading of the Terrorism Suppression Amendment Bill was underway in the Parliament. Concern was expressed that the arrests of the said 17 individuals may have been connected to their activities in defence of the rights of Maori people, and particularly of the land rights of the Ngai Tuhone community, which has involved a claim before the Waitangi Tribunal regarding alleged taking by the Crown. Concern was further expressed that the planned amendments to the Terrorism Suppression Act, if adopted and implemented, would not be in accordance with international human rights standards.

### **Response from the Government**

1524. In a letter dated 10 December 2007, the Permanent Mission of New Zealand in Geneva acknowledged receipt of the above communication and advised that it had been sent to Wellington for its consideration and response. Further to this, in a letter dated 30 January 2008, more comprehensive information was provided by the Government regarding the case. The response first stated that although applications had been made to try 12 of the 17 people arrested under the Terrorism Suppression Act, these were denied by the Solicitor-General due to insufficient evidence, although it was asserted that the Solicitor-General had observed in a public statement that the Police had had a proper and sufficient basis for the investigation under the TSA.

1525. The letter further noted that the actions of the Police leading to and possible discrimination or breaches of human rights standards in the investigation were currently the subject of proceedings before several independent bodies, including the



Independent Police Conduct Authority and the Human Rights Commission. A claim for compensation and redress had also been made by a number of people said to have been unlawfully treated or otherwise adversely affected by the investigation, and it had been reported that this would be filed in the courts in the near future. The reponse further stated that, in light of the fact that these cases were or were shortly due to be before the Court and other complaints mechanisms, it was not, at this juncture, appropriate for the Government to make comment on the conduct of the police involved in the investigation or the consistency or otherwise of their actions with human rights standards.

1526. With regard to the Terrorism Suppression Act, the Government stated that its primary purpose was to ensure New Zealand's compliance with its obligation under the United Nations Charter and the relevant Security Council resolutions on terrorism. It had also been decided that some provisions had provided unworkable in practice or uncertain in effect and should be amended or repealed. In addition, provision had been included to enable New Zealand to ratify two international anti-terrorism treaties, the International Convention for the Suppression of Acts of Nuclear Terrorism and amendments to the Convention on the Physical Protection of Nuclear Material.

### **Observations**

1527. The Special Representative thanks the Government of New Zealand for its detailed reponse to the communication and awaits further information upon conclusion of the investigation by the Independent Police Conduct Authority.

## **Nigeria**

### **Urgent appeal**

1528. On 9 March 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning 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.

1529. 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*.

1530. 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**

1531. On 25 May 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning 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.

1532. According to information, all three men had been in hiding since the warrants were issued. Concern was expressed that the arrest warrants of Mr. Kola Olabisi, Mr. Sola Jacobs and Mr. Amitolu Shittu may have been related to their legitimate activities in defence of human rights, in particular to their exercise of the rights to freedom of opinion and expression.

### **Urgent appeal**

1533. On 4 June 2007 the Special Representative sent an urgent appeal to the Government concerning alleged threats against Mr. **Ledum Mitee**, and Mr. Bariara Kpalap, and Mr. **Legborsi Pyagbara**, members of the Movement for the Survival of the Ogoni People (MOSOP). MOSOP has been a vocal organization in the defense of the rights of the Ogoni villages affected by oil exploitation and transport in their traditional lands, in Nigeria's Niger Delta.

1534. According to information received, on 9 May 2007, around 11.00 am, in the City of Port Hatcourt, Rivers State, Mr. Ledum Mitee, President of MOSOP, received a message from Chief G.N.K. Giniwa, a Government-funded traditional, who threatened to 'eliminate' Mr. Mitee for mobilising people against the signing of the proposed MoU. Chief Giniwa mentioned that he had the support of the Government and of the Shell Company. The incident was reported to the Governor of the State and to the police.

1535. On 18 May 2007, around 2.00 am, at least four unidentified gunmen broke into the residence of Mr. Bari-ara Kpalap, Information Officer of MOSOP, in Port Hatcourt, in his absence. The gunmen allegedly beat Mr. Kpalap's spouse, Ms. Baridi Kpalap, and harassed their children at gunpoint. The gunmen eventually departed and

threatened to return for Mr. Kpalap. No goods were stolen. These incidents were reported to the police. Concern was expressed that these events may be related to the active role played by MOSOP in the defence of the rights of Ogoni people over its traditional lands.

### **Observations**

1536. The Special Representative regrets that to date, she has received no response to any of the three communications sent. She is concerned by the harassment and threats made against human rights defenders as outlined in these cases and requests that the Government investigate these allegations and provide further information in the near future.

## **Pakistan**

### **Urgent appeal**

1537. On 9 March 2007 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Mr **Khalid Khawaja**, a resident of Rawalpindi, detained in a high security detention facility in Faisalabad. Mr Khawaja had reportedly been active with an organisation called Defence for Human Rights, which brings together relatives of people subjected to enforced disappearance, particularly those allegedly held by the security forces on suspicion of having links with terrorist networks.

1538. According to the information received, Khalid Khawaja was taken into custody by security forces at daybreak on 26 January 2007 outside his family home in Rawalpindi. After some hours of inquiries his family was told that he was held in Adiala Jail in Rawalpindi, charged with “distributing pamphlets that incite sectarian violence.” On 21 February 2007 the Islamabad Additional and Sessions Court granted him bail, but instead of being released that night he was moved to a different detention facility on the orders of the Home Secretary of Punjab. News reports claimed that he had been moved to a high-security detention facility in Faisalabad, but when his lawyer called the detention centre to confirm the reports, he was told that no one by that name was in custody there.

1539. On 22 February 2007 the District Magistrate of Islamabad ordered that Mr Khawaja’s detention be extended by 30 days under the Maintenance of Public Order Act 1960. Mr Khawaja's family and lawyer filed an appeal with the Lahore High Court (Rawalpindi Bench). On 28 February 2007 the High Court directed the provincial and federal authorities to establish Khalid Khawaja’s whereabouts and produce him in court by 2 March 2007, and make known the charges against him. The authorities did not present Mr Khawaja in court. However, in a hearing on 2 March 2007 they disclosed that he was being held in a high security detention facility in Faisalabad. The High Court ordered that he be transferred to Adiala Jail in Rawalpindi by 5 March at the latest. At time of writing Mr Khawaja continued in incommunicado detention with no access to his lawyer or family.

1540. Concern was expressed that Mr Khawaja's detention might be linked to his human rights activities on behalf of persons allegedly subjected to enforced disappearance and their families. Further concern was expressed about his physical integrity, during his prolonged incommunicado detention, in light of the fact that he suffers from diabetes and may not be receiving adequate medical care.

### **Urgent appeal**

1541. On 16 March 2007 the Special Representative, together with 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, sent an urgent appeal to the Government concerning 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.

1542. 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.

1543. 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**

1544. In a letter dated 23 March 2007, the Government of Pakistan responded to the above communication. The letter outlined 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**

1545. On 24 April 2007, the Special Representative sent an urgent appeal to the Government concerning Mr **Mehran Baluch**, resident and national of the United Kingdom where he has been living for twenty-three years. Mr Baluch is a member of the non-Governmental organization Interfaith International, and an advocate of the rights of the Baluchi people in Pakistan. Mr Baluch has highlighted the plight of Baluchi people, notably before the Commission on Human Rights, the Human Rights Council, the Sub-Commission for the promotion and protection of human rights as well as the Working Group on Minorities.

1546. According to the information received, Mr Baluch was reportedly listed as one of the eight individuals that the Pakistani security services had requested in return for the hand-over to the United Kingdom of Mr Rashid Rauf, a terrorist suspect in London and Islamabad who is currently detained in a high-security jail in Rawalpindi. According to reports, Mr Baluch had no legal cases pending against him, and he was not suspected to be involved in terrorism. Serious concern was expressed that the demand of exchange of Mr Baluch from the Pakistani security services may have been related to his legitimate and peaceful activities in defence of human rights of the Baluchi people.

### **Letter of allegations**

1547. On 7 May 2007 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent a letter of allegations to the Government concerning Mr **Ali Ahmed Kurd**, Vice-President of the Pakistan Bar Council (PBC) and a lawyer acting on behalf of Mr Iftikhar Muhammad Chaudhry, Chief Justice of the Supreme Judicial Council who was removed from his position as Chief Justice on 9 March 2007; and Mr **Ghulam Mustafa Kundwal**, a member of the Bar Association in Pakistan. Both Mr Kurd and Mr Kundwal have been involved in a campaign advocating for the independence of the judiciary in Pakistan.

1548. According to information received, on 28 April 2007, Mr Kurd was arrested at the district court in Quetta for his alleged involvement in a violent incident during the funeral of Mr Nawab Akbar Khan Bugti, a political leader in Balochistan who was killed on 30 August 2006. Mr Kurd was detained at Quetta district court before being released later the same day after lawyers across Pakistan staged protests at various locations throughout the country against his detention. It was reported that unknown individuals had made several failed attempts to abduct Mr Kurd prior to his arrest.

1549. According to reports, in a separate incident on the evening of 27 April 2007, Mr Kundwal, was severely beaten by uniformed men and left for dead in a ditch near the Cantonment area in Rawalpindi. Concern was expressed that the aforementioned events were directly related to the work of Mr Kurd and Mr Kundwal in defence of human rights in Pakistan; in particular their attempts to ensure the independence of the judiciary in the country.

### **Urgent appeal**

1550. On 14 May 2007 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning Mr **Munir Malik**, President of the Supreme Court Bar Association, and one of the lawyers representing, Mr Iftikhar Muhammad Chaudhry, Chief Justice of the Supreme Judicial Council who was suspended on 9 March 2007. Mr Malik had also been instrumental in leading the movement for the protection of the independence of the judiciary in Pakistan.

1551. According to information received, on 9 May 2007, Mr Malik's office, in the Southern Port of Karachi, was blockaded without prior warning by the Karachi Building Control Authority (KBCA), on the grounds that the building was being used for commercial purposes in a residential area. Later that same day, the Sind High Court issued an interim order in favour of Mr Malik, stating that the authorities had no legal basis on which to close the office considering that it had been in use since 2002, and the premises were restored. The closure took place three days before the office was due to host a reception for the suspended Chief Justice Chaudhry.

1552. According to reports, in the early hours of the morning, on 10 May 2007, Mr Malik's house was sprayed with bullets. Mr Malik was at home at the time along with his wife and young children. A complaint has been lodged with Darakhshan Police Station, Karachi, however at time of writing; the perpetrator had not been identified. Concern was expressed that the aforementioned events may be directly related to the work of Mr Malik in defence of human rights in Pakistan and in particular his attempts to ensure independence of the judiciary in the country.

### **Urgent appeal**

1553. On 6 November 2007, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the promotion and protection of human rights while countering terrorism, sent an urgent appeal to the Government 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.

1554. 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.

1555. 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**.

1556. 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.

1557. 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.

1558. 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**

1559. On 23 November 2007, the Special Representative, 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 the Special Rapporteur on the question of torture, sent an urgent appeal to the Government 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.

1560. 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.



1561. 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.

1562. 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.

1563. 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.

1564. 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.

1565. 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.

1566. 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**

1567. The Special Representative regrets that, to date, the Government of Pakistan has only responded to the communication of 16 March 2007. She remains seriously concerned with regard to the situation of human rights defenders in Pakistan. She particularly underlines the detention of judges, lawyers and human rights defenders under house movement with the aim of stifling protest as actions that are contrary to the right to freedom of movement, expression and assembly.

1568. She also considers cause for grave concern the restrictions imposed on media in Pakistan in recent times. She views this as an unacceptable attempt to curtail the right to freedom of expression in the case of those calling attention to any actions that violate human rights and fundamental freedoms.

1569. With regard to those human rights defenders who were placed under detention, the Special Representative calls on the Government of Pakistan to provide information regarding the legal basis of these detentions. Furthermore, she requests information on any cases that are registered against these human rights defenders and any legal proceedings that may be pending against them. She also requests that information be provided concerning the welfare of the subjects of the urgent appeals of 6 and 23 November 2007.

## **Peru**

### **Llamamiento urgente**

1570. El 3 de abril de 2007, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió una carta al Gobierno peruano en relación con el Sr **Javier Rodolfo Jahncke Benavente**, miembro del Red Muqui, una agrupación nacional de 19 organizaciones que trabajan en la defensa de los derechos de las comunidades rurales e indígenas afectadas por proyectos mineros en el departamento de Piura.

1571. Según la información recibida, el 15 de marzo de 2007, el Sr. Benavente habría recibido en su teléfono móvil una llamada amenazante de parte de un hombre que le habría dicho: “Vas a morir”. El Sr. Benavente trabaja en defensa de los derechos de las comunidades rurales afectadas por el proyecto minero Río Blanco, implementado por la empresa Minera Majaz S.A., en las provincias de Ayabaca y Huancabamba, departamento de Piura. Minera Majaz S.A. es subsidiaria de la empresa británica Monterrico Metals. Se alega que el Sr. Benavente habría denunciado el incidente ante la Fiscalía de Lima el 16 de marzo de 2007. Según las informaciones, otras personas que trabajan en defensa de los derechos de las comunidades rurales y indígenas en el norte del país también habrían recibido amenazas de muerte a través de llamadas telefónicas anónimas, incluyendo Mirtha Vásquez Chuquilín, Directora Ejecutiva del Grupo de Formación e Intervención para el Desarrollo Sostenible (GRUFIDES); el padre Marco Arana Zagarra, fundador de GRUFIDES; así como la sobrina del padre Arana. GRUFIDES es una organización no gubernamental dedicada a la defensa del medio ambiente con sede en Cajamarca. GRUFIDES es parte de la Red Muqui.

1572. El Relator Especial y la Representante Especial instaron al Gobierno a que adopte todas las medidas necesarias para proteger los derechos y las libertades de la persona mencionada e investigar, procesar e imponer las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas. Instaron también a que tome las medidas eficaces para evitar que se repitan tales hechos.

### **Respuesta del gobierno**

1573. En comunicaciones de fecha 13 y 20 de agosto de 2007, el Gobierno del Perú remitió copia del informe N° 106-2007-JUS/CNDH-SE-CESAPI, de fecha de 24 de julio de 2007, elaborado por la Secretaría Ejecutiva del Consejo Nacional de Derechos Humanos, con respecto a la situación del Sr. Javier Rodolfo Jahncke Benavente, así como de otros documentos pertinentes relacionados con el presente caso. Según se informa en la nota del Gobierno, con fecha de 16 de marzo, se interpuso denuncia ante la fiscalía por la presunta comisión del delito contra la vida, el cuerpo y la salud en agravio de Javier Rodolfo Jahncke Benavente. Con fecha de 22 de abril, se dispuso abrir investigación policial y se remitió la denuncia a la División de Investigación de Secuestros de la Policía Nacional del Perú para que practique una exhaustiva investigación con participación de la 16ª Fiscalía Provincial Penal de Lima en las diligencias a realizarse. El Gobierno informaba asimismo de las acciones policiales efectuadas con relación a la denuncia presentada por Javier Rodolfo Jahncke Benavente. En este sentido, una unidad especializada de la Policía Nacional del Perú habría llevado a cabo las investigaciones, habiendo solicitado al juez de turno permanente la medida limitativa del derecho del celular del denunciante a fin de obtener el reporte de llamadas entrantes y salientes, así como la identidad de los propietarios. Asimismo, la policía había orientado a la víctima para evitar una rutina diaria, con el fin de evitar cualquier hecho que afecte su vida e integridad física.

### **Llamamiento urgente**

1574. El 11 de abril de 2007, la Representante Especial, junto con el Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre

determinación, envió un llamamiento urgente al Gobierno en relación con la Sra. **Mirtha Vásquez Chuquilin**, Directora del organismo no gubernamental Grupo de Formación e Intervención para el Desarrollo Sostenible 'GRUFIDES', y el Padre **Marco Arana Zegarra**, fundador de dicha institución.

1575. Los titulares de mandato habían recibido alegaciones de acciones de intimidación, hostigamiento y difamación dirigidas a causar daño moral y que atentan contra la vida privada de miembros de GRUFIDES o personas vinculadas a esa institución que se indican a continuación: Sr. **Pablo Sánchez de Francesch**, Sr. **Segundo Alarcón Cobeñas**, Sr. **Jesús León Ventura**, Sr. **Luis Urtecho Linares**, Sr. **Mario Lanatta Velarde**, Sra. **Fanny Briceño Escobar**, Sra. **Patricia Rejas Caro**, Sr. **Miguel Castro Morales**, Sr. **Antonio Gálvez Horna**, Sr. **Juan Miranda Rodríguez**, Sr. **Jorge Camacho Cerna**, Sr. **Francisco Centurión Obando**, Sr. **Sergio Sánchez Ibáñez**, Sra. **Ivette Sánchez Gamboa**, Sr. **Segundo Alarcón Cobeñas** y Sr. **Oreto Ortega Miquel**.

1576. De acuerdo con las informaciones recibidas una empresa de seguridad privada denominada 'C&G', que estaría vinculada a 'FORZA' (esta última empresa de seguridad privada proporcionaría servicios de seguridad a la compañía Yanacocha), habría participado en acciones de hostigamiento destinadas a intimidar a miembros de GRUFIDES o personas vinculadas con dicha institución. Según la información recibida, el Padre Marco Arana Zegarra y la Sra. Mirtha Vásquez Chuquilin habrían denunciado tales actos a la Quinta Fiscalía Provincial Penal del Distrito Judicial de Cajamarca en septiembre del 2006, la cual después de iniciar una investigación habría decidido archivar definitivamente dicha investigación, por considerar que no había mérito para formular denuncia penal contra los miembros de la empresa C&G, los señores Cesar Cáceres Garrido y Miguel Angel Saldaña Medina.

1577. Los titulares de mandato reiteraron su profunda preocupación por la seguridad del personal del GRUFIDES porque se temía que las alegaciones de amenazas directas o disfraces de las empresas de seguridad privadas podrían estar relacionadas con el trabajo en defensa de derechos humanos y en la protección del medio ambiente en la región de Cajamarca en el Perú.

### **Llamamiento urgente**

1578. El 11 de abril de 2007, la Representante Especial, junto con Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente al Gobierno en relación con la Sra. **Iscra Chavez Loaiza** y la Sra. **Evelyn Cevallos Enriquez**, abogadas defensoras de derechos humanos de la Institución APORVIDHA, una organización miembro de la Coordinadora Nacional de Derechos Humanos con sede en Cuzco. La Coordinadora Nacional de Derechos Humanos es un colectivo nacional que agrupa a 66 organismos no gubernamentales dedicadas a la defensa y la promoción de los derechos humanos en Perú. El 13 de enero de 2006 la Representante Especial por los defensores de derechos humanos envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con amenazas en contra de la Sra. Iscra Chavez Loaiza y la Sra. Evelyn Cevallos Enriquez.

1579. De acuerdo con la información recibida, el 29 de marzo de 2007, hacia las 18:30, la Sra. Enríquez habría recibido un mensaje anónimo en su móvil

amenazándole con que algo le sucedería si no dejaba su actividad. Ese mismo día, la Sra. Loaiza habría recibido en su móvil un mensaje de texto proveniente de alguien anónimo, con el siguiente contenido ‘cuídate te estoy chequeando’. La Sra. Enríquez y la Sra. Loaiza atienden el caso de la matanza de 34 campesinos, ocurrida en Lucmahuayco, Cuzco en 1984. El proceso penal ha sido remitido a la Sala Penal Nacional, en Lima, para que se especifique si se inicia el juicio oral.

1580. Según se informó, en enero de 2006 la Sra. Enríquez, la Sra. Loaiza y el Sr. Freddy Rodríguez Olivera, otro miembro de APORVIDHA, habrían recibido amenazas de muerte a través de mensajes de texto anónimos en sus móviles. Se habrían denunciado las amenazas ante la Fiscalía Provincial del Cuzco. Se temía que estos eventos podrían estar relacionados con la actividad en defensa de los derechos humanos de la Sra. Iskra Chavez Loaiza y la Sra. Evelyn Cevallos Enriquez y se expresaba profunda preocupación por su seguridad e integridad física así como la del resto de los miembros de la Institución APORVIDHA.

### **Respuesta del gobierno**

1581. En comunicación de fecha 8 de agosto de 2007, el Gobierno peruano respondió a la comunicación arriba. La respuesta gubernamental afirmaba que se realizaban pertinentes con la finalidad de identificar, de procesar y, de ser el caso, imponer al presunto autor las sanciones adecuadas por la presunta amenaza, con la finalidad de proteger los derechos y libertades de los sujetos del llamamiento urgente y de los integrantes de APORVIDHA.

### **Llamamiento urgente**

1582. El 29 de noviembre de 2007, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente al Gobierno peruano en relación con el Sr. **Robert Guimaraes Vásquez**, líder de la comunidad indígena Pekon Sani y un conocido activista en relación con la protección del medioambiente en Perú. El Sr. Guimaraes es también Vicepresidente de la organización regional de la Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESP) del Departamento de Ucayali.

1583. Según la información recibida, el día 9 de noviembre de 2007, un desconocido habría interceptado al Sr. Robert Guimaraes Vásquez en una calle cerca de su casa, arrebatándole su computadora portátil. La computadora contendría informes de derechos humanos, así como información que comprometería su propia seguridad. El día 6 de octubre de 2007, a las 21.00, el Sr. Guimaraes habría sido interceptado delante de su casa por dos hombres armados que se desplazaban en una camioneta. Dichos hombres habrían amenazado con matarle si continuaba con su trabajo en defensa de los derechos humanos, afirmando que se trataba de su “última advertencia”. El 25 de julio de 2007, en la noche, dos desconocidos que se trasladaban en una camioneta con vidrios polarizados habrían cortado el paso al Sr. Guimaraes mientras se dirigía a casa. Los hombres le habrían advertido que si no cesaba sus actividades en contra de los madereros ilegales “lo pagará muy caro”.

Dos días antes, Robert Guimaraes Vásquez habría denunciado ante las autoridades el supuesto tráfico ilegal de madera desde Puras hacia Lima, acusando a efectivos de la Fuerza Aérea del Perú de dicho tráfico. Se temía que las amenazas de muerte y actos de intimidación contra el Sr. Robert Guimaraes Vásquez podrían estar relacionadas con sus actividades en defensa de los derechos humanos, en particular, su trabajo para proteger los derechos de los pueblos indígenas y el medioambiente en Perú. Se expresaba profunda preocupación por su integridad física y psicológica.

Respuesta del gobierno a una comunicación emitida antes del 2 de diciembre de 2006

1584. Mediante carta con fecha de 23 de enero de 2007, el gobierno peruano respondió a un llamamiento urgente emitido por la Representante Especial el 24 de noviembre de 2006 en relación con el Padre **Marca Anara** el Sr **Edmundo Becerra Palomino** y la Dra **Mirtha Vásquez Chiquilín**

1585. El gobierno respondió que las autoridades competentes se encontraban coordinando a fin de actualizar la información sobre el caso de la ONG GRUFIDES, y que se estaba a la espera de los resultados de la investigación que estaba desarrollando el Ministerio Público, a fin de poderlos alcanzar a la Representante Especial. Adicionalmente, el Ministerio de Relaciones Exteriores afirmó que está siguiendo muy atentamente la problemática de la situación de seguridad de los defensores de los derechos humanos en el país y promoviendo a nivel intersectorial alternativas de solución.

### **Observaciones**

1586. La Representante Especial agradece al Gobierno sus comunicaciones en respuesta a los llamamientos urgentes de fecha 3 y 12 de abril de 2007 y aprecia las informaciones muy detalladas proporcionadas, así como las copias de la documentación relevante.

## **Philippines**

### **Urgent appeal**

1587. On 14 December 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning death threats against **Father Rolando de Leon**, a Roman Catholic Priest of the Diocese of Malolos, Bulacan and Parish Priest of San Andres Apostol Parish, Norzagaray, and spokesperson for the Catholic Church's provincial human rights office in Bulacan's capital of Malolos. Fr Rolando de Leon was the subject of a joint communication addressed to the Government from 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, dated 2 December 2005.

1588. According to the new information received, Fr de Leon had repeatedly been subjected to acts of intimidation and death threats since October 2005 when he received envelopes containing M-16 bullets. It is reported that during a series of

meetings held by members of the military in Bulacan Province between January and October 2006, Fr de Leon was accused of membership of the New People's Army. Previously, in December 2005, he was reportedly depicted in posters displayed in the main public square of Norzagaray and its immediate environs, wearing a robe with the logos of the Communist Party of the Philippines and the New People's Army. Furthermore, in March 2006, General Jovito Palparan Jr, the former military commander of the region, reportedly stated in local newspaper Balita that Fr Rolando de Leon "cannot be trusted because he is a liar". This statement was apparently made in response to comments Fr de Leon had made at a press conference in relation to human rights violations in Bulacan Province which had been documented by the aforementioned human rights office in Malolos.

1589. It was also reported that uniformed soldiers had repeatedly visited the church asking for Fr de Leon without giving a reason for their presence. According to sources, armed soldiers were also present in the church's courtyard on occasion. Concern was expressed for the safety and security of Fr Rolando de Leon as it was feared that the sustained campaign of hostility against him represented an attempt by the military, to deter him from carrying out his legitimate activities in defence of human rights, in particular his work in documenting and raising awareness of human rights violations in the Bulacan Province.

### **Response from the Government**

1590. In a letter dated 2 March 2007, the Filipino Government responded to the above communication. The letter stated that no complaint had been lodged by or on behalf of the victim. An investigation had been conducted by the Philippine National Police (PNP). Following to the death threat Fr. Leon had gone to the media and gave interviews to news networks, saying that if something were to happen to him the military should be blamed for it. The military had denied any knowledge about the incident and had assured their cooperation to the police.

1591. The PNP was conducting a follow-up investigation and was coordinating with Fr de Leon on matters pertaining to his security. If requested, appropriate security would be provided to him. The PNP was of the view that the involvement of Gen. Jovito Palparan in the death threat received by Fr de Leon was a personal conjecture with no legal basis for proof.

### **Letter of allegations**

1592. On 21 December 2006, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent a letter of allegations to the Government concerning Mr **Alberto Yadan**, peasant leader, activist for agrarian reform and director of Ugnayan ng mga Nagsasariling Lokal na Organisasyon sa Kanayunan (UNORKA – Pilipinas), Mr **Bong Gonzal**, a community organiser for PROGRESO and regional coordinator for PEACE, a national non-Governmental organization in Visayas, Mr **Jesus Buth Sevida**, labour activist and member of the Solidarity of Cavite Workers (SCW), Mr **Joel Sale** and Mr **Kenny Mari Severo**.

1593. According to the information received, on 6 December 2006, Mr Alberto Yadan was shot dead at his home in Barangay Tipas, San Juan, Batangas, in the presence of his family. Sources alleged that the police had failed to conduct a proper investigation of the crime scene and did not take into account any forensic evidence which may have been present. Reportedly Mr Alberto Yadan and other family members had been receiving death threats since 2004, most recently on 5 December 2006, from policemen in the village. Mr Yadan and his cousin Ms Lorenza Marcos had allegedly been involved in a land dispute with landowner Ms Norma De Leon and her son-in-law, Mr Melanio Gazzingan, who is a Municipal Police Officer. However, Mr Melchor Bataller, another village policeman, has reportedly been arrested in connection with the murder as it is believed he made threatening remarks to Mr Yadan the day before his death.

1594. On 8 December 2006, Mr Bong Gonzal was the victim of an armed attack in Estancia, Iloilo, in which he suffered gunshot wounds to his arms and legs. Furthermore, on 11 December 2006, Mr Jesus Buth Servida, Mr Kenny Mari Severo and Mr Joel Sale were subjects of an attack carried out by an unidentified gunman which resulted in the death of Mr Servida and injuries to his two companions. The attack was apparently carried out at 6:15am in front of Gate No. 2 of the Yakazi-EMI (EDS Manufacturing Incorporated) factory in Imus, Cavite.

1595. Grave concern was expressed that the killing of Mr Alberto Yadan and the attack on Mr Bong Gonzal may have been related to their legitimate activities in defence of human rights, in particular their involvement in campaigns to advocate for genuine land reform and the defence of the rights of peasants and of other members of the community who are affected by land disputes. Concern was expressed that the attack on Mr Jesus Buth Servida, Mr Kenny Mari Severo and Mr Joel Sale may be related to Mr Servida's active involvement in the defence of labour rights. Further concern was expressed that a full and detailed investigation was necessary in each of the cases described above, as it was feared that they may represent a sustained campaign of harassment of human rights defenders in the Philippines.

### **Response from the Government**

1596. In a letter dated 8 January 2007, the Filipino Government responded to the above Communications requesting further information or details on the cases outlined to help ensure proper coordination with concerned authorities in the Philippines.

### **Letter of allegations**

1597. On 8 February 2007, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning repeated killings of lawyers and judges in the country. Only in the past two months, four individuals have been killed, namely **Nathaniel Pattugalan**, judge, shot dead by men on a motorcycle on 19 January 2007; **Gil Gojol**, human rights lawyer, killed in a similar manner on 12 December 2006, and **Froiland Siobal** and **Leonito Tapel**, attorneys, ambushed and killed on 19 November 2006 and 2 December 2006 respectively.



1598. Furthermore, the mandate-holders had been informed that an International Fact Finding Mission concluded in its report 'From Facts to Action. Report on the attacks against Filipino Lawyers and Judges', issued on 24 July 2006, that the Government had not taken sufficient measures to address the continuing extrajudicial killings of lawyers and judges effectively. In particular, criticism had been expressed that the Government had not responded seriously to strong allegations that its own security forces were involved in the killings nor taken effective measures to ensure that appropriate investigations and prosecutions of the perpetrators be conducted.

1599. It was also brought to the attention of the mandate-holders that a Special Commission of Inquiry, headed by former Supreme Court Justice Jose Melo, had been established to investigate the killings. According to information received, the Commission concluded its work in December 2006 and was expected to report its findings to the Government in the first week of 2007. At time of writing, however, the findings and recommendations of the Commission appeared not to have been made public.

### **Response from the Government**

1600. In a letter dated 4 April 2007, the Filipino Government responded to the above communication. The letter stated that Judge Nathaniel Pattugalan, had, on 15 January 2007, sent a letter to the Supreme Court Chief Justice Reynato Puno, requesting to be transferred to another Court in Manila, mentioning continuing threats to his life that may have been connected to the ambush incident, which he survived unharmed on 27 October 2006 in Baggao, Cagayan. The PNP was still validating information regarding the motorcycle used by the assailants as it was seen parked near a sidewalk at the vicinity of the DAR Building, a few hours before the incident. Continuous coordination among PNP Units was being undertaken in order to resolve the case as soon as possible.

1601. The Government response further stated that the motive behind the murder of Gil Gogol was reportedly politically motivated. His driver was also killed in the incident. One of the three suspects was identified as Mario Fortun, a.k.a. Omar. A case had been filed against the suspects at the Sorsogon Provincial Prosecutor's Office under IS No. 2007-1411. Regarding Froilan Siobal; results of the investigation conducted by Task Force Siobal headed by Police Sr. Supt. Noli G. Talino, revealed that Froilan Siobal and his wife, Mrs. Erlinda Siobal, were killed on 19 November 2006 at about 10.00am along Siobal St., Barangay Inerangan, Alaminos City, Pangasinan. Witnesses, Reynaldo A. Dacon and Bernals A. Caballero, had made sworn statements that the victims were in their vehicle when SPO1 Agapito "Pitong" Celino, member of the PNP and assigned at 106<sup>th</sup> Police Mobile Group (PMG) based in Alaminos, Pangasinan, together with Ojing Olivarez, both armed, suddenly appeared and shot the victims.

1602. On 29 November 2006, a case of double murder was filed before the Provincial Prosecutor's Office, Alaminos, Pangasinan, against suspects Agapito Celino and Ojing Olivarez, Barangay Councilman Edgar Parang and other John Does under ID No. AC-06-341. Agapito Celino was being re-assigned from the 106<sup>th</sup> Police Mobile Group to Pangasinan Police Provincial Office and be restricted inside the camp pending the disposition of an administrative case against him.

### **Urgent appeal**

1603. On 20 April 2007, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture, and the Special Rapporteur on violence against women sent an urgent appeal to the Government concerning Mr **Nilo Arado**, national council member of Kilusang Magbubukidng Pilipinas (Peasant Movement of the Philippines) and Chair of Bayan - Bagong Alyansang Makabayan, an alliance of human rights organizations which promote and defend the rights of peasants, workers, women, students and minorities; Ms **Maria Luisa Posa-Dominado**, an active campaigner for women's rights and a member of Selda, the Society of Ex-Detainees for Liberation, Against Detention and for Amnesty; and Mr **Jose Ely Garachico**, Secretary-General of the Panay of Karapatan.

1604. According to the information received, on 12 April 2007, Mr Arado, Ms Posa-Dominado and Mr Garachico were driving back home from the Antique province when they were ambushed by unidentified armed men in Oton town in Iloilo province. The gunmen opened fire at the vehicle and hit Mr Garachico in the left side of his neck. Mr Arado and Ms Posa-Dominado were forcibly taken to the van of the assailants who drove off. The van was later found charred in Barangay Guadalupe, Janiuay, 30 kilometres northwest of Iloilo City. The whereabouts of Mr Arado and Ms Posa-Dominado remained unknown at time of writing. Mr Ely Garachico was taken to the Iloilo hospital for surgery, and remained in critical condition.

### **Response from the Government**

1605. In a letter dated 7 June 2007, the Filipino Government responded to the above communication. The letter stated that continuous investigation was being undertaken by Police Regional Station 6 to determine the whereabouts of Mr Arado and Ms Posa-Dominado and for the possible identification and apprehension of anyone suspected of involvement in the attack.

### **Letter of allegations**

1606. On 26 July 2007, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent a letter of allegations to the Government concerning Mr **Charlie Solayao**, the Vice-Chairperson of Kadamay, a community organisation dedicated to the protection of the rights of the urban poor, and Mr **Mario Auxilio**, the Secretary-General of Bayan Muna, a farmers' rights organisation.

1607. According to information received, at approximately 1am on 17 July 2007, Charlie Solayao and his wife were standing near their home waiting to be collected and taken to Old Road, Sagkahan, Tacloban City when a motorcycle carrying two men appeared. The driver wore a hooded balaclava while the other man was carrying a gun and began shooting at Mr Solayao. The two men then drove off on the motorcycle in the direction of Tacloban City. The victim's family took him to the Divine World Hospital where he died 10 hours later.

1608. At the time of his death, Mr Solayao was Vice-Chairperson of the community organisation, Kadamay, and was involved in campaigns protecting street-vendors in Tacloban Market and the urban communities in the metro. Last month, Mr Solayao reportedly received a visit from an agent of the Philippines Military, who advised him that he would be killed if he did not cease his activities. Mr Solayao was scheduled to have a meeting with the human rights organisation Katungod-Sinirangang Bisayas, based in Tacloban City, in order to discuss this warning and the possible dangers which he may have been facing.

1609. On 15 June 2007, Mario Auxilio was having an informal meeting in front of a store in Barangay Poblacion, Bien Unido, in order to organise a meeting with the farmers of Barangay Panaghiusa in Trinidad. Mr Auxilio noticed Hilario Diola, a military agent whom he recognised as Mr Auxilio had provided him with medical assistance in the past. Mr Diola was accompanied by someone unknown to Mr Auxilio. Their presence made him nervous and he decided to end his meeting and make his way home. As he was mounting his motorcycle, Mr Diola allegedly began shooting at him. Mr Auxilio was first taken to Talibon District Hospital before being transferred to the Celestino Gallares Memorial Hospital in Tagbilaron City where he died from gunshot wounds at approximately 10.00 on 17 June.

1610. Prior to his death, Mr Auxilio had been leading protests against the alleged abuses committed by the 15th Infantry Battalion. Two days before he was shot, he had led a protest against tests for oil exploration in the Bohol Strait. For the past year, he and his organisation, Bayan Muna, had been the object of intimidation and defamation allegedly instigated by the Mata na Bol-anon Movement, a group reported to have connections with the military. Concern was expressed that the killings of Charlie Solayao and Mario Auxilio may have been related to their peaceful human rights activities, in particular their work to protect the rights of the urban poor and farmers. Further concern was expressed for the physical and psychological integrity of their families and colleagues.

### **Response from the Government**

1611. In a letter dated 19 September 2007, the Filipino Government responded to the above communication. The letter stated that regarding the case involving Mr Solayao, no penal or disciplinary sanctions had been imposed, as the identities of the suspects had not yet been established. This was also the case in the investigation of the killing of Mr Auxilio; no penal or disciplinary sanctions have been imposed, as the Bien Unido Police Station was still in the process of obtaining sufficient evidence against the suspect.

### **Letter of allegations**

1612. On 4 October 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Franklin Cabiguin Labial**. Mr Franklin Cabiguin Labial was the President of Don Carlos Bukidnon United Farmers Association (DCBUFA) and representative of the Task Force AR-AD, an organisation dedicated to the protection of land rights in Bukidnon.

1613. According to information received, on 10 August 2007, Franklin Cabiguin Labial was shot and killed outside his home in North Don Carlos by two unidentified individuals on a motorcycle who had reportedly been following him prior to the attack. That same day, Franklin Cabiguin Labial had visited the offices of Southern Fruit Products Inc. and its sister company, Davao Venture Corporation (SFPI-DAVCO) in order to discuss a lease agreement relating to land the companies allegedly intended to clear. He also had a meeting with the Secretary of the Department of Agrarian Reform.

1614. According to reports, Mr Franklin Cabiguin Labial received death threats via text message on 14 July 2007 following an inter-agency meeting he had attended in which he questioned the implementation of the Comprehensive Agrarian Reform Program (CARP) and contract between SFPI-DAVCO. Concern was expressed that the killing of Mr Franklin Cabiguin Labial may have been related to his activity in the defense of human rights, in particular, the protection of workers' rights and land rights in the Philippines.

### **Urgent appeal**

1615. On 4 October 2007 the Special Representative sent an urgent appeal to the Government concerning Mr **Jaime Rosios**, a member of the Board of Trustees of the Yellow Bus Line (YBL) Employees Union and Committee Chair of the Collective Bargaining Agreement (CBA). According to information received, on 11 August 2007, at approximately 6.45pm, Mr Jaime Rosios was leaving the garage where he works in Korondal, South Cotabato, when he was abducted by three armed individuals. The three men reportedly forced him into a Toyota Tamaraw FX, before driving at high speed in the direction of General Santos City. Earlier that day, Mr Alex Magbanua, one of the accused in a bombing attack which took place on 3 August 2007 inside the YBL terminal, had reportedly signed a confession implicating Mr Jaime Rosios and fellow worker Mr Ibrahim Bacal in the crime.

1616. On 9 August 2007, Mr Ibrahim Bacal was allegedly summoned to the office of the Regional Intelligence Group (RIG) in General Santos City and he was requested to sign a statement implicating Mr Jaime Rosios in the aforementioned bombing. Mr Ibrahim Bacal refused to comply with the demand on two occasions. The whereabouts of Mr Jaime Rosios were unknown. Concern was expressed that the aforementioned abduction of Mr Jaime Rosios may have been related to his activity in the defense of human rights, in particular, the protection of workers' rights and land rights in the Philippines. Further concern was expressed for the physical and psychological integrity of Mr Jaime Rosios.

### **Response from the Government**

1617. In a letter dated 8 October 2007, the Permanent Mission of the Philippines in Geneva acknowledged receipt of the above communication and stated that the letter had been forwarded to the appropriate authorities in Manila. The letter further stated that information regarding to the case would be made available to the Special Representative once received by the Permanent Mission.

### **Urgent appeal**

1618. On 5 October 2007 the Special Representative sent an urgent appeal to the Government concerning Ms **Sherlyn Cadapan**, Ms **Karen Empeño** and Mr **Manuel Merino**. Ms Sherlyn Cadapan is a community organiser with the youth group Anakbayan and works in a voluntary capacity for Alyansa ng Magbubukid sa Bulacan (Alliance of Peasants in Bulacan – AMB), an organization dedicated to the promotion and protection of peasant rights based in Central Luzon. Ms Karen Empeño is a member of the League of Filipino Students (LFS) and Mr Manuel Merino is a local peasant and a member of the Alyansa ng Magbubukid sa Bulacan.

1619. According to information received, on 26 June 2006 at approximately 2.00am, Ms Sherlyn Cadapan, Ms Karen Empeño and Mr Manuel Merino were reportedly abducted by armed men in San Miguel, Hagonoy Bulacan. According to reports, Ms Sherlyn Cadapan, and Ms Karen Empeño were staying in a villager's house while conducting research for local peasant organisations, while Mr Manuel Merino lives in the area and was abducted while trying to help Ms Sherlyn Cadapan and Ms Karen Empeño. The three were allegedly forced on to a vehicle that was last seen driving in the direction of Iba, Hagonoy. Ms Cadapan was reportedly pregnant at the time of the abduction.

1620. Concern was expressed that the aforementioned abduction of Ms Sherlyn Cadapan, Ms Karen Empeño and Mr Manuel Merino may have been related to their human rights activities, in particular their work to defend student and peasant rights in the Philippines. Further concern was expressed for the physical and psychological integrity of Ms Sherlyn Cadapan, Ms Karen Empeño and Mr Manuel Merino and for the members of Anakbayan, Alyansa ng Magbubukid sa Bulacan and the League of Filipino Students.

### **Response from the Government**

1621. In a letter dated 5 November 2007, the Filipino Government replied to the above communication. The letter stated that, according to a witness who refused to be identified, the Ms Sherlyn Cadapan, Ms Karen Empeño and Mr Manuel Merino were abducted by six unidentified men, believed to be military agents. A complaint had not been lodged and the alleged perpetrators had not been identified. An investigation conducted by Hagonoy, Bulacan Police Station revealed that on 26 June 2006 at about 3.25pm, members of the Hagonoy, Bulacan Police Station accompanied Ms Paulino Purok 6, Barangay San Miguel, Hagonoy, Bulacan, to verify her report of the abduction.

1622. The following day, at around 9.20pm, Mr Mon L. Mangaran of Malolos, Bulacan, and Mr Antonio S. Idanan of Meycauayan, Bulacan, reported to the Hagonoy, Bulacan Police Station that while they were conducting a fact-finding mission at the place of the abduction, four unidentified males were allegedly seen spying on them, however, a certification dated 29 June 2006 issued by Barangay San Miguel Chairman Guillermo L. Fajardo, stated that there was no recorded incident regarding the abduction of the three.

1623. On 3 July 2006, verification at the UP Los Banos revealed that Sherlyn and Karen were not students at said university. However, a letter from the President of UP

Diliman, confirmed that Karen was a BA Sociologist there and Manuel was a respondent to the thesis allegedly being completed by Karen. A certificate also stated that Sherlyn was a student under the B.Sports Science program in 1994-1995 and 2000-2001. It was also stated most of the potential witnesses were allegedly staying at the Refugee Centre in Bulacan where letters had been sent but remained unanswered. A petition for habeas corpus was filed before the Supreme Court on 17 July 2006 by the relatives of Sherlyn and Karen requesting that a Writ of Habeas Corpus be issued directing the respondents: Maj. Gen. Romeo Tolentino, Maj. Gen. Jovito Palparan, Lt. Col. Rogelio Boac, Lt. Francis Samson and Arnel Enriquez to bring the bodies of the three before the court.

1624. However, on 29 May 2007, the petition was dismissed, there being no strong evidence that the missing persons were in the custody of the respondents. The Provincial Intelligence and Investigation Branch of Bulacan Police Provincial Office were later able to contact Mrs Erlinda Cadapan, mother of Sherlyn. She agreed to grant an appointment later but all attempts to contact her had failed. Mr Ceferino Manzano, Barangay Councilor and neighbour, told the investigators that Mrs Paulino, Sherlyn's mother-in-law was still in Los Banos, Laguna, and stated that he had not seen Sherlyn since her abduction. On 25 September 2007, a case conference was conducted at the Task Force Usig Secretariat and directed the investigators to exert more effort in gathering relevant information from potential witnesses in the investigation.

### **Letter of allegations**

1625. On 1 November 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning **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.

1626. 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.

1627. 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.

### **Responses from the Government**

1628. In a letter dated 8 November 2007, the Permanent Mission of the Philippines in Geneva acknowledged receipt of the above communication and stated that the letter had been forwarded to the appropriate authorities in Manila. The letter further stated that information regarding to the case would be made available to the Special Representative once received by the Permanent Mission.

1629. In a letter dated 29 January 2008, the Government further responded to this communication, submitting a report provided by the Philippine National Police and the Dept. of Labour and Employment. The government stated that results of the investigation into the case would be passed to mandate-holders upon completion.

1630. The government stated that the demonstration referred to in the communication of 1 November 2007 took place without the requisite permits. While workers staged their demonstration outside outside the building, officials from the Dept of Labour and Employment were holding conciliation talks with with representatives of PLDT workers, with the additional presence of the management of the company on 10 October 2007. In the spirit of tolerance and conciliation, the workers were allowed to hold demonstrations unhampered, except that the police had to warn them on the second day to break up before nightfall.

1631. The response stated that police authorities had also held dialogue with the demonstrators and that it had been agreed that the group would be given until 5.00 p.m. on 10 October 2007 to air their grievances. However; at 5.40 p.m. that evening, the group showed no sign of terminating their activity. The Government stated that eh police only moved to arrest some of the demonstration leaders after they resisted all efforts to get them to disperse peacefully on their own. Arrested individuals had been brought for a medical check-up and were then turned over to the General Assignment Section (GAS) for filing of appropriate charges. The government response stated that the subjects of the communication had been apprehended for Violation of Batas Pambansa (BP) 880, Breach of Peace, Obstruction and Disobedience to Lawful Order.

### **Letter of allegations**

1632. On 6 November 2007 the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent a letter of allegations to the Government concerning Mr **Jose "Joe" Cawiding**, the Secretary-General of the Metro Tribal Elders Assembly (MBTELA), a non-Governmental organization undertaking education work among tribal elders and

leaders in Baguio City. Mr Cawiding is also an accredited local mediator of the Supreme Court Mediation Center.

1633. According to information received, on 1 October 2007, Mr Cawiding was arrested by the Philippine National Police after a warrant was first issued against him on 15 September 2003. He had allegedly been accused of membership in the New People's Army and involvement in the ambush between the New People's Army and the Armed Forces of the Philippines which left eight soldiers dead. However, at the time of the incident, Mr Cawiding was reportedly in Baguio City, taking part in the Bryan Muna National Council meeting at the Teacher's Camp. On 9 November 2004, the Regional Trial Court in Bontoc ruled to hold the execution of the arrest warrant in abeyance in order to further verify the real identity of the Jose Cawiding named in the warrant.

1634. On 29 March 2007, the same Court stated that "the court deems it necessary to conduct further hearing on the Motion to Dismiss in order to give opportunity to movant Jose Cawiding to prove that he is not the same Cawiding named in several charges of murder before this Court". On 27 April, the Court re-issued a warrant against Mr Cawiding, who was being held at the Benguet Provincial Police Office (BPPO) at Camp Dangwa. Concern was expressed that the aforementioned arrest and detention of Mr Cawiding may have been related to his peaceful human rights activities, in particular his work to protect the victims of human rights violations.

### **Response from the Government**

1635. In a letter dated 29 January 2007, the Filipino Government responded to the above communication. The letter stated that Mr Cawiding was the intelligence officer of the KLG Marco/ Communist Party of the Philippines (CPP)/ New People's Army (NPA) operating within the areas of Mountain Province Abra and Benguet and that, on 12 October 2007, Mr Cawiding was arrested in Baguio City in connection with outstanding warrant on suspicion of murder and attempted murder. The letter further stated that he carried a reward of Php 500,000 pesos for his arrest. The charges were in relation to six criminal cases (Numbers 1749 -1755) and no bail was recommended.

### **Letter of allegations**

1636. On 9 November 2007 the Special Representative sent a letter of allegations to the Government concerning **Prolabor Legal Assistance Centre (PLACE)**, a non-Governmental organisation providing legal aid to workers in the Philippines. According to information received, as of 16 October 2007, PLACE's offices located at No.33B, E. Rodriguez Avenue, Quezon City, were subject to surveillance which lasted several days. Five men equipped with fire arms and two-way radios were reportedly seen stationed across the street from the offices until the following morning. On 17 October 2007, a group of four men arrived and were observed sketching the front of the building where PLACE's offices are located and observing the movements of staff members and others coming and going from the offices. A continued presence was reported on 25 October 2007, with the men on duty being rotated. When asked what they were doing, the men allegedly admitted to being intelligence agents, but said that their objective was to observe a nearby petrol station and not the PLACE offices.



1637. According to an eye-witness, one of these men was reportedly involved in an attempted break-in of PLACE's offices in October 2006. Also in October 2006, Corporal Romel Santiago of the Philippine Army was arrested and questioned for having followed workers and labour leaders as they left a meeting with lawyers from PLACE. Prior to his release, Corporal Romel Santiago admitted to having been instructed to conduct surveillance of the PLACE offices. Concern was expressed that the aforementioned surveillance of PLACE may have been directly related to the organisation's peaceful work in defense of human rights, in particular workers' rights.

### **Letter of allegations**

1638. On 21 November 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Ricardo Bellamia y Becaril**. Mr Ricardo Bellamia y Becaril is a coordinator with Kilusang Mayo Uno Labour Centre (KMU), an organisation dedicated to the promotion and protection of workers' rights. He is also a member of the National Federation of Labour based in Barangay Casay, in Dalaguete town, Cebu province.

1639. According to information received, on 2 November 2007, Mr Ricardo Bellamia y Becaril was reportedly arrested at his home by members of the Regional Command of the Philippine National Police (PNP) and the Armed Forces of the Philippines Central Command (CENTCOM). A warrant for his arrest had been issued on 21 March 2006 by Judge Sylvia Aguirre Delanga of the Regional Trial Court (RTC), Branch 25, Danao City. On 5 November 2007, Mr Bellamia y Becaril was charged with "rebellion" before the Regional Trial Court, Branch 25, Danao City, accused of being a member of the New People's Army (NPA). He was additionally accused of involvement in the killing of soldiers of the 78th Infantry Battalion during rebel-military encounters that allegedly occurred in 2004 at Brgy Dalid, Tabuelan town, Brgy Sumon and Brgy Kalanggaman in Tuburan, and Brgy Baliang in Danao City, Cebu province. Mr Bellamia y Becaril consistently denied being a member of the NPA. Mr Bellamia y Becaril was being detained at the Central Command of the Armed Forces of the Philippines at Camp Lapu-lapu in Apas, Lahug, in Cebu City.

1640. Concern was expressed that the aforementioned detention of Mr Bellamia y Becaril, as well as the charges of "rebellion" that have been brought against him, may be directly related to his peaceful human rights activities, in particular his work to promote workers' rights in the Philippines

### **Response from Government**

1641. In a letter dated 21 November 2007, the Filipino Government responded to the above communication. The letter stated that Mr Bellamia y Becaril had been arrested and charged as outlined in the communication. It proceeded to state that Ms Edith Bellamia, the wife of the aforementioned had filed a petition for habeas corpus before the presiding judge of RTC Branch 9 Cebu City to present her husband, who was at that time being detained in Guadalupe Police Station, and to determine the legality of his detention.

1642. The habeas corpus petition was rejected by the court on 7 November 2007 as the police authorities reportedly justified the legality of Mr Bellamia's arrest to the presiding judge. The Philippines National Police PRO-7 presented further information identifying Mr Bellamis as 'Ka Yuri', the alias indicated in the original charge sheet. The police also produced an alias warrant and two commitment orders from RTC Branch 25 in Dano City, Cebu.

1643. The government further responded that Mr Bellamia remained in detention at the Central Command, Camp Lapu-Lapu, Cebu City after the Court granted the CPDRC authorities' request to have him detained there

### **Letter of allegations**

1644. On 30 November 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Ruel Munasque**, a leader of the Christian Youth Fellowship and a community development worker of the Consortium of Christian Organizations in Urban Development. According to information received, on 24 October 2007, Mr Ruel Munasque was traveling to Tigbao Town on a passenger vehicle when he was forcibly abducted by soldiers at a checkpoint in Barangay village in Dumalinao, Zamboanga del Sur. The soldiers at the checkpoint in question were allegedly affiliated with the 53rd Infantry Battalion of the Philippine Army. A farmer named Mr Roger Morales was traveling with Mr Ruel Munasque and was also abducted. He was later released and reported the arrest of Mr Ruel Munasque.

1645. According to Mr Roger Morales, Mr Ruel Munasque was subjected to physical abuse while in the custody of the aforementioned soldiers. On 28 October 2007, Mr Ruel Munasque's sister received a phone call from someone introducing himself as a soldier. This person informed her that her brother was undergoing medical treatment. He also warned her that she was under surveillance and that if she continued to seek legal assistance to effect her brother's release, criminal charges would be brought against her brother. Mr Ruel Munasque was reportedly released on 7 November 2007. Concern was expressed that the aforementioned arrest, detention and ill-treatment of Mr Ruel Munasque may be directly related to his peaceful human rights activities.

### **Response from the Government**

1646. In a letter dated 4 January 2008, the Filipino Government responded to the above communication. The letter stated that, according to a report of the Philippine National Police, on 21 October 2007 member of the 53<sup>rd</sup> Infantry Battalion were conducting a clearing operation when they encountered a group of New People's Army (NPA) in Libagoy, Tigabo, Zamboanga del Sur which resulted in the death of a Government soldier and apprehension of two NPA members. M-14 and M-16 rifles were confiscated from the NPA members. On 24 October, Mr Raul Munasque, who had allegedly been wounded in the aforementioned encounter, arranged to meet with soldiers and be brought to hospital for treatment.

1647. According to the Government letter, this agreement was confirmed by Mr Munasque in an affidavit of voluntary custody, signed by him on 26 October 2007. In the affidavit, Mr Munasque also reportedly confirmed that it was his group which was

found by soldiers and that as a result of this, three of his fellow members of the NPA had died and he had sustained a gunshot wound to his leg, which had forced him to seek medical treatment. He reportedly also stated that he had been treated very well while in military custody.

1648. On 31 October 2007, Mr Munasque was the first person to be granted a writ of Amparo, which is a legal measure, available since 24 October 2007, to persons whose right to life, liberty and security has been violated or is threatened with violation by any unlawful act or omission by public officials or by private individuals or entities.

### **Responses from the Government to communications sent before 2 December 2006**

1649. In a letter dated 15 June 2007 and, the Filipino Government responded (further to initial responses on 16 October and 27 November 2006) to a communication sent by the Special Representative on 15 September 2006, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding the extrajudicial killings of Pastor **Isaias Sta. Rosa**, Mr **Cesar Quimco**, Mr **Victor Olayvar**, and Mr **Napoleon Bautista** allegedly by members of the military. The mandate-holders had also addressed the wider issue of extrajudicial killings in the Philippines, annexing a list of **more than 50 reported cases of extrajudicial killings since January 2006**.

1650. The Government responded that the killing of Victor Olayvar was regarded as a purge ordered by members of the Communist Party of the Philippines/New People's Army/National Democratic Front. Witnesses had identified three alleged perpetrators, one was arrested on 11 September 2007 and a file had been opened against all three for murder. The letter further stated that the cases of the killing of Mr Napoleon Bautista and Mr Cesar Quimco remained under investigation by the Philippine National Police. The letter stated that there were a number of suspects in the killing of Pastor Isaias Sta Rosa and that a case on murder charges had been filed against twelve people, including Maj. Ernest Marc Rosal, Arnaldo L. Manjares on 18 May 2007.

1651. The lack of cooperation on the part of the Army of the Philippines was cited as an obstacle in the aforementioned investigation but the Government response did not address the wider concerns raised by the mandate-holders regarding extrajudicial killing in the Philippines.

### **Response from the Government**

1652. In a letter dated 19 June 2007, the Filipino Government responded (further to an initial response on 11 September 2006) to a communication sent by the Special Representative, on 2 June 2006, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding the issue of extrajudicial killings in the Philippines, in particular the cases of Mr **Vicente Denila**, Mr **Florencio Perez Cervantes**, Mr **Rico Adeva**, **Porferio Magsalang**, Mr **Enrico Cabanit**, Ms **Elena Mandiola** and her husband Mr **Ricardo Balauag**, Ms **Annaliza Abanador-Gandia**, Reverend **Andy Pawican**, and Mr **Noel Capulong**: All of the aforementioned were human rights defenders and civil society activists in the fields and were killed in separate incidents in the first half of 2006.

1653. In a communication dated 2 June 2006, the mandate-holders expressed their grave concern in relation to these and other extrajudicial killings. The Government response provided information concerning four of the above cases. Regarding the killing of Mr Vicente Denila, the letter stated that investigation were ongoing with a view to possible identification and apprehension of suspects. With regard to Mr Magsalang, it was the view of the police that he had been killed due to links with military intelligence. Four men had been identified as suspects in his murder, warrants had been issued for their arrest and Kabankalan City Police were engaged in a manhunt operation to apprehend them. In the case of Mr Cabanit, the Government asserted that the gunman alleged to have been directly responsible for his death had died, and that this and the reluctance of Mr Cabanit's daughter – injured in the incident - to cooperate in the investigation were hindering progress.

1654. However, the letter further stated that investigations were ongoing to attempt to ascertain the identity of those indirectly for the attack. Investigations conducted into the killing of Rev Pawican concluded that he had been killed during an encounter between soldiers of the 48<sup>th</sup> Infantry Battalion and a group of communist terrorists on 21 May 2006. However the letter did not elaborate on who, if anyone was a suspect in the case. Nor did it address the wider issue aluded to by the mandate-holders in their communication.

### **Response from the Government**

1655. In a letter dated 6 February 2007, the Filipino Government responded to an urgent appeal sent by the Special Representative on 15 November 2006, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, concerning the assault of Ms **Abigail Bengwayan** and the surveillance of Mr **Santos Mero**. The Government responded that the assault of Ms Bengwayan had been found to be an attempted robbery and was coordinating with Ms Bengwayan to ascertain any other possible motives for the assault. Mr Mero did not make a complaint to police regarding the surveillance and had not given them a description of the suspect.

### **Observations**

1656. The Special Representative thanks the Government of the Philippines for its responses to eleven of the thirteen communications sent. With regard to the letter of allegations of 21 December 2006, the Special Representative had provided all the information at her disposal and considered it is the responsibility of the Government to ensure that investigations are undertaken.

1657. The Special Representative remains deeply concerned regarding the high incidence of forced disappearance and extrajudicial killings of human rights defenders and calls on the Government of the Philippines to conduct thorough investigations of such cases and, as requested in the letter of allegations of 2 June 2006, provide the relevant information in detail.

1658. She expresses her concern that cases of assault, disappearance and killing of human rights defenders which go uninvestigated mean that human rights defenders in

the Philippines are unable to fully carry out their work due to fear of intimidation and reprisal.

## **Poland**

### **Response from the Government**

1659. In a letter dated 6 August 2007, the Polish Government responded to an urgent appeal sent by the Special Representative on 15 November 2006, concerning threats made against Ms **Hejna Katarzyna**, a member of the Campaign against Homophobia in Torun, by members of the neo-Nazi organization Blood & Honour (BH). The Government letter stated that the BH-Poland website (Redwatch) which displayed Ms Katarzyna's personal information, and as such facilitated the threats made against her, was based on a server in the US, where the law permits this. The Prosecutor's Office asked US law enforcement agencies for legal assistance in obtaining information relating to server and the IP numbers of the computers logging onto the website.

1660. As a result of Polish-US cooperation, the website was closed down twice, but since US law does not ban such organisations, the website was again operational. In view of a criminal investigation being conducted into this activity, the General Inspector for the Protection of Personal Data had refrained from opening administrative proceedings in connection with infringement of regulations on the protection of personal data. To date, Ms Hejna had not complained to the General Inspector concerning the use of her personal data by people connected to BH-Poland.

### **Observations**

1661. The Special Representative thanks the Government of Poland for its response to the communication of 15 November 2006, and trusts that the Government will continue to make efforts to ensure that intimidation of and threats made against human rights defenders working in defence of LGBT rights are thoroughly investigated, thus allowing them to carry out their work without fear of such harassment.

## **Russian Federation**

### **Letter of allegations**

1662. On 4 December 2006 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning information received regarding the **International Protection Centre** (IPC) and its founder Ms **Karina Moskalenko**. The IPC is a Russian human rights organisation that assists Russian citizens in gaining access to international mechanisms of human rights protection. Specifically, the IPC has brought a number of cases before the UN Human Rights Committee and the European Court of Human Rights in relation to alleged human rights violations committed by the Russian authorities.

1663. According to the information received, on 17 July 2006, the IPC was fined \$170,000 USD by the Russian tax authorities, based on the accusation that the IPC

failed to pay taxes in respect of foreign grants received between 2002 and 2005. The IPC had declared these grants, which were used for research and education purposes related to human rights, to the Russian authorities regularly during the period 2002 to 2005 but the authorities had not requested the IPC to pay any taxes on them. A tax inspection had been ongoing for more than a year which had curbed the IPC's activity and might render the IPC's directors to be criminally liable.

1664. Furthermore, it was reported that the IPC was unable to pay the aforementioned fine and would be forced to close. It was also alleged that in December 2005, a representative of the Russian Federation at the European Court of Human Rights requested the lawyers' registry body of the Ministry of Justice to initiate disciplinary proceedings against Ms Moskalenko and to have her disbarred. Concerns were expressed that the above events may have been connected with the human rights activities of the IPC and particularly Ms Moskalenko's advocacy work bringing case on human rights before the UN Human Rights Committee and the European Court on Human Rights.

### **Response from the Government**

1665. In a letter dated 20 February 2007, the Government of the Russian Federation responded to the above communication. The letter stated that under the legislation of the Russian Federation, the work of newly registered non-profit organizations, including voluntary associations, is inspected on a regular basis by public inspection authorities. The Procurator's Office, tax authorities and State registration authorities have the power to carry out such inspections. The Federal Tax Service monitors compliance with the tax laws and the accuracy of calculations, ensures that tax deductions, duties and other compulsory payments to the appropriate budget are made in full and on time, and oversees compliance with the clemency laws of the Russian Federation, within the jurisdiction of the tax authorities.

1666. According to information provided by the Federal Tax Service, its Moscow inspectorate No. 9 carried out a routine inspection for the fourth quarter of 2006 to verify that the International Protection Centre was complying with the tax laws. According to inspection report No. 12-04/2351 of 17 July 2006, the Centre owed 4 million roubles in tax on profits for 2002, 2003 and 2004, including unpaid fines and penalties. Following action by the Centre to challenge the results of this inspection, inspectorate No. 9 issued decision No. 12-04/342 of 29 August 2006 on the conduct of a further inspection. The records of this case are currently at the Moscow office of the Federal Tax Service, which is still examining whether the tax claims presented to the Centre are justified. Information on the decision taken by the Moscow tax office will be provided in due course.

1667. According to information provided by P.A. Laptev, the representative of the Russian Federation at the European Court of Human Rights, he did not request the tax services to inspect the Centre; nor did he make any other requests concerning the activities of the Centre on matters not directly related to the complaints procedure of the European Court. In accordance with Decree No. 310 of 29 March 1998 of the President of the Russian Federation, the representative of the Russian Federation at the European Court of Human Rights does not have the authority to make such requests.

1668. The letter further denied the allegation that the representative of the Russian Federation at the European Court of Human Rights ever requested the Ministry of Justice of the Russian Federation or any other Government body to have K.A. Moskalenko disbarred and noted that K.A. Moskalenko did not currently hold the post of director of the International Protection Centre as she stepped down voluntarily on 12 August 2003.

### **Letter of allegations**

1669. On 8 February 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government 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.

1670. 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.

1671. 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.

1672. 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.

### **Letter of allegations**

1673. On 9 February 2007 the Special Representative sent a letter of allegations to the Government concerning Ms **Karina Moskalenko**, leading human rights lawyer, Commissioner with the International Commission of Jurists and recipient of the International Helsinki Federation's annual human rights award for 2006. Ms Moskalenko was the subject of an 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 1 December 2006.

1674. According to information received on the evening of 4 January 2007, whilst checking-in for a flight to Siberia at Domodedovo airport, Moscow, Ms Moskalenko was instructed to proceed to a special police room. Ms Moskalenko's passport was confiscated temporarily and she was subjected to a 'special security check'. Personal items, including confidential legal documents were examined in the presence of a significant number of police officers. The 'security check' was reportedly conducted by the Linear Department of the Ministry of the Interior in Domodedovo Airport, and was recorded on camera. Ms Moskalenko was later allowed to board the flight, which was delayed for a further 40 minutes without further explanation. Ms Moskalenko was accompanied by defence lawyers, Mr Jury Shmidt, Mr Yevgeny Baru, Mr Leonid Saykin and Mr Konstatin Riskin who were also subjected to a 'special security check'.

1675. The lawyers were traveling to Chitta, Siberia to visit their client Mr Mikhail Khodorkovsky. According to reports, Ms Moskalenko has been the target of repeated harassment including attempts to disbar her in December 2005. As founder of the International Protection Centre, she has also been subjected to a series of intrusive tax inspections. Concerns were expressed that the aforementioned events may have been connected with Ms Moskalenko's interaction with the Human Rights Committee and the European Court of Human, as noted above. Further concern was expressed that this harassment may form part of an ongoing campaign against human rights defenders in Russia and that this may represent an attempt to prevent lawyers from carrying out their legitimate work in defence of human rights and to discredit them.

### **Response from the Government**

1676. In a letter dated 12 April 2007, the Government of the Russian Federation responded to the above communication. The letter stated that, in accordance with the provisions of article 85 of the Air Code of the Russian Federation, Government Decision No. 897 of 30 June 1994 on the federal system for protecting civil aviation from acts of illegal interference, and Ministry of Transport Order No. 102 of 21 November 1995 on guidelines for inspecting passengers and crew members of civilian aircraft, service personnel, carry-on luggage, baggage, freight, the mail and on-board supplies, all passengers must present all personal items and their carry-on luggage for inspection. Passengers Shmidt, Baru, Saykina, Rivkin and Rivkina refused to present their personal items and carry-on luggage for inspection; they behaved inappropriately



and defiantly and began an altercation with officials who were carrying out their duties, thereby provoking a conflict situation.

1677. In light of this, the decision was taken to bring them to the duty office of the sectoral internal affairs department in Domodedovo airport for closer examination, including a records check. Ms. Moskalenko was not taken to the duty office of the internal affairs department in Domodedovo. After a pre-flight inspection, which was conducted with their consent, all of the aforementioned citizens boarded their flight and travelled to their destination. The allegation that the pre-flight inspection of Ms. Moskalenko was conducted because of her human rights activities was denied. In this situation, the internal affairs officers acted in accordance with Federal Act No. 1026-1 (Police Act) of 18 April 1991 and did not exceed their duties and the Government was of the opinion that there were no grounds for the procurator to take any action.

### **Letter of allegations**

1678. On 7 May 2007 the Special Representative sent a letter of allegations to the Government concerning Ms **Karina Moskalenko**, prominent human rights lawyer and defender. Ms Moskalenko was the subject of letters of allegation sent by mandate-holders on 4 December 2006 and on 9 February 2007. According to information received, on 18 April 2007, Ms Moskalenko was informed that a motion had been issued by the Prosecutor General's office to the Russian registration service in order to disbar her from practicing law. The decision was based on her failure to attend a meeting between Mr Khodorkovsky and his criminal defence team. Ms Moskalenko was representing Mr Khodorkovsky in his complaint to the European Court for Human Rights in which he claimed that his right to a fair trial had been violated. However, she was not part of his criminal defense team in Russia.

1679. Ms Moskalenko was reportedly scheduled to accompany another high-profile client to a meeting with the Russian security service when she received notice of the call for her disbarment. According to reports, Ms Moskalenko has been the target of repeated harassment, as outlined in the previous communications. Concern was expressed that the motion disbaring Ms Moskalenko may have been related to her peaceful and legitimate activities in defence of human rights in Russia. Further concern was expressed that this harassment may form part of an ongoing campaign against human rights defenders in Russia and that this may represent an attempt to prevent lawyers from carrying out their legitimate work in defence of human rights, and to discredit them.

### **Letter of allegations**

1680. On 5 July 2007, the Special Representative, together with the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, sent a letter of allegations to the Government concerning an attack on Ms **Valentina Uzunova**, Director of the Minority Rights Commission in St. Petersburg. Ms Uzunova is an ethnologist and expert on extremism and racist incitement in Russia and was acting as an expert witness in a case of incitement of violence against minorities involving Rus Pravoslavnaya, a local extremist Russian Orthodox newspaper.

1681. According to the information received, on 19 June 2007, at approximately 18:00, Ms Uzunova was brutally attacked by an unidentified female outside the family home of a former colleague, Mr Nikolai Girenko, in St. Petersburg. Mr Girenko, ex-Director of the Minority Rights Commission, professor of ethnology and prominent expert on ethnic and racial issues in the country, was shot dead on his doorstep in June 2004. The masked assailant allegedly demanded that Ms Uzunova turn over the documents she was carrying. When Ms Uzunova refused, the woman physically attacked her before absconding with the dossier containing the documents along with Ms Uzunova's earrings. The assailant did not take Ms Uzunova's purse. Ms Uzunova suffered concussion as a result of the attack and was treated at Alexandrovskaya Hospital for her injuries.

1682. According to reports, the attack took place the day before Ms Uzunova was due to testify against Mr Vladislav Nikolsky, a publisher of xenophobic literature who has been accused of inciting ethnic hatred. Prior to the attack Ms Uzunova had allegedly received an anonymous phone call threatening her and her family with death if she did not assist in clearing Mr Nikolsky's name. Ms Uzunova was apparently refused police protection on the basis that there was not enough evidence to support the threat. Concern was expressed that the above-mentioned events were directly related to Ms Uzunova's legitimate work in defence of human rights in Russia, in particular, her activities in relation to the protection of minority rights, activism against extremism and incitement to racial hatred in Russia, research on these issues and participation in the aforementioned trial.

### **Response from the Government**

1683. In a letter dated 13 August 2007, the Government of the Russian Federation responded to the above communication. The letter stated that the woman who attacked Ms Uzunova did not utter any threats relating to her victim's professional activity. On the basis of the attack on Uzunova, the Petrograd Side internal affairs office in St. Petersburg instituted criminal proceedings under article 161, paragraph 2 (d) (Robbery) of the Criminal Code. The theory that "supporters" of V.I. Nikolsky were involved in the attack was being studied. The criminal proceedings in question were being specially monitored by the Office of the Procurator General of the Russian Federation.

### **Urgent appeal**

1684. On 6 August 2007 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal to the Government concerning Ms. **Larissa Arap**, a Russian journalist and member of an organization called "United Civil Front", resident in Murmansk. According to the information received, Ms. Larissa Arap was arrested on 5 July 2007 in a clinic in Murmansk where she had gone for a medical examination needed to renew her driver's license. Following her arrest, Ms. Arap was transferred to a psychiatric hospital 150 km outside Murmansk, where she was allegedly injected with drugs against her will. She was also beaten and tied to a bed.

1685. On 18 July 2007, the local district court ordered that Ms. Arap be subjected to compulsory treatment. Since then she has been held in a wing for violent patients. On

8 June 2007, Ms. Arap's article on the reported ill-treatment of children in psychiatric hospitals in the Murmansk region was published in a newspaper published by the "United Civil Front". In particular, she had reported about the use of electroshock and alleged that patients had been beaten and raped repeatedly. Concern was expressed as regards Ms. Arap's state of health in view of the reported forced administration of injections, allegations of ill-treatment and her alleged detention in a wing for violent patients. Further concern was expressed that her compulsory admittance to a psychiatric hospital might be solely connected to her activities in defence of human rights.

### **Response from the Government**

1686. In a letter dated 19 September 2007, the Government of the Russian Federation responded to the above communication. The letter stated that L.I. Arap had been under psychiatric observation at the municipal outpatient clinic in the closed city of Severomorsk since 18 June 2004 for an acute psychotic disorder with suspected schizophrenia and a paranoid syndrome. She had been committed to the Murmansk provincial neuropsychiatric clinic, a State health facility, for treatment in 2004. Ms. Arap saw a psychiatrist on several occasions in 2006, sometimes at the insistence of family members, and had received the necessary outpatient psychiatric care.

1687. On 5 July 2007, Ms. Arap visited a psychiatrist from the Severomorsk municipal outpatient clinic for the medical clearance that she needed to obtain a driving licence. During the consultation, the psychiatrist found medical reasons why Ms. Arap should not drive. It was explained to Ms. Arap that she would need to undergo psychiatric tests before a panel in accordance with article 3 of Federal Act No. 3185-1 of 2 July 1992 on psychiatric assistance and guarantees concerning its availability to the public (hereinafter referred to as "the Act"). Ms. Arap disagreed with the psychiatrist's opinion, however, and turned aggressive, screaming and running around the consultation room. She also started threatening to complain to the procurator's office and accused the physician of trying to "stick her in the madhouse", motivated, according to Ms. Arap, by plans to take over her apartment. Ms. Arap also began to make threats against various people and to claim that her telephone was being tapped by the secret service and that her neighbours were "gassing her". Moreover, her speech was confused and irrational and she jumped from one subject to another without responding to the physician's remarks.

1688. The psychiatrist, M.O. Rekish diagnosed Ms. Arap's condition as an acute psychotic disorder, as evidenced by the thought disorders manifested as irrationality, incoherence, delusions and confused behaviour. It was impossible to leave Ms. Arap without qualified psychiatric help under such circumstances and, acting on the grounds stipulated in article 29, paragraph (a), of the Act, the psychiatrist took the decision to commit her to the Murmansk provincial neuropsychiatric clinic for treatment, until such time as a court could take a decision. In accordance with article 303 of the Code of Civil Procedure of the Russian Federation and article 32 of the Act, Ms. Arap was examined by a panel of experts from the Murmansk provincial neuropsychiatric clinic on 6 July 2007 and was diagnosed with "paranoid-type schizophrenia and a shift-like affective paranoid syndrome".

1689. On the basis of the panel's findings, an application was submitted to the Leninsky district court in Murmansk, for Ms. Arap to be committed to a psychiatric hospital under article 29, paragraph (a), of the Act. On 18 July 2007, a special session of the Leninsky district court was convened (case No. 2 1483), with the participation of a procurator and a lawyer. The application by the Murmansk provincial neuropsychiatric clinic for Ms. Arap to be committed to hospital was granted. As a result of ward overcrowding (one member of nursing staff for every 30 patients, instead of every 25, as recommended), Ms. Arap was transferred along with 20 other patients of the Murmansk provincial neuropsychiatric clinic, following standard procedure, to the Murmansk provincial psychiatric hospital on 26 July 2007. Ms. Arap was examined by the psychiatrist V.V. Denisov in the hospital's admissions unit and presented no signs of injury or physical deterioration.

1690. On 27 July 2007, she was examined in the ward by a panel of psychiatrists consisting of the chief consultant of ward No. 3, V.N. Reeva, the chief of ward No. 2, Y.V. Denisova and the chief of ward No. 1, P.N. Zimin. The panel found that the patient was suffering from paranoid-type schizophrenia with affective paranoid syndrome and confirmed that compulsory hospital treatment was necessary. On 9 August 2007, as Ms. Arap had been in hospital for an entire month and in the light of the recommendation of the principal outside psychiatric expert of the Murmansk provincial health committee that another medical examination should be carried out in accordance with the legally prescribed schedule (as from the time of hospitalization), a medical examination of Ms. Arap was carried out by a panel of psychiatrists. The panel found that Ms. Arap met the criteria for compulsory hospital treatment set out in article 29, paragraph (c), of the Act; this necessitated a further consideration by the court of the issue of extending Ms. Arap's compulsory hospital treatment. On 11 August 2007, a special session was convened of the Apatity municipal court in Murmansk province, by decision of which Ms. Arap's compulsory hospital treatment was extended.

1691. On 28 August 2007, pursuant to the findings of the psychiatrists of the Murmansk provincial neuropsychiatric hospital and in accordance with article 40 of the Act, Ms. Arap was released from hospital into outpatient care at her place of residence consequent to an improvement in her state of health. The Leninsky administrative district procurator's office in Murmansk closely examined Ms. Arap's committal to the psychiatric hospital, but did not find that the law had been breached in any way where the committal procedure was concerned.

### **Letter of allegations**

1692. On 19 September 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning 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.

1693. 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.

1694. 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.

1695. 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**

1696. In a letter dated 23 November 2007, the Government of the Russian Federation responded to the above communication. The letter 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.

1697. 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.

1698. 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.

1699. 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**

1700. On 24 October 2007 the Special Representative sent a letter of allegations to the Government concerning the late Ms **Anna Politkovskaya**, the Nizhny Novgorod **Foundation to Promote Tolerance** and Mr **Stanislav Dmitrievsky**. Ms Anna Politkovskaya, who was killed on 7 October 2006, was known for her independent reporting on human rights violations against civilians in Chechnya. She also published several books about Chechnya and on the political situation in the country.

1701. Ms Politkovskaya was the subject of an allegation letter sent by the Special Representative of the Secretary-General on the situation of human rights defenders, together with the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 12 October 2007. Mr Stanislav Dmitrievsky is the former Executive Director of the Russian-Chechen Friendship Society (RCFS). Mr Dmitrievsky was the subject of previous allegation letters sent by mandate-holders on 12 January 2007 and on 9 June 2005.

1702. According to information received, one year after her killing, it appeared that limited progress has been made in the investigation of the murder of Ms Anna Politkovskaya. There had also been reports expressing concern that there had been irregularities in procedure such as the release in the public media of the names of those suspects detained. Furthermore, a conference organized by the Nizhny Novgorod Foundation to Promote Tolerance and the Nizhny Novgorod branch of Novaya Gazeta, the publication for which Ms Anna Politkovskaya formerly worked, was scheduled to be held on 5 and 6 October 2007 in memory of the killing of Ms Politkovskaya.

1703. The Nizhny Novgorod Foundation to Promote Tolerance and the Nizhny Novgorod branch of Novaya Gazeta encountered obstacles in the organisation of this conference, when they were refused access to the Foundation's funds on the grounds that the Foundation had been black-listed by the Russian Committee for Financial Monitoring, and when the hotel that had been reserved to host the conference cancelled the booking on 5 October 2007, stating a supposed water leak as the reason for the cancellation. In addition, several representatives from human rights organisations, including Amnesty International and Human Rights First, who were to attend the conference were arrested and detained for more than four hours by police at the offices of the Nizhny Novgorod Foundation to Promote Tolerance on charges of having violated the law on visa policy as they had entered the Russian Federation on tourist visas. They were later ordered to pay fines ranging between 3,000 to 5,000 roubles. Police also arrested Mr Stanislav Dmitrievsky and interrogated him for two hours before releasing him.

1704. The offices of the Nizhny Novgorod Foundation to Promote Tolerance were searched by six members of the police who allegedly took computers and software licensing documents. The Nizhny Novgorod Foundation to Promote Tolerance was previously subject to a police search in August 2007, when its computers were also confiscated. Concern was expressed at the limited progress in the investigation into the killing of Ms Anna Politkovskaya and at the aforementioned suspected obstruction of a conference in her memory organised by the Nizhny Novgorod Foundation to Promote Tolerance and the Nizhny Novgorod branch of Novaya Gazeta as well as the arrests of the representatives of human rights organisations and the search of the offices of the Nizhny Novgorod Foundation to Promote Tolerance.

### **Response from the Government**

1705. In a letter dated 26 November 2007, the Government of the Russian Federation responded to the above communication. The letter stated that the Moscow procurator's office instituted criminal proceedings following the murder, on 7 October 2006, of Anna Politkovskaya. On the same day, the criminal case was withdrawn from the Moscow procurator's office and referred to an investigator from the Office of the Procurator-General of the Russian Federation for further investigation. The Office of the Procurator-General of the Russian Federation was developing a number of versions, including the possibility that the journalist was murdered in connection with her professional activity, bearing in mind her publications on the situation in the northern Caucasus.

1706. In order to verify the assumptions contained in the journalist's last article, entitled "We appoint you terrorist", concerning the unlawful activities of internal affairs officers in the Chechen Republic, on 13 December 2006 the office of the procurator of the Chechen Republic instituted criminal proceedings against these officers on the basis of evidence of an offence contrary to the relevant article of the Criminal Code of the Russian Federation (Exceeding of official powers). The investigation was under the personal supervision of the Procurator-General of the Russian Federation, Mr. Yury Chaika. At present, 10 persons had been arrested for the commission of this offence. These persons were the indirect organizers, accomplices and the perpetrators of the offence. In the words of Mr. Chaika, it was also possible to identify the person who ordered the murder of Ms. Politkovskaya; however, this

person was not available for investigation, since he lived abroad. The letter further stated that, as the results of the investigation show, the crime was organized very carefully. The organization was headed by the leader of a Moscow criminal group, a person from the Chechen Republic, who engages in criminal business and specializes in contract killings.

1707. With regard to the reasons for the murder, the Procurator-General emphasized that the removal of Ms. Politkovskaya could be of interest only to persons living outside the Russian Federation. The removal of Ms. Politkovskaya primarily benefits those persons and organizations that are seeking to destabilize the situation in the country, change its constitutional order, create a crisis in the Russian Federation, return to the former system of Government and discredit the leaders of the Russian State. Bearing in mind the considerable public interest in the investigation of the murder of Ms. Politkovskaya, and the number of untrue reports in the mass media, on 4 September 2007 the Office of the Procurator-General of the Russian Federation issued a press release, which reads as follows: “

1708. In connection with the large volume of work in securing evidence, on 29 August 2007, another team of investigators of the department for the investigation of particularly serious cases was incorporated into the investigative group headed by the investigator for particularly serious cases, P. Garibyan. Each of them carries out the necessary investigative measures, pursuing their activities in accordance with the plan for investigating the criminal case. The director of the department for the investigation of particularly serious cases of the Office of the Procurator-General of the Russian Federation, S. Ivanov, is responsible for overall guidance and coordination of the activities of these groups, including cooperation with the strategic services of the Ministry of Internal Affairs and the Federal Security Service. The investigation of the criminal case remained under the personal supervision of the Procurator-General of the Russian Federation, Yury Chaika”.

### **Letter of allegations**

1709. On 29 November 2007 the Special Representative, together with 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, sent a letter of allegations to the Government concerning 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**. Several communications concerning members of the organization Memorial had previously been sent by the Special Representative on the situation of human rights defenders since 2002 (see E/CN.4//2003/104/Add.1, paras. 434-451, E/CN.4/2004/94/Add.3 paras. 376, 378, 381, 382, 384 and 387, E/CN.4/2005/101/Add.1 paras. 445 and 460, E/CN.4/2006/95/Add.1 para. 446 and A/HRC/4/37/Add.1 paras. 572-573).

1710. 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.

1711. 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.

#### **Response from the Government**

1712. In a letter dated 20 February 2007, the Government of the Russian Federation responded to an urgent appeal sent by the Special Representative on 20 October 2006, together with the the Special Rapporteur on the independence of judges and lawyers, concerning threats made against several human rights defenders, including Mrs **Svetlana Gannuchkina**, President of the Committee of Civil Assistance, Mr. **Sergey Kovalov**, a founder of the Memorial Society in Grozny and Mrs **Lidia Yusupova**, lawyer, director of the *Memorial Society* and Nobel Peace Prize nominee. Further reports had also been received in relation to the harassment of Mr **Stanislav Dmitrievsky** and Ms **Oksana Chelysheva**, and the subsequent closure of their non-Governmental organisation, the *Russian-Chechen Friendship Society* (RCFS), which monitors human rights violations in Chechnya.

1713. The letter stated that The Russian-Chechen Friendship Society was dissolved by the decision of the Nizhny Novgorod provincial court of 13 October 2006. After the decision was handed down, the respondent appealed against it but the ruling was upheld by the Supreme Court in January 2007. The court found that the activities of the Russian-Chechen Friendship Society were not in keeping with the declared aims of the organization as contained in the Society's statute; the Society's activities grossly violated the legislation of the Russian Federation and had extremist tendencies.

1714. Maryinsky park district internal affairs office in Moscow was investigating the threats made against Ms. L. Yusupova. The Moscow procurator's office is monitoring the investigation. The Office for Special Technical Measures of the Central Internal Affairs Office was taking necessary measures to investigate the placing on the Internet site of the magazine Russian Will, of the publication "Enemies of the nation", containing basic information about, and the addresses and contact telephone numbers

of Mr. S.A. Kovalev, Ms. S.A. Gannushkina and other Russian human rights defenders.

## **Response from the Government to communications sent before 2 December 2006**

### **Response from the Government**

1715. In a letter dated 20 February 2007, the Government of the Russian Federation responded to a letter of allegations sent by the Special Representative on 12 October 2006, together with 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 concerning the murder of **Anna Politkovskaya**. The letter stated that, the Office of the Procurator-General of the Russian Federation was considering several leads, including the possibility that the murder was motivated by the journalist's professional activities, bearing in mind her publications concerning the situation in the Northern Caucasus.

1716. In order to investigate the journalist's suppositions, contained in her last article entitled "We appoint you terrorist", which deals with the illegal activities of internal affairs officers of the Chechen Republic of the Russian Federation, on 13 December 2006 the procurator's office of the Chechen Republic instituted criminal proceedings against the officers in question on the basis of evidence of an offence contrary to the relevant article [art. 286] of the Criminal Code of the Russian Federation (Exceeding official authority). The investigation of the criminal case involving the murder of Anna Politkovskaya was being monitored by the Office of the Procurator-General of the Russian Federation.

### **Response from the Government**

1717. In a letter dated 20 February 2007, the Government of the Russian Federation responded to a letter of allegations sent by the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 6 October 2006, concerning Mr **Lev Ponomarev**.

1718. On 29 August 2006, the prefecture of Moscow central administrative district was notified by a group of citizens (L.A. Ponomarev, E.V. Ihlov, A.A. Naletov) of their intention to hold a peaceful demonstration in honour of the victims of the Beslan tragedy by the Solovki stone on Lubyanka Square on 3 September 2006 (organizer - L.A. Ponomarev). In view of the fact that it would coincide with the holding in the city centre of events dedicated to the Day of the City, and in accordance with article 5, paragraph 5, of Federal Act No. 54 of 19 July 2004 on assemblies, meetings, demonstrations, processions and pickets, the prefecture suggested that the place or date of the demonstration be changed. Thus, the authorities had not given their consent to the demonstration and the organizer did not have the right to hold a public event.

1719. Nevertheless, at 1 p.m. on 3 September 2006, a group of approximately 30 people unfurled seven posters and attempted to hold a demonstration. The participants of the event ignored repeated orders to stop the unauthorized demonstration and refused to obey the law enforcement officers. Following repeated orders by militia

officers to stop the unauthorized demonstration and to clear the area, 13 of the most active participants, including the organizer of the event, L.A. Ponomarev, were arrested and brought, in the presence of the deputy prosecutor of the Tverskoy inter-district prosecutor's office, V.A. Mityaev, to the duty office of the Kitai-gorod district internal affairs division in Moscow. They were booked for administrative offences under article 20.2, paragraph 2, and article 19.3 of the Code of Administrative Offences of the Russian Federation.

1720. L.A. Ponomarev was booked for administrative offences under article 19.3 (Failure to obey the lawful order of a militia officer, an army officer or a correctional officer) and article 20.2, paragraph 1 (Breach of the established procedure for the organization or conduct of a meeting, rally, demonstration, procession or picketing) of the Code of Administrative Offences. The court sentenced him to three days of administrative detention and a fine of 2,000 rubles. No breaches by the militia officers of Federal Act No. 54 of 19 July 2004 on assemblies, meetings, demonstrations, processions and pickets and Act No. 1026-1 of 18 April 1991 on the militia have been established.

1721. A decision issued by the magistrate of judicial district No. 370 in Moscow's Tverskoy district concerning the administrative measures taken against the organizer and the participants of this event confirmed that the refusal by the Moscow central administrative district prefecture to authorize the holding of the demonstration on Lubyanka Square on 3 September 2006 was lawful. No unlawful actions on the part of the militia officers have been established. This decision also stated that the administrative measures taken against L.A. Ponomarev were not related to his activities as a human rights defender.

### **Observations**

1722. The Special Representative thanks the Government of the Russian Federation for it replies to eight communications sent.

1723. She continues, however, to have grave concerns regarding the situation of human rights defenders in the Russian Federation, particularly lawyers working in defence of human rights and journalists who seek to document human rights violations. Both groups come under increasing pressure due to threats and intimidating behaviour. In light of the killing of the journalist Anna Politkovskaya the Special Representative calls on the Government of the Russian Federation to proceed with thorough impartial investigations of this killing and the other cases of threats and assaults of journalists across the Federation.

1724. Also of particular concern to the Special Representative is the case of Ms Larissa Arap, raised in a communication of 6 August 2007. Notwithstanding the Government response of 19 September 2007, the Special Representative has grave concerns regarding the psychiatric treatment of human rights defenders following their detention and urges the Government to cease any involvement it may have in such cases.

1725. She further expresses her most serious concern regarding registration laws and regulations which may have as their sole objective the stifling of criticism and the

curbing of civil society movements in the Russian Federation and urges the Government to be transparent in its motives in the monitoring, investigation and closing down of non-Governmental organizations, as in the case of the Russian-Chechen Friendship Society, outlined in a communication of 12 October 2006, responded to on 20 February 2007.

## Rwanda

### Lettre d'allégations

1726. Le 2 juillet 2007, la Représentante spéciale a envoyé une lettre d'allégations sur le cas de M. **François-Xavier Byuma**, coordinateur du Réseau des défenseurs des droits de l'Homme en Afrique centrale et président de Turengere Abana, l'association rwandaise pour la protection et la promotion de l'enfant, une organisation non-gouvernementale basée à Kigali qui lutte notamment contre les violences sexuelles et le travail forcé des enfants. M Byuma est également l'ancien vice-président de la Ligue rwandaise pour la promotion et la défense des droits de l'Homme. Selon les informations reçues:

1727. Le 3 mai 2007, M. Byuma aurait été notifié à comparaître devant le tribunal gacaca pour « complicité dans le génocide rwandais de 1994 ». M. Byuma aurait alors été poursuivi pour « entraînement à la manipulation d'armes à feu pendant le génocide » ; « port illégal d'armes » ; « constitution de barrières » érigées en vue d'empêcher les Tutsis de fuir le génocide et « participation dans les attaques des Interahamwe » pendant le génocide. Il est avancé que cette notification serait liée à une enquête menée par Turengere Abana sur des allégations de viol d'une fille de 17 ans commis par le juge président du tribunal gacaca.

1728. Au cours de l'audience du 13 mai, M. Byuma aurait récusé le siège et le président du siège en arguant que son droit à un procès juste et équitable n'était pas garanti du fait de la mise en cause du président du siège dans l'enquête de Turengere Abana. La requête de M. Byuma aurait été rejetée et celui-ci aurait été placé en détention le lendemain à la prison centrale de Kigali.

1729. Le 20 mai 2007, M. Byuma aurait plaidé non coupable devant le tribunal gacaca et aurait été libéré le jour même dans l'attente du verdict.

1730. Le 27 mai 2007, M. Byuma aurait été condamné à 19 ans d'emprisonnement par le tribunal, en vertu de l'article 53, alinéa 5 de la loi organique n°16/52004 du 19 juin 2004 qui, tel que modifié le 1er mars 2007, vise les personnes « qui dans l'intention de donner la mort, ont causé des blessures ou commis d'autres violences graves mais auxquelles les victimes n'ont pas succombé ». M. Byuma aurait été acquitté des chefs de port illégal d'armes, de constitution de barrières et de constitution de listes de Tutsis. Il aurait en revanche été reconnu coupable de participation à un entraînement à la manipulation d'arme à feu et participation aux attaques alors qu'il était autorité administrative « au niveau de la cellule ». Par ailleurs, il aurait été reconnu coupable de plusieurs chefs d'accusation non mentionnés lors de la première lecture de l'acte d'accusation, notamment l'agression et l'enlèvement d'une femme dénommée « Batamuliza ». Or, de nombreuses divergences et lacunes caractériseraient l'établissement des faits reprochés à M.

Byuma, notamment quant aux circonstances de l'enlèvement de Mme Batamuliza. La décision du tribunal n'éclaircirait en rien les contradictions entourant ces éléments de preuve. Enfin, plusieurs témoins à décharge auraient été l'objet d'actes d'intimidations.

1731. Des craintes ont été exprimées que la condamnation de M. Byuma serait liée à ses activités de défense des droits de l'homme, en particulier son travail au sein de l'organisation Turengere Aban qui lutte notamment contre les violences sexuelles et le travail forcé des enfants.

### **Réponse du Gouvernement**

1732. Le 22 août 2007, le Gouvernement a répondu à la lettre d'allégations envoyée le 2 juillet 2007, en informant que M. Byuma avait été informé au préalable sur les accusations portées contre lui avant d'être convoqué à se présenter devant la juridiction Gacaca et que la citation à comparaître est intervenue bien avant les allégations de son organisation « Turengere Abana » accusant le Président du siège d'être l'auteur d'un viol commis sur une fille mineure.

1733. Il est indiqué que le siège a trouvé non-fondés et injustifiés les arguments présentés par M. Myuma en se basant sur les faits suivants :

- bien avant qu'il soit cité à comparaître, M. Byuma n'avait jamais eu de conflit personnel avec le Président du siège ;
- M. Byuma n'a fourni aucune preuve pour appuyer ses allégations de viol dont le Président du siège serait l'auteur ;
- les allégations de viol ont été portées devant les juridictions compétentes et doivent ainsi être séparées des accusations de participation au génocide portées contre M. Byuma devant les juridictions Gacaca.

1734. Le 17 mai 2007, M. Byuma a été reconnu coupable de :

- participation aux entraînements des miliciens interahmawe regroupés au sein d'un groupe connu sous le nom de « IREBERO » et supervisé par M. Stanis Simbizi, alors Président de la branche du parti extrémiste CDR dans le secteur Biryogo ;
- coups sur la personne de Batamuliza pendant que cette dernière était arrêtée et interrogée par les miliciens interahamwe ;
- participation aux attaques visant les Tutsi pendant qu'il était un des responsables de la cellule ;
- conduite de Batamuliza sur le lieu des massacres avec l'intention de tuer.

1735. Le 18 août 2007, M. Byuma a été jugé en appel et la juridiction a confirmé le jugement rendu au premier degré par la juridiction Gacaca et condamné à dix-neuf ans de prison. Le Gouvernement informe également qu'il a déjà pris les dispositions nécessaires pour que le cas porté à la connaissance de la Représentante spéciale comme ceux d'autres personnes coupables de crime de génocide et autres crimes contre l'humanité bénéficient d'un procès équitable et puissent participer à la reconstruction nationale à travers la peine alternative à l'emprisonnement. Ainsi, M. Byuma n'ira pas en prison mais purgera sa peine en exécutant les travaux d'intérêt général en compagnie d'autres personnes coupables de crimes relevant de la même catégorie.

1736. Le Gouvernement rappelle enfin que les juridictions participatives Gacaca ne sont pas des juridictions classiques pilotées par des juristes professionnels. Elles ont été choisies par la société rwandaise comme la seule alternative possible à la gestion du lourd contentieux lié au génocide afin de connaître la vérité sur celui-ci, d'accélérer les procès, de punir les coupables et de consolider le processus de l'unité et de la réconciliation.

### **Observations**

1737. La Représentante spéciale remercie le Gouvernement de sa réponse. Toutefois, celle-ci ne dissipe pas ses inquiétudes dans la mesure où, selon de nouvelles informations, la décision de la Cour d'Appel ne serait fondée sur aucun élément matériel, n'aurait pas été motivée et serait intervenue au terme d'un procès au cours duquel les nouveaux arguments avancés par les témoins à décharge n'auraient pas été pris en considération. La Représentante spéciale presse le Gouvernement de lui fournir des éclaircissements à ce sujet.

## **Saudi Arabia**

### **Urgent appeal**

1738. On 22 December 2006 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. **Abdelwahab Al Humaikani**, a Yemeni citizen from Sanaa, secretary general of the charity Al Rochd, and member of the Geneva-based non-Governmental organization Al Karama for Human Rights. Mr. Al Humaikani also collaborates with the Arab Commission for Human Rights and attended the 62nd session of the Human Rights Council in Geneva in April 2006 as their representative.

1739. According to the allegations received, on 19 December 2006, Mr. Al Humaikani was arrested by the Saudi security services at about 14.30 at the Al Toual checkpoint on the border between Saudi Arabia and Yemen. He was on a pilgrimage to Mecca with his mother, sister and brother-in-law, and was trying to enter Saudi Arabia for that reason. He was taken to Jizane where he was being reportedly detained by Saudi security services in incommunicado detention. The exact whereabouts of Mr. Al Humaikani were unknown. Concerns were expressed that the arrest and detention of Mr. Al Humaikani are linked to his activities in defence of human rights.

### **Response from the Government**

1740. In a letter dated 5 February 2007, the Government of Saudi Arabia responded to the above communication. The letter stated that Mr. Al Humaikani was detained on 19 December 2006 in the light of information pertaining to his activities in Afghanistan, Bosnia and Herzegovina, and his links with presumed terrorist organizations. Since this coincided with the period of the Hajj, he was permitted to perform the pilgrimage rites by arrangement with the authorities in his country, who were notified when he was detained and when he departed to his country on 3 January 2007 in furtherance of the joint Saudi-Yemeni endeavours to combat terrorism.

### **Urgent appeal**

1741. On 8 February 2007, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of human rights while countering terrorism, sent an urgent appeal to the Government concerning Mr. **Suliman al-Rushudi**, lawyer, Mr. **Essam al-Basrawi**, lawyer, Dr. **Saud al-Hashimi**, medical doctor, Mr. **Al-Sharif Saif al-Ghalib**, Dr. **Musa al-Qirni**, university professor, Dr. **Abdel Rahman al-Shumayri**, university professor, Mr. **Abdelaziz al-Khariji**, and at least three other persons, whose identities are yet to be confirmed. All these individuals have been active as human rights defenders. In particular, they engaged in the past in signing petitions addressed to His Majesty King Abdullah Bin Abdulaziz Al-Saud calling upon him to initiate political and democratic reforms and to respect human rights.

1742. According to the information received, the aforementioned were arrested in the cities of Jeddah and Madinah on 3 February 2007 where they had met to discuss the organisation of peaceful activities in favour of political and democratic reforms in Saudi Arabia. The 10 men are currently being held incommunicado at the offices of the General Intelligence Service (al-Mabahith al-‘Amma) in Jeddah. Requests for access by their families and to appoint lawyers had been denied by the General Intelligence Service. On 5 February 2007 Mr. Al-Basrawi’s son asked for a visit and attempted to hand over medicine for his ill and disabled father. He was ordered to return home and warned never to ask again to meet with Mr. Al-Basrawi. The Ministry of the Interior issued a statement alleging that the detainees were arrested on suspicion of fund-raising to support terrorism. Mr. Al-Rushudi and Mr. Al-Ghalib had been detained before and released after several weeks following the signing of a petition in March 2004 calling for political change in Saudi Arabia.

1743. Concern was expressed that the detention of Mr. Al-Rushudi, Mr. Al-Basrawi, Dr. Al-Hashimi, Mr. Al-Ghalib, Dr. Al-Qirni, Dr. Al-Shumayri, Mr. Al-Khariji, and the three other persons mentioned above may have been related to their legitimate and peaceful activities in defense of human rights. In view of their incommunicado detention concern was expressed that these individuals may be at risk of ill-treatment. Further concerns are expressed as regards Mr. Al-Basrawi’s status of health since he has reportedly been denied to receive medication from his son. Concern was also expressed that the charge of “terrorism” was used in order to prevent them from pursuing human rights and political activities.

### **Urgent appeal**

1744. On 2 May 2007, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr. **Walid Ali Lamri**, aged 24 years, Saudi citizen, student, and member of the non-Governmental organization Alkarama for Human Rights (AHR). Mr Lamri took part in the first training for human rights defenders organized by AHR in Doha (Qatar) from 27 to 30 March 2007.

1745. According to the information received, on 27 April 2007, Mr Lamri had been arrested at his parents' residence in Taif by agents of the intelligence services, and was being detained incommunicado in the Al Mabahit al Aama intelligence facilities in Taif. The arrest took place after Mr Lamri had met with several relatives of victims of arbitrary detention who shared information regarding alleged acts of torture, poor conditions of detention, and cases of arbitrary detention. Mr Lamri intended to share the information he collected with different United Nations human rights mechanisms. Serious concern was expressed that the arrest and detention of Mr Lamri may have been in reprisal for his legitimate and peaceful activities in defence of human rights in Saudi Arabia. With a view to his incommunicado detention, concern for his physical and mental integrity was expressed.

### **Urgent Appeal**

1746. On 23 August 2007, the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges, sent an urgent appeal to the Government concerning Mr. **Saad Ben Zair**, aged 28, resident in Riyadh, defense lawyer, human rights defender, active in the Reform Movement and his father, Dr. **Said Ben Zair**. According to the allegations received, Mr. Saad Ben Zair's car was stopped on 10 April 2007 when he was driving along King Abdullah Avenue in Riyadh with his wife and his one year old daughter. The three of them were taken to the Secret Services premises and detained separately. Some days later Mr. Saad Ben Zair's wife and daughter were released, but he was still being held in secret detention. When his father, Dr. Said Ben Zair, another prominent human rights defender, publicly protested against his son's detention, he was arrested himself on 6 June 2007 and also remained in secret detention.

1747. Before his arrest in April, Mr. Saad Ben Zair had worked as lawyer defending proponents of constitutional reform and other critics of the Government. In connection with his work as a lawyer, he had regularly advocated the use of Royal decree n. M 39, which guarantees basic rights to detainees, including that a specific term of detention should be determined by a competent authority, and prohibits torture. He had already spent three years in secret detention without any judgment starting from 17 July 2002 presumably for having protested against the imprisonment of his father, who had been imprisoned for 8 years without any legal process. He had been secretly detained again for several months starting from 19 June 2006.

1748. With a view to Mr. Saad Ben Zair and Dr. Said Ben Zair's secret detention, concern was expressed for their physical and mental integrity. Further concern was expressed that their detention was related solely to their work in protecting and promoting human rights.

1749. In a letter dated 22 January 2008, the Government of Saudi Arabia responded to the above communication. The letter stated that Mr Saad Ben Zair had been detained under provisions of article 35 for involvement in conspiring to blow up the Abqaiq refinery. The investigating authority deemed it advisable to extend his detention in accordance with article 114 of the same Code and with Royal Order No. 7560/MD of 5/6/1426 AH providing for extension of the period of detention by up to one year in crimes involving terrorism and State security, in the interests of the investigation and in the light of the above-mentioned person's association with other



parties in this case. The letter further stated that Mr Ben Zair was being well treated in conformity with the safeguards provided for in article 2 of the Code of Criminal Procedure, which prohibits subjection to torture or degrading treatment and in accordance with his rights guaranteed by the Prison and Detention Regulations and the International Convention against Torture.

### **Observations**

1750. The Special Representative thanks the Kingdom of Saudi Arabia for its response to the communications of 22 December 2006 and 23 August 2007. She urges the Government to ensure there is a clear legal basis which respects international norms and standards in any case of arrest and detention of a human rights defender and that while in custody, detainees suffer no ill-treatment and have regular access to independent legal representation and contact with family.

## **Serbia**

### **Letter of allegations**

1751. On 29 November 2007 the Special Representative sent a letter of allegations to the Government concerning insults and hate speech addressed against Ms **Natasa Kandic**, Executive Director of the NGO Humanitarian Law Centre and against citizens of Croatian nationality. According to the information received, on 14 November 2007 Natasa Kandic was subjected to a day-long attack, with insults and hate-speech also addressed towards citizens of Croatian nationality by members of the Parliament belonging to the Serbian Radical Party, who were selling and giving away in the Parliament's hall a booklet entitled "Hrtkovci Affair and Utasa whore Natasa Kandic".

1752. Without expressing an opinion on the merits of this specific case, the Special Representative was concerned that this was a further episode illustrating the hostile environment surrounding human rights defenders in Serbia that she found during my visit to the country in September 2007. As stated in her press statement at the end of her visit, one of the major concerns she has on the situation of human rights defenders is the hostile attitude against some prominent defenders, mostly women, who are under constant attack by some sectors of the political establishment. These attacks appear to be linked to the work of defenders on transitional justice and minority rights. Such a climate of stigmatization and marginalization of defenders needs to be countered by supportive statements of State authorities firmly condemning attacks and campaigns against human rights defenders. The Special Representative is concerned that episodes such as the one outlined continue to take place.

### **Observations**

1753. The Special Representative regrets that, to date, no response has been received from the Serbian Government. She refers to her report on the mission undertaken in Serbia in September 2007 (A/HRC/7/028/Add.3)

## **Somalia**

### **Urgent appeal**

1754. On 5 September 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning 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.

1755. 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.

### **Observations**

1756. The Special Representative regrets that, to date, no response has been received from the Somali Government, but hopes that further information regarding the above communication and the concerns raised in it regarding intimidation of journalists is provided in the near future.

## **South Africa**

### **Letter of allegations**

1757. On 9 October 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living sent a letter of allegations to the Government concerning a **demonstration of shack dwellers** in the eThekweni Municipality.

1758. 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

1759. The Special Representative regrets that, to date, no response has been received from the South African Government but hopes that further information regarding the demonstration of shack-dwellers referred to above and the resulting violence is provided in the near future.

## Sri Lanka

### Letter of allegations

1760. On 8 December 2006 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning the arrest and charges brought against Fr **Jesuratnam Jude Bernard Omi**, Director of the Centre for Peace and Reconciliation (CPR) in Jaffna, Sri Lanka.

1761. According to the information received, on 24 November 2006, Fr Omi was arrested after he intervened in a matter concerning a young man, Mr Mariyanayaham Godfry Morris Gnanageethan who had been detained for allegedly distributing leaflets issued by the Justice Peace Commission (JPC) concerning the humanitarian situation in Jaffna. It is reported that the Mr Mariyanayaham had been queuing for food at the 6 CLI army camp when his cousin Ms Alanday Dinoshah had spoken with him and given him one of the aforementioned leaflets to read. Members of the Sri Lankan Army (SLA) reportedly confiscated the leaflet and asked Mr Mariyanayaham questions relating to its origin. When he referred to his cousin, members of the army allegedly went to her house in order to arrest her but she had gone to seek the assistance of Fr Omi who immediately contacted and informed the JPC of the situation.

1762. A member of the JPC, Fr Francis Xavier Jeyasegaram accompanied Fr Omi, Ms Alanday and her mother to the army camp where Mr Mariyanayaham was detained. They were allegedly photographed by members of the SLA and threatened by Colonel Manjula who said, "If you all can organise a campaign against the forces we will also do things against you all. You all will face the consequences soon". After they had left the army camp with Mr Mariyanayaham, the Colonel allegedly circled them on a motorcycle. Later that day, it was reported that Fr Omi went to the High Court where Brigade Commander Godipilli stated that Fr Omi and Fr Jeyasegaram had distributed the leaflets to people in the queue. Two soldiers were apparently called as witnesses but they never appeared before the court. It was further reported that Fr Omi then went to the District Court to record a statement but while there, members of the SLA surrounded the office of the CPR and arrested Fr Jeyasegaram and took him to the CPR.

1763. According to reports, Fr Omi went to the Human Rights Commission and recorded a statement before he reported to the 6 CLI Camp escorted by members of the Non-Violent Peaceforce (NP). The sources indicated that the SLA transferred the two priests along with Mr Mariyanayaham, Ms Alanday and their parents to the police station in an army vehicle, where they were handed over to the police. Reportedly

they all made individual statements and Ms Alanday was subjected to a full body search. The two priests were then allegedly taken to the acting magistrate at approximately 10:55pm in relation to a curfew pass and were released at 11:45pm and taken to the Bishop's house. Mr Mariyanayaham and Ms Alanday were reportedly released on court bail the next day.

1764. On 29 November 2006, the four above mentioned individuals appeared before the Magistrate's Court of Jaffna where they were allegedly charged under criminal law although they were not informed of the charges brought against them. They were told that their file would be sent to the Attorney General's Department and the charges against them should be announced by 31 January 2007. They were all reportedly ordered not to leave the country and they were not to be permitted to leave Jaffna before the start of the trial. Concern was expressed that the arrest of Fr Jesuratnam Jude Bernard Omi may have been related to his defence of the right of Mr Mariyanayaham Godfry Morris Gnanageethan and Ms Alanday Dinoshia to exercise their freedom of expression. Further concern was expressed that the charges against him were fabricated and that he would not receive a fair nor impartial trial.

### **Urgent appeal**

1765. On 5 January 2007 the Special Representative sent an urgent appeal to the Government concerning **four staff members of the National Peace Council (NPC)**. NPC is a leading non-Governmental organization promoting a peaceful solution to the ongoing conflict in Sri Lanka. NPC has consistently condemned violent acts by both Government armed forces and Liberation Tigers of Tamil Eelam, and encouraged both sides to reach a peaceful solution. NPC works closely with local and international civil society groups, media, religious leaders, and Sri Lankan politicians of various parties.

1766. According to the information received, on 15 December 2006, four NPC staff members reportedly went to Hingurakgoda in the Polonnaruwa district to conduct a training workshop on political resolution to the conflict. When they reached the location, they were physically assaulted by some elements in a large crowd who accused them of being anti-war, supporting the LTTE and asking for the separation of the country.

1767. It is reported that local politicians and supporters from a nationalist alliance were present on the scene. NPC reportedly filed a complaint regarding this incident at the Police Headquarters.

1768. Concern was expressed that the attack against the physical integrity of four NPC staff may be in retaliation for their activities in defence of human rights, i.e. their work promoting a peaceful solution to the ongoing conflict in the country. This concern is heightened by reports that civil society groups undertaking such promotion have been constantly subjected to verbal attacks as "terrorist sympathizers" and "allies of foreign Governments" by hard-line political parties such as the JVP (Janatha Vimukthi Peramuna) and JHU (Jathika Hela Urumaya) as well as some sections of the media.

### **Urgent appeal**

1769. On 5 April 2007 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Mr **Dushyantha Basnayake**, human rights defender and financial director of Standard Newspapers Private Limited (SNPL), which publishes the Sinhalese-language weekly Mawbima, in Colombo and Ms **Parameswaree Munusamy**, journalist with Mawbima.

1770. According to information received, on 26 February 2007, Mr Basnayake was arrested at his office in Colombo by officials from the Terrorist Investigation Division (TID). He was reportedly being detained incommunicado at the Terrorist Investigation Unit in Colombo where he had been denied access to a lawyer. Mr Basnayake was questioned by officials from the Criminal Investigations Division (CID) several months prior to his arrest. He was later released without charge and the authorities allegedly apologised for any inconvenience caused. On 13 March 2007 Mr Basnayake's bank accounts were frozen.

1771. Previously, on 24 November 2006, Ms Munusamy was detained under the Prevention of Terrorism Act (PTA) at the Terrorist Investigation Unit in Colombo. She was reportedly held without charge by the police Terrorist Investigation Division (TID). On 21 March 2007, an order was issued by the Supreme Court to release Ms Munusamy on the basis that her arrest was illegal and that there was insufficient evidence in order to convict her. She was released on 22 March 2007.

1772. Ms Munusamy is the only Tamil-speaking journalist working for Mawbima and her arrest was related to the publication of articles by Mawbima in Tamil, which highlighted human rights abuses in Sri Lanka. On 24 February 2006, President Rajapaksa reportedly criticised the management and journalists of Mawbima newspaper for their coverage of human rights violations in Sri Lanka during a press conference. Newspaper staff had been receiving death threats since February.

1773. Concern was expressed that the arrest and detention of Mr Dushyantha Basnayake along with the arrest, detention and subsequent release of Ms Parameswaree Munusamy formed part of an ongoing campaign to silence human rights defenders in Sri Lanka, and in particular those who aim to highlight human rights violations in the country.

### **Letter of allegations**

1774. On 17 August 2007 the Special Representative sent a letter of allegations to the Government concerning restrictions imposed on non-Governmental organizations (NGOs) to raise human rights issues with Mr **John Holmes**, UN Under-Secretary-General on Humanitarian Affairs, during his recent visit to Jaffna. According to information received, on 7 August 2007, civil society organizations were reportedly instructed by the Sri Lankan military not to refer to human rights issues and to restrict themselves to issues of humanitarian assistance during their meeting with Mr Holmes in Jaffna.

1775. Furthermore, the reportedly heavy presence of the military at the Public Library of Jaffna, where the meeting with civil society representatives was held,

contributed towards dissuading the NGOs from speaking out on human rights issues, due to fear of possible reprisals. Furthermore, there were reports that some NGOs working in the field of human rights and humanitarian assistance in Jaffna were not invited to the meeting.

1776. Concern was expressed that such steps taken by the Government to restrict civil society representatives in sharing human rights information with Mr Holmes was an attempt at silencing human rights defenders in Sri Lanka. Further concern was expressed that such action on the part of the Government of Sri Lanka contributes to the insecure environment within which civil society organisations currently function in Sri Lanka.

### **Letter of allegations**

1777. On 10 October 2007 the Special Representative sent a letter of allegations to the Government concerning the death of Fr **Nicholaspillai Packia Ranjith**, a Mannar District Coordinator of the Jesuit Refugee Service (JRS), a humanitarian non-Governmental organization which provides relief to internally displaced persons in the Philippines, and Mr **Christopher Eugene**, a fellow staff member.

1778. According to the information received, on 27 September 2007, Fr Ranjith was driving a JRS vehicle marked with a white flag and heading towards a JRS run orphanage for displaced children in Vidathaltheevu, Mannar, when he was killed by a remotely launched mine attack. Fr Ranjith was accompanied by Mr Eugene who was severely injured and remains in critical condition at a local hospital. Serious concern was expressed that the attack which killed Fr Ranjith and critically injured Mr Eugene may have been directly linked to their humanitarian activities for the displaced population in Sri Lanka.

### **Response from the Government**

1779. In a letter dated 6 December 2007, the Government of Sri Lanka responded to the above communication. The letter stated that the attack on Fr Ranjith and Mr Eugene had never been reported to any police station in Government controlled areas. The letter further stated that Fr Ranjith had died on 26 September in an area controlled by the Liberation Tigers of Tamil Eelam (LTTE). The letter proceeded to identify the other subject of the communication as Christopher Sujith Dominic and stated that, on 27 September 2007, he had been transferred from Kilinochchi Hospital at LTTE headquarters to Vavuniya Hospital, from where he had been discharged once recovered.

### **Response from the Government to communication sent before 2 December 2006**

1780. In a letter dated 6 December 2007, the Government of Sri Lanka responded to an urgent appeal sent by the Special Representative on 7 July 2006 concerning Mr **Krishnapillai Kamalanathan**. The government response stated that Mr Kamalanathan had been abducted on 2 July 2006 by unknown individuals and released after two days. The letter also stated that the aforementioned was now residing in Vakarai, an area controlled by the LTTE and continued to work as the

Director of the Tamil Rehabilitation Organization. Hence, no action would be contemplated in this regard.

### **Observations**

1781. The Special Representative thanks the Government of Sri Lanka for its response to the communication of 10 October 2007, but regrets that, to date, no response to the other four communications sent has been received.

1782. Of particular concern to the Special Representative are allegations of intimidation of and threats made against human rights defenders by members of the armed forces raised in the communication of 8 December 2006, and she urges the Government to thoroughly investigate these claims and provide her with the results of those inquiries.

1783. Of further concern are the restrictions imposed on representatives of civil society during the visit of the UN Under-Secretary-General on Humanitarian Affairs, outlined in a communication of 17 August 2007. The Special Representative calls on the Government to ensure that members of non-Governmental organizations and civil society movements are free to interact with members of international organizations present in Sri Lanka.

## **Sudan**

### **Urgent appeal**

1784. On 19 April 2007 the Special Representative, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning five members of the Manasir Association Executive Committee (MAEC), namely Mr. **Osman Al Magdum**, Mr. **Abdel Rahman Zaidan**, Mr. **Abdel Aatti Abdel Khair**, Mr. **Hassan Sidiq Atolabi**, Mr. **Haitham Aldusogi**, and Mr. **Ahmed Abdel Fatah Gabriel**, who is not known to be a member of the MAEC.

1785. According to the information received, on 29 March 2007, the six men named above, most of whom are members of the Manasir Association Executive Committee, were arrested at their homes in Khartoum by plain clothed national security officers. Since then, they had been held incommunicado in Kober prison in Khartoum. No charges were known to have been filed against them. Considering that their alleged incommunicado detention had already lasted three weeks, the mandate-holders were concerned that the six men might be at risk of torture or other ill-treatment.

1786. The mandate-holders were further concerned that their detention might be linked to the activity of the MAEC, which was formed by members of the Manasir ethnic community to campaign on behalf of community members allegedly threatened with displacement as a consequence of the construction of the Merowe High Dam in northern Sudan.

### **Urgent appeal**

1787. On 22 June 2007 the Special Representative, together with the Special Rapporteur on the question of torture, 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 Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning the detention of eight persons in connection with protests against the construction of the Kijbar dam.

1788. 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.

1789. 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.

1790. 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**

1791. In a letter dated 17 September 2007, the Government of Sudan responded to the above communication. The letter 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**

1792. On 25 July 2007 the Special Representative, together with the Special Rapporteur on the question of torture, 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 Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent an urgent appeal to the Government concerning Mr. **Osman Ibrahim**, spokesperson for an organisation called “Committee against the Kajbar Dam”.

1793. 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**

1794. In a letter dated 29 August 2007, the Government of Sudan responded to the above communication. The letter 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.

### **Urgent appeal**

1795. On 24 September 2007 the Special Representative, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent an urgent appeal to the Government concerning the detention of Mr **Hisham Abbas**, and the detention and subsequent release of Mr **Nazmi Mohamed Hamed**, Mr **Nayif Mohamed Hamed**, Mr **Al Khatib Mohamed Selim**, Mr **Maisara Izzeldin Mohamed Munowar**, Mr **Faroug Nuri**, Mr **Daoud Suliman**, Mr **Isam Mohamed Fagir**, Mr **Osman Ibrahim**, Mr **Ezzeldeen Idris**, Mr **Abdel Hakim Nador**, Mr **Mamoun Abdel Aziz**, Mr **Abdel Razig**, and Mr **Samil Mohamed Samil**. All of the named individuals are members of the Committee Against the Building of the Kajbar Dam (CABKD). Mr Osman Ibrahim is the spokesperson for the Committee and was the subject of an allegation letter sent by several mandate-holders on 25 July 2007. A communication was also sent on 21 August 2007 by the Special Rapporteur

on adequate housing on the alleged impact of the Kajbar Dam on the human rights of the population.

1796. According to information received, between 27 and 29 August 2007, Mr Hisham Abbas was reportedly arrested in Wadi Halfa City on his way to Egypt and is currently detained in Wadi Halfa. The other individuals in questions were arrested in Kerma. According to reports, they were detained in Dongola, under the supervision of the National Intelligence and Security Forces and were released on 13 September 2007. Concern was reiterated that the arrests and detention of the aforementioned may be related to their work in the defence of human rights, in particular the human rights of the communities which are at risk of being affected by the Kajbar Dam.

### **Letter of allegations**

1797. On 29 November 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning 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.

1798. 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.

1799. 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.

## **Observations**

1800. The Special Representative thanks the Government of Sudan for its response to communications sent on 22 June and 25 July 2007 and hopes that responses to the other three communications sent are forthcoming.

1801. The Special Representative is particularly concerned by the issues raised in the letter of allegations sent on 29 November 2007, and calls on the Government to limit its involvement in non-Governmental organizations and civil society movements.

## **Syrian Arab Republic**

### **Letter of allegations**

1802. On 22 January 2007 the Special Representative sent a letter of allegations to the Government concerning **Mr Akram al-Bunni**, a Syrian human rights defender and the brother of Mr. Anwar al-Bunni, a founding member of the Syrian Human Rights Association and member of the Committee for the Defence of Prisoners of Conscience, who has been in detention since May 2006.

1803. According to the information received, on 11 January 2007, Mr Akram al-Bunni was reportedly prevented by the security forces from flying to Brussels where he was supposed to take part in a meeting with several European Union representatives. The purpose of this meeting was to discuss the current human rights situation as well as the situation of human rights defenders in Syria. It was alleged that no official reason was given to Mr Akram al-Bunni regarding this ban. Concern was expressed that the restriction on Mr Akram al-Bunni's freedom of movement and freedom of expression may have been in retaliation for his legitimate activities in defence of human rights in Syria.

### **Response from the Government**

1804. In a letter dated 14 August 2007, the Government of the Syrian Arab Republic responded to the above communication. The letter stated that Mr. Akram Al-Bunni had committed acts and written articles of a kind likely to weaken national sentiment and undermine the good name of the State and had also agitated for change of the ruling system by unconstitutional means. The letter further stated that since all these acts and the negative consequences to which they give rise are criminal offences punishable under the General Criminal Code 148 of 1949, Mr. Akram Al-Bunni had been banned from travelling as a preliminary to the initiation of legal proceedings against him.

### **Letter of allegations**

1805. On 16 May 2007 the Special Representative, together with 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 Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning the conviction 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.

1806. 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.

1807. 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**

1808. On 25 May 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning 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.

1809. 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.

1810. 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.

1811. 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**

1812. In a letter dated 14 August 2007, the Government of the Syrian Arab Republic responded to the above communication. The letter 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.

1813. 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.

1814. 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.

### **Urgent appeal**

1815. On 21 August 2007 the Special Representative, together with the Special Rapporteur on the question of torture and the the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning **Ma'rouf Mulla Ahmed**, aged 53, resident in Qamishli, leading member of the Syrian Kurdish Democratic Unity Party (or Yeketi Party) which calls for an improvement of basic rights for the Kurdish population in Syria.

1816. According to the information received, on 12 August 2007, Ma'rouf Mulla Ahmed was arrested while traveling by bus to Lebanon. He was asked to leave the bus

at a Syrian checkpoint controlled by State Security (Amn al-Dawla) at the Syrian – Lebanese borders. He was being detained incommunicado at Branch 285 of State Security in Damascus. With a view to his incommunicado detention, concern was expressed for his physical and mental integrity. Further concern was expressed that Ma'rouf Mulla Ahmed's detention might be linked solely to his non-violent activities in defence of Kurdish rights.

### **Response from the Government**

1817. In a letter dated 29 November 2007, the Government of the Syrian Arab Republic responded to the above communication. The letter stated that Mr Mulla Ahmed was arrested by the police for belonging to a terrorist organization which seeks to create discord among Syrian citizens. The letter further stated that he had taken part in, and incited others to participate in, riots in breach of public order. He was charged with these offences by the public prosecution service and was duly brought before the competent court, with his legal counsel in attendance.

1818. The letter stated that this case would be heard by the court, which would ultimately decide whether to convict or acquit Mr Ahmed. Thus, the Government did not view his detention as arbitrary and considered that his full rights to legal representation as provided for under Syrian law had been protected and that he had not been subjected to any form of torture.

### **Letter of allegations**

1819. On 9 November 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Muhanad al-Hasani**, Director of the Syrian Human Rights Organization (Sawasiya), Mr **Hassan Mishou**, member of the Syrian Human Rights Organization, Mr **Radif Mustafa**, Director of the Kurdish Commission on Human Rights, Mr **Mustafa Aousou**, Director of the Kurdish Organization to Defend Human Rights and Public Freedoms in Syria, Mr **Khalil Maatouk**, lawyer and Director of the Syrian Center for Legal Studies and Research, and Mr **Jihad Msoti**, member of the Al-Atassi Forum, a forum created by Syrian human rights activists.

1820. According to the information received, on 31 October and 1 November 2007, the Syrian intelligence prevented Mr Muhanad al-Hasani, Mr Hassan Mishou, Mr Radif Mustafa, Mr Mustafa Aousou, Mr Khalil Maatouk, and Mr Jihad Msoti from traveling from Syria to Egypt to participate in a workshop on "Human Rights in Syria: the Situation in Iraq and the War on Terror". The workshop, to be jointly organized by the International Federation of Human Rights and the Cairo Center for Human Rights Studies, was to take place from 2 to 3 November 2007 in Cairo. Mr al-Hasani was repeatedly banned from leaving the country since the intelligence facility confiscated his passport in July 2007 when he tried to travel to Morocco.

1821. The aforementioned individuals were prevented from departing on order of the security intelligence (Al-Amn Al-Siyasi) with no judicial authorization, an act which is in contravention of article 33 of the Syria Constitution on freedom of movement. Concern was expressed that Mr Muhanad al-Hasani, Mr Hassan Mishou, Mr Radif Mustafa, Mr Mustafa Aousou, Mr Khalil Maatouk, and Mr Jihad Msoti were prevented from traveling because of their peaceful human rights activities.

## **Response from the Government**

1822. 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.

1823. 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.

## **Response from the Government to communications sent before 2 December 2006.**

1824. In a letter dated 10 July 2006, the Syrian Government responded to an urgent appeal sent by the Special Representative on 6 April 2006, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture regarding the arrest and detention of Mr **Ali al-Abdullah**, a journalist writing for several Arab newspapers, including *Al Nahar*, *Al Hayat* and *Al Quds En Arabi*, and a member of the Atassi Forum, and his son Mohammad.

1825. The Permanent Mission of the Syrian Arab Republic in Geneva provided information concerning Mr. Ali al-Abdullah and his son Mohammed al-Abdullah. The letter stated that the two men were arrested for causing trouble and creating havoc in front of the Higher State Security Court and for using foul language to the Court and presiding judge. They were sent before the Chief Public Prosecutor of Damascus, a member of the "ordinary" judiciary, on 11 June 2006, to be prosecuted in conformity with applicable Syrian law. Neither of them was subjected to any unlawful procedure. A detention order was issued and they were detained in the Civil Prison, under instructions from an established judicial authority, namely, the Chief Public Prosecutor of Damascus. The letter further stated that Syrian law protects these two men and ensures that they were treated properly and were not subjected to any ill-treatment.

## **Observations**

1826. The Special Representative thanks the Government of the Syrian Arab Republic for its responses to three of the five communications sent and hopes that further information will be provided with regard to the two cases awaiting response.

1827. The Special Representative reiterates her concern that human rights defenders in Syria are subject to arrest and detention, in connection with their work that their treatment while in detention may not respect international norms and standards. She calls on the Syrian Government to ensure that all detainees are guaranteed access to independent legal representation and medical care and regular contact to family.

### **Tanzania (United Republic of)**

#### **Letter of allegations**

1828. On 28 August 2007, the Special Representative, together with the Special Rapporteur on the right to food and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an letter of allegations to the Government concerning alleged threats to the **Hadzabe indigenous community** as a result of the granting of a hunting licence to a private company on the Hadzabes' traditional lands. In addition, they brought to the attention of the Government allegations concerning the detention of **Richard Baalow**, a Hadzabe spokesperson and member of the Hunter-Gatherer Forum of East Africa, in relation to his activities in defence of the rights of the Hadzabe community, numbering between 1,200 and 3,000 people.

1829. According to the information, on 21 May 2007, a little after 2 p.m., Tanzanian police reportedly arrested Richard Baalow in Yadai Chini, Mbulu District. The arrest of Baalow was allegedly related to his participation at a meeting that took place in Mongo wa Mono village on 25 April 2007, organized by the Commissioner of Human Rights and Good Governance, the District Game Officer and other District officials, regarding the hunting lease. During this meeting, Baalow reportedly raised critical questions regarding the Commissioner's attempt to convince community members to accept the lease. Even though he was subsequently released from prison, Baalow was reportedly suspended from his employment. According to the allegations, he faced charges under article 89 (1) (b) of the Penal Code for alleged breach of the peace during the meeting at Mongo wa Mono village. Concern was expressed that Baalow's arrest may have been related to his vocal role in the defence of the rights of the Hadzabe indigenous community and his opposition to the hunting project.

#### **Response from the Government**

1830. In a letter dated 13 December 2007, the Government of the United Republic of Tanzania responded to the above communication. The letter stated that Mr Baalow had not been arrested for his participation in the meeting but rather for disorderly behaviour in breach of public peace and tranquility. With regard to the granting of a hunting licence to a private company, the Government letter stated that the licence was issued by a competent authority in accordance with the laws and regularions governing wildlife utilization in the country.



## Observations

1831. The Special Representative thanks the Government of the United Republic of Tanzania for its response to the communication of 28 August 2007 and trusts that the Government will continue its efforts to respect the rights of indigenous peoples and those human rights defenders working on their behalf.

## Thailand

### Urgent appeal

1832. On 18 December 2006 the Special Representative sent an urgent appeal to the Government concerning the enforced disappearance of Mr **Thares Sodsri**, an environmental activist who had actively campaigned against the illegal encroachment of protected forest land in the Ban Kha District and raised concerns as to the impact such activity has on the human rights of the villagers of Ban Kha District. According to the information received, on 1 December 2006, Mr Thares Sodsri was reported missing to the police by his housemaid who had reportedly left him on the evening of 30 November 2006 and when she returned to the residence the following morning she found some of the lights were still on and he was missing.

1833. It was further reported that during a police search, officers found traces of blood, three used handgun cartridges, two bullets and tyre prints on the front lawn. On 2 December 2006, the police apparently found a bloodstained truck and garments and confiscated fire weapons at a number of locations in Ban Kha district. In addition, Mr Thares Sodsri's wife alleged that their pet dogs had been poisoned in the days leading up to his disappearance. Mr Thares Sodsri had reportedly submitted video evidence, to the Ministry of Natural Sources and the Environment, in which illegal forest destruction was carried out by a local political leader, in Ratchaburi, an area protected under a royally initiated project. Concern was expressed that Mr Thares Sodsri may be in grave danger or may even have been killed as a result of his work in defence of human rights, in particular his defence of the environmental rights of villagers in the Ban Kha District.

### Urgent appeal

1834. On 19 December 2006 the Special Representative sent an urgent appeal to the Government concerning threats and acts of intimidation against Dr **Ananchai Thaipratan**, an advisor with the Young Muslim Association of Thailand (YMAT) and member of the sub-committee on disappearances of the National Reconciliation Commission, Mr. **Ismael Salae**, student and Deputy Secretary of YMAT and Mr. **Abdul-aziz Gatae-in**, Vice President of YMAT who is actively involved in receiving complaints in relation to human rights violations and provides legal assistance to villagers and facilitates meetings between victims of violence and state agencies. All three men had been involved in monitoring and reporting on human rights violations in the three southern-most regions of Thailand and form part of a wider network of human rights defenders known as the Working Group on Justice for Peace.

1835. According to the information received, on 12 December 2006, the office of the YMAT in Yala in which all three activists work was attacked and the front door was

smashed. On 7 December 2006, Mr Ismael Salae had noticed a hooded man watching the YMAT office as he was returning from a visit to the family of a reported victim of a forced disappearance in the Thepha district. Apparently other staff members were also aware of the man's presence. In addition, a few days prior to this incident, Mr Salae was reportedly followed as he was driving home from work on his motorcycle. Sources indicate that when he made his way to the security checkpoint near Yala prison, his pursuer turned around and fled. Furthermore, it was reported that Mr Ananchai Thaipratan, Mr Ismael Salae and Mr Abdul-aziz Gatae-in have all been told by police, militants and other sources to leave the area and emigrate to Malaysia. Mr Abdul-aziz Gatae-in has also allegedly received a number of threatening letters and telephone calls in recent years calling for him to cease his work in defence of human rights.

1836. Concern was expressed that the acts of intimidation against Dr. Ananchai Thaipratan, Mr. Ismael Salae and Mr. Abdul-aziz Gatae-in may represent an attempt to prevent and deter them and other human rights defenders from carrying out their legitimate activities in defence of human rights, in particular their work in monitoring and reporting cases of disappearances, extra-judicial killings, torture, arbitrary arrests and human rights violations perpetrated by State agencies. Further concern was expressed for their safety and security as it is feared that they may be subject to violent attacks as a result of this work.

### **Urgent appeal**

1837. On 16 March 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal to the Government concerning 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.

1838. 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.

1839. 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**

1840. On 21 August 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning 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.

1841. 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.

1842. 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 Viphuthalaeng 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**

1843. In a letter dated 29 November 2007, the Government of Thailand responded to the above communication. The letter 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.

1844. The letter 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.

### **Observations**

1845. The Special Representative thanks the Thai Government for its response to the communication of 21 August and call on the Government to address the concerns raised in the other three communications sent in the time-period covered by this report. With regard to the response of 29 November 2007, the Special Representative calls on the Government to ensure that the right to freedom of assembly is observed and that excessive use of force on the part of law enforcement agencies does not occur.

1846. The Special Representative wishes to reiterate her concern regarding the enforced disappearance of Mr Thares Sordsri and Mr Somchai Neelaphaijit and urges the Government to conduct a thorough investigation into the circumstances of their disappearance and provide her with information in relation to the cases at its earliest convenience. The Special Representative trusts that the Government acknowledges the seriousness of enforced disappearance and that such cases will be dealt with. She views as serious cause for concern the intimidation of Mr Neelaphaijit's wife, Ms Angkhana Neelaphaijit, as a result of the latter's attempts to investigate her husband's disappearance and hopes that the Government will take steps to ensure that such threatening behaviour is not a common occurrence.

## **Tonga**

### **Urgent appeal**

1847. On 8 December 2006, the Special Representative, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning dozens of persons affected by the violent events surrounding a pro-democracy march, in Nuku'alofa.

1848. According to the information received, on 16 November 2006, what began as a peaceful pro-democracy march through central Nuku'alofa turned violent, when other persons engaged in extensive looting and arson, and property damage. The city was cordoned off by the Tonga Defence Service personnel and Police Officers from the Ministry of Police. Under the Emergency Powers (Maintenance of Public Order) Regulations 2006, they were granted wide ranging powers, including the ability to arrest and detain any person for a period not exceeding 48 hours. Security forces arrested scores of persons especially targeting pro-democracy leaders who had organised and participated in the march or had given speeches at Pangai si'i, even though they were not involved in the riots or the looting of shops. Prisoners reported that the majority of their injuries were sustained during arrest and in transit to the Nuku'alofa Police Station, primarily at the hands of the Tonga Defence Services. Injuries included facial cuts, swelling and bruising; ripped ears; broken and missing teeth; split lips and heavily bruised ribs. The principal weapons used by security forces were reported to be rifle butts. The Emergency Ward of Vaiola Hospital reported receiving a number of patients with serious injuries.

1849. At the Nuku'alofa Police Station prisoners were subject to verbal abuse from police officers while waiting to be processed inside the Station. Male prisoners were then strip searched, sometimes in front of female officers. The prisoners were not offered access to lawyers, and any such requests were ignored. Many families were unaware that their relatives had been detained until they were released several days later. Interrogations were held on the third floor of the Nuku'alofa Police Station and were reported to be frequently violent, including some detainees being beaten with furniture, slapped and punched in the face, forced to sign confessions, and subjected to threats of physical and sexual violence, with officers holding a large broom stick. Some prisoners were handcuffed continuously for up to four days. The worst conditions were reported to be in prison cells numbered 5 to 7, which contained the majority of persons who had been physically assaulted. Prisoners reported overcrowded conditions, particularly in the days immediately after the march. In cell 7, up to 64 prisoners were held in a cell with a capacity for 16. Prisoners were forced to sleep on the floor, or on the wooden or wire slats of the bunks, without bedding materials. Toilet visits were restricted, and eventually led to filthy conditions amidst the stench of urine and faeces. Prisoners were required to wash in a bathroom sink without soap. The average daily diet was reported to consist of half a loaf of bread each, a can of tinned fish between the prisoners in the cell and a glass of water.

1850. Up to 50 children, as young as 13 years, were reportedly detained at one point. This included approximately 30 children being held in prison cell number 7 together with 30 other adults. By 30 November, eight persons were reported to have been killed in the ensuing violence. Approximately 120 to 140 persons were taken into custody, and by 29 November, 109 suspects were still detained. Fifteen children were still in custody on 1 December. Around 355 suspects have been charged by the Ministry of Police with various offences, including arson and theft. Persons involved in the pro-democracy march or who gave speeches at Pangai si'i on the day of the riots were told that they should expect to be held until 20 December 2006.

## **Observations**

1851. The Special Representative regrets that, to date, no response has been received from the Government of Tonga but hopes that, given the serious nature of this case and the number of people involved, information regarding the above communication and the concerns raised in it is provided by the Government in the near future.

## Tunisia

### Lettre d'allégations

1852. Le 19 décembre 2006, la Représentante spéciale a envoyé une lettre d'allégations sur **l'interdiction de libre accès aux bureaux de la Ligue Tunisienne des Droits de l'Homme (LTDH) et du Conseil National pour les Libertés en Tunisie (CNLT) par leurs membres respectifs**. La LTDH et le CNLT sont deux organisations non-gouvernementales qui œuvrent pour la protection et promotion des droits de l'homme en Tunisie. Des appels urgents sur ce sujet ont déjà été envoyés par la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 7 mai 2004 et le 22 mars 2005 et conjointement avec le Rapporteur Spécial sur la liberté d'expression le 6, 7, 23 septembre 2005 et 20 avril et 26 juillet 2006. Selon les dernières informations reçues :

1853. Le 3 décembre 2006, le siège de la LTDH aurait été encerclé par un imposant cordon policier, bloquant tous les accès du local et empêchant de ce fait la tenue d'une réunion d'un comité de soutien à la LTDH composé d'anciens dirigeants de celle-ci. Cet épisode ne serait pas un cas isolé : depuis le 24 avril 2006, les forces de l'ordre empêcheraient toute personne d'entrer dans les locaux de la LTDH à Tunis - exception faite de ses membres directeurs - par le barrage des rues environnantes, et le placement d'officiers en faction devant les portes de la ligue.

1854. Les 31 octobre, 1er et 2 novembre 2006, l'entrée du local central du CNLT aurait été bloquée par plusieurs policiers en civil et une soixantaine de policiers auraient été déployés autour du quartier, empêchant l'accès au bâtiment du CNLT à de nombreuses victimes et familles de prisonniers. Il est allégué que ces dernières semaines, plusieurs victimes et familles de prisonniers auraient été empêchées par la police d'accéder aux bureaux du CNLT, et d'autres auraient été harcelées lorsqu'elles sortaient de ceux-ci. Ainsi, le 30 octobre 2006, Mme **Zeineb Chebli**, mère du prisonnier Khaled Arfaoui, aurait été conduite au commissariat de police de la République puis harcelée sur le chemin de son retour par des policiers. Le même jour, M. **Ahmed Ghazouani**, père du prisonnier Ghaith Ghazouani, aurait été interrogé dans la rue devant les locaux du CNLT. Le 2 octobre 2006, Mme **Sarra Lazghad**, épouse du prisonnier Khaled Layouni, et Mme **Manal Mekki**, sœur du prisonnier Ghaith Mekki, auraient été conduites au poste de police de la rue de Cologne à leur sortie des bureaux du CNLT et obligées de signer un engagement à ne plus se rendre dans ces bureaux. En outre, M. **Hassine Jelassi**, ancien prisonnier politique, aurait été interpellé le 2 octobre 2006 à sa sortie des bureaux du CNLT et « invité à ne plus y remettre les pieds ». De même, M. Houcine Ben Amor aurait été empêché d'accéder à ces mêmes bureaux le 1er novembre 2006 et M. Sami Nasr, chercheur permanent au CNLT, aurait été empêché à plusieurs reprises d'accéder à son propre bureau. Enfin, il est allégué que le CNLT n'aurait toujours pas réussi à tenir son assemblée générale depuis décembre 2004.

1855. Des craintes ont été exprimées que l'interdiction de libre accès aux bureaux de la LTDH et du CNLT et les actes allégués de harcèlement par les forces de l'ordre à l'encontre des membres de ces organisations seraient en représailles à leurs activités légitimes de défense des droits de l'homme en Tunisie, et s'inscriveraient dans un contexte d'intimidation et de répression systématique à leur encontre.

### Réponse du Gouvernement

1856. Le 1<sup>er</sup> février 2008, le Gouvernement a répondu à la lettre d'allégation envoyée le 19 décembre 2006. Le Gouvernement informe que s'agissant de l'empêchement allégué le 3 décembre 2006 d'une réunion du Comité de soutien à la LTDH, il y a lieu de préciser que la ligue comptait organiser à cette date un séminaire sur « les orientations futures de la Ligue et les droits de l'homme ». C'est à la demande d'un huissier de justice mandaté par les plaignants que le Procureur de la République territorialement compétent a autorisé l'assistance de la force publique pour l'exécution du jugement en référé décidant, le 18 avril 2006, la suspension du congrès de la Ligue et l'arrêt de tous les actes préliminaires ou préparatoires du congrès projeté, en attendant de trancher le litige quant au fond. C'est ainsi que l'intervention autorisée de la police, pour en assurer l'exécution, s'est déroulée selon les procédures usuelles et dans le cadre de la loi.

1857. Pour ce qui est des empêchements allégués d'accès au local du CNLT et harcèlement de certaines familles de prisonniers lorsqu'elles sortaient des bureaux du CNLT, il importe de souligner, en premier lieu, que le CNLT est une formation n'ayant pas d'existence légale en Tunisie, dans la mesure où un arrêté du Ministre de l'Intérieur avait fait opposition à sa construction, en raison du non-respect par ses fondateurs des conditions légales requises pour sa création. Un recours en annulation dudit arrêté a été introduit devant le Tribunal administratif et l'affaire suit son cours. A la date indiquée dans la communication de la Représentante spéciale (31 octobre 2006), certaines personnes se sont attroupées devant le siège de la formation en question pour tenir une réunion non autorisée. Les agents de l'ordre ont alors intervenu pour disperser cet attroupement d'une manière pacifique et dans le cadre de la légalité. A cet égard, il y a lieu de rappeler que la liberté de réunion, garantie par la Constitution s'exerce dans les conditions définies par la loi du 24 janvier 1969 relative à la réglementation des réunions publiques, cortèges, défilés, manifestations et attroupements.

### Lettre d'allégations

1858. Le 22 décembre 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats, envoyé une lettre d'allégations sur la situation de Me **Néjib Hosni**, avocat spécialisé dans les droits de l'Homme et membre fondateur du *Conseil national des libertés en Tunisie* (CNLT), Me **Abderraouf Ayadi**, ancien membre du *Conseil de l'Ordre* et ancien secrétaire général du CNLT, Me **Abdelwahab Maatar**, avocat à Tunis et membre du *Congrès pour la République* (CPR, parti politique non autorisé), M. **Tahar Laabidi**, journaliste, M. **Ali Ben Salem**, président de la section de Bizerte de la LTDH et vice-président de l'*Association de lutte contre la torture en Tunisie* (ALTT), M. **Moncef Marzouki**, ancien président de la LTDH, ancien porte-parole du

CNLT et dirigeant du CPR, Mme **Samia Abbou**, épouse de l'avocat et défenseur des droits de l'homme Mohammed Abbou, ainsi que l'opposant politique **Moncef Marzouki**, le journaliste **Slim Boukhdir** et l'avocat **Samir Ben Amar**.

1859. Concernant les personnes susmentionnées, de précédentes communications ont été envoyées à votre attention: - un appel urgent envoyé par le Rapporteur Spécial sur la liberté d'expression le 02/03/2006 (M. Hosni) ; - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression et la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme le 26/07/2006 (Ms Rejiba) ; - un appel urgent envoyé par la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme le 31/12/2003 (Ms Rejiba) ; - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression, la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme et le Rapporteur Spécial sur la Torture le 31/05/2006 (Ms Belhassen); - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 20/04/2006 (Ms Belhassen); - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression et la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme le 11/07/2006 (M. Ben Salem) ; - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression et la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme le 19/06/2006 (M. Ben Salem) ; - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression, la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme et le Rapporteur Spécial sur la Torture le 11/06/2004 (M. Ben Salem) ; - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression, la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats le 3/04/2006 (M. Abbou) ; - un appel urgent envoyé par la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire le 6/04/2006 (M. Abbou) ; - un appel urgent envoyé par la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, le Rapporteur Spécial sur la liberté d'expression, la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats le 9/03/2005 (M. Abbou) ; - un appel urgent envoyé par le Rapporteur Spécial sur la liberté d'expression le 17/3/2005 (M. Abbou) ; - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression, la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats le 12/5/2005 (M. Abbou) ; - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression, la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats le 16/6/2005 (M. Abbou) ; - un appel urgent conjoint envoyé par le Rapporteur Spécial sur la liberté d'expression, la Représentante spéciale du Secrétaire Général concernant la situation des défenseurs des droits de l'homme et le Rapporteur Spécial sur la Torture le 11/11/2005 (M. Abbou). Selon les nouvelles informations reçues :



1860. Le 3 décembre 2006, plusieurs personnes, dont Me Néjib Hosni, Me Abderraouf Ayadi, Me Abdelwahab Maatar, M. Tahar Laabidi et M. Ali Ben Salem, aurait été insultées, menacées, et parfois même malmenées par les forces de l'ordre devant le domicile de M. Moncef Marzouki à qui elles souhaitaient rendre visite, à Tousse. Ce dernier serait inculpé d'« incitation à la désobéissance civile » pour avoir appelé le peuple tunisien, lors d'une interview diffusée par la chaîne Al-Jazira le 14 octobre 2006, à protester pacifiquement contre les restrictions imposées à leurs droits fondamentaux. M. Marzouki serait passible de trois ans de prison. Le groupe de personnes aurait également été soumis à de nombreux contrôles d'identité lors de leur trajet entre Tunis et Tousse. Certains de ces contrôles auraient duré plusieurs heures. Enfin, M. Marzouki aurait été empêché de rejoindre ses amis en partance pour Tunis. Le chef de la police lui aurait clairement signifié qu'il avait reçu des instructions en ce sens.

1861. Le 7 décembre 2006, Mme Abbou, M. Marzouki, M. Boukhdar et Me Ben Amar auraient été stoppés à trois reprises par des barrages routiers tenus par les forces de l'ordre alors qu'ils se rendaient à la prison du Kef (à 170 km de Tunis) où est actuellement emprisonné Mohammed Abbou. Au troisième barrage, une quarantaine de policiers les auraient bloqués, leur interdisant de reprendre la route que ce soit dans un sens ou dans un autre. Leurs papiers auraient été confisqués. Le groupe de personnes aurait ensuite été autorisé à continuer sa route, mais ce serait fait agresser tout d'abord à la sortie d'un restaurant où ils auraient été pris à partie par un groupe de jeunes qui les auraient insultés et bousculés ; puis devant la prison de Kef où une trentaine de personnes les auraient attendus et s'en seraient pris physiquement à Mme Abbou, M. Marzouki, M. Boukhdar et Me Ben Amar et auraient détérioré leur véhicule. Il est allégué que des policiers auraient assisté à la seconde scène et l'auraient même filmée, mais se seraient abstenus d'intervenir. Mme Abbou, M. Marzouki, M. Boukhdar et Me Ben Amar se seraient finalement résignés à rentrer à Tunis, sans avoir pu rendre visite à Mohammed Abbou, et très choqués par ces événements successifs.

1862. Des craintes ont été exprimées que les actes de harcèlement dont les personnes susmentionnées auraient été victimes seraient liés à leurs activités de défense des droits de l'homme en Tunisie et s'inscriraient dans un contexte d'intimidation et de répression systématique à leur encontre.

### **Réponse du Gouvernement**

1863. Le 7 septembre 2007, le Gouvernement a répondu à la lettre d'allégation envoyée le 22 décembre 2006. Le Gouvernement informe que s'agissant des prétendus actes de harcèlement et d'agression que MM. Hosni, Ayadi, Maatar, Laabidi et Ben Salem auraient subi alors qu'ils rendait visite à M. Marzouki le 3 décembre 2006 à Sousse, il y a lieu d'indiquer que ces allégations sont dénuées de tout fondement et que par ailleurs les intéressés n'ont introduit aucune plainte à ce sujet. Le Gouvernement précise que M. Marzouki bénéficie de tous ses droits et n'est soumis à aucune restriction. Il est libre de communiquer et de se déplacer librement à l'intérieur du pays comme à l'étranger. Il n'a introduit aucune plainte au sujet de quelconque acte de harcèlement. Pour ce qui est des prétendus actes de harcèlement et d'agression que MM. Marzouki, Boukhdar, Ben Amor, Labidi et Mme Abbou auraient subi alors qu'ils se rendaient à la prison du Kef où était emprisonné M. Mohammed

Abbou, le Gouvernement précise qu'aucune violence, ni agression physique quelconque n'ont été enregistrées à l'encontre de quiconque, et ce, en dépit des provocations et autres violences verbales de ces personnes qui n'ont même pas pris la peine, dans un acte flagrant de provocation et de manipulation de l'opinion, de requérir les autorisations administratives nécessaires pour visiter le détenu en question. Le 12 décembre 2007, les intéressés ont saisi le procureur de la République auprès du Tribunal de première instance du Kef d'une plainte qui a été enrôlée sous le No 06/29015 et confiée au procureur de la République auprès du Tribunal de première instance de Tunis pour audition des plaignants (qui résident à Tunis). L'instruction suit son cours.

### **Appel urgent**

1864. Le 27 décembre 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant l'arrestation de M. **Lotfi Hajji**, président du syndicat des journalistes tunisiens, vice-président de la section de Bizerte de la Ligue tunisienne des droits de l'Homme et membre actif du Collectif 18 octobre pour les droits et les libertés. Selon les informations reçues :

1865. M. Lotfi Hajji aurait été arrêté, par un groupe de policiers, l'après-midi du 18 décembre 2006 à son domicile dans la ville de Bizerte, et emmené vers une destination inconnue. M. Lotfi Hajji aurait participé à une réunion organisée par le Groupe Parlementaire Socialiste Européen à Strasbourg en septembre 2006, et aurait récemment publié un document de suivi de cette réunion.

1866. Précédemment M. Lotfi Hajji a été l'objet de cinq communications, signées par le Rapporteur spécial sur la liberté d'opinion et d'expression en date 19 mai 2005, 2 septembre 2005 et 21 octobre 2005 avec la Représentante spéciale du Secrétaire-Général sur la situation des défenseurs des droits de l'homme, en date 11 novembre 2005 avec la Représentante spéciale du Secrétaire-Général sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial chargé d'examiner les questions se rapportant à la torture, en date 31 janvier 2006 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. Le Gouvernement de votre Excellence a répondu à la première, troisième et quatrième communication, respectivement en date 20 février, 10 mars et 5 octobre 2006.

### **Réponse du Gouvernement**

1867. Le 7 septembre 2007, le Gouvernement a répondu à l'appel urgent envoyé le 27 décembre 2006. Le Gouvernement informe que nonobstant le fait qu'il n'est pas en possession d'une carte l'accréditant en tant que correspondant de la chaîne « Al Jazeera », M. Hajji n'a cessé de communiquer à la chaîne en question des informations erronées et calomnieuses sur la situation des droits de l'homme en Tunisie. Convoqué par la police judiciaire de « Bab B'har » pour être interrogé sur les faits qui lui sont reprochés, l'intéressé a refusé de signer la convocation. Il a été présenté le 18 décembre 2006 à la police judiciaire qui a procédé à son interrogatoire dans le cadre du respect des procédures en vigueur. De ce fait, les prétentions répétées

de l'intéressé à son sujet relèvent de ses manœuvres tendant à attirer l'attention sur son cas.

### **Lettre d'allégations**

1868. Le 4 mai 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé une lettre d'allégations sur le cas concernant Me **Abderraouf Ayadi**, avocat, ancien membre du Conseil de l'Ordre des avocats et ancien secrétaire général du Conseil National pour les Libertés en Tunisie, au sein du Palais de justice à Tunis. Des appels concernant M. Ayadi ont été envoyés le 25 janvier et 12 mai 2005 par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la liberté d'expression, le 21 octobre 2005 par le Rapporteur spécial sur la liberté d'expression et le Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le 11 novembre 2005 par liberté d'expression et le Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture. Selon les informations reçues:

1869. Le 14 avril 2007, Me Ayadi aurait été victime d'une agression physique par un agent de la police politique devant la salle d'audience du tribunal de première instance à Tunis. Me Ayadi s'apprêtait à plaider dans une affaire où comparaissaient des prévenus dans le cadre de la loi anti-terroriste. Me Ayadi aurait été frappé à coups de pieds tandis que d'autres agents auraient formé un barrage devant la porte pour l'empêcher de pénétrer dans la salle d'audience.

1870. Des préoccupations ont été exprimées que l'interdiction à l'encontre de Me Ayadi d'exercer sa fonction d'avocat ainsi que l'usage de la force à son encontre seraient liés à ses activités de défense des droits de l'homme et s'inscriveraient dans un contexte d'intimidation et de répression systématique à l'encontre des avocats engagés dans cette défense.

### **Lettre d'allégations**

1871. Le 27 juillet 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé une lettre d'allégations sur le cas de Me **Abderraouf Ayadi**, avocat, ancien membre du Conseil de l'Ordre des avocats et ancien secrétaire général du Conseil National pour les Libertés en Tunisie. Selon les informations reçues:

1872. Une information judiciaire pour agression sur la personne du chef de poste de Bab Bnet, dont dépend le Palais de justice, aurait été ouverte contre Me Ayadi. Ceci se serait produit peu après une audition, le 12 juillet 2007, de Me Abdelfattah Mourou, collègue de Me Ayadi, qui était entendu par le procureur de la République comme témoin d'une agression dont avait été victime Me Ayadi au mois d'avril. En effet, le 14 avril 2007, Me Ayadi avait été violemment agressé par un officier de la police politique devant la salle d'audience du tribunal de première instance à Tunis, alors qu'il s'apprêtait à plaider dans une affaire où comparaissaient des prévenus dans le cadre de la loi anti-terroriste.

1873. En même temps, Me Ayadi continuerait de faire l'objet d'actes de harcèlement de la part d'agents du ministère de l'Intérieur. Ainsi, le 7 juillet 2007, Me Ayadi aurait aperçu un homme en train de déposer une enveloppe sur sa boîte aux lettres et puis s'enfuir. Ayant reçu une enveloppe similaire une semaine auparavant, contenant un photomontage mettant en scène son épouse, il se serait rendu dans un poste de police, où il aurait demandé à un agent de procéder à l'ouverture de l'enveloppe, qui contenait un DVD. Alors que Me Ayadi aurait demandé à ce que cet acte soit consigné dans un procès-verbal afin d'engager une plainte, l'agent aurait refusé de le faire, en indiquant qu'il s'agissait d'un ordre de sa hiérarchie. Son chef aurait indiqué avoir reçu des consignes à cet effet. Me Ayadi aurait protesté contre l'illégalité de ce refus, et serait parti en laissant l'enveloppe avec son contenu sur le bureau de l'agent. Un peu plus tard dans la journée, la secrétaire de Me Ayadi aurait retrouvé la même enveloppe dans la boîte aux lettres.

1874. Des préoccupations ont été exprimées que l'information judiciaire ouverte contre Me Ayadi ainsi que les actes de harcèlement par les agents du ministère de l'Intérieur dont il serait l'objet ne seraient liés à ses activités de défense des droits de l'homme et s'inscriveraient dans un contexte d'intimidation et de répression systématique à l'encontre des avocats engagés dans cette défense.

### **Réponse du Gouvernement**

1875. Le 1er février 2008, le Gouvernement a répondu à la lettre d'allégations envoyée le 27 juillet 2007. Le Gouvernement informe qu'après vérifications, il s'est avéré que Me Ayadi n'a présenté aucune plainte au sujet de l'agression dont il aurait été victime le 14 avril 2007 par un officier de police. Toutefois, l'officier de police chargé de la sécurité dans l'enceinte du tribunal a déclaré avoir été victime d'agression physique et verbale de la part de Me Ayadi et a porté plainte contre lui. Les témoins auditionnés dans le cadre de cette affaire par le Ministère public, y compris deux avocats qui étaient sur les lieux de l'agression, ont tous affirmé que Me Ayadi avait offusqué et bousculé l'agent en question à l'occasion de l'exercice de ses fonctions. L'instruction suit son cours. Enfin, quant au photomontage allégué mettant en scène l'épouse de M. Ayadi, celui-ci a déposé en septembre 2007 une plainte à ce sujet devant le Procureur de la République auprès du Tribunal de première instance de Tunis. L'enquête a été confiée au Ministère public et suit son cours.

### **Lettre d'allégations**

1876. Le 5 septembre 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé une lettre d'allégations sur la situation de Me **Ayachi Hammami**, défenseur des droits humains en Tunisie, et membre du Collectif 18 octobre pour les droits et libertés, et secrétaire général de la section de Tunis de la ligue tunisienne pour la défense des droits de l'homme. Son cas a fait l'objet de plusieurs communications en 2005 et 2006 de la part du Rapporteur spécial sur l'indépendance des juges et des avocats, de la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, du Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et du Rapporteur spécial sur la torture. Selon les informations reçues :

1877. Le 31 août 2007, Me Ayachi Hammami aurait été victime d'un incendie qui aurait ravagé son cabinet et dont l'origine serait vraisemblablement criminelle. Lorsque Me Ayachi Hammami serait arrivé à son bureau, il aurait constaté que la porte d'entrée était ouverte, alors qu'il se souvenait l'avoir fermée la veille en partant. En revanche, la porte de son bureau personnel serait restée fermée, sans doute dans le but de détruire un maximum de documents avant que les pompiers ne puissent entrer et éteindre le feu. Le cache de l'ordinateur professionnel de Me Ayachi Hammami aurait été ôté et des journaux auraient été introduits dans le lecteur. Cela semblerait indiquer la volonté de s'assurer de la destruction de toutes les données qu'il contenait. Le fait que le cabinet de Me Ayachi Hammami aurait été soumis à une surveillance policière permanente semblerait indiquer que les personnes qui mirent le feu l'auraient fait grâce à l'aide de complices travaillant au sein des autorités de surveillance.

1878. Des craintes ont été exprimées que cet acte serait une tentative d'intimider Me Ayachi Hammami et de l'empêcher de poursuivre son travail d'avocat et de défenseur des droits de l'homme.

### **Réponse du Gouvernement**

1879. Le 1er février 2008, le Gouvernement a répondu à la lettre d'allégations envoyée le 5 septembre 2007. Le Gouvernement informe que dans le cadre de l'enquête judiciaire en cours au sujet de l'incendie qui s'est déclaré le 31 août 2007 à l'étude de Me Hammami, le juge d'instruction en charge de l'enquête s'est rendu sur les lieux dès sa saisine et a procédé aux constats *in situ* qui ont établi l'absence de traces d'effraction au niveau des accès de l'étude. De son côté, Me Hammami a déclaré à l'enquêteur qu'il a regagné son étude à 7h50 et qu'il a découvert l'incendie dès qu'il a ouvert la porte principale. Le juge d'instruction a procédé à l'audition de l'intéressé qui s'est constitué partie civile ainsi que des témoins. L'enquête se poursuit en vue de cerner toutes les circonstances ayant entouré le déclenchement du sinistre.

### **Lettre d'allégations**

1880. Le 2 novembre 2007, la Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégations concernant 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 Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire les 11 novembre et 9 mars 2005 et 6 avril 2006. Selon les informations reçues :

1881. 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.

1882. 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.

1883. 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.

1884. Des craintes ont été exprimées que ces atteintes à la liberté de mouvement de Me Abbou seraient liées à ses activités non-violentes de défense des droits de l'homme.

### **Lettre d'allégations**

1885. Le 13 novembre 2007, la Représentante spéciale a envoyé une lettre d'allégations concernant la situation de Me **Abderraouf Ayadi**, avocat, ancien membre du Conseil de l'Ordre des avocats et ancien secrétaire général du Conseil National pour les Libertés en Tunisie. M. Ayadi a été l'objet de plusieurs communications envoyées par la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, 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 le Rapporteur spécial sur la torture le 27 juillet et le 4 mai 2007, le 12 mai 2006 et 25 janvier 2005. Selon les nouvelles informations reçues :

1886. Le 1er novembre 2007, Me Abderraouf Ayadi aurait été empêché de rendre visite à Me Mohamed Ennouri, actuellement en grève de la faim, par des membres des forces de police qui l'aurait repoussé violemment et fait tomber à terre. Ces derniers l'auraient également insulté et traité de voleur devant la foule qui s'était alors amassée.

1887. Des craintes ont été exprimées quant au fait que les actes de harcèlement répétés contre M. Ayadi seraient liés à ses activités non-violentes de promotion et protection des droits de l'homme.

### **Réponses du Gouvernement aux communications envoyées avant le 2 décembre 2006**

1888. Le 16 février 2007, le Gouvernement a répondu à l'appel urgent envoyé le 3 octobre 2006 par la Représentante spéciale, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, de Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, au sujet de la situation de

Mme **Wassila Kaabi**. Le Gouvernement informe que l'Article 39 de la loi No. 67-29 du 14 juillet 1967 relative à l'organisation judiciaire, au Conseil Supérieur de la Magistrature et au Statut de la Magistrature exige des magistrats en activité l'obtention d'une autorisation préalable des services concernés du Ministère de la Justice avant de quitter le territoire de la République. Mme Wassila Kaabi se devait, en application de ladite loi, de présenter une demande d'autorisation de sortie, de récupérer cette autorisation auprès du Ministère et de la présenter à sa sortie aux autorités frontalières. N'ayant pas pris la peine de récupérer l'autorisation de sortie pour la présenter aux autorités compétentes, il lui a été signifié que selon la réglementation en vigueur, elle ne pouvait pas quitter dans ces conditions le territoire national. La bonne foi des autorités est prouvée puisque l'autorisation a été mise à la disposition de la magistrate bien que cette dernière ne s'était pas présentée pour en prendre possession.

1889. 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 » 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.

1890. Le 1<sup>er</sup> février 2008, le Gouvernement a répondu à l'appel urgent envoyé le 12 mai 2006 par la Représentante spéciale, conjointement avec 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 le Rapporteur spécial sur la torture, au sujet de la situation de Me **Ayachi Hammami**, Me **Raouf Ayadi** et Me **Abderrazak Kilani**. Le Gouvernement informe que le 11 mai 2006 devant la Maison du Barreau à Tunis, Me Ayadi et Me Kilani ont tenté de s'attouper, sur la voie publique en y bloquant la circulation. L'intervention des agents de l'ordre pour les disperser d'une manière pacifique et dans le cadre de la légalité s'est confrontée à un refus d'obtempérer de la part de certains avocats. Pour ce qui est de la création de l'Institut supérieur de la profession d'avocat, il y a lieu de souligner que la loi No. 2006-30 du 15 mai 2006 modifiant la loi No. 89-87 du 7 septembre 1989, portant organisation de la profession d'avocat, et relative à la création de l'institut supérieur de la profession d'avocat, constitue une réforme répondant à l'une des principales revendications des avocats. Elle s'inscrit dans le cadre des réformes entamées depuis quelques années en vue de promouvoir le système judiciaire et renforcer davantage les droits des justiciables. La création de cet institut vise trois objectifs, à savoir : - la réorganisation de l'accès à la profession d'avocat et de l'inscription au barreau ; -

l'amélioration de la formation des avocats pour faire face à une nouvelle conjoncture marquée par des mutations profondes et accélérées dans tous les domaines ; - la réhabilitation de l'éthique de la profession d'avocat. Cette nouvelle loi est l'aboutissement d'un long dialogue entre toutes les parties concernées. Enfin, cette nouvelle loi n'a pas mis en cause l'indépendance de la profession d'avocat. En effet, l'article premier de la loi du 7 septembre 1989 qui dispose que « la profession d'avocat est une profession libérale et indépendante ayant pour but d'aider à l'instauration de la justice » n'a subi aucun changement. Enfin, les dispositions de cette nouvelle législation ne diminuent en rien les prérogatives de l'ordre des avocats, étant donné que celui-ci maintiendra son droit de regard sur les stages et l'inscription au barreau.

1891. Le 1<sup>er</sup> février 2008, le Gouvernement a répondu à la lettre d'allégation envoyée le 10 novembre 2006 par la Représentante spéciale au sujet de la situation de **M. Khémaïs Chammari**. Le Gouvernement informe qu'à son retour en Tunisie, M. Chammari a fait l'objet, comme tout autre passager et conformément aux règles et procédures douanières en vigueur, d'un contrôle ordinaire de bagages. A l'issue de ce contrôle, un livre a été retiré provisoirement moyennant un récépissé et ce, en application des règlements qui étaient en vigueur et qui permettaient un contrôle administratif sur les publications. Cependant, il sied de souligner qu'il a été décidé, le 7 novembre 2007, de supprimer le contrôle administratif sur les livres, les publications et les œuvres artistiques. Un projet de loi consacrant cette décision sera présenté prochainement au parlement pour approbation.

### **Observations**

1892. La Représentante spéciale remercie le Gouvernement de ses réponses mais regrette, au moment de la finalisation du présent rapport, l'absence de réponse aux communications en date du 26 juillet 2006, 24 novembre 2006, 4 mai 2007, 2 novembre 2007 et 13 novembre 2007 et demande au Gouvernement de répondre aux craintes exprimées dans celles-ci. La Représentante spéciale reste notamment préoccupée par les restrictions imposées aux libertés de réunion et d'association et rappelle au Gouvernement que l'article 5 dispose qu'« afin de promouvoir et protéger les droits de l'homme et les libertés fondamentales, chacun a le droit, individuellement ou en association avec d'autres, aux niveaux national et international : a) De se réunir et de se rassembler pacifiquement ; b) De former des organisations, associations ou groupes non-gouvernementaux, de s'y affilier et d'y participer ; c) De communiquer avec des organisations non-gouvernementales ou intergouvernementales ».

1893. La Représentante spéciale reste également préoccupée par le cas de Me Abderraouf Ayadi qui a fait l'objet de trois communications en 2007 et presse le Gouvernement de mettre un terme aux actes de harcèlement à son encontre.

## **Turkey**

### **Letter of allegations**

1894. On 9 November 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegations to the Government concerning Mr **Ethem**



**Acikalin**, President of the Human Rights Association (Insan Haklari Dernegi - IHD), **Mr Mustafa Bagcicek**, Secretary General, and **Mr Hüseyin Beyaz**, Financial Secretary.

1895. 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). 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.

1896. 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.

### **Response from the Government**

1897. In a letter dated 8 January 2008, the Government of Turkey responded to the above communication. The letter 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.

### **Response from the Government to communications sent before 2 December 2006**

1898. In a letter dated 25 May 2007, the Government of Turkey further responded (following an initial response on 30 May 2006) to an urgent appeal sent by the Special Representative 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 Ms 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

### **Response from the Government**

1899. The same letter of 25 May 2007 also responded to a letter of allegations, sent by the Special Representative on 17 August 2006, concerning the confiscation by police, on 8 August 2006 of the magazine published by **Kaos GL**, a Gay Lesbian Cultural Research and Solidarity Organisation. The letter stated that Mr Umut Güner, owner and publisher of the magazine, was acquitted of the charge of publishing obscene materials, by the decision of the 2<sup>nd</sup> Court of First Instance of Ankara, dated 28 February 2007. The Court also decided that the confiscated editions of the magazine be returned to Mr Güner once the decision had been finalized.

### **Observations**

1900. The Special Representative thanks the Government of Turkey for its responses to communications of 5 April, 17 August 2006, and 9 November 2007.

1901. With regard to all three cases, particularly the communication of 9 November 2007 and the response to the same, she reminds the Government of the importance of preserving the right to freedom of expression and requests that the Government inform her of the outcome of the appeal case of the members of the Human Rights Association.

## **United Arab Emirates**

### **Response from the Government to communications sent before 2 December 2006**

1902. In a letter dated 17 May 2007, the Permanent Mission of the State of the United Arab Emirates to the United Nations and other international organizations in Geneva Government of Turkey responded to an urgent appeal sent by the Special Representative on 8 September 2006, together 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 protection and promotion of the right to freedom of opinion and expression, concerning a report about Mr. **Mohammed Abdullah al-Rukn**, a lawyer.

1903. The Permanent Mission informed the Office of the High Commissioner that the aforementioned man was brought in for questioning in connection with the commission of an act that constitutes a criminal offence under the Federal Criminal Code. He was presented to the public prosecution office in accordance with the prescribed legal procedures. His case was currently before the courts, pending the delivery of a verdict, and in the view of the Government, he had been afforded all the legal guarantees required for the presentation of his defence.

### **Response from the Government**

1904. In a letter dated 23 April 2007, the Permanent Mission of the State of the United Arab Emirates to the United Nations and other international organizations in Geneva responded to a letter of allegations sent by the Special Representative on 18 October 2006, together with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on trafficking in

persons, especially women and children, concerning criminal charges of assault brought against Ms **Sharla Musabih**, which it was feared had been brought due to her work in defence of human rights.

1905. The Government response stated that, on 7 August 2006, the victim notified the police that she had been assaulted by the accused, who had pushed her and pulled her by the hand, at the Hope Centre for the Welfare of the Needy. On 23 August 2006, the Public Prosecutions Office began an investigation into the case and took testimony from the victim and witnesses for the prosecution and the defence. On 14 September 2006, the Public Prosecutions Office referred the accused, Sharla George, and the case to the criminal court, on a charge of physical assault of the victim, Kulthum Abdallah Abd al-Karim Kardus. The Government letter further stated that on 13 December 2006, the court had issued a verdict, in the presence of the parties, acquitting Sharla George Okley due to lack of evidence. The Government further sought to clarify that the penalty prescribed by law, should Ms Musaibh have been convicted, would have been imprisonment and a fine, rather than closure of the premises.

### **Observations**

1906. The Special Representative thanks the Government of the United Arab Emirates for its responses but requests that she be provided with further information regarding the case of Mr. Mohammed Abdullah al-Rukn, the specific details of the charges brought against him and the judicial proceedings initiated.

## **Uganda**

### **Letter of allegations**

1907. On 30 November 2007, the Special Representative sent a letter of allegations to the Government concerning Ugandan and Kenyan defenders of Lesbian, Gay, Bisexual, Transgender (LGBT) rights, including Ms **Victor Juliet Mukasa**, and members of Sexual Minorities Uganda (SMUG) as well as Amakula, a renowned non-LGBT film organisation based in Kampala which promotes African talent and human diversity. According to the information received, on 23 November 2007, Ugandan and Kenyan defenders of LGBT rights, including Ms Victor Juliet Mukasa and members of SMUG, were prevented from delivering their speeches at the Commonwealth Heads of Governments Meeting (CHOGM) Speaker's Corner in Kampala during the People's Space. They were reportedly forcibly removed from the building by police officers and were threatened with sticks not to enter the premises again.

1908. The LGBT defenders waited outside quietly for seven hours to be allowed back in the building, in vain. On 22 November 2007, Amakula showed at CHOGM a film that addressed homosexuality. The following day, two members of Amakula were expelled from the People's Space. The People's Space was established "to provide opportunities to share in the diversity and richness of the Commonwealth people", and was designed to give people "renewed energy to facilitate social change with a clear sense of building the future together". Concern was expressed that the expulsion of the aforementioned individuals from the People's Space may be related to their peaceful activities in defence of LGBT rights.

## **Observations**

1909. The Special Representative regrets that, to date, no response has been received from the Ugandan Government, but hopes that further information regarding the above communication and the concerns raised in it, regarding the treatment of members of SMUG and Amakula, is provided in the near future.

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

### **Urgent Appeal**

1910. On 24 April 2007, the Special Representative sent an urgent appeal to the Government concerning Mr **Mehran Baluch**, resident and national of the United Kingdom where he has been living for twenty-three years. Mr Baluch is a member of the non-Governmental organization Interfaith International, and an advocate of the rights of the Baluchi people in Pakistan. Mr Baluch has highlighted the plight of Baluchi people notably before the Commission on Human Rights, the Human Rights Council, the Sub-Commission for the promotion and protection of human rights as well as the Working Group on Minorities.

1911. According to the information received, Mr Baluch was reportedly listed as one of the eight individuals who the Pakistani security services requested in return for the hand-over to the United Kingdom of Mr Rashid Rauf, a terrorist suspect in London and Islamabad who was being detained in a high-security jail in Rawalpindi. According to reports, Mr Baluch had no legal cases pending against him, and he was not suspected to be involved in terrorism. Serious concern was expressed that the demand of exchange of Mr Baluch from the Pakistani security services may be related to his legitimate and peaceful activities in defense of human rights of the Baluchi people.

### **Response from the Government**

1912. In a letter dated 21 June 2007, the Government of the United Kingdom responded to the above communication. The Government thanked the Special Representative for her letter and proceeded to note that the only circumstances in which the UK Government would hand over a person in response to a request from the authorities of another Government would be in pursuance of an extradition order. It was indicated that the letter had therefore been referred to the Home Office as it is responsible for the law relating to extradition. The Government noted that any individual request for the extradition of an individual who is present within the UK is considered in accordance with UK law including the independent judiciary.

1913. It was further noted that the Home Office cannot confirm or deny the existence of extradition requests for any individual unless the person concerned has been arrested and brought before the courts under relevant UK legislation, the Extradition Act 2003. Confirmation was provided that considerable protection is offered for defendants under the 2003 Extradition Act. The Government concluded that the UK would not hand over any person upon the request of the authorities of another state unless in accordance with due process of law.

## **Urgent Appeal**

1914. On 2 May 2007, the Special Representative sent an urgent appeal to the Government concerning Mr **Mark Thompson**, Director of Relatives for Justice (RFJ), a non-Governmental organization which works across communities to defend the rights of relatives of people bereaved and injured by the conflict in Northern Ireland. According to information received, on 14 April 2007, Mr Thompson was visited at his home in Belfast by two officers from the Police Service of Northern Ireland (PSNI), who informed him that personal details and information concerning him had been uncovered after a search of unidentified premises on 11 April 2007. The information revealed serious threats against him by a well known paramilitary group, the Loyalist Volunteer Force (LVF). The police did not provide details as to where the information had been obtained and the extent of information held. However Mr Thompson's solicitor had written to the police requesting further details.

1915. Mr Thompson had previously been made aware of LVF threats against him as well as threats from the loyalist paramilitary group, the Ulster Volunteer Force (UVF). During the last year, members of the LVF have been seen on various occasions outside the office premises of RFJ. Relatives for Justice, was involved in a report published by the Police Ombudsman in January 2007, which highlights loyalist paramilitary agents who work for both the Special Branch and Military Intelligence in Northern Ireland. RFJ had also been working closely with families affected by alleged collusion between paramilitaries and state authorities. Concern was expressed that the aforementioned events are directly related to Mr Thompson's work in defence of human rights in Northern Ireland. Grave concern was expressed for the safety of Mr Thompson, his family and members of the RFJ.

## **Observations**

1916. The Special Representative thanks the Government of the United Kingdom for its response to the communication of 24 April 2007 and requests that she be informed of any developments in relation to the status of Mr Mehran Baluch. She also asks the Government to provide her with any information in its possession regarding the case of Mr Mark Thompson.

## **Uzbekistan**

### **Letter of allegations**

1917. On 22 January 2007 the Special Representative sent a letter of allegations to the Government concerning alleged harassment of human rights defender Mr **Salijon Abdurahmanov**, Chairman of the Karakalpak branch of the Committee for Protection of Individual's Rights, a registered organisation in Uzbekistan, and journalist with the Institute for War and Peace Reporting in Tashkent. Mr. Abdurahmanov previously worked as a journalist with Radio Liberty from 2001 until 2003, and with Voice of America from 2003 until 2006.

1918. According to information received, on 6 January 2007, Mr Salijon Abdurahmanov was summonsed to appear at Nukus town police department, where

he was reportedly questioned by the Deputy Chief about the Committee for Protection of Individual's Rights. Mr Abdurahmanov was required to provide information as to who the organization defends, where organizational funds are sourced; how information related to human rights abuses on Uzbekistan is distributed and obtained. Mr Abdurahmanov was also questioned over how many members there are in the Karakalpak branch. Later in the day, two police officers who introduced themselves as a crime prevention inspector and a detective, called to Mr Abdurahmanov's home in Nukus's 22nd residential area. The two officers reportedly stated that the purpose of their visit was to check passports; however they proceeded to examine the entire flat including the gas supply. Concern was expressed that the harassment and questioning of Salijon Abdurahmanov and the subsequent search of his home constituted an attempt to deter and prevent him from carrying out his legitimate work in the defence of human rights.

### **Response from the Government**

1919. In a letter dated 6 February 2007, the Government of Uzbekistan responded to the above communication. The letter asserted that statements that S. Abdurahmanov was chair of the Qaraqalpogstan branch of the Committee for the Protection of the Rights of the Individual, a journalist with the Institute for War and Peace Reporting and that he had also previously worked as a journalist with Radio Liberty from 2001 to 2003 and the Voice of America from 2003 to 2006 were not true. The Government response further stated that S. Abdurahmanov was never accredited in Uzbekistan as a journalist with Radio Liberty or the Voice of America. Accordingly, such allegations could be dismissed as an attempt by S. Abdurahmanov to mislead the United Nations special rapporteurs and the international community as a whole by passing himself off as a victim of harassment resulting from his human rights work.

1920. Furthermore, according to information from the judicial bodies of Uzbekistan, there was no branch of the Committee for the Protection of the Rights of the Individual in Qaraqalpogstan and, consequently, S. Abdurahmanov could not be the chair of an organization which does not exist. According to its charter, the Institute for War and Peace Reporting is not a media organization. Its principal activity is the provision of humanitarian aid. Furthermore, the Institute had not been accredited as a media organization in Uzbekistan and was not permitted to have its own journalists in the country.

1921. The letter proceeded to refute the allegation that, on 6 January 2007, S. Abdurahmanov was summoned to the Central Internal Affairs Department of the city of Nukus and questioned by its deputy chief. What actually happened was that, on 5 January 2007 in housing estate No. 22 in Nukus, a routine inspection was conducted to check whether residents of the estate had complied with identity card regulations. During that exercise, internal affairs officials called, among others, at the building in which S. Abdurahmanov resides. The next day, S. Abdurahmanov went to the Nukus Central Internal Affairs Department of his own free will for an explanation of the reasons for the above mentioned inspection. The deputy chief of the Department provided S. Abdurahmanov with exhaustive information on the reasons for and aims of the inspection to check compliance with identity card regulations.

### **Letter of allegations**

1922. On 23 January 2007 the Special Representative, together with the Special Rapporteur on the question of torture, sent a letter of allegations to the Government concerning Mr **Ihtiyor Hamroev**, member of the Human Rights Society of Uzbekistan (HRSU). According to the information received, on 26 December 2006, Mr Ihtiyor Hamroev, while in detention at Prison 64/78, Chikurgan village, Zafarabad district, Djizak region, complained of stomach pains related to an ulcer and asked the prison guard on duty to call a doctor. The head of the prison was made aware of his condition. The following day, on 27 December 2006, Mr Ihtiyor Hamroev was handcuffed and severely beaten by prison guards. He was also repeatedly kicked in the stomach, and subsequently dragged across the floor by the hair. He was then transferred to an isolation unit for 24 hours. Mr Ihtiyor Hamroev's health deteriorated considerably after the incident and he was transferred to Zafarabad district hospital.

1923. Mr Ihtiyor Hamroev had been arrested on 25 September 2006, and sentenced to three years in prison on charges of "hooliganism". Since his arrest, prison guards at Prison 64/78 had attempted to provoke Mr Ihtiyor Hamroev into violating disciplinary regulations, in order to prevent him from being released under the amnesty declared by the Senate on 30 November 2006. Concern was expressed that the arrest, detention, beating and ill treatment of Mr Ihtiyor Hamroev may be directly related to his legitimate work in the defence of human rights in Uzbekistan.

### **Response from the Government**

1924. In a letter dated 6 February 2007, the Government of Uzbekistan responded to the above communication. The letter asserted that claims that, on 26 December 2006 the prisoner I. Hamroev reported to a camp guard that he had pains in the area of his stomach, and that the camp personnel failed to provide him with the necessary medical attention, but beat him and the following day placed him in a punishment cell for 24 hours, were unfounded.

1925. In order to check these claims, personnel of the relevant law enforcement agencies of Uzbekistan had visited the camp where Ihtiyor Hamroev was being held on 5 January 2007, and talked to persons serving sentences in the camp. It emerged from the conversations that the prisoners being held in the camp have been provided with all necessary facilities for work, housing and medical treatment.

1926. In the view of the Government, camp personnel deal with the prisoners in accordance with the legislation in force, and do not exceed their authority. The prisoners categorically denied that camp personnel beat them or exerted any pressure on them. An interview was also held with the prisoner Ihtiyor Hamroev, during which it was established that he did indeed suffer acute gastritis in 2006, because of which he underwent treatment on several occasions at the Zafarabad district hospital in Djizak oblast. After Ihtiyor Hamroev's condition worsened, he was sent for treatment to the above-mentioned hospital on the orders of the head of the camp. In addition, he was taken to the central oblast hospital, where he underwent some tests. He was then prescribed the necessary medicines, which he received.

1927. On 5 January 2007 a full medical examination of Ihtiyor Hamroev was carried out in the surgery department of the Djizak section of the Scientific Centre for Emergency First Aid. As a result it was established that I. Khamraev was suffering

from “Catarrhal/erosive gastritis of the gastric antrum”, and he was given the necessary medical treatment. No indications were found of other disorders, or traces of any bodily injuries. When the findings of the medical examination of Ihtiyor Hamroev were examined, no mention was found of any bodily harm. However, there were references to signs of stomach and intestinal disorders. Ihtiyor Hamroev was undergoing a course of treatment in the camp’s medical unit. In addition, according to the Government, he himself stated that he was in good condition, and had no grievances against the camp personnel. The prisoner Zhuraboi Beknazarov, who is being held together with Ihtiyor Hamroev in the same cell, stated that when I. Khamraev felt unwell one night, a doctor was called, who placed him in the medical unit. He added that other prisoners had not heard of a single incident of beating of prisoners by the camp personnel. As a result of the checks, in the Government’s view, it was clear that the claims set out in the complaint were unfounded and bore no relation to reality.

### **Letter of allegations**

1928. On 25 January 2007 the Special Representative sent a letter of allegations to the Government concerning the alleged beating of human rights defenders Ms **Elena Urlaeva** and Ms **Umida Niyazova**. Ms Elena Urlaeva is Chairwoman of the Human Rights Alliance of Uzbekistan. Ms Umida Niyazova previously worked with Internews Network, Freedom House and as an interpreter for Human Rights Watch. Ms Urlaeva was the subject of an urgent appeal sent by several mandate-holders on 4 April 2006 and again on 6 September 2005. According to information received, at approximately 16:00 on 4 January 2007, as she was nearing the Tashkent Mirzo-Ulugbek District Court for civil cases, Ms Elena Urlaeva was approached by four women who asked her if she was Elena Urlaeva. Upon confirming that she was, the women proceeded to attack her, knocking her to the ground and severely beating her. She sustained extensive injuries including to her face and head. The women reportedly took her bag which contained important documents concerning the human rights situation in Uzbekistan as well as some money.

1929. The attack occurred one day before an organised protest against the detention of human rights defender Ms Umida Niyazova, who was detained during customs clearance at Tashkent airport on 21 December 2006. Following nine hours of detention, Ms Umida Niyazova was allowed to leave but her passport, laptop and flash disk were confiscated. On 2 January 2007, the Human Rights Alliance of Uzbekistan held a protest near the Prosecutor-General’s office in Tashkent to demand the release of all political prisoners.

1930. Reports claimed that Ms Elena Urlaeva had been subjected to ongoing threats and harassment. In April 2001, she was imprisoned for two months after leading protests against individuals who were forcibly evicted from their homes against a road-building project. In August 2002 she was held for three months after she attended a protest outside the Ministry of Justice. On both occasions she was injected against her will with psychiatric drugs, including Thorazine and Cyclodol. In 2003 she was examined by an independent psychiatric commission and declared sane.

1931. On 27 August 2005, Ms Elena Urlaeva was placed in psychiatric detention and later forced to take the psychiatric drug Rispoplet. Concern was expressed that the



targeted physical attack and robbery of Ms Elena Urlaeva was planned and part of a sustained attack of harassment towards her because of her legitimate activities in defence of human rights in Uzbekistan. Further concern was expressed that the detention of Ms Umida Niyazova was due to her human rights work, and that her passport, laptop and flash disk, necessary to her work, were confiscated.

### **Response from the Government**

1932. In letters dated 6 and 13 February 2007, the Government of Uzbekistan responded to the above communication. The letters stated that on 4 January 2007, at around 4 p.m. near the Mirzo-Ulugbek district civil courthouse in Tashkent, four unidentified women attacked Elena Urlaeva, beat her and, having stolen by force a bag containing 60,000 sum and various documents, fled the scene of the crime. That same day, the investigative unit of the Mirzo-Ulugbek District Internal Affairs Authority in Tashkent initiated criminal proceedings in relation to the robbery, a plan of action was drawn up and an investigative unit established. On the basis of the victim's description, photofit pictures were constructed of the women who had attacked Elena Urlaeva, all points bulletins were sent out, fingerprint studies and forensic reports were commissioned and eye-witnesses were questioned. At present, the investigation is continuing and all the necessary measures are being taken to identify and apprehend the attackers.

1933. In that context, the Government letters asserted that the allegations that E. Urlaeva was being constantly threatened and persecuted because of her lawful human rights work in Uzbekistan were without foundation; allegations that were based on hearsay and unsubstantiated by actual evidence. It should be pointed out that, on 27 August 2005, the Tashkent city procurator's office initiated criminal proceedings under article 215 of the Criminal Code of Uzbekistan (Defamation of the State symbols of the Republic of Uzbekistan), in which E. Urlaeva has been called as a suspect. Given that E. Urlaeva had previously suffered from mental illness, a forensic psychiatric examination to determine her sanity was conducted on the basis of articles 567 and 568 of the Code of Criminal Procedure. This forensic psychiatric examination, conducted on 28 August 2005, found E. Urlaeva unfit to plead. On the basis of the findings of the forensic psychiatric examination and articles 265 and 266 of the Code of Criminal Procedure, it was decided to place E. Urlaeva in a psychiatric institution. By the court's decision of 27 October 2005 E. Urlaeva was relieved of criminal responsibility in the light of the diagnosis that had been made. The court nevertheless obliged E. Urlaeva to undergo a course of outpatient treatment in a psychiatric hospital. After she had completed the course of treatment she was discharged from hospital.

1934. The letters stated that in Uzbekistan, as in every other democratic country, everyone has the right of freedom and personal inviolability, which is enshrined in domestic legislation. No one may be detained or held in custody save as provided for by law. The letter further stated that at the same time, there is a certain category of persons, among whom we find individuals with psychological defects, who, exploiting their human rights and falsely assuming the imposing title of "human rights defender", pursue their own selfish motives and deliberately distort the true situation in the country. The Government affirmed that such individuals are not only indifferent

to people's needs, but also bring into disrepute the very concept of human rights defenders and hide behind that distinguished title.

### **Urgent Appeal**

1935. On 1 February 2007 the Special Representative sent an urgent appeal to the Government concerning 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 translator for Human Rights Watch in Tashkent. Ms Niyazova was included in an allegation letter sent by the Special Representative of the Secretary General on the situation of human rights defenders on 25 January 2007. According to information received, on 22 January 2007, Ms Niyazova was arrested near 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.

1936. According to reports, Ms Niyazova had previously been detained by Uzbek authorities at Tashkent airport on 21 December 2006. She was questioned at length by authorities, who threatened to arrest her on charges of possession of anti-state materials. Ms Niyazova's passport and laptop were confiscated and her laptop was examined to determine whether it contained subversive material. Ms Niyazova was released later that day, however authorities continued to investigate her on suspicion of criminal and administrative charges. In mid-January 2007, Ms Niyazova was reportedly informed by her lawyer that the investigation carried out by Uzbek authorities had failed to produce sufficient evidence in order to charge her and that she could collect her laptop and passport from the customs agency. Ms Niyazova had arranged to meet her lawyer on 22 January 2007 in order to retrieve her belongings however she missed this meeting and all contact with her was lost until 26 January 2007.

1937. Ms Niazova was being held at Tash Turma, pre-trial facility prison in Tashkent. She was facing criminal charges for smuggling "extremist" literature across the border (article 246 of the Criminal Code of the Republic of Uzbekistan, which is punishable with five to 10 years of imprisonment) and for illegal border crossing (article 223, which is punishable with a fine or up to five to 10 years). These articles are categorized as severe crime in the Criminal Code. It was not clear whether Ms Niazova's actions as alleged formed the basis of these charges. Concern was expressed that the arrest and detention of Ms Umida Niyazova formed part of an ongoing campaign against human rights defenders in Uzbekistan. Further concern was expressed that the serious charges against her may be the latest attempt to prevent, deter and discredit human rights defenders from carrying out their legitimate work in the defence of human rights.

### **Response from the Government**

1938. In a letter dated 6 February 2007, the Government of Uzbekistan responded to the above communication. The letter stated that, on 6 January 2007 the Office of the Transport Procurator of Uzbekistan instituted criminal proceedings against Umida Niyazova under article 246, part 1, of the Criminal Code (Smuggling). During the preliminary investigation it was established that on 21 December 2006, at around 10

a.m., U. Niyazova, who had arrived at Tashkent International Airport from Bishkek on flight number 782, failed to indicate on customs declaration T-6 an HP Notebook computer with a flash card, which were found by staff of customs post No. 1 in the "Tashkent-Aero" specialist customs complex when examining U. Niyazova's luggage and hand luggage, which she had concealed from customs inspection.

1939. In addition, on 8 January 2007 U. Niyazova illegally crossed the border of Uzbekistan and travelled to the city of Osh in Kyrgyzstan. On the return journey on 22 January 2007, when again crossing the border illegally, she was arrested by personnel of the Khanabad border service in Andijan oblast. On 26 January 2007 U. Niyazova was charged under articles 246, part 1, and 223, part 1, of the Criminal Code (Illegally leaving or entering Uzbekistan), and remanded in custody as a preventive measure. The letter further stated that the preliminary investigation into this case was continuing, and its findings would serve as the basis for a decision in accordance with the law.

### **Urgent appeal**

1940. On 13 April 2007 the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning Ms. **Mutabar Tadjibayeva**, her brother Mr. **Rasul Tadjibaev** and her daughter Ms. **Mahliyo Akramova**. Ms. Tadjibaeva is Chairwoman of the human rights organization Plammenoe Serdtse, Ardent Hearts Club, based in Ferghana City. She is also one of the founders of the national movement Civil Society and a 2005 Nobel Peace Prize nominee. Ms. Tadjibayeva was previously the subject of communications sent by the Special Representative and other mandate-holders on 21 July 2006, on 6 February 2006, on 18 July 2005 and on 27 October 2005.

1941. According to information received, on 6 March 2006, Ms. Tadjibaeva was sentenced to 8 years in prison. At time of writing, she was being detained at Tashkent Prison. Ms. Tadjibaeva reportedly spent seven months in solitary confinement and was held in a psychiatric unit for mentally ill and drug-addicted persons, located in a women's detention centre in the Mirabad district of Tashkent. Ms. Tadjibaeva's health was deteriorating as a result of the conditions in which she was being held and was in need of urgent medical attention. It was reported that she had lost approximately 20 kilograms in weight and was suffering from a kidney-related illness caused by cold and low blood pressure. Ms. Tadjibaeva was last seen by her family on 9 January 2007 despite numerous attempts by relatives to visit her at the detention centre in order to bring her medication and food.

1942. According to reports, members of Ms. Tadjibaeva's family, including her brother Mr. Rasul Tadjibaev and her daughter Ms. Mahliyo Akramova, had been subjected to harassment and intimidation. On 22 December 2006 Mr. Tadjibaev was evicted from his apartment and was under constant surveillance by the authorities. He had also received a warning that if he continued to object to the detention of his sister it would be difficult for him to continue to work and he would be forced to leave Tashkent. Ms. Tadjibaeva's daughter was also warned that if she traveled to Tashkent again (to see her mother) she would be killed. Ms. Akramova had been followed by individuals believed to be law enforcement agents. Concern was expressed that the

above-mentioned events form part of an ongoing campaign to silence human rights defenders in Uzbekistan. Grave concern was also expressed at the reported ill-treatment of Ms. Tadjibaeva and consequent deterioration of her health.

### **Response from the Government**

1943. In a letter dated 26 April 2007, the Government of Uzbekistan responded to the above communication. The letter stated that, within Uzbekistan, judicial and non-judicial institutions for the protection of human rights and freedoms had been established and functioned successfully, which facilitated timely reaction to citizens' applications and adoption of fair decisions upon issues raised. Despite this, in the view of the Government, some citizens of Uzbekistan, pretending to be victims of alleged violations at the hands of state bodies, premeditatedly refused to submit applications to such institutions and instead targeted the attraction of attention of international human rights organisations. Thus, they pursued a political purpose to cause criticism against Uzbekistan.

1944. In this regard the Government advised the mandate-holders to inform their sources of allegations on violations – in this case Ms Tadjibayeva - of these mechanisms to appeal to competent bodies in Uzbekistan to restore their human rights provided that a violation has taken place.

### **Urgent appeal**

1945. On 13 April 2007 the Special Representative sent an urgent appeal to the Government concerning Mr **Surat Ikramov**, head of the Initiative Group of Independent Human Rights Defenders. Mr Ikramov is also a specialist in trial monitoring and provides regular reports on cases of arbitrary detention, torture, political and religion-related arrests in Uzbekistan.

1946. According to the information received, in the evening of 4 April 2007, Mr Ikramov was visited at his home in Surat by 8 unidentified individuals who claimed to be from Kokand. They demanded that he open the door so that they could question him about a particular incident. Mr Ikramov refused to comply with their demands and did not open his door, which had been fortified in anticipation of attacks. The men did not use force. It is reported that the registration plates on the car used by the individuals indicated that they were from Tashkent and not Kokand, and that they may have been either plainclothes policemen or security personnel. Mr Ikramov submitted an official complaint to the German and US embassies in Uzbekistan on the 5 April 2007.

1947. On 11 April 2007, at approximately 9 pm, Mr Ikramov was again visited at his home by five unidentified individuals who urged him to let them in. Mr Ikramov asked the individuals to identify themselves however they did not reply and he refused to open the door. Mr Ikramov subsequently phoned the police who arrived at the scene 35 minutes later by which time the perpetrators had left. According to reports, in 2003 Mr Ikramov was the subject of ongoing harassment and intimidation and was attacked and beaten by unidentified individuals. Following the attack Mr Ikramov was granted asylum abroad but chose to remain in Uzbekistan to continue with his work in the defence of human rights. Concern was expressed that the aforementioned events

form part of an ongoing campaign to silence human rights defenders in Uzbekistan. Concern was also expressed for the safety of Mr Ikramov given the alleged attacks he suffered in 2003 and the deteriorating situation for human rights defenders in the country.

### **Response from the Government**

1948. In a letter dated 26 April 2007, the Government of Uzbekistan responded to the above communication. As in the case of the preceding communication relating to Ms Tadjibaeva, the letter stated that, within Uzbekistan, judicial and non-judicial institutions for the protection of human rights and freedoms had been established and functioned successfully, which facilitated timely reaction to citizens' applications and adoption of fair decisions upon issues raised. Despite this, in the view of the Government, some citizens of Uzbekistan, pretending to be victims of alleged violations at the hands of state bodies, premeditatedly refused to submit applications to such institutions and instead targeted the attraction of attention of international human rights organisations. Thus, they pursued a political purpose to cause criticism against Uzbekistan.

1949. In this regard the Government advised the mandate-holders to inform their sources of allegations on violations – in this case Mr Ikramov - of these mechanisms to appeal to competent bodies in Uzbekistan to restore their human rights provided that a violation has taken place.

### **Urgent appeal**

1950. On 23 April 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning 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.

1951. 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.

1952. Ms Niyazova had reportedly being 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**

1953. In a letter dated 4 May 2007, the Government of Uzbekistan responded to the above communication, enclosing 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.

1954. 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**

1955. On 9 May 2007 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning 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.

1956. 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**

1957. In a letter dated 3 July 2007, the Government of Uzbekistan responded to the above communication. The letter stated 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.

1958. 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.

1959. 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.

1960. 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.

### **Letter of allegations**

1961. On 25 May 2007 the Special Representative sent a letter of allegations to the Government acknowledging receipt of a communication received from the Government on 26 April 2007 and thanking the Government for having taking the initiative of submitting to her attention, information on steps that, in the view of the Government, reflect respect for human rights. Whilst she was encouraged by this exchange of information that she considered part of a constructive dialogue between the Government and herself, she remained deeply concerned by the **deteriorating situation for human rights defenders** in the country.

1962. Since the beginning of her tenure as Special Representative she has issued some 48 communications to the Government of Uzbekistan in relation to human rights defenders. The communications highlight concerns about reports of arbitrary arrests, incommunicado detention, harassment, threats, forced detention in psychiatric hospitals, restrictions in freedom of movement, unfounded criminal charges, prison sentences, deaths in custody, torture and ill-treatment, defamation campaigns, or other types of persecution in relation to their human rights activities. Reports of persistent harassment and targeting of the NGO community together with a legal framework on freedom of association and the regulations on NGOs which fail to provide a suitable environment in which NGO activity can operate, were of further concern.

1963. In December 2005, the Senate approved an amendment to the Criminal Code on Administrative Liability. The amendment creates a number of new regulatory measures for NGOs and increases the power that the authorities will have to penalize NGOs. Amongst these new provisions are that NGOs can be penalized for the use of unregistered logo, for conducting events without the consent of the registering body, for failing to provide reports of their activities to the registering body or for failure to provide reports in a "timely manner". In this regard, she encouraged the Uzbek Government to maintain an open policy on national and international NGOs operating in Uzbekistan, including Human Rights Watch, in compliance with Article 5 (b) and (c) of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (General Assembly Resolution A/RES/53/144) which states that "for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, to form, join and participate in non-Governmental



organizations, associations or groups and to communicate with non-Governmental or interGovernmental organizations”.

1964. The Special Representative urged the Government of Uzbekistan to make sure that national legislation is in conformity with the Declaration and other international commitments and international standards relating to the right to freedom of assembly. It is important in this regard that a holistic approach is adopted, looking not only at freedom of assembly but also in the context of other fundamental human rights, guaranteed by the Declaration and other human rights instruments, such as the right to freedom of association and the right to freedom of expression. In relation to this, she reminded the Government of Uzbekistan about article 2(2) of the Declaration where it is stated that “Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed”. This includes the right of national and international NGOs to report on human rights situations as recognized in Article 6 (c) which states that everyone has the right “to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and [...] to draw public attention to those matters”.

1965. In connection with this, the Special Representative recalled the right to communicate and interact with international bodies on human rights matters as established by Article 9, paragraph 4, which states that “everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.” Finally, having requested an invitation to visit Uzbekistan on a number of occasions she again requested that the Government extend an invitation to her to carry out an official visit to Uzbekistan at a convenient date to be mutually agreed. She is convinced that such a visit would enable her to understand better the situation in Uzbekistan.

### **Response from the Government**

1966. In a letter dated 3 July 2007, the Government of Uzbekistan responded to the above communication. The letter stated that it should be noted that there were no grounds for “deep concern” at the “deteriorating situation for human rights defenders” in Uzbekistan, and that the information received by the office of the Special Representative and the Office of the United Nations High Commissioner for Human Rights (OHCHR) from politically biased sources was nothing more than an attempt to discredit Uzbekistan’s efforts to promote and protect human rights. The letter further stated that it was unfortunate that the Special Representative of the Secretary General and OHCHR make active use of unfounded statements from biased sources and ignore official information from the competent authorities of Uzbekistan, which has been submitted to them several times.

1967. The Permanent Mission drew the attention of the Special Representative to the fact that, since the first days of its independence, Uzbekistan has endeavoured to revive the spiritual, intellectual and legal values of its people and has been making efforts to implement democratic reforms in the economic, political and social spheres. It has developed its own path of State reform and its own model for transition to a

democratic society, and has identified specific areas of activity with regard to the promotion and protection of human rights.

1968. In the view of the Government, the Constitution guarantees the primacy of human rights and the rule of law in all spheres of civic life in Uzbekistan and the precedence of the universally recognized principles and norms of international law over national legislation. The letter further stated that Uzbekistan is party to more than 60 international human rights treaties and conscientiously fulfils its international obligations under those agreements, and that the Uzbek Parliament has adopted over 300 laws on civil, political, economic, social and cultural rights, which fully implement the universally recognized principles and norms of international human rights law. A system of courts specializing in criminal, civil and economic cases has been established, appeal and conciliation procedures have been introduced, punishments have been liberalized, time limits for pretrial investigations and remand in custody have been reduced, and legislative norms currently in force, prohibit interference in judicial proceedings. A system has been established to address complaints concerning unlawful acts committed by officials. The system is based on the supremacy of law and includes an institutional legal mechanism.

1969. The Government further asserted that in Uzbekistan, as in all democratic countries, everyone has the right to freedom and personal safety, as set out in national law. No one may be arrested or detained except on the basis of the law, and that any person accused of a crime is considered innocent until proven guilty in an open and fair trial that affords the accused every opportunity for defence. No one in Uzbekistan may be subject to torture, violence or other cruel, inhuman or degrading treatment. Everyone has the right to protection from attacks on his or her honour and dignity and interference in his or her private life and to the inviolability of the home. No one has the right to enter a home, conduct a search or inspection or violate the privacy of correspondence or telephone communications, except in the circumstances and under the procedure established by law.

1970. In this context, the Uzbek Government considered the allegations of persecution of human rights defenders in Uzbekistan to be unfounded and based on unsubstantiated statements, which were not confirmed by specific facts. Uzbekistan also wished to draw the Special Representative's attention to the fact that all legal proceedings against Uzbek citizens are based on specific violations of national legislation that constitute punishable offences. It is well known that, in accordance with generally accepted norms, in such circumstances, no one is immune from legal responsibility. The Government has on several occasions provided exhaustive information on the criminal cases involving the specific individuals mentioned by the Special Representative in her previous communications.

1971. The Government asserted that it was possible that the Special Representative was unaware that there are certain people who exploit the human rights agenda and falsely call themselves "human rights defenders" in order to pursue their own mercenary goals and deliberately distort the actual situation in the country. In the view of the Government, such individuals are not only indifferent to people's needs, but they also discredit the very concept of human rights defenders and hide behind that title. The Government of Uzbekistan remains committed to its obligations to promote and protect human rights and fundamental freedoms.

### **Urgent appeal**

1972. On 10 July 2007 the Special Representative, together with the Special Rapporteur on the question of torture and the the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning Ms **Mutabar Tadjibayeva**, Chairwoman of the human rights organization Plammenoe Serdtse, Ardent Hearts Club, based in Ferghana City. She is also one of the founders of the national movement Civil Society and a 2005 Nobel Peace Prize nominee. Ms Tadjibayeva was the subject of numerous urgent appeals by Special Procedures mandates. Government responses dated 10 April and 26 April 2007 were noted.

1973. However, according to recent allegations received, Ms Tadjibaeva was being ill-treated by prison wardens whilst in detention in Tashkent prison, and this ill-treatment was having adverse effects on her health. She was frequently humiliated and threatened with acts of violence against her daughter. She was also placed in solitary confinement, and had been denied access to medical treatment which she urgently required. In addition, she had been denied her visitation rights, and delegates from the International Committee of the Red Cross had been prevented from seeing her. Serious concern was expressed at the reported continuing ill-treatment of Ms Tadjibaeva and the consequent deterioration of her health. Further concern was expressed that the above-mentioned events may form part of an ongoing attempt to silence human rights defenders in Uzbekistan.

### **Response from the Government**

1974. In letters dated 10 April and 14 August 2007, the Government of Uzbekistan responded to the above communication. The letters stated that reports that Ms Tadjibaeva's condition had deteriorated were false and that she had contacted the medical unit on various occasions since the beginning of her sentence and had been provided with the necessary treatment as an out-patient, on two occasions undergoing inpatient treatment. With regard to visitation rights, the letter stated that Ms Tadjibaeva had, on four occasions, received visits from her family; on 19 July 2006, a short meeting with her nephew; on January 9 2007, a meeting lasting three days with her sister; on August 10 2007, a short visit from her daughter and with her younger brother.

1975. The letters stated that Ms Tadjibaeva had also met with lawyer Ms Dilafruz Nurmanova on 13 August 2006, but that she had not made any subsequent requests to meet with lawyers. It was further stated that Ms Tadjibaeva had received parcels on six occasions and received correspondence 32 times and sent 46 letters. In the view of the Government, the aforementioned facts showed that reports that Ms Tadjibaeva's health had deteriorated and that she had no access to visits from relatives were based on unfounded information of a tendentious nature. The Government believed that such actions represented intentional attempts to damage the image of Uzbekistan in the international arena.

### **Urgent appeal**

1976. On 2 October 2007 the Special Representative, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning Mr **Sobir Tulaganov**, Director of the Tashkent branch of the Human Rights Society of Uzbekistan (HRSU), a non-Governmental organization dedicated to the promotion and defence of human rights in Uzbekistan. According to information received, on 19 September 2007, Mr Sobir Tulaganov went to the Criminal Court of the Yuzunabad District in order to access information pertaining to slander charges that were filed against him by Ms Feruza Sokatbaeva on 13 April 2007. Mr Tulaganov was denied access to this information and was arrested upon the orders of the judge presiding over the case. Since his arrest he had been held in incommunicado detention and his whereabouts were unknown.

1977. The charges of slander were filed against Mr Sobir Tulaganov by Ms Feruza Sokatbaeva following an article written by Mr Tulaganov and published in a local newspaper in which he criticized maternity hospitals in Uzbekistan and cited the example of a mistake made by hospital personnel over fifteen years ago which resulted in the confusion of his own daughter with that of Ms Feruza Sokatbaeva a few days after their births. Mr Tulaganov was only informed of the charges that had been filed against him on 26 July 2007, and was therefore prevented from introducing evidence he wished to rely upon in his defense before the established time-limit for admission of evidence had elapsed.

1978. The enquiry procedure was closed on 17 August 2007, by Mr Almatov, the senior enquiry officer of the department of internal affairs of the Yunuzabad district, although he reportedly did not have jurisdiction to pronounce its closure. Mr Tulaganov lodged a complaint to the Prosecutor of the city of Tashkent, Mr Valiev, in relation to these irregularities in legal procedure; however he had not yet received a response. Concern was expressed that Mr Sobir Tulaganov's detention may have been related to his activities in the defence of human rights. In view of the unknown whereabouts of Mr Tulaganov, further concern was expressed for his physical and mental integrity.

### **Urgent appeal**

1979. On 15 October 2007 the Special Representative, together with the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning Mr **Hurram Berdiev**, who works with Mazlum, a non-Governmental human rights organization dedicated to the protection of the rights of victims of human rights violations in Uzbekistan. According to information received, on 15 August 2007, Mr Hurram Berdiev went to the Department of Internal Affairs in the Kumkurgan district of the Surhandaria oblast, in order to obtain permission to travel to Turkmenistan in September 2007.

1980. When he did not return, a relative of Mr Berdiev contacted the Department of Internal Affairs and was informed that he had been arrested for hooliganism, administratively sentenced to fifteen days in prison, and that he was being held in Djarkurgan district police station. However, this information was not confirmed by the Djarkurgan police station and the whereabouts of Mr Hurram Berdiev were

currently unknown. On 20 August and 4 September 2007, a relative attempted to report Mr. Berdiev's case to the regional police station in Termez but the request was declined on both occasions without any reasons given.

1981. Concern was expressed that the arrest and continuing detention of Mr Hurram Berdiev may have been related to his human rights activities in defense of victims of human rights violations in Uzbekistan. In view of his reported incommunicado detention at an unknown place, further concern was expressed for the physical and psychological integrity of Mr Berdiev.

### **Letter of allegations**

1982. On 9 November 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Karim Bozorboyev**, a human rights defender working in Uzbekistan with the human rights organisation Ezgulik. According to information received, on 23 October 2007, Mr Karim Bozorboyev was arrested in Gulistan and taken to the Syrdarya police department detention centre. He was later charged with fraud, under Article 68 of the Penal Code.

1983. On 22 October 2007, Mr Karim Bozorboyev was involved in a dispute between local traders and local authorities concerning the changing of the site of the market that has been ongoing since May 2007 in Yangiyer, the capital of the region of Syrdarya. On 22 October 2007, traders blocked a road in protest at this decision to change the site of the market. Mr Karim Bozorboyev offered to mediate between the traders and the authorities. Concern was expressed that the aforementioned arrest and the charges that had been brought against Mr Karim Bozorboyev may be directly related to his peaceful human rights activities in Uzbekistan.

### **Urgent appeal**

1984. On 10 December 2007 the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Ihtiyor Hamroev**, a member of the Human Rights Society of Uzbekistan (HRSU), currently serving a custodial sentence in Prison 64/78 in the district of Djizak. Mr Ihtiyor Hamroev was the subject of a joint allegation letter sent by the Special Representative of the Secretary-General on the situation of human rights defenders, together with the Special Rapporteur on the question of torture on 23 January 2007.

1985. According to information received, on 30 November 2007, Mr Bahtiyor Hamroev, Mr Ihtiyor Hamroev's father and also a human rights defender, received a telephone call from an anonymous prison guard, informing him that the guard had witnessed other prison guards transferring Mr Ihtiyor Hamroev to another room on the night of 29 November 2007. The guards reportedly attempted to force him to sign a statement confessing to having used forbidden language to a prison employee. At Mr. Ihtiyor Hamroev's refusal, they beat him, and then he reportedly stabbed himself in the stomach, although it remains unclear as to how a knife could have been in his possession.

1986. Following this incident, Mr Ihtiyor Hamroev was hospitalised due to injuries sustained. His whereabouts were unknown and his family had allegedly been denied information with regard to his physical condition. Moreover, Mr Ihtiyor Hamroev's sentence had recently been extended by seven months. Mr Ihtiyor Hamroev was arrested on 25 September 2006 and subsequently convicted with hooliganism, for which he was sentenced to three years' imprisonment. Concern was expressed for Mr Ihtiyor Hamroev's physical and mental integrity. Further concern was expressed that the extension of his prison sentence may be related to his peaceful human rights activities.

### **Response from the Government**

1987. In a letter dated 3 July 2007, the Government of Uzbekistan responded to an urgent appeal sent by the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women on 10 May 2006. The communication sent concerned the intimidation and assault of Mr. **Talib Yakubov**, chairman of the Human Rights Society of Uzbekistan (HRSU), his pregnant wife, Ms. **Ozoda Yakubova**, Mr. **Bakhtior Hamroev**, Mr. **Mamatkul Mukhatrov**, Mr. **Azamzhon Farmonov** and Mr. **Alisher Karakmatov**, all chairmen of regional branches of the HRSU, and the arrest and detention of the latter two men.

1988. The Government stated that the Mr Farmanov and Mr Karakmatov had been arrested and detained on criminal charges of extortion of an employee of a diesel distribution agency. It further stated that they had been convicted of these charges on the basis of inter alia, sums of money found in their possession by a Yangier City Court on June 15, 2006 and subsequently sentenced to nine years imprisonment each. The appeal on July 18 2006 left the verdict unchanged. The Government further considered that the information received by the mandate-holders regarding events during the course of the investigation of the case against the two men was erroneous.

### **Response from the Government to communications sent before 2 December 2006**

#### **Response from the Government**

In a letter dated 26 January 2007, the Government of Uzbekistan responded to an urgent appeal sent by the Special Representative to the Government on 2 June 2006, concerning criminal proceedings against Messrs **Ilkhomzhon Zainobutdinov** and **Saidzhakhonovich Zainobutdinov** and an urgent appeal regarding the latter, sent by the Special Representative, together with the the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 18 January 2006.

1989. On 25 May 2006 the Department of Investigations of Andijan oblast Division of Internal Affairs instituted proceedings against Zainobutdinov I.S. under article 176, part 2, paragraphs (a), (b) and (c) (Manufacture or sale of counterfeit currency), article 228, part 2, paragraphs (a) and (b) (Preparation or counterfeiting of documents, sale or use) and article 168, part 3, paragraph (c) (Fraud) of the Criminal Code of Uzbekistan.

1990. During the investigation, material evidence in the form of counterfeit bank notes, a computer, a printer, etc., was confiscated. An experiment was conducted

during which I. Zainobutdinov, without assistance, made bank notes in the following denominations: 500 Uzbekistan som, 200 Kyrgyzstan som and 100 United States dollars. Other instances of criminal activity on his part were revealed by testimony from witnesses and victims gathered during the case, confiscated material evidence, etc.

1991. On 21 August 2006 the investigation was concluded and a bill of indictment was drawn up. On 9 October 2006 a court in Andijan oblast found him guilty and sentenced him to 11.5 years' deprivation of freedom. During the investigation and the court hearings I.S. Zainobutdinov made no statements or complaints and was being held in the T-1 in Andijan.

1992. Concerning Saidjakhon Zainabiddinov: On 14 October 2004, the procurator of Andijan instituted criminal proceedings against Mr. Zainabiddinov on the basis of evidence of an offence contrary to article 139 (Defamation), paragraph 3 (d), of the Criminal Code. On 9 December 2004, the criminal proceedings were terminated on the basis of article 84 (Grounds for terminating criminal proceedings without establishing guilt), paragraph 5 (1), of the Code of Criminal Procedure. On 19 April 2005, the Andijan procurator's office instituted new criminal proceedings against Mr. Zainabiddinov under article 139 (Defamation), paragraph 2, of the Criminal Code. In spite of the institution of new criminal proceedings, Mr. Zainabiddinov did not halt his illegal activities. On 13 May 2005, it was established that Mr. Zainabiddinov had disseminated slanderous information to representatives of the foreign media concerning the events that were taking place in Andijan.

1993. Mr. Zainabiddinov's reports were intended to create panic among the population and foster a negative attitude towards the authorities and constitutional system of Uzbekistan. Mr. Zainabiddinov'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. Zainabiddinov 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. The materials were confiscated from him in the presence of witnesses.

1994. Following this incident, on 22 May 2005, the Andijan procurator's office overturned its decision to terminate the first criminal case. Both criminal cases were combined into one and the internal affairs authority of Andijan oblast was instructed to conduct an investigation. On 23 May 2005, Mr. Zainabiddinov was arrested as a suspect in accordance with article 139 of the Code of Criminal Procedure; on the same day, the lawyer he had chosen, M. Akhmedov, was allowed to see him and his rights were explained to him. On 24 May 2005 Mr. Zainabiddinov was charged under article 139, paragraph 3 (c) of the Criminal Code (Preparation or dissemination of materials constituting a threat to public safety and public order), and with the authorization of the procurator he was remanded in custody as a preventive measure.

1995. By the verdict of the Tashkent city court of 5 January 2005, which became enforceable on 19 January 2005, Mr. Zainabiddinov was sentenced to seven years' deprivation of liberty under article 139, paragraph 3 (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.

1996. The pretrial investigation and judicial proceedings were conducted in accordance with national legislation and international norms. From the moment of his arrest, Mr. Zainabiddinov made no complaints about detention conditions in the remand centre and did not make any application to the investigative authorities or the court concerning the use of impermissible methods against him

#### **Response from the Government**

1997. In a letter dated 13 February 2007, the Government of Uzbekistan responded to an urgent appeal sent by the Special Representative to the Government on 25 January 2006, concerning the assault of **Rakhmatullo Alibaev**, a human rights defender who has monitored trials of independent Muslims charged with religious extremism and assisted victims of economic fraud.. The Government response stated that Mr Alibaev, native of the Kashkadariskoy region, had not been prosecuted and had left the territory of Uzbekistan.

#### **Observations**

1998. The Special Representative thanks the Government of Uzbekistan for its responses to nineteen communications sent previous to and during the time-period covered by this report.

1999. The Special Representative wishes to express her serious concerns regarding the situation of human rights defenders in Uzbekistan. With regard to human rights defenders in detention, she highlights the cases of Ms Mutabar Tadjibaeva and Mr Ihtiyor Hamroev as particular cause for concern. The conditions in which both human rights defenders are reportedly being detained are viewed as unacceptable and the Special Representative calls on the Uzbek Government to ensure that the conditions of detention and the treatment of those detained are in full compliance with international norms and standards. She also requests that the Uzbek Government provide information regarding the case of Mr Hurrām Berdiev, outlined in a communication sent on 25 October 2007, and the legal basis for his detention.

2000. With regard to other human rights defenders referred to in communications, the Special Representative is deeply concerned by the harassment of human rights defenders and the authorities' responses of 6 and 13 February in which it is implied that human rights defenders seek merely to draw criticism upon the Uzbek Government and that allegations regarding ill-treatment and harassment are fabricated to this end.

2001. The Special Representative considers that that the request on the part of the Uzbek Government to refer human rights defenders to domestic mechanisms for



investigation of allegations of human rights violations as valid only if these mechanisms can be relied upon to investigate such allegations in a fair and impartial manner and hopes that the Government will take urgent steps to ensure that this is possible.

## Venezuela

### Llamamiento urgente

2002. El 1 de marzo de 2007, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre el derecho a la educación envió un llamamiento urgente al Gobierno venezolano 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.

2003. 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.

2004. 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

2005. En comunicación de fecha 28 de junio de 2007, el Gobierno venezolano respondió a la comunicación arriba. La respuesta gubernamental 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.

2006. 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 Médico Legal Practicado a la víctima; La causa se encontraba en Fase Preparatoria. Se indicó que en cuanto a las medidas de protección, la Fiscalía Segunda del Ministerio Público 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; habiéndose designado el Instituto Autónomo de Policía del Municipio Bolívar para ejecutarla.

### **Llamamiento urgente**

2007. El 20 de noviembre de 2007, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente al Gobierno venezolano 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 de 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.

2008. 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.

2009. 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.

2010. 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**

2011. En comunicación de fecha 30 de noviembre de 2007, 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.

### **Información adicional**

2012. Los titulares de mandato se comunicaron poco después con representantes del gobierno venezolano para tratar este asunto a satisfacción de ambas partes.

### **Observaciones**

2013. La Representante Especial agradece al gobierno venezolano las respuestas recibidas a las comunicaciones del 1 de marzo y del 20 de noviembre de 2007.

2014. En relación con el comunicado del 1 de marzo de 2007, espera que las medidas de protección extendidas al Sr José Luís Urbano aumenten su nivel de seguridad. Asimismo expresa su esperanza de que el gobierno de Venezuela reconozca y respalde los esfuerzos de los defensores de los derechos humanos.

**Viet Nam**

### **Urgent appeal**

2015. On 30 January 2007 the Special Representative, together with the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning **Ksor Daih**, 45 years old, from Ploi Ko village, commune Dang Ya, district Cu-Pah, Gialai province, **Ksor Jak**, 24 years old, from Ploi Ko village, commune Dang Ya district Cu Pah, Gailia province, and **Ksor Har**, 54 years old, from Ploi Ia-Gri village, commune Dang Ya, district Cu Pah, Gialai province. All of them are currently held at Trai Ba-Sao prison in Ha Nam province.

2016. According to the information received Ksor Daih was arrested in 2004 after having spent two years in hiding, for participating in the 2001 peaceful protest for religious rights and supporting an organization called “Montagnard Foundation”. He was then sent to prison, where he had been subjected to beating and kicking on a regular basis. During one incident he was blinded in one eye. As a result of the treatment in prison, his body was covered in scars and bruises, his eye-socket gorged and he could barely stand. Ksor Jak was arrested in 2004 for supporting the “Montagnard Foundation” and participating in the peaceful demonstration in 2001 for religious freedom. After the 2001 demonstration he went into hiding, but was captured on 24 February 2004 by Vietnamese soldiers and imprisoned at Trai-Ba-Sao, where his leg was broken and disfigured and he was subjected to taunting by the authorities. Also, guards forced him to eat rice mixed with broken glass. Ksor Har was arrested in 2004 for participating in the 2001 peaceful protest for religious rights and supporting the “Montagnard Foundation”. He went into hiding but was captured by Vietnamese soldiers in August 2004.

2017. As a result of the treatment he had received in prison, his left ear has been torn into pieces. Guards continued to regularly pull his wounded ear. Concern was expressed that the detention and ill-treatment as outlined above represents an attempt by the authorities to intimidate, suppress and punish Ksor Daih, Ksor Jak and Ksor Har for their activities in defence of human rights, in particular the rights to freedom of expression, freedom of religion or belief and the human rights of indigenous Degar peoples. Further concern was expressed for the physical and mental integrity of the above mentioned persons and that they might not have access to adequate medical treatment.

### **Response from the Government**

2018. In a letter dated 24 April 2007, the Government of Viet Nam responded to the above communication. The letter first dealt with the case of Ksor Daih, stating that a health examination had been carried out on 9 March 2007 and that the doctor had concluded that his health ranked in the first category. According to all reports, including the minutes of an inspection by a delegation from the Department for the Management of Prison Camps, there had been no cruel treatment against him. With regard to Ksor Jak, the letter stated that a health examination had been carried out on 9 March 2007 and the doctor concluded that his health ranked in the first category.

2019. According to all reports, including the minutes of an inspection by a delegation from the Department for the Management of Prison Camps, there had been no cruel treatment against him and the information that he had been forced to eat rice

mixed with broken glass was slanderous. The letter lastly addressed the case of Ksor Har, stating that a health examination had been carried out on 9 March 2007 and the doctor concluded that his health ranked in the second category. According to all reports, including the minutes of an inspection by a delegation from the Department for the Management of Prison Camps, there had been no cruel treatment against him. In the view of the Government, all three individuals had received the right ration of food and drink in strict accordance with provisions of laws on regimes for prisoners. Since they were arrested, no complaint had been lodged by them or on their behalf.

### **Urgent Appeal**

2020. On 9 March 2007 the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning Mr. **Nguyen Van Dai**, a lawyer, founder of an organization called “Committee for Human Rights”, and co-founder and Executive Director of the “Translation and Legal Consultation Firm” in Hanoi, whose license was withdrawn on 28 February 2007 by the Business Registration Office of Hanoi’s Planning and Investment Bureau. Mr. Nguyen Van Dai was already the subject matter 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 27 November 2006.

2021. While the mandate-holders appreciated the Government’s response dated 23 February 2007, in which it was, *inter alia*, stated that Mr. Nguyen Van Dai was arrested and detained ahead of the 14th APEC summit, they were concerned about his most recent arrest. According to the latest information received, on 6 March 2007, security forces arrived at the residence of Mr. Nguyen Van Dai in Hanoi, and placed him under arrest. He was being detained in cell 17-19 of Pre-Detention Centre No 1, 13 kilometers from Hanoi. He was charged pursuant to article 88 of the Criminal Code with “conducting propaganda against the Socialist Republic of Viet Nam”. Mr. Nguyen Van Dai was to be held for four months pending investigation. However, under the Criminal Procedure Code, this four-month period may reportedly be extended four times, after which the People’s Prosecutor’s is entitled to apply “other deterrent measures”. This might include another extension of his detention, according to article 120 of the Criminal Procedure Code.

2022. Concern was expressed that Mr. Nguyen Van Dai's arrest may be connected to his legitimate human rights activities, and may represent an attempt to prevent and deter him from continuing his human rights work. This concern was expressed in the context of a recent sustained campaign against human rights defenders in Viet Nam.

### **Response from the Government**

2023. In a letter dated 4 May 2007, the Government of Viet Nam responded to the above communication. The letter stated that Mr Nguyen Van Dai had abused his position as a lawyer, inciting disorder in society and security and establishing illegal organizations to distribute propaganda and store documents defaming the State of Viet Nam. The letter further stated that any citizen was permitted to exercise their right to freedom of expression, but that Mr Nguyen Van Dai had used the rights of freedom and democracy to undermine national security and unity, thus violating existing laws

of Viet Nam. The letter asserted that the Hanoi Lawyers' Association had advised Mr Nguyen Van Dai several times to observe the rules and regulations governing lawyers' conduct but that as Nguyen Van Dai did not heed this advice, he was arrested and detained on 6 March 2007, and subsequently expelled from the Hanoi Lawyers' Association on 11 March 2007.

2024. The Government response refuted the allegation that a response dated 23 February 2007 stated that Mr Nguyen Van Dai had been in relation to the 14<sup>th</sup> APEC summit, although the response in the possession of the Special Representative would appear to contradict this statement.

### **Letter of allegations**

2025. On 25 May 2007 the Special Representative sent a letter of allegations to the Government concerning lawyers Mr **Nguyen Van Dai** and Ms **Le Thi Cong Nhan**. Mr Van Dai is founder of the Committee for Human Rights in Viet Nam, and co-founder and Executive Director of the Translation and Legal Consultation Firm (TNHH) in Hanoi. He is also one of the leaders of the online pro-democracy movement Bloc 8406 and regularly posts pro-democracy essays on foreign websites. Ms Cong Nhan is a spokesperson for the Progression Party. Mr Van Dai was the subject of joint urgent appeal by mandate-holders on 27 November 2006 and again on 9 March 2007, the latter appeal being outlined above.

2026. According to the latest information received, on 11 May 2007, Mr Van Dai and Ms Cong Nhan were sentenced to prison by the Hanoi People's Court. Mr Van Dai was sentenced to 5 years in prison and 4 years house arrest whilst Ms Cong Nhan was sentenced to 4 years in prison and 3 years house arrest. Both were charged with "spreading propaganda against the State" in accordance with Article 88 of the Vietnamese Penal Code. According to reports, on 6 March 2007, Mr Van Dai and Ms Cong Nhan were arrested by security forces from their respective homes in Hanoi. They were detained at the Pre-Detention Centre No 1, 13 kilometers from Hanoi.

2027. In November 2006, Mr Van Dai had been reportedly summoned on numerous occasions for Police questioning. On 28 February 2007, following reported pressure from Security Police, the Business Registration Office of Hanoi's Planning and Investment Bureau issued an order to withdraw the licence of TNHH. Ms Cong Nhan was reportedly under police surveillance prior to her arrest. Concern was expressed that the arrest and detention of Mr Van Dai and Ms Cong Nhan may be directly related to their work in defence of human rights in Viet Nam. Further concern was expressed that that these events may form part of an ongoing pattern of violations against human rights defenders in the country.

### **Response from the Government**

2028. In a letter dated 23 July 2007, the Government of Viet Nam responded to the above communication. The Government response stated that Mr Nguyen Van Dai and Ms Le Thi Cong Nhan had conducted acts to distort policies and laws of the state of Viet Nam, to sully Ho Chi Minh Leader, to appeal to the change of the political regime, to encourage a boycott of the election of members of the National Assembly, and to cause public disorder. They spread propaganda and participated in the

establishment of illegal organisations. They were thus arrested and detained on 6 March 2007. On 11 May 2007, Mr Nguyen Van Dai and Ms Le Thi Cong Nhan were tried and sentenced to five years' imprisonment and four years' administrative probation and 3 years' administrative probation respectively.

2029. This was an open trial, attended by foreign diplomats and journalists. They are entitled by law to lodge an appeal, and if they do, they will be retried. Mr Nguyen Van Dai and Ms Le Thi Cong Nhan were arrested and tried not because of their opinions, but because of their violations against the law. In accordance with Articles 19, 20, 21, and 22 of the ICCPR, while exercising their right to freedom of expression and freedom of assembly, individuals must also respect the rights and reputations of others, to assure national security and public order.

### **Letter of allegations**

2030. On 30 November 2007 the Special Representative, together with the Special Rapporteur on freedom of religion or belief, sent a letter of allegations to the Government concerning 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.

2031. According to the information received, on 8 November 2007, the People's Court of Justice of the An Giang Province, Southern Viet Nam, sentenced Mr Tim Sa Khorn to one year's imprisonment for "sabotaging the unification policy" under Article 87 of Viet Nam's Penal Code, following a pre-trial incommunicado detention of more than four months. The trial reportedly failed to meet international standards as Mr Tim Sa Khorn was denied the right to be represented by a lawyer and to present his defence, including the opportunity to present his own witnesses or cross-examine prosecution witnesses. Instead, he was forced to repeat a text read by the judge.

2032. In 2002, Mr. Tim Sa 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. Tim Sa Khorn, accusing him of conducting activities that were harmful to the Cambodia-Viet Nam 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. Tim Sa Khorn "had returned to Viet Nam" 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. Concern was expressed that the arrest, incommunicado detention and prison sentence of Mr Tim Sa Khorn may have been directly linked to his non-violent activities in defence of human rights.

### **Response from the Government**

2033. In a letter dated 29 January 2008, the Government of Viet Nam responded to the above communication. The letter stated that Mr Tim Sa Khorn had, in April 2005,

joined the the Khmers-Kampuchea-Krom Foundation (KKF) and had accepted money and equipment to arouse hatred among nations, falsely accusing Viet Nam of suppression against religions and the Khmer minority in Viet Nam. The letter further stated that, on 16 June 2005, the Central Managing Board of the Cambodian Board of Cambodian Buddhism had issued decision N° 502/67 DN dismissing Mr Tim Sa Khorn from the monk community on the grounds that he had wrongfully conducted activities violating Buddhist dogma.

2034. On 30 June 2007, Mr Tim Sa Khorn illegally entered Viet Nam, where he was arrested and provisionally detained by the Vietnamese border guards. He was carrying a number of distorted documents aimed at undermining policies for the solidarity of all ethnic minorities in Viet Nam. Mr Tim Sa Khorn reportedly admitted to the law enforcemner agency of the An Giang Province that during the time he lived in Cambodia, he joined the KKF and that, together with a number of the Khmer from Southern Viet Nam wearing bronze clothes, he had organized gatherings to incite hatred against Viet Nam and to convince the Khmer minority in Viet Nam to request secession and the create pretexts to accuse the Government of Viet Nam of suppression of the Khmer minority.

2035. On 9 July 2007, the Police Agency for Investigation made an introduction of instance against and provisionally detained Mr Tim Sa Khorn in accordance with Article 87 of the Penal Code. On 8 November 2007, the People's Court of the An Giang Province brought Mr Tim Sa Khorn to an open and fair trial, convicted and then sentenced him to 12 months of imprisonment for 'undermining policies for the solidarity of ethnic minorities'. At time of writing he was serving out his sentence and his health was normal.

2036. In the view of the government, the allegations outlined in the communication were therefore unfounded and the legal basis of the arrest, detention and prison sentence of Mr Tim Sa Khorn were in line with international conventions on human rights.

### **Response from the Government to a communication sent before 2 December 2006**

2037. In a letter dated 23 July 2007, the Government of Viet Nam responded to an urgent appaeal sent by the Special Representative on 27 November 2006 together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding the intimidation and harassment of several Vietnamese religious activists, lawyers, human rights activists, journalists and members of land rights organisations and in the lead up to the Asia-Pacific Economic Cooperation (APEC) which took place in Hanoi from 17 to 19 November 2006, including Mr **Nguyen Khac Toan**, Mr **Nguyen Van Dai**, Mr **Hoang Tien**, Mr **Nguyen Phuong Anh**, Mr **Duong Van Duong (aka Dai Duong)** and Ms **Bui Thi Kim Thanh**. Mr **Nyugen Tan Hoanh**, Ms **Tran Thi Le Hong** (also known as **Nguyen Thi Le Hong**), Mr **Doan Huy Chuong** (also known as **Hoang Huy Choang**), his brothers Mr **Doan Trieu Hai** and Mr **Doan Trieu Kinh-Kha** (14 years old), Mr **Doan Van Dien**. Ms **Thich Nu Dam Thoa** and Mr **Thich Vien Dinh**, Mr Thich Vien Dinh had previously been the subject of two urgent appeals sent by mandate-holders, on 21 May 2004 and 10 June 2004.



2038. The Government response stated that Mr Nguyen Van Dai and Mr Nguyen Phuong Anh had been involved in activities which might have threatened the security of the 14<sup>th</sup> APEC Summit; and that Mr Hoang Tien had been engaged in activities infringing on Vietnamese laws and that law enforcement agencies were conducting investigations on him. Regarding Mr Nguyen Khac Toan, the Government response stated that he had been released in early 2006, still on administrative probation and that due to violations of his probation on several occasions, the law enforcement agency had taken necessary measures.

2039. Regarding Mr Duong Van Duong, the letter stated that he had been asked to come to a police station to verify details of a traffic accident in which he was involved. The Government denied any allegation that he had been beaten by undercover police officers. The letter proceeded to state that Mr Doan Huy Chuong, Mr Doan Van Dien, Mr Nguyen Tuan Hoanh and Ms Tran Thi Le Hong had all been arrested and provisionally detained for activities violating Article 79 of the Penal Code of Viet Nam. These procedures had been carried out in strict accordance with the law and their respective families had been informed.

2040. The Government response then addressed the case of Ms Thich Nu Dam Thoa, asserting that during her religious life at Nguyet Nham Pagoda, she breached the security and the social order and was transferred to another pagoda. Despite being informed that complainants would not be allowed to attend meetings, she had refused to return to her pagoda, and so in order to assure security in Hanoi for the 14<sup>th</sup> APEC Summit, the Department of Labour, Invalids, and Social Affairs arranged for her to stay at the Centre of Care Service for Old People of Bac Giang from 15-22 November 2006. This was, according to the Government, also aimed at ensuring her safety given her old age. Mr Thich Vien Dinh is a monk responsible for Giac Hoa Pagoda and so, was invited to the office of the ward's police in order to notify police of those of his colleagues who were temporary residents and make commitments with regard to the observation of laws, as part of the preparation procedures for the 14<sup>th</sup> APEC Summit. Ms Bui Thi Kim Thanh had some symptoms of mental illness and so was hospitalised for treatment at Bien Hoa Mental Hospital, Dong Nai Province. Mr Truong Quoc Huy had according to the Government, also been engaged in activities violating Article 258 of the Penal Code and so had been provisionally detained for further investigation.

### **Observations**

2041. The Special Representative thanks the Government of Viet Nam for its responses to all her communications sent in the time-period covered by this report.

2042. She remains deeply concerned regarding reports of ill-treatment of human rights defenders in detention and calls on the Government to initiate independent health examinations which can fully allay these concerns. She also urges the Government to ensure that conditions in detention are in compliance with international norms and standards and that the issue of ill-treatment of detainees is examined fully by the Government.

### **Yemen**

### **Urgent Appeal**

2043. On 25 June 2007, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning Mr **Maamar Mohamed Ahmed Salah Al Abdelli**, academic, President of the Committee for Freedom of Conscience and the Release of Political Prisoners, and correspondent of the non-Governmental organization Alkarama for Human Rights.

2044. According to the information received, on 26 May 2007, Mr Al Abdelli was arrested on the campus of the University of Sanaa by unknown persons. Since then, he had been detained at the Al Amn Assiyassi intelligence facilities of Sanaa. He had been denied access to a lawyer and his family. In May 2007, Mr Al Abdelli informed Alkarama for Human Rights of several cases of incommunicado detention of persons belonging to the Shiite religious minority and suspected of supporting the Al Houti movement. Concern was expressed that the arrest and detention of Mr Al Abdelli may have been related to his peaceful activities in defence of human rights. In view of his incommunicado detention further concern was expressed that he might be at risk of torture or ill-treatment.

### **Letter of allegations**

2045. On 4 September 2007, the Special Representative, together with 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, sent a letter of allegations to the Government concerning 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.

2046. 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.

### **Response from the Government**

2047. In a letter dated 24 January 2008, the Government of Yemen responded to the above communication. The letter stated that the Government wished to inform the mandate-holders that the information in their possession regarding the abduction, detention and threats made against Mr al-Khaiwani were untrue. The letter further stated that Mr al-Khaiwani had been arrested to be brought to justice but did not specify the allegations or charges against which led to his arrest and detention.

### **Observations**

2048. The Special Representative thanks the Government of Yemen for its response to the communication of 4 September 2007; however she requests that the Government provide her with more detailed information regarding the charges which form the basis of the judicial proceedings initiated against Mr al-Khaiwani.

2049. She also reiterates her grave concern regarding the detention of Mr Maamar Mohamed Ahmed Salah Al Abdelli and calls on the Government to provide her with information regarding the legal basis of his detention as soon as possible.

## **Zimbabwe**

### **Urgent appeal**

2050. On 7 December 2006, the 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, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, sent an urgent appeal to the Government concerning members of **Women of Zimbabwe Arise (WOZA)** and **Men of Zimbabwe Arise (MOZA)**. WOZA, and its subdivision MOZA, is a grassroots organization working to promote and protect women's activism, whose members have already been the subject of previous communications by the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 15 September 2006, 16 February 2006, 28 June 2005, 20 May 2005, 29 September 2004 and 26 September 2003.

2051. On 31 August 2005, the Government replied to the communication of 28 June 2005, which concerned events similar to those now reported. While the mandate-holders welcomed that reply, it did not allay their concerns as enumerated below. According to the allegations recently received, on 29 November 2006, more than 60 WOZA members and four MOZA members were arrested while demonstrating peacefully in central Bulawayo on their way to the Government offices at Mhlanhlandlela. The march, composed of 200 participants, was to mark the launch of the People's Charter and the "16 Days of Activism against Gender Violence", an international campaign running until International Human Rights Day on 10 December, as well as to protest against the Public Order Security Act (POSA). A large group of riot police officers allegedly assaulted the group with baton sticks, forcefully dispersing most of it. Many people – including a young baby – were beaten, and received medical care at Mpilo Hospital. 41 persons were reportedly taken to

Drill Hall by police officers who subsequently beat them, before releasing them without charge on the same day.

2052. The other marchers, including WOZA leaders Ms. **Jennifer Williams** and Ms. **Magodonga Mahlangu**, were taken to Bulawayo Central Police Station, and 36 members, including six mothers with babies, spent the night there. On 30 November 2006, the six mothers with babies were released. As of 1 December 2006, 34 WOZA/MOZA members reportedly remained in police custody, beyond the 48-hours limit provided for by law. The WOZA and MOZA members, including the six mothers released, were charged on 1 December 2006 under two separate sections of the Criminal Law (Codification and Reform) Act: Chapter 46 section 2 (v) – “employing any means whatsoever which are likely materially to interfere with the ordinary comfort, convenience, peace or quiet of the public, or does any act which is likely create a nuisance or obstruction” and Chapter 37 – “participating in a public gathering with the intent to cause public disorder, breach of peace or bigotry”. If found guilty, the members could be fined and/or imprisoned for a period not exceeding six months. A lawyer for WOZA was also threatened with arrest for “interfering with the course of justice” whilst trying to attend to her clients. She only managed to see the group on 30 November 2006, in the afternoon, several hours after being in police custody.

2053. Serious concern was expressed that these new arrests of WOZA/MOZA members and the charges against them were in relation to their legitimate activities in defence of human rights, in particular the promotion and protection of women’s rights. This concern was reinforced by the fact that this incident took place on the occasion of the first International Day on Women Human Rights Defenders celebrated every 29 November. Further concern was expressed that this new instance of repression against WOZA/MOZA members may form part of a campaign of harassment and intimidation against human rights defenders in Zimbabwe.

### **Response from the Government**

2054. In a letter dated 14 December 2006, the Government of Zimbabwe responded to the above communication. The letter stated that the protesters arrested had been charged with contravention of section 37(1)(b) of the Criminal Codification Act, Chapter 9:23 ‘Participating in gathering with intent to promote public violence, breach of peace or bigotry’. The Government response further stated that those charged appeared before a Court on 1 December 2006, where the Public Prosecutor did not request that they be remanded to police custody, advising that they be summoned to court.

2055. The letter further denied that any of those arrested had been assaulted by the police and also denied that there had been any children among those arrested. The response further stated that the detainee’s lawyer, Ms Perpetua Dube had been allowed to see her clients and that there was no record of any complaint made by her regarding the alleged threatening behaviour. The Government response finally alleged an inconsistency in the communication sent by mandate-holders, stating that the letter from the Special Representative first stated that WOZA’s members were arrested and released without charge on the same day, 29 November, before noting that their lawyer only saw them once in custody, on 30 November 2006.

### **Letter of allegations**

2056. On 5 February 2007 the Special Representative sent a letter of allegations to the Government concerning Mr **Ishmael Mayabo** and Mr **Cleopas Gwatorisa**, members of the Combined Harare Residents Association (CHRA). The CHRA advocates for housing rights and the participation of residents in the economic, political, social and religious aspects of their community.

2057. According to the information received, on 10 January 2007, two young militiamen who claimed to be associated with the ruling Zimbabwe African National Union - Patriotic Front Party (ZANU PF) reportedly rushed into the room where the CHRA was holding a meeting to discuss the recent budget of the Commission of the City of Harare. It is reported that these militiamen told Mr Mayabo and Mr Gwatorisa that they were unhappy with their work with the CHRA and forcibly brought them to the Party's provincial offices where a crowd of approximately 50 individuals proceeded to punch and kick them as well as beat them with broomsticks. The assault lasted for more than an hour. The perpetrators then telephoned the Police Internal Security Intelligence (PISI) who picked up the two activists and brought them to the Harare Central Police Station.

2058. It is further reported that Mr Mayabo and Mr Gwatorisa were detained for several hours at the police station, and were physically assaulted. They were reportedly ordered to remove their shirts and were hit with open palms. They were subsequently fined for an alleged violation of section 46 of the Criminal Law (Codification and Reform) Act.

2059. Concern was expressed that the assault and ill-treatment of Mr Mayabo and Mr Gwatorisa may be related to their legitimate peaceful activities in defence of human rights, in particular their advocacy work in promoting housing rights and encouraging residents to participate in the economic, political, social and religious aspects of their community.

### **Letter of allegations**

2060. On 7 February 2007, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegations to the Government concerning 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.

2061. 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**

2062. On 19 February December 2007, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to education, sent an urgent appeal to the Government concerning Mr. **Promise Mkwanzani**, President of the Zimbabwe National Students Union (ZINASU), Ms. **Maureen Kademaunga**, Secretary-General of the University of Zimbabwe, and Mr. **Lawrence Mashungu**, President of the Zimbabwe Christian Students Movement (ZSCM), who engaged in a peaceful demonstration in Harare on 13 February 2007.

2063. According to the information received, on 13 February 2007 officers from the Police Internal Security and Intelligence of the Harare Central Police Station arrested Mr. Mkwanzani, Ms. Kademaunga, and Mr. Mashungu together with eight other students activists, including Abisha Dube, Chanda Chinale, Lovemore Chinoputsa, Kudzai Mupazviriwo, Gladys Mukubvu, Kudakwashe Mapundu, and Blessing Vava, President of the Bulawayo Polytechnic College, who have since been released after paying admission of guilt fines amounting to Z\$ 250 each. Mr. Mkwanzani, Ms. Kademaunga, and Mr. Mashungu remain in detention at Harare Central Police station under the authority of the Law and Order Section despite the expiry of the prescribed 48 hours period of detention.

2064. The arrests took place following a meeting at Harare Polytechnic College and a subsequent peaceful demonstration in the streets of Harare. The students' demonstration was aimed at addressing the current economic situation in Zimbabwe and the effect it has on the income of students, lecturers, doctors, nurses, teachers, workers, and civil servants. The demonstrators also expressed their concern with the state of higher education in the country and demanded the abolition of the recently introduced new tuition fees structure. Mr. Mkwanzani, Ms. Kademaunga, and Mr. Mashungu were charged pursuant to section 37, para. 1 (b) of the Criminal Law (Codification and Reform) Act, which provides that "Any person who- acting together with one or more other persons present with him or her in any place or at any meeting performs any action, utters any words or distributes or displays any writing, sign or other visible representation that is obscene, threatening, abusive or insulting, intending thereby to provoke a breach of the peace or realising that there is a risk or possibility that a breach of the peace may be provoked shall be guilty of participating in a gathering with intent to promote public violence, a breach of the peace or bigotry,

as the case may be, and be liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both.”

2065. Concern was expressed that the arrest and detention of the aforementioned persons may have been connected to their peaceful and legitimate activities in defence of human rights.

### **Urgent Appeal**

2066. On 28 March 2007 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government concerning Ms **Beatrice Mtetwa**, President of the Law Society of Zimbabwe and Board member of the non-Government organization Zimbabwe Lawyers for Human Rights (ZLHR), Mr **Andrew Makoni**, Board member of ZLHR, Mr **Harrison Nkomo**, Mr **Alec Muchadehama**, Mr **Otto Saki**, Mr **Tafadzwa Mugabe**, Mr **Rangu Nyamurundira**, Mr **Dzimbabwe Chimbga**, Ms **Irene Petras**, and Mr **Arnold Tsunga**, all members of ZLHR. All the aforementioned individuals are registered legal practitioners in Zimbabwe and represent other human rights defenders, including women human rights defenders, trade unionists, constitutional rights activists, and students. May of the aforementioned had also been the subject of communications sent by mandate-holders; Ms Mtetwa, on 18 June 2004; Mr Nkomo, on 20 March 2007; Mr Mugabe, on 30 April 2004; and Mr Tsunga, on 31 January 2006 and on 7 February 2007.

2067. According to the information received, on 11 March 2007, Mr Nkomo was assaulted by a police officer with a baton stick at Machipisa police station while enquiring about the whereabouts of the members of the Save Zimbabwe Coalition who were arrested following an attempt to hold a peaceful prayer meeting in Harare. He was chased away from the station by police officers. On the same day, Ms Petras Mr Makoni, Mr Muchadehama, and Mr Mugabe were threatened with physical harm by armed police officers when attempting to enter the Harare Central police station and meet with the Officer in Charge of the Law and Order section. On 12 March, Ms Mtetwa was threatened by armed police at Borrowdale police station when attempting to serve a court order and gain access to Mr Tsvangirai, an arrested member of the political opposition.

2068. On 16 March, Mr Saki received an anonymous phone call at the office of ZLHR threatening him with death if he did not stop representing members of the Save Zimbabwe Coalition. He was also warned that all the ZLHR lawyers would be “silenced”. On 16 March, the offices of Mr Makoni and Mr Muchadehama in Harare were visited by officers from the Central Intelligence Organisation (CIO) who attempted to intimidate the lawyers from carrying out their legal representation work. Officers from the CIO have since reportedly visited the premises of ZLHR at least 7 times. On 17 March, Mr Mugabe accompanied his clients Mrs Sekai Holland and Ms Grace Kwinjeh, who were reportedly injured by police, to the airport to seek medical treatment in South Africa, but they were prevented from leaving the country, re-arrested and escorted by armed police back to a private hospital. Mr Mugabe tried to assert their rights to intelligence and immigration officials, but he was threatened with arrest and physical harm, and warned to desist from representing his clients and taking up similar cases.

2069. On the same day, Mr Chimbga was stopped by intelligence and immigration officers at the airport when returning to Harare, and told to stop taking up similar cases. These officers reportedly told Mr Chimbga that all the lawyers working for ZLHR would be “dealt with” shortly. On 18 March, Mr Makoni was threatened with disappearance by Assistant Commissioner Mabunda at Harare Central police station while attempting to serve a High Court order on him. Assistant Commissioner Mabunda allegedly stated that lawyers had disappeared during Zimbabwe’s liberation struggle, and that since Mr Makoni and his colleagues believed they were waging a new “liberation struggle”, they too would suffer the same fate.

2070. On 19 March 2007, Ms Mtetwa and Mr Nkomo were manhandled by police officers and threatened with arrest by Assistant Commissioner Mabunda at Harare Central police station whilst attempting to serve court orders and notices of set down for an urgent hearing. Concern was expressed that these acts of intimidation and harassment against the aforementioned lawyers working for ZLHR may be related to their legitimate and peaceful activities in defence of human rights, in particular the right to provide legal assistance to detainees. This concern was heightened by the fact that there seem to be a limited number of lawyers both engaged in and willing to take up human rights cases. Further concern was expressed that the independence of the judiciary is also threatened by the fact that those representing members of certain political groups are targeted.

### **Urgent Appeal**

2071. On 12 April 2007 the Special Representative sent an urgent appeal to the Government concerning Mr **Edward Dzeka**, district chairperson of the Zimbabwe Congress of Trade Unions (ZCTU), and Mr **Joyce Muwoni**. Both are local organisers for the General Agriculture and Plantations Workers Union of Zimbabwe (GAPWUZ) in the farming town of Chegutu.

2072. According to the information received, on 3 April 2007, Mr Dzeka and Mr Muwoni received threatening phone calls allegedly from officers of the Zimbabwe Republic Police (ZRP) and Central Intelligence Organisation (CIO), some of whom were known to the two trade unionists. Mr Dzeka and Mr Muwoni were reportedly threatened for mobilising workers from Chegutu town and in the surrounding farms to participate in the national job “stay away” demonstration organised by the ZCTU on the same day. On 4 April, ZRP and CIO officers visited the GAPWUZ premises looking for Mr Dzeka and Mr Muwoni, and later went to Mr Dzeka’s home in Chegutu. However, the officers could not locate Mr Dzeka and Mr Muwoni since the aforementioned threats led the two trade unionists to go into hiding. Concern was expressed that the threats against Mr Dzeka and Mr Muwoni may be related to their peaceful and legitimate activities in defence of economic and social rights, in particular workers’ rights, and may form part of a continuous pattern of harassment and repression against Zimbabwe’s human rights defenders, including trade union leaders.

### **Response from the Government**



2073. In a letter dated 25 June 2007, the Government of Zimbabwe responded to the above communication. The letter stated that the Government wished to put on record the correct position pertaining to alleged threats against Mr Edward Dzeko and Joyce Muwomi stating that neither individual had made a formal complaint and therefore it was not possible to provide an adequate response to the allegations. It was further noted that the Zimbabwe Republic police as custodians of law in the country do not in condone harassment of any individual. In conclusion, the Government suggested that the individuals in question approach their local police station or any other in Zimbabwe in order to submit an official report, and in doing so a thorough investigation would be conducted.

### **Letter of allegations**

2074. On 11 May 2007 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent a letter of allegations to the Government concerning the harassment, assaults and arrests of human rights lawyers in Zimbabwe. According to the information received, on 25 April 2007 the wives of the lawyers Mr **Alec Muchadehama** and Mr **Andrew Makoni** each received an anonymous call, threatening the families of the two lawyers by saying that they were going to be dealt with ruthlessly and that their husbands would meet the same fate.

2075. On 4 May 2007, Alec Muchadehama and Andrew Makoni were arrested and detained during their course of business on charges of obstructing the course of justice in the case of Amos Musekiwa and others who are facing arson charges. The two lawyers are the main legal representatives for the 30 members of the opposition group Movement for Democratic Change (MDC), who are accused by the Government of a series of petrol bomb attacks. Defence lawyer Muchadehama argued that several of his clients were already in detention when the alleged arson attacks took place. On 7 May 2007, the lawyers were finally released after spending three days in police custody. The lawyers were being held despite two court orders ordering their release. In addition, they were both denied access to their lawyers.

2076. On 8 May 2007, members of Law Society of Zimbabwe were subjected to brutal treatment by the state as they attempted to gather outside the High court of Zimbabwe in Harare for a peaceful solidarity protest against the arrest of the two lawyers and the non-execution of the court order. Around 60 lawyers had gathered, when they were ordered to disperse. As the lawyers began to disperse, police started assaulting them with baton sticks. Seeking protection in the Attorney General's office, they met officers waiting for them inside the building. They were forced into a police truck, driven away, severely beaten up a few kilometres away and finally abandoned by the side of the road. It was also reported that contempt of court orders by the police had become frequent, and that lawyers exercising their duties in defending the people, and notably political dissidents, were experiencing increasing harassment and violence from the police. Grave concern was expressed for the lack of respect for the independence and authority of the judiciary and for the harassment and attacks on lawyers who execute their lawful mandate as provided for under the law, which is essential for the safeguard of fundamental rights and freedoms of citizens in the country.

### **Urgent appeal**

2077. On 12 June 2007, the 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, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government concerning 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.

2078. 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.

2079. 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. **Magdonga 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**

2080. In letters dated 19 June and 4 September 2007, the Government of Zimbabwe responded to the above communication. The letters stated 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.

2081. On 21 June 2007, the police were instructed to proceed by way of summons. Jennifer Williams and Magdonga 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**

2082. On 20 July 2007 the Special Representative, together with the Special Rapporteur on the question of torture, sent a letter of allegations to the Government concerning Mr **Beloved Chiweshe** and Mr **Munjodzi Mutandiri**. Mr Chiweshe is the Secretary-General of the Zimbabwe National Students’ Union (ZINASU), and Munjodzi Mutandiri is the former President of Chinhoyi University of Technology (CUT) Students’ Union. According to information received, on 26 June 2007, at approximately 6pm, Mr Chiweshe and Mr Mutandiri were driving to Sotherton when their car was intercepted by police who ordered them to go to Sotherton Police Station. At the police station, Mr Chiweshe and Mr Mutandiri were identified as having appeared on a list of activists currently being sought by the Government. They were questioned as to the whereabouts of other known activists, in particular Mr Otto Saki who has reportedly been the subject of death threats sent to him in an attempt to dissuade him from providing legal assistance to human rights defenders in Zimbabwe following the events of 11 March 2007.

2083. Mr Chiweshe and Mr Mutandiri were then forced onto a truck and brought to a sewer discharge river where they were allegedly instructed to drink the sewer water and perform a number of press-ups, 83 press-ups in honour of President Mugabe’s age and 27 to represent Zimbabwe’s national sovereignty. Mr Mutandiri collapsed as a result. After taking their belongings, including their clothes, mobile phones and money, the police left Mr Chiweshe and Mr Mutandiri in the river where they were found two hours later. The two were receiving medical treatment. Concern was expressed that the arrest and treatment of Mr Chiweshe and Mr Mutandiri may be related to their human rights activities and may form part of an ongoing pattern of intimidation against human rights defenders in Zimbabwe.

### **Response from the Government**

2084. In a letter dated 10 December 2007, the Government of Zimbabwe responded to the above communication. The letter stated that the Police had no record of this matter and expressed surprise that academics at the highest institutions of learning would sink so low as to fail to know that if they were assaulted, ill-treated or handled in any manner that constituted an offence in a democratic country such as Zimbabwe, that the first port of call would be a police station where such threats are reported and investigations initiated. The letter states that the two men should have made a complaint immediately of any time after the alleged ill-treatment. In the view of the Government, there was little that could be done in the absence of an official complaint and it was evident that these allegations were completely false and merely meant to tarnish the reputation of the Government and the police.

### **Urgent appeal**

2085. On 24 August 2007, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal to the Government concerning Mr **Kucaca Phulu**, a lawyer and chairperson of the Zimbabwe Human Rights Association (also known as ZimRights). According to the information received, on 22 August 2007, Mr Phulu reportedly received threats over the phone by a person introducing himself as “Moyo” from the Zimbabwe African National Union - Patriotic Front. This person threatened Mr Phulu with physical harm for representing one of his clients who is charged with armed robbery and wanted for arrest, and warned him that should his client not be found, Mr Phulu would be killed in his place.

2086. Serious concern was expressed that the aforementioned death threats against Mr Phulu may be related to his work in defence of human rights. Further concern was expressed that these threats may form part of an ongoing pattern of harassment against human rights defenders and lawyers in Zimbabwe.

### **Response from the Government**

2087. In a letter dated 10 December 2007, the Government of Zimbabwe responded to the above communication. The letter firstly stated that the administration viewed the suggestion that the Government should guarantee that people should not receive threatening calls from any quarters as disturbing, and difficult to ensure. The Government further responded that the allegations of death threats could not be substantiated as no complaint had been received regarding the case at hand. The Government did not see any reason why Mr Kucaca Phulu should not have made an official police report and asserted that in the absence of said report, it became difficult to institute investigations.

### **Observations**

2088. The Special Representative thanks the Government of Zimbabwe for its responses to five of the communications sent but calls on the Government to respond to the remaining six communications sent in the time-period covered by this report and address the concerns raised.

2089. The Special Representative remains deeply concerned by the threats and intimidation of human rights defenders in Zimbabwe, such as the lawyers Mr Kucaca Phulu, Mr Alec Muchadehama, Mr Andrew Makoni, Mr Arnold Tsunga and the trade union activists Mr Edward Dzeka and Mr Joyce Muwoni.

2090. She would also like to address the supposed inconsistency in the communication of 7 December 2006 and bring to the Government’s attention that the urgent appeal referred to the release of those taken to Drill Hall as occurring the same day, and stated that, as of 1 December 2006, 34 members of the group remained in detention. She views with concern the continued harassment of members of the non-Governmental organization Women of Zimbabwe Arise and hope that the authorities will allow its members to exercise their right to freedom of assembly and peaceful protest without fear of intimidation or use of excessive force on the part of authorities.

2091. The Special Representative further expresses her regret that the government response of 10 December 2007, appears not to attach much importance to the allegations outlined in the communication of 20 July 2007 concerning the threats against and assault of Mr Beloved Chiweshe and Mr Munjodzi Mutandiri. She views allegations of harassment of human rights defenders which involve police officers as grave cause for concern and calls on the Government to conduct a thorough investigation of this case independently of the law enforcement agency whose members are allegedly implicated in the case.

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