



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/78/Add.3
8 March 2005

Original: ENGLISH/FRENCH/
SPANISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 13 of the provisional agenda

RIGHTS OF THE CHILD

**Report of the Special Rapporteur on the sale of children, child prostitution and child
pornography, Juan Miguel Petit**

Addendum

Communications sent to Governments and replies received *

* 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. This addendum to the report of the Special Rapporteur contains, on a country by country basis, summaries of general allegations and individual cases, as well as of urgent appeals and government replies. It is the first time that the Special Rapporteurs has compiled communications addressed to and received from Governments in a separate report.
2. The Special Rapporteur recalls that in transmitting allegations and urgent appeals, he does not make any judgement concerning the merits of the cases, nor does he support the opinion and activities of the persons on behalf of whom he intervenes.
3. During the period under review, from 1 January 2004 to 31 December 2004, the Special Rapporteur sent 47 communications to 30 countries. He received 18 replies from concerned Governments and appreciates the timely replies. The Special Rapporteur regrets that many Governments failed to respond, or did so selectively.
4. Owing to restrictions to the length of documents, the Special Rapporteur reduced considerably details of communications sent and received.
5. Over 60 per cent of the communications sent by the Special Rapporteur were sent jointly with other independent experts. Most joint communications (17) were sent together with the Special Rapporteur on violence against women, its causes and consequences. The Special Rapporteur also sent communications jointly with 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 torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on trafficking in persons, especially women and children, and the Special Rapporteur on extrajudicial, summary or arbitrary executions.
6. This report contains individual cases and general situations related to the mandate of the Special Rapporteur. This includes allegations related to: international illegal adoptions; sexual violence and abuse of children; abduction of girls and boys; trafficking of children; children's rights defenders; child pornography; child bonded labour; sale of organs; child sexual exploitation.
7. A large amount of cases received by the Special Rapporteur concern the phenomenon of trafficking of children to be used as camel jockeys. The Special Rapporteur addressed these cases, as all other cases of international trafficking of children, to the countries of both origin and destination of trafficked children. This is because both countries of origin and destination (as well as transit countries) are responsible for fighting and preventing this phenomenon. The number of individual cases of boys trafficked to be used as camel jockeys received by the Special Rapporteur highlights a pattern indicating that this problem persists and that measures need to be taken to address it.
8. The names of children appear with the initials. They were spelled out in the actual letters addressed to Governments.

Bangladesh/United Arab Emirates

Communications sent to the Government

9. By letter dated 3 May 2004, the Special Rapporteur notified the Governments of Bangladesh and the United Arab Emirates that he had received information regarding the following individual cases of children used as camel jockeys in the United Arab Emirates and trafficked from Bangladesh:

(a) **Z.**, a 4-year-old Bangladeshi boy, was allegedly forcibly engaged as a camel jockey in the United Arab Emirates for nearly three years. **Z.** was reportedly abducted and taken to Dubai in 1999, where he started training as a camel jockey in Ras-Al-Khaima under the so-called native master Saeed Shah. According to information received, the boy was undernourished and underweight throughout the period he served as a camel jockey. It is believed that **Z.**'s father spent his last savings in order to go to Dubai to search for the boy and that after a long search he allegedly found his son and his so-called "master". However, **Z.**'s father was deported to Bangladesh, as his visa had expired, without his son who remained in Ras-Al-Khaima. According to the information received, **Z.** was forced to work as camel jockey till October 2002, when he was identified by the visiting Director-General of the Bangladesh Manpower Employment and Training Bureau as a Bangladeshi boy engaged in camel jockeying. It is reported that on 1 November 2002, the consulate of Bangladesh rescued the boy and eventually repatriated him with the help of the Bangladesh National Women Lawyers' Association. After an extensive search, the parents were traced and finally, on 30 November 2002, the boy was handed over to his family;

(b) **S.**, a 5-year-old boy, was allegedly trafficked to the United Arab Emirates to be used as a camel jockey. In October 2002, a local organization working against trafficking and sexual exploitation of children began an investigation and subsequently filed a complaint with the Lalbagh Police Station accusing two persons, whose names are known to the Special Rapporteur, of trafficking. The police reportedly arrested the husband of one of the alleged perpetrators and were informed that one of the perpetrators had taken **S.** and **J.** (7 years old) to Chittagong. The Dhaka police allegedly contacted the Chittagong police requesting that they intercept the boys but, on 26 October 2002, were informed that the perpetrators and both boys had flown to Dubai via Dhaka. According to information received, the police are still investigating this case;

(c) The brothers **H.**, aged 13 years, and **H.J.**, aged 11 years, were reportedly trafficked to the United Arab Emirates where they served as camel jockeys for six years. According to information received, the two boys, who were from the Habiganj district in Bangladesh, were thrown out of the sports competition in mid-September 2002 by organizers in Dubai as they had gained more weight than is permitted to participate in the race. It is reported that both boys were sent back to Bangladesh by the members of the trafficking network in October 2002 and that the father filed a case against the trafficker;

(d) **Y.** was reportedly trafficked from Dhaka to Dubai when he was a boy of eight. It is believed that while he was serving as a camel jockey he suffered injuries on a number of occasions and was undernourished, like most of the children used in camel races. In September 2002, when **Y.** was 16 years old, he was allegedly sent back to Bangladesh as he had gained

more weight than was considered acceptable by the race organizers in order to win the races. According to information received, Y's growth was seriously compromised by his treatment during the time he served as a camel jockey and he has remained psychologically traumatized;

(e) **H.M.** was reportedly trafficked from Bangladesh to the United Arab Emirates in 1999, when he was about 5 years old. A neighbour and one of his mother's relatives allegedly approached the family and proposed to take the boy to the United Arab Emirates to work in a camel farm, promising that he would earn a lot of money. It is reported that the parents agreed to this proposal and that the child was then sent to the United Arab Emirates. According to information received, H.M. was still believed to be living in the United Arab Emirates though his parents do not know his exact address. During the last three years, it is believed that the alleged trafficker provided some Tk 10,000 (US\$ 200) to H.M.'s family. According to reports, a case has been filed against the alleged perpetrator at a local police station in Bangladesh;

(f) **F. and S.**, two brothers who used to live in Norshingdhi district, Bangladesh, were allegedly trafficked in 2000 together with their mother. At the time they were trafficked, F. was approximately 6 years old and S. was about 4. It is believed that the two children are working in a camel farm and that both parents are also currently living in the United Arab Emirates.

10. On 23 September 2004, the Special Rapporteur sent an urgent appeal regarding the following individual cases of children allegedly trafficked from Bangladesh to be used as camel jockeys in the United Arab Emirates. Some of these children have returned to Bangladesh while others are still reported to be in the United Arab Emirates:

(a) **S.H.**, from Jagatpur village, was taken, in January of 1999, when he was 6½ years old, to Jamim town in Dubai, United Arab Emirates, and did not return to Bangladesh until April of 2004. According to statements made by S.H., a man, whose name is known to the Special Rapporteur, from Muradnagar village in Nordsinghi district arranged for his travel and accompanied him to Dubai together with his son. S.H. was not abducted, but was reportedly sent out of the country by his parents, who were paid a total of 70,000 taka for the 5½ years that S.H. was away working as a camel jockey. He was told that he would work with camels and go to school. He did not want to go. In Dubai, S.H. was made to work cutting grass for camels and participating in camel races. He participated in many races; some, he estimated, were attended by thousands of people. On several occasions he won the first prize, a car, but his master took his prizes. S.H. himself never received any payment for his work. S.H. stated further that he had worked seven days a week, 15-16 hours per day, and that he never had any holidays and never went to school. His treatment varied; sometimes he thought he was well treated but other times not. He was sometimes beaten. He missed his family. He also injured his head falling from the back of a camel. When he was ill, another employee arranged for him to receive medication but he never saw a doctor. He was given three meals a day: rice for lunch and bread for breakfast and dinner. Eventually he contacted his parents through the man who arranged his travel and his wife. He convinced them to help him to return to Bangladesh and they accompanied him home. However, when he left, his master told him to return to Dubai;

(b) **S.I.** left his home in Cox's Bazaar district in June 1997 at the age of 7½ and did not return until 30 June 2004. The alleged trafficker and his wife, whose names are known to the Special Rapporteur, had told S.I.'s father that if he allowed him to go to Dubai he would receive the equivalent of 400 dirhams per month in Bangladeshi taka. There was never any mention of

him receiving an education. In fact, his family received 50,000 taka for the whole 6½ years their son was in Dubai. The child did not have his own passport, but travelled to Dubai together with the alleged trafficker and was registered on his passport as his son. He was also accompanied by the trafficker's wife, their son and another three boys he did not know. He can only remember the name of one of the boys, F., who was another Bangladeshi who returned with him from the United Arab Emirates and is also from Cox's Bazaar district. When they arrived at Dubai airport, they first went to the trafficker's house and then travelled to the camel farm. S.I. was put to work feeding and racing camels. He took part in public camel races where he said there were more than 100 jockeys. He won many prizes on behalf of his camel owner during his time in Dubai. The camel owner took the expensive prizes, and gave him 100 dirhams in tips. However, the trafficker took these, as well as his 400 dirhams monthly salary. S.I. himself never received anything. He fell from the camel several times. His master had about 100 camels in his farm. There were other children there too. Every day, he had to get up at 3 a.m. and work into the evening, seven days a week. He did not go to school. He was allowed no holidays, though he states that occasionally his master arranged for them to visit places. He was beaten if he refused to ride a camel, and was given three meals a day: rice for lunch and bread for dinner. But it was not enough and he could not get more food. While in Dubai, he fell ill several times with fever and diarrhoea. On these occasions he was checked by a doctor and given medicine. He had no contact with his family while he was there because he was living in a remote area with no way to communicate with them. When he was 14 years old he was sent back from Dubai with the trafficker because he was "overweight". He was told he was going home to visit his parents;

(c) **Ha.** and **Ho.** are two brothers of a farmer's family of seven sons in Puranganj village in Hobiganj district. In 1996, a gang of alleged traffickers, whose names are known to the Special Rapporteur, suggested to the father to send his sons Ha., then aged 7, and Ho., then aged 5, abroad. The father refused and the traffickers kidnapped the two boys and sold them to a woman, whose name is known to the Special Rapporteur. Together with her husband, she trafficked Ha. and Ho. to Dubai. For a long time, the father could not trace his sons. Then, in September 2003, the alleged woman trafficker brought Ha. back from Dubai and left him at Chittagong, a port city in Bangladesh. However, Ho. is still missing and his brother Ha. has no idea of his younger brother's whereabouts;

(d) In 2002, in Sreenagar village, a man, whose name is known to the Special Rapporteur, proposed to the father of **A.M.** and **P.M.**, then aged 7 and 5 respectively, to give him the two sons so that he could take them to Dubai to become camel jockeys. The father reportedly accepted and now lives on his sons' income (5,000 to 6,000 taka per month). The two children are still in Dubai;

(e) Mr. Y.M., aged about 35, from Kamarkanda village, Upazila Bhairab, Kishorganj district, lived in Dubai for a long time. In 2000, he agreed to let his son, **S.**, the second of four brothers and sisters and who was then aged 7, to be taken to work as a camel jockey. His wife said that she went to Dubai with S., who was given a passport in a different name. The trip was reportedly organized by a neighbour, whose name is known to the Special Rapporteur. The neighbour subsequently returned to Bangladesh several times but S. always remained in Dubai. On 10 October 2003, the father returned from Dubai after three years, but left his son S. still working in a camel farm in Dubai;

(f) In 2001, in Upazila Bahubal, Hobiganj district, a man, whose name is known to the Special Rapporteur, proposed to a man called T, that he should send his wife to Dubai where she could earn a lot of money. T. initially refused, but his wife eventually agreed. The alleged trafficker also insisted that the wife take along her youngest son, Z., who was then aged about four, and said that it would also reduce the cost of going to Dubai. The wife and the trafficker left home for Dhaka with Z.. Then they went to Hyderabad, India, with another trafficker, whose name is known to the Special Rapporteur. They stayed in Hyderabad to arrange new passports and other travel documents. But due to a problem with their documents, they were both returned to India from Dubai airport. The Indian police arrested them and kept them in detention for about two years. They were repatriated in June 2003;

(g) In 1996, in Omorpur village, Hobiganj district, a man, whose name is known to the Special Rapporteur, proposed to the father of K.M, then aged 6 and M., 4, to give him his sons and wife so that he could take them to Dubai where that they would earn lots of money. The father accepted and gave his children to the alleged trafficker. They reached Delhi in India where they stayed for about six months to prepare travel documents. The trafficker contacted a person, whose name is known to the Special Rapporteur, who prepared passports for the boys and sent them to Dubai. Their mother was unable to accompany them and had to return home. The parents knew nothing about their sons until the elder son K.M. returned home in 2000. However, the younger boy, M., is still in Dubai;

(h) Sometime in 2000, S., then aged 12, from Alokballi village, Norsingdhi district, was travelling to Dhaka with his father when a man, whose name is known to the Special Rapporteur, abducted him during the trip. In 2003, a migrant worker in Dubai from Monipura village, Upazila-Raipura, Norsingdhi district, informed the father that S. was in Dubai, working in a camel farm. The migrant worker also gave him a photograph of S. The father wants his son returned;

(i) S., from Alokballi village, Norsingdhi district, was reportedly taken to Dubai in 2000 at the age of eight by his uncle, who persuaded his mother to send her son to Dubai with him. She hoped that S. would earn money in Dubai and be able to send it to the family in Bangladesh. The uncle has been living in Dubai since 2000 and returns home to his village once a year. He promised S.'s parents 1,000 taka per month, but actually they receive a sum of between 2,000 and 3,000 taka per year;

(j) Three brothers I., F., and O., lived Goalmara, Palong Khali, Upazila Ukhia in the district of Cox's Bazaar. In 1999, when they were 5, 3 and 1 respectively, they went to Dubai with their mother and stepfather. A few weeks after their arrival in Dubai, the stepfather began to treat his wife violently and separated her from her three sons. The mother was reportedly deported from the United Arab Emirates to Bangladesh in mid-2003, but her three sons are still in Dubai. I. and F. are working as camel jockeys and it is feared that O., the third son, may be used as a camel jockey soon.

Communications received from the Government

11. By letter dated 6 October 2004, the Government of Bangladesh, in reply to the letter sent by the Special Rapporteur on 24 September 2004, reported that it was aware of the problems of the trafficking of children to use them as camel jockeys and has taken measures to address them.

The Government also reported that both communications sent by the Special Rapporteur had been taken note of and referred to the concerned authorities in Bangladesh for immediate attention and necessary action.

Observations

12. The Special Rapporteur transmitted these cases to the Government of Bangladesh to express his concern about a pattern of trafficking that should be faced in the countries of origin, transit and destination. Considering that Bangladesh is a country of origin, the Special Rapporteur would like to receive information on the measures taken by the Government to: (a) prevent the perpetuation of this phenomenon; (b) compensate and rehabilitate the victims of trafficking and their families, (c) prosecute those found guilty of the violations.

Brazil

Communication sent to the Government

13. On 23 September 2004, the Special Rapporteur, jointly with the Special Rapporteur on torture, sent an urgent appeal concerning a number of adolescents held at Tatuapé centre, in the State of São Paulo.

14. According to the information received, **a number of adolescents** complained of having been tortured by *monitores* (warders) in Units 5 and 12 of the centre after their transfer from the Franco da Rocha detention centre of the Fundação do Bem-Estar do Menor (FEBEM), Foundation for the Well-being of Minors, which was closed down in December 2003. *Monitores* are said to have continuously threatened and taunted the adolescents and monitored visits from relatives, so detainees were unable to speak freely of the abuses they had suffered. It is also alleged that two adolescents in Unit 12 were told they would be beaten to death if they reported the abuses. Fears have been expressed that the above-named youths are at risk of further torture or other forms of ill-treatment.

15. The Special Rapporteurs also drew the Government's attention to information recently received according to which **three juveniles** were shot on 22 January 2004 during an escape attempt from the Vila Maria centre, part of FEBEM. One 17-year-old reportedly died, and another is in a critical condition in hospital. Military police and *monitores* deny shooting at the detainees. Another adolescent was shot dead on 20 December 2003 in similar circumstances.

16. It is alleged that **Lostao Jorge Andrade and Celso da Silva and at least eight other adolescents** have died in the FEBEM system since January 2003, and investigations have reportedly been inadequate.

17. According to the information received, State authorities have hindered access to the FEBEM units by mothers of detainees, NGOs and members of civil society. High-ranking state officials are also said to have undermined NGOs, and even public prosecutors, by attacking them in the media.

Observations

18. During his visit to Brazil in November 2003 (see E/CN.4/2004/9/Add.2), the Special Rapporteur expressed his concerns about the allegations of ill-treatment of adolescents detained in juvenile detention centres. In particular, he was reported that 20 per cent of the girls detained in juvenile detention centres for murder had committed the crime to escape a situation of rape or threat of rape and abuse. These data are a dramatic indication of the cycle of violence that sexual abuse perpetuates and aggravates.

Burundi

Communication adressée au Gouvernement

19. Le 26 mars 2004, le Rapporteur spécial et la Rapporteuse spéciale sur la question de la violence contre les femmes ont envoyé un appel urgent concernant des informations reçues selon lesquelles plus de **70 cas de viol contre des femmes et des enfants** auraient été commis entre novembre 2003 et mars 2004. Les rapports feraient également état de trois enfants de 4 ans qui auraient été violés par des civils. Ces viols auraient apparemment été commis par des rebelles, des déserteurs des forces armées burundaises et des bandes armées civiles. Dans Muramuya, des rapports indiquent que des femmes seules seraient systématiquement violées à la tombée de la nuit par une bande armée qui serait connue de la population. Plutôt que de rester seules chez elles et d'être agressées, ces femmes semblent obligées de se regrouper dans des endroits sûrs pour y passer la nuit avant de retourner chez elles au matin. Il est indiqué que certains de ces viols seraient commis en représailles à la non-conclusion de mariages promis, les futurs maris se vengeant sur les femmes qu'ils auraient dû épouser. Une grande majorité des coupables de tels actes seraient toujours en liberté, certains d'entre eux étant fort bien connus de la population. En outre, les femmes seraient menacées de représailles si elles portaient plainte.

Observations

20. Le viol, ainsi que la violence et l'abus, sont parmi les causes les plus répandues à l'origine de l'exploitation sexuelle et de la traite d'enfants. En vue de cette situation, le Rapporteur spécial se joint à la Rapporteuse spéciale sur la question de la violence contre les femmes pour réitérer son désir de recevoir une réponse du Gouvernement burundais à ces allégations.

Canada

Communication received from the Government

21. By letter dated 20 September 2004, the Government transmitted updated information concerning the allegations of fraudulent adoption practices and violence against women sent jointly with the Special Rapporteur on violence against women on 13 August 2002.

22. The Government recalls that in December 2002, it had submitted a preliminary response in which it noted that the Province of Ontario was unable to investigate the matter without the consent of the alleged victims to the disclosure of their personal information. By letter dated 28 May 2003, the Government requested the assistance of the Special Rapporteurs in obtaining the

consent of the individuals involved. Subsequently, the consent of one of the victims was obtained and an investigation into the substance of the allegations has been initiated. However, the Government reports that it cannot carry out any further investigations into the situations of the other two individuals named in the communication of 13 August 2004, as it has not received their consent.

Chile

Comunicación enviada al Gobierno

23. El 20 de agosto de 2004, el Relator Especial transmitió un llamamiento urgente conjunto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, señalando a la atención urgente del Gobierno información recibida en relación con el despido del periodista **Alberto Luengo** del diario *La Nación*.

24. Según la información recibida, el 10 de agosto de 2004, el directorio de *La Nación*, que es propiedad del Gobierno, habría despedido a Alberto Luengo debido a la cobertura del matutino sobre un caso de pedofilia que involucraría a altas figuras de la política chilena.

25. Desde octubre de 2003, los poderes del Estado y los medios de comunicación eran conmovidos por el denominado caso Spiniak, una red de pornografía infantil y abuso sexual a menores de edad.

26. Testimonios ante la justicia habrían señalado la participación del alcalde de Valparaíso, de la Democracia Cristiana —una agrupación que integra la Concertación, alianza en el gobierno nacional—, y de un senador de la Unión Democrática Independiente, partido de oposición que habría calificado las acusaciones como parte de un complot.

27. El ministro secretario general de gobierno, Francisco Vidal, habría explicado a la prensa que el despido de Luengo "dice relación con el hecho de tratar, editorialmente, temas que actualmente se encuentran en conocimiento e investigación por parte de los tribunales de justicia". Habría considerado que "la línea editorial de un diario que es de gobierno tiene que coincidir con el gobierno".

Observaciones

28. El Relator Especial reitera su interés en recibir informaciones del Gobierno sobre el caso arriba citado.

China

Communication sent to the Government

29. On 10 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, sent an urgent appeal regarding the case of **Z.Y.** According to information received, on 1 January 2004 Z.Y., a 4-year-old girl, was taken from her home in Zitong town, Tongnan county, Chongqing city on by four police officers from the Tongnan County National

Security Team. The name of the police officer alleged to have been in charge of the operation is known to the Special Rapporteurs.

30. It is reported that both of Z.Y.'s parents had already been arrested, allegedly because they are practitioners of Falun Gong. On the afternoon of 23 December 2003, Z.Y.'s mother was taken into detention, where she is said to have been tortured. She was released after having been on a hunger strike for 54 days. Once released, she began to search for her daughter. It is said that then the mother disappeared and her current whereabouts are unknown.

31. In February 2002, Z.Y.'s father was allegedly sent to Xishanping Labour Camp, where he was brutally tortured. It is reported that as a consequence his nose was broken, his teeth knocked out and his ribs injured. He is now detained at an undisclosed location.

Observations

32. The Special Rapporteur joined this case to express his fear that the girl might be at risk of torture, rape, or trafficking. He reiterates his interest in receiving the reply of the Government of China to these allegations.

Colombia

Comunicación enviada al Gobierno

33. El 24 de agosto de 2004, el Relator Especial transmitió un llamamiento urgente, juntamente con la Relatora Especial sobre violencia contra la mujer, sus causas y consecuencias y el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, en relación con los casos de dos niñas de 16 y 17 años del municipio de Sonsón, departamento de Antioquia. Las dos niñas habrían sido abordadas por miembros del personal militar adscrito a la IV Brigada del Ejército Nacional el 15 de julio de 2004. Los militares les habrían tapado la boca, las habrían cogido de los pies y las manos, introducido violentamente en la camioneta y conducido a un lugar despoblado. Allí, las habrían desnudado, habrían abusado sexualmente de ellas y las habrían violado. Tras denunciar la agresión, una de las niñas habría sido objeto de amenazas e intimidaciones. También se habría interpuesto una denuncia en relación con estas amenazas e intimidaciones. De acuerdo con las informaciones recibidas, el Comandante de la unidad militar acantonada en Sonsón habría manifestado que había tomado la determinación de destituir a un soldado profesional que participó en la agresión y que se tenía bajo investigación a siete soldados regulares. El Comandante ofreció indemnizar a las víctimas con una suma de 150.000 pesos mensuales durante un periodo de ocho meses.

Comunicación recibida del Gobierno

34. En relación con el caso resumido arriba, el Gobierno proporcionó las siguientes informaciones por carta con fecha de 8 de diciembre de 2004.

35. El 30 de agosto de 2004, la investigación habría sido remitida a los Fiscales Especializados de la dirección Seccional de Medellín. La investigación por los hechos alegados se adelantaría actualmente bajo el despacho del Fiscal Especializado Destacado ante el Gula Oriente. Así mismo el Departamento Administrativo de Seguridad (DAS), en consideración a

que los hechos denunciados fueron presuntamente cometidos por miembros militares de la Brigada IV del Ejército Nacional, habría dado traslado de su solicitud a la Oficina de Derechos Humanos del Ministerio de Defensa Nacional el 6 de septiembre de 2004. El Gobierno proporcionó también información al respecto de los elementos actualmente contenidos en la petición, entre otros: las denuncias formuladas el 6 de agosto 2004 ante el despacho; los reconocimientos médicos de las dos niñas; un informe suscrito por el Mayor William Roberto Del Valle refiriéndose al personal de soldados que se encontraba en el casco urbano de este Municipio el 15 de julio de 2004; y la resolución del 30 de agosto del 2004 ordenando la remisión de la investigación a la Fiscalía Especializada. Finalmente, el Gobierno afirma que seguirá atento al resultado de las investigaciones que se adelanten, respecto de lo cual se informará oportunamente al Relator Especial.

Observaciones

36. El Relator Especial recuerda que la violencia y el abuso sexual figuran entre las primeras causas de la explotación sexual y el tráfico de niñas, niños y adolescentes, sobre todo cuando los responsables quedan impunes. En este sentido, juntó en este caso su voz a la de la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias.

37. El Relator Especial quisiera agradecer al gobierno de Colombia por la detallada información proporcionada y reitera su interés en recibir informaciones no sólo sobre las investigaciones llevadas a cabo sino también sobre los procedimientos judiciales que podrán surgir para punir a los responsables y compensar a las víctimas.

Costa Rica

Comunicación enviada al Gobierno

38. El 14 de junio de 2004, el Relator Especial transmitió un llamamiento urgente en relación a la situación de nueve bebés guatemaltecos que habrían sido localizados en una casa cuna en San José desde el 22 de septiembre del 2003. Según la información recibida, los bebés se encontrarían a salvo, en un hogar estatal, pero su prolongada permanencia en ese lugar afecta a otros de sus derechos humanos.

39. El Relator Especial expresó su preocupación que, pasado este tiempo, las autoridades costarricenses no habrían determinado su situación jurídica, pese a que incluso contarían con muestras de ADN de las supuestas madres guatemaltecas. Al momento de escribir la carta, se desconocería si los niños y niñas van a ser entregados a sus progenitores o si, por el contrario, es posible darlos en adopción.

40. Sin que ello implique, en modo alguno, una conclusión sobre los hechos y conociendo los esfuerzos de su Gobierno para defender los derechos humanos del niño, el Relator Especial expresó su preocupación por la situación de inseguridad jurídica que es, precisamente, lo que facilita la existencia de las adopciones internacionales irregulares.

Comunicación recibida del Gobierno

41. El Gobierno transmitió la siguiente información por carta con fecha 7 de julio de 2004. Los niños y niñas, al parecer de nacionalidad guatemalteca, se encontrarían bajo la protección del Estado costarricense, en una alternativa de abrigo temporal del Patronato Nacional de la Infancia (PANI). En este caso las autoridades judiciales y administrativas habrían sido orientadas a la protección integral de los menores de edad, quienes fueron expuestos a un alto riesgo por parte de personas presuntamente pertenecientes a redes dedicadas al tráfico de niños y niñas, las cuales están operando desde otros países de América Central y del Sur y que han tomado Costa Rica como país de tránsito. Dicha situación habría llevado a la apertura de un proceso penal, incoado desde septiembre del año anterior, por el delito de tráfico internacional de menores, que actualmente está en fase de investigación.

42. La permanencia de este grupo de niños y niñas bajo la protección directa del PANI se habría prolongado pese a diversas gestiones de índole técnica, política y diplomática emprendidas por esta entidad. En el momento en que se escribió la carta, era imposible disponer la entrega del grupo hasta tanto no se determinase, mediante pruebas de ADN, quienes son los progenitores y cuál es la nacionalidad de los mismos, pericia que aún no ha concluido. Por otra parte, el Ministerio Público habría comunicado al PANI que la determinación de la situación jurídica de los menores no era impedimento para que se aplicaran los correspondientes procedimientos de investigación penales a fin de evitar de que los niños fueran nuevamente expuestos a situaciones similares, particularmente en razón de la existencia de indicios de que en perjuicio de casi todos estos niños hubo propósitos o medios ilícitos, como adopciones internacionales irregulares y consentimientos parentales fraudulentos. Esto explicaría por ende, el que los esfuerzos del PANI por el momento, aún tendrían a concentrarse en brindar protección especial y atención psicosocial. Al término o agotamiento de las pericias mencionadas por parte del Ministerio Público se podrá ordenar la restitución o no restitución de este grupo de niños y niñas a su país de origen en función del mejor interés superior para cada situación. No obstante, en caso de que se ordenase una no restitución, el PANI podría proceder a promover ante las autoridades jurisdiccionales competentes las respectivas declaratorias judiciales de abandono, entre otras soluciones ajustadas con el derecho interno costarricense.

Comunicaciones enviadas al Gobierno

43. El 7 de Julio de 2004, el Relator Especial transmitió una comunicación conjunta con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, a fin de manifestar su apoyo a la iniciativa de ley para imposibilitar los matrimonios de personas menores de 15 años de edad, proyecto que, según la Oficina de Iniciativa Popular del Congreso, es el tema 88 del orden del día en el Plenario Legislativo.

44. Los Relatores Especiales afirmaron que el hecho de que la legislación costarricense permita que el culpable de abusos sexuales contraiga matrimonio con una niña menor de 15 años, representa una escapatoria legal permisiva y una ventaja que los criminales pueden aprovechar. Según el Registro Civil de Costa Rica, en el año 2001 se habrían registrado 40 matrimonios de este tipo.

45. El Código Penal de Costa Rica castiga las relaciones sexuales con una persona menor de 15 años. Entonces, una forma de evitar la cárcel podría ser de casarse con la adolescente.

46. Por las razones anteriormente expuestas, los Relatores Especiales consideran que es importante agilizar la aprobación de ese proyecto de ley. Será una forma de proteger a la niñez, pero también un mecanismo para despojar a los abusadores de una herramienta legal que les permite actuar con impunidad.

47. El 13 de agosto de 2004, el Relator Especial transmitió un llamamiento urgente conjunto con la Relatora Especial sobre los derechos humanos de los migrantes y la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, señalando a la atención urgente del Gobierno la información recibida en relación con un presunto caso de tráfico ilícito de menores. A continuación se detallan las informaciones recibidas.

48. A mediados de julio de 2004, cuatro menores ecuatorianos, de edades comprendidas entre los 10 y 17 años, habrían sido trasladados al PANI tras ser detectados por las autoridades de migración presentes en las zonas de de Cañas Guanacaste y Corredores Puntarenas. Contando con la ayuda de agentes del tráfico de inmigrantes, los menores habrían viajado en avión hasta Panamá y se cree que pretendían continuar por tierra en dirección a los Estados Unidos de América.

49. Según la información recibida, en el primer semestre de 2004 se habrían detectado en frontera y en el Aeropuerto Internacional de Juan Santamaría otros cuatro grupos de niñas y niños ecuatorianos en posesión de documentación falsa, que se cree habría sido proporcionada por agentes del tráfico de inmigrantes. En 2003, ya se habrían registrado casos similares de niñas y niños guatemaltecos.

Comunicación recibida del Gobierno

50. En relación con la comunicación conjunta enviada el 13 de agosto de 2004, el Gobierno proporcionó la siguiente información por carta con fecha el 27 de septiembre de 2004:

(a) **A.L.B.**, peruano de 17 años, habría ingresado en el PANI el 21 de julio de 2004 como adolescente no acompañado, indocumentado, sin familiares en el país. El 22 de julio del 2004 habría sido ingresado en el albergue del PANI de Alajuela. El joven habría sido muy reservado en sus declaraciones y no habría dado referencia de por qué se encontraba en el país, ni de con quién se había albergado, y únicamente habría manifestado su deseo de regresar al Perú. Se habría coordinado con la Dirección General de Migración y Extranjería y el Consulado de Perú la deportación del menor, y la necesidad de que algún familiar debidamente valorado o la institución homóloga del PANI en Perú lo recibieran a su llegada. El 2 de agosto de 2004, aprovechando que los albergues del PANI son centros abiertos, el menor se habría fugado del albergue de Alajuela. Se habría planteado la denuncia respectiva a efecto de que se procurara localizar al joven, si bien hasta la fecha no habría sido posible determinar dónde se encuentra;

(b) **N.C.U.**, ecuatoriana, 17 años de edad, habría ingresado en el PANI, el 21 de julio de 2004 y deportada el 18 de agosto del 2004; **M.J.A.C.**, ecuatoriano, 16 años de edad, habría ingresado en el PANI el 6 de agosto de 2004, y deportado el 3 de septiembre del 2004; **R.A.M.C.**, ecuatoriana, 17 años de edad, habría ingresado en el PANI el 6 de agosto de 2004, y deportada el 18 de agosto de 2004. En la provincia de Puntarenas (Corredores) todos los menores se habrían negado a prestar cualquier tipo de colaboración con las autoridades y se habrían

negado a informar por qué estaban en Costa Rica, cómo llegaron al país, dónde se hospedaron durante su estancia en el país, de dónde venían, quienes colaboraron en su traslado hasta el país o cual era su destino final. Habrían sido deportados luego de coordinar con el consulado de Ecuador a fin de que los menores fueran debidamente identificados, se le tramitaron los documentos de identidad necesarios, y para que fueran recibidos en el aeropuerto por familiares previamente calificados o por el homólogo del PANI en dicho país. Lo anterior denotaría que habían sido entrenados sobre cuál debía ser su reacción ante una detención e indicaría que personas sin escrúpulos utilizan el país como puente en el traslado de ilegales suramericanos. Las diversas instituciones relevantes del país estarían coordinando acciones para atacar este problema y velar por el bienestar de los menores de edad que se vean involucrados.

51. En relación con los casos de dos niños ecuatorianos, en condición ilegal detenidos por las autoridades en la provincia de Puntarenas (Corredores) se transmitió la siguiente información:

(a) **E.G.A.**, ecuatoriano, 16 años de edad, habría ingresado en el PANI el 27 de abril de 2004 y posteriormente habría sido deportado. Se habría negado a prestar cualquier tipo de colaboración con las autoridades, se habría negado a informar por qué estaba en Costa Rica, cómo llegó al país, dónde se hospedó durante su estancia en el país, de dónde venía, quienes colaboraron en su traslado hasta el país o cual era su destino final. Habría sido deportado tras haber coordinado con el consulado del Ecuador a fin de que el menor fuera debidamente identificado y para que fuera recibido en el aeropuerto por familiares previamente calificados o por el homólogo del PANI en dicho país; se le tramitaron los documentos de identidad necesarios;

(b) **G.S.Y.M.**, 10 años de edad y **L.M.C.L.**, 16 años de edad, habrían sido detenidos junto con algunos adultos cuando eran trasladados en un vehículo alquilado cerca de la frontera con Panamá. La oficina local del PANI habría dictado una medida de protección a favor de los niños, que habrían sido ingresados en un albergue en el que se les habría dado protección y atención social y psicológica. Los niños no tendrían ni familiares ni conocidos en el país y habrían indicado desconocer las razones por las que estaban en Costa Rica. El mayor habría relatado que su madre había firmado un contrato con un hombre y que a partir de allí lo trasladaron a Panamá y posteriormente a Costa Rica. El menor habría manifestado que viajaba con su abuelo, persona que nunca pudo ser localizada. Los dos menores habrían expresado su deseo de volver al Ecuador.

52. El PANI habría planteado la denuncia respectiva ante la Fiscalía de Corredores a fin de que el caso fuera debidamente investigado, y habría solicitado que se realizara el anticipo jurisdiccional de la prueba a los niños a efecto de poder restituirlos a su país de origen. Se habría coordinado con la Dirección General de Migración y Extranjería y el Consulado del Ecuador la devolución de los niños. El Gobierno añade que, de acuerdo con el registro de las autoridades de migración, la persona que conducía el vehículo en el cual viajaban los niños tendría antecedentes por tráfico ilícito de personas. En cuanto al proceso penal se indica que se encuentra en fase de investigación.

53. En relación con los dos casos de niños ecuatorianos en condición ilegal detenidos por las autoridades en la provincia de San José mencionados en la comunicación de los Relatores Especiales, el Gobierno transmitió la siguiente información:

(a) **J.P.J.**, ecuatoriano de 5 años de edad, habría sido encontrado en una vivienda ubicada en Concepción de Alajuelita, zona sur de San José, durante un operativo realizado por la Fiscalía de Delitos Varios y el Organismo de Investigación Judicial, en coordinación con el PANI. El caso habría sido atendido por la Unidad de Atención Inmediata del PANI para el Área Metropolitana de San José, la cual habría ordenado una medida de protección en un albergue institucional. Se le habría dado protección y atención médica, social y psicológica. El niño habría indicado que salió del Ecuador por avión con rumbo a Perú y que había llegado a Costa Rica “en taxi” y que su destino era la ciudad de Boston (Estados Unidos) donde se reuniría con sus padres. Habría ingresado en el país aproximadamente un mes antes junto con sus amigos, según él llamados Sebastián y Eduardo, y que había vivido en varias casas;

(b) **O.E.R.B.** ecuatoriano, 10 años de edad y **A.S.R.B.**, ecuatoriano, 7 años, habrían sido entregados por un ciudadano costarricense a un empleado de Teletica Canal Siete, el 30 de abril 2004. La persona habría indicado que cuidaba a los niños a solicitud de un costarricense y que a tal efecto habría sido contactado por los padres de los menores que le hablaron desde Estados Unidos. La Unidad de Atención Inmediata del Área Metropolitana de San José del PANI habría ordenado una medida de protección en un albergue institucional, donde se les habría dado protección y atención médica, social y psicológica. Los niños habrían indicado que salieron del Ecuador en agosto de 2003, que viajaron legalmente a Perú, luego clandestinamente a Panamá, y más recientemente habían sido trasladados también clandestinamente a Costa Rica. Habrían indicado que su destino era los Estados Unidos, donde se reunirían con sus padres. Habrían manifestado que en el Ecuador vivían en Cuenca en compañía de sus abuelos, tíos y primos, y que durante su traslado habían vivido en diversos hoteles y casas. Ambos considerarían que el viaje se había hecho muy largo y que ya pensaban que nunca iban a llegar a su destino. Habrían manifestado además que pese a las necesidades que habían pasado siempre habían sido bien tratados. En el caso de estos niños el Ministerio Público abrió un proceso judicial en contra de varias personas por el delito de tráfico de menores. Posteriormente, se pudo contactar a los presuntos padres de los menores en Nueva York, quienes indicaron que los niños viajaban clandestinamente con la intención de reunirse con ellos en aquel país.

54. Más allá de la protección otorgada, la recomendación técnica del PANI habría sido de colaborar en todo lo posible con la investigación policial, y coordinar el asunto con la Dirección General de Migración y Extranjería y con el Consulado del Ecuador en Costa Rica, a fin de repatriar a los menores con un recurso familiar, en su país de origen lo antes posible. En este proceso de coordinación, habría intervenido un representante de la Defensoría del Pueblo del Ecuador, en condición de Abogado del Comisionado de los Derechos Humanos para los Nacionales en América del Norte, con el respaldo del Consulado del Ecuador y de un poder otorgado por los padres de los niños, solicitando que los menores le fueran entregados a fin de llevarlos de vuelta a Ecuador. En dicho momento el PANI no habría autorizado la entrega de los menores, en razón de una directriz emitida por la Fiscalía General de la República y posteriormente en razón de una orden del Tribunal Penal del Primer Circuito Judicial de San José. Ambas autoridades judiciales habrían considerado que no resultaba prudente que los niños abandonaran el país, mientras no se hubiera cumplido con el anticipo jurisdiccional de prueba que les fuera pertinente y se determinara científicamente la identidad real de sus padres.

55. El 14 de julio de 2004, una vez que las acciones mencionadas hubieron sido realizadas, la Fiscalía habría solicitado al Juez Penal del Primer Circuito Judicial de San José que procediera a entregar a los niños. Sin embargo, el 22 de julio de 2004, el Juzgado Penal habría emitido

resolución ordenando varias gestiones procesales adicionales y negando el pedido de devolución de los niños. Dicha resolución habría sido apelada por el PANI. Mientras el recurso de apelación indicado estaba todavía en trámite, se habría notificado al PANI de que el Representante de la Defensoría del Pueblo del Ecuador había interpuesto un recurso de *habeas corpus* ante la Sala Constitucional de la Corte Suprema de Justicia. El 24 de agosto de 2004 la Sala Constitucional habría ordenado el levantamiento de las medidas de protección dictadas a favor de los niños y del impedimento de salida del país, y habría ordenado al Juzgado Penal del Primer Circuito Judicial de San José que hiciera entrega inmediata de los menores, a aquella persona que tuviera autoridad y que ofreciera garantía de representación del Estado Ecuatoriano, a efecto que los menores fueron trasladados a su país.

56. En cumplimiento de la orden de la Sala Constitucional y con la resolución dictada en el 2 de setiembre de 2004 por el Juzgado Penal del Primer Circuito Judicial de San José, el PANI habría proseguido, el 3 de setiembre de 2004, a hacer la entrega formal de los niños al representante de la Defensoría del Pueblo de Ecuador, como apoderado de los padres de los menores, y del representante del Estado de Ecuador. El 4 de setiembre de 2004 habrían sido trasladados en avión a Quito donde habrían sido recibidos por el Director General de Apoyo a los Ecuatorianos en el Exterior y por la Primera Dama del Ecuador y Presidenta del Instituto Nacional de la Niñez y al Familia.

57. En este caso, existiría un proceso judicial por el delito de tráfico de menores, que se encontraría en fase de investigación, siendo que en el mismo habría personas detenidas, y la maquinaria del ente estatal acusador estaría realizando los esfuerzos pertinentes, para recabar toda prueba necesaria y formular una acusación debidamente fundamentada, que permita crear un precedente y procesar a las personas involucradas en este traslado de menores.

Observaciones

58. El Relator Especial quisiera agradecer al Gobierno de Costa Rica por haberle remitido unas respuestas detalladas y reconoce los esfuerzos del Gobierno para luchar contra la trata de menores y las adopciones irregulares.

Egypt

Communication sent to the Government

59. On 12 March 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, sent an urgent appeal regarding information received concerning **several women who have reportedly been kidnapped and sexually assaulted** by known organized Muslim groups. One of the groups is allegedly behind the disappearances of 16 Christian minors and is reportedly financed by sources in Saudi Arabia that offer rewards to a person who converts a Christian girl. The victims are reportedly subject to continuous threats and rape to force them to convert to Islam and live with a member of the group.

60. In this connection, the Special Rapporteurs brought to the Government's attention the following cases of abduction of Christian women:

(a) On 20 October 2003, Ms. **H.S.W.**, aged 19, was reportedly abducted from her home town of Samalut, Minia Governorate. She was last seen on the campus of El Minia University where she is a student. Family members reported her disappearance to the local police, but were told that she had converted to Islam and were warned not to intervene further. The family met repeatedly with police officials requesting that appropriate actions be taken to find the woman. In response to their inquiries, the family has reportedly been threatened with arrest. Following her disappearance, eight members of her family began a hunger strike, demanding her return. Following the family's subsequent hospitalization, a meeting with State Security officials, the family, and the daughter was reportedly arranged. It is reported that the meeting was later cancelled with no reasons given to the family. The alleged abductor is reportedly known to the police;

(b) On 27 September 2003, Ms. **E.E.N.** reportedly went out and never returned home to her father and brother in Cairo. When her father went to the police station to report his daughter's disappearance, he was detained overnight on accusations of trying to interfere with his daughter's conversion to Islam. Ms. E.E.N.'s abductor is reportedly known to the police. It is reported that she was forced on the second day of her abduction to announce her conversion at a police station with the help of her abductor's lawyer. On 29 September 2003, the Giza State Security Directorate reportedly held a hearing on Ms. E.E.N.'s case which she attended dressed in an Islamic veil and appearing emotionally unstable. On 18 October 2003, two Coptic priests were present at a second hearing to ask Ms. E.E.N. about her decision to convert to Islam, but she did not attend the meeting;

(c) On 2 July 2003, Ms. **M.S.B.** was reportedly abducted in the village of Abou Tsht, Qinna Governorate, in Upper Egypt. She was later released but her abductors were never prosecuted;

(d) On 30 June 2003, Ms. **N.S.** was reportedly abducted by a passing car in front of her school in Alexandria. A police report was filed, but no efforts have reportedly been made to return her;

(e) On 12 April 2003, Ms. **N.M.K.** was abducted from the village of Samalut, Minia.

Communication received from the Government

61. By letter dated 29 April 2004, the Government sent the following reply.

62. Concerning Ms. H.S.W., the Government indicated that it emerged from the investigation that she had gone to Al-Azhar al-Sharif to declare her conversion to Islam, in accordance with her own wishes and beliefs, and that she had obtained a certificate testifying to her conversion. The alleged abductor had nothing to do with her conversion to Islam. They are both students at the same faculty.

63. Concerning Ms. E.E.N., the Government stated that on 27 September 2003, she applied to the competent authorities for permission to convert to Islam in accordance with her own belief in the Islamic religion. During that period, she had formed a sentimental attachment to a Muslim man and had announced her intention of marrying him as soon as the conversion process was completed. Although three religious counselling sessions were held with her in the presence of

three Christian clergymen and her family (her mother and her sister), she insisted that she wanted to convert to Islam.

64. Concerning Ms. M.S.B., the Government indicated that on 1 July 2003 she went with a Muslim man to the Naja` Himadi police and, together, they informed the police of their desire to marry once the girl had converted to Islam. The girl had already appeared before the Fatwa Committee of Al-Azhar al-Sharif on 30 June 2003 and declared her desire to convert to Islam. However, she had been unable to complete the procedure. On 2 July 2003 a religious counselling session was held with the Christian girl at the Abu Tashit centre, in the presence of three Christian clergymen and members of her family. She explained that the reason for her wishing to convert to Islam was that her family was trying to force her, against her will, to marry a man who was a Christian. The required official report was prepared, and the girl was handed over to her family in exchange for a pledge that her welfare would be guaranteed.

65. Concerning Ms. N.S., the Government indicated that on 2 July 2003 a Christian man filed a report with the Ramal police in Alexandria that his daughter was missing and that he suspected that she had been abducted after taking one of her examinations for her secondary school certificate. He did not blame anyone for the disappearance. From the investigation it emerged that the girl had gone to the Azhariya district of Samuha in Alexandria with a view to initiating the procedure for her conversion to Islam. However, her application had been rejected because she was too young. There is no evidence as to the girl's present whereabouts, nor is there any evidence to support the allegation that she was abducted.

66. Concerning Ms. N.M.K., the Government reported that on 13 April 2003 her mother filed a report with the Samalut police in Mina Governorate that her daughter had been missing from home since 12 April 2003. She accused a Muslim of being responsible for the disappearance, because he had formed a sentimental attachment to her daughter. Thanks to the efforts of the security forces, the whereabouts of the missing Christian girl were traced in Cairo. She was handed over to her family, in the presence of a Christian clergyman, in exchange for a pledge that her welfare would be guaranteed.

Communication sent to the Government

67. On 5 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, sent an urgent appeal regarding Ms. H.S., a 17-year-old Coptic girl who was reportedly abducted, forced to convert to Islam and sexually abused.

68. According to the information received, Ms. H.S. was abducted in Cairo on 6 April 2004. On 7 April 2004, the family reported the disappearance to the Rod El Farag police station and told the police the name of a person who could be involved her disappearance as she had complained that he had bothered her on her way school. Later, the police told the family they had found the girl and that the family could come at the end of the day to pick her up. The father was allowed to meet his daughter and talk to her, but he found her very agitated and verbally aggressive as if she were under the effect of drugs. She said she was afraid of going back to her family. Then the police took her and her father to the magistrate at the National Security Office, where the girl was questioned about the suspected perpetrator. She claimed that he was her husband and that she had converted to Islam. She was then taken back to the police station. On 8 April 2004, the girl was brought back to her family and on 14 April 2004, the whole family

moved to Alexandria, fearing for their safety. However, on 2 June 2004, she disappeared again. The family has received no news from her since then. According to information received, the police did not take any action to investigate the case or to provide the family with the proper protection and security.

Communications received from the Government

69. By letter dated 20 September 2004, the Government reported that on 7 April 2004, Ms. H.S.'s father reported to the Rawd al-Farj police station that his daughter had gone missing on 6 April after leaving home. He indicated a possible suspect, who was questioned by the police and who denied any involvement in her disappearance or having information about her whereabouts. According to the Darb al-Ahmar police station report of 7 April, Ms. H.S had gone to the station to make a statement in which she declared that, on the previous day, she had left school and gone to Al-Azhar in order to complete the procedures for formal conversion to Islam. She had been asked to go to the police station to register her decision. She denied that anyone had tried to influence her, or persuade or force her to convert. She was therefore not abducted, but left on her own accord, and was not forced to marry a Muslim or change her religion. She was sent to the Rawd al-Farj police station so that she could be handed over to her parents. On 7 April her father was summoned, and around 9 p.m., Ms. H.S was handed over to her father, after the family provided an undertaking that they would not harm her. At 11.30 p.m., Ms. H.S and her father, accompanied by a policeman, returned to the station. The policeman reported that the girl had appealed for help after her relatives tried to force her against her will to enter a church. She confirmed the policeman's statement. She was handed back to her family for a second time with an undertaking that they would not harm her. On 3 June 2004, her relatives again made inquiries about her whereabouts. Investigations have failed to establish her present whereabouts and are continuing. The Government states that it is clear that the girl's habit of running away from home is due to the ill-treatment inflicted by her relatives because of her conversion.

France

Communication adressée au Gouvernement

70. Le 15 janvier 2004, le Rapporteur spécial a envoyé un appel urgent concernant un cas d'adoption internationale.

71. En décembre 2002, les conjoints D. auraient accueillis deux enfants, **O. et M.**, qu'ils auraient adoptés en République centrafricaine via une association agréée, « Rayon de soleil de l'enfant étranger », et sous le contrôle de la Mission de l'adoption internationale dépendant du Ministère des affaires étrangères. Selon les informations communiquées, avant d'être adoptés, les deux enfants se trouvaient dans un centre d'accueil à Bangui. L'association « Rayon de soleil de l'enfant étranger » aurait présenté les enfants comme étant orphelins et âgés respectivement de deux et cinq ans. En mai 2003, le tribunal de Nantes aurait refusé la transcription des documents de l'adoption faite en République centrafricaine au motif que les actes de naissance des enfants ne seraient pas authentiques et que les noms auraient été raturés ou changés. Selon les informations communiquées au Rapporteur spécial, dans une lettre adressée aux époux D., le procureur du tribunal de Nantes aurait affirmé que le jugement d'adoption centrafricain rendu le 10 octobre 2002 serait irrégulier et donc sans valeur en France. Il semblerait que, dès leur arrivée en France, les enfants auraient ouvertement exprimé leur souhait de retourner chez leurs parents.

O. et M. auraient également raconté que dans le Centre d'accueil à Bangui, d'autres enfants seraient dans des situations similaires. Lors d'une récente visite à Bangui, les époux D. auraient rencontré un couple présenté comme étant les parents des deux enfants qui ne seraient donc pas orphelins, contrairement à ce qu'auraient affirmé les représentants de l'association « Rayon de soleil de l'enfant étranger ». L'association « Rayon de soleil de l'enfant étranger » aurait récemment été fermée par les autorités françaises. Il est également allégué que, malgré les demandes répétées des époux D., la Mission d'adoption internationale ne leur aurait jusqu'ici proposé aucune solution quant à l'avenir des enfants.

Communication reçue du Gouvernement

72. Par lettre datée du 5 avril 2004, le Gouvernement français a envoyé les informations suivantes :

73. Au début de l'année 2002, les époux D. ont engagé des démarches d'adoption en République centrafricaine par l'intermédiaire de l'organisme habilité « Rayons de soleil de l'enfant étranger ». La Mission de l'adoption internationale a autorisé le 25 novembre 2002 la délivrance de visas long séjour aux enfants O, né en 1997, et M., née en 2000.

74. En janvier 2003, les époux D. saisissaient le Parquet du tribunal de grande instance de Nantes, compétent pour faire transcrire les décisions étrangères d'adoption sur le registre central de l'état civil. Par courrier en date du 7 mai 2003, le Parquet de Nantes informait les époux D. de son refus de transcrire le jugement d'adoption centrafricain au motif que certaines conditions n'étaient pas remplies, en particulier que la mère biologique n'avait pas donné son consentement à cette adoption et que le consentement du père biologique n'avait pas expressément été donné. Le Parquet relevait par ailleurs que les actes d'état civil des enfants ne pouvaient faire foi en France en raison d'un certain nombre d'irrégularités : défaut de signature des déclarants, surcharges, établissement hors délai de l'acte de naissance de O.

75. Les époux D. ont saisi le juge des enfants en avril 2003, exposant que les enfants aspireraient à retrouver leurs parents de naissance en Centrafrique.

76. Interrogé par la Mission de l'adoption internationale sur les circonstances de l'adoption, l'organisme « Rayons de soleil de l'enfant étranger » a fait savoir que les parents biologiques des enfants les avaient bien confiés en vue de leur adoption, en raison de leur situation économique, selon un procès-verbal du 4 avril 2002 portant la signature des deux parents. Les parents biologiques ont par ailleurs renouvelé leur consentement à l'adoption plénière des enfants par acte notarié établi en République centrafricaine, en date du 7 août 2003.

77. Dans ces conditions, la situation des enfants sur le territoire français relève de la compétence des seules autorités judiciaires chargées de la protection de l'enfance, les époux D. n'ayant pas, pour leur part, souhaité engager, comme ils en ont la possibilité, une nouvelle procédure d'adoption de ces enfants devant la juridiction française.

78. Le 19 mai 2003, le juge des enfants, saisi par le couple, a ordonné une mesure d'investigation et d'orientation éducative et a placé provisoirement les enfants pour six mois auprès des époux D. Dans le cadre d'une nouvelle ordonnance du 8 décembre 2003, prise à l'issue de la mesure précitée, le juge a renouvelé la mesure de placement auprès de la famille. Il

a donc donné un cadre légal à la prise en charge des enfants. L'évaluation de la situation et l'audition des enfants par les services désignés permettront de mieux apprécier les mesures qui s'avèreront les plus conformes à leur intérêt.

Communication adressée au Gouvernement

79. Le 26 mai 2004, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme, a envoyé un appel urgent concernant la situation du docteur **C. B.**, psychiatre.

80. Selon les informations reçues, depuis 1996 le docteur B. aurait fait l'objet de multiples procédures disciplinaires par le Conseil de l'Ordre des médecins et de mises en examen répétées pour dénonciations calomnieuses suites à des signalements et diagnostics d'abus sexuels sur mineurs.

81. En conséquence des multiples poursuites disciplinaires et judiciaires à son encontre et d'articles publiés par les médias, le docteur B. aurait perdu sa clientèle privée, puis son travail salarié et s'avèrerait être au chômage. D'autres praticiens médicaux auraient également été soumis à des sanctions disciplinaires lors de circonstances semblables, mais n'auraient pas voulu en divulguer les détails auprès des mécanismes onusiens des droits de l'homme par crainte de subir les mêmes traitements que le docteur B. Par ailleurs, selon les informations reçues, le 18 décembre 2003, suite notamment à un mouvement de protestation de la part de nombreux médecins quant aux dispositions de la loi réglementant les signalements et diagnostics d'abus sexuels, le Parlement a voté un amendement interdisant les poursuites disciplinaires.

82. Des craintes ont été exprimées que les multiples poursuites disciplinaires et judiciaires contre le docteur B. ne visent à faire obstacle à ses activités en la faveur de la défense des droits des enfants.

Communication reçue du Gouvernement

83. Par lettre datée du 10 novembre 2004, le Gouvernement a envoyé les informations suivantes concernant le cas du docteur B.

84. Le Gouvernement a fourni un résumé de chacune des procédures concernant le docteur B. et a joint à sa réponse copie de l'ensemble de ces décisions. En raison de la nature confidentielle de l'information, le Rapporteur se limite à faire des références générales à ce cas.

Observations

85. Le Rapporteur spécial remercie le Gouvernement pour ses réponses promptes et détaillées.

Greece

Communication sent to the Government

86. On 1 December 2004, the Special Rapporteur, jointly with the Special Rapporteur on trafficking in persons, especially women and children, sent an urgent appeal concerning information he had received regarding the **disappearance of a large number of children**, most of them Albanian, from the Greek residential care institution Agía Varvara, where they had been placed by the Greek authorities over the period 1998-2002.

87. According to the information received, out of the 661 children placed in Agía Varvara between 1998 and 2002, 560 were Albanians, almost all Roma; 45 Greeks, almost all Roma; 40 Iraqis, and 16 from six other countries; 502 of them went missing.

88. The disappearance of the children occurred in the course of the implementation of a government project entitled "Protection and Social Care of Street Children". The project was aimed at providing accommodation, care and rehabilitation to the growing number of children in inner-city areas of Greece.

89. An investigation into these facts carried out by the Greek Ombudsman and made public in March 2004 confirmed that a large number of children had escaped from the institution and are officially missing as they had not been relocated by the police or other authorities.

90. The Ombudsman reportedly observed numerous deficiencies concerning the implementation of the project, such as: (a) the institution was not set up to protect victims of trafficking and exploitation as it was a care home for girls; (b) there was no provision for additional funding or for special staffing required by the project; (c) the staff was inadequate, without specialized training on the rights and specific needs of this group of children; (d) there was no translation to facilitate communication between staff and those children who did not speak Greek.

91. As a consequence of these deficiencies, many children escaped shortly after admission. Some children, whose families were in Albania, were repatriated. However, no procedures were followed or measures taken to guarantee their safe return to an appropriate family environment.

Observations

92. The Special Rapporteur expresses his concern for the children who are still missing and exposed to a high risk of being exploited, trafficked or re-trafficked. He reiterates his interest in receiving the reply of the Government to these allegations.

Guatemala

Comunicación enviada al Gobierno

93. El 20 de enero de 2004, el Relator Especial transmitió un llamamiento urgente, juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario General sobre la situación de

los defensores de los derechos humanos señalando a la atención urgente del Gobierno su preocupación en relación con el caso pendiente de **Bruce Harris**, Director Ejecutivo de los Programas para América Latina de Casa Alianza.

94. Según la información recibida, Bruce Harris fue acusado de difamación por Susana de Umaña tras una conferencia de prensa celebrada en septiembre de 1997 en la cual la Oficina del Procurador General y Casa Alianza expusieron el tráfico ilegal de niños en Guatemala. Durante la conferencia, Bruce Harris habría declarado que Susana de Umaña había utilizado «influencia indebida» con las autoridades gubernamentales para facilitar a las adopciones internacionales.

95. En febrero de 1999, la Corte Constitucional habría dictado que, por no ser miembro de los medios de comunicación, Bruce Harris no tiene derecho a la libertad de expresión – la defensa en contra de la difamación. De esa manera Bruce Harris enfrentaría la posibilidad de una condena criminal y cinco años de encarcelamiento.

Comunicación recibida del Gobierno

96. En relación con este caso, el Gobierno comunicó la siguiente información por carta con fecha 28 de junio 2004.

97. El caso en consideración sería objeto de una petición ante la Comisión Interamericana de Derechos Humanos y, el 27 de febrero del 2003, la Comisión aprobó el informe 14/02 considerando el caso como admisible. Así ya existe un mecanismo internacional encargado de examinar este caso y, por lo tanto, los denunciantes habrían presentado solicitudes múltiples, tanto ante el sistema interamericano como ante el sistema de las Naciones Unidas. El mismo asunto habría sido sometido a otro procedimiento de investigación o arreglo internacional. Además, no habrían agotados los recursos de la jurisdicción interna, por lo cual, al ser analizado, deberían tomarse en consideración las observaciones del Gobierno en cuanto a que no se cumplieron los criterios de admisibilidad establecidos.

98. En relación con el proceso interno, el Gobierno informa de que el 30 de enero de 2004, el Tribunal Duodécimo de Sentencia Penal, dentro del proceso identificado bajo el número 204-99 Oficial 3.º habría dictado sentencia en el proceso absolviendo a Bruce Harris de los delitos de calumnia, injuria y difamación por los cuales fue acusado por Susana de Umaña. Para tal resolución el órgano jurisdiccional se fundó en la legislación interna y en los artículos 8, 9, y 10 de la Convención Americana sobre los Derechos Humanos, con un fallo apegado al contenido de la resolución 2003/39 de la Comisión de Derechos Humanos.

99. El 13 de febrero, la señora Susana de Umaña habría apelado el fallo del Tribunal. El Tribunal Duodécimo, según la ley, habría remitido caso a la Sala Décima de la Corte de Apelaciones para su estudio.

100. El Gobierno manifiesta que no se habrían aún agotado los recursos de jurisdicción interna, que el presente caso es un asunto contencioso entre particulares y que para los efectos correspondientes, el Estado habría proveído el proceso penal y la estructura respectiva, instancia donde se estaría dirimiendo la controversia.

Observaciones

101. El Relator Especial quisiera agradecer el Gobierno de Guatemala por la información proporcionada. El Relator Especial recuerda que el mecanismo de comunicaciones de los procedimientos especiales de la Comisión de Derechos Humanos no es una instancia de jurisdicción internacional sino una forma de intervención humanitaria para informar a los Gobiernos sobre violaciones de derechos humanos en curso o a riesgo de ocurrir. No es, por lo tanto, un mecanismo que requiera el agotamiento de los recursos de jurisdicción interna para ser activado.

Comunicaciones enviadas al Gobierno

102. El 22 de abril de 2004, el Relator Especial transmitió un llamamiento urgente, juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos señalando a la atención urgente del Gobierno su preocupación en relación con la situación del personal de la organización no gubernamental ¿Donde están los niños y las niñas? y en particular de María Isabel Escobar Donis, Ana Morales, María Teresa Soto, Manuel Cedillo y Diego Sunuc.

103. Según la información recibida la organización mencionada estaría investigando las circunstancias en que se adoptó a niños tras separarlos de sus padres durante la guerra civil de Guatemala. Se informa de que altos mandos del ejército estarían implicados en las adopciones.

104. Se informó de que el personal de la organización sería víctima de constantes amenazas y hostigamiento. En marzo de 2003 dos empleadas de la organización habrían sido agredidas al regresar de una investigación y les habrían robado las bolsas que contenían grabaciones magnetofónicas y otra información sobre el caso. En visto del constante hostigamiento, la organización se habría visto obligada a mudarse de oficinas en cuatro ocasiones a lo largo de 2003.

105. A mediados de marzo de 2004, María Isabel Escobar Donis habría sido interceptada por tres hombres armados cerca de las oficinas de la organización. A punta de pistola, los hombres le habrían exigido que les entregase sus llaves y se habrían llevado el automóvil de la organización.

106. Además, según la información recibida, durante las vacaciones de Pascua del 8 al 12 de abril las oficinas de la organización habrían sido asaltadas y además de ordenadores y otros aparatos, habrían sido robados archivos que contenían información sobre la participación de militares en violaciones de derechos humanos durante la guerra civil.

107. Se teme que estos actos de agresión serían una forma de intimidar a los miembros de ¿Dónde están los Niños y las Niñas? para que abandonen su trabajo de investigación sobre las adopciones supuestamente ilegales de niños durante la guerra civil.

108. El 15 de julio de 2004, el Relator Especial transmitió una comunicación, juntamente con la Relatora Especial sobre violencia contra la mujer, sus causas y consecuencias y la Representante Especial del Secretario General sobre la situación de los defensores de los

derechos humanos, en la que notificó al Gobierno que había recibido información en relación con los hijos de M.P.A. y J.E.J., ambos miembros activos del Sindicato de Finca María Lourdes. El Sindicato de Finca María Lourdes vela por los derechos de los trabajadores que habrían sido hostigados por la dirección de la plantación tras presentar una denuncia en 1992 por la despedida ilegal de 47 miembros. De acuerdo con las informaciones recibidas, la hija, de 15 años de edad y su hermano, de 13 años de edad, estaban lavando ropa cerca de su casa por la tarde del 6 de julio de 2004 cuando dos hombres con el rostro cubierto por pasamontañas los habrían atacado y arrastrado a punta de pistola a un cafetal cercano, donde los habrían atado con la ropa de los propios niños. A continuación, uno de los hombres habría violado a la niña mientras el otro montaba guardia. Los trabajadores de la plantación que buscaban a los niños desaparecidos los habrían encontrado aproximadamente una hora después. Los dos niños habrían sido golpeados. El 7 de julio de 2004, los padres de los niños habrían presentado una denuncia ante el Ministerio Público y la Procuraduría de los Derechos Humanos. En su testimonio, la niña habría identificado al hombre que estuvo montando guardia como el director de la Finca María Lourdes, por su ropa y su comportamiento. El 8 de julio de 2004, el médico forense local habría confirmado que la niña habría sido violada. Aún no se habría dictado ninguna orden de detención en relación con este ataque.

109. Se teme que esta violación pudiera formar parte de las tácticas de intimidación emprendidas por la dirección de la plantación contra los activistas sindicales que habrían emprendido acciones legales contra la plantación. En marzo de 2004, el director de la plantación habría ofrecido una recompensa a cualquiera de los guardias privados de seguridad de la plantación que violara a una mujer relacionada con el sindicato. El 8 de julio de 2004, los abogados que representan a la Finca María Lourdes habrían advertido a otros miembros del sindicato de que serían detenidos si implicaban al director de la plantación en la denuncia de violación.

Observaciones

110. El Relator Especial reitera su interés en recibir informaciones del Gobierno sobre ambos casos. En relación con el caso señalado el 15 de julio de 2004, el Relator Especial recuerda que intervino en este caso en cuanto la violencia y abuso sexual son entre las causas principales a raíz de la explotación sexual de niñas, niños y adolescentes.

Honduras

Comunicación enviada al Gobierno

111. El 15 de julio de 2004, el Relator Especial transmitió una comunicación, juntamente con el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, y el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en la que comunicó al Gobierno que había recibido información sobre **J.M.A.M.**, un menor de 17 años, y **D.O.M.**, un menor de 16 años, ambos de la Colonia Municipal de San Pedro Sula. La policía sospechaba que J.M.A.M había robado dos armas. El 14 de junio de 2004 habrían allanado su domicilio y obligado por la fuerza a su padre a indicarles donde se encontraba. Más tarde el menor habría sido detenido juntamente con D.O.M. Los dos menores habrían sido conducidos a un lugar conocido como el Rancho El Coco. Allí habrían sido alcanzados por otra patrulla de policía y tres miembros de una unidad militar de elite conocida como "las Cobras". D.O.M. habría sido

golpeado y le habrían cortado las manos. Habría fallecido de una hemorragia debida a la amputación de sus manos. J.M.A. habría sido golpeado y violado. Seguidamente le habrían disparado mortalmente. La Unidad de investigación de muerte de menores de San Pedro Sula habría realizado una investigación y la Fiscalía Especial de Derechos Humanos de San Pedro Sula habría presentado una acusación por los delitos de asesinato y abuso de autoridad. Se habría dictado un auto de procesamiento y detención judicial contra dos inspectores de la Policía Nacional identificados por varios testigos. Cinco militares habrían sido destituidos de sus funciones. Todavía estarían pendientes otras siete órdenes de detención ordenadas por un juez.

Observaciones

112. El Relator Especial reitera su interés en recibir informaciones del Gobierno sobre el caso arriba citado.

India

Communication sent to the Government

113. On 18 June 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, sent an urgent appeal concerning the situation of **Kailash Satyarthi**, an activist for the abolition of child labour and Chairperson of the Global March Against Child Labour and the Global Campaign for Education.

114. According to the information received, on 15 June 2004 Kailash Satyarthi, accompanied by four parents who claimed that their daughters were being held in bondage in the Great Roman Circus in Colonelganj town, Gonda district, Uttar Pradesh, met the Sub-Divisional Magistrate, the Police Superintendent and media representatives in order to conduct a rescue operation at the circus. According to information received, the circus economically exploits children, especially girls, who are kept in bondage. It is reported that, in the presence of the above-mentioned judicial and police authorities, the circus owner threatened Kailash Satyarthi at gunpoint and with other members of the circus proceeded to attack him and the four parents with iron bars and knives. They managed to escape despite attempts by the circus owners and the members of the local administration to block their exit. Kailash Satyarthi was taken to hospital in Lucknow where he was treated for head injuries, and is reported to be in a stable condition. It is reported that despite confirmation from the administration of Uttar Pradesh that they would undertake action to release the children from the circus and despite the presence of members of this administration during the rescue operation, no action has been taken.

115. Concern is expressed that Kailash Satyarthi has been targeted for his work to defend children's rights and promote the abolition of the worst forms of child labour.

Observations

116. The Special Rapporteur reiterates his interest in receiving the reply of the Government of India in relation to these allegations and the measures taken to redress the situation of girls and boys kept in bonded labour.

Indonesia/Malaysia

Communications sent to the Governments

117. By letters dated 25 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, notified the Governments of Indonesia and Malaysia that they were deeply concerned regarding information they had received about trafficking of women and sale of children taking place in the region. According to information received, poor young Indonesian women are being trafficked to Malaysia. It is reported that there are also cases of pregnant Indonesian women being trafficked to Malaysia for the purpose of selling their child after it is born for illegal adoption. The information received on the dynamics of the phenomenon reveal that agents of the trafficking network approach poor women to offer them a small amount of money, called "milk money" (Rp 150,000, equal to US\$ 17). The money is used to buy milk and other necessities for the mothers. Then the agents reportedly take the babies from their mothers and put them in a house without allowing the mothers to breastfeed them. The babies are then transported to Johor by speedboat, often packed in fish boxes. Other members of the trafficking network wait in Johor harbour. After housing the babies for one day, they arrange a "meeting" with prospective parents. For one trip to Singapore with babies for sale, the trafficking network reportedly receives around US\$ 3,000-3,500 and to Malaysia, approximately US\$ 9,530. Data from Malaysian and Indonesian police reportedly showed that there were 179 cases in 2001 and 155 cases in 2002.

118. The following specific situations were brought to the attention of the Special Rapporteurs.

119. In the past two years the Malaysian police are said to have uncovered at least 20 cases of baby selling in Sarawak, East Malaysia. In May 2002, police allegedly stormed a house in Jalan Sekama in Kuching. They reportedly found five pregnant women, one woman who had just given birth, and four babies of just a few weeks old. Later that same year, police reportedly raided houses in Lawas, Miri and Sibul, where more pregnant women and babies were found. In Sibul the police reportedly found eight babies and four women.

120. In September 2003 a fishing boat from the Indonesian island of Tanjung Balai Kaimun heading towards Malaysia was intercepted. According to information received, eight babies were found packed in Styrofoam in fish boxes which were punctured in order to allow the babies to breathe.

121. On 17 September 2003, a 22-year-old woman from Central Java, Indonesia, was lured from Indonesia to Malaysia with the prospect of a good job, but in fact she became a victim of trafficking. Her *taekong* (go-between) forced her to work in a restaurant in Sibul and kept her salary. He then allegedly said that if she did not want to work as a prostitute, he would sell her baby when it was born. That same day she ran away from her *taekong* and reached the Indonesian consulate in Kuching. The woman was over five months pregnant.

Observations

122. In addition to reiterating his request to receive information on the problems outlined in these cases, the Special Rapporteur welcomes the work already being done to combat trafficking

and sale of children in the region. He calls on the Governments concerned to intensify efforts to develop legislative, educational, social and other measures aimed at the prevention of trafficking and the sale of children for illegal adoptions and to ensure women's full and equal access to justice, including the adoption and implementation of laws, the dissemination of information, active involvement with community-based players, and training of legal, judicial and health personnel on gender-based violence and related issues and, where possible, through developing and strengthening support services.

Indonesia

123. By letter dated 16 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, notified the Government that they had received allegations that rape is systematically used by the TNI (Indonesian Armed Forces) and Polri (Indonesian Police Forces) as a means of terrorizing the population of Aceh. The Special Rapporteurs received the following cases of rape allegedly perpetrated by Indonesian security forces in Aceh between June and August 2004:

(a) Ms. **M.H.**, aged 21, from Meunasah Lampoh village, Bireuen regency, was allegedly raped in front of her father, by a TNI soldier of Yonif 301 division. The alleged perpetrator's name is known to the Special Rapporteur. According to information received, Ms. M.H. was raped at a military post when she went to report an earlier incident of rape. She is said to be pregnant as a consequence of the attack;

(b) Ms. **N.A.**, aged 18, from Seuneubok Lhong village, was forced to consume an unknown beverage and then gang-raped by TNI soldiers at a military post near her village;

(c) Ms. **S.H.**, aged 22, a midwife from Paloh Panyang village, Gandapura district, Bireuen regency, is reported to have been raped because she was suspected of helping rebels with medical treatment, and with their wife's deliveries;

(d) Ms. **R.**, aged 23, from Meunasah Blang Guron, Gandapura district, is reported to have been ordered to strip and was then gang-raped by TNI soldiers. According to reports, she was similarly used by TNI and Polri personnel at different military posts and threatened with death if she refused;

(e) Ms. **S.H.**, aged 12, from Ara Bungong village, Samalanga was reportedly raped by soldiers;

(f) Ms. **Y.A.R.**, aged 20, from Gampong Hagu village, Samalanga, is reported to have been raped by soldiers;

(g) **Five women**, aged between 15 and 22, from Meulaboh, West Aceh, were reportedly raped between July and September 2004 by members of the TNI and Mobile Brigades (Brimobs) posted in Tjalang and Meulaboh.

Observations

124. The Special Rapporteur recalls that rape, violence and sexual abuse are among the primary causes of child sexual exploitation and trafficking of children. This is why he joined the Special Rapporteur on violence against women in this case. He reiterates his interest in receiving the reply of the Government of Indonesia in relation to these allegations

Kosovo

Communication sent to the United Nations Interim Administration Mission in Kosovo (UNMIK)

125. By letter dated 28 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on violence against women, notified UNMIK that they had received the following information.

126. According to reports received, the use and abuse of trafficked women and girls within the sex industry has continued to grow in Kosovo and UNMIK, the North Atlantic Treaty Organization (NATO)-led international military force in Kosovo (KFOR) and the Provisional Institutions of Self-Government in Kosovo (PISG) have failed to protect and respect the human rights of these women and girls. Reports indicate that trafficked women and girls are exposed to a series of human rights abuses, including abduction, deprivation of liberty and denial of freedom of movement, torture and ill-treatment, including psychological threats, beatings and rape. Trafficked women and girls are often treated as criminals, prosecuted for unlawfully being in Kosovo, arrested and charged with prostitution. When arrested, the women and girls are allegedly not given the basic rights guaranteed to all detainees. It is reported that they are not informed about their rights, they are not allowed access to a lawyer and girls are often interviewed without a legal guardian being present. Women arrested in routine bar inspections are said to have been sentenced and deported. Reports also indicate that few women receive the long-term protection they need, such as witness protection for those prepared to testify in proceedings against their traffickers.

127. The Special Rapporteurs expressed their deep concern over information that indicates that UNMIK fails to prosecute international personnel suspected of involvement in trafficking, or of knowingly using the services of trafficked women. It is also alleged that individual members of the UNMIK police have been involved in trafficking. The Special Rapporteurs indicated that it had been brought to their attention that the UNMIK Trafficking and Prostitution Investigative Unit (TPIU) have recently shown greater willingness to investigate reports of the involvement of UNMIK personnel in trafficking, and to request a waiver of immunity from prosecution. However, criminal prosecutions reportedly remain rare. It is also reported that no KFOR personnel suspected of trafficking or of using the services of trafficked women or girls have been prosecuted in Kosovo.

Communication received from UNMIK

128. By letter dated 9 June 2004, UNMIK transmitted the following information relating to human trafficking in the country.

129. UNMIK has carefully studied the recent report by Amnesty International which focuses on a problem that concerns all of the Balkans - human trafficking, including the trafficking of women for prostitution. On the one hand, UNMIK cannot endorse some of the report's findings, which are based on outdated statistics from the first years of UNMIK's mission and before UNMIK had fully mobilized its efforts to deal with this problem. Nevertheless, UNMIK fully accepts many of the recommendations made in the report, a number of which have already been implemented or are in the process of being implemented.

130. UNMIK recognized the dimensions of the problem early but lacked the necessary legal and institutional tools to address it effectively at the outset. Consequently, UNMIK established a comprehensive policy to systematically address this problem, with the full support of KFOR, through a multifaceted approach containing six elements: (1) prioritizing human trafficking in the overall fight against organized crime; (2) "zero tolerance" enforcement against traffickers and pimps; (3) a strong human rights framework to protect and assist victims; (4) strict enforcement against violators among UNMIK staff; (5) a regional approach to addressing the problem of human trafficking within the framework of international cooperation; (6) sustainability through local involvement in a multidimensional approach.

131. First, as part of the overall fight against organized crime, the issue of human trafficking has been prioritized because it is the most visible element of organized crime that continuously provides resources to operators and also because of the strong human dimension of the problem. In January 2001, UNMIK promulgated a comprehensive Regulation "On the Prohibition of Trafficking in Persons in Kosovo" that defined the crime and laid down stringent punishments for offenders. Several other legal instruments essential to the fight against organized crime, including trafficking, have also been put in place. The relevant provisions of these Regulations have been included in the new Provisional Criminal Code and Provisional Criminal Procedure Code of Kosovo that came into effect on 6 April 2004.

132. Equipped with the necessary legal instruments, TPIU and the Victims' Advocacy and Assistance Unit (VAAU) of the Department of Justice have been working together with the Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM) and several NGOs to tackle the problem from both the legal and humanitarian angles.

133. The second aspect of UNMIK's approach has been aggressive police action against trafficking and prostitution. This has resulted in significant progress against trafficking and prostitution in Kosovo over the last four years. During 2003, TPIU conducted 2,047 raids, operations and bar checks directed at premises where trafficking in persons or prostitution activities were suspected. As a result, 57 establishments were closed down, 69 persons were arrested for offences relating to prostitution, solicitation or procurement of prostitution, pimping and possession of false documents, and 60 charges for trafficking were brought resulting in 17 convictions, while several cases are ongoing in the courts. TPIU works closely with UNMIK Border/Boundary Police to intercept human traffickers at the various crossing points along the international border and administrative boundary line.

134. The third aspect of UNMIK's policy has been to create a strong human rights framework to protect and assist victims. To ensure this, UNMIK has put in place a sound legal and institutional framework based on European and other international standards and adopted a

multi-agency approach. The aforementioned Trafficking Regulations also created a framework for providing protection and assistance to victims of trafficking including legal representation, counselling and temporary secure housing. VAAU routinely provides every victim referred to it with a Victim's Advocate who provides the victims with information on their rights and on the workings of the criminal and civil law in Kosovo, and accompanies the victims during court proceedings. If necessary, a legal representative is assigned to victims. VAAU offers victims other forms of assistance including interpretation, psychological and medical support and shelter. An Interim Secure Facility (ISF) has been established by TPIU and VAAU which provides victims who do not wish to be repatriated with an opportunity to reflect. By March 2004, the ISF had provided shelter to 19 victims of trafficking.

135. In the case of child victims, the police work with the Centres for Social Work (CSW) of the Ministry of Labour and Social Welfare. Immediately upon identification of a victim under 18 years of age, the police notify the CSW to serve as the child's guardian. No interviews are conducted with the child in the absence of a social worker.

136. During 2000-2003, the Department of Justice recorded 46 completed cases of trafficking involving foreign victims, of whom six were child victims. During the same period, there were 28 completed cases involving Kosovar victims, including 13 child victims. A total of 29 persons have been convicted of child trafficking and sentenced to prison terms ranging from one to five years. A total of 10 cases involving child trafficking are currently in the courts. Kosovo now has a child protection home specialized in providing care for minor victims of trafficking. The home is operated by an international NGO under the auspices of the Ministry of Labour and Social Welfare.

137. Fourth, UNMIK takes immediate and stringent disciplinary measures against any of its staff that are found in establishments in which prostitution is suspected and which are declared "off limits". These are establishments suspected of involvement in prostitution but fronted by legitimate businesses so that police are unable to close them down. A list of "off limits premises", currently numbering 204, is produced at the end of each month and disseminated throughout UMMIK. Disciplinary action against any UNMIK staff found in the premises is strictly enforced irrespective of whether the concerned individual was actually indulging in sexual activities.

138. From the beginning of 2002 until April 2004, during raids and bar checks TPIU found 52 KFOR soldiers, 3 international policemen and 8 international civilians from various agencies in "off limits premises". The KFOR soldiers were handed over to the Military Police and the civilian staff to their respective departments for further investigation and appropriate disciplinary action. In accordance with UNMIK Police policy, the international police officers were repatriated to their home countries. It should be noted that the number of internationals involved does not appear to support Amnesty International's contention that 20 per cent of the customers of trafficked women come from the international community.

139. The fifth dimension of UNMIK's approach has been to address this regional phenomenon within the framework of international cooperation. UNMIK works closely with the South-East European Cooperative Initiative (SECI) on transborder and regional initiatives in the fight against trafficking. In collaboration with the Stability Pact Task Force on Trafficking in Human Beings, UNMIK has been involved in developing a comprehensive strategy to combat trafficking

in human beings and has been engaged in regional training, exchange and cooperation plans. Furthermore, UNMIK has signed police cooperation agreements with all neighbouring jurisdictions including Serbia, Montenegro and Albania. This reinforces cooperation in the fight against cross-border organized crime and in particular trafficking in human beings.

140. Finally, to ensure comprehensiveness and sustainability, from the outset UNMIK has sought close working relationships with other international organizations and NGOs working in the area of trafficking and prostitution. VAAU has worked closely with the Kosovo government in devising a comprehensive Kosovo Action Plan to address the problem of human trafficking. The Kosovo Police Service (KPS) is being sensitized and trained to address this crime effectively. The KPS is being increasingly associated in the investigations and operations relating to the crime and TPIU already draws approximately 50 per cent of its strength from the KPS.

141. The fundamental rights principle underlying UNMIK's approach is the recognition that problems of this nature cannot be effectively addressed solely through the law and order approach. The socio-economic genesis of the problem and its multi-dimensional as well as international nature needs a more comprehensive approach involving multidisciplinary governmental and non-governmental bodies. Ultimately, it is only through the active involvement of civil society that the problem can be effectively addressed. UNMIK is committed to a comprehensive and sensitive solution to the problem of human trafficking.

142. UNMIK attached to its reply a copy of its White Paper, "Combating Human Trafficking in Kosovo: Strategy and Commitment".

Observations

143. The Special Rapporteur would like to thank UNMIK for its prompt and detailed reply. The Special Rapporteur welcomes the measures adopted to combat trafficking in Kosovo and would like to be kept informed of progress made. The Special Rapporteur would also like to note that, in accordance with his methods of work, no mention is made in any of his communications to the source of the information transmitted.

Kuwait/Qatar/Sudan

Communications sent to the Governments

144. By letter dated 8 August 2004, the Special Rapporteur notified the Governments of Kuwait, Qatar and the Sudan that he had received information regarding the case of **A.I.A.**, a child used as a camel jockey in Kuwait.

145. **A.I.A.** was reportedly taken to Abu Dhabi in August 1998 when he was 5 ½ years old. He returned home to Daralsalam, Omdurman, the Sudan in February 2004.

146. He said that he was taken by a friend of his father's, whose name is known to the Special Rapporteur, and that he was added to his passport as his "son". He was taken to work as a camel jockey. Initially, he stayed in Abu Dhabi, then in turn Al-aain, Sowaihan, and Alwagan in the

United Arab Emirates, finally ending up in Doha, from where he returned home. A.I.A. said that he had been given some leave and would be called back after six months.

147. A.I.A. reportedly suffered from ill-treatment, which included denial of food and beatings with a whip.

Observations

148. The Special Rapporteur would like to reiterate his interest in receiving the reply from the concerned Governments to these allegations.

Malaysia/Indonesia

Communications sent to the Governments

149. See paragraphs 117 – 122.

Mexico

Comunicación enviada al Gobierno

150. El 28 de enero de 2004, el Relator Especial transmitió un llamamiento urgente conjunto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, señalando a la atención urgente del Gobierno información en relación con la periodista **Irene Medrano Villanueva**, del periódico *El Sol de Sinaloa*. Según la información recibida, el 17 de enero de 2004, la periodista habría denunciado haber recibido llamadas anónimas en las que la amenazaban de muerte.

151. Las llamadas se habrían iniciado el 6 de enero, luego de que la periodista publicara trabajos sobre una red de prostitución en la que supuestamente estarían involucrados funcionarios públicos del estado Sinaloa, ubicado al noroeste de México.

152. La periodista habría señalado en conferencia de prensa que, según investigaciones judiciales, las llamadas provenían de la alcaldía de Culiacán, capital de Sinaloa. El acoso habría empezado con un mensaje escrito sobre el cristal de su automóvil, con la palabra "muerte". Después le habrían roto un vidrio del auto y luego le habrían cortado los frenos.

153. Luego de la denuncia de la periodista, la Procuraduría General de Justicia del Estado habría intervenido su teléfono y le habrían informado que las llamadas habían provenido del Ayuntamiento, por lo que habría responsabilizado al alcalde Jesús Enrique Hernández Chávez de lo que le pudiera pasar.

154. Sin embargo, el alcalde se habría presentado el 19 de enero a declarar ante el agente del Ministerio Público a cargo del caso. Habría presentado su declaración por escrito y posteriormente habría recriminado a autoridades judiciales por la divulgación en diversos medios de comunicación de parte de las investigaciones relacionadas con la identificación del teléfono de su despacho.

155. Según la información recibida, hace algunos meses la misma periodista habría manifestado públicamente haber sido amenazada por un diputado local. Sin embargo, no habría presentado una denuncia formal ante las autoridades.

Comunicaciones recibidas del Gobierno

156. En relación con el llamamiento urgente enviado el 13 de enero de 2004, por carta con fecha de 5 de marzo 2003, el Gobierno proporcionó información detallada relativa a la situación de la periodista Irene Medrano Villanueva. Sin embargo, a pedido de las autoridades competentes, el Gobierno solicitó que, por el momento, dicha respuesta sea tratada como confidencial.

Mozambique

Communication sent to the Government

157. On 28 January 2004 the Special Rapporteur sent an urgent appeal concerning the situation of **five nuns** from the Sisters Servants of Mary Immaculate, four from Spain and one from Brazil, who have been working in the Nampula area for 30 years. According to information received, they began to receive death threats after they uncovered an organ-trafficking network.

158. It is alleged that the nuns reported to the local authorities that people, many of them children, were being kidnapped and killed by members of an organ trafficking network. Subsequently, the nuns were ambushed on four occasions, but escaped each time.

159. The nuns were reportedly able to gather information about the trafficking because their convent is located between the property where the victims were taken and the airport where the organs were flown out at night. It is reported that since October 2002, dozens of children and youths in the area, especially street children, have disappeared in mysterious circumstances.

160. According to information received, one of the nuns found a dead body with the eyes, heart and kidneys removed.

161. The Special Rapporteur expressed his concern about the threats against the nuns and the grave allegations they reported.

Observations

162. The Special Rapporteur acted on this case for humanitarian reasons to protect the threatened persons. He is aware of the complexity of the investigations and remains interested in knowing the results.

Nepal

Communications sent to the Government

163. By letter dated 18 May 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur expressed his concern at the alleged social and economic

discrimination faced by **Badi women and girls**. According to information received, the Badis, who are said to number tens of thousands across western Nepal, are one of 36 castes who make up Nepal's untouchables. It is reported that Badi women and girls, due to the discrimination, stigma and vulnerability inherent in the caste system, are forced to work in prostitution. It is said that the Badis did not start out as prostitutes when they migrated to Nepal from India some three centuries ago. They made drums and musical instruments, fished and danced and sang. They would go to the homes of landlords, or *zamindars*, to entertain at social ceremonies, in return for food. In time, the *zamindars* allegedly claimed some of the girls as concubines. They would reportedly use them and then abandon them when they had children. It is reported that fatherless children have few rights and that it can be difficult to register their births, and thus obtain citizenship, school admission, the right to vote, and health care for the children. In this situation, daughters reportedly end up entering prostitution like their mothers as a means of survival. Concerns have also been expressed that these women and girls are particularly vulnerable to HIV infection due to their status in society. It is reported that many Badi women refused to be tested for fear that a positive result would further stigmatize them and their community. The Special Rapporteurs appealed to the Government to take the appropriate measures to eliminate all forms of discrimination and promote and protect the rights of all women and girls in Nepal, in particular Badi women and girls and their communities.

164. By letter dated 18 May 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received the following allegations concerning the rape and murder of S.S., aged 14 years.

165. S.S., a Dalit girl from Inaruwa, Sunsari, was allegedly raped and then murdered with impunity. On 17 May 2004, at around 11.00 p.m., a group of more than 10 masked men entered her family home. They tied up her father and held him down on the floor. Then several men went to the room where S.S. and her mother were sleeping and dragged them out of the house and raped S.S. After the masked men left, the father and the neighbours searched for and finally found the mother lying unconscious. She was taken to the hospital. On 18 May 2004, villagers found one of the alleged perpetrators, whose name is known to the Special Rapporteur. He was reportedly sleeping under a bridge far from the village, his shirt was stained with blood and the bamboo sticks used in the attack were scattered around him. Villagers took him to the Inaruwa District Police Office. Upon his arrest, he reportedly confessed that he and his friends had gone to the victim's house. On 19 May 2004, S.S.'s naked body was found. According to the post mortem report conducted at the District Hospital at Inaruwa, S.S. had been raped and then killed by suffocation. The police reportedly arrested a group of men named by the villagers and S.S.'s family as being the perpetrators. However, the majority of the suspects were released on the same day following protests made on their behalf by their families and relatives. The suspects are reported to belong to upper-caste families and are sons of landlords in the village. It is reported that no further investigation was conducted. The one suspect who was held in police custody for two months was reportedly released when an alibi was established. Due to fear for their security, S.S.'s family have been forced to leave the village.

Observations

166. The Special Rapporteur would like to reiterate his interest in receiving a reply from the Government of Nepal to these allegations.

Nicaragua

Comunicación enviada al Gobierno

167. El 15 de junio de 2004, el Relator Especial transmitió una comunicación al Gobierno de Nicaragua en relación al caso del señor A., un ciudadano estadounidense de 53 años, acusado de corrupción de menores, cuyo nombre fue comunicado al Relator Especial. Según se informa, el Sr. A. habría tratado de convencer a una mujer que trabajaba en una esquina de Managua para que lo ayudara a contactar niñas de entre 7 y 9 años de edad para "salir con ellas". A cambio, le habría ofrecido dinero. Según la información recibida, él habría sido arrestado el 17 de diciembre del 2003 en Managua. El 4 de marzo de 2004, el Sr. A. habría sido encontrado culpable del cargo de corrupción de menores que le atribuía el Ministerio Público y enviado a prisión por dos años, seis meses y seis días.

168. Antes de la condena, habrían abundado las amenazas de muerte contra piezas clave del proceso. Los informes indican además que el juez Jaime Alfonso Solís habría recibido varias llamadas telefónicas intimidatorias. Un autobús en que viajaban varios niños se habría estacionado frente a su casa y una mujer le habría pedido liberar al Sr. A. Se informa que la principal testigo en el juicio también habría sido víctima de amenazas. Un grupo de personas que viajaban en un autobús amarillo habría llegado hasta los semáforos de la Asamblea Nacional, donde la testigo permanece como vendedora ambulante. Le habrían expresado claramente que si el norteamericano era condenado, ella y su hija iban a pagarlo caro. Antes de marcharse, habrían dejado unas pancartas que decían "A.: Ángel de los Niños".

169. Después del pronunciamiento de la condena, los abogados del Sr. A. habrían sostenido que el cargo de corrupción de menores no estaba contemplado en la legislación nicaragüense como delito. Según la información recibida, la Sala Penal Segunda de Apelaciones de Nicaragua habría revocado su sentencia el 14 de mayo del 2004. De acuerdo con las informaciones recibidas, la fiscal a cargo del caso podría presentar un recurso de casación ante la Corte Suprema de Justicia de Nicaragua.

Observaciones

170. El Relator Especial reitera su interés en recibir informaciones del Gobierno sobre el caso arriba citado.

Pakistan/United Arab Emirates

Communications sent to the Governments

171. By letter dated 3 May 2004, the Special Rapporteur notified the Governments of Pakistan and the United Arab Emirates that he had received information regarding the following individual cases of children trafficked from Pakistan and used as camel jockeys in the United Arab Emirates:

(a) **M.** (6 years old), **N.** (8 years old) and **S.** (10 years old) reportedly stayed in the United Arab Emirates for more than two years and worked there as camel jockeys. These children allegedly showed signs of injuries on their bodies. It is reported that their employer used them and other children for sex as well. On 20 March 2004, the three children were flown back to Pakistan and handed over to their parents in the remote area of Rahim-Yar-Khan, Punjab;

(b) The brothers **Q.A.**, aged 8, and **S.**, aged 6, reportedly returned to Pakistan from the United Arab Emirates on 18 September 2003. It is believed that they left their home in Rahim Yar Khan, southern Punjab, about three years ago to work as camel jockeys in the Emirates. According to information received, they left together with their father and mother, but were not told why they were being taken to the Emirates. Once they arrived, the parents reportedly left the boys at a sheikh's house, where they stayed until their return to Pakistan. According to information received, there were four other Pakistani boys in the same camp, making six in total. All the boys allegedly thought they were being paid a sum of money equivalent to US\$ 1,740 twice a year and that this money was being given to their parents. According to reports, Q. and S. did not go to school, nor receive an education of any kind. They reportedly left the United Arab Emirates when their father returned to the camp and demanded his children back. When the boys were handed over, their father allegedly gave them into the care of some friends and disappeared. The friends then reportedly handed Q. and S. over to the police, who in turn contacted the Pakistani Embassy in the United Arab Emirates. The Embassy arranged for the boys to be repatriated to Pakistan. Q. and S.'s father is believed to be back in Rahim Yar Khan and has not tried to contact his sons.

Communications received from the Government

172. By letter dated 10 June the Government of Pakistan requested additional information regarding the cases of children trafficked from Pakistan and used as camel jockeys in the United Arab Emirates. On 13 September 2004 the Government transmitted the following information.

173. Of the five children mentioned in the communication, three could not be traced. However, the three others had been returned to their parents. Two of the children had been taken back to Pakistan by the Overseas Pakistanis Foundation when it was discovered that they came from the Chak N° 4/P, Rahim Yar Khan istrict. The Chief Justice of the Lahore High Court ordered that the children be returned to their parents. In order to comply with this order, an investigation was carried out by the district police station. The investigation discovered the children's real names and that they had been sent abroad by an agent, Mr. I.D.B., who is currently in jail in Karachi, and his wife, who is presently in Abu Dhabi. The children have been returned to their mother.

Pakistan

Communication sent to the Government

174. On 22 June 2004, the Special Rapporteur sent an urgent appeal regarding a 6-year-old boy named **T.**, who was allegedly sexually abused by his teacher on 6 June 2004 at Lajna mosque on College Road, Green Town, Lahore, Punjab. The reports indicate that T.'s mother went to the mosque in the afternoon of 6 June 2004 because her son had not returned home. When she arrived, she found T. lying in the corridor. He was bleeding and unconscious. The

initial medical report confirmed that T. had been sexually abused. T.'s grandfather registered a First Information Report at Green Town Police Station on 7 June 2004. The teacher, whose name is known to the Special Rapporteur, was allegedly arrested and is currently detained at the Kot Lakhpat Jail. However, reports indicate that various religious groups, including the Tableeghi Jamaat and Jamia Ashrafia, are pressuring the boy's family to withdraw the complaint. It is reported that police investigators are also being pressured by those religious groups.

Communication received from the Government

175. By letter dated 13 September 2004 the Government transmitted the following information regarding the case of T. On 6 June 2004, Muhammad Aslam lodged a complaint alleging that his 6-year-old son had been sexually abused by his teacher. The case was registered by the police and the teacher was arrested the following day. The teacher claimed that he was innocent and that the complaint was the result of a dispute in the school. The Government further reported that T's family has withdrawn the complaint and submitted affidavits stating that there had been a misunderstanding. During a hearing held in the Session Court, Lahore, on 13 July 2004, the accused applied for bail. The complainant's family also appeared in court and made statements to the effect that the complaint had been lodged as a result of a misunderstanding and that the teacher was innocent. In view of the above, the court had accepted the application for bail and released the accused. The final decision of the court is still pending.

Communication sent to the Government

176. On 15 July 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, sent an urgent appeal regarding the sexual abuse and murder of H. and S.

177. According to the information received, H., an 8-year-old girl, and S., a 5-year-old girl, reportedly went missing on 21 February 2004 in Karachi. Their disappearance was reported to the Gadap police station, but police officials there allegedly declined to register a case and were reluctant to search for the children. It is reported that their bodies were found on 25 February 2004 in the bushes located on the premises of a veterinary hospital which was used by policemen. There were reportedly bloodstains on the veranda and in one room of the hospital. It is alleged that an autopsy report revealed that the two girls had been sexually abused, that H. had been killed with an axe and that S. had been shot dead from behind. H.'s legs and parts of her abdomen had allegedly been eaten by stray dogs. The Special Rapporteurs have been informed that a preliminary inquiry discovered that the Station House Officer of Gadap police station (whose name is known to the Special Rapporteurs) was guilty of negligence based on the fact that he had delayed the registration of the kidnapping case. It is reported that three policemen were arrested for negligence and a fourth one absconded. No further developments have been reported in relation to this case. The Special Rapporteurs would appreciate receiving information on the outcomes of any further investigation and on the steps taken to bring those responsible to justice.

Communication received from the Government

178. By letter dated 15 September 2004 the Government of Pakistan provided the following information regarding deaths of H. and S. The authorities have launched an investigation into this case and four policemen have been charged. Three of the four men charged have been

arrested and the fourth has absconded. The police are actively searching for the fourth man in the interior region of Sindh. The Government further reported that the three arrested policemen have been remanded in custody.

Observations

179. The Special Rapporteur would like to thank the Government of Pakistan for its prompt replies. He would like to be kept informed of any further developments in the procedures that have been opened in relation to the deaths of H. and S. In the case of T., the Special Rapporteur would like to be reassured that the boy's family was not pressured to withdraw the complaint of sexual abuse.

Peru

Comunicación enviada al Gobierno

180. El 10 de mayo de 2004, el Relator Especial transmitió un llamamiento urgente, juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, la Representante Especial del Secretario General para los defensores de los derechos humanos y el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, señalando a la atención urgente del Gobierno información según la cual cerca de 150 niños y adolescentes que viven o trabajan en la calle en Lima, así como algunos adultos que los acompañaban, habrían sido víctimas de un uso excesivo de la fuerza por parte de la policía. Según las informaciones recibidas, el 20 de noviembre de 2003, una manifestación habría sido convocada por asociaciones comprometidas con niños que viven o trabajan en la calle para conmemorar el aniversario de la Convención sobre los Derechos del Niño y para pedir pacíficamente una mejor protección de los derechos del niño. Las siguientes organizaciones habrían participado de la manifestación: el Movimiento Nacional de Niños y Adolescentes Trabajadores organizados del Perú (MNNATSOP), el Movimiento de Niños y Adolescentes Trabajadores Hijos de Obreros Cristianos (MANTHOC), el Instituto de Formación para Educadores de Jóvenes Adolescentes y Niños Trabajadores de América Latina y el Caribe (IFEJANT) y Generación.

181. De acuerdo con la información recibida, la manifestación se desarrollaba pacíficamente hasta que la policía intervino para disolverla a la fuerza en la Plaza Mayor. Los agentes de policía habrían utilizado gases lacrimógenos y golpeado con porras a los manifestantes, a quienes también habrían dado patadas. Bebés que se encontraban en los brazos de sus madres también habrían sido golpeados. Algunas personas habrían perdido la conciencia y otras habrían sufrido contusiones. A modo de justificación de su actuación, la policía habría alegado que la manifestación era ilegal por no respetar el decreto de la Alcaldía mediante el cual se prohibiría toda manifestación pública en el centro de Lima. Se alega que para no infringir este decreto, las organizaciones de niños trabajadores habrían adelantado una protesta no violenta con pequeños grupos que ingresaban a la plaza por turnos, exigiendo el respeto a los niños y el reconocimiento y plena ciudadanía de la niñez como un sujeto de derecho, como actores protagonistas de la sociedad. Se alega igualmente que 13 manifestantes habrían sido detenidas por las fuerzas policiales pertenecientes a la Unidad de Servicios de Control de Disturbios de la Policía. Entre ellas, Enrique Jaramillo, coordinador de Generación, habría sido golpeado e insultado cuando se encontraba bajo custodia policial. Tres menores, una joven de 14 años de edad y dos varones de

10 y 12 años, todos ellos niños de la calle, habrían sido trasladados a un centro de detención preventiva y liberados el 22 de noviembre de 2003.

Comunicación recibida del Gobierno

182. En el 8 de julio de 2004 el Gobierno del Perú proporcionó la siguiente información sobre las alegaciones de uso excesivo de la fuerza por parte de la policía durante una manifestación convocada por asociaciones comprometidas con niños que viven o trabajan en la calle realizada el 20 de noviembre de 2003.

183. Una investigación penal habría sido formalizada contra 13 personas por presunta comisión del delito contra el patrimonio y delito contra la tranquilidad pública, delito contra la administración pública cometido por particulares.

184. Se habría establecido que los intervenidos y aproximadamente otras ochenta personas, en proceso de identificación, se reunieron en la Plaza Mayor donde se concentraron para realizar una manifestación con ocasión de celebrarse un aniversario de la Convención sobre los Derechos del Niño, propiciando actos violentos, en su intento de ingresar al centro de Lima, zona declarada “restringida” por un mandato municipal. Por tal razón, los efectivos policiales habrían conminado a los manifestantes a que abandonasen su actitud de fuerza. Estos, sin embargo, habrían atacado a los custodios del orden, quienes se habrían vistos obligados a lanzar gases lacrimógenos; en tales circunstancias, habría intervenido un mayor contingente policial siendo también atacados y herido el Mayor PNP Fernando Vergara García. Así se habría capturado “in fraganti” a las 13 personas indicadas.

185. El Atestado Policial habría llegado a las siguientes conclusiones: *a)* las personas identificadas y otras ochenta aproximadamente en proceso de identificación son presuntos autores del delito contra la tranquilidad pública, delito contra la administración pública cometido por particulares; *b)* no se habrían encontrado indicios de daños materiales en la propiedad pública ni privada en la Plaza Mayor y calles aledañas; *c)* se deja a la Autoridad Judicial competente que se pronuncie sobre la situación legal de la dos ciudadanas estadounidenses, y si se habría infringido la Ley de Extranjería; *d)* no se habría recibido las respuestas de la informaciones solicitadas a las diversas entidades, que acrediten las lesiones de los intervenidos y efectivos de la Policía, cuyos resultados una vez recabados se remitirán a la autoridad judicial competente. Hasta el momento no habría sido posible identificar a las otras ochenta personas que habrían participado en los ilícitos penales detallados arriba.

186. En consecuencia se habría formalizado denuncia penal contra los manifestantes que irrumpieron en la Plaza Mayor por los delitos de delito contra la tranquilidad pública, de acuerdo con el artículo 315 del Código Penal. El estado actual del proceso correspondería a la etapa inicial de la investigación. Asimismo las denuncias contra las dos ciudadanas estadounidenses habrían sido archivadas de manera definitiva.

Comunicación enviada al Gobierno

187. El 11 de agosto de 2004, el Relator Especial transmitió un llamamiento urgente, juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, señalando a la atención urgente del Gobierno información según la cual

el 13 de julio de 2004, se habría ordenado la apertura y registro domiciliario del diario *El Tiempo* de Andahuaylas, región Apurímac. La medida habría sido dictaminada por el juez de lo penal, Guido Castro Tamayo, debido a la acusación por supuesta difusión de pornografía infantil que pesa sobre el director del medio, el Sr. **J.M.I.**

188. La acusación presentada a la fiscalía de la zona habría sido hecha por Martín Urcuzo Ríos, director del diario *Opinión*, competencia del diario *El Tiempo* en la región. Según la orden judicial, el allanamiento domiciliario, apertura e incautación de bienes involucrados en la denuncia habría sido solicitado por los fiscales provinciales Waldo Frisch Ponce de León y Vega Mamani. Esta última sería pareja del Capitán E.V.T., quien habría estado preso por sus vínculos con el narcotráfico descubiertos tras las denuncias del diario *El Tiempo*. Las autoridades habrían incautado todo el archivo fotográfico compuesto por cerca de diez mil imágenes. La denuncia de la fiscalía habría sido sustentada con la presentación de una fotografía y el testimonio de una de las supuestas víctimas.

189. Sin embargo, las fotografías supuestamente pornográficas, que han sido mostradas a la prensa, no reflejarían tal delito. Se teme que el medio podría estar siendo presionado para no publicar algunas investigaciones.

Qatar/Kuwait/Sudan

Communication sent to the Governments

190. By letter dated 8 August 2004, the Special Rapporteur notified the Governments of Kuwait, Qatar and the Sudan that he had received information regarding the case of A.I.A., a child used as a camel jockey in Kuwait (see paras. 144 - 148).

Communication received from the Government of Qatar

191. By letters dated 24 August and 5 October 2004, the Government of Qatar made the following reply to the communication transmitted on 18 August 2004. The Government affirmed that it needed clarification on a number of issues in order to be able to adequately address the concerns raised in the communication, and in particular the case of A.I.A.. Thus, the Government requested that the Special Rapporteur provide the following additional information: the number of the travel document or of any other document that proved the identity of the victim, as well as an indication of the duration of the victim's stay in Qatar; a detailed description of the allegations; information regarding the author of the violations and the place and date when these allegedly took place. Finally, the Government also requested information regarding whether the victim had exhausted domestic remedies prior to submitting his case to the Special Rapporteur.

Observations to the Government of Qatar

192. The Special Rapporteur would like to note that he addressed this communications to the concerned Governments to draw their attention to a phenomenon that needs to be addressed adequately, and he reiterates his interest in knowing the measures taken by the concerned authorities in this respect.

Senegal

Communication adressée au Gouvernement

193. Le 27 janvier 2004, le Rapporteur spécial a envoyé un appel urgent sur la situation des enfants talibés au Sénégal. Issus pour la plupart de familles musulmanes, les talibés sont des enfants qui sont placés par leurs parents auprès d'un marabout chargé de leur assurer une éducation coranique, doublée d'une initiation pratique à la vie communautaire et à l'acquisition du sens de l'humilité et de la vie ascétique.

194. Constituant la plus grande partie des enfants des rues, les talibés, tout comme leurs marabouts, viendraient principalement du nord et du centre du Sénégal mais aussi des pays frontaliers comme le Mali, la Guinée ou la Gambie.

195. En guise de rétribution des enseignements prodigués qui seraient plutôt limités, les marabouts exigeraient des enfants de l'argent et des biens matériels (habits ou produits de consommation, tels que sucre, savon, riz, etc.). L'argent demandé aux talibés par leurs marabouts varierait selon le lieu où ils se trouvent : dans les quartiers périphériques de Dakar, un enfant de moins de 10 ans devrait verser 250 à 400 francs CFA par jour. Dans le centre-ville, le versement quotidien pourrait atteindre 3 000 francs CFA.

196. On évaluerait à plus de 150 000 le nombre d'enfants talibés à travers le Sénégal, dont plus de 6 300 à Dakar.

197. Le Rapporteur spécial est concerné par l'état d'esclavage dans lesquels ces enfants seraient maintenus et par les mauvais traitements auxquels ils seraient quotidiennement soumis. Contraints de mendier leur nourriture, ils auraient tout juste de quoi se vêtir et dormiraient dans des endroits insalubres, parfois même sans fenêtres. Les enfants qui ne ramèneraient pas les sommes demandées par le marabout seraient fouettés, parfois même publiquement. De manière générale, les enfants talibés, même les plus jeunes, seraient régulièrement battus par leur marabouts. D'après les renseignements reçus, un maître coranique aurait été arrêté à Saint-Louis en avril 2003 pour avoir maltraité un de ses élèves, qui aurait été hospitalisé suite aux blessures infligées. Pour autant, il semble que jusqu'ici, seul ce cas ait fait l'objet de poursuites alors que les actes de maltraitance sur les enfants se passeraient au vu et au su de tous.

Communications reçues du Gouvernement

198. Par lettre datée du 2 avril 2004, le Gouvernement a envoyé des informations détaillées sur la situation des enfants talibés dans le pays, dont le résumé suit.

199. Le Gouvernement informe que, traditionnellement, les enfants « talibés » sont confiés à des maîtres coraniques pour l'apprentissage du Coran et pour leur éducation religieuse. Ces élèves doivent être hébergés et entretenus par le « marabout » qui subvient pour l'essentiel à leurs besoins. En milieu rural, leur situation s'intégrerait avec une relative harmonie au contexte social environnant. Cependant, avec l'implantation des écoles coraniques à la périphérie des grandes villes, particulièrement dans l'agglomération de Dakar, et les difficultés économiques

qui s'ensuivent pour les marabouts qui ne disposent pas souvent de revenus propres pour entretenir les enfants, le phénomène des enfants « talibés » aurait connu des développements préoccupants. En effet, la quête de l'aumône par des enfants privés de leur milieu familial et devenus quelque peu vulnérables peut les plonger dans un milieu urbain hostile. Lorsqu'ils seraient livrés à des marabouts peu scrupuleux, ils pourraient être exposés à la maltraitance, à l'exploitation économique et à certains abus et pourraient être tentés par la déviance.

200. Le Gouvernement fournit des informations détaillées sur les dispositions légales existantes, et en particulier les dispositions pénales destinées à protéger les enfants et qui peuvent être appliquées pour la protection des enfants « talibés ».

201. Finalement, le Gouvernement transmet des informations sur les actions spécifiques qui auraient été adoptées en faveur de ces enfants. Dans le cadre de la coopération avec l'UNICEF, un programme pour les enfants en situation particulièrement difficile aurait été mis en oeuvre entre 1992 et 1996. Ce programme aurait eu comme but d'améliorer les conditions d'existence des « talibés » et de donner une éducation de base à 20 000 d'entre eux répartis dans plusieurs dizaines d'écoles coraniques situées aussi bien en milieu urbain qu'en milieu rural. De plus, dans le cadre du projet de lutte contre les pires formes de travail des enfants initié par le BIT et l'UNICEF, 800 enfants « talibés » dans la ville de Dakar et 200 dans celle de Saint-Louis, auraient été pris en charge pour une période de six mois (2003/2004), entrant dans un programme qui aurait pour but de réduire considérablement les risques encourus par les « talibés » et de leur offrir épanouissement et carrière sociale appropriée.

Sri Lanka

Communication sent to the Government

202. On 7 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, sent an urgent appeal regarding various cases of ill-treatment allegedly perpetrated by a primary school teacher at the Ampitiya Berawattes College in Kandy. According to information received, the teacher, whose name is known to the Special Rapporteurs, a 45-year-old Buddhist monk, has physically and psychologically harassed children in many different ways since the end of 2002. It is also reported that he continuously denied the children's right to freedom of religion and that he harassed the Catholic students about their religion.

203. On 8 February 2004, he reportedly ordered the Catholic students of school year 06 to draw a cross in the sand and then made them jump over it. On 11 February 2004, he allegedly forced the Catholic children of year 07 to draw a bible on the floor and to step on it. According to reports, if the children refused to denounce Jesus Christ, they had to leave the classroom. It is also believed that Catholic boys were forced by the teacher to undress completely and then were beaten with a cane on several occasions. According to information received, on 22 January 2004, the teacher touched the breasts of two girls in front of all the children of school year 07 and said that they should have bigger breasts. According to reports, this teacher has a history of child abuse and he had been transferred from the Monarangala Vidiyalaya School to the Ampitiya Berawattes College in 2001 amid allegations that he had abused other children. Furthermore, the children at Ampitiya Berawattes College who allegedly launched a complaint against him were forced to leave the school. Even though parents reportedly informed the principal (an ex-

Buddhist monk) and the director of the school several times about the abuses perpetrated by the teacher, it is feared that no action has been taken yet.

204. It is also believed that two fellow teachers at the school were assaulted by the accused teacher. On 24 June 2003, a 24-year-old female teacher was allegedly assaulted verbally and physically by this teacher. The reports indicate that she lodged a complaint at the police station (police entry number: C.I.B no; 362/529 of 24-06-2003) but the police have not yet taken any serious action. According to information received, on 12 February 2004, a Salvadorian Catholic nun who worked as a volunteer religion teacher at the school from 1 March 2003 to 29 February 2004 told the children of school year 07 to remove some plants from the flower bed. When the children were doing this, the teacher came and allegedly beat two of them with a cane. He also lodged a complaint with the education office about removing plants and officers came to the school to investigate the nun. It is believed that the teacher finally forced her to leave the school. According to reports, the nun has been working at the Hindagala School since March 2004.

205. The Special Rapporteurs express their concern about the security of the victims and all the other children remaining at the Ampitiya Berawattes College, as well as the continuing lack of diligence and willingness on the part of the police to conduct an adequate investigation into the allegations.

Communication received from the Government

206. By letters dated 10 May and 1 December 2004, the Government of Sri Lanka requested additional information regarding the alleged cases of ill-treatment perpetrated by a primary school teacher from the Ampitiya Berawatte College, Kandy. The Government informed the Special Rapporteur that the complaint had been referred to Prof. Harendra de Silva, Chairman of the National Child Protection Authority. Prof. de Silva responded that he had been unable to investigate the complaints as the child victims had not been identified. The Government further reported that the National Child Protection Authority had been in contact with the Asian Human Rights Commission, an NGO which appears to be the alleged complainant in the case, and had repeatedly requested, to no avail, that the NGO provide it with the names of the alleged victims or other relevant information. Finally, in regard to the allegation that the teacher had assaulted a female teacher, the Government requested details regarding the exact police station where the complaint had been lodged as only a registration number and date had been provided.

Communications sent to the Government

207. By letter dated 1 October 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised that he had received information concerning **D.M.R.**, a 10-year-old girl who was allegedly repeatedly raped for a period of over one year by six persons, including members of her family, whose names are known to the Special Rapporteurs.

208. According to information received, in the absence of her mother, D.M.R. was taken care of by her aunt. However, from March 2003, the girl's stepfather chased away the aunt and continuously raped D.M.R. until August 2004. The girl was also raped by her stepfather's son-in-law and her stepfather's brother-in-law. She was also brought by her stepfather to the house of a businessman who frequently abused her. In his house, two other men also raped the girl.

209. The facts were discovered by the girl's teachers, who noticed that she had lost her enthusiasm for studies, looked very depressed and walked in an abnormal way. When they questioned her, D.M.R. told the teachers what had happened. The teachers immediately reported the incident to the Hingurakgoda Police Station and helped her to take legal action against these six perpetrators (Case No. B 7420/2004).

210. When she was in protective custody at the Hingurakgoda Police Station, the girl identified the house of the businessman as the place where she had been raped. In Polonnaruwa Court, the girl also testified that the businessman gave her some clothes worth around Rs 2,000 and chocolates to eat. After having eaten the chocolates, she lost consciousness and was raped by him and his friends.

211. It is reported that the villagers held several protests in front of the police station demanding the arrest of the perpetrators. Three of them were arrested. On the first day that the accused were produced before the court, the teachers were threatened by supporters of the perpetrators who were present in the courtroom. On 8 September 2004, the Hingurakgoda Magistrate's Court decided to postpone the case until November pending the end of the investigations.

212. The girl is now staying with her mother, who returned from abroad after learning about the incident. But three of the six perpetrators are still said to remain free. It is believed that the police did not arrest these three persons owing to interference by powerful persons.

Communication received from the Government

213. By letter dated, 26 November 2004 the Government of Sri Lanka transmitted the following information regarding the case of Ms. D.M.R. The Government reported that by order of the Inspector General of Police, the Special Investigations Unit of the Sri Lanka Police had initiated an investigation into the complaint, which has been registered under No. SIU/213/2004.

Sudan

Communication sent to the Government

214. On 14 January 2004, the Special Rapporteur sent an urgent appeal regarding the alleged abduction on 2 January 2002 of 10 children, mostly boys under the age of 18 and 3 girls, by the Janjaweed Government-backed militia from the village of Ma'un, south of Kornoy in West Darfur State.

215. It is reported that other children have been abducted in West Darfur, following a known pattern of violations such as occurred during the war between the Government of the Sudan and the Sudan People's Liberation Army in southern Sudan, when armed militias supported by the Government abducted people living in the Bahr al-Ghazal region. At least 12,000 people, including many children, are reported to have been abducted between 1983 and 2002, of whom 10,000 are reportedly still unaccounted for. Many are believed to have been forced to work as domestic labourers or field hands in northern Sudan.

Sudan/United Arab Emirates

Communication sent to the Government

216. By letter dated 3 May 2004 the Special Rapporteur notified the Government that he had received information regarding the following case of children trafficked from Sudan and used as camel jockeys in the United Arab Emirates.

217. On 21 November 1999, **O.A** and **M.A.**, two Sudanese brothers, were reportedly taken to the United Arab Emirates to work as camel jockeys, where they remained until 5 December 2001. The person allegedly responsible for trafficking both boys, whose name is known to the Special Rapporteur, is believed to have an agency that sends young Sudanese boys to the Gulf. According to information received, this mediator tells families that their children will receive good salaries and an education in the Emirates. O.A. and M.A.'s parents were allegedly told that they would receive 1,500 derhams per month for the two boys. According to reports, during this period, the father visited his sons twice. It is reported that O.A. and M.A. shared a room with three other boys from Pakistan.

218. By letter dated 8 August 2004, the Special Rapporteur notified the Governments of Kuwait, Qatar and the Sudan that he had received information regarding the case of A.I.A, a child used as camel jockeys in Kuwait (see paras. 144-148).

Observations

219. The Special Rapporteur would like to reiterate his interest in receiving the reply from the Government of the Sudan to these allegations.

Togo

Communications adressées au Gouvernement

220. Le 27 avril 2004, le Rapporteur spécial, 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 concernant des allégations d'exploitation sexuelle d'enfants dans un quartier du centre de Lomé connu sous le nom de Devissime, ce qui signifie « marché des enfants » en dialecte local mina. Selon les informations reçues, des fillettes et jeunes filles âgées de 9 à 15 ans se prostitueraient dans ce quartier, parfois pour moins d'un dollar.

221. Il semble que beaucoup de ces jeunes filles ont été séparées de leurs familles, tandis que d'autres ont simplement été abandonnées. Selon les informations reçues, la plupart de ces jeunes filles ne seraient pas alphabétisées. Extrêmement vulnérables, elles semblent être les proies idéales de tenants de maisons closes. Ces fillettes et jeunes filles courent également le risque de devenir victimes de trafiquants qui proposent des enfants comme main-d'œuvre bon marché ou esclaves sexuelles en Afrique de l'Ouest.

222. Les rapports indiquent que le Togo n'a pas une législation efficace pour punir les personnes qui exploiteraient ces fillettes et jeunes filles. Les enfants se seraient elles-mêmes

plaintes des policiers qui patrouilleraient dans ce quartier et qui leur auraient demandé des relations sexuelles sans les payer. Amivi, une jeune fille de 13 ans, aurait déclaré : « Les soldats qui sont censés nous protéger lors de leurs patrouilles veulent avoir des relations sexuelles avec nous sans payer et nous sommes trop effrayées pour dire non, alors nous devons accepter sans rechigner ».

Observations

223. Le Rapporteur spécial réitère son intérêt à recevoir une réponse du Gouvernement du Togo sur ces allégations.

United Arab Emirates/Bangladesh/Pakistan/Sudan

Communications sent to the Governments

224. By letters dated 3 May 2004 and 18 August, the Special Rapporteur notified the Governments the United Arab Emirates, Bangladesh, Pakistan and the Sudan that he had received information regarding cases of children used as camel jockeys in the United Arab Emirates trafficked from the countries above. The cases detailed in paragraphs 9 and 10, 144–148, 171 and 216-218 were brought to the attention of the Government of the United Arab Emirates.

Communications received from the Government

225. By letter dated 24 August 2004, the Government of the United Arab Emirates requested additional information regarding the case of A.I.A. transmitted on 18 August 2004. In particular, the Government asked for details concerning the name and address of the child's sponsor while in the country as well as any other information that would enable it to conduct an investigation into the alleged facts.

Observations

226. The Special Rapporteur would appreciate receiving information on any measures that have been taken to put an end to trafficking in children to be used as camel jockeys and to ensure compliance within the country, and in particular in the camel racing business, with the State's existing obligations under international human rights law, namely article 32.1 of the Convention on the Rights of the Child, which provides that "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."
