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HUMAN RIGHTS COUNCIL  
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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251  
OF 15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL"**

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF  
FREEDOM OF EXPRESSION**

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

**Report of the Special Rapporteur, Amebyi Ligabo**

**Addendum**

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

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

## CONTENTS

	<i>Paragraphs</i>	<i>page</i>
INTRODUCTION	1 – 7	5
SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED		
Afghanistan .....	8 – 11	6
Algeria .....	12 – 20	7
Angola .....	21 – 25	12
Argentina .....	26 – 29	13
Armenia .....	30 – 31	16
Australia .....	32 – 33	17
Azerbaijan .....	34 – 46	17
Bahrain .....	47 – 50	20
Bangladesh .....	51 – 58	21
Belarus .....	59 – 77	23
Bhutan .....	78 – 80	34
Brazil .....	81 - 87	35
Burundi .....	88 – 93	37
Cambodia .....	94 – 101	38
Cameroon .....	102 – 104	41
Central African Republic .....	105 – 107	43
Chad .....	108 – 111	44
Chile .....	112 – 117	45
China .....	118 – 143	47
Colombia .....	144 – 164	59
Côte d'Ivoire .....	165 – 166	66
Croatia .....	167	67
Cuba .....	168 – 183	67
Democratic Republic of the Congo .....	184 – 197	72
Djibouti .....	198 – 202	76
Dominican Republic .....	203 – 204	79
Ecuador .....	205 – 208	79
Egypt .....	209 - 221	81
Equatorial Guinea .....	222 – 223	87
Eritrea .....	224 – 226	88
Ethiopia .....	227 – 240	89
Gabon .....	241 – 242	93
Gambia .....	243 – 245	94
Georgia .....	246 – 247	95
Ghana .....	248	95

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>page</i>
Greece .....	249 – 250	95
Guatemala .....	251 – 257	96
Honduras .....	258 – 259	99
India .....	260 – 266	99
Indonesia .....	267 – 277	101
Iran (Islamic Republic of) .....	278 – 312	104
Iraq .....	313 – 322	115
Israel .....	323 – 337	118
Italy .....	338 – 340	123
Kazakhstan .....	341 – 345	123
Kyrgyzstan .....	346 - 348	127
Lebanon .....	349 – 350	128
Libyan Arab Jamahiriya .....	351 – 352	132
Malaysia .....	353 – 355	132
Maldives .....	356 – 358	133
Mauritania .....	359 – 361	135
Mexico .....	362 – 396	135
Morocco .....	397 – 404	149
Myanmar .....	405 – 413	156
Namibia .....	414 – 416	159
Nepal .....	417 – 471	160
Niger .....	472 – 474	171
Nigeria .....	475 – 479	172
Pakistan .....	480 – 493	175
Paraguay .....	494 – 504	179
Peru .....	505 – 512	182
Philippines .....	513 – 540	185
Republic of Korea .....	541 – 547	195
Republic of Serbia .....	548 – 550	198
Romania .....	551 -553	198
Russian Federation .....	554 - 561	200
Saudi Arabia .....	562 – 564	203
Serbia and Montenegro .....	565	204
Senegal .....	566 – 569	205
Singapore .....	570 – 573	207
Somalia .....	574 – 576	211
Spain .....	577 – 579	212
Sri Lanka .....	580 – 596	213
Sudan .....	597 – 608	218
Syrian Arab Republic .....	609 – 625	223
Tajikistan .....	626 – 627	230

**CONTENTS** *(continued)*

	<i>Paragraphs</i>	<i>page</i>
Thailand .....	628 – 632	230
The former Yugoslav Republic of Macedonia .....	633 – 634	232
Tunisia .....	635 – 668	233
Turkey .....	669 – 681	248
Turkmenistan .....	682 – 686	252
Uganda .....	687 – 690	255
United Arab Emirates .....	691 – 692	256
United Republic of Tanzania .....	693 – 695	257
United States of America .....	696 – 701	257
Uzbekistan .....	702 – 709	259
Venezuela (Bolivarian Republic of) .....	710 – 713	263
Viet Nam .....	714	264
Zimbabwe .....	715 – 731	264
Annex .....		273

## INTRODUCTION

1. At its sixty-first session, the Commission on Human Rights, in its resolution 2005/38 entitled 'The right to freedom of opinion and expression', appealed to all States to cooperate fully with and assist the Special Rapporteur in the performance of his tasks, and to provide him with all necessary information requested by him. The Human Rights Council, in its decision 1/102, dated 30 June 2006, decided to extend exceptionally for one year, subject to the review to be undertaken by the Human Rights Council in conformity with General Assembly resolution 60/251, the mandates and the mandate holders of all the special procedures of the Commission on Human Rights. The Human Rights Council also requested the special procedures to continue with the implementation of their mandates and the Office of the United Nations High Commissioner for Human Rights to continue to provide them with the necessary support.
2. In accordance with the above-mentioned provisions, the present report contains, on a country-by-country basis, summaries of general and individual allegations, as well as urgent appeals transmitted to Governments between 1 January and 31 December 2006, as well as replies received during the same period. Observations made by the Special Rapporteur have also been included where applicable.
3. During the period under review, the Special Rapporteur transmitted 399 communications on behalf of 1227 persons to the Governments of 89 countries: Afghanistan, Algeria, Angola, Argentina, Armenia, Australia, Azerbaijan, Bahrain, Bangladesh, Belarus, Bhutan, Brazil, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Chile, the People's Republic of China, Colombia, Côte d'Ivoire, Croatia, Cuba, Democratic Republic of Congo, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Georgia, Ghana, Greece, Guatemala, Honduras, India, Indonesia, Iraq, Islamic Republic of Iran, Israel, Italy, Kazakhstan, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Mexico, Morocco, Myanmar, Namibia, Nepal, Niger, Nigeria, Pakistan, Paraguay, Peru, Philippines, Republic of Korea, Republic of Serbia, Romania, Russian Federation, Saudi Arabia, Serbia and Montenegro<sup>†</sup>, Senegal, Singapore, Somalia, Spain, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, United States of America, Uzbekistan, Venezuela, Viet Nam and Zimbabwe.
4. Replies to communications received after 31 December 2006 will be included in the next communication report of the Special Rapporteur as well as replies not yet translated by 31 December 2006.
5. Owing to restrictions on the length of documents, the Special Rapporteur has been obliged to reduce considerably details of communications sent and received. The full text of all

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<sup>†</sup> The reply from the Government was sent before 3 June 2006, when the Secretary-General received a letter from the President of the Republic of Serbia informing him that the membership of Serbia and Montenegro in the United Nations was to be continued by the Republic of Serbia and that the name "Republic of Serbia" was henceforth to be used instead of the name "Serbia and Montenegro".

communications is available within the files of the Office of the United Nations High Commissioner for Human Rights.

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

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

### **Afghanistan**

8. On 17 May 2006, the Special Rapporteur sent a letter of allegation concerning **Omid Yakmanish**, a cameraman of *Tolo TV*. *Tolo TV* was the 2005 winner of the press freedom award by Reporters sans Frontières. **Mr** Yakmanish was reportedly beaten by two parliamentarians while covering a controversial debate about media reporting of the commemoration of the Mujahideen victory over Russia at the parliament on 7 May 2006. A parliamentarian provoked fierce reactions when she made critical comments on the Mujahideen, and other members of the parliament threatened her with death. Two parliamentarians then reportedly assaulted Yakmanish to stop him filming the debate.

9. On 25 August 2006, the Special Rapporteur sent a letter of allegation concerning reporter **Noorullah Rahmani** and cameraman **Qais Ahamd** of the privately-owned Tolo TV. On 29 July 2006, they were reportedly beaten by a dozen gunmen after covering a protest against the illegal appropriation of land in the Paghman district in Kabul. Allegedly, a parliamentarian, whose name is known to the Special Rapporteur, was involved in the illegal seizure of the land and the reprisal against the journalist. On 11 August 2006 the premises of Radio Isteqlal in Logar were set on fire. Furthermore, on 15 August 2006, Kamal Sadaat, BBC's correspondent in the province of Khost, was attacked by a group of gunmen. It was also reported that, on 16 August 2006, several members of the parliament's lower house (the Wolesi Jirga), staged a walk-out from the assembly and refused to return to the parliamentary session until Tolo TV was evicted from the Parliament. Later on, parliamentarians agreed to allow the Wolesi Jirga Commission for Culture, Religious Affairs and Higher Education to address this issue. The said Commission was expected to discuss with parliamentarians as well as with representatives of Tolo TV in the coming days. Allegedly, no private TV stations were allowed to attend and film any parliamentary session until the Tolo TV issue was resolved. Moreover, Abdul Qudoos, a journalist of radio Sada-e-Suhl in Parwan had allegedly been detained for more than seven months without any evidence. **Mr** Qudoos had been accused by a parliamentarian of an attempt

to murder. Reportedly, the parliamentarian had tried to close the radio station, which she regards as a propaganda tool in the service of her political rivals.

10. On 17 October 2006, the Special Rapporteur sent a letter of allegation concerning the photojournalist **Gabriele Torsello**, who was kidnapped on 12 October 2006 by armed men while traveling from Lashkar Gah to Kandahar. The identity and the intentions of those who kidnapped the journalist were unclear. Some sources stated that calls to his mobile phone were answered by a man saying that the Italian journalist was in the hands of Taleban militants and that he was abducted on charges of spying.

### Observations

11. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

### Algeria

12. Le 25 janvier 2006, le Rapporteur spécial a envoyé un appel urgent sur **Bachir El Arabi**, correspondant du quotidien *El Khabar*, qui, le 21 janvier 2006, aurait été arrêté par la police en exécution d'un jugement par contumace prononcé contre lui le 29 septembre 2005, le condamnant à un mois de prison ferme pour diffamation. Le journaliste aurait été en suite transféré à la prison d'Ain Safra. Bachir El Arabi aurait publié un article sur la cession, par les autorités locales, d'un terrain assigné à titre personnel au président d'une association locale. Pour cette affaire, le directeur d'*El Khabar*, **Ali Djjerri** et le fonctionnaire **Radjaâ El Houari**, accusés d'avoir fourni au journaliste les documents appuyant les faits relatés dans l'article, auraient également été condamnés, respectivement à une amende de 50,000 dinars algériens (550 euros) et à un mois de prison ferme.

13. Le 20 février 2006, le Rapporteur spécial a envoyé un appel urgent sur le caricaturiste **Ali Dilem** qui, le 11 février 2006, aurait été condamné à une année de prison ferme et 50 000 dinars (550 euros) d'amende, par la Cour d'appel d'Alger, pour avoir mis en cause le Président de la République dans des termes injurieux et diffamatoires avec plusieurs caricatures parues dans le quotidien *Liberté*, en automne 2003. La Cour d'appel aurait ainsi durci la condamnation du Tribunal de première instance qui avait déjà condamné le caricaturiste à 50 000 dinars d'amende sans prononcer aucune peine de prison ferme. M. Dilem a déjà fait l'objet d'une lettre d'allégation et d'un appel urgent envoyés respectivement les 14 juillet 2004 et 17 juin 2005 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression. À ce jour, Ali Dilem serait poursuivi dans 24 affaires de presse et aurait été condamné – toutes peines confondues – à plus de neuf ans de prison.

14. Le 26 mai 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, et la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de **Amine Sidhoum Abderramane**, avocat algérien et défenseur des droits de l'homme, membre de l'organisation non-gouvernementale (dorénavant ONG) SOS Disparus, qu'il aurait reçu des menaces lors de la 39<sup>ème</sup> session de la Commission africaine des droits de l'Homme et des

peuples (CADHP), qui s'est tenue à Banjul (Gambie) du 11 au 25 mai 2006. Le 12 mai 2006, à la veille de son intervention au nom de la Fédération Internationale des Droits de l'Homme (FIDH) sur la situation des droits de l'homme au continent et notamment sur les conséquences de l'adoption de la Charte de réconciliation nationale en Algérie, M. Sidhoum aurait été abordé par un représentant de la délégation algérienne qui aurait tenté de le dissuader de s'exprimer devant la Commission. Ce dernier lui aurait rappelé que s'il persistait à présenter son intervention, il serait passible de trois à cinq ans de prison dès son retour en Algérie. Du fait de ces menaces, M. Sidhoum n'aurait pu intervenir oralement le 13 mai 2006. Selon les informations reçues, ces menaces seraient liées à l'article 46 de l'ordonnance du 27 février 2006, portant sur la mise en œuvre de la Charte pour la paix et la réconciliation nationale qui prévoit en effet une peine allant de trois à cinq ans d'emprisonnement et une amende de 250 000 à 500 000 dinars algériens (environ 2 830 à 5 500 euros) pour « quiconque qui, par ses déclarations, écrits ou tout autre acte, utilise ou instrumentalise les blessures de la tragédie nationale, pour porter atteinte aux institutions de la République algérienne démocratique et populaire, fragiliser l'État, nuire à l'honorabilité de ses agents qui l'ont dignement servi, ou ternir l'image de l'Algérie sur le plan international ».

### Réponses du Gouvernement

15. Le 3 avril 2006, le Gouvernement a répondu à la communication du 25 janvier 2006, envoyée par le Rapporteur spécial. Le Gouvernement informe que **Bachir Larabi** a publié un article, dans le quotidien *El Khabar*, intitulé « nouvelle série de scandales à Naama pour accaparer mille mètres carrés au nom de l'association Diar El Rahma ». S'estimant diffamé, le président de cette association caritative a déposé plainte avec constitution de partie civile le 17 décembre 2003 devant le juge d'instruction du Tribunal de Naama. L'information judiciaire terminée, l'affaire est renvoyée par le juge d'instruction devant le Tribunal, à son audience du 7 juin 2005. En l'absence du prévenu qui s'est fait représenter par son avocat, l'affaire est renvoyée pour comparution de celui-ci devant le Tribunal, à l'audience du 21 juin 2005, puis à celle du 12 juillet 2005 et enfin à celle du 20 septembre 2005. Persistant son refus de comparaître devant le Tribunal, le prévenu a été condamné par défaut à la peine de 1 mois de prison ferme et à une amende de 50 000 DA. Le 21 novembre 2005, notification de ce jugement est faite à la personne du prévenu qui n'utilise pas les voies de recours qui lui sont offertes. Le 22 novembre 2006, le prévenu est arrêté et placé en détention, en exécution de la décision du Tribunal, devenue définitive et exécutoire.

### Suivi des communications précédemment transmises

16. Le 4 janvier 2006, le Gouvernement a répondu à la communication du 23 septembre 2005, envoyée par le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Le Gouvernement informe que l'action de l'Algérie dans le domaine des droits de l'homme s'est caractérisée par la poursuite de son adhésion aux Conventions internationales de promotion et de protection des droits de l'homme, une présence active au sein des organismes internationaux et régionaux de protection de ces droits et une coopération soutenue avec les mécanismes de la Commission des droits de l'homme des Nations Unies. La démarche algérienne s'est aussi matérialisée par une ouverture aux ONG internationales actives dans le domaine des droits de l'homme. Les nombreuses visites qu'elles ont effectuées en Algérie



leur ont globalement permis de se rendre compte, sur place, de la réalité de la situation des droits de l'homme. Plusieurs représentants d'ONG ont séjourné à de nombreuses reprises en Algérie durant les années 2000, 2001, 2002, 2003 et 2005. S'agissant des faits allégués, il convient de souligner ce qui suit:

- I. depuis des années déjà, des familles de présumés disparus se présentent régulièrement devant le siège de la Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme (CNPPDH) et sont reçues, à chacune de leurs demandes, par les responsables de la Commission;
- II. la manifestation, non autorisée, du 22 septembre 2005 à Constantine, à laquelle il est fait référence, a voulu empêcher le bon déroulement d'un meeting du Chef de l'État dans le cadre du projet sur la Charte pour la paix et la réconciliation nationale; les personnes interpellées par la police judiciaire à Constantine en raison de leur action d'empêchement illégal d'un rassemblement pacifique, ont toutes été relâchées quelques heures après leurs interpellations, intervenues dans le strict respect de la loi et de la réglementation en vigueur pour éviter les troubles à l'ordre public. Comme les auteurs de l'appel urgent peuvent le constater, il ne s'agit nullement d'action nécessitant le recours à l'usage d'un vocabulaire suggérant une violation flagrante, systématique et généralisée des droits de l'homme. Le Gouvernement algérien poursuivra son action de promotion et de respect des droits de l'homme et de coopération avec les mécanismes compétents de la Commission des droits de l'homme. S'agissant de la prise en charge de la question des disparus, l'Etat algérien a assuré, depuis 1995, le traitement de cette question dans le cadre des dispositions législatives et réglementaires en vigueur, puis par la mise en place d'organisations administratives spécifiques, d'une part, au niveau du Ministère de l'Intérieur pour recenser les allégations de disparitions sur l'ensemble du territoire national et, d'autre part, au niveau du Ministère de la justice par la mise en place d'un comité chargé de recenser, de centraliser et de donner suite aux plaintes adressées par les familles concernées aux juridictions. Dans le cadre de la mise en œuvre de la concorde civile, le Président de la République, soucieux de mettre fin aux conséquences du terrorisme qui a durement frappé le pays depuis 1991 et de réaliser la prise en charge effective des déchirures occasionnées, a décidé de mettre en place une Commission ad hoc chargé de lui faire des propositions concrètes pour une solution nationale consensuelle à la question des disparus. La Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme, conformément à son décret de création, a remis au Président de la République, le 31 mars 2005, le rapport final assorti de ses recommandations. C'est ainsi que pour mettre un terme définitif aux conséquences de la crise traversée par le pays, le peuple algérien s'est prononcé par référendum, le 29 septembre 2005 avec une écrasante majorité, en faveur de la Charte pour la paix et la réconciliation nationale, dont le projet a été présenté par le Président de la République, le 14 août 2005. Les mesures qui seront adoptées à l'issue de cette Charte permettront la prise en charge par l'Etat de l'ensemble des victimes et de leurs ayants droits, y compris les disparus.

17. Le 9 janvier 2006, le Gouvernement a répondu à la communication, envoyée par le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs

des droits de l'homme, le 1er mars 2005. Le Gouvernement informe que M. **Mesli Rachid** a fait l'objet d'une information judiciaire devant le juge d'instruction de la troisième chambre d'instruction du tribunal de Sidi M'Hamed (Alger) des chefs d'appartenance à une organisation terroriste activant à l'étranger et apologie du terrorisme. Malgré plusieurs convocations adressées par le juge à M. Mesli Rachid, celui-ci n'y a jamais répondu, puis a quitté le territoire national. De ce fait, il a été considéré par la justice comme étant en fuite. La même information judiciaire a concerné également et pour les mêmes chefs d'inculpation **Khider Karim** et **Ladada Ibrahim**. L'information terminée, le juge d'instruction a transmis le dossier à la chambre d'accusation d'Alger qui, par arrêt du 22 avril 2003, a ordonné le renvoi des trois prévenus devant le tribunal criminel d'Alger. Le 17 mars 2004, cette juridiction rend un jugement par lequel elle acquitte purement et simplement Khider Karim et Ladada Ibrahim et, statuant par contumace (in absentia) condamne Mesli Rachid à vingt années de prison. À noter que le jugement rendu à l'égard de Mesli Rachid n'est pas légalement exécutoire car et conformément aux dispositions de l'article 326 du Code de procédure pénale, ce jugement et les procédures antérieures sont anéantis de plein droit dès l'instant où le condamné se présente devant la justice.

18. Le 3 avril 2006, le gouvernement a répondu à la communication envoyée par le Rapporteur spécial le 19 mai 2005. Le Gouvernement informe que le droit à l'information et la liberté de la presse, consacrés par la Constitution algérienne, sont considérés par la loi comme un mécanisme essentiel de surveillance et de protection des droits individuels et collectifs. À cet égard, le remarquable développement de la presse en Algérie en a fait un levier réel dans la protection des droits de l'homme. Outre la télévision, la radio et l'agence de presse qui fournissent les prestations de service public, il existe actuellement 48 titres de quotidiens sur une centaine de publications. Cette multitude des titres et leur diversité font que toutes les sensibilités et tendances politiques qui traversent la société algérienne trouvent les moyens d'expression médiatique de leurs opinions. Le tirage moyen est, au total, de 1,5 million d'exemplaires par jour. S'agissant des hebdomadaires, il existe 43 titres pour une moyenne générale de tirage de 1,4 million d'exemplaires par semaine. Enfin, l'on recense 20 autres périodiques, bimensuels ou mensuels qui tirent globalement à 300.000 exemplaires par mois. La masse des lecteurs est estimée à 9 millions par semaine. Les journalistes étrangers sont régulièrement accrédités en Algérie. Cette accréditation est gérée dans le cadre d'un mécanisme spécifique pour permettre plus de souplesse et de rapidité dans la gestion des demandes. Un examen statistique des demandes d'accréditation fait ressortir que plus de 4 100 journalistes représentant plus d'une centaine de pays et travaillant pour divers supports médiatiques ont séjourné en Algérie de 1999 à juin 2004, dont une moyenne de cent (100) correspondants permanents. Contrairement à ce qui est rapporté dans certains médias, aucun journaliste algérien n'a été condamné pour un délit d'opinion ou dans l'exercice libre de son droit d'informer. Les rares cas de journalistes condamnés par la justice ont trait à des affaires liées à des procès en diffamation ou pour diffusion de fausses nouvelles. S'agissant des journalistes mentionnés dans la communication du Rapporteur spécial, leur situation se présente comme suit : **Reda Belhadjoudja**, dit **Hakim Laalam**, a été poursuivi pour avoir commis, à travers une série de publications, une offense au chef de l'Etat. Après une information judiciaire, l'intéressé a été jugé et condamné le 17 mai 2005 par le Tribunal d'Alger à une peine de deux mois de prison et 250 000 dinars algériens d'amende. Sur appel de l'intéressé, la Cour d'Alger a confirmé la décision du tribunal, par arrêt rendu le 16 novembre 2005. **Fouad Boughanem**, directeur de la publication *Le Soir d'Algérie* a publié le 8 décembre 2003, un article dans lequel il porte atteinte, selon le plaignant Mohammed Bedjaoui, à l'honneur

et la considération de ce dernier. Sur plainte de ce dernier, Fouad Boughanem a été poursuivi en citation directe devant le Tribunal d'Alger lequel a rendu, le 18 janvier 2005, un jugement condamnant l'intéressé à la peine de deux mois de prison avec sursis et 10 000 dinars algériens d'amende du chef de diffamation. Par suite des appels interjetés par le ministère public et l'inculpé, la Cour d'Alger a rendu un arrêt le 7 décembre 2005 par lequel elle condamne Fouad Boughanem à six mois de prison avec sursis et 50 000 dinars algériens d'amende.

19. Le 20 juillet 2006, le gouvernement a répondu à la communication, envoyée par le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, le 26 mai 2006. Le Gouvernement algérien tient à rappeler que l'Algérie a inscrit dans sa Constitution un chapitre sur « les droits et les libertés » et un autre sur le « pouvoir judiciaire » et que les textes juridiques cités dans ta communication, relatifs à la mise en œuvre de ta Charte pour la paix et la réconciliation nationale, sont conformes aux engagements internationaux contractés. Le respect intégral des droits du citoyen est préservé aussi bien par l'Ordonnance que par les décrets d'application, et se trouvent être compatibles avec les dispositions des traités auxquels l'Algérie est partie : *La liberté d'expression* : énoncée dans l'article 19 du Pacte international relatif aux droits civils et politiques stipule que « l'exercice des libertés prévues au paragraphe 2 dudit article comporte des devoirs spéciaux et des responsabilités spéciales. Il peut en conséquence être soumis à certaines restrictions qui doivent toutefois être expressément fixées par la loi et qui sont nécessaires au respect des droits d'autrui ou à la réputation d'autrui et à la sauvegarde de la sécurité nationale, de l'ordre public, de la santé ou de la moralité publique ». L'ordonnance du 27 février 2006 n'émet aucune objection à l'exercice de ce droit clairement prévu par l'article 41 de la Constitution, bien que la possibilité de le restreindre telle que visée plus haut existe dans l'instrument international qu'est le Pacte International des droits civils et politiques. La liberté d'association reste ouverte comme énoncé par la loi organique relative aux associations à caractère politique du 6 Mars 1997, à tous les citoyens jouissant de leurs droits civiques. Les restrictions énoncées dans l'Ordonnance ne sont pas nouvelles puisqu'elles figurent aussi bien à l'article 42 de la Constitution algérienne, que dans ladite loi organique en ses articles 3, 5 et 7. Elles concernent les personnes qui instrumentalisent la religion à des fins criminelles ou celles qui prônent la violence contre la nation et les institutions de l'Etat. Il n'existe au monde aucune législation qui tolère la possibilité de l'exercice politique aux personnes qui se livrent à de tels actes. Le Pacte international relatif aux droits civils et politiques stipule à ce sujet, au paragraphe 1 de l'article 5 « qu'aucune disposition du Présent Pacte ne peut être interprétée comme impliquant pour un Etat, un groupement ou un individu un droit quelconque de se livrer à une activité ou d'accomplir un acte visant à la destruction des droits et des libertés reconnus dans le Présent Pacte ou à des limitations plus amples que celles prévues audit Pacte ». Par ailleurs, le paragraphe 2 de l'article 22 relatif à la liberté associative stipule que « l'exercice de ce droit ne peut faire l'objet que des seules restrictions prévues par la loi et qui sont nécessaires dans une société démocratique dans l'intérêt de la sécurité nationale, de la sûreté publique, de l'ordre public, ou pour protéger la santé, ou la moralité publiques ou les droits et libertés d'autrui ». Enfin, l'article 20 énonce de manière claire que « toute propagande en faveur de la guerre est interdite par la loi. Tout appel à la haine nationale, raciale ou religieuse qui constitue une incitation à la discrimination, à l'hostilité ou à la violence est interdit par la loi. Par conséquent, les affirmations selon lesquelles l'Ordonnance

rétrécit l'activité des citoyens sont infondées et ne reposent sur aucun argument juridique recevable. Le droit d'accès à la justice et le droit d'exercer un recours sont érigés en droit par le Pacte international relatif aux droits civils et politiques dans les paragraphes 1 et 5 de l'article 14. Il reste que ces dernières accordées aux justiciables se doivent de respecter les procédures nationales, prévues à cet effet. Le chapitre six de l'Ordonnance portant Charte pour la paix et la réconciliation nationale concerne la « reconnaissance du peuple algérien envers les artisans de la sauvegarde de la République algérienne démocratique et populaire ». Plébiscité par le peuple algérien, seule source de la légitimité, le 28 septembre 2006 lors du référendum, il ne doit pas en conséquence être détaché du contexte naturel dans lequel il est inscrit, et vise le traitement légal, social et humain d'une situation fort complexe, induite par une décennie de criminalité terroriste à grande échelle. La gouvernance démocratique étant fondée sur le choix librement exprimé par la majorité dans la société, cette disposition se propose en conséquence de protéger le droit des citoyennes et des citoyens qui se sont exprimés (99 % de la population) contre toute attaque ou remise en cause de la part de tiers. Le peuple algérien, au nom duquel la justice est rendue, comme le souligne l'article 141 de la Constitution, a exprimé ce choix qui doit être respecté. Enfin, les textes d'application de La Charte pour la paix et la réconciliation nationale sont en conformité avec la législation internationale s'agissant de la qualité de victime et d'ayants droit et retiennent le principe universel d'indemnisation en ce qui concerne la question des « disparitions ».

### Observations

20. Le Rapporteur spécial invite le Gouvernement à répondre aux communications envoyées le 20 février 2006 et le 26 mai 2006.

### Angola

21. On 19 July 2006, the Special Rapporteur sent a letter of allegation regarding **Benicio Wedeinge**, the director of the public television station TPA in the southern province of Cunene and **Augusto Sebastiao Domingos Pedro**, the correspondent of the state-owned "Jornal de Angola" in the province of Bengo. According to the information received, on 16 July **Mr Wedeinge** was shot to death by an intruder, who broke into his home in Onjiva. In a separate incident, on 8 July 2006, Augusto Sebastiao Domingos Pedro was killed in a tussle while visiting the capital Luanda. Reportedly, it is unclear whether the two murders were related to the professional activity of the victims.

22. On 16 of August 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the ban of **Mpalabanda** (Associação Cívica de Cabinda), the only human rights organization operating in Cabinda. Since its creation in 2003, the organization had reportedly been involved in the documentation of human rights violations committed by both the Government of Angola and members of the Front for the Liberation of the Cabindan Enclave (FLEC). Reportedly on 20 July 2006, in a case instituted by the Angolan government against Mpalabanda, the Provincial Court of Cabinda reportedly ruled that the said association should be banned. Mpalabanda had appealed against the decision, which was apparently based on the Law of Associations of May 1991 (Lei das Associações de Maio de 1991). Concerns were expressed that the court ruling against Mpalabanda represented an attempt to prevent the organisation from

carrying out its legitimate work in defence of human rights. Furthermore, concern was expressed that the ban would seriously affect all human rights defenders in Cabinda and their ability to carry out human rights monitoring work and evaluation.

23. On 30 November 2006, the Special Rapporteur jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent a letter of allegation concerning **Mr Raúl Danda**, a journalist and spokesperson of the above-mentioned association Mpalabanda (Associação Cívica de Cabinda), which had been subject of a joint urgent appeal sent by the Special Rapporteur and the Special Representative. According to the information received on 29 September 2006, Mr Danda was reportedly arrested, searched and detained, with no legal order, by agents identified as members of the Provincial Criminal Investigation Police (DPIC). According to DPIC representatives, the detention was justified as “flagrante delicto”, due to the fact that Mr Danda was allegedly carrying documents calling for the separation of Cabinda from Angola, and defaming the President. However, the lawyers of Mr Danda reportedly claimed that these were already published opinion articles about Cabinda, an unfinished draft article by Mr Danda himself and an invitation to traditional authorities in Cabinda (Kotolikanda). On 2 October 2006, Mr Danda was reportedly heard by the Deputy Provincial Prosecutor who legalized Mr Danda’s detention without specifying its duration. The alleged basis for the decision was “instigation, provocation and apology for crimes against state security” in violation of article 27 of Law on Crimes against State Security 22C/92 of 9 September 1992.. It is also reported that Mr Danda's lawyers had difficulties in accessing their client. On 27 October 2006 Mr Danda was reportedly conditionally released. Concerns were expressed by the Special Rapporteur that the search, arrest and detention of Mr Danda may have been in relation to his legitimate activities in the defence of human rights in the Cabinda region.

### **Replies from the Government**

24. By letter dated 27 July 2006, the Government replied to the communication of 19 July 2006, whereby it stated that in accordance with preliminary investigations, the deaths of Mr **Benicio Wedinge** and Mr **Augusto Sebastiao Domingos Pedro** were not politically motivated or related to their work as journalists. The Special Rapporteur would appreciate being kept informed of the developments and outcome of the investigation into both deaths.

### **Observations**

25. The Special Rapporteur thanks the Government for its reply, and invites the Government to respond to the communications of 16 August and 30 November 2006.

### **Argentina**

26. El 13 de febrero de 2006, el Relator Especial, conjuntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con las repetidas amenazas recibidas por parte del **Sr. Mariano Saravia** desde la publicación de su libro *La Sombra Azul* en marzo de 2005, donde éste denunciaba diversos casos de tortura por parte de la policía provincial durante y después del régimen militar. De acuerdo con las informaciones recibidas, desde noviembre del 2005 y durante ocho meses consecutivos se registraron una serie de incidentes alarmantes tales como el ingreso a su casa por

parte de extraños, la recepción de llamadas anónimas y amenazantes en su casa, la comisión de diversos actos de vandalismo en el domicilio y la llegada de cartas amenazantes por parte de ex militares argentinos, actos todos ellos denunciados ante la policía. Se informó además de que al Sr. Saravia se le congeló un veinte por ciento de su sueldo mientras se estudiaba una demanda civil por difamación realizada por un ex militar argentino.

27. El 27 de febrero de 2006, el Relator Especial envió un llamamiento urgente en relación con una serie de supuestas acciones violentas llevadas a cabo por políticos locales contra los medios de comunicación provinciales desde el comienzo del año 2006. De acuerdo con la información recibida, el periodista **Ángel Ruiz**, del semanario *El Este Rionegrino*, habría padecido la presión constante de las autoridades locales desde la publicación de un reportaje donde éste revelaba la supuesta existencia de una red de tráfico de fósiles entre Argentina y otro país, en la cual estarían implicados Marcelo Solorza, funcionario provincial encargado de cultura, y Miguel Ángel Saiz, gobernador de la provincia de Río Negro. Se alega que tras la publicación del citado artículo, el Sr. Ruiz recibió una citación de Claudio Mozzoni, secretario provincial encargado de medios de comunicación, instándole a que revelara sus fuentes informativas. Tras negarse a revelar las susodichas fuentes, el Sr. Ruiz recibió amenazas telefónicas anunciando el cierre de *El Este Rionegrino*. El 18 de febrero de 2006, el periodista **Juan Cruz Sanz** y el fotógrafo **Juan Obregón**, del diario *Perfil*, fueron presuntamente agredidos por tres hombres que salían de la residencia del Presidente Néstor Kirchner en Río Gallegos cuando intentaban sacar fotos y obtener una declaración del Presidente. El periodista Juan Cruz Sanz declaró que le golpearon e intentaron quitarle la cámara fotográfica a su compañero Juan Obregón. El 18 de enero, Alberto Callejas, director del diario local *El Nuevo Cambio*, fue violentamente agredido por Omar García, presidente del bloque del Partido Justicialista de Lanús, Provincia de Buenos Aires. El Sr. Callejas declaró haber sido agredido por dos empleados municipales y haber recibido un puñetazo en el rostro.

28. El 10 de noviembre de 2006, el Relator Especial, conjuntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, envió un llamamiento urgente en relación con el aumento de actos de hostigamiento en contra de defensores de derechos humanos desde el inicio de proceso contra Miguel Osvaldo Etchecolatz, ex director de investigaciones de la Policía de Buenos Aires durante la dictadura militar. Las distintas fuentes que a continuación se detallan señalan una larga lista de defensores de derechos humanos víctimas de amenazas o agresiones.

- I. El 9 de octubre de 2006 el Sr. **Ariel Montes** y la Sra. **María Montes** del Movimiento 26 de Junio habrían sido detenidos y golpeados brutalmente por efectivos de la Comisaría de la localidad de José Mármol.
- II. El 8 de octubre de 2006, la Sra. **Tula Saborido**, hija de una persona desaparecida y testigo en el juicio contra individuos implicados en violaciones de derechos humanos, habría recibido por correo electrónico un mensaje en el que se la insultaba y amenazaba, junto a su familia. La madrugada después de recibir este mensaje, un pariente de su hija habría sido amenazado y agredido con un arma punzante.
- III. El 17 de octubre de 2006, el Sr. **Ramiro Gonzáles**, miembro de la asociación Hijos e Hijos por la Identidad y la Justicia contra el Olvido y el Silencio (HIJOS), habría sido

secuestrado por cuatro desconocidos armados. Según los informes, los desconocidos lo golpearon y lo amenazaron diciéndole que lo matarían si no dejaba sus actividades en favor de los desaparecidos. También se informa que los desconocidos le mostraron fotografías de otros integrantes de HIJOS diciéndole que los matarían si la organización no cesaba su trabajo. Finalmente, el Sr. González habría sido liberado. Supuestamente la asociación HIJOS presentó una querrela ante la Cámara Penal el 18 de octubre de 2006, en relación con el presunto secuestro.

- IV. Según los informes, también habrían sido víctimas de intimidaciones dos jueces del Tribunal Oral; el Sr. **Norberto Lorenzo** y el Sr. **Horacio Insaurralde**. Éstos fueron presuntamente amenazados debido a la sentencia de condena emitida por ellos en contra del Sr. Miguel Etchecolatz. Además se señala que dos miembros del Tribunal Federal de Primera Instancia de la Plata, el juez **Arnaldo Corazza** y el fiscal **Sergio Franco**, encargados de la instrucción de causas contra ex represores, recibieron amenazas. Se informa también que el juez **Carlos Rozansky** recibió llamadas telefónicas amenazantes presuntamente provenientes del Servicio Penitenciario Federal.
- V. El 1 de octubre de 2006, el Sr. **Leandro Despouy**, Relator Especial sobre la independencia de los magistrados y abogados y Presidente de la Auditoría General de la Nación de Argentina, recibió en su casa una llamada telefónica amenazante, en la que dos hombres le dijeron que “habían secuestrado por error a su madre y a su hermana”. Según los informes, en la misma llamada, le relataron al Sr. Despouy situaciones que correspondían con los movimientos habituales de sus familiares. Según informaciones, las llamadas telefónicas a los Sres. Rozansky y Despouy habrían sido realizadas desde un establecimiento penitenciario.
- VI. De otra parte, según los informes, la Sra. **Chicha Mariani**, querellante en la causa judicial contra el ex-represor Miguel Etchecolatz, recibió insistentemente amenazas por carta desde el inicio del juicio. Además se señala que varios integrantes de la Asociación Anahí, así como integrantes de la Asociación ex Detenidos-Desaparecidos fueron reiteradamente amenazados a través de llamadas telefónicas en las que se reproducían conversaciones mantenidas por ellos en ámbitos privados.
- VII. El 16 de septiembre de 2006, la Sra. **Nilda Eloy**, otro testigo y querellante en el juicio contra Miguel Etchecolatz, habría recibido en su contestador telefónico grabaciones con sonidos de sesiones de tortura.
- VIII. Adicionalmente, según los informes, los periodistas **Joaquín Morales Sola** y **Jorge Fontevecchia**, quienes sostienen posiciones críticas frente a la gestión actual, han sido víctimas de de amenazas.
- IX. Asimismo, el 28 de septiembre de 2006, un desconocido habría llamado a la Universidad Nacional de Quilmes, donde trabaja Sra. **Milagros Demiryi**, coordinadora del Movimiento Ecuménico por los Derechos Humanos (MEDH) y testigo en el juicio contra individuos implicados en violaciones de derechos humanos. El desconocido habría dicho que había una bomba en la Universidad, pero después se descubrió que la amenaza era falsa. Al día siguiente, la Sra. **Argentina Sabaj de Castro**, habría recibido

una serie de llamadas telefónicas amenazantes de un individuo no identificado. El desconocido le habría dicho que iba a tener “un accidente”. La Sra. Demiryi denunció estas llamadas a las autoridades provinciales.

- X. De acuerdo con las informaciones, el 11 de octubre de 2006 las Sras. **Margarita Alegre de Papetti** y **Graciela Margarita Zalasar**, parientes de desaparecidos, fueron víctimas de amenazas de muerte por vía telefónica en dos incidentes distintos.
- XI. Finalmente, se informa que el 14 de octubre de 2006, se pintó un graffiti con mensajes amenazadores en la casa del ex desaparecido **Carlos Razzeti**, situada en la ciudad de Rosario, provincia de Santa Fe. El Sr. Razzeti dirige una campaña para que se reabra el proceso judicial por la muerte de su padre que fue dirigente político asesinado en octubre de 1973.

Se teme que los hechos descritos puedan estar relacionados con las actividades en defensa de los derechos humanos llevadas a cabo por los individuos mencionados, y en particular sus denuncias en contra del Sr. Etchecolatz y su trabajo con víctimas de desapariciones o tortura durante el régimen militar.

### **Observaciones**

29. Al finalizarse este informe, el Relator Especial no había recibido respuesta a las comunicaciones enviadas. El Relator Especial invita al Gobierno a responder a las mismas.

### **Armenia**

30. On 11 July 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding **Mr Arman Babadzhanian**, editor-in-chief of the newspaper Zhamanak Yerevan (Yerevan Times). It was reported that, on 26 June 2006, Mr Babadzhanian was arrested for allegedly forging documents to avoid military service, an offence which would have occurred in 2002. The editor had been detained for more than two weeks without bail, and faced up to five years' imprisonment, at the time this communication was sent. Reports indicated that the Prosecutor General summoned Mr Babadzhanian for questioning as a witness in a criminal case, but jailed him instead on forgery charges. The editor's lawyer immediately sought for his release while the case was pending, but the Prosecutor General refused the request. A few days prior to the arrest, Zhamanak Yerevan published an article questioning the independence of the Prosecutor General's office.

### **Observations**

31. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.



### Australia

32. On 31 August 2006, the Special Rapporteur sent an urgent appeal regarding the situation of **Michael Harvey** and **Gerard McManus**, journalists of the Melbourne based Herald-Sun Newspaper. Reports indicated that, on 20 February 2004, the two journalists disclosed in an article, information concerning a government plan to reject a supplementary benefit promised to war veterans. The information was allegedly revealed by a public servant, who had been accused of revealing government information, and as a result was facing trial. On 23 August 2005, Mr Harvey and Mr MacManus refused to obey the judge's order to testify in the prosecution of Mr Kelly and refused to provide information that would have revealed their source. They referred to their duty as journalists to protect the identity of sources and their ethical obligation to protect them. On 23 August 2006, the Victoria Supreme Court rejected the appeal that Mr Harvey and Mr McManus had filed against a lower court order, charging them for failing to provide information in a criminal case before a Melbourne County Court. Reports indicated that they may face imprisonment as a result.

### Observations

33. At the time this report was finalized, the Special Rapporteur had not received any reply to the communication sent. The Special Rapporteur therefore invites the Government to respond to this communication.

### Azerbaijan

34. On 9 March 2006, the Special Rapporteur sent a letter of allegation concerning **Fikret Huseynli**, journalist of the daily Azadlig. On 5 March 2006, Mr Huseynli was assaulted and kidnapped by unidentified men, in Badamdar district. He was taken to another location, where he was severely assaulted. He subsequently underwent an operation. Prior to the attack, Mr Huseynli had written articles on corruption at high levels of Azerbaijan authority, and in February, he received telephone calls from unidentified men, telling him to quit his job as a journalist. It was further reported that, in separate occasions, two other journalists working for Azadlig survived similar attacks. On 26 February 2005, Editors Ganimat Zahidov and Azer Ahmedov were also abducted by unknown assailants in Baku and beaten. The assailants reportedly told them to stop publishing articles critical of the President. Concern was expressed that these attacks may have been directly linked to their work as journalists.

35. On 10 March 2006, the Special Rapporteur sent a letter of allegation concerning **Samir Adygozalov**, editor-in-chief for *Boyuk Millat*. On 23 February 2006, a Nizami District Court sentenced him to one- year imprisonment for libel and insult. Mr Adygozalov was reportedly charged in connection with an article he wrote on 15 September 2005, which accused the rector of Baku State University of being an ethnic Armenian and improperly using university funds to support the Armenian diaspora. Concern was expressed at the imposition of criminal sanctions for media-related offences.

36. On 30 May 2006, the Special Rapporteur sent a letter of allegation concerning **Bahaddin Khaziye**v: editor-in-chief of the daily newspaper *Bizim Yol* and deputy chairman of the Popular Front Party. On 18 May, Mr Khaziye

was sent. His leg was reportedly dislocated. Concern was expressed that the attack against Mr Khaziyev was directly linked to his journalistic work, particularly in light of reports indicating that he had been reporting on illegal trafficking and alleged corruption by a senior government official.

37. On 25 July 2006, the Special Rapporteur sent a letter of allegation regarding **Sakit Zakhidov**, reporter and satirist for the Baku-based daily *Azadliq*. On 23 June 2006, he was arrested. Charged of drug possession, he was transferred to a prison in the capital after spending almost a month in police detention. Since his arrest his health had steadily been worsening. He had been suffering from heart disease for many years and needs regular medical care. His arrest may have been connected to his satirical columns in *Azadliq*, in which he criticized President Aliyev and the Government.

38. On 11 August 2006, the Special Rapporteur sent an urgent appeal regarding Mr **Shahin Agabeyli**, editor of the newspaper *Milli Yol*. On 9 August 2006, Mr Agabeyli was arrested and held at a prison for failing to reply to summonses from the District Court of Nasimi. On 10 August, he appeared before the court on four charges. In the first case, he was convicted of opposing resistance to the police officers who had arrested him. In the second case, he was found guilty of defamation for an article about corruption affaires within the Khatai Town Council, for which the court ordered the newspaper to pay the Council €600 of compensation. In the third case, he was sentenced to a one year in jail for allegedly insulting and blackmailing a former Parliament spokesman – whose name is known to the Special Rapporteur – who complained that the journalist prevented his re-election through the dissemination of false information concerning elections' irregularities. In the fourth case, the Minister of Interior sued Agabeyli for libel as the journalist allegedly merged his name with the one of a former police officer accused of serious crimes.

39. On 3 October 2006, the Special Rapporteur sent an urgent appeal regarding Mr **Eynulla Fatullayev**, editor of the newspaper *Realny Azerbaidjan*. On 26 September 2006, the Yasamal district court in Baku condemned Mr Fatullayev to two years of incarceration and a fine for allegedly libeling and insulting the Minister of Interior. In addition, *Realny Azerbaidjan* would have to pay another fine to the Minister. The provision of the sentence regarding Mr Fatullayev's imprisonment was suspended. The Minister of Interior launched the suit after the publication, in July 2006, of two articles on his alleged financial relations with a person who is believed to be involved in the killing of the founder and editor of the *Monitor* newspaper, Elmar Huseynov. Mr Fatullayev reportedly stopped the publication of *Realny Azerbaidjan* and of another newspaper *Daily Azerbaijan* belonging to his group due to the lack of security for journalists and staff working with newspapers.

40. On 27 November 2006, the Special Rapporteur sent an urgent appeal concerning **ANS TV and Radio**, which was closed by a decree of the National Television Radio Council, on the basis of Article 22.4 of the Law on TV and Radio Broadcast. The Chief of the Council allegedly stated that should ANS TV and Radio not stop broadcasting voluntarily, police will enforce the Council's decree, and that the frequencies of ANS TV and Radio will eventually be open for sale.

41. On 28 December 2006, the Special Rapporteur on Freedom of Expression sent an urgent appeal regarding **Mr Nijat Huseynov**, a reporter for the daily *Azadlyg*. According to the information received, on 25 December 2006, Mr Nijat Huseynov was severely beaten by four unidentified men at a bus stop near his home in Baku. Mr Huseynov was immediately admitted to the Musa Nagiyev Hospital because of head and internal injuries and a minor knife lesion. According to the journalist, one of his aggressors followed him for several days prior to the assault. Reportedly Mr Huseynov had received threatening anonymous phone calls, in which the callers made reference to his investigative work. According to information received, the daily *Azadlyg* is close to opposition parties and has allegedly been the target of other attacks and harassment in the past. Lately, Mr Huseynov had enquired about allegations of corruption among Government's officials.

### **Replies from the Government**

42. By letter dated 5 December 2006, the Government responded to the communication of 3 October concerning Mr **Eynulla Fatullayev**, editor of the newspaper *Realny Azerbaidjan*. The Government explained that the Minister of Internal Affairs launched three suits against the said daily, his editor and the *Daily Ayzerbaidjan* on the ground that their articles insulted his personality and libelled him. On 26 September 2006, E. Fatullayev was condemned to two years of suspended imprisonment for libel and insult. Mr Fatullayev appealed the decision, and the Court of Appeal was said to consider the matter on 27 November 2006. The Special Rapporteur would appreciate to receive further information on the outcome of the appeal.

43. By letter dated 10 October 2006, the Government replied to the communication of 30 May 2006 concerning the assault against **Mr Khaziyev**, editor in chief of the daily newspaper *Bizim Yol*. The Government informed about the investigations undertaken by the Institute of Research Forensic Examination and of forensic-medical experts into the forms of aggression and the nature of the injuries of Mr Khaziyev. The Government stated that the General Prosecutor's Office was in charge of the criminal investigation underway at that time. The Special Rapporteur would appreciate receiving further information regarding the result of the investigation.

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

44. By letter dated 29 March 2006 the Government of Azerbaijan replied to the communication of 14 November 2005, stating that, according to the concluded investigations, no complaints were lodged in the Prosecutor's Offices and police departments on the alleged cases concerning the journalists **Azer Aydin, Rey Kerimoglu, Anar Orujev, Shakir Izzetoglu, Nabi Alishey, Habiba Abdulla and Ruslan Bashirli**. It was reported that the journalist of the daily *Yeni Musavat*, Mahabbat Orujev, misused his competence while participating as an observer and intervened in the election process notwithstanding the notices of the members of the election Commission. He was brought to the Police Office of the Sabunchu district on the grounds of the Act issued to the police by the commission members. M. Orujev was released after receiving caution. The Government indicated that due to the absence of appropriate legislative norms on satellite broadcasting and the fact that current legislation does not specify such a competence of the National Television and Radio Council, the short-term activities of foreign television channels and information agencies in the Republic of Azerbaijan are not permitted. However, despite the prohibition by the National Television and Radio Council for such services,

appropriate conditions to use the satellite services of the local television channels were created. The Government finally explained that the Russian TV company “Mir”, Turkish “Ihlas” and “Dogan” agencies provided live broadcasting by means of the transmitter; other foreign television channels provided their satellite broadcasting through local televisions of the Republic of Azerbaijan.

45. By letter dated 17 July 2006, the Government of Azerbaijan responded to the urgent appeal sent on 28 October 2005 concerning **Mr Ali Insanov** and **Mr Farhad Aliyev**. The Government stated that Mr Aliyev, Former Minister of Health, had committed actions aimed at bringing down the state, and previously a warrant for his arrest had been issued for alleged embezzlement and abuse of power. It was noted that as a result of a criminal case initiated by the Prosecutor’s Office, on 21 and 22 October 2005 a warrant was issued for the arrests of Mr Aliyev and Mr Insanov in accordance with articles 28, 220.1 and 278 of the Criminal Code. The Government indicated that investigations revealed that between 14 August and 12 November 2004, Mr Aliyev, Mr Nadirov and Mr Ahmadov misappropriated 314,000 vouchers amounting to US\$ 3,543,478 dollars. It was noted that Mr Aliyev and Mr Insanov are being detained in the investigative department of the Ministry of National Security where they have been permitted full legal access and medical treatment as necessary.

### **Observations**

46. The Special Rapporteur thanks the Government for the replies received, and invites the Government to respond to the communications dated 9 and 10 March, 25 July, 11 of August, 27 November and 28 December 2006.

### **Bahrain**

47. On 9 March 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Abdulla Madan, Mohammed Abdulrasool, Jaffar Hussain Mohamed Yousef Eid, Jaffar Abdul-Jabar Jaffa Al-Mushaima, Ahmed Yousef Nasser Al-Mushaima, Mohamed Hassan Yousef Saif and Ali Jaffar Jassim Rabea**. They were all arrested and detained in connection with a peaceful protest on 19 January 2006 in Manama. They protested against the detention of 21 people, who were arrested on 25 December 2005 at Bahrain Airport for peacefully protesting against the detention of Sheikh Sanad. Sheikh Sanad had called for a referendum on the legitimacy of the political system in Bahrain. It is reported that 16 of the 21 protestors have been sentenced to one or two years’ imprisonment. During their police detention, the seven individuals named above were threatened and assaulted by police officers. It is also alleged that during the first days of their detention their families were not informed about their whereabouts. Their relatives were not allowed to attend their trial session on 26 February 2006. The trial has been postponed to 12 March 2006 and the above-named persons remain in custody. Concern was expressed that the arrests, detentions and mistreatment of the above-named persons might be connected with their activities in defence of human rights.

48. On 31 October 2006, the Special Rapporteur sent a letter of allegation concerning **access to the Bahrain Center for Human Rights (BCHR)**. On 26 October 2006, access to the **BCHR**

**website** (<http://www.bahrainrights.org>) was reportedly blocked by Batelco, Bahrain's main Internet service provider. It had been reported that this action could be linked to the website's coverage of a political scandal known as "Bandargate", in which allegedly several government officials and members of the Royal family had been accused of planning to unfairly influence the upcoming elections.

### **Replies from the Government**

49. By letter dated 18 May 2006, the Government of the Kingdom of Bahrain replied to the communication dated 9 of March 2006. The Government explained that the arrest of the **seven protestors** mentioned above took place as they failed to disperse in a peaceful manner the protest against court judgements against a number of defendants arrested for committing offences under the Criminal Code. The arrested persons were questioned by police and later on by the Department of Public Prosecutions. Some of them admitted their participation in the rioting. The Department of Public Prosecution concluded the release of 6 accused, due to the lack of sufficient evidence and ordered the detention of seven of the accused. On 19 April 2006, the court issued a judgement, sentencing each of the accused to a one -year imprisonment for participating in a riot and commit illegal acts of sabotage. During the proceedings, the accused were guaranteed legal safeguards and their families had been informed about their whereabouts and were present during the proceedings.

### **Observations**

50. The Special Rapporteur thanks the Government for the communication sent and invites the Government to respond to the communication dated 31 October 2006.

## **Bangladesh**

51. On 22 February 2006, the Special Rapporteur sent a letter of allegation concerning journalists **Mahfuz Mamun** and **Babul Ahmed**, both of whom are working for the local Bengali-language daily *Dainik Mathabhanga*. On 15 February 2006, the two journalists were attacked by an unidentified assailant by an explosive device in Chuadanga, Khulna province. They were taken to the hospital and received surgery. Prior to the attack, the two journalists collected information and published an article about drug trafficking in the area. It was also reported that, in a separate incident, Atiar Rahman, the Bureau chief of *Dainik Mathabhanga* got seriously injured by a bomb attack. Prior to that, a bomb exploded at the office of *Dainik Mathabhanga* in August 2005.

52. On 31 May 2006, the Special Rapporteur sent a letter of allegation concerning **25 journalists** who were assaulted and injured while participating in a demonstration in Kushtia city. On 29 May 2006, there was a demonstration participated by around 150 journalists in the western city of Kushtia. The demonstration was organized against violence and threats that many of them have faced in the locality, and called for return of three journalists who fled Kushtia on 10 May, allegedly after being threatened by a member of Bangladesh Nationalist Party (BNP). It is reported that BNP members threw various objects at the participants, injuring around 25 of them. Those seriously injured included **Iqbal Sobhan Chowdhury**, editor of the daily *Bangladesh Observer* and president of the *Bangladesh Federal Union of Journalists*; **Saiful**

**Islam Talukder**, correspondent of *Daily Amader Shomoy*; and **Mizanur Rahman Bheza**, editor of the *Daily Kushtia*.

53. On 23 June, the Special Rapporteur sent a letter of allegation concerning journalist **Dip Azad**. Reports indicated that Mr Azad escaped a bomb attack on 4 January 2005. Subsequently a police officer allegedly involved in the planning of the attack was arrested. After the court hearing, the alleged police officer was released from the prison. Mr Azad, upon hearing the news of the police officer's release, left his city for fear for his life. Concern was expressed that the attack against Mr Azad was directly linked to his journalistic work.

54. On 11 July, the Special Rapporteur sent a joint letter of allegation concerning the raid on a political meeting held by a local branch of PCJSS (Chittagong Hill Tracts United Peoples' Party), a political organization linked to the indigenous peoples of the Chittagong Hill Tracts. On 19 June 2006, activists and leaders of the Sama Adhikar Andolan (Chittagong Hill Tracts Equal Rights Movement), a political organization supported by the Government of Bangladesh and linked to Bengali settlers, violently intervened at the PCJSS meeting, shouting communal slogans and attacking violently PCJSS members and supporters. It was alleged that the attackers were violent and destroyed chairs, tables, doors and windows of the hall. They subsequently set fire to the national flag, the party flag and the curtains of the building. Mr **Poushe Thowai Marma**, Mr **Kon Owai Mro**, Ms **Sonari Tripura**, Ms **Pongo Mro**, Mr **Thowaimra Mro**, and Mr **Mra Owai Marma** were injured during the attack. Mr **Sadhuram Tripura** and Mr **Chinghla Mong Chak**, leaders of PCJSS, had to flee, as they were targeted by the offenders. During the attack, the local police and local army reportedly didn't intervene. It was alleged that the deputy for security of the PCJSS conference, a Police Sub-Inspector, and a group of policemen were deployed in the Conference hall but didn't react to the violence.

### Replies from the Government

55. By letter dated 27 of February and 9 June 2006 the Government responded to the communication of 22 of February 2006 concerning the assault of **Mr Mamun and Mr Ahmed**, journalists of the *Dainik Mathabhanga* daily. According to the confession of the accused arrested in connection to the incident, the attack had not been deliberately directed against the two journalists, who were injured by mistake. The case was reported to be under trial.

56. By letters dated 7 of June and 8 December 2006 the Government replied to the communication of 31 of May 2006 regarding the allegation of an **assault on 25 journalists** while participating in a demonstration. The Government explained that Mr Islam, the president of the BNP political party (*Kushtia District Bangladesh Nationalist Party*) and former Member of the Parliament) had lodged a case against three journalists, accused of demanding money under the threat of publishing defamatory information about him. On 9 of May 2006 the Kushtia Reporters Units organized a protest against Mr Islam, during which Mr Chowdhry and his other colleagues were injured by some individuals who threw stones at the stage. The Government called for an emergency meeting on 17 July 2006, attended by the Deputy Minister of Information, Home Secretary, General Inspector of Police, three parliamentarians of Kushtia and prominent journalists including Mr Iqbal Sobhan. The dispute was settled amicably and the charges against the journalists and the case submitted by Mr Chowdhury were dropped.

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

57. By letter dated 13 February 2006, the Government of Bangladesh responded to the urgent appeal sent on 3 May 2004 concerning the alleged attack on the offices of the **Human Rights Congress for Bangladesh Minorities (HRCBM)**. The Government stated that Advocate Rabindra Gosh rented an apartment for accommodation of HRCBM office, but there had been an ownership dispute over the apartment between two brothers, named Maksudur Rahman and late Mahamudur Rahman. It was explained that Maksudur Rahman got the power of attorney in connection with the management of the said apartment from his younger brother. After a dispute over the handing in of the apartment, Maksudur Rahman forcibly took over the possession of the apartment, broke the signboard of HRCBM office, and shifted computers, furniture and some other things. A complaint was submitted and a case was registered on 22 April 2004. The Investigating Officer (IO) prepared the seizure list of some items during the investigation. The Investigating Officer requested Mr Sohag to submit a medical certificate as regards an alleged assault on him but he did not. The Government noted that Mr Sohag was alone in the office at the time of occurrence and that it was incorrect to state that the Lalbagh Police Station, of Dhaka Metropolitan Police, refused to register Mr Sohag's complaint. After investigation, IO submitted a charge sheet to the concerned Court against Mr Maksudur Rahman under Section 143, 448, 323 and 506 of the Penal Code. The disposal of the case is pending with the court. It was indicated that the Police investigation took place lawfully and that reporting of Human Rights abuses against the minorities is nothing but a *malafide* distortion of fact. The Government assured that neither the Government office nor any political party is involved in this matter.

### **Observations**

58. The Special Rapporteur thanks the Government for the replies of 27 of June and 14 of July acknowledging receipt of the communications dated 23 of June and 11 of July and invites the Government to provide further information regarding these communications.

### **Belarus**

59. On 1 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights in Belarus, sent a letter of allegation concerning the cases detailed below. On 19 February 2006, **Waclaw Radziwinowicz**, correspondent for newspaper *Gazeta Wyborcza* was requested to return to Poland by border guards, who alleged that he was on a Government list of persons barred from entering Belarus. Mr Radziwinowicz was in possession of a valid Belarusian visa and accreditation from the Foreign Ministry. On 1 February 2006, the Police in Zhlobin town confiscated several hundreds copies of ***Tovarishch*, the official newspaper of the Belarusian Communist Party**, without any reason. News agencies reported that the seized issue contained coverage of the 19 March 2006 Presidential Election campaign of the opposition leader Aleksander Milinkevich. Moreover, on 30 January 2006, the Police stopped an **Ukrainian television crew** at the border checkpoint of Novaya Huta and seized a video footage described by the Police as "antistate". The crew was reporting on voter opinions in the run-up to the March presidential elections. The footage confiscated covered comments made by residents of the Gomel region who lamented that "they will not have a presidential election but a Lukashenko election". Concern was expressed at the compatibility of these incidents with the right to freedom of opinion and expression, particularly in light of the upcoming presidential

elections of 19 March 2006. Concern was furthermore expressed at what appeared to be a pattern of harassment directed at foreign journalists. On 9 and 14 December 2005, **Agnieszka Romaszewska**, journalist for Polish broadcaster *Telewizja Polska*, was refused entry into Belarus. In March 2005, **Adam Tuchinski**, Polish photojournalist for the weekly news magazine *Przekroj*, and **Marcin Smialowski**, a freelance Polish journalist, both with press accreditation and a visa to enter Belarus, were detained in Hrodna city. In addition, on 26 April 2005, Russian journalists **Alexey Ametov** of *Russian Newsweek* and **Mikhail Romanov** of *Moscow Komsomolets* were arrested when covering the Chernobyl Way demonstration and were sentenced to 10 days and 8 days of administrative detention for violation of public order. Finally, on 24 August 2005, two Georgian citizens: **Girgi Kandelaki**, journalist and activist for the Georgian movement Kmara, and producer **Luka Tsuladze**, were detained in Minsk.

60. On 14 March 2006, the Special Rapporteur sent a joint letter of allegation concerning several journalists who were reporting the arrest of an opposition candidate Alyaksandr Kazulin. On 2 March 2006, Alyaksandr Kazulin was arrested. Several Belarusian and foreign journalists were trying to film and report the arrest scene. Those journalists included **Siarhei Pulsha**, correspondent with *BelaPAN News Agency*; **Dmitry Madorsky**, correspondent for *Reuters*; **Aleh Ulevich**, correspondent for *Komsomolskaya Pravda*; **Siarhei Hryts**, correspondent to *Associated Press*; **Dzmitry Brushko**, correspondent for *Belhazeta weekly*; **Vasil Fiedasienka**, journalist; and **Yulia Darashkevich**, Journalist. Siarhei Pulsha, Dmitry Madorsky and Aleh Ulevich were reportedly severely beaten by a group of plain clothes policemen, while trying to film the incident. Siarhei Hryts, Dmitry Madorsky, Vasil Fiedasienka and Yulia Darashkevich were subsequently arrested and detained at the Kastychnitski City District Department of Minsk. They were later released. Concern was expressed that the assault and arrests may have been an attempt to prevent them from carrying out their legitimate journalistic work, particularly in light of the upcoming presidential elections of 19 March 2006.

61. On 17 March 2006, the Special Rapporteur sent a joint urgent appeal regarding the targeting of **various journalists and media outlets, human rights defenders and members of the political opposition** in relation to their work in the run up to 19 March 2006 elections. On 15 March 2006, **Andrei Pisalnik**, editor of the newspaper *Glos Znad Niemna na Uchodzstwie*, was arrested in Grodno, sentenced to five days in prison and charged with hooliganism for allegedly swearing in public. On 13 March 2006, **Andrei Pochobut**, editor of the magazine *Polski na Uchodzstwie*, was arrested under unclear circumstances and charged with petty hooliganism; he was sentenced to 10 days' imprisonment. Both Polish-language publications are distributed to the Polish ethnic minority in Belarus. On 15 March 2006, **Valery Shchukin**, correspondent for the opposition newspaper *Narodnaya Volya*, was arrested while seeking accreditation to cover the presidential vote. He was charged with insulting members of the Vitebsk election commission and sentenced to seven days in jail for hooliganism. Furthermore, on 15 March 2006, police detained **Viktor Yaroshuk**, reporter for the independent newspaper *Myastsovy Chas*. A local court sentenced him to five days' imprisonment under unclear circumstances and charges. On 14 March 2006, police officers seized the entire press run of *Narodnaya Volya* as the newspaper staff was transporting copies from its publisher. Police also confiscated the *Narodnaya Volya* newspaper of 14 March. In addition, during the night of 14 and 15 March 2006, *Channel 5* reporter **Andriy Zhigulin** and Cameraman **Vitaly Doroshchenko** were stopped at the border between Ukraine and Belarus, detained by Belarusian border guards for more than two hours, and were forced to return to Ukraine despite holding the necessary documents to work in



Belarus. Moreover, on 13 March, a printing house in Smolensk, Russia, informed the *Deolvaya Gazeta* and *Tovarishchnewspapers* that their contracts had been terminated for economic and political reasons. On 12 March 2006 in Minsk, **Hanna Horozhenko**, reporter for the Kyiv-based *Channel 5*, accredited by the Belarusian Foreign Ministry to cover the presidential election campaign, was arrested, along with her cameraman **Leonid Leonidov** while covering a meeting held by opposition candidate **Alyaksandr Milinkevich**. She was later released. On 10 March, the Higher Economic Court temporarily suspended the independent newspaper *Zgoda* following a complaint filed by the Information Ministry. Furthermore, on 9 March 2006, **Vinchuk Vyachora**, member of the campaign team of opposition presidential candidate Alexander Milinkevich, was sentenced to 15 days' detention for organizing an unsanctioned meeting between the candidate and voters. **Aleksandr Pavlovskii**, **Petr Babarenko**, **Alexander Zelko**, **Dmitrii Kudryavstev**, **Petr Topar**, **Vladimir Gribin**, **Aleksej Makovich**, **Sergei Pyantsevich** and **Artem Litvinko**, members of the political opposition were also sentenced to 15 days' detention for the same offence. In addition, on 1 March 2006, **Tatiana Protko**, chair of the Belarusian Helsinki Association (BHC), was accused of tax evasion and the organization faced a potential fine of US\$70,000 and probable closure. These charges were first made in January 2004, and the subsequent two court decisions in 2004 confirmed that the organization's activities were lawful and complied with all procedures as required by the Belarusian authorities. Despite this, a criminal investigation into the alleged tax evasion continued until the end of December 2004, when the charges were dropped, but were then again renewed in 2006. Furthermore, on 21 February 2006, **Mikalay Astreyka**, **Enira Branizkaya**, **Alyaksandr Shalayka**, and **Tsimafey Dranchuk**, members of an unregistered organization called the Initiative Partnership (IP), which carries out independent election monitoring, were detained by Belarusian KGB officers. They were charged with acting in the name of an unregistered organization and they could face possible maximum prison sentences of three years. They were formally charged on 3 March 2005 and were in detention at the time this communication was sent. KGB officers also raided and searched the organization's regional offices. The Special Rapporteur expressed deep concern at the restrictions and harassment of the above-mentioned persons and bodies, particularly in light of the upcoming elections and the, therefore, imminent need for free, independent and objective monitoring and reporting necessary for any democratic elections.

62. On 23 March 2006, the Special Rapporteur sent a joint urgent appeal regarding **Malkhaz Songulashvili**, Bishop of the Baptist church; **Basil Kobakhidze**, Archipriest of the Orthodox Church; and a scholar on religious studies **Lado Gogiashvili**, all citizens of Georgia. According to the information received, the three above-mentioned persons were arrested on 20 March 2006 at a protest rally organized by Belorussian opposition to oppose the presidential elections that took place on 19 March 2006. They were held incommunicado without charges by the Committee for State Security in Minsk. It was also alleged that Representatives of the Georgian diplomatic corps as well as their family and relatives were refused access to them. They were released on 22 March 2006, and were deported to Ukraine on the same day. Serious concern was expressed at the numerous reports on the arrests, detentions, ill-treatment and deportation against individuals who participate in protest rallies, members of the political opposition, journalists and other media personnel, and human rights defenders, before and after the presidential elections of 19 March 2006.

63. On 24 March 2006, the Special Rapporteur sent a joint urgent appeal regarding **mass arrests of peaceful demonstrators** protesting against the election results of 19 March 2006 and

calling for free and fair elections. On 24 March 2006, the police riot squad surrounded demonstrators in October Square in Minsk, separated journalists from the protestors, and forcefully dragged the protestors into trucks and drove them away. Approximately 300-400 people were detained including at least three journalists **Tatsyana Snitka, Vadzim Kaznacheeu, and Tatsyana Vanina**, members of the Belarusian Association of Journalists, and 45 minors. They were taken to a pre-trial detention centre and were not allowed access to defence counsel. The minors, who were released later, reported that they and other detainees were beaten by the police. Journalists were not allowed to enter the camp where the protestors were being dragged away from their tents, while the police forced the protestors into the vans; neither were they allowed to approach the trucks where the protestors were taken to before being taken away. Moreover, on the night between 19 and 20 March 2006, **108 persons** were arrested and detained, and on 21 March 2006, another **20 persons** were detained. Amongst the persons who were arrested were several dozen supporters who were bringing supplies to protestors. On 21 March 2006, **Anatoly Lebedko, Alexander Dobrovolsky** and **Alexei Yanukiyevich** were arrested and sentenced to 15 and 12 days' imprisonment respectively; the whereabouts of Alexander Dobrovolsky remained unknown at the date of this communication. Furthermore, many of the arrests were accompanied by beatings. Several minors, who were released by the police, suffered injuries. Reports indicated that a total of around **400 persons** were arrested and remained in detention, and were being held in police holding cells in Minsk under conditions which fell below international recognized standards of detention conditions. Others had been brought to the temporary isolator in Valadarski Street and to an isolator in Navinki village. Many were charged with administrative offences, including participation in unsanctioned meetings or hooliganism, which carries prison sentences of 10 to 15 days. A large number of demonstrators were students, who could face expulsion as a result. Concern was expressed that people were arrested and detained for peacefully expressing their political views.

64. On 6 April 2006, the Special Rapporteur sent a joint urgent appeal concerning Mr **Mariusz Maszkiecz**, human rights defender and former Ambassador of Poland to Belarus. Mr Maszkiecz had travelled to Minsk, to observe the presidential elections. According to the information, on 24 March 2006 Mr Maszkiecz was arrested by Belarusian security forces in October Square, Minsk, along with many other peaceful protestors who had gathered to express their objections to the way in which the presidential elections were carried out. It was reported that Mr Maszkiecz was badly beaten and assaulted during his arrest and was sentenced to 15 days' imprisonment. It was further reported that after his arrest, he was transferred to hospital as his health was deteriorating. It was alleged that under Belarusian law, Mr Maszkiecz's stay in hospital would not be considered as part of his 15- day sentence and that after he was released from hospital, he would have to return to prison for 10 days.

65. On 28 April 2006, the Special Rapporteur sent a joint urgent appeal regarding Mr **Mikalai Astreika**, Ms **Enira Branitskaia**, Mr **Tsimafei Dranchuk**, Mr **Aliaksandr Shalaika**, members of the unregistered non -governmental organization *Partnership*; and Mr **Artur Finkevich**, individual human rights defender. *Partnership* is an organization that monitors elections and conducts exit polls in Belarus. According to the information, on 22 February 2006, Mikalai Astreika, Enira Branitskaia, Tsimafei Dranchuk and Aliaksandr Shalaika were arrested and detained in Minsk on suspicion of managing an organization that violated citizens' rights. They were held in solitary confinement in Minsk at the date this communication was sent, and on 2 March 2006 they were charged under article 193 (2) of the Belarusian Criminal Code for

managing a public association or religious organization that infringes the individuality, rights and obligations of citizens. It was reported that Mikalai Astreika, Enira Branitskaia and Aliaksandr Shalaika had not been allowed to see their relatives since their arrests. On 30 January 2006 Mr Artur Finkevich was arrested and detained by police in Minsk on suspicion of drawing political graffiti. It is reported that he has been charged with violating articles 339(2) and 218 (3) of the Belarusian criminal code, and that if convicted of violating the latter article he might be sentenced to 7-12 years' imprisonment. It was further reported that Mr Artur Finkevich is being kept in solitary confinement.

66. On 8 May 2006, the Special Rapporteur sent a joint urgent appeal regarding the arrest of **M. Alyaksandr Bukhvostov**, **M. Zmitser Dashkevich**, **M. Sergei Kalyakin**, **M. Alyaksandr Milinkevich** and **M. Vintsuk Vyachorka**. According to information, on 26 April 2006 a peaceful march was organized in the center of Minsk to commemorate the 20th anniversary of the Chernobyl nuclear disaster. The leader of the Belarus National Front, Vintsuk Vyachorka, was arrested at the end of the march. On the following morning, security forces arrested the main opposition presidential candidate Alyaksandr Milinkevich; the Chair of the Party of Belarusian Communists, Sergei Kalyakin; the leader of the Labour party, Alyaksandr Bukhvostov; and the leader of the Youth Front, Zmitser Dashkevich. On 27 April they were all tried and convicted for “organizing an unsanctioned meeting” under article 167 of the administrative code. Vintsuk Vyachorka, Alyaksandr Milinkevich and Alyaksandr Bukhvostov were sentenced to 15 days' imprisonment, and Sergei Kalyakin and Zmitser Dashkevich to 14 days. The five men were being held in a detention centre in Minsk at the time this communication was sent. Concern was expressed that people were arrested and remained in detention for peacefully expressing their political views.

67. On 16 August 2006, the Special Rapporteur sent a joint urgent appeal concerning **Mr Mikalay Astreyka**, **Ms Enira Branizkaya**, **Mr Alyaksandr Shalayka** and **Mr Tsimafey Dranchuk**, members of the organization Initiative Partnership, an organization that monitors elections. They had already been the subjects of two urgent appeals previously sent. On 4 August 2006, they were charged for “organizing and running an unregistered organization that infringes the rights of citizens” and received prison sentences: Mr Mikalay Astreyka (two years), Mr Tsimafey Dranchuk (one year), Ms Enira Branizkaya (six months) and Mr Alyaksandr Shalayka (six months).

68. On 23 August 2006, the Special Rapporteur sent an urgent appeal concerning **Alyaksandr Kazulin**, leader of the Belarusian Socialist Democratic Party (Narodnaya Hramada), former presidential candidate and former rector of the Belarusian State University. According to the information, on 13 July 2006 Alyaksandr Kazulin was sentenced to five and a half years' imprisonment by the Moskkovsky District Court in Minsk, charged with the commission of the crime of “hooliganism” and “the organization of group activities that breach public order or active participation in similar activities”. Reportedly, the charge of “hooliganism” related to two separate events. The first was on 17 February, when a clash between members of Alyaksandr Kazulin's party and the Special Purpose Police Unit took place, when Mr Kazulin was prevented from entering the National Press Centre, where he intended to hold a press conference. The second event took place on 2 March, when Mr Kazulin was beaten and detained during his attempt to enter the Third All Belarusian People's Assembly in Minsk, which was being addressed by President Lukashenko. Later on, at the police Station, he was reportedly further beaten and denied medical treatment. The second charge was brought against him after the street

demonstrations in Minsk to mark the Freedom Day on 25 March. Following speeches in a public park, Alyaksandr Kazulin led protestors on a march to Akrestina prison, where participants of the demonstrations which followed the presidential elections on 19 March were detained. Government security forces reportedly used excessive force to break up the march. Alyaksandr Kazulin, along with hundreds of others, was then detained at Akrestina prison.

### **Replies from the Government**

69. On 20 of June 2006, the Government replied to the communication of 6 of April 2006, stating that **Mr Maszkiewicz** had been found guilty under article 167-1, paragraph 1, of the Code of Administrative Offences of the Republic of Belarus for breaching the procedure for the organization and conduct of religious, sporting, or mass cultural or other entertainment events; and of meetings, rallies, street processions, demonstrations and pickets on 24 March 2006. He was placed in administrative detention for 15 days. On 29 March 2006, when his health started to deteriorate, Mr Maszkiewicz was hospitalized. By the decision of the court, the period of Mr Maszkiewicz's administrative detention was counted from 23 March 2006, being counted as part of his sentence the period he spent in hospital.

70. By letter of 25 of September 2006, the Government replied to the communication of 16 of August 2006 stating that **Mr Astreiko, Mr Dranchuk, Ms Bronitskaya and Mr Shalaiko** had been charged under article 193, part 1 of the Criminal Code, with the organization of or participation in the activities of another voluntary association which has failed to undergo State registration in the prescribed manner. The Government explained that the accused, under the auspices of the unregistered organization had prepared fictitious unreliable information pertaining to the conduct and results of the presidential elections in Belarus for distribution and publication. On 4 August 2006, the Central District Court of the city of Minsk, sentenced **Mr Astreiko** to two years' deprivation of liberty, **Mr Dranchuk** to a one-year's deprivation of liberty and **Ms Bronitskaya and Mr Shalaiko** to six months' rigorous imprisonment. The verdict did not become enforceable, as appeals were submitted by **Mr Astreiko and Mr Dranchuk** and their counsel. A preliminary date of 15 September 2006 had been set for the case to be heard in Minsk city court. **Ms Bronitskaya and Mr Shalaiko** have been released from custody, having served the sentences imposed by the court.

71. On 8 December 2006, the Government replied to the communication of 23 August 2006 concerning **Alyaksandr Kazulin**, leader of the Belarusian Socialist Democratic Party (Narodnaya Hramada), former presidential candidate and former rector of the Belarusian State University. The Government conveyed the information received from the Supreme Court and the Procurator's Office of the Republic of Belarus. It was noted that on 13 July 2006 **Mr Kozulin** was sentenced by the Moskovsky District Court in Minsk to five and a half years' deprivation of liberty in a special-regime correctional colony for multiple offences under article 339, paragraph 2, and article 342, paragraph 1, of the Criminal Code of the Republic of Belarus. **Mr Kozulin** was found guilty of malicious hooliganism involving the use of violence, the destruction of property and resistance against a person attempting to stop an act of hooliganism (repeat offence) and organizing group activities constituting a gross violation of public order, involving blatant failure to comply with the lawful demands of representatives of the authorities and leading to the disruption of transportation and of the activities of the Na Nemige shopping centre, a Belarusian-German joint venture, as well as actively participating in such activities. The Court found that,

on 17 February 2006, **Mr Kozulin**, together with a group of citizens, attempted to enter the Minsk Concert Hall with intent to commit hooliganism, using physical force against two officers of the concert hall's security service, **Mr I.A. Salzhenikin** and **Mr A.N. Yakimovich**, while they were going about their official duties, and insulting them and the chief of the security service. On 2 March 2006, **Mr Kozulin**, acting with intent to commit hooliganism, broke the glass in a framed portrait of the President of the Republic of Belarus in the Internal Affairs Authority of Oktyabrsky district in Minsk. On 25 March 2006, in Yanka Kupala Square, Minsk, **Mr Kozulin** intentionally called on the persons gathered in the vicinity of the square to march without authorization to the temporary holding facility of the Central Department for Internal Affairs of the Minsk City Executive Committee. Along the route of the march, this group of persons, led by **Mr Kozulin**, committed gross violations of public order, disrupted pedestrian and vehicle traffic and the activities of the Na Nemige shopping centre, a Belarusian-German joint venture, and used force against troops of the Ministry of Internal Affairs. **Mr Kozulin's** guilt was confirmed by testimony from victims and eyewitnesses; by video recordings viewed during the hearing of evidence and showing the events that took place on 17 February 2006 in the lobby of the Minsk Concert Hall, on 2 March 2006 in the Internal Affairs Authority of Oktyabrsky district in Minsk, and on 25 March 2006 in Yanka Kupala Square and in the vicinity of Nemig Street, Bogushevich Square and Dzerzhinsky Prospect; by the findings obtained from the forensic medical examination of the victims; and by other evidence examined by the court and cited in its judgment. Defence counsel lodged an appeal to the Cassation Court against this judgment. The judgment was upheld by a decision of the Criminal Division of the Minsk City Court of 19 September 2006, and the said appeal was dismissed. **Mr Kozulin's** sentence thus became enforceable with the adoption of the Court of Cassation decision on his case (in accordance with article 399, paragraph 1, of the Criminal Code).

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

72. By letter dated 1 February 2006, the Government of Belarus replied to the communication of 17 August 2005 concerning the situation of certain journalists. The Government indicated that on 5 August 2005, the Department of Citizenship and Migration of the Ministry of Internal Affairs forwarded to the citizenship and migration office of the internal affairs department of the Grodno provincial executive committee an instruction concerning the need to deport the Polish citizen **Adam Tuchlinski** from the Republic of Belarus. It was reported that the reason of such a decision was because **Mr Tuchlinski** systematically engaged in illegal journalistic activities without the necessary accreditation from the Ministry of Foreign Affairs, which is a violation of the provisions of paragraph 9.4 and 24.7 of the Regulations governing the presence and professional activities in the territory of Belarus. The Government explained that **Mr Tuchlinski** was prohibited from entering Belarus for a period of five years. It was also reported that on 6 August 2005 **Mr Marcin Smialowski** was travelling from Poland to Belarus with a group of persons whose entry into Belarus was restricted. Since these persons were refused entry into Belarus, **Mr Smialowski**, of his own free will, refused to enter the territory of Belarus on his own and returned to Poland. The Government of Belarus stated that under their Constitution, the right to hold meetings, rallies, street processions, demonstrations and picketing is inextricably linked with public security and the observance of the legally established procedures, which are set out in the Mass Events in Belarus Act of 30 December 1997. Persons who violate this procedure are subject to prosecution. It was reported that on 3 July 2005, approximately 30 persons participated in an unauthorized gathering on Zelenaya Street. The Belarusian citizens

**Andrzej Poczobut, Jozef Porzecki and Mieczyslaw Jaskiewicz**, who refused to comply with the legal demands of officials, organized and participated actively in the gathering. On 26 July 2005, the Shchuchin district internal affairs office drew up a report of violations by the aforementioned persons of article 166 and 167-1 of the Code of Administrative Offences. On 27 July 2005, pursuant to the decisions of the judge of the Lida district court, the following persons were held administratively liable for the commission of offences: Andrzej Poczobut was sentenced to 15 days' arrest; and Jozef Porzecki and Mieczyslaw Jaskiewicz were each sentenced to 10 days' administrative arrest. Also the decision of 4 August 2005 sentenced Andrzej Piszalnik to 10 days' administrative arrest. It was further reported that on 6 July 2005 the citizens **Andrzej Poczobut, Ivan Roman, Inesa Todryk, Andrzej Piszalnik and Igor Banczer** took part in picketing on Lenin Square in Grodno without the relevant prior authorisation from the local authorities to hold the event. They were detained and brought to the Lenin district internal affairs office in Grodno for examination and the court found the aforementioned individuals guilty of administrative offences. It was reported that they were sentenced an administrative penalty in form of a fine, and not an arrest. On 27 July 2005 **Mr Kruczkowski** requested the local authorities to assist him in creating conditions conducive to the preparation of a new congress. It was reported that officers of the Union of Poles in Belarus asked the citizens who were gathered to comply with the decree of the Ministry of Justice and vacate the premises. Their demands were ignored and threats with physical violence to **Mr Kruczkowski, Mr Kalosza, Mr Znajdzinski and Mr Niemiera** were carried out. **Siarhey Hryts, Inesa Todryk, Wacław Radziwinowicz, Robert Kowalewski and Pavel Mazheika** were among the individuals arrested and taken to the Lenin district internal affairs office. The Government indicated that after giving explanations, all the citizens were released within the established limits. The Government of Belarus stated that the consideration of the cases was not related to the aforementioned persons' involvement in political or public activities or with restrictions of their right to hold peaceful gatherings.

73. By letter dated 6 January 2006, the Government of Belarus replied to the communication of 24 October 2005 concerning the killing of Mr **Grodnikov** and Ms **Cherkasova**, and the situation of the **newspaper *Narodnaya volya***. It was reported that on 18 October 2005 a report reached the duty desk of Zaslavl city internal affairs office in Minsk district indicating that Nikolai Petrovich Grodnev, having arrived at the home of his brother, Vasily Petrovich Grodnikov, found the latter's body on the kitchen floor. Mr Grodnikov lived alone, did not work and for 15 years had followed a course of hypnosis to tackle his dependency on alcohol. Arriving at the house, Mr Grodnev knocked on the window and the door, so he broke the front door to get into the house. When he found the body he called the militia and informed his relatives. It was further reported that the forensic examination conducted on 19 October 2005 concluded that Mr Grodnikov had died as a result of a closed blunt trauma to the head, complicated by oedema and dislocation of brain tissue. The deceased had bruises and scratches and his blood was found to contain ethyl alcohol. An inquiry into Mr Grodnikov's death was opened, and on 28 November 2005 it was decided not to open a criminal case in the absence of anyone found to be responsible for his death. Given the lack of completeness of the inquiry, this decision was overturned on 29 November 2005, and the case-file and written instructions were referred to the Minsk interdistrict procurator's office for further inquiries. The conduct of the inquiry is being overseen by the Belarusian Procurator's Office. Regarding the murder of Ms Cherkasova, the Government explained that a criminal case was opened on the basis of evidence of an offence contrary to article 139 of the Belarusian Criminal Code. Ms Cherkasova's body was discovered on 20

October 2004 in her apartment with multiple stab and hack wounds. The investigation found that, between 1995 and 2000, Ms Cherkasova had written articles of a socio-political nature, specifically about the activities of religious sects in Belarus. On 19 October 2004, just before she died, Ms Cherkasova was working on her most recent interview, with a folk craftsman living in Minsk province. It was noted that the investigators researched various theories concerning Ms Cherkasova's murder, but the line of inquiry of investigating her acquaintances and colleagues led nowhere. The Government indicated that a theory was put forward that the crime was connected with Ms Cherkasova's professional activity, and that there were currently no grounds for supposing that she was killed on account of her work. It was reported that the investigation of the circumstances of Ms Cherkasova's murder were continuing and that the Office of the Procurator-General of Belarus was overseeing the investigation of this criminal case. On the other hand the following facts have been established regarding the publication and dissemination of the newspaper *Narodnaya volya*. The Government stated that the contract to publish a newspaper that existed between the public limited company Krasnaya svezda and the unitary enterprise *Narodnaya volya* was terminated on 28 September 2005, the reason being that *Narodnaya volya* had breached paragraph 6.2 of the contract. The paragraph in question stated that, in the event of the client dishonouring the terms of payment, the executor contract was entitled to terminate the arrangement unilaterally. It was reported that according to Krasnaya svezda, as at 28 September 2005 *Narodnaya volya* had run up a debt of 2,476 million rubles. On 28 September 2005 the unitary enterprises Belsoyuzpechat and Mingorsoyuzpechat terminated their contracts with *Narodnaya volya* to distribute, forward and market the newspaper because information and articles were being published in the mass media that contravened the provisions of the Press and Other Mass Media Act. The Government stated that on 20 January 2005 the editorial office of the newspaper was cautioned by the Ministry of Information regarding a breach of article 32 of the Press Act. According to the information supplied by the Government, notwithstanding the fact that the editorial office has committed numerous breaches of Belarusian legislation, the Ministry of Information has not applied the measures specified in article 16 of the Press Act to *Narodnaya volya*.

74. By letter dated 10 January 2006, the Government of Belarus responded to the urgent appeal sent on 16 November 2005 concerning **Vera Stremkovskaya**. The Government stated that in pursuance of the letter addressed to the Minsk city bar association on 26 October 2005 by the Office of the Procurator of the Republic of Belarus about ensuring the participation of lawyers in studying the materials of criminal case No. 0496637 regarding participants of the S.P. Morozov criminal organization, the director of the Minsk city bar association took a number of organizational measures to ensure the participation of lawyers in studying the said materials. Thus, the defence of the persons accused in this case was undertaken by 46 lawyers of the Minsk city bar association. It was noted that with a view to preventing delays and disruptions in the conduct of investigations into the criminal case, the Republican Bar Association recommended that the director of the Minsk city bar association should, as a temporary arrangement, cease to grant lawyers ordinary and special leave from 28 October 2005 for a period of one month. In this connection the acting chairman of the board of the Minsk city bar association took the appropriate decision on 28 October 2005 to stop the granting of leave. On 31 October 2005 the board of the Minsk city bar association received an application from Ms Stremkovskaya, to be granted leave for family reasons from 2 to 5 November 2005. The chairman of the board of the Minsk city bar association refused Ms Stremkovskaya leave, making reference to the above-mentioned bar association decision of 28 October 2005. The Government indicated that Ms

Stremkovskaya did not submit an application for leave to participate in an international conference and that during her work in the Minsk bar association, she repeatedly submitted applications to be granted short-term leave for family reasons and not once had she requested leave for the purpose of “participation in international conferences”, as stated in the communication of 16 November 2005. The Government also noted that the Republic of Belarus takes an active part in international conferences at the invitation of various international organizations. The Minsk bar association did not receive an invitation for Ms Stremkovskaya to participate in the international conference on the “Role of defence lawyers in guaranteeing a fair trial, in Tbilisi, Georgia. It was indicated that three lawyers from Belarus did participate in the aforementioned international conference.

75. On 10 January 2006, the Government of Belarus replied to the communication of 7 December 2005. The Government indicated that in the drafting of the Act of the Republic of Belarus on amendments and additions to certain legislative acts of Belarus on the question of increasing responsibility for **acts directed against individuals** and public safety, account was taken of the experience and legislation of the Russian Federation and a number of European countries, particularly Belgium, Germany, the Netherlands, Denmark, Sweden and Switzerland. The Act establishes responsibility for activities by political parties, other voluntary associations and religious organizations that prevent citizens from fulfilling their State, public and family obligations (Criminal Code of the Republic of Belarus, article 193, paragraph 1, as amended by the Act). This amendment is aimed at implementing the provision contained in article 16, paragraph 3, of the Belarusian Constitution, which prohibits the activities of religious organizations if such activities prevent citizens from fulfilling the above-mentioned obligations. The following information was highlighted by the Government: Article 193 of the Act establishes responsibility for the commission implementing the existing prohibitions in Belarus. The aim of the new article is to suppress the activities of political parties, voluntary associations, religious organizations and foundations, with respect to which an authorized State body has adopted a decision to dissolve (suspend the activities of) such parties, associations, organizations or foundations, and also those organizations that have not been re-registered in accordance with established procedure. Article 1931 of the Criminal Code establishes responsibility for failure to implement the decision of a court or other State body that prohibits or suspends the activities of a political party, other voluntary associations, religious sect or foundation, or a decision refusing the registration of an organization, which nevertheless continues to operate. Activities directed at removing the causes and conditions that served as grounds for suspending the activities of a party, other voluntary associations, foundation or religious organization, as well as activities relating to their registration, shall not constitute an offence. The article provides that persons who have voluntarily discontinued their illegal activities and who have informed the State authorities accordingly, for example, the procurator’s office or other law enforcement agencies, shall be exempted from criminal responsibility. The Act provides for additional measures to maintain public order, the safeguarding of which directly involves the protection of the individual and his or her constitutional rights and legitimate interests. To this end, articles 293 and 342, which establish responsibility for mass disturbances and group violations of public order, are supplemented by norms establishing responsibility for acts involving the instruction or other training of persons for the purpose of participating in the commission of such offences. The Government of Belarus noted that in recent years, international practice has demonstrated the inadequacy of confronting global challenges and threats by force alone. The Government’s current aim is to create effective mechanisms to counter such challenges and threats proactively



at an early stage. The aim of the aforementioned amendments is to prevent offences in the preparatory stage by increasing responsibility for acts aimed at destabilizing public order and public safety in comparison with the general procedure for the legal assessment of such acts, described in article 13 of the Criminal Code. The point at issue does not concern “any educational activity” or “mass events” but the purposeful training in how to organize mass disturbances involving violence, arson, massacres and destruction of property, as well as in how to organize and carry out armed resistance to the authorities. The additions to the relevant articles of the Criminal Code do not apply to the preparation and conduct of unauthorized mass events (including meetings, rallies, street processions, demonstrations and picketing), when such events do not involve the organization of mass disturbances or group activities that seriously breach public order. The conduct of unauthorized mass events and the violation of the procedure for holding such events entail administrative responsibility, which is covered in article 1671 of the Code of Administrative Offences of 6 December 1984. Persons who finance such instruction and training, or create the material conditions necessary for this purpose, for example, by making available premises, training grounds, the necessary equipment and so forth, are subject to prosecution. Similar additions are provided in the article establishing responsibility for the organization of, or participation in group activities that violate public order and involve blatant non-compliance with the legitimate demands of the authorities, or which disrupted the normal operation of transport, enterprises, institutions or organizations. Article 357 of the Criminal Code establishes responsibility for seizing or retaining State power through unconstitutional means, as well as for conspiracy to that end. At present, other acts (except for conspiracy) that are directed at the seizure or retention of State power through unconstitutional means are subject to qualification as preparations for the seizure of State power or an attempt to commit that offence. As a result of the additions introduced by the Act to article 357 of the Criminal Code, the time of the completion of the offence provided for in that article is shifted to an earlier stage. Consequently, acts directed at the seizure or retention of State power through unconstitutional means shall be considered as completed offences. The Act also contains norms that provide for additional measures to protect the constitutional foundations of the Belarusian State and society, and to protect the Republic of Belarus from insults and various kinds of fabrications designed to undermine the prestige of our State and the international community’s confidence in it. This norm has been included in paragraph 2, which supplements article 361 of the Criminal Code. It establishes responsibility for public appeals for the overthrow or change of the constitutional system of the Republic of Belarus or for the commission of crimes against the State. In accordance with the aforementioned addition, appeals to a foreign State or a foreign or international organization to commit acts that damage the external security of the Republic of Belarus, its sovereignty, territorial integrity or defence capacity, and also the dissemination of materials (written, electronic, audio-visual materials) containing such appeals, are recognized as offences. Article 3691, entitled “Defamation of the Republic of Belarus”, establishes responsibility for providing a foreign State or a foreign or international organization with knowingly false information concerning the political, economic, social, military or international situation of the Republic of Belarus, or the legal status of its citizens.

76. By letter dated 24 January 2006, the Government of Belarus replied to the communication of 10 October 2005 concerning the **newspaper *Narodnaya volya***. It was reported that on 28 September 2005, the unitary enterprises Belsoyuzpechat and Mingorsoyuzpechat terminated their contracts with *Narodnaya volya* to distribute, forward and market this newspaper because information and articles were being published in the mass media which contravened the

provisions of the Press and Other Mass Media Act. The Government explained that on 20 January 2005 the Ministry of Information sent a warning to the editorial office of *Narodnaya volya* concerning a violation of article 32 of the Press Act. An article entitled "Revelations of a former State security agent" contained an interview with one A.I. Rabets, described a former employee of the Committee for State Security. In reality, according to information received from the Government, Mr Rabets has never been employed by the State security agencies. He is currently wanted by the police in connection with a number of crimes. It was reported that on 31 March 2005, 13 April 2005 and 11 May 2005 the Ministry of Information served warnings on *Narodnaya volya* for violations of article 32 of the Press Act. According to the information supplied by the Government, in spite of the fact that the editorial office of *Narodnaya volya* committed the aforementioned violations of Belarusian legislation, the Ministry of Information had not applied the measures specified in article 16 of the Press Act. It was reported that the Lenin district court in Minsk has heard the lawsuit brought by Belarusian citizen S.V. Haidukevich against *Narodnaya volya* in order to defend his honour, dignity and business reputation and to claim monetary compensation for moral damage. In his claim, Mr Haidukevich stated that an article which was published on 1 March 2005 contained untrue information that cast aspersions on his honour, dignity and business reputation. Materials on court insinuate that the claimant was a party to contracts for oil deliveries from Iraq and was in arrears in paying for them. Mr Haidukevich also requested the court to order the respondent to publish a refutation of the information that was published within 10 days after the court's decision entered into force. He also sought monetary compensation from the respondent for moral damage. The court decision of 14 July 2005 met partly Mr Haidukevich's claims: the court ordered *Narodnaya volya* to publish a refutation of the information that it had disseminated and was also ordered to pay Mr Haidukevich 100 million roubles in compensation for moral damage. The Government explained that since the debtor complied with the court decision, the ruling of 28 September 2005 was withdrawn.

### Observations

77. The Special Rapporteur thanks the Government for its responses and invites the Government to respond to the communications dated 1, 14 17 and 23 of March, 28 of April and 8 of May 2006.

### Bhutan

78. On 12 July 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the question of torture, sent an urgent appeal concerning two Christians **John Tamang alias Purna Bahadur Tamang** and **Benjamin Sharma alias Budhu Mani Dhungana**. According to the information, on 7 January 2006, John Tamang and Benjamin Sharma were arrested for screening the film 'Jesus' in the town of Paro. The arrest was carried out by a Lieutenant Colonel of the Crime and Investigation Department of Royal Bhutan Police (RBP) in Thimphu. He punched and hit the two men during the arrest. They were thought to be held incommunicado in Thimphu, at the date this communication was sent. Reports also indicated that they were subjected to torture and ill-treatment in detention.

## Replies from the Government

79. By letter dated 27 of July 2006, the Government of Bhutan responded to the communication of 12 July 2006 regarding **Mr Dhungana and Mr Tamang**. The Government noted that the accused had committed misconduct under section 294 of the Penal Code and violated article 9 of the National Security Act by identifying themselves as government officials and calling for a village meeting, where they promoted the bible and maligned the Spiritual Head of Bhutan, His Holiness the Je Khenpo. Additionally both accused had given false information committing an offence of deceptive practice under section 309 of the Penal code and had distributed medicines to the public breaching sections 265 and 267 of the Penal Code. The Government explained that people are free to practice any religion of their choice but proselytization of any religion is prohibited.

## Observations

80. The Special Rapporteur thanks the Government for this reply.

## Brazil

81. On 9 May 2006, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Ms Conceicao Paganele**, president and founder of the Association of Mothers and Friends of Children and Adolescents at Risk (AMAR). AMAR is a non- governmental organization that defends the rights of adolescents detained in FEBEM units. According to the information, in January 2005, Ms Paganele publicly denounced the alleged practice of torture in the UI-41 Unit at the Vila Complex of FEBEM. As a result of her statements, she received death threats by telephone. It was reported that Ms Paganele was followed on a number of occasions by unknown vehicles. She reported these incidents to the police, and although an investigation was opened, the perpetrators had not yet been found. It was further reported that in November 2005 Ms Paganele was publicly accused of “creating problems” by the then Governor of the State of Sao Paulo, and that FEBEM accused her of inciting a rebellion among the detainees after her visit to FEBEM’s Tatuapé Complex on 17 November 2005. On 31 March 2006 officials from the UI-19 Unit of FEBEM initiated a legal action against Ms Paganele accusing her of slander/libel. On 18 April 2006 the FEBEM Internal Affairs Office initiated a legal action against Ms Paganele accusing her of harm, inciting a crime, conspiracy and aiding and abetting an escape.

82. On 10 August 2006, the Special Rapporteur sent a letter of allegation concerning **Ajuricaba Monassa de Paula**, a freelance journalist and member of a local opposition party. According to the information received, he was beaten to death in public in the town of Guapirimim, in Rio de Janeiro state. Monassa was murdered in a central square of the town while having an argument with a close relative of the municipal councillor –who apparently intervened in the clash and started violently attacking the journalist. The journalist later died in a local hospital. Monassa was a popular journalist and political activist, well-known for his critical stands against the municipal government.

83. On 22 August 2006, the Special Rapporteur sent a letter of allegation concerning the newspaper "**Bom Dia**". On the evening of 4 August 2006, Judge Paulo Sérgio Romero Vicente Rodrigues, of the Fourth Civil Tribunal of the city of São José do Rio Preto, (State of Sao Paolo) forbade the newspaper "Bom Dia" to report on a case of international medicine trafficking in the city, basing his decision on the confidentiality of the ongoing legal investigation of the case. The judge's ruling was allegedly in response to a request presented, on that same afternoon, by the State Prosecutor Mauro César Filet, after the newspaper revealed that his son had been detained in the United States, due to his possible links with the crime. The judge ordered the newspaper and its editor-in-chief to abstain from publishing any information alluding to the investigation of the case as long as Mauro Filet's son was considered a suspect.

84. On 23 August 2006, the Special Rapporteur sent an urgent appeal concerning **Maria Mazzei**, reporter of the *O Dia* Newspaper. According to the information received, since 15 August 2006, Ms Mazzei and her family had been subject to death threats, due to the publication of a series of articles on trafficking with human bodies. In the said articles, Ms Mezzei had reported about the alleged involvement of staff of the Medical Forensic Institute and public officials in the selling of human bodies to the so-called "Mafia dos Corpos."

85. On 10 October 2006, the Special Rapporteur sent a letter of allegation concerning newspaper **Diário de Marília**. According to the information, on 1 October 2006, demonstrators attacked the building of *Diário de Marília*, in Marília city, São Paulo state, breaking the entrance door, threatening journalists and trying to confiscate all copies of the newspaper. Reportedly, the mob was composed by supporters of the former mayor Abelardo Camarinha who was a candidate to the Federal Parliament in the first round of general elections on 1 October 2006. The attack was apparently linked to some articles published by *Diário de Marília* concerning a sentence by an electoral court against Abelardo Camarinha and his son Vinícius for producing advance electoral propaganda, and a suit initiated by the regional prosecutor's office for abuse of power and illegal use of public equipment, which would have barred Abelardo Camarinha from seeking public office for several years. It was reported that, later on the same day, a local judge granted a suspension order against the paper and the closure of its website, while the police had to intervene in order to end the siege of the demonstrators around the newspaper's building.

86. On 21 November 2006, the Special Rapporteur on Freedom of Expression sent a letter of allegation to the Government of Brasil concerning **Fausto Brites**, the editor of *Correio do Estado* newspaper. According to the information received, on 31 of October 2006, **Mr** Brites was sentenced to 10 months' imprisonment and fined with approximately US\$ 875 for defamation. The lawsuit had been filed by the former Mayor of Campo Grande and governor of Mato Grosso do sul State, over a report on money-laundering published by the newspaper in March 2005. The newspaper had reportedly linked the case to an accusation it had published in 1999 about alleged corruption in garbage -collecting companies, in which the former mayor was said to be involved. On a separate incident, on 20 October 2006, the signal of television station **TV Convencao in Sao Paulo** state was cut by the municipal police. According to the director of the said station, the Mayor of the town of Itu was behind the cut in an attempt to silence the TV station, which was said to be critical of his government. Reportedly, *TV Convencao station* had stopped broadcasting for 21 days in February 2006 until a judge issued an injunction ordering the restoration of the signal. In September 2005, the same Mayor had reportedly submitted a complaint to the National Telecommunications Agency (ANATEL) about the illegality of the

television station. It has been reported that ANATEL inspected the station's facilities in May and August 2006 and found no irregularities.

### **Replies from the Government**

87. The Special Rapporteur thanks the Government of Brazil for the reply dated 26 August 2006 and invites the Government to provide further information concerning the communications dated 9 May, 10 August, 22 August, 23 August, 10 October and 21 November 2006.

### **Burundi**

88. Le 13 avril 2006, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de **Stany Mbazumutima**, un défenseur des droits de l'homme et moniteur pour la Ligue Iteka, une organisation non gouvernementale burundaise qui mène des enquêtes et fait rapport sur les violations des droits de l'homme en particulier dans la province de Ngozi où vivent quelques 19 000 demandeurs d'asile rwandais, en particulier dans les camps de Musasa et Songore. Selon les informations reçues, le 4 avril 2006, Stany Mbazumutima avait publié un article sur le site Internet de la Ligue Iteka qui décrivait comment des agents rwandais opéreraient dans le camp de Musasa se faisant passer pour des réfugiés afin d'obtenir des informations pour le compte du Gouvernement rwandais. A la suite de la publication de cet article, les 4 et 5 avril 2006, Stany Mbazumutima aurait reçu plusieurs coups de téléphone de la part du Commissaire régional de la police de sécurité intérieure qui lui aurait dit qu'il devait désavouer le contenu de son article. Le 6 avril 2006, le Commissaire régional lui aurait déclaré que son travail semait la discorde entre le Rwanda et le Burundi et lui aurait signifié que son travail ne saurait le protéger.

89. Le 20 avril 2006, le Rapporteur spécial a envoyé une lettre d'allégation sur **Mathias Basabose**. Le 17 avril 2006, une cinquantaine de policiers lourdement armés auraient encerclé le domicile, dans la capitale Bujumbura, de Mathias Basabose, député et ancien directeur de campagne électorale du Président Pierre Nkurunziza, alors qu'une vingtaine de journalistes étaient rassemblés à l'intérieur pour assister à une conférence de presse. Celle-ci avait été convoquée pour permettre à M. Basabose de s'exprimer sur son exclusion du Conseil national pour la défense de la démocratie-Forces de défense de la démocratie, le parti au pouvoir, suite à un conflit qui l'oppose au président du parti sur de détournements de fonds. Pendant plus de sept heures, les journalistes auraient été empêchés de sortir et au moins trois parmi eux auraient été frappés à coups de crosse par la police. Selon les informations recueillies, les policiers auraient reçu l'ordre par la police présidentielle d'empêcher quiconque de sortir du domicile du député. Les journalistes séquestrés auraient finalement pu quitter les lieux avant minuit sans recevoir aucune explication.

90. Le 30 mai 2006, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, et la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, ont envoyé un appel urgent sur la situation de **Thacien Sibomana** et **Poppon Mudugu** tous deux membres d'AC Génocide Crimoso, une organisation qui tente de prévenir l'occurrence d'un génocide au Burundi à travers des débats ouverts sur l'histoire du pays. Selon les informations reçues, le 21 mai 2006, les deux

hommes auraient été arrêtés alors qu'ils tentaient de tenir la réunion mensuelle de la section de Gitega. Alors que les délégués arrivaient sur le lieu du meeting, ils se seraient vu interdire l'entrée du bâtiment par les forces de police. Selon les informations reçues, les autorités locales auraient jugé la réunion illégale et considéré qu'elle représentait une menace à la sûreté de l'État. La réunion aurait été déplacée dans un autre lieu mais elle aurait été à nouveau interrompue par le Gouverneur de Gitega, le Commissaire de police adjoint et plusieurs officiers de police qui auraient saisi certains documents dont l'agenda de la réunion ainsi que son procès-verbal. Thacien Sibomana et Poppon Mudugu auraient été arrêtés après la réunion et interrogés par le Procureur général de Gitega qui les aurait accusés de menacer la sûreté de l'état. Ils auraient été détenus dans la prison de Gitega. Poppon Mudugu aurait été relâché le 3 août 2006.

91. Le 2 juin 2006, le Rapporteur spécial, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent sur la situation de **Aloys Kabura**, journaliste de l'Agence burundaise de presse, qu'aurait été arrêté dans la ville de Kayanza, le 31 mai 2006, et ensuite incarcéré à la prison centrale de Ngozi, pour avoir publiquement critiqué le Gouvernement. Le journaliste, accusé de rébellion par les services de renseignements, aurait critiqué l'attitude du gouvernement et la violence de la police, lorsque, le 17 avril 2006, une vingtaine de ses collègues avaient été séquestrés pendant plusieurs heures au domicile d'un député, Mathias Basabose, dans la capitale Bujumbura. Ce cas avait fait l'objet d'une lettre d'allégation envoyée par le Rapporteur spécial en date du 20 avril 2006. Les conditions de santé du journaliste se seraient détériorées rapidement pendant sa détention.

92. Le 28 novembre 2006, le Rapporteur spécial et la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, ont envoyé un appel urgent en attirant l'attention du Gouvernement sur la situation de **Serges Nibizi** et **Domitille Kiramvu**, rédacteur en chef et journaliste de la Radio publique africaine (RPA). Selon les informations reçues, le 22 novembre 2006, Serges Nibizi et Domitille Kiramvu, respectivement rédacteur en chef et journaliste de la Radio publique africaine (RPA) auraient été placés en détention préventive à la prison de Mpimba, après un interrogatoire au Parquet de la capitale. Un autre journaliste de la RPA, Palice Ndimurukundo, aurait pu quitter le Parquet libre. Serge Nibizi aurait été accusé de diffusion de secrets de l'enquête judiciaire au stade pré-juridictionnel, et diffusion de secrets de la sûreté de l'État et de la sécurité publique, tandis que Domitille Kiramvu aurait été accusée de diffusion de secrets de l'enquête judiciaire au stade pré-juridictionnel seulement. Les inculpations auraient été relatives à un commentaire, diffusé par la RPA, sur un article publié dans le journal *Intumwa*, qu'aurait contenu des informations confidentielles sur l'instruction judiciaire d'un présumé complot de coup d'État.

### Observations

93. Le Rapporteur spécial invite le Gouvernement à répondre aux communications envoyées en 2005 et 2006.

### Cambodia

94. On 6 January 2006, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Mr Kem Sokha**, President of the *Cambodian Centre for Human Rights (CCHR)*; **Mr Pa Nguon**

**Teang** and **Mr Yeng Virak**, Director of the *Community Legal Education Centre (CLEC)* and member of the organizing committee of the International Human Rights Day celebration. According to the information, Kem Sokha and Yeng Virak were arrested on 31 December 2005 and Par Nguon Teang on 4 January 2006 on charges of defamation in relation to celebrations to mark the International Human Rights Day on 10 December 2005. The event held was organized with authorization from the Ministry of Interior and was agreed upon by the Phnom Penh Municipal authorities. On 31 November 2005, a group of police officers and staff of the Ministry of Interior surrounded the CCHR office, where Mr Sokha was holding a meeting with CCHR staff. The police officers presented a search warrant and a warrant summoning Mr Sokha based on defamation complaints against him. When dozens of journalists and CCHR supporters began to arrive at the centre, the police locked the gates of the compound, and as a result, the British and United States of America Ambassadors, as well as representatives from local and international NGOs, were not allowed to enter the compound. CCHR's "Voice of Democracy" was allegedly shut down temporarily to prohibit it from broadcasting live coverage of the event. Later on the same day, Mr Sokha was arrested and taken to Phnom Penh Municipal Court where he was questioned for hours. Police prevented reporters and supporters from entering the court building. The defamation case was based on alleged handwritten comments on the banner criticising the policy of Prime Minister Mr Hun Sen, about which the police presented to him photographs. Mr Sokha was subsequently taken to the Prey Sor prison. Moreover, on the same day, police took **Mr Yeng Virak** to the Municipal Court, where he was questioned and subsequently charged with defamation in relation to the celebration of International Human Rights Day. One of Mr Yeng Virak's lawyers confirmed that he was questioned by Investigating Judge Sao Meach and subsequently charged with defamation in relation to the celebration of International Human Rights Day in Phnom Penh on 10 December. He is now in pre-trial detention in Prey Sar Prison. Moreover, on 4 January 2006, **Mr Pa Nguon Teang** was arrested. On 5 January 2006 he was taken to the Municipal Court in Phnom Penh, where he was also charged with defamation and was transferred to Prey Sar Prison. According to the information received, they were charged by the court with violation of article 63 of the Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period (known as UNTAC Law), which is punishable by eight days to a one-year imprisonment and/or a fine of one million (about € 210) to ten millions riels. The charges against Kem Sokha and Yeng Virak originate from a complaint of defamation filed with the municipal court of Phnom Penh on 21 December 2005 by a lawyer representing the Council of Ministers. These arrests were in a series of at least nine criminal defamation suits filed over the past year against representatives of non-governmental organizations, media, trade unions and the opposition Sam Rainsy Party. Mounting concern was expressed that these arrests and the increasing use of criminal defamation charges were having a chilling effect on Cambodia's civil society and constitute a serious threat to freedom of expression.

95. On 28 February 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Kem Sokha**, President of the Cambodian Centre for Human Rights (CCHR); **Mr Pa Nguon Teang**, CCHR Deputy President and Producer of the *CCHR Voice of Democracy* radio programme; **Mr Yeng Virak**, Director of the Community Legal Education Centre (CLEC); **Mr Rohng Chhun**, President of the Cambodian Independent Teachers' Association; **Mr Chea Mony**, President of the Free Trade Union of Worker of the Kingdom of Cambodia (FTUWKC) and **Mr Mam Sonando**, Director of *Beehive Radio*, who had already been the subject of two previous

communications. According to information received, on 3 February, government lawyers officially withdrew criminal defamation complaints against the aforementioned individuals. Nevertheless, under the UNTAC Penal Code adopted in 1992, the withdrawal of a criminal defamation complaint does not mean that the charges are dropped. The Prime Minister had claimed that the criminal charges would remain as he must not interfere in the work of the courts. It was reported that the Prime Minister had declared that defamation should no longer be criminalized in Cambodia. However, the judges assigned to these cases had allegedly confirmed that criminal charges would not be dropped and that the investigations would be left dormant until the statute of limitation of the alleged crimes expire. The Special Rapporteur and the Special Representative welcomed the withdrawal of the defamation charges. However, concern was expressed that the criminal charges are left open for the aforementioned individuals.

96. On 26 June 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the situation of Mr **You Saravuth**, editor of the *Sralanh Khmer* newspaper. According to the information received, on 15 and 17 June, the *Sralanh Khmer* published articles implicating that a nephew of the Prime Minister Hun Sen was involved in a case of land grabbing in Mondulkiri province. Following the publication of these articles on 19 June, Mr Saravuth was reportedly requested to meet the Prime Minister's nephew, and subsequently, the meeting took place. During the meeting, staff of the newspaper were allegedly threatened and intimidated. The Prime Minister's nephew warned them that he would be able to trace Mr Saravuth's phone anywhere and track him down. On 21 June, a copy of Mr Saravuth's identity card with his face crossed out with pictures of skulls and bones was faxed to the newspaper's headquarters. Grave fears were expressed for Mr Saravuth's life. He had gone into hiding.

97. On 13 July 2006, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Ms **Lach Sambo**, president of the Free Trade Union of the Workers of the Kingdom of Cambodia (FTUWKC) in Jenchou Inn Factory in Kandal Province; Ms **Gneom Khun**, general treasurer of FTUWKC; and Mr **Sal Koemsan**, member of FTUWKC. FTUWKC is a trade union that works in defence of the workers. According to the information received, on 3 July 2006, Ms Sambo, Ms Khun and Mr Koemsan were arrested on charges of "illegally confining" other staff members of the Jenchou Inn factory, and were being detained in Prey Sar prison, at the date this communication was sent. It was reported that these charges were related to a strike organized on 23 June 2006 at the factory to demand better pay and conditions for workers. At the time the events occurred, Ms Sambo, Ms Khun and Mr Koemsan were at their homes and were not in the factory.

98. On 21 August 2006, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent a letter of allegation regarding **more than 200 villagers from And Snuol district in Kandal Province**. According to the information received, on 7 August 2006, around 100 riot police officers blocked the entry into Phnom Penh of these villagers, who were attempting to travel to the National Assembly and to the provincial court of Kandal to demand the release of one of their fellow villagers arrested in relation to a land dispute. Reportedly, when the villagers got off the bus, police repelled them by shooting in the air, firing tear gas and beating them with batons and rifle butts. Reports indicated that 40 villagers and eight policemen got injured during the incident.



99. On 20 October 2006, the Special Rapporteur sent an urgent appeal concerning **Mr Dum Sith** convicted under the charge of disinformation by the Phnom Penh municipal court. Mr Sith was fined 2000 USD and was ordered to pay damages amounting to 2500 USD to the government. Reportedly, the lawyer of Mr Sith opposed the court's decision in accordance with article 7 of the Law on the Organization and Activities of the Adjudicative Courts of the State of Cambodia. On 13 June 2006, the Cambodian government brought a case to court against Mr Sith, following the publication of his article in the newspaper *Moneaksekar Khmer*, where he referred to the Deputy Prime Minister Sok An's alleged involvement in corruption. The article in question was entitled "Sok An trading accusations of corruption with party leaders."

100. On 1 December 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning members of the *Bright Sky Garment Factory* in Phnom Penh section of the Free Trade Union of the Workers of the Kingdom of Cambodia (FTUWKC), namely, **Mr Chi Samon**, the President of the Bright Sky Factory section of FTUWKC, **Mr Tuy Vang**, **Mr Morm Thol**, **Ms In Chai Teang**, **Mr Top Savy**, **Mr Eam Samrit**, **Mr Leav Sothearath**, **Mr Pin Samoeurn**, **Ms Then Thach**, **Mr Hean Vanrath** and **Ms Nget Bora**. Allegedly a week long peaceful strike organized by the members of the said trade union, calling for better working conditions at the Bright Sky Factory in Phnom Penh, was violently suppressed on 16 October 2006. Sources allege that members of the police used guns, electric batons and rifle butts to suppress the peaceful demonstration. It is reported that some persons were injured, including a worker, who was shot. Three were reported to have been arrested and detained without charge for a number of days. On 24 October 2006, the owner of the Factory concerned reportedly closed down the night shift, dismissing the night shift. In accordance to the information received, he announced publicly to have sent the names of the organisers of the strike to the Garment Manufacturers Association of Cambodia, to the Ministry of Commerce and to the Ministry of Labour.

### Replies from the Government

101. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

### Cameroon

102. Le 14 novembre 2006, le Rapporteur special a envoyé un appel urgent au gouvernement sur **Agnès Tailé**, animatrice de l'émission radio « À vous la parole » de la radio Sweet FM, qu'aurait, le 7 novembre 2006, été enlevée à son domicile de Douala par trois hommes qui l'auraient ensuite brutalement agressée en lui infligeant de graves sévices corporels. La journaliste souffre de sérieuses séquelles mentales et physiques. Le rédacteur en chef, Alexandre Lembé, qui a remplacé la journaliste à la tête de l'émission, aurait affirmé que la radio, et spécialement le personnel qui présente l'émission, laquelle traite de sujets d'actualité avec la participation active des auditeurs, reçoit régulièrement des menaces anonymes par téléphone.

### Suivi des communications précédemment transmises

103. Le 15 novembre 2006, le Gouvernement a adressé une réponse relative à un appel urgent envoyé, le 28 décembre 2005, par le Rapporteur spécial et la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, sur **Adama Mal-Sali**. Le Gouvernement informe sur les faits que par exploit de Ahmadou Oumarou Alhadji, Huissier de justice à Maroua (province de l'Extrême-Nord du Cameroun), Amadou Adoum Haman, Lawane (responsable traditionnel) du village Balaza Lawone (une bourgade de Maroua), a fait citer devant le tribunal de première instance de Maroua Adama Mal-Sali, défenseur des droits de l'homme pour des faits de diffamation, d'injures, de menaces et de dénonciation calomnieuse. Il ressort de cet exploit qu'Adama Mal-Sali a adressé une lettre aux autorités administratives de la province de l'Extrême-Nord et aux élites de Balaza pour porter à leur connaissance qu'Amadou Adoum Haman est membre d'un parti d'opposition et par conséquent, milite pour l'échec du parti au pouvoir dans sa localité. Par ailleurs, cette autorité traditionnelle ajoute qu'elle fait injustement l'objet d'invectives et de menaces de la part d'Adama Mal-Sali. La procédure judiciaire initiée contre le susnommé l'a donc été par un particulier et non par le parquet ou le chef du parquet d'instance de Maroua. Sur l'existence d'une plainte de la victime contre Adama Mal-Sali : il ressort des faits qui précèdent que la victime, Amadou Adoum Haman, a saisi directement le Tribunal de première instance de Maroua en vertu des dispositions de l'article 182 du Code d'instruction criminelle aux termes desquelles; « le tribunal sera saisi, en matière correctionnelle, de la connaissance des délits de sa compétence, soit par le renvoi qui lui en sera fait d'après les articles 130 et 160, soit par la citation donnée directement au prévenu. Il ressort des faits qui précèdent que la victime, Amadou Adoum Haman, a saisi directement le Tribunal de première instance de Maroua en vertu des dispositions de l'article 182 du Code d'instruction criminelle aux termes desquelles : « le tribunal sera saisi, en matière correctionnelle, de la connaissance des délits de sa compétence, soit par le renvoi qui lui en sera fait d'après les articles 130 et 160, soit par la citation donnée directement au prévenu et aux personnes civilement responsables du délit par la partie civile ». Sur la base légale des poursuites à l'encontre d'Adama Mal-Sali et de sa convocation chez le procureur de la République, le Gouvernement informe que les poursuites exercées contre Adama Mal-Sali l'ont été sur la base des articles 304 et 305 du code pénal qui répriment respectivement la dénonciation calomnieuse et la diffamation ainsi que de l'article 182 du code d'instruction criminelle sus cité. Elles ont abouti à sa condamnation. En effet, il convient de souligner qu'à l'audience du 4 mai 2005, cette affaire a connu des renvois utiles et à l'audience du 3 mai 2006, le Tribunal a déclaré Adama Mal-Sali non coupable de menaces et d'injures, le déclarant par contre coupable de dénonciation calomnieuse et le condamnant à six mois d'emprisonnement fermes et à 50 000 FCFA d'amende en sa qualité de délinquant primaire. En outre, il a été condamné à payer à la partie civile 1 franc symbolique à titre de dommages et d'intérêts. Le 4 mai 2006, Adama Mal-Sali a relevé l'appel de la décision et le 7 juin 2006, la Chambre de la Cour d'appel lui a accordé la liberté provisoire, en attendant le réexamen au fond de cette affaire par la Cour d'appel. Ainsi, contrairement aux affirmations contenues dans la correspondance sus évoquée, Adama Mal Sali ne fait nullement l'objet de harcèlement judiciaire. Par ailleurs, il y a lieu de préciser que le parquet n'a initié ni posé aucun acte de poursuite contre Adama Mal-Sali. Il n'a en outre aucun intérêt à lui adresser des convocations dès lors que des poursuites sont directement exercées contre lui devant un tribunal. Sur la compatibilité des poursuites et de la convocation de Adama Mal-Sali avec les normes contenues dans la Déclaration relative aux défenseurs des droits de l'homme, le Gouvernement informe qu'il ressort de l'acte de saisie du tribunal que ce n'est pas pour avoir mis son expertise juridique et/ou professionnelle au service d'un tiers qu'Adama Mal-Sali a été cité à comparaître devant le tribunal. Il a été traduit en justice par un particulier qui s'est estimé lésé dans ses droits. Au

demeurant, il est loisible de constater que les faits exposés sans l'acte de saisie ne sont pas ceux communiqués aux rapporteurs spéciaux.

## Observations

104. Le Rapporteur spécial invite le Gouvernement à répondre à la communication envoyée le 14 novembre 2006.

### Central African Republic

105. Le 1 février 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, ont envoyé un appel urgent sur la situation de certains défenseurs des droits de l'homme consécutive aux troubles du 3 au 6 janvier 2006 à Bangui. Selon les informations reçues, dans la nuit du 2 au 3 janvier 2006, le domicile de **Nicolas Tiangaye**, ancien président de la Ligue centrafricaine des droits de l'homme (LCDH), ancien bâtonnier de l'Ordre des avocats du Barreau de Centrafrique et ancien président du Conseil national de transition, aurait été mis à sac et pillé. Le 3 janvier 2006, lors d'une rencontre tenue par un groupe de partisans du président de la République, un militaire connu pour être l'auteur présumé d'assassinats et de nombreuses violations des droits de l'homme (et dont le nom est connu de la Représentante spéciale et les Rapporteurs spéciaux) aurait déclaré vouloir « régler son compte » à **Nganatouwa Goungaye Wanfiyo**, avocat et président de LCDH. Ce dernier serait depuis rentré dans la clandestinité. Par ailleurs, des menaces auraient également été proférées contre plusieurs autres défenseurs. En particulier, le 4 janvier 2006, **Adolphe Ngouyombo**, président du Mouvement pour les droits de l'homme et d'action humanitaire (MDDH), aurait été menacé par téléphone. Le même jour, **Maka Gbossokotto**, journaliste, rédacteur en chef du quotidien *Le Citoyen*, et président de l'Union des journalistes centrafricains (UJCA), aurait été directement menacé par téléphone pour son article dénonçant les abus des militaires, à la suite des troubles. **Emile Ndjapou**, magistrat et président de la section du Contentieux du Conseil d'Etat, aurait lui aussi été menacé le 10 janvier 2006.

## Réponses du Gouvernement

106. Le 14 novembre 2006, le Gouvernement a répondu à la communication du 3 mai 2005 envoyée par le Rapporteur spécial. Le Gouvernement informe que Ahmed Aliou Outman, Commandant de la Brigade de Gendarmerie de Fotokol a initié des poursuites judiciaires en citant directement l'auteur de l'article en question, **Abdoulaye Oumate**, le directeur de publication, **Guibaï Gatama** et le journal pour diffamation devant le Tribunal de première instance de Maroua. À l'audience du 30 avril 2005, cette juridiction a vidé sa saisine dans cette cause en : déclarant l'action publique irrecevable à l'égard de A. Oumate, faute d'identification; déclarant G. Gatama coupable de diffamation et en le condamnant à cinq mois de prison et aux dépens; condamnant G. Gatama et L'œil du Sahel à payer solidairement à la partie civile la somme de cinq millions de francs CFA à titre de dommages intérêts. Le 28 mars 2006, la Cour d'Appel a maintenu le jugement de culpabilité de G. Gatama et, en lui infligeant une amende de 150 000 francs CFA, l'a condamné à payer à la partie civile la somme de 1 000 000 francs CFA de dommages intérêts pour préjudice moral, et à payer les dépens. Le 6 avril 2006, Maître Happy, conseil du prévenu s'est pourvu en cassation. L'affaire reste en cours.

## Observations

107. Le Rapporteur spécial invite le Gouvernement à répondre à la communication envoyée le 1 février 2006.

### Chad

108. Le 2 mai 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la Torture, la Représentante du Secrétaire-Général concernant les défenseurs des droits de l'homme et la Présidente-Rapporteuse du Groupe de travail sur les détentions arbitraires, a envoyé un appel urgent sur la situation de plusieurs personnes arrêtées à N'Djamena dans les jours suivants l'attaque des forces rebelles du Front uni pour le changement (FUC): **Mounoudji Fidel**, membre de la Ligue tchadienne des droits de l'homme (LTDH), **Abdel Hamit**, Imam de la mosquée de N'Djamena, **Hissein Hassan**, **Adam Mahamat**, **Ibrahim Ahmat**, commerçants, et un de leurs proches, **M. N. F.**, étudiant de 14 ou 15 ans, ainsi que d'au moins six autres personnes. Selon les informations reçues, le 16 avril 2006 Abdel Hamit aurait été arrêté, présenté à la télévision et accusé d'avoir hébergé des membres de l'opposition armée. Le 18 avril 2006, des hommes en uniforme, apparemment membres de la police, auraient également arrêté Hissein Hassan, Adam Mahamat, Ibrahim Ahmat et un de leurs proches dans le commerce familial qu'ils tiennent en ville. Cette arrestation serait liée à l'appartenance présumée d'un membre de leur famille au FUC. Le 25 avril 2006, Mounoudji Fidel, membre de la LTDH, aurait été arrêté par des hommes en uniforme militaire. Son lieu de détention resterait inconnu. Enfin, le même jour M. N. F. aurait été arrêté chez lui par des membres de l'Agence nationale de sécurité (ANS) qui cherchaient à arrêter son frère aîné pour ses liens présumés avec des membres de l'opposition armée. Les bases légales de la détention ainsi que la nature des charges retenues dans tous les cas mentionnés ci-dessus restaient inconnues ainsi que leur lieu de détention. Il semblerait par ailleurs qu'ils n'auraient eu accès ni à leur famille ni à leur avocat.

109. Le 17 mai 2006, le Rapporteur spécial a envoyé une lettre d'allégation concernant l'agression, le 17 avril 2006, de **Haman Djoda**, gardien de nuit de la station *Radio Terre Nouvelle*, émettant à Bongor. En cherchant de pénétrer dans les locaux, quatre agresseurs auraient tiré de coups de feu alors contre la sentinelle avant de prendre la fuite. Les membres de cette station auraient déjà été l'objet d'attaques dans le passé. Le 7 juillet 2005, le directeur de Radio Terre Nouvelle, le père Gianni Abeni, avait essuyé des tirs d'armes à feu alors qu'il montait dans son véhicule garé près des locaux de la station. Le 22 mars 2004, une précédente sentinelle, Hamadou Bello, avait été assassinée dans l'enceinte de la radio par plusieurs inconnus armés qui n'ont jamais été identifiés.

110. Le 17 mai 2006 le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Présidente-Rapporteuse du groupe de travail sur les détentions arbitraires, a envoyé un appel urgent concernant **Tchanguiz Vatankhah**, rédacteur en chef de la station communautaire *Radio Brakoss* basée à Moïssala, et président de l'Union des radios privées du Tchad (URPT). Selon les allégations reçues, Tchanguiz Vatankhah aurait entamé une grève de la faim en détention pour réclamer le droit d'avoir accès à son avocat. Il aurait été arrêté le 28 avril 2006 après avoir signé un communiqué au nom de l'URPT demandant

le report de l'élection présidentielle du 3 mai, et transféré au commissariat central de N'Djamena. Depuis son arrestation, il n'aurait pas pu avoir accès à son avocat.

## Observations

111. Le Rapporteur spécial invite le Gouvernement à répondre à ses communications.

### Chile

112. El 12 de enero de 2006, el Relator Especial, conjuntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación a la situación de **Juana Calfunao Paillalef**, autoridad tradicional, representante y portavoz de la comunidad mapuche de "Juan Paillalef", en Temuco. Su situación había sido ya objeto de las comunicaciones con fechas de 23 de agosto de 2004, 22 de octubre de 2004, 2 de septiembre de 2005 y 29 de diciembre de 2005, remitidas al Gobierno de Chile por titulares de distintos mecanismos especiales de la Comisión de Derechos Humanos y a las que el Gobierno ya ha respondido por cartas con fechas de 27 de diciembre de 2004 y 6 de octubre de 2005. De acuerdo con las informaciones recibidas, Juana Calfunao Paillalef fue detenida el 4 de enero de 2006 siguiendo una orden expedida por el Tribunal de Garantía de Temuco, bajo los cargos de desórdenes públicos y amenaza en contra de carabineros en servicio. El 5 de enero de 2006, Juana Calfunao Paillalef fue presentada ante el Tribunal de Garantías en donde se le formalizaron los cargos por los delitos de "desórdenes en la vía pública" y "amenazas a carabineros en servicio". Juana Calfunao Paillalef fue posteriormente trasladada al Centro de Cumplimiento Penitenciario Femenino de Temuco.

113. El 6 de marzo de 2006, el Relator Especial, conjuntamente con el Relator Especial sobre formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente sobre la situación de **Luisa Ana Calfunao Paillalef y Juana Rosa Calfunao Paillalef**. Tal situación fue ya objeto de varias comunicaciones por parte de distintos mecanismos especiales de la Comisión de Derechos Humanos de fechas 23 de agosto y 22 de octubre de 2004, 2 de septiembre y 29 de diciembre de 2005, y 12 de enero de 2006. Según las informaciones recibidas, el 22 de febrero de 2006 se emitió la sentencia que concluía el juicio iniciado el 13 de febrero del mismo año. La sentencia les impuso una pena de 61 días de presidio menor en su grado mínimo por el delito de "desórdenes públicos", así como penas accesorias de suspensión de cargo y oficio público durante el tiempo de condena. Adicionalmente, según las mismas fuentes, a la Sra. Juana Rosa Calfunao se le impuso otra pena de 61 días de presidio por el delito de "amenaza a carabineros". Juana Rosa Calfunao tiene otro proceso pendiente desde el 4 de enero de 2006 por los mismos delitos. En caso de confirmarse la presente condena, se podría solicitar el agravante de reiteración contenida en el artículo 397 del Nuevo Código Procesal Penal Chileno, lo que se traduciría en una eventual pena para el segundo proceso que podría llegar hasta los tres años y un día.

114. El 16 de mayo de 2006, el Relator Especial envió una comunicación con respecto a la información recibida sobre la situación de los periodistas **Santiago Llanquín** de la Agencia de noticias Associated Press y **Danny Alveal** del diario *Las Últimas Noticias*. De acuerdo con esta información, ambos periodistas resultaron heridos como consecuencia de una agresión de unos desconocidos mientras cubrían una marcha convocada por la Central Unitaria de Trabajadores (CUT) para conmemorar el Día del Trabajador en Santiago de Chile. Según se informa, los periodistas fueron agredidos tras grabar una serie de saqueos a locales comerciales que tuvieron lugar durante la antemencionada marcha. Se alegó que el Sr. Llanquín fue golpeado, y que el Sr. Alveal recibió una pedrada en la cabeza que le habría ocasionado heridas leves. Los presuntos agresores destruyeron además las unidades móviles de televisión y robaron robado unos equipos del canal Mega.

### **Respuestas del Gobierno**

115. Por carta con fecha 23 de noviembre de 2006, el Gobierno de Chile transmitió la siguiente información en respuesta a la comunicación urgente del 12 de enero de 2006 relativa a **Juana Calfunao Paillalef**. Se informó que el 15 de noviembre de 2006 se celebró en el tribunal de garantías de Temuco la sesión por desórdenes acaecidos el 2 y 4 de enero de 2006 en contra de Juana Calfunao. Dicha sesión debió suspenderse, ya que la imputada, junto a otras 10 personas agredieron a los fiscales y a otros funcionarios, por lo que fueron detenidos. También se indicó que el hijo de la Sra. Calfunao, que igualmente participó en la golpiza, el Sr. Jorge Landeros, huyó y fue detenido el día 16 de noviembre de 2006. El día 20 de noviembre el tribunal de garantía de Temuco condenó a Juana Calfunao a 150 días de presidio por desórdenes ocurridos en enero de 2006. La Sra. Calfunao cumple actualmente una pena remitida por desórdenes públicos y amenazas a carabineros por hechos ocurridos en diciembre de 2005.

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

116. Por carta con fecha 23 de noviembre de 2006, el Gobierno de Chile transmitió la siguiente información en respuesta a las comunicaciones de 22 de octubre 2004 y 29 de diciembre 2005 en relación al caso de **Juana Calfunao Paillalef**. El Gobierno chileno informó que el 15 de noviembre de 2006 se celebró en el tribunal de garantías de Temuco la sesión por desórdenes acaecidos los días 2 y 4 de enero de 2006 en contra de la Sra. Juana Calfunao. Dicha sesión debió suspenderse, ya que la imputada, junto a otras 10 personas agredieron a los fiscales y a algunos otros funcionarios, por lo que fueron detenidos. También se indicó que el hijo de la Sra. Calfunao, quien igualmente participó en la golpiza, Jorge Landeros huyó y fue detenido el día 16 de noviembre de 2006. El día 20 de noviembre el tribunal de garantía de Temuco condenó a Juana Calfunao a 150 días de presidio por desórdenes ocurridos en enero de 2006. El Gobierno indicó que Juana Calfunao cumple actualmente una pena remitida por desórdenes públicos y amenazas a carabineros por hechos ocurridos en diciembre de 2005.

### **Observaciones**

117. Al finalizarse este informe, el Relator Especial no había recibido respuesta a las comunicaciones enviadas de fecha 6 de marzo y 16 de mayo 2006. El Relator Especial invita al Gobierno a responder a dichas alegaciones.

## China

118. On 31 January 2006, the Special Rapporteur sent a letter of allegation concerning **Freezing Point (Bingdian)** a weekly supplement of the *China Youth Daily*, which is the official newspaper of the Communist Youth League. According to information received, on 24 January 2006, the publication of *Freezing Point (Bingdian)* was suspended by the Central Propaganda Department of the Chinese Communist Party. The editorial staff of *Freezing Point*, in particular Editor **Li Datong**, was insistently criticized by the Central Propaganda Department and other Party's members for their editorial choices. Reportedly, they were accused of "viciously attacking the socialist system" after the publication of an article against the Party's initiative to introduce an additional benefit system, rewarding journalists and reporters, linked to the appreciation of their work by cadres and government officials.

119. On 1 February 2006, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding **Mr Yang Tongyan**, an internet writer known by his pen name Yang Tianshui. According to information received, on 20 January 2006, **Mr Yang** was formally arrested in the prison of Zhenjiang, after having spent almost a month in preventive detention, on suspicion of inciting subversion of state authority. Since he was taken into custody on 23 December 2005, authorities allegedly denied him access to a lawyer or contact with his family on the ground that his case involved State secrets. Reportedly, **Mr Yang** had spent 10 years in prison on counterrevolution charges for condemning the Government's response to demonstrators in Tiananmen Square in 1989. He was further detained for a month between December 2004 and January 2005 on suspicion of inciting subversion of state authority.

120. On 9 February 2006, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Ms Ma Yalian**, a housing rights activist and cyber dissident. Ms Ma had already been the subject of an urgent appeal sent on 5 January 2006. According to information received, on 14 January 2006, Ms Ma was arrested by police and taken to the Residents' Committee office of Haungpu district, Shanghai. It was reported that when in the police car, Ms Ma's hands were cuffed behind her back and her head was covered. She was taken from the Residents' Committee office to a hotel. At the hotel, her hands and legs were tied for 24 hours. She was then transferred to another hotel, where her room was guarded by several police officers. It was alleged that she was deprived of medical care during her detention, despite the fact that she suffers from a liver condition and also has to use crutches in order to walk, and that the authorities refused to inform her parents of her whereabouts or the reason for her arrest and detention. No legal document was presented to Ms Ma to justify her detention, and that she was released on 2 February 2006. Ms Ma was previously arrested and detained between 22 and 28 December 2005. She had also been sentenced to serve Re-Education through Labour Management camp in August 2001 and March 2004. On 9 of February 2006 the Government of China replied to the communication of 10 January 2005.

121. On 2 March 2006, the Special Rapporteur sent an urgent appeal regarding **Mr Li Yuanlong**, an internet writer known by his pen name as Ye Lang. According to the information received, **Mr Li** was detained on 29 September 2005 and was charged on 9 February 2006 for inciting subversion of the state authority. He was subsequently prosecuted, reportedly based on a

few articles he had written for foreign based websites about harsh living conditions in Guizhou Province, which were critical of government policies in this regard. Concern was expressed that his prosecution might be directly linked to his criticisms of the Chinese government policies, particularly in light of the reported pattern of prosecutions and subsequent imprisonments of cyber dissidents in this respect.

122. On 6 April 2006, the Special Rapporteur sent an urgent appeal regarding **Ren Zhiyuan**, a cyber dissident and schoolteacher. According to the information, on 10 May 2005, Ren Zhiyuan was arrested and detained in Nantong, Jiangsu Province. His arrest and detention were based on an essay that he posted on the internet, "The Road to Democracy", where he expressed his view that people have the right to overthrow tyranny by violent means. On 30 September, he was tried for subversion. On 17 March 2006, the verdict and sentence against him were made public: Ren Zhiyuan was sentenced to 10 years' imprisonment for "subversion of state power". His defence lawyer expressed his intention to appeal.

123. On 18 May 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **several petitioners** in Shanghai. According to the information received, on 13 February 2006, more than a dozen petitioners had a meeting with an American consular official at the house of petitioner Ms Fu Yuxia. Following the meeting, several petitioners were arrested and detained in connection with the meeting. Amongst them were **Mr Chen Xiaoming**, Ms **Fu Yuxia**, and **Mr Han Zhongming**. Chen Xiaoming was arrested on 15 February by police officers from Shanghai's Luwan District Public Security Bureau (PSB) and was held in a room at the PSB station. He was suspected of taking the American consular official to the meeting. On 6 March, he was stripped naked and physically abused. Reports further indicated that Chen Xiaoming's whereabouts had been unknown since 31 March. Fu Yuxia was also arrested on 15 February. She was released on 5 April, and since then had been kept under house arrest. Han Zhongming and his wife were subjected to surveillance following their participation in the meeting. On 16 February, Han Zhongming was detained. His wife has reported his disappearance to the police, but no action had been taken by the police. His whereabouts remained unknown at the date this communication was sent. On the same day, in a separate incident, Ms **Ma Yalian**, a housing rights petitioner who was the subject of three previously transmitted communications, was arrested. She was held at Fengqi Hotel in Pudong New District under the watch of a dozen police officers. She was released on 6 May, but remained under house arrest, at the date this communication was sent.

124. On 19 May 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Mr Yang Tianshui**, a cyber-dissident. He had already been the subject of a previously sent communication, to which the Government had replied. According to new information received, on 16 May 2006, Yang Tianshui was sentenced to 12 years' imprisonment for posting critical articles about the government on line. He had posted numerous articles on different websites, such as the Chinese version of the daily *Epoch Times*, and had reported on the use of torture against human rights activists, and alleged that the Chinese authorities gave protection to some criminals. Reports indicated that his trial lasted a few hours. It was further reported that his website had been closed by the authorities the previous week. The closure of the website was



reportedly linked to the questionnaire on the site, asking viewers to give their opinion on the issue of compensation for families of those killed at the 1989 Tiananmen Square incident.

125. On 19 June 2006, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Mr Fu Xiancai**, an advocate for the rights of people who have been adversely affected by the construction of the Three Gorges Dam in China. According to the information received, on 19 May 2006 **Mr Fu Xiancai** appeared on German state television in an interview where he publicly denounced corruption on the part of the Chinese authorities in relation to the construction of the Three Gorges Dam. On 8 June 2006, **Mr Fu** was summoned to meet with Public Security Bureau officials at a police station in Hubei province. It was reported that shortly after he left the police station **Mr Fu** was attacked and beaten by unknown individuals. It was further reported that as a result of this attack **Mr Fu's** neck was broken and he remained in hospital, paralyzed, at the date this communication was sent.

126. On 22 June 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding **Zhao Yan**, a news assistant at the Beijing bureau of the *New York Times* and former reporter for *China Reform* magazine. Zhao Yan was the subject of a previously sent communication, to which the Government had replied. According to the new information, he was tried behind closed doors at Beijing People's Intermediate Court No.2 on 16 June 2006. It was reported that the trial lasted only for a few hours without witnesses being questioned and only a few documents being read. Zhao Yan's sister and foreign journalists were not allowed to attend the trial. The court had not given its verdict at the date this communication was sent. He was facing charges of involvement in illegally providing State secrets abroad. The charges were reportedly linked with the publication of an article in the *New York Times* on 7 September 2004 revealing Jiang Zemin's plan to retire from the position of Chairman of the Central Military Commission and the transfer of leadership to President Hu Jintao. This article preceded the official announcement about Jiang's retirement.

127. On 28 June 2006, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent an urgent appeal regarding **Mr Liu Zhengyou**, a human rights defender and lands right activist who defends the rights of farmers who have been allegedly forcibly evicted from their land and houses in Zigong, Sichuan province. According to information received, on 16 June 2006 **Mr Liu Zhengyou** was arrested by police officers while he was on his way to Geneva, Switzerland in order to participate in a human rights training workshop organized by a non governmental organization. The police officers did not present an arrest warrant. They informed **Mr Liu Zhengyou** that Zigong Municipal Public Security Bureau (PSB) and Sichuan Provincial PSB had requested that the police prevent him from going to Geneva to attend the above mentioned event. **Mr Liu Zhengyou** was sent back to Zigong, where he was detained and questioned by police officers as a "criminal suspect" in relation to his participation in a demonstration against forced evictions in April 2005. **Mr Liu Zhengyou** was reportedly released on 18 June 2006 but was told that he would have to return for more questioning at a later date. Furthermore, in the spring of 2005, **Mr Liu Zhengyou** applied for a permit for the local farmers to hold a peaceful demonstration against forced evictions but the request was denied. On 20 April 2005, when **Mr Liu Zhengyou** tried to submit a petition outlining local farmers' grievances, several villagers

were beaten and detained by the authorities for "disorderly conduct" and "obstruction of traffic." It was alleged that **Mr Liu Zhengyou** had been detained and beaten by the police several times over the past decade for his activism.

128. On 14 July 2006, the Special Rapporteur sent an urgent appeal concerning **Mr Li Yuanlong**, *Bijie Ribao*, a newspaper reporter. He had already been the subject of a previous urgent appeal sent on 2 March 2006. According to information received, on 13 July 2006, Li Yuanlong was sentenced to two years' imprisonment by the Bijie Intermediate People's Court in Guizhou province, for articles he wrote for foreign Web sites, in which he allegedly incited subversion of State authority. The reporter, known under the pen name Ye Lang (Night Wolf), had been detained since September 2005. His articles had been censored in recent years, because they often deal with rural poverty and unemployment in Guizhou Province, creating embarrassment to local officials.

129. On 14 July 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Mr Chen Guangcheng**, a lawyer and human rights defender in Linyi, Shandong province; and **Mr Guo Qizhen**, a volunteer in the Tianwang Disappeared Persons Service Center in Cangzhou City, Hebei Province. The Tianwang Disappeared Persons Service Center assists relatives of missing persons to publicise their stories on the internet in order to find their relatives. **Mr Chen** had already been the subject three previously sent communications. The Government had replied on 12 December 2005 in this regard. According to information received, on 12 May 2006, **Mr Guo Qizhen** was placed under house arrest by local security forces, while he was participating in a hunger strike to protest against alleged human rights violations committed by the Chinese authorities. On 6 June 2006, **Mr Guo** was charged with "inciting subversion of state power" and was being held in the Cangzhou City No. 2 Detention Center in Cangzhou City, at the date this communication was sent. On 10 June 2006, **Mr Chen** was charged with "deliberate destruction of property" and "organizing a mob to disrupt traffic", allegedly after he had spent 89 days in incommunicado detention in the Yinan County Detention Centre, where he remained. It was reported that he was arrested on 11 March 2006 but that his family were not informed of his whereabouts until 11 June 2006. It was still unknown, at the time this communication was sent, whether **Mr Chen** had been finally allowed to see his lawyer.

130. On 10 August 2006, the Special Rapporteur sent a letter of allegation concerning **Mr Dolma Kyab**, a teacher of history at a school in Lasha, in the Tibet Autonomous Region. According to information received, Mr Kyab was sentenced to ten years' imprisonment term for writing and maintaining a commentary manuscript on various socio-political issues in Tibet, including the existence of Chinese military camps in Tibet. It was reported that upon his arrest on 9 March 2005, Mr Kyab was first detained by the Public Security Bureau Center. On September 2005, the Lhasa People's Intermediate Court charged him with "Endangering State Security" and passed the mentioned verdict of imprisonment. Since March 2006, he had been serving his sentence in Chushul prison, in the capital Lhasa.

131. On 10 August 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding **Zhao Yan**, a news assistant

at the Beijing bureau of the *New York Times* and former reporter for *China Reform* magazine. The situation of Zhao Yan had already been the subject of two previously sent urgent appeals. The Government's response dated 14 July 2006 was also acknowledged. According to information received, Mr Yan was arrested in Shanghai on 17 September 2004. He was charged on 21 September 2004 with "providing state secrets to foreigners", allegations which could lead to charge of treason, a crime punishable by execution. His arrest was reportedly linked with the publication of an article in the *New York Times* on 7 September 2004 revealing Jiang Zemin's plan to retire from the position of Chairman of the Central Military Commission and the transfer of leadership to President Hu Jintao. This article preceded the official announcement about Jiang Zemin's retirement. Mr Zhao Yan was tried behind closed doors at Beijing People's Intermediate Court No.2 on 16 June 2006. It was reported that the trial lasted only for a few hours without witnesses being questioned and only a few documents being read. Zhao Yan's sister and foreign journalists were not allowed to attend the trial. No verdict had been announced within the official six-week time limit, which expired on 25 July 2006.

132. On 22 August 2006, the Special Rapporteur sent an urgent appeal concerning Mr **Ching Cheong**, a reporter working for the Singapore daily *Straits Times*. According to the information received, on 16 August 2006, Ching Cheong was tried by the Second Intermediate People's Court in Beijing on "espionage charges". Family members and colleagues were not allowed to attend the trial, which allegedly ended without an immediate verdict. Mr Ching had been detained since April 2005 after traveling from Hong Kong to mainland China, where he was allegedly trying to obtain a manuscript for its publication. The manuscript was said to contain the transcript of a series of interviews with the Chinese Communist Party leader Zhao Zyang, Mr Ching, who had been held in house arrest for his criticism of the government, since 1989 till his death in January 2005. The journalist, who would have confessed his crimes according to official sources, was subsequently charged with spying and plotting in collaboration with the government of Taiwan.

133. On 31 August 2006, the Special Rapporteur sent an urgent appeal concerning **Zhao Yan**, a journalist at the Beijing bureau of the *New York Times*. On 17 September 2004, Zhao Yan was charged with "providing state secrets to foreigners". The charge was allegedly connected with an article published in *New York Times* on 7 September 2004, revealing Jiang Zemin's retirement from the position of chairman of the Central Military Commission. The article preceded the official announcement about Jiang's retirement. *New York Times* said that Mr Yan had no involvement whatsoever in the article. On 25 August 2006, charges for "providing state secrets to foreigners" had been dropped, though Mr Yan was instead convicted for having committed the crime of fraud and subsequently sentenced to three years' imprisonment.

134. On 19 October 2006, the Special Rapporteur sent an urgent appeal regarding Mr **Guo Qizhen**, Mr **Zhang Jianhong**, Mr **Chen Shuqing** and Mr **Yang Maodong**. Mr Guo Qizhen had already been the subject of a previous communication sent on 14 July 2006. A reply from the Government was received on 3 October 2006. According to information received, on 12 September 2006, Mr Guo Qizhen was tried for the commission of the crime of "inciting subversion of state authority". On 17 October 2006, Guo Qizhen was sentenced to four years' imprisonment by a court in Cangzhou in Hebei province. Reportedly, the imprisonment was related to his critical articles published on overseas websites and to his participation in May 2006 in a rotating hunger strike, which had been taking place since 4 February 2006 to protest against

human rights violations in China. Mr Zhang Jianhong and Mr Chen Shuqing were both charged with "inciting subversion of state authority" on 12 October 2006 and on 17 October 2006 respectively. Reportedly, their charges were related to their articles written in international websites. Zhang Jianhong was arrested on 6 September 2006 in Ningbo. He is a poet and writer, who regularly wrote for international websites, and who founded and was the editor of a literary website until its closure in 2005. Chen Shuqing was arrested on 14 September 2006 in Hangzhou. On 28 September, Yang Maodong was charged with "illegal business activities" for allegedly publishing and selling books. He was arrested on 14 September 2006 in Guangzhou and was reportedly being held by the Public Security Bureau in Guangzhou.

135. On 1 December 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **the enactment of tightening regulations regarding the legal profession, procedural obstacles to its exercise and an increase in the harassment of lawyers**. It was alleged that the Criminal Code and the Criminal Procedure Code had been misused by authorities, in order to undermine lawyer's defence work, especially in sensitive political or social unrest cases. Article 306 of the Criminal Code, article 96 of the Criminal Procedure Law and article 45 of the Law of the People's Republic of China on Lawyers, would allow prosecutors to arrest lawyers on grounds of perjury or false testimony. According to these provisions, lawyers can be accused of destroying or fabricating evidence and of forcing or inciting a witness to change a testimony. These acts are punishable by imprisonment up to seven years and by the revocation of the lawyer's licenses. It was reported that at least 100 lawyers had been accused of violating this article on the fabrication of evidence. These incriminations were reportedly used by authorities as a method to silence defence lawyers. It was also reported that Article 96 of the Criminal Procedure Law, which applies to State secret cases, compels defendants who wish to be provided and meet with a legal counsel to request the approval of the investigative organ, which in general is the public security authority. Moreover, both the Law on the protection of state secrets and a notice issued by the Ministry of Public Security and the National Administration for the Protection of State secrets in 1995 entitled "Regulation on State secrets and the scope of each level of classification in public security work" contain a definition of "State secrets" which is excessively broad. As a consequence, criminal defence lawyers are very much exposed to being accused of disclosing State secrets. Moreover, several restrictive regulations on the legal profession had been issued by national and local authorities. On 20 March 2006, the All China Lawyers Association (ACLA) issued a "Guiding Opinion on Lawyers handling Collective Cases", which allegedly aimed to ensure that sensitive cases do not threaten social stability. According to these rules, lawyers taking on collective cases (cases involving more than 10 people) and "major sensitive cases" are required to immediately report and accept the supervision and guidance from judicial administrative organs. Collective cases were reportedly linked to land requisitioning, levying of taxes, building demolitions, migrants' enclaves, enterprise transformation, environmental pollution and rural laborers. According to the guidelines, only "politically qualified" lawyers are allowed to deal with these kinds of cases and before accepting them, they need the approval of at least three law firm partners. In addition, the guidelines allegedly warn lawyers to not encourage their clients to participate, or participate themselves in petitions before Government offices and not to contact foreign media. Lawyers who violate the rules face sanctions. Besides, it was alleged that more restrictive regulations have been issued by local public authorities. These regulations are generally called "Opinions on strengthening the guidance of lawyers handling

major and collective cases” and reportedly limit lawyers' freedom of expression, because they are not allowed to talk to the media about their views on collective and sensitive cases. It was also reported that several procedural obstacles were preventing lawyers from performing their duties, in particular conducting investigations and gathering evidences. Lawyers are compelled, inter alia, to request an authorization to the investigative organ to meet their clients in prison and they reportedly have a lot of restrictions on photocopying and recording case materials, necessary for the defence work. Besides, in order to carry their work, lawyers reportedly often need to pay to officials and judges “file retrieval fees”, “services fees” and fees for referrals from judges. Furthermore, it had been reported that the national lawyer’s association ACLA is not independent, since its Secretary- General is also the deputy director of the division in charge of lawyers and notary publics in the Ministry of Justice, and its three deputy secretaries worked for the Ministry of Justice just before they became ACLA members. Finally, it was alleged that lawyers were being harassed and in some cases attacked by authorities, because of their professional activities as legal representatives. Lawyers have no system of immunity linked to their professional activity. They are assimilated to their clients and like the suspects they defend, they are often held in prolonged pre-trial detention and have difficulty meeting with their own lawyers. When released, they and their families are subjected to intimidation by the authorities. One of the consequences of this situation would be that some defendants had been unable to find a lawyer willing to take their case because of its sensitive nature. In this context, the Special Rapporteurs brought to the Government’s attention some cases of lawyers who had been allegedly victims of intimidation and harassment. Mr **Yang Maodong**, a lawyer in charge of human rights cases, also known as Guo Feixiong, who was the subject of previous communication, was detained on 2 August 2006 after four days of “disappearance” following a protest outside the Xinhua Gate to the central Government residential compound in Beijing. On 9 August 2006, he was reportedly beaten by the train police and then taken to Shaoguan, Guangdong Province, where he was detained overnight. On 10 August 2006, he was allegedly forcibly sent back home in Guangzhou, after being accused by the police of holding a fake train ticket. On 18 August 2006, the police announced that Mr **Gao Zhisheng**, a well know lawyer in charge of human rights cases, had been arrested “for suspect involvement in criminal activities”. Mr Gao Zhisheng was already the subject of three previous communications. In response to his arrest, dozens of persons had signed a petition asking for his release. Several of them had been reportedly put under house arrest, as well as his wife and two children. On August 19 2006, the trial of **Chen Guangcheng**, a lawyer in charge of human rights case, reportedly took place without the presence of his legal team. On 24 August 2006, he was sentenced to four years and three months in prison. Moreover, two other lawyers associated with Mr Chen case, **Yan Zaixin** and **Zhang Jiankang** had been reportedly harassed and forcibly returned to their home. Chen Guangcheng had already been the subject of several communications. On 27 June 2006, **Li Jinsong** resigned to be Chen Guancheng’s Chief council after being attacked reportedly by 20 men who overturned his car while he was inside. On August 19 2006, Mr Jinsong and another defence lawyer on Chen Guacheng’s case, **Zhang Lihui**, were allegedly denied access to Mr Cheng trial. They were allegedly detained and charged of theft and then released. In addition, they had been reportedly barred from the bar since then. **Xu Zhiyong**, who replaced Li Jinsong in defending Chen Guancheng, was allegedly beaten by unidentified men and taken into police custody on the day before Chen’s trial began. They were released 22 hours later, after Chen’s trial had already finished. Mr **Zheng Enchong**, a lawyer in charge of human rights cases, served three years in prison for “leaking State secrets abroad” after he contacted an overseas human rights group about illegal evictions in Shangai. Released in June 2006, he had since been under

virtual house arrest and was allegedly constantly monitored and harassed by the police. Mr Zheng Enchong had already been the subject of two urgent appeals. **Li Baiguang** was detained on 14 December 2004, allegedly because of the legal representation provided by him to 100.000 peasants seeking damages from forced land evictions. It was reported that since his release he had been detained and physically attacked several times. **Ma Guanjun**, who represented a rape suspect in 2003, was detained and accused of “obstructing justice”. According to the information received, during the retrial, the witnesses whom Ma Guanjun prepared in favour of his client said that the suspect could not have committed the rape, but after police officers interrogated them and once again they decanted their testimony. Afterwards, Ma Guanjun was convicted of violating article 306 of the Criminal Code. He served 210 days in prison until a lawyers association launched an investigation on his case which lead to his release in March 2004.

136. On 21 December 2006, the Special Rapporteur sent a joint urgent appeal regarding Mr **Chen Guangcheng**, a human rights lawyer, and his wife **Ms Yuan Weijing**, his lawyers Mr **Li Jinsong** and Mr **Li Fangping**, a member of his defence team, Dr **Teng Biao**, and witnesses to his trial, - Mr **Chen Gengjiang**, Mr **Chen Guangdong**, Mr **Chen Guangyu** and Mr **Chen Guanghe**. Mr Chen Guangcheng has been the subject of four previous communications, dated 1 December 2006, 14 July 2006, 31 October 2005 and on 19 September 2005 and three replies of the Government dated 12 December 2005, 14 June 2006 and 3 October 2006 (awaiting translation) have been received. The Special Rapporteurs welcome the Government’s observations, but is afraid that they do not alleviate his concerns with respect to this case, particularly so in the light of consistent reports that a number of individuals involved in his trial have allegedly been targeted by the security forces. On 27 November 2006, Chen Guangcheng’s retrial before the Yinan County People’s Court lasted approximately 10 hours. It is reported that on 1 December 2006, he was sentenced to four years and three months’ imprisonment for “gathering crowds to disrupt traffic” and “intentional destruction of property”. According to reports, Chen Guangcheng’s wife, Yuan Weijing, has been under de facto house arrest from 12 August 2005 until 25 November 2006. Since then, she had been continuously followed by local security personnel and persons in civilian clothes believed to have been hired by the police. On 28 November 2006, around midday, she was arrested by members of the Yinan County Public Security Bureau and detained for questioning. Their one-year-old child was also taken but was sent home later that day. Approximately eight hours later, Yuan Weijing, was dragged out of police car and left in a barely conscious state on the side of the road near her village. She was taken to the Mengyin County Menglianggu Hospital where she was treated for extreme trauma however she was accompanied by up to 20 policemen as an order of “residential surveillance” had been issued while she was in detention. She is also suspected of committing “gathering crowds to disrupt traffic” and for “intentional destruction of property”. Furthermore it is reported that the local authorities have intimidated witnesses and allegedly withheld evidence in order to prejudice Chen Guangcheng’s retrial. It is further reported that four other key witnesses in the aforementioned trial have been subject to police harassment in relation to the most recent trial and were subjected to torture in order to provide false testimony against Mr Chen Guangcheng in his previous trial. According to reports, Mr Chen Gengjiang was detained on 26 November 2006 and held until after the hearing had taken place. He was allegedly forced to sign papers in which he agreed not to participate in the case. On the same day, Mr Chen Guangdong and Mr Chen Guangyu reportedly disappeared after they had agreed to testify on behalf of the defence. Later the same evening, Mr Chen Guanghe was allegedly abducted by undercover police officers as he was on his way to meet with Mr Li Fangping regarding the upcoming trial in which he was

scheduled to testify the following day. He was reportedly formally arrested on 28 November but his family was not informed of his arrest or his whereabouts until 3 December 2006. Previously, it is alleged that Mr Chen Guanghe was detained and tortured before the first trial by members of the Yinan police in order to procure a false confession and to testify against Mr Chen Guangcheng. He was convicted on the basis of the false confession but granted a suspended sentence. It is feared that his recent detention may be related to the fact that that he has submitted written testimony stating that his prior evidence had been coerced through torture. Members of Chen Guangcheng's defence team have also allegedly been harassed, including his lawyers Mr Li Jinsong, Mr Li Fangping and Dr Teng Biao. The two lawyers were apparently prevented from interviewing witnesses and obtaining further evidence for the retrial. On 27 November 2006, as the trial was taking place, Dr Teng Biao was reportedly detained for five hours during which he was allegedly pushed to the ground by six or seven policemen who held him down while they searched him. They also apparently searched his bags and computer and confiscated his mobile phone. Previously it had been reported that on 12 August 2005, Mr Chen Guangcheng and his wife Yuan were put under de facto house arrest. On 25 August 2005, Chen Guangcheng evaded the police surrounding his village and went to Shanghai and Nanjing, then Beijing to seek help from lawyers. On 6 September 2005 he was detained at the house of a friend in Beijing by six men who said they were public security bureau (PSB) officers. He was held overnight in a hotel and the head of the Linyi PSB and the Deputy Mayor of Linyi came to see him in the morning. The Linyi PSB head told Mr Guangcheng he was suspected of violating article 111 of CCC (illegally providing intelligence to foreign countries), for which the maximum sentence is life. However, no one produced an arrest warrant justifying his detention and the Linyi PSB men coercively took Chen Guangcheng back home. Mr Guangcheng was placed under house arrest without any order to that effect. On 9 September 2005 his landline and mobile phone services were cut off, and his computer was seized. On 23 September 2005, PSB officials searched his house without producing a search warrant. On 4 October 2005, Beijing law lecturer Xu Zhiyong and lawyers Li Fangping and Li Subin attempted to visit Chen Guangcheng but they were stopped on their way to his house. Mr Guangcheng reportedly managed to leave his house and spoke with them briefly but was then forcibly returned and beaten by men surrounding his house. The lawyers tried to approach Chen Guangcheng's house but were physically prevented. Xu Zhiyong and Li Fangping were also beaten. The three lawyers were then taken to Shuanghou Township Police station where they were interrogated until the following morning. They were advised that Chen Guangcheng's case involved "State secrets" and were escorted back to Beijing. On 24 October 2005, two other friends of Chen Guangcheng from Beijing went to visit him. As Mr Guangcheng tried to greet them, he was stopped and beaten by around 20 men surrounding his house. They beat Chen Guangcheng with fists and sticks, knocked him down several times and kicked him. Chen Guangcheng's request to seek medical attention was denied by the men who beat him and surveil his house. There were a number of eyewitnesses on the scene. The visitors were escorted away. Chen Guangcheng's wife, Ms Yuan Weijing, had also been prevented from leaving the house. It is also reported that she was beaten when she left the house to greet visitors on 27 December 2005. On 30 October 2005, Chen Guangcheng's lawyer filed a lawsuit on his behalf at the People's Court of Yinan County against two Shuanghou Township officials with intentional injury for their involvement in beating him outside his house on 24 October 2005. The two officials are alleged to head the group of more than 20 men who surveil Chen Guangcheng and Yuan Weijing's house. It is reported that to date the court has ignored Mr Guangcheng's suit. With respect to the 'traffic' incident of which Chen Guangcheng was eventually charged, on 11 March 2006, Chen Guangcheng reportedly marched with other

villagers to protest the beating of a villager. Several dozen police blocked their way and surrounded them on national highway 205, thereby causing a traffic disruption. Chen Guangcheng was taken by Yinan County police from his house to the Yinyan Detention Centre without an arrest warrant. There he was held incommunicado for 89 days until 10 June 2006. According to reports, Chen Guangcheng's lawyers collected written testimonies from village witnesses, who were also detained and then released on bail. These villagers were reportedly forced to confess or provide incriminating false information against Chen Guangcheng. They have stated that police used various torture methods at the detention centre in order to elicit confessions, such as tying them up to chairs with chains, depriving them of sleep for up to 15 days and withholding food and water. On 10 June 2006, Chen Guangcheng was formally detained on suspicion for "gathering crowds to disrupt traffic" and "intentional destruction of property". On 21 June 2006, Yinan PSB issued an arrest warrant for Chen Guangcheng No. 193 (2006). On the same day, Chen Guangcheng's lawyers's were allowed to visit him for the first time in three months. However, when they asked where he had been detained during those three months, the prison guards interrupted their discussion, preventing Mr Guangcheng from answering the question. His family has not been allowed to visit. His wife remained under house arrest. On 22 June 2006, one of Mr Guangcheng's lawyers, Mr Li Jinsong, was taken into police custody for questioning. On 24 June 2006, two lawyers, Li Jinsong and Li Subin tried to visit Ms Yuan but were stopped outside their house and beaten by men enforcing the residential detention of Ms Yuan Weijing. On 27 June 2006, lawyers Mr Li Jinsong and Mr Li Subin attempted again to see Ms Yuan Weijing (to seek medical parole for Chen Guangcheng), but were also harassed by persons in the village, while the police refused to intervene. Around 20 men turned over their car (while Mr Li Jinsong was still inside) and smashed their cameras. Li Jinsong was then taken to the police station for questioning. He resigned as Chief Counsel for Mr Chen's case. On 18 August 2006, the day before Mr Guangcheng's trial, his lawyers were detained by police. Xu Zhiyong who replaced Li Jinsong was allegedly beaten and taken into police custody and not released until 22 hours later after Chen Guangcheng's trial had ended. Similarly, it is alleged that Li Jinsong and another lawyer, Mr Zhang Lilhui were detained by police the night before the trial then released after the trial without charge. On 24 August 2006, the Yinan County People's Court convicted Chen Guangcheng under Article 291 of the Chinese Criminal Code (CCC) for "gathering crowds to disrupt traffic" and "intentional destruction of property". Article 291 CCC provides that "[w]here people are gathered to disturb order at railway stations or bus terminals, ferry landings, civil airports, market places, parks, theatres and cinemas, exhibition halls, sports grounds or other public places, or to block traffic or disrupt the movement of traffic, or to resist or obstruct public security officials from carrying out their duties according to law, if the resulting situation is serious, the ringleaders shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or surveillance." Chen Guangcheng was sentenced to four years and three months' imprisonment. However, the Linyi City Intermediate People's Court, when reviewing the appeal by Chen Guangcheng's lawyers, overturned this verdict on 30 October 2006 on the basis of insufficient evidence for convicting Chen Guangcheng for the offence under Article 291 CCC. Instead of declaring Chen Guangcheng to be innocent and releasing him, the Intermediate Court referred the case back to the lower court for re-trial. He continued to be held in detention at the Yinan County Detention Centre. Grave concerns are expressed that the charges against Chen Guangcheng and his wife Yuan Weijing are fabricated and are solely related to their legitimate activities in defence of human rights, in particular their defending villagers' rights. Serious concern is expressed that Chen Guangcheng did not receive a fair trial as his lawyers were obstructed in all aspects of their work from collecting evidence



from witnesses to meeting with their client. Concern is also expressed by the allegations his lawyers were subjected to physical abuse and detention to prevent them from representing their client at trial. Similar concerns are now expressed for the fate of his wife, Yuan. Further concern is expressed for the physical and psychological integrity of any witnesses for the defence as it is feared that they have been subjected to acts of torture or brutality by the Yinin County PSB.

### **Replies from the Government**

137. By letter dated 11 of April 2006, the Government of China responded to the communication of 31 January 2006. The Government noted that on 11 November 2006, the weekly supplement *Bingdian (Freezing Point)* of the China Youth Daily published an article entitled “Modernization and history text-books”, which, in accordance with the Government, repudiated more than 100 years of struggle by the Chinese people against foreign invaders, blatantly contradicted historical facts and seriously injured the national sentiments of the Chinese people, with extremely adverse effects on society. In view of this situation, the publicity office of the Chinese Communist Youth League, the body with oversight responsibility for China Youth Daily, decided, with effect from 25 January 2006, to halt publication of Bingdian so that corrective measures could be taken, in consistence with the law and the regulations. The Government ascertained that the weekly supplement had recommenced publication since 1 March 2006. At the same time, China Youth Daily changed the management staff concerned in the Bingdian editorial office. The Government assured that the Chinese Constitution and Chinese law clearly stipulate that citizens enjoy the right to freedom of expression and opinion.

138. On 18 of April 2006, the Government replied to the communication of 1 of February 2006 concerning **Yang Tongyam**. The Government stated that since May 2005, Yang had received financial assistance from abroad and was suspected of having plotted to subvert the authority of the Chinese State. On 23 December 2005, the Jiangsu provincial public security authorities, acting in accordance with the law, placed Yang under surveillance in his place of residence. On 19 January 2006, with the approval of the procuratorial authorities, he was placed under arrest in accordance with article 60 of the Criminal Procedures Code. The Government reassured that the Chinese judicial authorities complied strictly with the stipulations of the Chinese Criminal Code, Criminal Procedure Code and other legal instruments.

139. On 11 of April 2006, the Government of China replied to the communication of 2 of March 2006, concerning the case of **Li Yuanlong**. Until 8 May 2005, Li Yuanlong, signing himself “Ye Lang” (“Night Wolf”) or “Ye Hao Lang” (“Wolf Howling in the Night”), sent articles by email for publication on a large number of overseas websites, which contained fabrications, distortions of the truth and exaggerations of the facts, and fomented subversion of the authority of the State. On 9 September 2005, Li was taken into criminal custody on suspicion of commission of the offence of fomenting subversion of State authority. On 23 September he was released on his own recognizance with restricted freedom of movement pending trial and on 29 September was placed under arrest. On 9 February 2006, the Bijie office of the Guizhou people’s procuratorate laid charges against Li Yuanlong for the offence of fomenting subversion of State authority and, initiated proceedings against him with the Bijie regional people’s intermediate court in Guizhou province. At the time of the reception of this letter, this case was being heard at first instance. With the approval of the procuratorial authorities, the public security authorities took Li into custody, in accordance with article 60 of the Chinese Code of

Criminal Procedure. The Government noted that Chinese judicial authorities are complying strictly with the stipulations of the Chinese Criminal Code, the Chinese Code of Criminal Procedure and other legal instruments, and have upheld Li Yuanlong's exercise of his lawful rights as a person suspected of a criminal offence.

140. On 3 October 2006, the Government replied to the joint urgent appeal sent by the Special Rapporteur on 10 August 2006 regarding **Zhao Yan**, a news assistant at the Beijing bureau of the New York Times and former reporter for China Reform magazine. The Government of China informs that Zhao Yan is an ethnic Han male born on 14 March 1962 and a technical college graduate. Prior to his arrest he worked in the Beijing bureau of The New York Times. On 17 September 2004 he was placed in criminal detention and on 20 October 2004 he was arrested. The Beijing No. 2 People's Procuratorate charged Zhao Yan with the crime of illegally divulging State secrets to a foreign entity and the crime of fraud; a crime case was opened in the Beijing No. 2 Intermediate People's Court. From a hearing in the Beijing No. 2 Intermediate People's Court it was found that in the autumn of 2001, after learning that Feng Shanchen, a 43-year-old male who had been sentenced to one and a half years' labour re-education by the labour rehabilitation committee in Songyuan, Jilin Province, had not served his term. Zhao Yan secretly obtained Feng's permission to use his status as a reporter for the Baixing Xinbao newspaper to go to Quian Gorlos County in Jilin Province to conduct an investigation. During this time Zhao falsely claimed that he could use his connections in the Legal Affairs Bureau of the State Council to get Feng's sentence overturned, and he fraudently obtained the sum of 20,000 yuan from Feng for that purpose; afterwards, however, he did not give Feng any help with this matter. The Beijing No. 2 Intermediate People's Court held that Zhao Yan, motivated by illegal gain, fabricated a story and fraudently obtained a relatively large sum of another person and that his actions constituted the crime of fraud. On 25 August 2006 the Beijing No. 2 Intermediate People's Court reached a verdict, which was issued in an open session; for the crime of fraud. Zhao was sentenced to three years' imprisonment, fined 2,000 yuan and ordered to continue to repay the illegally obtained 20,000 yuan. The Court found that the prosecution had failed to produce sufficient evidence to substantiate the charge of illegally divulging State secrets to a foreign entity and therefore issued no ruling on that charge. During the trial the court fully respected Zhao's procedural rights; not only did Zhao Yan exercise his right to a defence, but two defence lawyers expressed his views fully.

141. At the time this report was finalized, the replies of the Government regarding the communications dated 9 February, 6 April, 18 and 19 of May, 19, 22, and 28 June, 14 July, 22 and 31 August, and 19 October 2006 were still in the process of being translated.

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

142. By letter dated 18 January 2006, the Government of China responded to the jointly urgent appeal sent on 29 November 2005 concerning **Mr Zhao Xin**. The Chinese Government stated that it had carefully examined the matters referred to in the aforementioned communication and wished to submit the following response: in the morning of 18 November 2005, Mr Xin went to the karaoke lounge in the hotel where, together with other members of the tour group and three other people, he consumed a large quantity of liquor. When the time came to settle the bar bill, a dispute arose with the management, whereupon he was beaten by the bar manager together with the waiter, causing him to suffer injuries to his head and fractures of his kneecap and his ribs.

That same day Mr Xin was admitted to the Bayi orthopaedic hospital in Chengdu for treatment. Following the incident, the Mao county public security authorities promptly initiated inquiries, in accordance with the law, to gather evidence and the accused were taken into custody. At the time of receiving the response from the Government Mr Xin was receiving medical treatment at Chengdu hospital and legal proceedings were in process. It was further noted by the Government that allegations that Mr Xin was beaten because he is a pro-democracy activist and had published articles casting aspersions on the human rights situation in China was unfounded. It was noted that following the incident, the Chinese judicial authorities and the public security bureau acted in strict compliance with the Chinese Criminal Code, the Chinese Code of Criminal Procedure and other laws and regulations, and Mr Xin's lawful rights have been fully upheld.

## Observations

143. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 19 of June, and 1 and 21 of December 2006.

### Colombia

144. El 8 de febrero de 2006, el Relator Especial emitió un llamamiento urgente con relación a la situación de la periodista **Olga Cecilia Vega**. De acuerdo con la información recibida, el 1 de febrero de 2006 la Sra. Vega tuvo que abandonar la ciudad de Florencia, capital del departamento de Caquetá, después de denunciar persecuciones y amenazas recibidas tras la publicación de una entrevista con un líder guerrillero de las Fuerzas Armadas Revolucionarias de Colombia (FARC) en el periódico estadounidense *The New Herald* en octubre de 2005. De acuerdo con dicha información, dos desconocidos ingresaron en el hotel en el que ésta se hospedaba pidiendo que se le comunicara que tenía 48 horas para salir de Florencia. Días antes a esa visita, la Sra. Vega recibió varias llamadas en el mismo sentido, donde además se le amenazó con hacer explotar el hotel si la periodista no abandonaba la ciudad. Se informa también de que, además de las llamadas, Olga Cecilia Vega recibió una visita de dos sujetos en su oficina en el Instituto Departamental de Salud de Caquetá. Los vigilantes de la entidad habrían confirmado a la periodista que los hombres la habían esperado y habían preguntado por ella en reiteradas ocasiones.

145. El 10 de febrero de 2006, el Relator Especial envió un llamamiento urgente con relación a una información recibida sobre el caso de unas supuestas amenazas de muerte sufridas por **Antonio Rafael Sánchez**, periodista independiente y colaborador del diario *El Tiempo*. Según estas informaciones, el 5 de Febrero de 2006 el Sr. Sánchez abandonó Montería, capital del departamento de Córdoba, tras haber recibido amenazas de muerte durante los días previos. El Sr. Sánchez había sido anteriormente amenazado de muerte junto con otros periodistas el 7 de diciembre de 2005 a través de una llamada anónima a las oficinas de *El Tiempo*, en Bogotá.

146. El 24 de marzo de 2006, el Relator Especial, conjuntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, envió una comunicación con respecto al supuesto uso excesivo de la fuerza por parte de la policía contra los estudiantes que se manifestaban en las instalaciones de la Universidad Nacional, en la ciudad de Bogotá. Según se informó, la actuación de la policía ocasionó la muerte del joven **Oscar Leonardo Salas Ángel**. De acuerdo con la información recibida, el 8 de marzo de 2006 los estudiantes universitarios de

Bogotá se manifestaban en la Universidad Nacional contra el Tratado de Libre Comercio (TLC) y en defensa de la educación pública cuando numerosos miembros del Escuadrón Móvil Antidisturbios (ESMAD) de la Policía Nacional habrían cargado contra los estudiantes, agrediéndoles, golpeándoles y disparando también gases lacrimógenos. Según algunas denuncias, miembros del ESMAD atacaron a los manifestantes lanzando piedras, pedazos de ladrillos y botellas. Se alega que durante el altercado, el estudiante Óscar Leonardo Salas Ángel, quien se encontraba entre los manifestantes, recibió un golpe en la cabeza por parte de uno de los integrantes del ESMAD, motivo por el cual falleció el día 10 de marzo de 2006 víctima de un trauma craneoencefálico en la clínica Los Fundadores de Bogotá. Además de la muerte de Óscar Salas Ángel, otros estudiantes resultaron heridos.

147. El 31 de mayo de 2006, el Relator Especial envió un llamamiento urgente, conjuntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos en relación a los acontecimientos ocurridos los días 14 a 16 de mayo de 2006 durante la protesta pacífica contra la firma del Tratado de Libre Comercio, la reelección de Álvaro Uribe Vélez y la adopción de la “Ley de Justicia y Paz”. Según se informó, el 14 de mayo de 2006 el ESMAD intentó disolver por la fuerza la concentración, dejando como resultado a varias personas heridas. Además, integrantes del ESMAD entraron en el barrio de La Paz, donde se encontraban algunos manifestantes a los que habrían atacado con gases lacrimógenos. Como resultado de esta intervención policial, al menos 60 manifestantes y residentes del barrio habrían resultado heridos, y más de 40 personas fueron detenidas, entre ellas cinco menores de edad. Por otro lado, el 16 de mayo de 2006, alrededor de 15.000 manifestantes congregados en la finca La María, en la localidad de Piendamó, departamento del Cauca, ocuparon un tramo de la autopista Panamericana. Durante la intervención del ESMAD, la policía de carretera y el Ejército Nacional llevaron a cabo una intervención en la que **Pedro Mauricio Coscuez**, de etnia indígena, fue presuntamente asesinado. Más de 100 personas, en su mayoría indígenas, habrían resultado heridas, entre ellas siete menores de edad. Además, según los informes, al menos 24 manifestantes fueron sido detenidos durante los enfrentamientos, entre ellos los periodistas **Marcelo Forero**, del periódico virtual *El Turbión*, **Jesús López** y **Carmen Eugenia León**, de la emisora de la oficina de comunicaciones La María y **Richard Calpa**, director de la emisora La Libertad, del municipio de Totoró. Se alega también que las fuerzas del orden público confiscaron los materiales de grabación de diversos miembros de la prensa. El 15 de mayo en Neiva, capital del departamento del Huila, miembros del equipo periodístico del programa de televisión *TV novedades* fueron presuntamente agredidos por varios encapuchados, quienes además les sustrajeron el material de grabación. Los hechos ocurrieron en las instalaciones de la Universidad Surcolombiana, donde los periodistas se encontraban cubriendo la ocupación de las instalaciones de este centro educativo por parte de varias comunidades indígenas. El 16 de mayo de 2006 miembros del ESMAD dispararon contra los manifestantes cuando éstos trataban de detener una movilización campesina e indígena en El Pital, departamento del Cauca. Finalmente, se alega que la fuerza pública habría agredido a los manifestantes que se encontraban bloqueando la carretera Panamericana a la altura del sector conocido como “Remolinos”, en el Departamento de Nariño. Resultaron gravemente heridos durante esta agresión el Sr. **Bayardo Rosero** y **Dagoberto Mestra**.

148. El 12 de junio de 2006, el Relator Especial envió un llamamiento urgente en relación con los periodistas **Gustavo Bell Lemus**, director del periódico *El Heraldo de Barranquilla*, **Ernesto McCausland Sojo** y **Armando Benedetti Jimeno**, ambos columnistas de dicho periódico, que mantenían una línea crítica frente a los temas de corrupción, criminalidad y caos administrativo en Barranquilla. De acuerdo con la información recibida, el 3 de junio de 2006, los mencionados periodistas recibieron en sus respectivos domicilios falsos paquetes de bomba en señal de amenaza.

149. El 15 de junio de 2006, el Relator Especial emitió conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos un llamamiento urgente en relación a la situación de la **Fundación Para la Libertad de Prensa (FLIP)**. De acuerdo con la información recibida, el 7 de junio de 2006, varias ONG, entre ellas la FLIP, recibieron un correo electrónico firmado por el "Frente Democrático Colombia Libre" en el cual se las declaraba "objetivo militar". Además de acusar a las organizaciones de guerrilleras, el correo electrónico les acusó de estar desprestigiando a Colombia ante la comunidad de países "amigos". El correo electrónico amenazó a dichas organizaciones para que cesaran con sus actividades de denuncia.

150. El 22 de junio de 2006, el Relator Especial emitió un llamamiento urgente en relación con la aparición de un mensaje en las paredes de la Universidad Nacional de Bogotá con la amenaza de ajusticiar y eliminar a todo aquel que participase de actividades terroristas. Según se informó, el 13 de junio de 2006, en el Centro de Estudios Sociales (CES) de la Universidad Nacional de Colombia habrían circulado mensajes firmados por grupos paramilitares que amenazaban de muerte a todos los estudiantes que según ellos participasen en actos terroristas. El 7 de junio de 2006, un docente y siete estudiantes también recibieron amenazas de muerte a través del correo electrónico y de forma personal. Según se informó, los mensajes habrían instado al docente **Hugo Hernando Vega** y a su familia a abandonar el país, y a los estudiantes **Tarín Lucero**, **Luz Adriana Ramírez**, **Luisa Cuesta**, **Orlando Gualdrón**, **Juan Javier López**, **Miriam Gordillo** y **Miguel Luque**, a cambiar de director de tesis, si no querían ser asesinados. En la Universidad de Antioquia, varios estudiantes, profesores y otros miembros del personal fueron amenazados de muerte en dos ocasiones, a través de mensajes escritos firmados por un grupo paramilitar autodenominado Autodefensas Unidas de Antioquia (AUDEA). Según sus fuentes, la lista del primer mensaje estaría compuesta por: **Gabriel Jaime Bocanumeth Puerta**, **Víctor Hugo Tobón Mesa**, **Oscar Mauricio Betancur Hinostroza**, **Carlos Arturo Posada Vélez**, **Guillermo León Uribe Blandón**, **Antonio José Contreras Hernández**, **Juan Gonzalo Botero Restrepo**, **Pedro Pablo Restrepo Arango**, **Luis Norberto Moreno Lopera**, **Jorge Osorio**, **Gildardo de Jesús López Botero**, **Francisco Javier Cañaverál Vélez**, **Uber Alberto Cañaverál Usura**, **Luis Fernando Builes Builes** y **Carlos Alberto Vides**. En el segundo de los mensajes la lista estaría compuesta por **María Yanet Cardona Ríos**, **Oscar Rodas Villegas**, **Julio González Zapata**, **William Freddy Pérez Toro**, **Luis Armando Calle Calderón**, **Mario Montoya Posada**, **Alberto Jaime** y **Wilmer Mejía**. Por otra parte, **Diego Fernando Acosta Salinas** también habría recibido recientemente amenazas de muerte, a través de un mensaje escrito y firmado por una organización autodenominada Grupo Anticomunista Universitario.

151. El 18 de julio de 2006, el Relator Especial envió un llamamiento urgente en relación con la situación del periodista colombiano **Herbin Hoyos Medina**, presentador y productor de programas en Radio Caracol. De acuerdo con la información recibida, el Sr. Hoyos Medina

anunció el 6 de Julio de 2006 su marcha forzosa tras recibir el 2 de julio de 2006 un ultimátum por parte de un supuesto grupo de paramilitares desmovilizados en el que se le instaba a abandonar el país en 72 horas. El Sr. Hoyos Medina alegó haber recibido durante el mes de Junio del presente año amenazas de muerte supuestamente vinculadas a su visita a la cárcel de Combita en el Departamento de Boyacá, donde éste llevó a cabo un reportaje sobre las condiciones de los detenidos por tráfico de drogas en espera de ser extraditadas a Estados Unidos. Según se informa, un mensaje amenazante fue enviado al programa de radio del Sr. Hoyos Medina el 1.º de julio de 2006 durante la presentación de dicho reportaje, lo que fue denunciado posteriormente a la Fiscalía General.

152. El 27 de julio de 2006, el Relator Especial envió un llamamiento urgente en relación con las supuestas amenazas de muerte sufridas por el periodista **Marco Perales Mendoza**, editor del semanario regional *Portada*, en la ciudad de Bucaramanga, departamento de Santander. Según la información recibida, el 22 de Julio de 2006, el Sr. Perales Mendoza recibió un correo electrónico en el que se le aseguraba que no estaría vivo para presenciar la próxima reelección del alcalde de Barrancabermeja. Tras este ultimátum, el Sr. Perales Mendoza anunció su intención de abandonar la región en los próximos días. Se alegó que las amenazas de este tipo comenzaron en mayo de 2005 tras la publicación de una serie de artículos sobre corrupción gubernamental en los que el Sr. Perales Mendoza criticaba concretamente a la alcaldía de Barrancabermeja. Se señaló que el caso de Marco Perales Mendoza se sumaba al de los periodistas locales Jenny Manrique y César González, quienes se vieron presuntamente forzados a salir de la región en enero de 2006 tras haber informado sobre actividades de grupos paramilitares.

153. El 29 de agosto de 2006, el Relator Especial envió un llamamiento urgente conjuntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos en relación con la situación de **Carlos Arturo Montes Bonilla, Héctor Jairo Paz y Martha Cecilia Díaz Suárez**. Según la información recibida, el 18 de Agosto de 2006, **Héctor Jairo Paz**, directivo del mencionado Sindicato SINALTRAINAL y trabajador de Nestlé Colombia, recibió graves amenazas en una tarjeta depositada en su domicilio. El 15 de Agosto de 2006, **Martha Cecilia Díaz Suárez**, líder sindical y presidenta de la Asociación Santandereana de Servidores Públicos (ASTDEMP) fue intimidada y golpeada por unos individuos desconocidos que le amenazaron con matar a su hija. Según la Sra. Díaz, no se trata del primer caso de agresión ni amenaza sufrida desde que es presidenta sindical. El 17 de agosto de 2006, **Carlos Arturo Montes Bonilla**, activista sindical afiliado al Sindicato Nacional de Trabajadores de la Industria de los Alimentos (SINALTRAINAL) fue asesinado cuando regresaba a su domicilio. El Sr. Montes Bonilla había participado en las denuncias contra la multinacional Coca-Cola y en las actividades sindicales del puerto petrolero ECOPETROL.

154. El 5 de septiembre de 2006, el Relator envió una comunicación en relación a los periodistas **Atilano Segundo Pérez Barrios** y **Milton Fabián Sánchez**. Según la información recibida, el 22 de Agosto de 2006, Atilano Segundo Pérez Barrios, periodista de Radio Vigía, en Toledar, fue asesinado por un individuo no identificado que entró en su domicilio en Cartagena y efectuó dos disparos antes de huir en una motocicleta. El Sr. Pérez Barrios presentaba un programa de radio, *El Diario de Marialabaja*, en el que se emitían críticas sobre cuestiones de corrupción gubernamental e influencia paramilitar en la zona. En su programa del 20 de Agosto

de 2006, el Sr. Pérez Barrios había acusado a los candidatos a la alcaldía de Marialabaja de estar financiados por fuentes paramilitares. De acuerdo con la información recibida, el Sr. Pérez Barrios había recibido amenazas recientemente. Por otro lado, el 9 de Agosto de 2006, Milton Fabián Sánchez, periodista de la emisora *Yumbo Estéreo*, fue asesinado por dos individuos no identificados que le dispararon desde una motocicleta cuando volvía a su domicilio en Yumbo. El Sr. Sánchez conducía programas institucionales y de carácter comunitario en los que se trataban cuestiones políticas.

155. El 16 de octubre de 2006, el Relator Especial emitió conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos un llamamiento urgente en relación con el descubrimiento de un plan de detener varios activistas de la sociedad civil, líderes sindicales y los defensores de derechos humanos del Departamento de Valle del Cauca, en particular, **Berenice Celeyta Alayon, Carlos Arbey González, Martha Nidia Ascuntar Achicanoy, William Arlet Escobar Holguín, Otoniel Ramírez López, Wilson Neber Arias Castillo, Ariel Díaz, Fernando Sanchez Escobar, Luis Antonio Hernandez Monroy, Harol Viafara González, Frangey Rendon Galvez y Héctor Alonso Moreno Parra**. De acuerdo con la información recibida, el 2 de octubre de 2006, un senador de la República habría recibido un informe en el que los varios dirigentes de organizaciones de derechos humanos y de sindicatos, mencionados arriba, habrían sido acusados de afiliación de una organización narcoterrorista “al servicio de la guerrilla de las FARC y del Ejército de Liberación Nacional (ELN)” y los mismos individuos habrían sido amenazados con la detención. Además el documento habría contenido datos personales de los miembros de las organizaciones mencionadas. Sin embargo, la Fiscalía General de la Nación habría indicado que no existía ninguna investigación en contra los individuos denunciados en el informe. Por otra parte, según las informaciones recibidas, anteriormente, el 25 de agosto de 2004, la Fiscalía General de la Nación habría impedido un plan de exterminación en relación con los mismos individuos. Se señala que en aquella ocasión la Fiscalía habría encontrado otro informe de la Tercera Brigada del Ejército, en el que aparecieron los nombres de los mismos dirigentes mencionados en el informe del Cuerpo Técnico de Investigación (CTI). Un proceso judicial habría sido llevado a cabo, sin embargo, la Fiscalía y Procuraduría General de la Nación dicen que no hay pruebas suficientes para iniciar una investigación oficial contra los militares ni los agentes gubernamentales que son los supuestos culpables. Se expresa la preocupación que las acusaciones de terrorismo y la amenaza de detención en contra de los activistas de la sociedad civil, los dirigentes sindicales y los integrantes de las organizaciones de derechos humanos puedan estar relacionadas con sus actividades en defensa de los derechos humanos.

156. El 10 de noviembre de 2006, el Relator Especial emitió conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos un llamamiento urgente en relación con las amenazas de muerte en contra de varios miembros del Movimiento Nacional de Víctimas de Crímenes de Estado, entre ellos **Arnold Gómez, Carmelo Agamez, Juan David Díaz, Adolfo Berbel, Roberto Serpa, Amauri Vidual** y la Señora **Jackeline Moguea**. Esta organización no gubernamental trabaja con los parientes de varias víctimas que han muerto durante el conflicto armado en Colombia. De acuerdo con la información recibida, una “lista de exterminio” apareció después de una manifestación pacífica organizada por la citada organización en contra del proceso de rearme de los grupos paramilitares en Sucre. Según los informes, la lista contenía los nombres de los individuos arriba mencionados. Igualmente, se menciona que las autoridades de investigación

criminal habrían encontrado evidencias que señalan la existencia de alianzas entre grupos paramilitares y líderes políticos locales. De acuerdo con las fuentes a que ha tenido acceso el Relator Especial, algunas personas de la lista ya han sido asesinadas. Por otra parte, se teme que la situación se haya deteriorado debido a la decisión reciente de la organización de presentar un informe ante el Senado que denuncia presuntas conexiones entre políticos locales y grupos paramilitares.

157. El 13 de diciembre de 2006, el Relator Especial emitió conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos un llamamiento urgente en relación con las amenazas de muerte en contra de **Marqueza Arrieta**, madre de Domingo Tobar Arrieta, Director del Departamento de Derechos Humanos del Comité Ejecutivo Nacional de la Central Unitaria de los Trabajadores (CUT). De acuerdo con la información recibida, el 4 de diciembre de 2006, unos desconocidos habrían amenazado de muerte a Marqueza Arrieta. Según los informes, al día siguiente denunció el incidente ante la Fiscalía del municipio de Corozal y el Cuerpo Técnico de Investigaciones (CTI). Se expresa preocupación por las amenazas en contra de Marqueza Arrieta porque se teme que representa una represalia por las actividades de su hijo, Domingo Tobar Arrieta, en defensa de los derechos humanos.

### **Respuestas del Gobierno**

158. Por carta con fecha 23 de junio de 2006, el Gobierno de Colombia transmitió la siguiente información en relación con la comunicación del 24 de marzo de 2006 sobre el supuesto uso excesivo de la fuerza por parte de la policía en contra de unos manifestantes y que ocasionaron la muerte de **Óscar Leonardo Salas Angel**. El Gobierno, por medio de la Fiscalía General de la Nación, afirmó que los hechos exactos son los siguientes: Los manifestantes se enfrentaron con la policía, por lo que ésta respondió al enfrentamiento y un joven advirtió de que había un herido y sin embargo el enfrentamiento continuó. Asimismo, el Gobierno, mediante la Fiscalía General, informó de que ninguna queja había sido formulada y que se abrió una investigación orientada a establecer las circunstancias que rodearon estos hechos y a los responsables de los mismos. Según informaciones del Gobierno, hasta la fecha de emisión de esta respuesta no se había identificado formalmente ningún responsable de los hechos, ni se había establecido si la lesión sufrida por el joven fue producto de una acción cometida por algún miembro de la policía. El Gobierno señaló que la Fiscalía General desconocía si la familia de la víctima había recibido alguna compensación. En lo referente a la base legal de las acciones emprendidas por el ESMAD, el Gobierno indicó que dicho organismo se había creado mediante Resolución 01383 del 14 de abril de 1999, lo cual demuestra su legitimación de actuación en la manifestación ocurrida. Finalmente, el Gobierno de Colombia indica que seguiría atento al resultado de las investigaciones y que informaría al Relator Especial oportunamente.

159. Por carta con fecha 18 de octubre de 2006, el Gobierno de Colombia transmitió la siguiente información en respuesta a la comunicación del 15 de junio de 2006 sobre la recepción de amenazas declarando como objetivo militar a varias ONG, entre ellas la **FLIP**. Se informó de que el Programa de Protección a Periodistas y Comunicadores Sociales del Ministerio del Interior y de Justicia solicitó a la Policía Nacional adoptar medidas preventivas de seguridad para los miembros de las ONG amenazadas, y se requirió al Departamento Administrativo de Seguridad que realizase un estudio técnico del nivel de riesgo y del grado de amenaza. El



Gobierno señaló que una vez se obtenga el resultado del estudio, los casos serían presentados a consideración del Comité de Reglamentación y Evaluación de Riesgos del Programa de Protección a Periodistas, con el fin de recomendar las medidas de protección necesarias. Se informó que el Ministerio del Interior y de Justicia realizaría el seguimiento de las investigaciones y que informaría de los resultados al Relator Especial.

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

160. Por carta con fecha 20 de enero de 2006, el Gobierno de Colombia transmitió la siguiente información en respuesta a la comunicación de 15 de marzo de 2005 en relación al caso de **Miguel Alberto Fernández Orozco**. Al respecto, el Gobierno comunicó, siguiendo informaciones de la Dirección de Asuntos Internacionales de la Fiscalía General de la Nación, que se abrieron investigaciones previas a fin que se adelantasen las labores de inteligencia encaminadas a la identificación de los autores y partícipes de la conducta punible en conocimiento por el Sr. Fernández Orozco. Mediante resolución de 30 de mayo de 2005 se dispuso escuchar en declaración a algunos testigos mencionados por el denunciante, sin que aportasen elementos para esclarecer los hechos denunciados. El Gobierno indicó que el Fiscal instructor ha ordenado la práctica de otros medios de prueba, de los cuales se esperan los resultados que permitan disponer la apertura de instrucción. El Gobierno colombiano declaró que seguirá atento al resultado de las investigaciones y que informará oportunamente.

161. Por carta con fecha 16 de mayo de 2006, el Gobierno de Colombia transmitió la siguiente información en respuesta a la comunicación de 22 de junio 2005 en relación a la Sra. **Georgina Morales** y el Sr. **Stivenson Torres**. El Gobierno informó que el caso de la Sra. Morales fue acogido en el Comité de Reglamentación y Evaluación de Riesgos del Programa de Protección para Defensores de Derechos Humanos y actualmente se está haciendo el respectivo estudio de seguridad, en base al cual se medirá el nivel de riesgo y se adoptarán las medidas más adecuadas para proteger a la Sra. Morales de las amenazas que ha sido víctima. El Gobierno asimismo indicó que, respecto del asesinato del Sr. Stivenson Torres, la investigación preliminar por este hecho está siendo adelantada por la Fiscalía Primera Seccional de Barrancabermeja, bajo el radicado n.º 255962. El Gobierno de Colombia aseguró seguir atento al resultado de las investigaciones.

162. Por carta con fecha 5 de mayo de 2006, el Gobierno de Colombia transmitió la siguiente información en respuesta a la comunicación de 8 de diciembre 2005 en relación con las presuntas amenazas de muerte contra **Lilia Solano Ramírez**: Se llevó a cabo una reunión con la Sra. Solano, en la cual se concertaron medidas iniciales preventivas y se procedió a coordinar las acciones pertinentes con el grupo de Derechos Humanos de la Dirección General de la Policía Nacional en la ciudad de Bogotá. El Comité de Evaluación de Riesgos aprobó las primeras medidas de protección y la Sra. Solano ha mantenido contacto radiofónico con diversos programas en los que ha denunciado situaciones presuntamente amenazantes en su contra. El 4 de diciembre de 2005 tanto la Dirección General de la Policía Nacional como la Fiscalía General dieron inicio a las investigaciones y pusieron en práctica las medidas de protección necesarias. Se informó de que actualmente la Sra. Solano cuenta con un esquema de protección por un vehículo, una unidad de escolta y tres radios de comunicación, todo lo cual está a cargo del Gobierno y administrado por el Departamento Administrativo de Seguridad y el Ministerio del Interior y de Justicia.

163. Por carta de fecha 5 de mayo de 2006, el Gobierno de Colombia transmitió la siguiente información en respuesta a la comunicación de 16 de diciembre de 2005 en relación con las presuntas amenazas de muerte contra **Gloria Cuartas**. El Gobierno informó de que la Unidad Nacional de Derechos Humanos y la Fiscalía de la Nación llevan a cabo actualmente la investigación preliminar por presuntas amenazas en contra de la Sra. Cuartas. La investigación fue avocada el 11 de julio de 2005, y mediante resolución se ordenó la apertura de investigación previa al igual que la práctica de una serie de pruebas, entre ellas la declaración de la Sra. Cuartas, que no fue posible realizar. Otras pruebas tendientes a averiguar la identificación de los autores se han adelantado. El Gobierno igualmente señaló que la última información recibida el 7 de febrero de 2006 indica que se ha tratado por todos los medios de ubicar a la Sra. Cuartas con el fin de que rinda declaración sobre los hechos denunciados en su contra, sin que haya sido posible su colaboración.

### **Observaciones**

164. El Relator Especial agradece al Gobierno las respuestas recibidas y le invita a responder a las comunicaciones enviadas los días 8 y 10 de febrero, 31 de mayo, 12 y 26 de junio, 18 y 27 de julio 29 de agosto, 5 de septiembre, 16 de octubre, 10 de noviembre y 13 de diciembre de 2006.

### **Côte d'Ivoire**

165. Le 19 janvier 2006, le Rapporteur spécial a envoyé un appel urgent sur la situation de la **Radiotélévision ivoirienne (RTI)**. Selon les informations reçues, le 16 janvier 2006, plusieurs centaines de « Jeunes patriotes » se sont réunis devant le siège de la RTI, dans la capitale Abidjan, et essayé de pénétrer de force dans les studios pour « faire une déclaration en direct ». Dans une atmosphère de grande tension, les responsables de la chaîne auraient proposé aux manifestants de diffuser une déclaration en différé. Le lendemain, l'enceinte de la radiotélévision aurait été placée sous la protection des militaires ivoiriens tandis que plusieurs manifestants étaient toujours installés à proximité. Avec la bienveillance de l'armée, le 18 janvier, environ 300 manifestants auraient pénétré dans la cour de la RTI et, après avoir menacé les techniciens présents, ils auraient obtenu que soit diffusé un message du leader de la Fédération étudiante et scolaire de Côte d'Ivoire (Fesci), Serge Koffi, demandant à tous les jeunes de descendre dans les rues pour exiger le départ des forces étrangères – celles des Nations Unies et l'opération française « Licorne ». Les « Jeunes patriotes » auraient continué à occuper les locaux de la RTI en lançant des mots d'ordre de mobilisation. À la même période, plusieurs fonctionnaires des Nations Unies auraient été menacés par les « Jeunes patriotes » et leurs supporters, qui auraient aussi installé de nombreux barrages routiers pour créer un sentiment d'insécurité dans la population civile. Par ailleurs, un certain nombre d'organes de presse auraient publiés des articles et nouvelles visant à propager la haine et la violence contre la communauté étrangère en général et les Nations Unies spécialement.

### **Observations**

166. Le Rapporteur spécial invite le Gouvernement à répondre à la communication envoyée le 19 janvier 2006.

## Croatia

### Follow-up to previously transmitted communications

167. By letter dated 10 January 2006, the Government of Croatia replied to the communication of 14 November 2005 in relation to Mr **Predrag Matvejevic**. The Government of Croatia indicated that no complaint was lodged. Concerning the process of the decriminalization of libel, the Government stated that the 2004 amendments to the Criminal Code were applied only in several cases, including the case of Predrag Matvejevic; still, they prompted the Government to carefully consider further libel law reform. It was further reported that the Government is fully aware of the importance of the institute of the freedom of expression and information and thus the Croatian Government was considering further amendments to the Criminal Code with the aim to prescribe only a fine for offences against honor and reputation of individuals, including libel. The same sentences would be envisaged for other 20 or so offences from other chapters of the Criminal Code, and in case such a fine was non-collectible, it would be substituted by community service and not by prison.

## Cuba

168. El 9 de febrero de 2006, el Relator Especial envió un llamamiento urgente en relación con la situación de los **miembros de Cubanacán Press**, una agencia de noticias independiente. De acuerdo con la información recibida, los periodistas de Cubanacán Press utilizaron un centro de acceso público a Internet para enviar sus comunicados hasta el 23 de enero de 2006, fecha a partir de la cual se les habría impedido el acceso. En protesta por ésta y otras restricciones de acceso a Internet, **Guillermo Fariñas**, editor de Cubanacán Press, inició una huelga de hambre seca desde el 31 de Enero de 2006.

169. El 24 de febrero de 2006, el Relator Especial, conjuntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre el derecho de toda persona al disfrute del más alto nivel posible de salud física y mental y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación de **José Ubaldo Izquierdo Hernández**, activista de derechos humanos y periodista independiente, detenido el 18 de marzo de 2003 y actualmente encarcelado en la cárcel de Guanajay (La Habana). La detención del Sr. Izquierdo Hernández junto con la de otros individuos había sido ya objeto de una comunicación enviada por el Relator Especial conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la independencia de los magistrados y abogados el 19 de mayo de 2003. Cabe destacar que en su opinión 9/2003 (E/CN.4/2004/3/Add.1), el Grupo de Trabajo sobre la Detención Arbitraria había concluido que la detención del Sr. Izquierdo Hernández era arbitraria, en contra de lo establecido por los artículos 19 a 21 de la Declaración Universal de Derechos Humanos. Sin embargo, según la información recientemente recibida, el estado de salud del Sr. Izquierdo Hernández se habría deteriorado hasta el punto de ser declarado incompatible con su detención. Se alega que el Sr. Izquierdo Hernández padecía diversas lesiones que según la opinión de los propios médicos penitenciarios no podrían ser curadas en la cárcel, donde sólo se le podría administrar un tratamiento paliativo.

170. El 30 de marzo de 2006, el relator envió un llamamiento urgente en relación al periodista independiente **Juan Carlos Herrera** de la agencia de prensa Libre Oriental, el cual según se informa fue arrestado en marzo del 2003, sentenciado a 20 años de prisión, y actualmente encarcelado. La detención del Sr. Herrera junto con la de otros individuos había sido ya objeto de una comunicación enviada el 19 de mayo de 2003 por el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la independencia de los magistrados y abogados. Cabe destacar que en su opinión 9/2003 el Grupo de Trabajo sobre la Detención Arbitraria concluyó que la detención del Sr. Herrera fue arbitraria, en contra de lo establecido por los artículos 19 a 21 de la Declaración Universal de Derechos Humanos. Según la información recientemente recibida, el 4 de marzo de 2006 el Sr. Herrera inició una huelga de hambre en protesta contra las condiciones de vida y el tratamiento médico que recibe en la cárcel.

171. El 28 de abril de 2006, el Relator Especial envió un llamamiento urgente relación con **Marta Beatriz Roque**, dirigente de la Asamblea para Promover la Sociedad Civil, y **Roberto Santana Rodríguez**, colaborador de la agencia de noticias independiente Cubanet. De acuerdo con la información recibida el 25 de abril de 2006, Marta Beatriz Roque fue presuntamente agredida por un grupo de partidarios del Gobierno. Según se informa, el incidente tuvo lugar cuando la economista y disidente se disponía a abandonar su domicilio para asistir a una cita con otros opositores en la Sección de Intereses Norteamericanos en La Habana. Se alegó que el mismo día, el periodista Roberto Santana Rodríguez recibió en su domicilio de Santiago de las Vegas (La Habana), la visita del jefe de sector de la policía, el secretario local del Partido Comunista, el coordinador local del Comité de Defensa de la Revolución y un miembro de la Asociación de Combatientes, quienes le informaron que desde ese momento tenía prohibido salir de su casa, bajo pena de que se aplicase contra él la Ley N.º 88, relativa a la independencia nacional y la economía de Cuba, la cual permite la imposición de penas de hasta 20 años de prisión. Según se informó, el Sr. Santana también había expresado su intención de participar en la antemencionada reunión.

172. El 22 de mayo de 2006, el Relator Especial, conjuntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación a los periodistas **Odelín Alfonso**, corresponsal del sitio de noticias de Internet Cubanet, y miembro del Partido Liberal Ortodoxo, y **Milisa Valle Ricardo**, de la agencia Jóvenes sin Censura. De acuerdo con la información recibida, el 13 de mayo del 2006, el Sr. Alfonso fue detenido junto a su esposa cuando regresaba de una reunión convocada por la organización Damas de Blanco. La Seguridad del Estado les habría conducido a un local de la Policía Nacional Revolucionaria (PNR), donde, según se informó, el periodista permaneció detenido sin imputarle cargos. El mismo día, la Sra. Valle Ricardo fue detenida en Gibara (provincia de Holguín) junto con su marido, Alexander Santos Hernández, miembro del Movimiento Liberal Cubano (MLC). La pareja fue presuntamente interceptada por la PNR cuando regresaba de La Habana, donde se había celebrado una reunión del MLC. Según se informó, la policía invadió el domicilio conyugal y confiscó todos los libros de la biblioteca independiente Guillermo Cabrera Infante II. Se alegó que las autoridades advirtieron además a la Sra. Valle Ricardo y al Sr. Santos Hernández que "no iban a seguir tolerando sus actividades", y que esa sería la última advertencia.

173. El 10 de agosto de 2006, el Relator Especial envió una comunicación en relación con la situación de los periodistas detenidos **Oscar Mario González Pérez** y **Roberto Jesús Guerra Pérez** ambos inculcados, con arreglo a la Ley N.º88, de atentado a la independencia territorial y a la economía de Cuba. De acuerdo a la información recibida, el Sr. González Pérez continuaría, tras casi un año de detención, sin recibir el juicio pertinente ni noticia del mismo. Cofundador de la agencia independiente Grupo de Trabajo Decoro, fue detenido el 22 de julio de 2005 junto con otros opositores en la víspera de una manifestación de la disidencia. El Sr. González Pérez se encontraba en ese momento internado en la cárcel "1580", en San Miguel de Padrón (La Habana). La detención le habría causado un grave empeoramiento de salud agravado por la ausencia de medicamentos, a lo que se añade como factor de riesgo la avanzada edad del detenido, de 62 años. Por otro lado, se alegó que Roberto Jesús Guerra Pérez, miembro del centro de información de la asociación patriótica La Corriente Matutina y colaborador de los sitios Nueva Prensa Cubana y Payolibre, fue detenido el 13 de Julio de 2005 bajo acusación de desorden público junto con su esposa y otro militante. Supuestamente detenido en las celdas de la Policía Nacional Revolucionaria (PNR), habría efectuado varias huelgas de hambre que le llevaron al hospital militar a causa de un posible empeoramiento de su estado de salud. Sin embargo, se informó de que el Sr. Guerra Pérez no había recibido ni una alimentación correcta ni una asistencia médica adecuada, permaneciendo hasta el momento detenido sin previsión de juicio alguno.

174. El 15 de agosto de 2006, el Relator Especial envió una comunicación en relación a la situación de los periodistas **Ahmed Rodríguez** y **Alicia Niobis Ortis**, y de **Yamile de los Angeles Llanes**, esposa del periodista encarcelado José Luis García Paneque. Según la información recibida, el 4 de agosto de 2006, Ahmed Rodríguez, corresponsal en La Habana de la agencia Jóvenes sin Censura, fue objeto, junto a su familia, de amenazas e intimidaciones supuestamente tanto de autoridades locales como por parte de manifestantes que rodearon su casa. El mismo día 4 de agosto la periodista independiente Alicia Niobis Ortis, perteneciente al Partido Liberal Cubano, fue presuntamente detenida por la PNR e interrogada posteriormente por agentes de la seguridad del Estado, quienes le aconsejaron no continuar con sus actividades periodísticas, advirtiéndole que desde ese momento sería vigilada pudiendo llegar a ser procesada. Por otro lado, y según estas mismas fuentes, durante la noche del 3 de agosto de 2006, la casa en la que reside la Sra. Yamile de los Ángeles Llanes, esposa del periodista preso, fue atacada por un grupo de manifestantes que amenazaron con quemar la vivienda. El periodista Luís García Paneque, cuyo estado de salud sigue empeorando progresivamente desde que se encuentra en prisión, está encarcelado desde el año 2003.

175. El 12 de diciembre de 2006, el Relator Especial envió un llamamiento urgente en relación con la siguiente situación. El 4 de diciembre de 2006, **Ahmed Rodríguez Albacia**, periodista de Jóvenes sin Censura, agencia de noticias independiente, fue detenido, según los informes, en su casa por personal de los servicios de seguridad del Estado y agentes de la PNR. Según un testigo presencial de los hechos, las fuerzas de seguridad registraron el domicilio del Sr. Rodríguez Albacia, e incautaron material técnico y de grabación, así como todos los archivos del periodista. Según la información recibida, el Sr. Rodríguez permanece detenido. Desde el 29 de noviembre el Sr. Rodríguez Albacia, su familia y huéspedes reunidos en su casa fueron, según informes, objeto de repetidos ataques por supuestos partidarios del gobierno que arrojaron piedras contra su casa y le prendieron fuego. El 5 de diciembre, el periodista **Raymundo Perdigón Brito** fue condenado por el tribunal provincial de Sancti Spiritus a cuatro años de cárcel por "peligrosidad

social predelictiva" en relación con su trabajo como periodista. El Sr. Perdigón ingresó en la cárcel provincial.

### **Respuestas del Gobierno**

176. Por carta con fecha 20 de febrero de 2006, el Gobierno de Cuba transmitió la siguiente información en respuesta al llamamiento urgente del 9 de febrero de 2006 sobre la situación de los miembros de Cubanacán Press, una agencia de noticias independiente. El Gobierno de Cuba afirma que no existe ni está registrado legalmente Cubanacán Press como medio de prensa y que el Sr. **Guillermo Fariñas** no es periodista, o al menos su nombre no corresponde al de persona alguna acreditada en Cuba como periodista. Se informó de que el Sr. Fariñas fue condenado en el 2002 por provocar alteraciones sistemáticas del orden público y que desde el 2004 se encuentra disfrutando del beneficio de una Licencia Extrapenal por razones de salud, que no son resultado de una huelga de hambre sino de una enfermedad crónica. Asimismo se señaló que el Sr. Fariñas actuaba como asalariado de los Estados Unidos en apoyo a su política de hostilidad, bloqueo y agresiones contra el pueblo cubano. Referente a las supuestas restricciones del uso de Internet en Cuba, la Misión Permanente de Cuba ante la Oficina de las Naciones Unidas en Ginebra indica que las tecnologías de la información son pilares básicos en la política cubana y que son elementos claves para una sociedad basada en el conocimiento. Del mismo modo, se informa de manera extendida sobre las circunstancias actuales y el impacto de las tecnologías de la información en Cuba.

177. Por carta con fecha 6 de marzo de 2006, el Gobierno de Cuba transmitió la siguiente información en respuesta al llamamiento urgente del 24 de febrero de 2006 sobre la situación del Sr. **José Ubaldo Izquierdo Hernández**, detenido el 18 de marzo de 2003. El Gobierno de Cuba afirmó que el Sr. José Ubaldo Izquierdo fue sancionado por un delito de actos contra la independencia o la integridad territorial del Estado, no por el ejercicio de la libertad de expresión. Se indicó que se encuentra en prisión, después de haberse cumplido todas las garantías del proceso, por haber incurrido en la comisión de graves hechos constitutivos de delitos, participando en actos en contra del orden constitucional cubano bajo las instrucciones y pagado por el Gobierno de los Estados Unidos. El Gobierno de Cuba señala que el derecho a la vida y a la integridad física del Sr. José Ubaldo Izquierdo están asegurados y que su estado de salud actual es estable.

178. Por carta con fecha 22 de mayo de 2006, el Gobierno de Cuba transmitió la siguiente información en relación con el llamamiento urgente del 28 de abril de 2006 sobre la situación de los ciudadanos cubanos **Marta Beatriz Roque** y **Roberto Santana Rodríguez**. El Gobierno de Cuba señaló que no tienen constancia alguna de la supuesta violación del derecho a la libertad de expresión de las personas citadas y que las alegaciones del Relator Especial son infundadas. Se negó que ninguna de las personas citadas fuera molestada, agredida o acosada a causa de sus opiniones. El Gobierno cubano garantizó que ambas personas se mueven libremente por el territorio cubano y disfrutan de total acceso a los medios internacionales de prensa. Asimismo se informó que ambas personas habrían trabajado para socavar el orden constitucional bajo las instrucciones y pagados con el dinero del Gobierno de los Estados Unidos de América. En cuanto al Sr. Santana Rodríguez, la Misión Permanente de Cuba confirmó que este ciudadano mantiene estrechos vínculos conspirativos con funcionarios de la Sección de Intereses de Estados Unidos en La Habana. En lo que refiere a la Sra. Marta Beatriz Roque, el Gobierno informó que

ésta fue sancionada por un tribunal en el año 2003, pero que actualmente goza de una Licencia Extrapenal desde julio de 2004, y que habría abusado de los beneficios concedidos.

179. Por carta con fecha 10 de octubre de 2006, el Gobierno de Cuba transmitió la siguiente información en relación al llamamiento urgente del 22 de mayo de 2006 sobre los casos de los ciudadanos **Odelín Alfonso Torna y Milisa Valle Ricardo**. Según se informó, el 13 de mayo de 2006 el Sr. Odelín Alfonso Torna asistió a una actividad de carácter provocativa con el objeto de desestabilizar el orden democrático de Cuba. Fue detenido y puesto en libertad el mismo día 13 de mayo de 2006. En el caso de Milisa Valle Ricardo no se ha producido detención hasta el momento. El Gobierno cubano señaló que al esposo de la Sra. Milisa Valle se le detectaron medios y literatura subversivos abastecidos por la Sección de Intereses de los Estados Unidos en La Habana. Por lo expuesto, el Gobierno de Cuba concluyó que ambos individuos están al servicio del Gobierno de los Estados Unidos, que las medidas aplicadas corresponden con la legislación nacional y que durante su cumplimiento no se violó ningún procedimiento legal.

180. Por carta con fecha 28 de noviembre de 2006, el Gobierno de Cuba transmitió la siguiente información en respuesta a la comunicación del 15 de agosto de 2006 con relación a las alegaciones referidas a los ciudadanos **Ahmed Rodríguez, Alicia Niobis Ortis y Yamilé de los Angeles Llanes**. Según informaciones del Gobierno cubano, ninguna de las personas mencionadas fue objeto de las alegaciones de violaciones de derechos humanos y amenazas; el estado de salud de José Luis García Paneque es estable y compatible con las condiciones de reclusión; ninguna de las personas citadas se encuentra afiliada como reportero o periodista y finalmente, se vincula a las personas a la Oficina de Intereses de los Estados Unidos en La Habana, de la que recibirían dinero como pago de los servicios que brindan a la política de hostilidad contra el pueblo cubano. Asimismo, el Gobierno hizo referencia a las satisfactorias condiciones que prevalecen en el sistema penitenciario cubano y al trato digno y humano que reciben los detenidos.

181. Por carta con fecha 28 de noviembre de 2006, el Gobierno de Cuba transmitió la siguiente información en respuesta al llamamiento urgente del 12 de diciembre de 2006 sobre las alegaciones referidas a **Ahmed Rodríguez y Raimundo Perdigón Brito**. El Gobierno de Cuba informó de que ninguna de las personas mencionadas fue objeto de las alegaciones de violaciones de derechos humanos y amenazas; ninguna de las personas citadas se encuentra afiliada como reportero o periodista y finalmente, se vincula a las personas a la Oficina de Intereses de los Estados Unidos en La Habana, de la que recibirían dinero como pago de los servicios que brindan a la política de hostilidad contra el pueblo cubano. Asimismo, el Gobierno cubano hizo referencia a las satisfactorias condiciones que prevalecen en el sistema penitenciario cubano y al trato digno y humano que reciben los detenidos.

182. Por carta con fecha 21 de diciembre de 2006, el Gobierno de Cuba transmitió la siguiente información en respuesta al llamamiento urgente del 12 de diciembre de 2006 sobre **Ahmed Rodríguez Albacia y Raymundo Perdigón Brito**. El Gobierno informó de que las personas citadas no fueron objeto de violación alguna de sus derechos humanos; que ambas personas están vinculadas con la Oficina de Intereses de los Estados Unidos en La Habana, cumpliendo misiones en apoyo de la política de hostilidad norteamericana contra el pueblo cubano y que ninguna de estas personas fue arrestada. El Gobierno de Cuba desmintió cualquier información

en relación con los sucesos ocurridos en el domicilio del Sr. Ahmed Rodríguez y aclaró sobre Raymundo Perdigón que su sanción fue resultado de una sostenida conducta antisocial.

### Observaciones

183. El Relator Especial agradece al Gobierno las respuestas recibidas e invita al Gobierno a responder a las comunicaciones enviadas el 30 de marzo y el 10 de agosto de 2006.

#### Democratic Republic of the Congo

184. Le 20 février 2006, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé une lettre d'allégation concernant la situation du président de l'organisation non-gouvernementale Journaliste en Danger (JED), **Donat Mbaya Tshimanga** et son secrétaire général, **Tshivis Tshivuadi**. Selon les informations reçues, le 7 février 2006, le journal de Kinshasa *Le Soft* publiait les résultats d'une enquête menée par JED concernant l'assassinat le 3 novembre 2005 de Franck Ngycke Kangundu, journaliste spécialisé dans les affaires politiques au quotidien *La Référence Plus*, et de son épouse Hélène Mpaka Kangundu par des inconnus près de leur domicile à Kinshasa. Franck Ngycke Kangundu et Hélène Mpaka ont fait l'objet d'une lettre d'allégation envoyée par le Rapporteur spécial en date 9 novembre 2005, à la quelle le Gouvernement a répondu en date 14 novembre 2005. Depuis la publication des résultats de l'enquête menée par JED, Donat Mbaya Tshimanga et Tshivis Tshivuadi, auraient été obligés de se cacher pour raisons de sécurité, suite à un appel téléphonique anonyme. Le conseiller juridique de JED, **Charles Mushizi** aurait aussi reçu des menaces par téléphone. Lors d'une conférence de presse tenue le 21 novembre 2005, la police aurait présenté trois militaires comme étant les assassins présumés et affirmé que leur objectif était de voler. Néanmoins, selon des sources non gouvernementales, les enquêtes menées indiqueraient que les assaillants auraient été recrutés pour éliminer le journaliste à cause de son travail.

185. Le 20 mars 2006, le Rapporteur spécial a envoyé une lettre d'allégation concernant la situation de trois journalistes incarcérés au Centre pénitentiaire et de rééducation de Kinshasa (CPRK). **Jean-Louis Ngalamulume**, directeur du journal *L'Éclairer*, aurait été interpellé le 27 janvier 2006, gardé à vue quatre jours au poste de police « Kin-Mazière » à Kinshasa et en suite emprisonné au CPRK après avoir été inculpé d'« injures publiques » devant le Tribunal de Grande Instance. Ngalamulume aurait été entendu au sujet d'un article paru dans son journal le 11 janvier 2006 concernant un conservateur des titres immobiliers, travaillant dans la capitale, et sa gestion des titres fonciers. **Jean-Pierre Pambu Lutete**, directeur du journal *La Tolérance*, aurait été placé sous mandat d'arrêt provisoire, le 3 mars 2006, par le Parquet du Tribunal de Grande Instance pour « imputations dommageables » et « incitation à la haine tribale » au sujet d'un article paru le 30 janvier 2006 concernant les activités d'un autre conservateur des titres immobiliers agissant dans une commune de la ville de Kinshasa. Un troisième journaliste, **Patrice Booto**, directeur du trihebdomadaire *Le Journal* et de son supplément *Pool Malebo*, poursuivi pour « propagation de faux bruits en public », « offense au chef de l'État » et « outrage au gouvernement », était incarcéré au CPRK. En novembre 2005, il aurait publié un article relatif à la politique internationale du Président Kabila incompatible, selon le journaliste, avec le conflit qui opposait à l'époque le Gouvernement aux syndicats du secteur de l'enseignement. Booto avait été jugé par la Cour de sûreté de l'État, qui avait été dissoute, par la promulgation de



la nouvelle Constitution, quelques jours après le procès sans avoir les temps de prononcer son verdict.

186. Le 9 mai 2006, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent sur **Jean-Claude Katende**, président de *l'Association africaine de défense des droits de l'Homme* (ASADHO), section du Katanga, et de **Jean-Pierre Mutemba**, *secrétaire général de la Nouvelle dynamique syndicale*, deux organisations membres du *Réseau ressources naturelles* (RRN), regroupant une trentaine d'organisations de la société civile et des médias. M. Katende et M. Mutemba ont fait l'objet d'un appel urgent envoyé le 7 janvier 2005 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, appel urgent au quel le Gouvernement n'a pas répondu. Selon les informations reçues, les 18 et 19 avril 2006, le RRN aurait organisé un atelier de travail sur « Le rôle des médias et de la société civile dans l'exploitation des ressources naturelles de la République démocratique du Congo (RDC) » à Lubumbashi. Durant cet atelier, les participants auraient analysé plusieurs rapports traitant de cette problématique parmi lesquels figuraient celui du panel des Nations Unies sur l'exploitation illégale des ressources naturelles de la RDC, et celui de l'organisation *Fatal Transactions*, membre du RRN. Ce dernier document mettrait notamment en cause, en les citant, la responsabilité de plusieurs membres du Parti du peuple pour la reconstruction et la démocratie (PPRD) dans le pillage des ressources naturelles. Le 19 avril 2006, à l'issue de cette réunion, le RRN aurait publié une déclaration finale dénonçant la mauvaise gestion des ressources naturelles par les autorités congolaises et la corruption. Depuis lors, MM. Jean-Claude Katende et Jean-Pierre Mutemba auraient reçu plusieurs appels anonymes les menaçant de mort. Le 3 mai 2006, le Gouverneur de la province du Katanga, aurait signifié à M. Mutemba qu'il risquait « de perdre la vie » s'il continuait de faire pression sur les autorités pour obtenir une meilleure gestion des ressources naturelles. En outre, le 22 avril 2006, plusieurs proches du PPRD et certains des membres cités dans le rapport de *Fatal Transactions* auraient donné une conférence de presse, diffusée sur la chaîne de télévision Mwangaza, durant laquelle ils auraient qualifié les organisateurs de l'atelier du RRN de « personnes à la solde des ONG internationales qui veulent nuire aux intérêts du pouvoir en place ».

187. Le 28 juin 2006, le Rapporteur spécial a envoyé une lettre d'allégation concernant **Gaston Ngalamulume**, journaliste de la *Radio Etoile*, émettant à Kamako, province du Kasai Occidental. Radio Etoile aurait diffusé le 21 juin 2006 dans la soirée une pièce de théâtre radiophonique relatant le récit d'une femme violée par un officier de la police. Le matin suivant, M. Ngalamulume et un directeur de Radio Etoile, M. Emmanuel Muela, auraient reçu à leur rédaction une convocation leur demandant de se présenter au commissariat de police où ils auraient été entendus au sujet de la diffusion de la pièce de théâtre radiophonique. Ensuite, le commandant de la police locale aurait demandé la cassette de la pièce de théâtre, et après l'avoir auditionné, il aurait estimé que cette pièce visait à discréditer la police; M. Ngalamulume aurait ainsi malmené et détenu dans un cachot.

188. Le 7 juillet 2006, le Rapporteur spécial a envoyé une lettre d'allégation au sujet de **Ghislaine Dupont**, envoyée spéciale de Radio France Internationale (RFI), qu'aurait été expulsée du pays, le 3 juillet 2006, sans qu'aucun motif officiel n'ait été donné par les autorités congolaises pour justifier cette décision. Au préalable, Ghislaine Dupont aurait été convoquée à

la Direction générale des Renseignements et services spéciaux de la police congolaise (DGRS) où la décision de son expulsion lui aurait été communiquée oralement, et quelques heures plus tard la journaliste aurait été escortée à l'aéroport jusqu'à l'avion par des agents de la DGRS. Selon les informations reçues elle aurait été embarquée après avoir été soumise à une séance de photographie et de prise d'empreintes digitales. La journaliste, détentrice d'un visa professionnel de six mois, était arrivée à Kinshasa le 17 avril en vue de couvrir le processus électoral qui devrait aboutir le 30 juillet prochain. À la suite de certains reportages effectués par elle, particulièrement à l'est du pays, le Ministère de la Presse et Information aurait menacé de fermer RFI sous prétexte que ces reportages auraient contribué à diffuser des sentiments conflictuels, allant jusqu'à la haine, dans les populations de l'Est.

189. Le 11 juillet 2006, le Rapporteur spécial a envoyé une lettre d'allégation sur la situation de M. **Bapuwa Mwamba**, journaliste pour plusieurs journaux de la capitale, dont le quotidien d'opposition *Le Phare*, et ancien correspondant de la revue Jeune Afrique Economie. Selon les informations reçues, le 8 juillet 2006, M. Bapuwa Mwamba aurait été abattu à son domicile de Kinshasa. Trois hommes armés se seraient introduits dans sa résidence du quartier de Matete peu après deux heures du matin. Le corps du journaliste, gisant dans une mare de sang, aurait été trouvé par la police qui avait été prévenue de l'agression par un de ses familiers.

190. Le 14 juillet 2006, le Rapporteur spécial, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, a envoyé un appel urgent concernant la situation d'**Olivier Komfie Mabwava**, correspondant local de *Digital Congo FM*. Selon les informations reçues, le 12 juillet 2006, le journaliste aurait été placé sous mandat d'arrêt immédiat, après avoir été convoqué par un magistrat – dont le nom est connu par les Rapporteurs Spéciaux - du Tribunal de grande instance de Bandundu pour l'audition d'une cassette du journal-radio. Les propos envers le gouverneur de province Gérard Guy Fuza Ginday, contenus dans la cassette, auraient été considérés comme gravement offensifs et le Procureur général en personne aurait décidé de placer sous mandat d'arrêt le journaliste. Olivier Komfie Mabwava aurait confirmé d'avoir interviewé, lors du journal du 6 juillet, le Président du syndicat des médecins de Bandundu, qu'il aurait accusé le gouverneur d'avoir bloqué le salaire du personnel de la santé et aurait invité ses partenaires à organiser un sit-in devant le gouvernement.

191. Le 25 juillet 2006, le Rapporteur spécial, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, a envoyé un appel urgent sur la situation de M. **Patrice Booto**, éditeur-directeur du trihebdomadaire *Le Journal* et son supplément *Pool Malebo*. M. Booto a fait l'objet d'une communication envoyée par la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression en date 7 novembre 2005, communications restée sans réponse. Le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression avait soulevé à nouveau ce cas dans sa lettre d'allégations envoyée le 20 mars 2006, sans obtenir, de nouveau, aucune réponse. Selon les informations reçues, le 21 juillet 2006, le ministère public du Tribunal de grande instance de Kinshasa/Kalamu, a requis en appel trois ans de prison ferme à l'encontre de Patrice Booto. M. Booto avait été condamné le 30 mai 2006 en première instance par le Tribunal de Paix de Kinshasa/Assossa, à six mois de prison ferme et 500 dollars américaines pour offense au Chef de l'État et outrage au Gouvernement, en l'acquittant quant à l'infraction de reproduction et diffusion de fausses nouvelles. Le journaliste avait été arrêté le 2 novembre 2005 pour avoir publié, dans les éditions parues en septembre

2005 de *Pool Malebo* et *Le Journal*, un article qui critiquait la décision du Gouvernement congolais de contribuer à financer, pour un montant de 30 millions de dollars américains, le secteur éducatif d'un pays voisin tandis qu'un grave conflit de travail opposait, en RDC, le Gouvernement aux syndicats du secteur de l'enseignement. Le ministère public du Tribunal de grande instance de Kinshasa/Kalamu a estimé que le journaliste avait la ferme intention de nuire au chef de l'État et au Gouvernement de transition, et qu'il méritait d'être puni, pour offense au Chef de l'État, outrage au Gouvernement, reproduction et diffusion de fausses nouvelles, à 3 ans de prison ferme. Le verdict devrait être prononcé vendredi 28 juillet 2006, à la veille des élections présidentielles annoncées pour le 30 juillet. Selon les informations reçues, Patrice Booto serait à l'heure actuelle détenu malgré le paiement de la somme de 500 dollars américains d'amende à l'issue du prononcé du premier jugement.

192. Le 26 septembre 2006, le Rapporteur spécial, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, a envoyé un appel urgent concernant M. **Feu D'or Bosange**, éditeur du journal *Tapis Rouge*. Selon les informations reçues, le 12 septembre 2006, M. Bosange aurait été arrêté à Kinshasa par la police pour diffamation et imputations dommageables à l'endroit du directeur général de la Direction générale des impôts (DGI). Le journaliste serait détenu, depuis le 16 septembre, au Centre pénitentiaire et de rééducation de la capitale. Dans l'édition du 16 août 2006, M. Bosange aurait publié un article dans lequel il aurait accusé le directeur général d'avoir détourné, à des fins personnelles, d'importantes sommes d'argent. Le jour même de son arrestation le journaliste aurait reçu un appel du directeur général qui l'aurait invité à un rendez-vous pour discuter le contenu de l'article susmentionné. Arrivé sur le lieu de rendez-vous, le journaliste aurait été immédiatement interpellé par des policiers et amené dans leurs bureaux.

193. Le 4 octobre 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé un appel urgent à l'égard de M. **Raphaël Majaliwa Mulindwa**, auditeur militaire à Bukavu au Sud Kivu. Selon les informations reçues, le 31 juillet 2005, Pascal Kabungulu, défenseur des droits de l'homme, a été assassiné à Bukavu. M. Majaliwa Mulindwa ayant en charge l'instruction dudit dossier, ses enquêtes auraient abouti à l'établissement de la responsabilité de certaines autorités politiques dans cet assassinat. Depuis lors, M. Majaliwa Mulindwa aurait été menacé de mort et aurait été victime de plusieurs tentatives d'assassinat. Il aurait été interrogé par le Ministre de la défense, déchargé de l'enquête et remplacé par un autre auditeur.

194. Le 7 novembre 2006, le Rapporteur spécial et le Rapporteur spécial sur la torture ont envoyé une lettre d'allégation concernant **Arnaud Zajtman** et **Marlène Rabaud**, travaillant respectivement pour la *British Broadcasting Corporation* et pour l'agence *Reuters TV*, qu'auraient été interpellés par des éléments de la police nationale congolaise, le 26 octobre 2006, devant le Centre pénitentiaire et de Rééducation de Kinshasa. Les deux journalistes auraient été frappés et menacé avec une mitraillette. Après trois heures passées dans une voiture de la police, les journalistes auraient été acheminés au quartier de Kin Mazière, où siègent les services spéciaux, et libérés aussitôt.

195. Le 28 novembre 2006, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent

sur la situation de M. **Dismas Kitenge**, président du *Groupe Lotus*, une ONG de défense des droits de l'homme et animateur du *Collectif des associations de défense des droits de l'homme*, basés à Kisangani. M. Kitenge a fait l'objet de deux appels urgents envoyés par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et de Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme respectivement les 13 juillet et 29 septembre 2005, communications restées sans réponse. Selon les informations reçues, le 28 octobre 2006, M. Kitenge aurait tenu une conférence de presse au cours de laquelle il aurait dressé le bilan du déroulement de la campagne du scrutin présidentiel. Lors de cette conférence de presse couverte et relayée par plusieurs médias locaux et nationaux, M. Kitenge aurait notamment dénoncé les violations des droits de l'homme perpétrées en République démocratique du Congo, l'impunité dont bénéficieraient des représentants de l'État auteurs de ces violations et l'exploitation abusive des ressources naturelles du pays. Depuis lors, M. Kitenge et sa famille feraient l'objet de nombreuses menaces, intimidations et d'actes de harcèlement de la part de cadres et de militants du Parti du peuple pour la reconstruction et la démocratie, accusant M. Kitenge d'être engagé dans des activités politiques, de soutenir l'opposition et d'être un opposant au chef de l'État.

### Réponses du Gouvernement

196. Le 24 février 2006, la Mission permanente a répondu à la communication du 20 février 2006. La Mission a exprimé sa préoccupation à l'égard de ces allégations d'actes de menaces portés à l'encontre des journalistes en République démocratique du Congo et des défenseurs des droits de l'homme. La Mission informe qu'afin de permettre au Gouvernement de la République démocratique du Congo de prendre connaissance de ces allégations, la Mission vient de transmettre ladite communication aux autorités nationales.

### Observations

197. Le Rapporteur spécial invite le Gouvernement à répondre à les communications envoyées le 20 mars, 9 mai, 28 juin, 7, 11, 14 et 25 juillet, 26 septembre, 4 octobre, 7 et 28 novembre 2006. Il serait souhaitable que le Gouvernement puisse également s'exprimer sur les communications de l'année 2005 à les quelles il n'a pas encore répondu. Le Rapporteur tient à exprimer sa préoccupation au sujet de M. **Patrice Booto** et prie le Gouvernement de le garder constamment informé sur sa situation.

### Djibouti

198. Le 28 février 2006, le Rapporteur spécial a envoyé une lettre d'allégation sur l'arrestation, le 20 février 2006, par les forces de sécurité, de **Mohamed Ahmed Mohamed**, responsable aux affaires juridiques de l'Union des travailleurs du port de Djibouti (UTP), et **Djibril Ismael Egueh**, secrétaire général du Syndicat du personnel maritime et du service de transit (SP-MTS), deux organisations affiliées à l'Union Djiboutienne du travail (UDT). Selon les informations reçues, les deux dirigeants syndicaux auraient été arrêté sans aucun mandat ni motif officiel et ensuite conduits aux bureaux de la Brigade criminelle et des Renseignements généraux. Mohamed et Egueh auraient été libérés le 22 février, mais leurs passeports auraient été confisqués. Le 22 janvier 2006, **Hassan Cher Hared**, secrétaire aux relations internationales de l'UDT, aurait été interrogé par deux officiers des renseignements généraux sur les dossiers de

candidatures de plusieurs syndicalistes adressées au Centre pour la coopération internationale du ministère des Affaires étrangères israélien à Addis Abeba, Ethiopie, afin de participer à un séminaire de formation syndicale en Israël. En effet, MM. Mohamed et Egueh avaient participé, les jours précédents leur arrestation, à cette formation en Israël. On craint que les trois dirigeants soient poursuivis pour leur activité syndicale.

199. Le 10 mars 2006, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, ont envoyé un appel urgent sur **Mohamed Ahmed Mohamed** et **Djibril Ismael Egueh**, qu'auraient été arrêtés et placés en garde à vue en isolement, le 5 mars 2006, dans les locaux de la brigade criminelle de la Force nationale de police. Après avoir entendu une première fois MM. Mohamed et Egueh, la police aurait perquisitionné leurs domiciles, alors que ces derniers étaient toujours en détention et confisqué l'ensemble des documents trouvés sur place, dont ceux sur les activités syndicales des deux hommes. Aucun mandat n'aurait été présenté à cette occasion. Le 8 mars 2006, MM. Mohamed et Egueh auraient comparu devant le juge d'instruction. Au terme d'un long interrogatoire, MM. Mohamed et Egueh auraient été informés de l'inculpation de « livraison d'informations à une puissance étrangère » portée contre eux et auraient été placés sous mandat de dépôt, à la prison de Gabode à Djibouti.

200. Le 10 avril 2006, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent sur **Adan Mohamed Abdou**, secrétaire général de l'UDT, **Hassan Cher Hared**, secrétaire aux relations internationales de l'UDT, **Mohamed Ahmed Mohamed**, responsable aux affaires juridiques de l'Union des travailleurs du port (UTP) de Djibouti, et **Djibril Ismael Egueh**, secrétaire général du Syndicat du personnel maritime et du service de transit (SP-MTS). **Mohamed Ahmed Mohamed** et **Djibril Ismael Egueh** avaient déjà fait l'objet d'un appel urgent le 10 mars 2006 le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, et d'une lettre d'allégation par le Rapporteur spécial, en date 28 février 2006. Selon ultérieures informations, le 6 avril 2006 la Chambre d'accusation de Djibouti aurait ordonné la mise en liberté provisoire des quatre syndicalistes qui resteraient poursuivis pour « livraison d'informations à une puissance étrangère », « intelligence avec une puissance étrangère » et « outrage envers le Président de la République ». Le 3 avril 2006, **Ibrahim Mayaki**, fonctionnaire du Bureau International du Travail (BIT), détenteur d'un passeport diplomatique et mandaté par le BIT pour rencontrer les défenseurs des droits syndicaux à Djibouti aurait été arrêté et interrogé pendant plusieurs heures par les services des renseignements généraux. Il aurait été libéré après avoir signé un arrêté d'expulsion, qui aurait été exécuté le 4 avril 2006.

### **Suivi des communications précédemment transmises**

201. Le 14 mars 2006, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 28 décembre 2005. Le gouvernement informe que, en effet, suite à un différend qui a opposé la direction du port au syndicat des travailleurs du port, ces derniers ont déposé un préavis de grève dans la matinée du 11 septembre 2005. Le jour même la direction du port informait le Ministère de l'Emploi et de la solidarité nationale

qu'une grève allait se déclencher. Ce dernier a aussitôt entrepris des démarches auprès du syndicat afin d'obtenir le report de la grève et demanda à la Direction du Port de donner suite au courrier transmis la veille au Directeur du Port et relative aux doléances du syndicat. Dans la matinée du 13 septembre 2005, une réunion s'est tenue entre le syndicat du Port et le Ministère de l'Emploi au cours de laquelle les délégués syndicaux ont soutenu que plusieurs réunions ainsi que des courriers adressés à leur direction n'ont abouti à aucun résultat. Le Ministère de l'Emploi, soucieux de son rôle de médiation, leur recommanda de reporter la grève le temps d'entreprendre les démarches nécessaires à la résolution des revendications soulevées par le syndicat, proposition acceptée par ce dernier. Le même jour à 11 heures, une autre réunion a eu lieu cette fois-ci entre le Ministère de l'Emploi et la Direction du Port à l'issue de laquelle la Direction a accepté de négocier avec le syndicat. Malgré le report de la grève accepté par les délégués syndicaux, ces derniers ont déclenché une grève généralisée le 14 septembre 2005 et les membres actifs du syndicat ont empêché à la barrière principale toute entrée des travailleurs qui avaient décidé de ne pas suivre le mouvement de grève, paralysant ainsi l'activité générale du Port. Ainsi, lorsque la grève est devenue effective, une réunion de crise urgente présidée par le Premier Ministre s'est tenue dans la salle de réunion du Terminal à conteneur et un compromis sur deux points a été dégagé : 1) le syndicat a avancé ses différentes doléances; 2) la Direction du port a accepté la négociation. Une seconde rencontre tripartite a été fixée au 17 septembre 2005 et ce jour là, la Direction du port a sollicité le renvoi de la négociation au 24 septembre 2005 arguant l'absence de son Directeur général hors du pays. Le 24 septembre 2005, la rencontre prévue n'a pas eu lieu faute de présence de toutes les parties concernées, en l'occurrence la Direction du Port qui le jour même a tenu une réunion entre les autorités du Port et le Président de l'autorité du Port et de la Zone franche, après une évaluation globale de la situation, a estimé que le syndicat a déclenché la grève sans respecter les procédures préalables prévues par le Code du travail et l'article 42 du règlement intérieur du Port, en conséquence décida de licencier les éléments actifs du syndicat. Ce licenciement affecte onze personnes et à l'annonce du licenciement, les membres actifs du syndicat se sont mis à intercepter les bus transportant le personnel en contraignant les agents du Port à descendre des bus et de se rassembler sur l'esplanade située à la barrière d'Éthiopie décrétant ainsi une grève généralisée et paralysant toute l'activité du terminal à conteneur. En effet, tous ceux qui voulaient se rendre à leur travail ont été victimes d'une désinformation de la part des délégués syndicaux et le lendemain 25 personnes considérées comme agitateurs et dûment identifiées ont également été licenciés. Suite à ces événements, le Port de Djibouti a déposé une plainte le 25 septembre 2005 pour voie de fait, manifestation illicite et trouble à l'ordre public à l'encontre de **Kamil Mohamed Ali, Ahmed Ali Aras et Ibrahim Moussa Soutan** ainsi que tout individu impliqué dans cet incident. Douze dirigeants syndicaux ont ainsi été traduits en justice. Par jugement No. 776105 du 2 octobre 2005, la chambre correctionnelle du tribunal de première instance a déclaré les prévenus non coupables des délits qui leur sont reprochés et les a relaxé des liens de la prévention. Le Procureur de la République et le Conseil du Port de Djibouti ont interjeté appel de cette décision. Par arrêt No. 01106 du 4 janvier 2006, la chambre correctionnelle de la Cour d'appel de Djibouti réformant le jugement No. 776/05 du 2 octobre 2005, a requalifié les faits reprochés aux prévenus et a déclaré Kamil Mohamed Ali, Ibrahim Moussa Soutan et Ahmed Ali Aras coupables des délits du travail et les a condamnés à la peine de deux mois d'emprisonnement avec sursis chacun. Les neuf autres prévenus ont été reconnus coupables du délit de menace et de rassemblement sur la voie publique susceptible de troubler l'ordre public et ont été condamnés à la peine d'un mois d'emprisonnement avec

sursis chacun. Suite à ces condamnations, les prévenus ont formé un pourvoi devant la cour suprême de Djibouti. La base légale des poursuites judiciaires à l'encontre des dirigeants syndicaux sont donc les dispositions du code pénal de la République de Djibouti. Quant aux fondements ayant présidé à leur licenciement, le droit de grève est un principe constitutionnel certes, mais il s'exerce dans le cadre des lois qui le réglementent. Le Code du travail des territoires d'outre-mer applicable en l'espèce dispose dans son article 218 bis que: « Sont interdits tout lock-out et toute grève avant épuisement des procédures fixées par la présente réglementation ou en violation des dispositions d'un accord de conciliation, d'une recommandation ou d'une sentence ayant acquis force exécutoire ». L'alinéa 1 de cet article poursuit que « le lock-out ou la grève engagé en contravention des dispositions du présent code peut entraîner, pour les travailleurs, la perte du droit à l'indemnité de préavis et aux dommages intérêts pour rupture de contrat ». Par conséquent, la Direction du Port estimant que le syndicat n'a pas respecté les procédures préalables prévues par le code de travail et l'article 42 du règlement intérieur du Port a licencié pour faute lourde les délégués syndicaux sur la base de l'article 42 qui stipule que « l'obstacle à la liberté de travail entraîne le licenciement pour faute lourde ». Cependant les délégués syndicaux licenciés disposent des voies de recours, ils peuvent saisir le tribunal du travail s'ils estiment que leur licenciement est abusif et réclamer des indemnités de rupture et des dommages et intérêts. À ce stade de la procédure, il paraît donc prématuré de parler d'une quelconque violation des droits de l'homme.

### **Observations**

202. Le Rapporteur spécial invite le Gouvernement à répondre aux communications envoyées en 2006.

### **Dominican Republic**

203. El 14 de marzo de 2006, el Relator especial envió un llamamiento urgente en relación con el periodista **Roberto Sandoval**, conductor de dos programas televisivos en Santo Domingo. De acuerdo con la información recibida, el 8 de marzo de 2006, hombres armados rodearon el automóvil en el que se desplazaba el Sr. Sandoval y lo obligaron a subir a otro vehículo. Según se informó, uno de los agresores se habría fugado en el automóvil del Sr. Sandoval, mientras los otros dos lo llevaron a un área rural. Se alegó que el periodista sufrió heridas menores de bala al intentar escaparse del coche en el que estaba retenido. El periodista denunció el ataque ante la policía, que presuntamente abrió una investigación.

### **Observaciones**

204. Al finalizarse este informe, el Relator Especial no había recibido respuesta a la comunicación enviada el 14 de marzo de 2006. El Relator Especial invita al Gobierno a responder a dicha comunicación.

### **Ecuador**

205. El 8 de marzo de 2006, el Relator Especial envió una comunicación en relación con los asesinatos de los periodistas **José Luis León Desiderio** de la emisora de radio Minutera, y **Saúl**

**Suárez Sandoval**, fotógrafo independiente y colaborador de los diarios *La Hora Durandena* y *La Prensa de Durán*, ambos ocurridos en la ciudad de Guayaquil en un intervalo de 24 horas. De acuerdo con la información recibida, el 13 de febrero de 2006 el cuerpo sin vida del Sr. León Desiderio fue hallado cerca de su domicilio en el barrio de Bastión Popular de Guayaquil con un disparo en la cabeza. Según informaciones recibidas, el 14 de febrero un automovilista se acercó al Sr. Suárez Sandoval y presuntamente le disparó. El Sr. Suárez Sandoval falleció poco después de ser trasladado al hospital Luis Vernaza, de Guayaquil. Se informó de que en ambos casos los supuestos asesinos no les habrían robado ningún efecto personal a las víctimas, lo que en principio descartaría el robo como posible móvil de los asesinatos.

206. El 28 de junio de 2006, el Relator Especial, conjuntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Wilman Adolfo Jiménez Salazar**, miembro del Comité de Derechos Humanos de Orellana. De conformidad con las informaciones recibidas, el Sr. Wilman Adolfo Jiménez Salazar fue arrestado el 19 de junio de 2006 al mediodía mientras se encontraba observando el desalojo de las instalaciones de la compañía petrolera francesa PERENCO por parte de fuerzas militares y policiales. Los alrededores de dichas instalaciones habían sido ocupados por las Asociaciones Campesinas Payamino y Punino, en protesta por el supuesto incumplimiento de las normas constitucionales y legales de protección del medio ambiente por parte de dicha empresa petrolera. Durante el desalojo, el Sr. Jiménez Salazar habría sufrido seis heridas de bala. Tras su arresto fue conducido al Hospital Civil de Coca y de allí a la estación de la Policía Judicial de Coca. Ante un recurso de hábeas corpus interpuesto en su favor ante la Alcaldesa de Orellana, el teniente coronel de Policía informó que el detenido había sido puesto a las órdenes del Fiscal de la Cuarta División del Ejército "Amazonas". Se alegó que no se notificó a los familiares del Sr. Jiménez Salazar ni su arresto ni su posterior entrega a autoridades militares; que no se le permitió contactar con un abogado; que se negó la realización de un peritaje médico-legal, pese a la orden expresa del Fiscal de Sucumbios Joel Bustos; y que se le mantuvo incomunicado.

207. El 10 de noviembre de 2006, el Relator Especial, conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con los supuestos actos de intimidación y agresión perpetrados en contra de **Guadalupe de Heredia**, responsable de prensa de la organización Frente de Defensa de la Amazonía, que integra al equipo de abogados que representan a las comunidades indígenas en contra de la compañía petrolera internacional Chevron-Texaco en relación con la contaminación causada por la actividad extractiva realizada en sus tierras tradicionales en la región de Sucumbios. Un grupo de cinco desconocidos habrían intentado irrumpir en el domicilio de la Sra. de Heredia durante la noche del 23 de octubre de 2006. Sin embargo, los desconocidos habrían desistido de su intento tras oír los disparos al aire realizados por un guarda de seguridad, al que habrían respondido con una ráfaga de disparos. Los hechos habrían sido denunciados por la Sra. De Heredia ante la Procuraduría de Pichincha. El día anterior al supuesto intento de intrusión en su domicilio, la Sra. de Heredia habría participado en una conferencia internacional convocada por diversas organizaciones internacionales para debatir asuntos relativos a la contaminación medioambiental y la violación de derechos humanos producidos en el contexto de actividades extractivas. En el curso de dicha actividad la Sra. de Heredia habría supuestamente denunciado las actividades de la compañía Cehvron-Texaco por



sus efectos en la vida de las comunidades indígenas. Existe la preocupación de que el supuesto intento de intrusión en el domicilio de la Sra. de Heredia tuviera carácter intimidatorio, vinculado a sus actividades en defensa de los derechos de los pueblos indígenas. Se da la circunstancia de que la Sra. de Heredia ha sido objeto de medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos el 28 de abril de 2006.

### Observaciones

208. Al finalizarse este informe, el Relator Especial no había recibido respuesta a ninguna de las comunicaciones enviadas. El Relator Especial invita al Gobierno a responder a las alegaciones recibidas.

### Egypt

209. On 22 February 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding four judges **Ahmed Mekki, Mahmoud Mekki, Mahmoud al Khudayri** and **Hisham Bastaweessee**, who are all Vice Presidents of the Court of Cassation. According to information received, the High Council of the judiciary lifted the immunity of the above-mentioned judges for publicly criticizing fraudulent acts, which are alleged to have occurred during the parliamentary elections in 2005, as well as for criticizing a proposed bill on the administration of justice. This followed the issuance of statements by the Judges Clubs in Cairo and Alexandria, referring to numerous complaints they had received from judges, and stating that the complaints should be examined by the prosecutor-general. The Judges Clubs also requested the prosecutor-general to look into the incidents involving judges during the elections, and to eventually provide compensation for the judges involved. At the date, this communication was sent, the four judges were being interrogated by the State Security Court which was established under the emergency law. The Special Rapporteurs and the Special Representative expressed their concern that the lifting of the judicial immunity of the judges and their interrogation by the State Security Court is a violation of their right to freedom of expression.

210. On 16 March 2006, the Special Rapporteur sent an urgent appeal concerning **Amira Malash**, a reporter for the weekly *Al-Fagr*. According to the information received on 7 March 2006, the Giza Criminal Court sentenced Amira Malash to a one-year imprisonment for defaming a judge in an article she wrote in July 2005, in which she alleged that the judge had received bribes with regard to a case he was working on. It was reported that the trial lasted several minutes. Concern was expressed at the recourse to criminal sanction for a defamation charge.

211. On 24 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights, sent an urgent appeal concerning **Nagi Dirbala, Ahmad Saber** and **Assem Abdel Gabbar**, three Deputy Heads of the Court of Cassation. According to the information received: the High Council of the Judiciary lifted the immunity of Mr Nagi Dirbala and Mr Ahmad Saber, to enable their interrogation regarding their statements which criticized fraudulent acts allegedly occurred during the parliamentary elections in 2005, and their comments related to the reform to the administration of justice. Concern was expressed that these

events might fall into the reported pattern of harassment against members of the judiciary expressing critical views against the Government. Concern was heightened by the fact that they followed the investigation of Ahmed Mekki, Mahmoud Mekki, Mahmoud al Khudayri and Hisham Bastaweessee, all judges and Deputy Heads of the Court of Cassation, for expressing their opinions regarding the parliamentary elections in 2005 and the reform to the administration of justice.

212. On 5 May 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the **members of Egypt's Judges' Club and demonstrators** who gathered to support the assembly of the Judges' Club, as well as **Ahmed Mekki, Mahmoud Maki, Hisham Bastawissi, Mahmoud al Khudayri, Nagi Derbala, Ahmad Saber and Assem Abdel Gabbar**, Deputy Heads of the Court of Cassation. According to the information received: the Minister of Justice decided to transfer two Deputy Heads of the Court of Cassation, Judges Mahmoud Maki and Hisham Bastawissi, to the Disciplinary Council. It is alleged that this decision is an infringement of the independence of the judiciary and a breach of the provisions of the Judiciary Authority Law relating to the investigation of judges, and is intended to punish the two judges for their allegations of widespread electoral fraud during the parliamentary elections of 2005, and for their activism for judicial reform, including their calls for amending the Judicial Authority Law to guarantee the impartiality and the financial and administrative independence of the judiciary. In particular, it is alleged that currently the Judicial Authority Law provides the Minister of Justice with the powers to determine the composition of the Supreme Judicial Council, to appoint the Head of the Court of Cassation and to decide the budget. Such control of the Supreme Judicial Council allows the Minister to influence that body's decisions on the appointment, promotion, transfer and discipline of all judges. Also, the Disciplinary Council is headed by the Head of the Court of Cassation (appointed by the Minister of Justice) and possesses the power to dismiss judges. On 19 April 2006, to protest against this decision, the Judges' Club launched an ongoing sit-in in its headquarters in Cairo. On Monday 24 April 2006, hundreds of police arrived in front of the Judges Club where a group of peaceful protesters gathered in support of the judges' sit-in demanding a stop to the action against Judges Mahmoud Maki and Hisham Bastawissi and amendments to the Judicial Authority Law in order to guarantee the independence of the judiciary. In an attempt to disperse the protest, police tore down banners listing the Judges' Club's demands and verbally and physically attacked some of the protesters. In an attempt to capture the events, Judge Mahmoud Abdel Latif Hamza got out his mobile phone camera. Upon witnessing this act, several police officers and two State Security Intelligence Officers verbally insulted and physically assaulted him and forced him into a police vehicle along with fourteen other protesters. It was reported that SSI officers, officers from Kasr al Nil station and officers from Shurtat Al-Marafik participated in the attack. All three aforementioned forces operate under the Ministry of Interior. In addition, it was alleged that these events took place in the presence of high ranking Ministry of Interior officers. Judge Mahmoud Abdel Latif Hamza, his brother, and a university professor were released later that day upon the intervention of the President of the Judges' Club. Upon his release, Mahmoud Abdel Latif Hamza was taken to the hospital for treatment. According to a medical report from the Shahir Hospital of Masr Al-Gedida, he endured several injuries including twisted ligaments in his wrist, a bloody nose and a number of scratches and bruises on his face, chin and feet. He still remains in hospital. This attack is particularly grave considering that Judge Mahmoud Abdel

Latif Hamza had undergone open-heart surgery. The twelve remaining people arrested on the 24 April 2006 were held in custody following an order by the General Prosecutor to detain them for 15 days pending the results of the interrogations in accordance to article 206 of the Criminal Procedures Law. They were charged with making false claims, resisting authorities and assembling and blocking public roads. On the next day, the Prosecutor General issued a statement accusing the protesters in front of the Judges' Club of attacking the police forces sent to remove banners. Concern is expressed that the Prosecutor General issued such a statement before the completion of the investigations, against his obligation of impartiality and confidentiality. According to the information received, two similar incidents occurred on 26 and 27 of April 2006, when hundreds of police forces again intervened during the ongoing peaceful sit-in at the Judges' Club and the peaceful protests in support of the Judges' Club demands held outside its premises. On 26 April, charges were brought against sixteen protesters, and on 27 April against 12 of them. The accusations included assembly, insulting the President of the Republic, purposefully delaying public transportation, slander of public officials, destroying public property and possession of publications. It is also reported that the State Security General Prosecution issued arrest warrants for thirteen additional participants in the protests in front of the Judges' Club charging them with organizing demonstrations and possessing publications aimed at disrupting public order. Reports indicate that thus far two of them have been arrested. Concern was expressed that these events fall into the reported pattern of harassment against members of the judiciary and their supporters expressing critical views against the Government. Concern is heightened by the fact that the transfer of Mahmoud Maki and Hisham Bastawissi to the Disciplinary Council follows the lifting of the immunity, in order to initiate their investigation, of five other Deputies to the Head of the Court of Cassation, Ahmed Mekki, Mahmoud al Khudayri, Nagi Derbala, Ahmad Saber and Assem Abdel Gabbar, for expressing their opinions regarding the parliamentary elections in 2005 and the reform to the administration of justice.

213. On 16 May 2006, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal regarding **several journalists**, who were reporting on peaceful protests. According to the information received: on 11 May 2006, several journalists were assaulted by police and security officers, while reporting on demonstrations in support of two judges who are appearing before a disciplinary committee for calling the parliamentary elections fraudulent. **Abeer al-Askary**, a journalist for the independent weekly *Al-Dustour*, had arranged to interview several lawyers and judges at the Bar Association. When she arrived, plainclothes police and security officials grabbed her and took her to an area where security vehicles were parked and beat her. She was subsequently taken to Sayeda Zeinab police station. Outside the police station plainclothes police officers assaulted her again. It was reported that police officers told her to stop writing. She was released later on the same day. It was further reported that cameramen from *Reuters* were assaulted on the same occasion. In separate incidents on 11 May, several cameramen covering the protests were taken away from the crowd and beaten by plainclothes police officers. Amongst them were **Yasir Suleiman**, a camera crew for the Qatar-based satellite channel *Al-Jazeera*; and **Nasri Yousif**, a sound crew for *Al-Jazeera*. Their camera and tape were allegedly confiscated. Furthermore, on 9 May, a state security prosecutor extended for 15 days the detention of two journalists: **Saher al Gad**, a journalist for *Al-Geel* newspaper; and **Ibrahim Sahari**, a journalist for *Al-Alam Al-Youm* newspaper, who were taken into custody for "disturbing public order" on April 27. They were covering protests on the first day of hearings for the two judges.

214. On 29 May 2006, the Special Rapporteur sent an urgent appeal regarding two reporters for the independent weekly *Sawt al-Umma*: **Wael Al-Ibrashi** and **Hoda Abu Bakr**; and editor-in-chief of the weekly *Afaq Arabiya*: **Abdel Hakim Abdel Hamid**. According to the information received on 24 May 2006, the Egyptian state security prosecutor brought criminal charges against the three above-mentioned journalists. All the charges stem from articles that were published in December 2005. Both papers reported on the alleged fraud in the presidential election, which took place in 2005, listing the initials of several judges allegedly involved in the fraud. It was reported that they face up to three years of imprisonment. Concern was expressed at the recourse to criminal proceedings, particularly in light of reported recent pattern of harassment against members of the judiciary and their supporters expressing critical views against the Government, including arrests of and assault against participants of demonstrations in support of judges who openly criticized irregularities during the presidential election.

215. On 1 June 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture sent an urgent appeal regarding **Karim al-Sha'ir** and **Mohamed al-Sharqawi**, political activists. According to the information received: on 25 May 2006 agents of the State Security Investigations (SSI) bureau of the Interior Ministry in downtown Cairo arrested al-Sha'ir and al-Sharqawi, as they were leaving a peaceful demonstration commemorating the one-year anniversary of clashes between journalists and demonstrators urging a boycott of a constitutional referendum and law enforcement organs. Both men were subjected to severe beatings during the arrest and then taken into custody where beatings continued. Once in custody, police beat Mr al-Sharqawi for hours targeting particular places. One of the officers ordered al-Sharqawi's pants to be removed and began squeezing his left testicle. He then was raped with a cardboard tube. The State Security prosecutor ordered both men to be held for 15 days pending investigations. The authorities allowed al-Sharqawi access to medical treatment only on 29 May 2006. Both men had been in detention twice in Tora prison following their participation in earlier protests on 24 April and 7 May respectively. They had been released on 22 May 2006.

216. On 27 June 2006, the Special Rapporteur sent an urgent appeal regarding **Ibrahim Eissa** and **Sahar Zaki**, an editor and reporter of the independent weekly *Al-Dustour* respectively. According to the information received, on 26 June 2006, the court in Al-Warrak sentenced Ibrahim Eissa and Sahar Zaki to one-year imprisonment, reportedly for insulting the Egyptian President. The charges stemmed from a news article published on 5 April 2005, which described the effort by an Egyptian lawyer to sue the President and his family for alleged corruption, including the allegation of misuse of foreign aid. Mr Eissa and Ms Zaki were not present for the verdict. They were free on bail of 10000 Egyptian pounds. It was reported that they had appealed.

### **Replies from the Government**

217. On 11 July 2006, the Government of Egypt replied to the communications dated 5 May 2006. The Government informed the Special Rapporteur that the Judge Mahmud Sadiq Birham, had filed a complaint with the Department of Public Prosecutions, stating that, during the National Assembly elections, he had chaired the general committee for the Nabruh district, which had performed its duties to the best of its ability. He asked for criminal action to be

brought against those who had defamed him, in an article published in *the Sawt al-Ummah* newspaper on 12 December 2005, entitled “Blacklist of judges accused of rigging the elections”, which gave the initials of his three part name (M.S.B.) and named the election committee he chaired as well as a front-page story published in the *Afaq Arabiyah* newspaper on 22 December 2005, listing full names, including his own, as those of judges who had rigged the elections. The Government informed the Special Rapporteur that investigations had revealed that the press statements had come from **Judge Mahmoud Maki** and **Judge Hisham Bastawissi**, without providing any proof of the allegations against the judge. These elements constitute the offence of defamation, which is a crime under the Criminal Code, for which the two men were therefore sent before a disciplinary tribunal in accordance with article 99 of the Judicial Authority Act. On 18 May 2006, the judicial disciplinary tribunal, chaired by the chief justice of the Court of Cassation, acquitted Judge Mahmoud Maki, because his remarks, namely that an investigation was needed to verify the report, had been deleted from the report. On the other hand, Judge Hisham Bastawissi, deputy chief justice of the Court of Cassation, was found guilty and was censured by the disciplinary board, what does not prevent a judge from carrying out his work. The Government reassured that the investigation of the two judges was based on a complaint brought by the victim for defamation, recognized under the Egyptian Criminal Code. The Department of Public Prosecutions, which is part of the judiciary, launched the investigation on the basis of the victim’s complaint and referred both judges to the competent disciplinary tribunal for a judicial hearing in accordance with the Judicial Authority Act. The investigation was not launched because of a complaint about the views of the two judges on the parliamentary elections or judicial reform. Moreover, the draft law on amending the Judicial Authority Act was publicized as soon as it had been given Cabinet approval. A delegation from the Judges’ Club met with the speaker of the Advisory Council and the speaker of the National Assembly to present the Club’s views on the draft. It is false that judges **Nagi Derbala**, **Ahmed Saber**, **Ahmed Mekki** and **Mahmoud al-Khudayri** were investigated for expressing their views about the parliamentary elections and judicial reform. The disciplinary case was only brought against Judge Hisham Bastawissi and Judge Mahmoud Maki.

218. On 7 of July 2006, the Government of Egypt responded to the communication dated 16 of May 2006 concerning various journalists including **Abeer al-Askary**, from the independent weekly *Al-Dustour*, **Yasir Suleiman** and **Nasri Yousif**, from *Al-Jazeera*, **Saher al Gad**, A journalist for *Al-Geel* newspaper; and **Ibrahim Sahari**, A journalist for *Al-Alam Al-Youm* newspaper. The Ministry of the Interior confirmed that, on 11 May 2006, a number of citizens took part in a demonstration in central Cairo timed to coincide with a disciplinary hearing in which two judges had been summoned to appear. The demonstrators had not obtained prior authorization as required under the Act regulating demonstrations on the public highway. The security forces warned the demonstrators about the adverse consequences of holding a demonstration in the city centre, but they failed to respond and tried to attack the security forces. This led to clashes and the arrest of several demonstrators, who were subsequently handed over to the Department of Public Prosecutions. The Department of Public Prosecutions opened an investigation in Higher State Security case No. 457/2006, establishing that some of the defendants were members of the Muslim Brotherhood, a proscribed organization. Regarding the journalists arrested during the demonstration, both Rasha Azab Ahmad Ibrahim and Nadi Hasan Abd al-Fatih al-Qisas were released on 6 June 2006. The Government highlighted that Egyptian Law is in compliance with international treaties, which state that the exercise of the right to engage in peaceful demonstrations must not prejudice national security, public safety or public

order (article 21 of the International Covenant on Civil and Political Rights). With regard to the assault on **Mahmud Mohammed Abd al-Latif Hamzah**, a judge of the North Cairo court of first instance (Mission's fax No. 804, dated 6 May 2006), the Department of Public Prosecutions opened an investigation into this incident, registered as Nile Palace criminal case No. 5476/2006, in which some protestors gathered at night in front of the Judges' Club, where the above-mentioned judge and his brother happened to be. The judge was assaulted during the breakup of the protest. He was not known to the police and was carrying a firearm. The chief investigator of the Department of Public Prosecutions went to the hospital just after the incident occurred and took statements from the victims, Mahmud Mohammed Abd al-Latif Hamzah and his brother. They both gave the names and descriptions of the policemen who had assaulted them. Medical reports on the victims were appended to the investigation file. The Department of Public Prosecutions questioned three police officers and charged them with assault. The case is still under investigation and will remain so until a full legal medical report has been submitted.

219. On 11 July 2006, the Government of Egypt responded to the communication dated 29 of May 2005 concerning two reporters for the independent weekly *Sawt al-Umma* **Wael Al-Ibrashi** and **Hoda Abu Bakr**; and editor-in-chief of the weekly *Afaq Arabiya* **Abdel Hakim Abdel Hamid**. The Government noted that Justice Mahmud Sadiq had asked for a criminal investigation to be undertaken against all those who had defamed him or had wrongly published the allegation that he and other judges had rigged the elections. The Department of Public Prosecutions launched an investigation, registered as Azbakiyah criminal case No. 7770/2006. The accused person Huda Abu Bakr Hussein said that, a week before the publication of the news item bearing her name, *Sawt al-Ummah* newspaper had commissioned her to cover a conference being held by the Bar Association in Cairo. When she went there the accused, Jamal al-Din Taj al-Din Hasan, the main source of the report, said that there had been irregularities during the elections and that judges had allegedly committed electoral fraud. He said that the Association intended to take action against them and would be issuing a list of their names. The complainant's name was included in the published list of names of judges accused of rigging the elections. The journalist wrote a report on the conference proceedings and on the judges' names and submitted it to the accused Wa'il Hasan al-Abrashi, executive editor of *Sawt al-Ummah* newspaper, who approved the news item and published it. The accused said that what she had heard had been printed, but she did not know whether or not there was any evidence to support it. Accused person Abd al-Hakim Abd al-Hamid Ahmad Mohammed al-Shami, editor of *Afaq al-Arabiya* newspaper, said that the editor-in-chief had approved the publication of the article in question, after a fax had arrived at the newspaper from the Bar Association bearing the title "Black list of judges who committed fraud". The editor had contacted lawyer Jamal al-Din Taj al-Din, a member of the Bar Association, the latter confirmed the contents of the report, and so he went ahead with publication. He added that two days after the news item was published, he had received a call from Jamal Taj al-Din who told him that Mahmud Birham Sadiq's name had been included in the list by mistake. So, he published a correction, in issue 742 of the newspaper, and concluded by saying that a person cannot be accused of something on hearsay and that allegations must be verified before publication. Mahmud Atiyah Mahmud Atiyah, editor-in-chief of *Afaq al-Arabiya* newspaper, said that the accused Abd al-Hakim Abd al-Hamid Ahmad Mohammed al-Shami had been standing in for him at the newspaper and therefore had the authority to approve the publication of news stories. The Department of Public Prosecutions sent the aforementioned persons for trial before the Cairo Court of Appeal for committing acts that are offences under articles 171, 302-303 and 307 of the Criminal Code.

The penalty for this offence is a term of from 24 hours to two years in prison and/or a fine of from 10 to 20,000 Egyptian pounds. The hearing was scheduled for 18 June 2006. The Government highlighted that Egyptian law criminalizes public defamation by means of publication in accordance with international norms enshrined in international human rights law and pursuant to articles 19 and 39 of the Universal Declaration of Human Rights. Egyptian law, pursuant to article 302 of the Criminal Code, recognizes the freedom to criticize the actions of a public official, a person working for the Department of Public Prosecutions or a person entrusted with public service. Such criticism is not classified as an offence, if it is done in good faith and does not impede the performance of public duties, public service or prosecution service, and provided that the person making the criticism has evidence to substantiate the allegations made against the persons concerned.

220. By letter dated 11 July 2006, the Government replied to the communication of 1 June 2006 concerning **Mohammed Hasan al-Sharqawi**, and **Karim Mohammed Umar, aka Karim al-Sha'ir**, who were arrested on 25 May 2006, in Higher State Security Case No. 517, for taking part in, provoking and orchestrating a riot involving over 100 persons. The offences committed during the riot include: spreading seditious propaganda and falsehoods of a kind likely to prejudice public security; deliberately disrupting the movement of public transport; and interfering with the exercise of public authority by using violence, threats and insults against police officers performing their public duties. The Department of Public Prosecutions launched an investigation after the two men gave statements indicating that they had been beaten by the police at the time of their arrest. The first accused person, Mohammed Hasan al-Sharqawi, added that he had also been beaten around the genitalia. The Department of Public Prosecutions questioned the two men and the examination confirmed that they had signs of injury on their bodies. After questioning them, the Department of Public Prosecutions decided to have a legal doctor perform a medical examination in order to determine the cause and nature of the injuries and how they had occurred. The Department of Public Prosecutions further decided to place the two men in detention for 15 days in connection with the case, which is still under investigation. The Department of Public Prosecutions, a branch of the judiciary whose members enjoy judicial immunity, investigated the incident involving Mohammed Hasan al-Sayid al-Sharqawi and Karim Mohammed Umar, aka Karim al-Sha'ir. It defended both men with regard to the assault carried out by the police. It interviewed them, looked at their external injuries and referred them to a legal doctor to determine the state of their injuries and proceed with the investigation in light of the findings of the competent legal doctor.

### **Observations**

221. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 22 February, 16 and 24 March, and 27 June 2006.

### **Equatorial Guinea**

222. El 31 de noviembre de 2006, el Relator Especial, conjuntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación con la detención de los Señores **Filemón Ondó**, **José Antonio Nguema**, **Florencio Ondó** y **Basilio Mayé** el 8 de octubre de 2006, acusados de pertenecer al Partido del Progreso de Guinea Ecuatorial (PPGE) y de hallarse en posesión de folletos y otros documentos de dicho

partido. Filemón Ondó fue detenido, sin orden judicial, por agentes de policía quienes supuestamente le golpearon y llevaron a la residencia del gobernador de la provincia del Litoral a fin de que identificara a otros miembros del PPGE. A continuación, le obligaron a acompañar a los policías a los domicilios de José Antonio Nguema, Florencio Ondó y Basilio Mayé, quienes fueron detenidos. Los cuatro hombres fueron conducidos a la jefatura de policía de Bata, donde permanecen recluidos. La policía ha interrogado a los cuatro hombres acerca de su afiliación al PPGE, la cual no han negado. No se ha formalizado la acusación ni se ha iniciado ningún proceso criminal contra ellos.

## Observaciones

223. Al finalizarse este informe, el Relator Especial no había recibido respuesta a la comunicación enviada. El Relator Especial invita al Gobierno a responder a dicha comunicación.

## Eritrea

224. On 29 November 2006, the Special Rapporteur sent a letter of allegation concerning the alleged death of three journalists, **Seyoum Tsehaye** (or Fsehaye), freelance, **Dawit Habtemichael**, deputy editor and co-founder of Meqaleh, and a journalist who is thought to be the editor of Tsigenay, **Yusuf Mohamed Ali**, in the prison of Eiraeiro. Other journalists are allegedly detained at Eiraeiro jail, but their health conditions are unknown. Their names are **Medhane Tewelde** (also identified as Medhane Haile), deputy editor and co-founder of Keste Debena, **Temesghen Gebreyesus**, journalist and member of the Keste Debena board, **Said Abdulkader**, editor and founder of Admas, **Emanuel Asrat**, editor of Zemen, Fessahaye "Joshua" Yohannes, playwright and journalist with the newspaper Setit. According to information received, approximately 65 political prisoners, including former ministers, high-ranking civil and military officers, personalities of the opposition and several journalists, are reportedly held at the Eiraeiro detention centre. The majority was arrested in the aftermath of the protests of September 2001 and, to date, no charges were presented against them nor were they brought before a court.

225. On 1 December 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning the arrest and detention of **9 media workers**. Since 12 November 2006, there has been a round-up of journalists and press officials. The security forces have been making daily visits to the information ministry, where the public media are based, and have been questioning media employees without providing any explanation as to the facts and charges being investigated. Reports indicate that at least 9 employees working for the state-owned media have been arrested. They are **Ahmed Baja** of Eri-TV, **Senait Tesfay** of Eri-TV, **Paulos Kidane** of Eri-TV and Radio Dimtsi Hafash; **Daniel Mussie** of Radio Dimtsi Hafash, **Temesghen Abay** of Radio Dimtsi Hafash, **Yemane Haile** of Eritrean News Agency, Fethia of Eri-TV, Simon of Eri-TV, and another journalist working for Eri-TV. The place of their detention has not been disclosed. In view of their alleged detention at an undisclosed location, we are concerned that the nine media workers named above might be at risk of torture or other forms of ill-treatment. Grave concern is expressed moreover at the series of arrests which may be an attempt to intimidate their media related work. This concern is aggravated by the high number of currently detained journalists in Eritrea, which reportedly numbers at least 22.



## Observations

226. At the time that this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations

### Ethiopia

227. On 5 January 2006, the Special Rapporteur sent an urgent appeal concerning a group of **131 persons**, including **leaders of the opposition Coalition for Unity and Democracy (CUD)** party and **13 journalists**. According to the information, on 3 January 2006, the High Court denied bail to the said 131 persons, accused of treason, inciting violence and planning to commit genocide, in relation to a wave of protests following the victory of the ruling party in the May 2005 elections. During the hearing, a CUD leader **Berhanu Nega** claimed that charges were fabricated and that the defendants refused to recognize the decision of the Court. Defence lawyers did not appear in court because the prison administration had allegedly barred them from meeting with their clients prior to the hearing. Under Ethiopian law, the possible sentences defendants would face if they were found guilty, ranges from three years' imprisonment to the death penalty. In June and November 2005, thousands of Ethiopians were arrested and around 40 people died because of violent clashes among protesters and security forces. The trial was postponed until February.

228. On 24 February 2006, the Special Rapporteur sent an urgent appeal regarding **Frezer Negash**, correspondent for the United States based website *Ethiopian Review*; **Iyob Demeke**, former editor-in-chief of the defunct Amharic-language weekly *Tarik* and **Elias Gudissa**, editor-in-chief of the Amharic-language weekly *Tikusat*. According to the information received: Frezer Negash was arrested on 27 January 2006, and had been remanded in detention in Addis Ababa for further enquiries without charge. She had been called to appear in court at least twice, but was sent back to detention without any charge against her. She was several months pregnant. Moreover, on 8 February, Iyob Demeke was sentenced to pay a fine for having failed to print the name of the newspaper's deputy editor on its masthead. He was imprisoned on the same day, and was not released until the fine was paid on 14 February. Furthermore, on 10 February, Elias Gudissa was sentenced to pay a fine for defaming the government and printing misinformation in an article several years ago. The article was about the dispute between Ethiopia and Eritrea. He was imprisoned on 10 February, and was not released until the fine was paid on 15 February.

229. On 5 April 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Abraham Roda**, a farmer; **Abraham Tula**, a former Sidama Development Corporation employee; **Abure Assefa**, a civil servant; **Dessalegne Gassamo**, a USAID advisor on education; **Edasso Ebissa**, a farmer; **Musse Alemayehu**, a civil servant at the agricultural department; **Tadesse Washo**, a nurse; **Tefera Janba**, a student of Awassa Tabour School; **Yosef Lalimo**, Awassa Tabour, a school student; and approximately 50 other persons in detention after their arrest in Awassa town, Southern Regional State. According to the information received, hundreds of persons, including students, were arrested when the federal police intervened during peaceful demonstrations that took place on 12 March 2006 in Awassa town, Southern Regional State, and in other nearby towns. The demonstrators were demanding

greater political representation for the Sidama people. Demonstrators were beaten by the federal police, and some were allegedly shot dead. Most of the demonstrators have in the meantime been released from custody without being charged, some after having been taken to court in Awassa. The above-mentioned individuals and approximately 50 other demonstrators, however, remained in detention at the date this communication was sent. Most of those still in custody were arrested in Awassa and Yirgalem and were reportedly being held in Awassa prison. Some others were held in other prisons and police stations, including Yirgalem, Lakoo, and Wondo. Mr Tefera Janba was reportedly tortured in custody and is in need for medical treatment.

230. On 5 May 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Mesfin Woldemarian**, former chair of the Ethiopian Human Rights Council, Mr **Netsanet Demissie**, an environmental rights lawyer and founder of the Organization for Social Justice in Ethiopia, Mr **Daniel Bekele**, a policy, research and advocacy manager of the non- governmental organization Action Aid and Mr **Kassahun Kebede**, chair of the Addis Ababa branch of the Ethiopian Teachers Association (ETA). Mr Daniel Bekele was the subject of two previously sent urgent appeals. Mr Demissie was mentioned in the urgent appeal sent on 18 November 2005. According to the information received, Mr Mesfin Woldemarian, Mr Netsanet Demissie, Mr Daniel Bekele and Mr Kassahun Kebede were in prison and were facing charges of treason, at the date this communication was sent. Their trial was due to begin in May and if convicted they might face the death penalty. All of the above- mentioned people were arrested because of their participation in pro-democracy demonstrations in 2005. Grave concern was expressed that the charges against Mr Mesfin Woldemarian, Mr Netsanet Demissie, Mr Daniel Bekele and Mr Kassahun Kebede were in particular because of their participation in peaceful protests.

231. On 11 May 2006, the Special Rapporteur sent an urgent appeal concerning **Wosonseged Gebrekidan**, editor of the banned *Addis Zena* newspaper. According to the information received, on 18 April 2006, Wosonseged Gebrekidan, who was a subject of communication sent by the Special Rapporteur on 18 November 2005, was sentenced to 16 months' imprisonment for defamation for an article published in 2002, in which he allegedly defamed the editor of *Abyotawi Democracy*, a publication of Ethiopian People's Revolutionary Democratic Front. The article appeared in the Amharic language weekly *Ethiop*, which Gebrekidan was editor at the time. According to the information received, Gebrekidan had already been serving an eight-month sentence, which was handed down in December 2005 regarding another article published in 2002, allegedly defaming a foreign diplomat. It was reported that he was amongst the 14 editors and reporters of privately-owned newspapers, who had been arrested and charged with treason, outrages against the Constitution, incitement to armed conspiracy and defamation.

232. On 17 May 2006, the Special Rapporteur sent an urgent appeal concerning **Tesehalene Mengesha**, a former deputy editor for the defunct Amharic-language weekly *Mebruk*. According to the information received, Mr Mengesha was convicted in the beginning of May 2006, and subsequently sentenced to 18 months' imprisonment for defamation. The charge against him stems from an article published in *Mebruk* during the border conflict between Ethiopia and Eritrea in 1998-2000, in which he described an individual as a double agent. He was reportedly held in Kality Prison on the outskirts of Addis Ababa. Concern was expressed, particularly in light of the reports indicating that his arrest and detention follow a pattern of arrests and charges

against 14 editors and reporters of privately-owned newspapers, who had been arrested and charged with treason, outrages against the Constitution, incitement to armed conspiracy and defamation.

233. On 8 August 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr **Eskinder Negga**, editor of the newspaper *Satenaw*; his partner Ms **Serkalem Fasil**; and their baby. According to the information received, on 28 November 2005, Eskinder Negga was arrested with many other journalists, human rights defenders and opposition members in the wake of demonstrations against alleged fraud in the parliamentary elections held in May 2005. He was charged with "treason", "outrages against the Constitution" and "incitement to armed conspiracy", which could carry the death penalty. Reportedly, Eskinder Negga had been moved from Addis Ababa's Kaliti prison to Karchele prison, where he was detained in a maximum security section known for its very harsh conditions, at the time this communication was sent. Ms Serkalem Fasil had also been arrested and detained at Kaliti prison where she gave birth to a baby boy in late June 2006. Both the mother and the infant were still held in Kaliti prison at the time this communication was sent, and they had not been authorized to meet with Mr Negga. Reports indicated that the issue for his transfer had been raised by other defendants during the last court hearing on 6 August 2006, but remained unclear as the judge did not offer any explanation as to why.

234. On 28 September 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Wasihun Melese** and Mr **Anteneh Getnet**, both members of the Ethiopian Teachers' Association (ETA), a teachers' union. According to the information received, on 23 September 2006, Mr Wasihun Melese was arrested by police. The police took him to the police Central Investigation Bureau (known as Maekelawi), where he was still detained at the date this communication was sent. Shortly after Mr Melese's arrest, three men in plain clothes entered the ETA's office in Addis Ababa, where an Addis Ababa Region teachers' meeting was being held. They were later seen leaving the office in a car with Anteneh Getnet, also a teacher. His whereabouts are still unknown. Mr Getnet had previously been abducted and beaten in May 2006, allegedly by members of the security forces. He is still suffering from injuries sustained when he was beaten. Concern was expressed that their arrest and detention might be linked to their activity in defence of labour rights, as well as to statements critical of the Government issued by ETA in the period following the May 2005 elections.

235. On 23 October 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Ms **Yalemzewd Bekele**, a lawyer working on projects related to human rights and civil society for the European Commission's office in Addis Ababa, and prominent civil rights lawyer who volunteered with the *Ethiopian Women Lawyers' Association* (EWLA), Addis Ababa. According to the allegations received, on the morning of 19 October 2006, Ms **Bekele** was arrested by the Ethiopian authorities, while trying to cross the border to

Kenya. It is believed that Ms **Bekele** was accompanied by another person at the time of her arrest. The identity and whereabouts of this person are not known. Ms **Bekele** appears to have been arrested in connection with the publication and distribution by the political opposition Coalition for Unity and Democracy (CUD) of a calendar of action for non-violent civil disobedience. Concern was expressed that Ms **Bekele** may have been arrested in connection with her human rights activities, in particular due to her involvement in the publication and distribution of the CUD Calendar of action calling for non-violent civil disobedience.

### **Replies from the Government**

236. On 7 of June 2006, the Government of Ethiopia replied to the communication dated 5 of May 2006 regarding the detention of **Professor Mesfin W. Mariam, Mr Netsanet Demissie, Mr Daniel Bekele** and **Mr Kassahun Kebede**. The Government stated that Ethiopia had held regional and federal legislative elections in May 2005 and explained that the leadership of the main opposition party CUD and others who participated in street-riots aimed at overthrowing the government through unlawful means. For this reason, and not for their participation in “pro-democracy” demonstrations in 2005, they had been arrested and charged with the crimes of high treason, outrages against the constitution and the constitutional order, obstruction of the exercise of constitutional powers, armed up-rising or civil war, impairment of the defensive power of the state and attempted genocide. The Government added that the ongoing trial was carried out in an open, fair and transparent manner in the presence of international observers, and that the rights of the accused to due process was guaranteed in line with the relevant international conventions.

237. By letter dated 25 August 2006, the Government of Ethiopia replied to the communication of 8 of August 2006 concerning **Mr Eskinder Nega**, an editor of a local newspaper and his spouse **Ms Serkalem Fasil**. The Government highlighted that due process as guaranteed by the Constitution and international obligations of the country were respected. The accused on trial are in custody for their alleged commission of grave crimes and are detained separately in accordance with Ethiopian law and internationally accepted standards.

238. On 9 November 2006, the Government of Ethiopia replied to the communication of 23 October 2006 regarding **Ms Yalemzewd Bekele**, a lawyer working for the European Commission Office in Addis Ababa and **Mr Alemaychu Fantu**, a businessman based in Addis Ababa. The Government stated that the content of the communication was unfounded. The arrest of Mr Fantu and Ms Bekele was not arbitrary, but in accordance with Ethiopian Criminal Procedure Code and accepted international standards and the allegation of torture and ill treatment during arrest unfounded. Their arrest is related to alleged crimes committed in violation of the Ethiopian penal law and not connected in the case of Ms Bekele, to her association with EWLA, and in the case of Mr Fantu with his business activities or political activism. While in detention both accused were allowed visits of their families. Ms Bekele made no allegation of torture when released on bail on 26 October 2006. Human rights monitors, including the Special Rapporteur on Prisons and Conditions of Detention in Africa of the African Human and People's Rights Commission have visited the prisons and released reports with findings that the conditions in these prisons, meet international standards.

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

239. By letter dated 3 March 2006, the Government of Ethiopia replied to the communication of 15 December 2005 regarding the detention of journalists **Wosengesed Gebrekidan, Getachew Simi and Leykun Engeda**. The Government stated that these journalists were detained by law enforcement bodies for their alleged acts contrary to provisions of the Penal Code and Proclamation N.34/1992 governing freedom of expression. They were charged with serious infractions of existing press proclamation and provisions of the Penal Code. While on trial, their due process rights were guaranteed. It was also reported that the lower court has already passed verdict on these charges, finding the defendant guilty of committing defamation. One of the journalists lodged an appeal against the decision and the appeal was pending before a higher court at the time this letter was sent. It was further reported that the second category of journalists included those imprisoned by court order for committing alleged criminal offences associated with the post May 2005 Election disturbances in Ethiopia. The law enforcement authorities detained a number of journalists who took part in the opposition's attempt to change the Government unconstitutionally through street violence. According to information received from the Government, these individuals are not political prisoners but alleged perpetrators of criminal acts. The Government indicated that these journalists who have allegedly conspired to overthrow the Government through illegal means were detained and charged with crimes of genocide, treason and attempt to change the Government through unconstitutional means. The Government acknowledged the pivotal role freedom of the press plays in the country's democratization process. During the Prime Minister's report presented to the House of Peoples' Representatives on 13 February 2006, he declared that the Government remained committed to a continuous reform of the existing press legislations with the view to further strengthening press freedom in the country and realize the full implementation of the individual right to freedom of expression and opinion.

### **Observations**

240. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 5 January, 24 February, 11 and 17 of May, 28 September and 23 October 2006.

### **Gabon**

241. Le 19 octobre 2006, le Rapporteur spécial a envoyé un appel urgent sur **Norbert Ngoua Mezui**, fondateur et directeur de publication de l'hebdomadaire *Nku'u Le Messager*. Le 17 octobre 2006, Norbert Ngoua Mezui aurait été arrêté et conduit dans une cellule de la Direction générale de la recherche de la gendarmerie nationale. Le jour après, le procureur de la République lui aurait signifié l'exécution d'une condamnation, datant 2003, à une peine de 21 jours d'emprisonnement pour « diffamation par voie de presse », suite à une plainte du Trésorier payeur général. En 2003, le journaliste avait rédigé un article dans le bimensuel *Misamu* sur des tentatives de corruption, par un pays étranger, à l'encontre des fonctionnaires gabonais. Apparemment, n'ayant la justice pas donné suite à sa demande d'appel, le journaliste n'avait jamais purgé sa peine.

## Observations

242. Le Rapporteur spécial invite le Gouvernement à répondre à la communication envoyée le 19 octobre 2006.

### Gambia

243. On 11 April 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding two journalists working for *The Independent*: editor-in-chief **Musa Saidykhan**; and general manager **Madi Ceesay**. According to the information received, on 27 March, Musa Saidykhan was arrested. On the following day, the offices of *The Independent* were raided and sealed by security forces, and all staff members present were detained by the police from the Criminal Investigation Department and the elite Police Intervention Unit. Most of the staff members were later released, but Musa Saidykhan and Madi Ceesay were still detained at the date this communication was sent. Charges against them were unknown, and they were not allowed to see any visitors. Their arrest and detention followed a story published on the newspaper in the previous week, questioning the wealth of the president. The same edition also contained an article by Madi Ceesay, which was critical of the alleged coup plot on 21 March 2006, and the coup that brought the President into power in 1994. Concern was expressed that the two journalists' arrest and detention were directly related to their journalistic work. Concern was heightened in light of reports on several previous attacks against the offices and staff members of *The Independent*.

244. On 7 June 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Lamin Fatty**, a reporter with *The Independent*; and several persons detained for the alleged coup attempt of 21 March 2006, including **Vincent Jatta**, **Mariam Denton**, **Ngorr Secka**, **Foday Barry**, **Kemo Balajo** and **Buba Saho**. According to the information received, sixteen persons had been arrested and were detained in connection with the alleged coup attempt of 21 March. They had been charged with treason and conspiracy, which carry the death penalty. Their trial was adjourned first to 26 May and then to 2 June. At least eight other persons were detained without charge at the date this communication was sent, some of them incommunicado. They included: former chief of staff Lieutenant Colonel Vincent Jatta, senior lawyer Mariam Denton, former NIA acting deputy director general Ngorr Secka, NIA Director of Operations Foday Barry, former NIA senior officer Kemo Balajo, and NIA official Buba Saho. It was alleged that lawyers apart from the ones for Mariam Denton had been denied access to their clients, or could not meet with them in private. Moreover, on 14 May, reporter Lamin Fatty was charged with publishing false information in relation to an article he wrote which suggested that a high-ranking official was among those arrested for the alleged coup attempt in March. Despite the apology published by his newspaper, Lamin Fatty continued to face those charges. He had not appeared in court, at the date this communication was sent.

## Observations

245. At the time this report was finalized, the Special Rapporteur had not received a reply to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

### Georgia

246. By letter dated 27 January 2006, the Government of Georgia responded to the urgent appeal sent on 7 October 2005 concerning Mr **Ucha Nanuashvili**. The Government stated that the Office of the Prosecutor General of Georgia had considered the case outlined in the aforementioned communication and as no criminal offence was found to have occurred, the case was forwarded to the State Chancellery for further consideration. The Government noted that Mr Nikoloz Natenadze, former Head of the Legal Department of State Chancellery and Advisor to the Prime Minister was removed from office on 15 December 2004. It was also indicated that Mr Zaur Kvaratskhalia, Head of the Department of Relations with Georgian Diaspora and Inter-ethnic relations at the Presidents Office of Administration received a disciplinary warning. The Government stated that Mr Nanuashvili did not make any official complaint to State authorities regarding the alleged violations outlined in the communication of 7 October 2005.

## Observations

247. The Special Rapporteur invites the Government to respond to the communication sent.

### Ghana

#### Follow-up to previously transmitted communications

248. By letter dated 15 February 2006, the Government of Ghana replied to the communication of 20 July 2005 concerning the case of **Claude Decker, Thomas Kpakpo Thompson and Frank Boahene**. The Government attached the ruling of the High Court of Justice, which stated that the plaintiff was entitled to substantial damages because of the nature and content of the publication. The Court considered fair for the plaintiff to have eighty million Cedis damages and ordered the defendants to retract the publication and offer an apology to the plaintiff. The defendants refused to comply with the court order to publish a retraction in three issues of the paper and the Director of the paper did not appear in Court. The Constitution of Ghana in articles 162 and 173 provides for a free, independent media, thus the Court sentenced the contemnors to 15 days imprisonment each.

### Greece

249. On 24 March 2006, the Special Rapporteur sent an urgent appeal concerning Director **Lambros Smailis**, editors **Georgios Mantelis, Dimitrios Frangouliakis, Manolis Kottakis, Yannis Triiris**, and Reporter **Nikos Papadimitriou** for the daily newspaper *Apogevmatini*. According to information received, on 16 March 2006, they were to go on trial before the Three-Member Misdemeanors Court of Athens for simple and aggravated defamation by the press (articles 362 and 363 of the Greek Penal Code), punishable with a prison sentence of three

months to five years. They were all indicted for an article published on 24 May 2005. The trial was postponed to 26 June 2006, to coincide with a second trial for another defamation charge brought against Nikos Papadimitriou, for a separate article he wrote. Moreover, on 6 February 2006, a Single-Member Misdemeanors First Instance Court of Patras convicted Journalist and News Editor **Constantinos Flamis** and Cameraman **Thanasis Kafetzis** of the Patras-based *Super B* television channel to eight months' imprisonment and a fine. This sentence was in connection with an interview they conducted with an Albanian migrant who was being arraigned for allegedly driving drunk in a stolen car on 11 November 2004. The conviction was based on article 8, paragraphs 2 and 3, of Law 3090/2002, which prohibits photographing or filming individuals while being arraigned in court; any violation of this article is punishable with up to three years in prison and a fine between €20,000 and € 200,000 . This law was introduced to protect individuals being arraigned from being photographed or filmed against their will. Both the Albanian and his lawyer testified in the 6 February 2006 trial that they had actually asked to be interviewed in order to denounce a reportedly racially-motivated attack by passers-by that the Albanian had allegedly suffered during his arrest on 10 November 2004. Concern was expressed at the recourse to criminal sanctions for media related offences.

### Replies from the Government

250. The Special Rapporteur thanks the Government for the response dated 12 June 2006 concerning the communication of 24 March 2006.

### Guatemala

251. El 5 de abril de 2006 el Relator Especial, juntamente con la representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Claudia Jeannette Rivas Rosil**, maestra y secretaria departamental del Sindicato de Trabajadores de la Educación de Guatemala (STEG). De acuerdo con la información recibida, el 20 de marzo de 2006 un hombre se le acercó empuñando una pistola. Además, según la misma información, la Sra. Rivas Rosil recibió amenazas de muerte y su hermano German Adolfo Rivas Rosil, ex representante departamental del STEG, desapareció el 23 de agosto de 2005. Su cadáver habría sido encontrado el 23 de enero de 2006.

252. El 7 de abril de 2006, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con el cierre de diversas emisoras comunitarias y el arresto de sus directores y otros operarios durante los meses de febrero y marzo de 2006, por parte de la Fiscalía Especial de Delitos contra Periodistas y Sindicalistas del Ministerio Público, la Superintendencia de Telecomunicaciones de Guatemala (SIT) y la Cámara de Radiodifusión. Según la información recibida el 21 de febrero de 2006, el Ministerio Público habría allanado *Radio Cariñosa* en el Departamento de Jutiapa. Durante el registro, la fiscalía confiscó equipo y material de la radio. El 2 de marzo de 2006, fiscales del Ministerio Público allanaron y clausuraron distintas asociaciones de radios comunitarias: la **Asociación de Medios Comunitarios (AMECOS)**, la **Asociación de Estaciones Comunitarias del Sur Occidente (AECOS)** y la **Asociación de Radios Comunitarias de Guatemala (ARCG)**. En esta última, se habría incautado una computadora que contendría información de emisoras asociadas, nombres de sus directores y la dirección y número de teléfonos de los asociados. El 9 de marzo, el



Ministerio Público allanó cuatro emisoras en Chimaltenango: **Presencia Stéreo, Radio Cairo, Radio Mayense y Voz Latina**. En esta última se detuvo a la operadora de radio **Ana Piedad Martín**. La Sra. Martín fue puesta en libertad bajo fianza el 15 de marzo de 2006. Se alegó también que los equipos de transmisión de Presencia Stéreo, Radio Cairo y Radio Mayense fueron confiscados. El 9 de Marzo de 2006, también fueron allanadas otras tres emisoras en Huehuetenango, entre ellas, **Radio Acción y Radio Nolbert Sideral**. En esta última, se detuvo al profesor **Oscar Rocales López** y al Sr. **Esbin Martínez Palacios**, a quienes se les habría impuesto como medida sustitutiva un arresto domiciliario. El 14 de marzo de 2006, el Diputado **Marcelino Nicolás Moscut** y su asesor **Abraham Baca Dávila** de la Bancada Unidad Nacional de la Esperanza denunciaron los citados allanamientos. El diputado, que además preside la Asociación de Radios Comunitarias de Guatemala, habría denunciado también que en el ámbito de estas acciones, el Ministerio Público había allanado su casa.

253. El 25 de abril de 2006, el Relator Especial envió un llamamiento urgente en relación con los periodistas de la cadena de televisión Guatevisión, **Donald Efraín Chiquitó Velásquez** y **William Alexander Poroj Subuyuji**. De acuerdo con la información recibida, el 19 de Abril los Sres. Chiquitó y Poroj recibieron una llamada telefónica de Sumpango, donde acababa de tener lugar el arresto de dos individuos acusados de secuestrar niños. Ambos periodistas se desplazaron a Sumpango, donde se les informó de que los sospechosos habían sido trasladados al juzgado de paz de la localidad. Allí la multitud capturó a los sospechosos por la fuerza, les linchó y quemó sus cadáveres. Este incidente fue grabado por los periodistas, quienes posteriormente fueron amenazados de muerte, agredidos y perseguidos por integrantes de la multitud. El 20 de abril de 2006, un residente de Sumpango informó al Sr. Chiquitó de que, si como resultado de su grabación se iniciaba un proceso penal contra los presuntos autores del linchamiento, él y su familia serían asesinados. El 21 de abril de 2006, la fiscalía de la localidad de Antigua Guatemala abrió un proceso penal contra todos los individuos presuntamente implicados en el linchamiento y solicitó a Guatevisión una copia de la cinta. El Relator Especial expresó su grave preocupación por la vida e integridad física de ambos periodistas y sus respectivas familias, y apeló al Gobierno de Guatemala a tomar todas las medidas necesarias para garantizar su protección.

254. El 9 de mayo de 2006, el Relator Especial, conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con el señor **Mariano Calel Aguilar**, presidente de la junta directiva del Movimiento Campesino en Resistencia Pro Justicia Finca Nueva Linda. De acuerdo con la información recibida, el 27 de abril de 2006 Mariano Calel Aguilar fue amenazado de muerte por un miembro de la seguridad privada de la finca Nueva Linda. Antes de amenazar al señor Mariano Calel Aguilar, esta persona habría disparado contra 25 integrantes del Movimiento Campesino en Resistencia Pro Justicia Finca Nueva Linda. Se expresó temor de que estos eventos puedan estar relacionados con el trabajo que hace el señor Mariano Calel Aguilar y otros miembros del Movimiento Campesino en Resistencia Pro Justicia Finca Nueva Linda en defensa de derechos humanos, en particular por su trabajo en defensa de los derechos humanos de los campesinos de la finca Nueva Linda.

## Respuestas del Gobierno

255. Por carta con fecha 30 de junio de 2006, el Gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación del 7 de abril de 2006 sobre el cierre de diversas emisoras comunitarias y el arresto de sus directores y otros operarios (**Ana Piedad, Oscar Rocales, Esbin Martínez, Marcelino Nicolás y Abraham Baca**) durante los meses de febrero y marzo de 2006. El Gobierno de Guatemala informó de que en el país actualmente operan emisoras que cumplen con los requisitos legales, pero se tiene conocimiento de que aproximadamente 300 radios funcionan sin ningún tipo de regulación o control, y se ha manifestado que la mayoría de estas radios tienen intereses comerciales, pues su actividad no esta relacionada con los fines de las radios comunitarias, cuyo fin primordial es transmitir información educativa y cultural. Igualmente se informó que la SIT ha recibido alrededor de 303 quejas argumentando violación de derechos de usufructuarios por el uso ilegal de frecuencias en las bandas AM y FM. Adicionalmente la SIT realizó alrededor de 12 investigaciones técnicas para identificar violaciones al derecho de usufructo de frecuencias. Por ello, el Ministerio Público promovió procesos judiciales en contra de las organizaciones y representantes de las radios comunitarias. El Estado de Guatemala informó que, mediante una mesa de diálogo, se buscarán propuestas de reforma a la Ley General de Telecomunicaciones que garanticen el acceso equitativo a las frecuencias de radio y televisión.

## Seguimiento de las comunicaciones transmitidas previamente

256. Por carta con fecha 3 de noviembre de 2006, el Gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación de 4 de julio de 2005 en relación con el caso del Sr. **José Menchu Tojib**. Se informó de que el 7 de noviembre de 2005 el Gobierno solicitó información al Ministerio Público sobre las investigaciones llevadas a cabo para encontrar a los responsables de las amenazas e intimidaciones en contra del Sr. Menchu Tojib. El 15 de noviembre de 2005 se informó al Gobierno de Guatemala de que se tomó declaración a la víctima en la Fiscalía de Derechos Humanos. Se solicitó autorización judicial para revisar el listado de llamadas telefónicas del teléfono del Sr. Menchu Tojib. El 4 de julio de 2006 el Sr. Menchu Tojib sostuvo una reunión con funcionarios de la Comisión Presidencial de Derechos Humanos (COPREDEH) con el objeto de verificar su situación, donde manifestó que después de poner la denuncia ante el Ministerio Público, la Policía Nacional Civil le brindó seguridad en su residencia. El Gobierno asimismo indicó que el Ministerio Público realizó unas diligencias de investigación entre las cuales estaban declaraciones testimoniales y requerimientos de información a compañías telefónicas. Se informó de que el caso se encuentra en fase de investigación en virtud de la denuncia presentada por el Sr. Menchu Tojib. Finalmente, el Gobierno solicitó que se analizase la petición del Sr. Menchu Tojib para determinar si cumple con los requisitos de extrema gravedad y peligro inminente que pudieran causar daños irreparables, de conformidad con la información rendida y las acciones que han realizado para investigar el hecho denunciado.

## Observaciones

257. El Relator Especial agradece la respuesta del Gobierno y le invita a responder a las comunicaciones enviadas el 5 y 25 de abril de 2006 y el 9 de mayo de 2006.

## Honduras

258. El 7 de abril del 2006, el Relator Especial, conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente en relación con la agresión a la periodista comunitaria **Martha Vásquez**, colaboradora del sitio de Internet Indymedia y miembro de la etnia lenca. De acuerdo con la información recibida, el 2 de abril de 2006, durante una reunión del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH) en Intibucá, varios hombres armados irrumpieron argumentando que la reunión no podía celebrarse sin la autorización del diputado Romualdo Bueso Melghem, quien además ocupa el cargo de vicepresidente de la Comisión de las Etnias. Más tarde, tal diputado se presentó en el lugar de la reunión y agredió violentamente a la Sra. Vásquez tras darse cuenta de que la periodista estaba grabando mientras el diputado agredía y amenazaba de muerte al Sr. Salvador Zúñiga, uno de los delegados del COPINH. El diputado Bueso Melghem golpeó a la periodista, estrangulándola y sustrayéndole el magnetófono. Se alega también que otros dos delegados del COPINH habrían sido también amenazados de muerte y agredidos durante el incidente.

## Observaciones

259. Al finalizarse este informe, el Relator Especial no había recibido respuesta a la comunicación enviada. El Relator Especial invita al Gobierno a responder a dicha comunicación.

## India

260. On 13 January 2006, the Special Rapporteur sent an allegation letter concerning Mr **Prahlad Goala**, a district correspondent of the daily *Asomiya Khabar*, who was killed on 6 January 2006 by undisclosed aggressors in Golaghat, Assam. The journalist was investigating the illegal felling of trees in the forest of Nambor, which is a protected area, and had allegedly received threats from the forest ranger for several weeks. Following a complaint by Goala's wife, the ranger was arrested together with two other persons who allegedly were responsible for the attack.

261. On 18 January 2006, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent a letter of allegation. According to the information received, on 2 January 2006, Mr **Sudam Barla**, Mr **Govind Laguni**, Mr **Janga Jarika**, Mr **Landu Jarika**, Mr **Ati Jamuda**, Mr **Mukuta Bankira**, Mr **Dedghi Taria**, Mr **Bhagat Sae**, Mr **Ram Gagrai**, reportedly members of the indigenous communities of Chandia, Gobarghati and Champaloila villages, were killed, and several others injured, during clashes with the police in the village of Nuagaon, Jajpur district, Orissa. A police constable, Mr **Gopa Prasad Mohanty**, was also killed in the confrontation, allegedly by one of the participants in the protest. It had been reported that a number of members of the mentioned communities were protesting against the inadequate compensation paid for the expropriation of their land for an industrial project at Kalinga Nagar, in Jajpur district when the police allegedly used excessive force to disperse the crowd. It had also been reported that postmortem examination of those killed during the clashes was carried out in a way which exasperated the families and communities involved in the incident.

262. On 17 February 2006, the Special Rapporteur sent a letter of allegation concerning **Ratan Luwangcha**, bureau chief of a daily *Poknapham* and well-know photographer. According to information received, on 9 February 2006, Ratan Luwangcha was shot by unidentified armed men, and critically injured, in Imphal town, Manipur state. He had undergone an emergency operation, but stayed in a critical condition at the date this communication was sent. On 12 February, the Kangleipak Communist Party (KCP) claimed responsibility for the murder attempt. In a separate incident, on 8 February, the Mumbai office of the national television channel *Zee* was raided by the Hindu Shiv Sena party. The raid took place after channel *Zee* broadcasted a programme about the leader of the Shiv Sena party. Moreover, on 9 February, the Srinagar office of the English daily newspaper *Greater Kashmir* was ransacked by members of Jammu and Kashmir Liberation Front (JKLF). Three staff members of *Greater Kashmir* were injured, and the office windows were broken. A computer was reportedly also stolen. A JKLF leader threatened the *Greater Kashmir* staff that he could get people working for the media killed.

263. On 21 February 2006, the Special Rapporteur sent a letter of allegation concerning two journalists: **Robin Dhekial Phukan** of the daily *Asomiya*, and **Parag Bhuyan** of the Assamese daily *Dainik Janambhumi*. According to the information received, on 17 February 2006, Mr Phukan and Mr Bhuyan were beaten by the police in Kakopathar, where they were reportedly covering a visit by the State Chief Minister Tarun Gogoi. Mr Phukan was seriously injured by the beating, was taken to a police station and eventually to the hospital. Mr Bhuyan was injured when the police charged a crowd shouting anti-government slogans. He was taken to the hospital.

264. On 17 May 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Santhosh Patel**, staff member of the People's Vigilance Committee on Human Rights (PCVHR). PCVHR is an organization that monitors human rights violations committed by the state authorities in Uttar Pradesh, India. According to the information received, on 10 May 2006, Mr Patel was arrested and detained while he was attending a meeting with local people and the District Magistrate. It was reported that Mr Patel attempted to present a petition to the District Magistrate concerning violations by the authorities of the right to food of local people. It was further reported that the District Magistrate ordered his arrest and accused him of spreading false information. He was taken to Shivapur police station and released five hours later. It was alleged that no charges had been brought against him.

265. On 10 August 2006, the Special Rapporteur sent a letter of allegation concerning **Muhammad Maqbool Khokar** (better known as Maqbool Sahil), photojournalist for the daily paper *Chattan*, who was arrested on 18 September 2004 by a Counter Intelligence Kashmir unit in Srinagar. He was first held under the Official Secrets Act and from 20 October 2004 under the Public Safety Act (PSA), and was moved to a prison at Kotbalwal near Jammu. The Jammu and Kashmir High Court ordered his release on 27 October 2005 to no avail. On 9 January 2006 his detention was extended for another two years, under PSA, by security forces. On 8 August 2006, the Jammu and Kashmir High Court reiterated its request for an immediate release. Also the National Human Rights Commission had intervened in this case with no result.

## Observation

266. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

### Indonesia

267. On 10 February 2006, the Special Rapporteur sent a letter of allegation concerning **four new public service broadcasting regulations** which had come into effect on 6 February 2006. The four regulations are based upon the Broadcasting Law of 2002, and deal with allocating frequencies, monitoring programmes, licensing broadcasting stations, as well as limiting foreign broadcast contents and foreign ownership of broadcasting outlets. These regulations prevent local television and radio stations from directly relaying news broadcasts provided by foreign agencies, and as a result no real-time broadcast of content from foreign broadcasters can be broadcasted. The power to issue broadcasting licences was transferred from the independent National Broadcasting Commission (KPI) to the Ministry of Communications and Information.

268. On 7 March 2006, the Special Rapporteur sent a letter of allegation concerning **the barring of foreign media, churches and non-governmental organizations (NGOs) in West Papua**. According to the information received, on 6 February 2006, the Minister of Defence Juwono Sudarsono made a public statement in the media, and stated that the Government would maintain the barring of foreign media from reporting from the province of Papua. He stated that the ban should be on all foreign media, churches and NGOs, including human rights organizations, as their presence in West Papua would be used as a platform by Papuans to publicize alleged human rights abuses. The ban against foreign media had effectively been in place since mid-2003, and had prevented any foreign journalists from having official access to the region. Severe concern was expressed that the barring of the foreign media, churches and NGOs might be a direct attempt to prevent them to report human rights abuses in West Papua.

269. On 21 March 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal regarding **Selpius Bobii**, a student at the Catholic Theological College “Fajar Timur”, Jayapura, Papua, as well as **57 detainees**. According to the allegations received, on 16 March 2006, they were arrested and detained in Jayapura Police Station, and were denied access to lawyers. The students were protesting in Abepura in demand for the closure of mining operations in Timika, West Papua, and the withdrawal of the Indonesian army (TNI) and police, which provide security for the mining company. The protesters blocked the main road of Jayapura and the police instructed them to clear the roads, deploying water cannon and armoured vehicles. It was reported that Special Mobile Police Brigade (BRIMOB) officers used tear gas, and fired on the crowd of unarmed demonstrators. In response, the protesters threw stones, bottles and pieces of wood at the police. In the violence that ensued, it was reported that four policemen were killed and about nine were wounded. The following individuals were among those treated in a hospital, some in critical condition: Waena, Jayapura: Etinus Kulla, university student; Obatius Wanimbo, university student, treated for severe gun shot wounds; Ishak Ulmami, university student; John Giyai, university student; Hermanus Maiseny, high school student; Glen Mahulete, aged five; Killion Somou, university

student; Djie Makanuay, university student; Yuvenus Tekege, university student; Saud Marpaung, photographer; and Cahyo, journalist of *KOMPAS* daily. Amandus, Erick, Abraham Bemey, Markus Ningdana, Alex Candra Wajangkon, Michael L., Philips S. Kamar, Widi Kogoya, Melky Komboy, Alex Wayangkau and Imanuel Ronsumbre were treated in another hospital in Jayapura. Since 22 February 2006, there had been series of protests organized by civil society groups demanding the closure of mining operations.

270. On 18 May 2006, the Special Rapporteur sent a letter of allegation concerning a freelance journalist **Mr Herliyanto**, who was found dead on 29 April 2006 in the forest near Tarokan, Probolinggo District, in East Java province, after he had been seen being followed by several men on motorcycles. The cause of his death was reported to be stabbing. His camera and notebook were missing. Concern was expressed that his death was directly connected to his journalistic work, particularly in light of reports that he had been investigating and reporting on corruption in the local administration in Tulupari village, Probolonggo District.

271. On 12 June 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **staff members of the non governmental organization *Syarikat* and other participants in a peaceful gathering organized to commemorate the 1965 massacre**. *Syarikat* promotes reconciliation between the victims of the 1965 massacre and the perpetrators of the massacre. According to the information received, on 20 May 2006 approximately 100 individuals belonging to the civil militia groups the Laskar Siliwangi (Siliwangi Army) and Pemuda Panca Marga (The Youth of Military Veterans) attacked and chased 200 people who were participating in a peaceful gathering organized by *Syarikat* to commemorate the 1965 massacre. It was reported that the individuals belonging to Laskar Siliwangi and Pemuda Panca Marga threatened and intimidated the participants. It was alleged that when police officers arrived at the place of the incident, they questioned two members of *Syarikat*'s committee but did not question the members of Laskar Siliwangi and Pemuda Panca Marga.

272. On 1 December 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation regarding ***International People's Forum* (IPF)**, a network of civil society groups and non-governmental organizations who were planning to hold peaceful rallies at the same time as the World Bank/International Monetary Fund meeting which was due to take place in Singapore on 19 and 20 September 2006. The Batam Police authorities had rejected a request from IPF to hold peaceful demonstrations in Batam Island, during the World Bank/International Monetary Fund meeting. Allegedly the Batam Island Police Chief publicly stated "we will disperse them", referring to the planned peaceful demonstrations. It had also been reported that the Indonesian Police Chief had stated that an elite anti-terror squad would arrest any protestors who were considered to be a security threat. Since no outdoor activities would be allowed, it was reported that several events had to be cancelled. Concerns were expressed that the alleged prohibition of peaceful protests in Batan island was aimed at preventing the activities of the International People's Forum in defence of human rights, in particular their activities highlighting the impact of World Bank and IMF policies on women's rights, trade and finance, the environment, migrant workers and indigenous peoples.

## Replies from the Government

273. On 3 May 2006, the Government replied to the joint urgent appeal sent of 21 March 2006 acknowledging that on 16th March 2006, forces of order clashed with protestors who were organizing a **demonstration in Abepura** to launch their opposition to several issues, including demanding the closure of the United States-owned Freeport McMoran copper and gold mines and operations. However, according to the Government, the clashed occurred when police tried to persuade the demonstrators who were blocking access to the main road to disperse and the demonstrators, ignoring the police instead threw stones and other objects at the latter, mortally wounded four policemen and an Air Force officer. About 29 were injured and rushed off to Abepura hospital in Papua. The Government declared that, faced with the specter of a spreading violence, the Police in accordance with the existing law arrested 76 demonstrators, among whom it only declared 17 as suspects. The Government acknowledged that one of them was Selpius Bobil, the head of the West Papua Referendum Front, for questioning on his role as instigator in the final outcome of events. However, the Government indicated that 12 individuals, and not 57 as alleged in the letter, were also arrested by the police at the Jayapura Police headquarters as the ongoing investigation into the cause of death and injury resulting from the clashed continue. The Government ensured that as set forth in the national legislation, each suspect was granted the right to be visited by family members and religious figures, and the right to be accompanied by lawyers at all levels of the investigation. The Government stated that contrary to allegations, the suspects have been accompanied by lawyers who had authority to act on their behalf and these were lawyers from the Coalition of Non-Governmental Organisations, which included: **Pieter Eli, SH; Paskalis Letson SH; L. Anum Siregar, SH; Adolf Waramori, SH; Iwan K.Niode, SH; Rahman Ramili, SH; Robert Korwa, SH; Yohannes Harry Maturbongs, SH; Sihar L.Tobling, SH; Cornelia Silva, SH; Jemy Noya, SH; Yusman Conoras, SH**. The Government added that Indonesia's National Commission of Human Rights has monitored the investigation process and has directly visited suspects in the Police headquarters. The Government ascertains that the cases aforementioned will be brought before the court in due time and they will have the right to argue their case or to launch an appeal against the ruling if necessary.

274. By letter dated 3 May 2006, the Government replied to the communication of 10 February 2006. The Government of Indonesia confirmed that it had adopted new regulations **Broadcasting Law 32/2002** in order to restructure the media industry which had operated without official control since 1998. These regulations include: No. 49/2005 on foreign broadcasters, No. 50/2005 on private broadcasters, No. 51/2005 on community broadcasters and No. 52/2005 on foreign broadcasters. The Government explained that the authority to issue the broadcasting licenses was removed from the National Broadcasting Commission (KPI) and given to the Ministry of Information. KPI brought the case before the Constitutional Court questioning the authority of the Government to issue and revoke licences. In 2005, the Court ruled that the technical regulations should be dealt with by KPI, though the issuance and revocation of licences would be under the government's domain. KPI brought the case to the Supreme Court, on which no verdict has been issued yet. The Government denied the alleged prohibition of certain media, but live and unedited broadcast of certain foreign news. As explained, the Government policy is to delay these broadcasts for a few seconds to ensure that unsuitable material can be censored.

275. By letter dated 3 May 2006, the Government replied to the communication of 7 March 2006 concerning the barring of **foreign media, churches and NGOs in Papua**. The

Government explained that the existing ban in accessing the region already lasting for 18 months was justified by the situation of unrest and confrontation in Papua, which was caused by instability due in part to the disruptions caused by the separatist movement (OPM), as much as to the complexities of implementing the 2001 Papuan Special Autonomy Law. The Government stated that it could not guarantee the safety of visitors to the region and that elements external to the area might exacerbate internal strife. The Government emphasized that although the ban in place was not absolute, and requests to visit the province would be considered on a case-by-case basis. The Government indicated that it would consider revising this ban when the situation in Papua would sufficiently improve.

276. By letter dated 20 July 2007, the Government replied to the communication dated 18 May 2006, concerning the death of the journalist **Mr Heriyanto**. The Government informed that he was found dead near Tarokan Village on 29 April 2006 and taken to the Probolinggo General Hospital for an autopsy, which revealed that his death was caused by multiple stab wounds. The Government indicated that unconfirmed reports stated that as **Mr Heriyanto** drove past Klenan market he was followed by five or six unknown assailants riding motorcycles. His motorbike was later found near his body. The Government informed that the police had started an investigation. The Jakarta-based Alliance of Independent Journalists (AJI) had also launched a fact-finding investigation to discover if his death was directly related to his journalistic work, particularly the reports he was allegedly working on regarding a series of corruption cases in the local area. According to the Probolinggo Police Detective chief, robbery was excluded as a motive, given that his motorbike had been found 30 metres away from **Heriyanto's** body. As part of police investigations, police had traced a series of calls the victim just made prior to his death. Following the information received from the Government, the police had also continued to question various witnesses and suspects in order to find the perpetrators. Based on the testimonials of the witnesses, the police was able to rule out several possible motives for the murder. The investigations were ongoing at the time this reply was received. The Government of Indonesia condemned this murder and stressed the importance of reiterating its commitment to the promotion and protection of the right to freedom of opinion and expression.

### **Observations**

277. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 12 June and 1 December 2006.

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

278. On 16 January 2006, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary General on the situation of human rights defenders, regarding **Mr Mansour Ossanlu**, head of the Union of Workers of the Tehran and Suburbs Bus Company (Sherkat-e Vahed). On 22 December 2005, police reportedly arrested Mr Ossanlu at home in connection with his trade union activities. On the same day, 12 members of the Union were also arrested at their domiciles and, on 25 December, other Union members were arrested while manifesting for the release of their comrades. The unionists were released few days later with the exception of Mr Ossanlu, who remains detained, since 22 December 2005. Mr Ossanlu had not been granted access to a lawyer at the time this communication was sent, and could face charges



including contact with Iranian opposition groups abroad and instigating armed revolt against the authorities. Moreover, he suffered from a severe eye trouble and needs immediate medical treatment.

279. On 3 February 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning the following persons: **Reza Haidari**, aged 11; **Kazem Sayahi**, aged 14; **Hashem Jassem Sawari**, aged 18; **Hadi Washahi**, aged 17; **Said Manabi**, aged 20; **Saleh 'Abidawi**, imam (prayer leader); **Sheikh Saleh al-Haydari**, imam of Da'ira mosque. According to the information received, a group of people including the seven people named above, all members of Iran's Arab minority, were reportedly arrested in the city of Ahvaz in Khuzestan province on 11 and 12 January 2006. The arrests took place after clashes in Ahvaz between Iranian security forces and members of the Arab Ahwazi community. The clashes followed an initially peaceful demonstration which took place on the Muslim festival of 'Id al-Adha on 11 January 2006, led by Sheikh Saleh al-Haydari, imam of Da'ira mosque in Ahvaz. Demonstrators were reportedly demanding an end to the persecution of Arabs, poverty and unemployment among Arabs, and the release of political prisoners arrested following unrest in Khuzestan province which began in April 2005. On 12 January 2006, more arrests followed in the city of Hamidiya, after a demonstration against the arrests which had taken place on 'Id al-Adha, the previous day. It was also alleged that at least three men were killed during the clashes between 11 and 12 January 2006 by the security forces in the Khuzestan region and around 40 others wounded. It was also reported that Sheikh Saleh al-Haydari had been on hunger strike since 25 January 2006 in protest at his detention. The authorities had reportedly accused him of threatening national security.

280. On 16 February 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Ms **Elham Afroutan** and up to **six other journalists** from the provincial weekly *Tammadon-e Hormozgan*. According to information received, they were arrested in Bandar Abbas, Hormozgan, on 29 January 2006, just after the publication on *Tammadon-e Hormozgan* of a satirical article about the 1979 Islamic Revolution in Iran. Elham Afroutan and her six colleagues had not been formally charged, nor have they had access to legal representation.

281. On 1 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers, the Independent Expert on Minority Issues and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **173 members of the Nematollah Sufi Muslim community**. According to the information received, on 13 February 2006, they were arrested due to their participation in a peaceful protest, which was reportedly violently suppressed by the security forces and members of the Hojatieh and Fatemiyan pro-government groups. The protest was being held against an order by the security forces to evacuate the community's place of worship, known as Hosseiniye. The 173 individuals were reportedly being interrogated at Fajr prison in Qom, at the time this communication was sent, and there were concerns that they were being tortured in order to force them to sign pre-prepared false confessions, stating that the protest had political motivations and was linked to anti-Government groups. The relatives of the detainees had been unable to obtain official information about their whereabouts and the detainees had not had access to lawyers. According to the information

received, lawyer Bahman Nazari was arrested when he approached officials in an attempt to represent the detainees. The protest began on 9 February 2006. On 13 February 2006, there were hundreds of protesters present in and around the Hosseiniye. The security forces set a deadline for the protesters to evacuate the Hosseiniye. Members of the Fatemiyon and Hojatieh groups surrounded the place of worship, shouting anti-Sufi slogans, and distributed leaflets alleging that Sufis are enemies of Islam. The security forces moved in and stormed the building using tear gas and explosives. They beat many of the protesters. The next day the Hosseiniye was demolished using bulldozers. Approximately 1,200 protesters were arrested and taken away to unknown locations. The detainees were interrogated and reportedly many were subjected to torture or ill-treatment. Most of them were subsequently released. However, 173 were still held at the date this communication was sent. According to the information received, those that were released were required to sign papers as a condition of their release agreeing not to attend any Sufi gatherings in Qom. Some were reportedly required to sign documents renouncing Sufism. Arrest warrants had reportedly been issued for the main Sufi preacher in Qom, Seyed Ahmadi Shariati and the four lawyers who had previously been acting on behalf of the group: Amir Eslami, Omid Behrouzi, Gholamreza Harsimi and Farshid Yadollahi. This incident occurred amid concerns about an increasing demonization of the Sufi Muslim group. In September 2005, a religious jurist in Qom, Ayatollah Hossein Nouri-Hamedani called for a crackdown on Sufi groups in Qom.

282. On 14 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation regarding a **peaceful assembly of women's rights activists in Tehran**. According to information received, on 8 March 2006, anti-riot police officers, Revolutionary Guards and plainclothes agents surrounded Tehran's Daneshjoo Park. They ordered hundreds of women and men who had gathered there to celebrate International Women's Day to disperse. In response, the crowd staged a sit-in and sang the anthem of the women's rights movement. The security officers then proceeded to dump the contents of garbage bins on the women and beat the persons assembled with batons, including poet **Simin Behbahani**, aged over 70. The security forces also arrested foreign journalists and confiscated their photographic equipment and video footage before releasing them. The commander of the security forces stated that the gathering was held without an official permit and that the security forces had to prevent the gathering from taking on a political dimension. On 7 March 2006, the Interior Ministry summoned several women's rights activists and warned them to cancel the gathering planned for 8 March 2006. Concern was expressed, particularly at the use of force by the authorities, to bring an end to what was reportedly a peaceful assembly in celebration of an internationally commemorated day. Concern was further expressed in light of the information that security forces had repeatedly resorted to violence to support peaceful gatherings in the past months.

283. On 31 March 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr **Abdolfattah Soltani**, a defence lawyer and a founding member of the Defenders of Human Rights Centre (DHRC) who was arrested on 30 July 2005. Mr Soltani was the subject of two previously sent urgent appeals. According to the

information received: Mr Soltani had still not been informed of the charges brought against him, in violation of paragraph 3 of article 14 of the International Covenant on Civil and Political Rights of which the Islamic Republic of Iran is a Party. It was alleged that on December 3, 2005, Mr Saïd Mortazavi, General Prosecutor of Tehran, decided to replace the investigating judge who had just announced to Mr Soltani's lawyers that he would recommend his release on bail. The newly appointed judge decided, on the same day, that Mr Soltani should remain in custody for a further period of three months. Mr Soltani was released on 6 March 2006 on a 100,000 Euros bail - an unusually high amount which was paid by a solidarity movement. It was reported that Mr Soltani would be tried on 5 April 2006 before the Islamic Revolutionary Court of Tehran. However, his lawyers had not been granted access to the criminal prosecution file. During his detention in solitary confinement in Evin Prison in Tehran, Mr Soltani could only meet one of his lawyers in January 2006, more than six months after his arrest. It was also alleged that Mr Soltani's prosecution was motivated by his role as a defence lawyer in a case where Mr Soltani questioned the role of the Prosecutor in Ms Zahra Kazemi's death in Evin prison. Lastly, it was reported that Mr Soltani received an official letter from the Judiciary rejecting his election as a Board member of the Tehran Bar Association, on the grounds that his candidacy was not valid since he was in prison during the election.

284. On 12 April 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal regarding numerous members of the Kurdish community including **Azad Rasouli, Abu Bakr Bapiri, Khezer Sa'idnezhad, Mohammad Saleh Kukhashireh, Khaled Shirzad, Abu Bakr Tikan Tapeh, Avat Qorayshi, Mohammad Amin Salimian, Sa'adollah Soltanian, Khezer Mouloudi, Rezgar Salimian, Dara Qorayshi, Ribvar Salimian and Kamel Salimian**. On 19 and 20 March 2006, security forces arrested the above-mentioned persons and others, possibly numbering more than eighty, from the Kurdish community in Bukan, West Azerbaijan Province. The men are former members of Kurdish opposition parties, and had previously been arrested a few years ago. They were subsequently released, but kept under supervision by the Ministry of Intelligence. They were held at an undisclosed location at the date this communication was sent. Their families had not been told where they were or what they had been charged with. The security forces also searched their houses and confiscated documents and personal computers. Concern was expressed that their arrest was directly linked to their previous membership of Kurdish opposition parties.

285. On 8 May 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Dr. Ramin Jahanbegloo**, a philosopher, scholar and author of several books on philosophy and modernity in Iran. Reportedly, on 2 May 2006, he was arrested at Mehrabad Airport in Tehran after returning from a trip to India. No legal reasons or explanations were given for his arrest. Dr. Jahanbegloo, Head of the Department for Contemporary Studies at Iran's Cultural Research Bureau, was later taken to Evin prison, where he was reportedly kept in incommunicado detention at the date this communication was sent. Fears had been expressed that his arrest could be in connection with his academic activities and the free expression of his ideas abroad.

286. On 8 May 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture,

sent an urgent appeal regarding **Mostafa Evezpoor**, aged 25, **Mohammad Reza**, aged 14, and **Morteza**, aged 16, brothers and activists for the rights of the Azeri Turk minority in Iran. According to the information received, on 6 April 2006, Mohammad Reza was arrested by officials from the Ministry of Intelligence, while writing "I am a Turk and my language is Turkish" on a wall. He was taken to a Ministry of Intelligence facility called Bagh Shomal, where he was severely beaten. He was detained for three days. While he was in detention he was suspended by his feet for 24 hours, and given no food or water, or allowed to use a toilet. Moreover, on 6 April 2006, Mostafa Evezpoor and Morteza were arrested at about midnight at their home in the city of Tabriz, East Azerbaijan province. The arrest was carried out by officials from the Ministry of Intelligence. The officials searched the house and confiscated some Azeri-Turkish language books, newsletters, posters, CDs, and DVDs of the brothers reportedly at nationalist events with other Azeri Turk activists. Furthermore, Mostafa Evezpoor was being detained in incommunicado detention at an undisclosed detention facility run by the Ministry of Intelligence in Tabriz. On 9 April 2006, he was brought before a court, although it was unclear whether he had been charged with a criminal offence. Morteza was detained for three days.

287. On 22 May 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **52 members of the Nematollahi Sufi muslim community** and their two lawyers **Farshad Yadollahi** and **Omid Behroozi**. They are amongst 173 members of the Nematollah Sufi Muslim community arrested on 13 February 2006, due to their participation in a peaceful protest against an order by the security forces to evacuate the community's place of worship, known as Hosseiniye. They were the subject of the communication sent on 1 March 2006, to which no response had been received at the date this communication was sent. On 3 May, 52 members of the Nematollahi Sufi Muslim community and their two lawyers Farshad Yadollahi and Omid Behroozi were convicted on charges of "disobeying the orders of government officials" and "disturbing public order". For the former charge, 25 individuals were reportedly fined 10 million Iranian Rials (equivalent to more than US\$1,000) and the rest were fined 5 million Iranian Rials (equivalent to more than US\$500). For the latter charge, they were sentenced to one-year imprisonment and 74 lashes. After their release, they were obliged to report to the security officials every month for the period of two years. It was further reported that Farshad Yadollahi and Omid Behroozi were disqualified from their profession for five years. All of them were released on bail, and were given 20 days to appeal the judgment.

288. On 16 June 2006, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **hundreds of women and men who participated in the peaceful demonstration**, demanding legislative change to ensure equal rights in Tehran. According to the information received, hundreds of women and men gathered at Haft Tir Square in downtown Tehran on 12 June 2006, and participated in a peaceful demonstration in demand for a better recognition of women's rights and to remove discriminatory clauses against women from Iran's legal code. It is reported that prior to the demonstration, the Judiciary summoned and interrogated numerous women's rights activists. On

10 June 2006, agents of the Judiciary visited prominent activists at their homes to issue summons. Those who were summoned include **Noushin Ahmadi Khorasani, Parvin Ardalan, Sussan Tahmasebi, Zohreh Arzani** and **Fariba Davoodi Mohajer**. Fariba Davoodi Mohajer had been interrogated by judiciary agents of the Revolutionary Court in Tehran for 10 hours. In the morning of 12 June, security forces arrested another human rights activist **Shahla Entessari** at her work. On 12 June, before the demonstration started, the security forces started to beat the participants with batons, sprayed them with tear gas and color spray, and took them to custody. A spokesperson for the judiciary had reportedly confirmed that security forces arrested 70 people, including 42 women, to prevent the demonstration to take place. Those who were arrested at the demonstration site include: **Ali Akbar Mousavi Khoiniha**, former member of the parliament and human rights activist; **Jila Baniyaghoub, Delaram Ali, Samira Sadri, Bahareh Hedayat, Leila Mohseni, Bahman Ahmadi Amooi, Siamak Taheri** and **Farahnaz Sharifi**. According to the spokesperson for the judiciary, they were charged with participation in an illegal assembly.

289. On 17 July 2006, the Special Rapporteur sent an urgent appeal concerning Mr **Ramin Jahanbegloo**, journalist and intellectual, who had worked with renowned foreign magazines. Mr Jahanbegloo was the subject of a previously sent urgent appeal. According to the information received, on 28 April 2006, Ramin Jahanbegloo was arrested at Tehran airport and had since been placed in solitary confinement at Evin prison. On 3 July 2006, Intelligence minister Gholam Hossein Mohseni Ejeie accused the journalist of taking part in an attempt, namely by foreign countries such as the United States of America, to carry out a velvet revolution in Iran. A few days later, the appointment of Mr Hassan Hadad, by Tehran General Prosecutor Saeed Mortazavi, as deputy prosecutor in charge of tracking “enemy press”, raised concern about a new wave of arrests among intellectuals and journalists’ circles. According to reports received, several journalists and intellectuals were already detained and charged of offences against state security.

290. On 8 August 2006, the Special Rapporteur sent a letter of allegation jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General on the situation of human rights defenders concerning Mr **Abdolfattah Soltani**, an Iranian lawyer and a founding member of the Defenders of Human Rights Centre (DHRC), who was arrested on 30 July 2005. Mr Soltani was the subject of three previously sent urgent appeals. According to the information received, Mr Abdolfattah Soltani was notified on 16 July 2006 that the Revolutionary Court of Tehran condemned him to a five-year prison term and to the loss of his civic rights, for the non-respect of the preliminary investigation confidentiality in a politically sensitive case in which he was the defendant’s lawyer. Mr Soltani appealed this decision. Serious concern was expressed that Mr Soltani’s prosecution was motivated by his plea in a case related to the death of an Iranian-Canadian photographer Ms Zahra Kazemi, in Evin prison, where Mr Soltani questioned the fairness of the judicial proceedings and the lack of proper investigations including the role of the Tehran Prosecutor in such death.

291. On 11 August 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the ban of the non-governmental organization **Defenders of Human Rights Centre (DHRC)**, which aims at

providing legal counsel to dissidents, journalists and students facing prosecution for exercising fundamental freedoms and concerning DHRC President, Ms Ebadi, who was the subject of three previously sent urgent appeals. According to the information received, on 3 August 2006, the Iranian Ministry of Interior declared that the activities of DHRC were illegal, and that those who continued its activities would be prosecuted. Since its creation, DHRC had been repeatedly denied legal registration, its requests for registration having been systematically blocked by the Iranian authorities without any reasons being provided. Ms Ebadi, was summoned in 2005 by the Revolutionary Public Prosecutor's office without official reasons, and threatened with arrest and prosecution.

292. On 16 August 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, an urgent appeal regarding the alleged imprisonment of **Ahmad Batebi**, a student activist, during an approved period of leave from prison. Ahmad Batebi was originally detained in 1999 for his participation in a student demonstration following the closure of the Newspaper *Salam*. He had been convicted on charges of "endangering national security" and condemned to the capital punishment by the Islamic Revolutionary Courts. The sentence was later on commuted to 15 years of imprisonment. The situation of Ahmad Batebi was the subject of two previously sent communications. Reportedly, due to his bad health condition and after serving six years of his sentence, Ahmad Batebi was granted approved leave by doctors appointed by the judiciary system. On 27 July 2006, unknown armed persons conducted a home search, arrested Ahmad Batebi and drove him to an undisclosed location, believed to be Evin Prison in Teheran. He was reportedly being denied access to his family and lawyer.

293. On 14 September 2006, the Special Rapporteur sent a letter of allegation concerning the situation of the daily *Sharq*. According to the information received, on 10 September 2006, *Sharq* was closed, allegedly after having failed to comply with an order of the Press and Supervisory Board to remove Mohammad Rahmanian from his position of Manager Director. On 10 August 2006, the above-mentioned Board, run by the Ministry of Culture and Islamic Guidance, had allegedly sent a letter to the daily *Sharq* ordering the replacement of Mr Rahmanian within one-month's time. The Board had allegedly accused him of 70 cases of violations, including insulting officials, religious and national figures as well as publishing blasphemous articles. Reportedly, the daily *Sharq* had maintained a critical editorial line and had recently criticized the rulings of the Supreme National Security Council. On 12 of August 2006 the said Press and Supervisory Board ordered the closure of *Nameh* monthly newspaper for blasphemy and insulting religious figures.

294. On 22 September 2006, the Special Rapporteur sent an urgent appeal concerning Mr **Mohammad Sadiq Kabudvand**, managing editor of the bilingual Kurdish and Farsi weekly *Payam Mardom Kordestan*, and Secretary of the Kurdistan Organization for the Defence of Human Rights. According to the information received, the court of appeals in the northwestern city of Sanandaj issued a ruling upholding the one-year prison sentence against Mohammad Sadiq Kabudvand. Allegedly, the court also upheld the five-year ban on Mr Kabudvand to practice journalism. It had been reported that on 13 September 2006 local authorities in Sanandaj had summoned Mr Kabudvand to begin his sentence. On 18 of August 2005, Mr Kabudvand was

convicted of "inciting the population to rebel against the central state" and creating racial and tribal tensions, allegedly in connection with his articles denouncing torture in Iranian jails and for his advocacy for a federal system of government for the Islamic Republic of Iran. He was given a one- year suspended prison sentence.

295. On 27 October 2006, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning the alleged detention of Mr **Kianoosh Sanjari**, member of the United Students Front, who had reported on the human rights situation in Iran on online blogs. On 7 October 2006, he was arrested in Tehran after allegedly visiting the house of Sh'ia cleric Ayatollah Sayed Hossein Boroujerdi who had called for the separation of religion and state. The reason for his visit was to write a report about the unrest which had taken place between security forces and the supporters of the aforementioned cleric. Mr Sanjari was taken to an unknown location and, at the date this communication was sent, he was being held incommunicado.. Mr Sanjari had been arrested on a number of occasions in relation to his activities and was detained and held in solitary confinement for a number of months in 1999, after demonstrating against the closure of the newspaper Salam (Peace). Concern was expressed that he was being detained on the basis of his legitimate activities in defence of human rights, in particular his reporting on the clashes between the authorities and the supporters of Ayatollah Sayed Hossein Boroujerdi.

296. On 13 November 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Abbas Leysanli (or Lisani)**, a leading member of a national movement in the north-western region of the Islamic Republic of Iran. Mr Leysanli's case was the subject of a previously sent urgent appeal. During the mass protests in the city of Erdebil in May 2006, Mr Leysanli addressed a crowd of demonstrators and asked for their restraint. On 3 June 2006, he was arrested and detained by plainclothes agents of the intelligence service. On 27 September 2006, one day before he was released from the Erdebil state prison on bail, Mr Leysanli was sentenced to 16 months' imprisonment and fifty lashes in relation to his participation in the mass protests on 27 May 2006 in Erdebil. The Court found him guilty of "disturbing the peace, creating public disorder" and "participating in the destruction and burning of public and private property", offences punishable pursuant to Articles 618, 676, 677, 43, 47 and 727 of the Islamic Penal Law. On 26 October 2006 Mr Leysanli filed a written appeal against the sentence of the first instance court. The Erdebil Appeal Court, Branch 1 of the Erdebil Province, apparently in closed session, increased the sentence, to 18 months in total and retained the fifty lashes. On 31 October 2006, Mr Leysanli was rearrested at his workplace in Erdebil by plainclothes security agents and taken to the Erdebil state prison, where he had been detained ever since. Mr Leysanli suffered from bad condition of health, reportedly as a result of ill-treatment during previous periods of detention. Concern was expressed that his arrest and detention may have been connected with Mr Leysanli's reportedly peaceful exercise of his right to freedom of conscience, opinion, expression and assembly while defending rights of Iranian Azeri Turks.

297. On 4 December 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture,

the Special Representative of the Secretary-General on the situation of human rights defenders, and the Special Rapporteur on the Independence of Judges and Lawyers sent an urgent appeal concerning **Mr Mansour Ossanlu**, Head of the Union of Workers of the Tehran and Suburbs Bus Company. Mr Ossanlu, in detention at Evin Prison at the time this communication was sent, was already the subject of an urgent appeal dated 16 January 2006. According to the information received, Mr Mansour Ossanlu was arrested at his home by police on 22 December 2005 and eventually released on bail amounting to 1.5 billion Rials on 9 August 2006. Mr Ossanlu was awaiting trial on charges, the exact nature of which are not known, but which may include “propaganda against the the Islamic Republic” through leaflets and interviews with foreign anti-Government radio stations, and “acting to disturb internal state security by establishing links with hostile opposition groups and foreign countries”. Although he had received a court summon ordering him to attend Branch Four of the Special Court for Government Employees on 20 November 2006, he was re-arrested the day before, 19 November 2006, outside his home by plainclothes members of the security forces and detained incommunicado at Evin Prison, Section 209. He is suffering from a serious eye complaint, but is not receiving medical treatment in prison. On 26 November 2006, Mr Ossanlu appeared at Branch 14 of the Revolutionary Court for initial investigations by the Prosecutor and no charges were brought against him. Concern is expressed that his re-arrest and detention may form a further attempt to deter him from peacefully exercising his legitimate right to freedom of association, including the right to form and join trade unions, and the right to freedom of opinion and expression, and may also represent an attempt by the authorities to prevent him from carrying out his peaceful activities in defence of human rights, in particular labour rights. Further concern is expressed as to his state of health and his physical integrity in view of the reported lack of proper medical treatment of his eye complaint and also in view of his incommunicado detention.

298. On 15 December 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Mr Sherko Jihani**, correspondent of the Turkish news agency Euphrat in Mahabad and a member of the Human Rights Organization of Kurdistan (HROK). According to the allegations received, on 27 November 2006, Mr Jihani was reportedly arrested and detained in Mahabad Central Prison after being summoned to appear before Branch 2 of the Revolutionary Prosecutor’s Office in Mahabad. It is reported that Mr Jihani was interrogated about forming an investigative committee on the kidnapping on 8 January 2006 of a woman human rights activist, Ms Sarveh Komkar (Kamkar), and for giving interviews to foreign media about the killing by Iranian security forces of Kurdish activist, Showan (Shivan) Qaderi on 9 July 2005. **Mr Qaderi** was the subject of an allegation letter sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions on 10 August 2005. On 30 November, **Mr Jihani** reportedly went on a hunger strike in protest against his detention after refusing to pay a 50 million Rials bail. On 4 December, **Mr Jihani** began refusing to speak. On the same day, his family was reportedly able to visit him. On 6 December, **Mr Jihani** was moved from Mahabad Prison to an unknown location, possibly Oromieh prison. On 12 December, **Mr Jihani**’s family reportedly received a phone call from an alleged member of the Mahabad branch intelligence services who told them that **Mr Jihani** died of a heart attack after falling into a coma. On 13 December, the family was relieved to receive a phone call from **Mr Jihani**, but he was unable to tell them anything about his whereabouts. He, however, sounded very weak. **Mr Jihani** has reportedly been arrested nine times since 1999, and is said to have been tortured while previously in detention. Concerns were



expressed that the arrest and detention of **Mr Jihani** were in relation to his legitimate activities in defence of human rights. Further concerns are expressed that **Mr Jihani** is at risk of torture or ill-treatment, also in view of the fact that he is reportedly held incommunicado at an unknown location.

### **Replies from the Government**

299. By letter dated 30 March 2006, the Government of the Islamic Republic Iran replied to the communication of 16 January 2006 concerning **Mr Mansour Ossanlu**. The Government informed that **Mr r Ossanlu** had been arrested on charges of “disturbing public order” and producing as well as distributing illegal publications aimed at attempting on state security (beyond any trade union demands). The Government of Iran indicated that **Mr Mansour** has been offered bail by the court but since he had not been able to provide the bail he remained in detention. The Government informed that upon further consideration of the case and revelation of his legal background on distributing publications of terrorist groups, the bail was withdrawn by the court and he is in detention for the time being.

300. By letter dated 2 June 2006, the Government of Iran replied to the communication of 3 February 2006. The Government informed that an investigation had been carried out by the Local Judicial Authorities in Khuzestan Province and that no record of **Reza Heidari, Kazem Sayahi, Hashem Jassem Sawari, Hadi Washahi, Said Manabi** and **Saleh Abidawi** being accused or charged had been found. With respect to **Saleh Heidari**, he was charged with “measures against security of the state” and he was then released on bail.

301. By letter dated 3 April 2006, the Government of Iran replied to the communication of 31 March 2006. The Government informed that **Mr Abdolfattah Soltani** was arrested on charges of disseminating classified intelligence and thus attempting on the state of security. He was offered bail by the court and he was thus free on bail.

302. By letter dated 29 June 2006, the Government of Iran replied to the communication of 12 April 2006. The Government informed that **Khaled Shirzad, Azad Rasouli, Abubakr Bapiri (alias Abubakr Tikan)** and **Avat Ismaeil Salimian (alias Rezgar Salimian)** have been charged with “cooperation with the terrorist group of Kumeleh”. **Mr Rasouli** was in possession of illegal weapons. They have all been released on bail. The Government also indicated that **Khezer Sa'idnezhad (alias Khezer Mouloudi)**, **Mohammad Saleh Khkhashireh** and **Mohammad Amin Salimian** were charged with “cooperation with the terrorist group of Kumeleh and complicity in assassinating an individual by the name of **Ali Yasin Parast**. **Mohammad Amin Salimian** also participated in the assassination of another individual named **Rahman Qaderi**. None of them were able to provide bail and therefore remained in custody.

303. By letter dated 18 August 2006, the Government of of Iran replied to the communication of 16 June 2006. The Government explained that according to the information received from the Judiciary of the Islamic Republic of Iran regarding the illegal demonstrations in Tehran, all detainees except one have been released. The one who remained in custody was **Mr Ali Akbar Mousavi Khoeiniha**, who had been charged with disturbing public order and instigation against the state. The Government indicated that he enjoys the legal services of three prominent counsels, namely **Ms Shirin Ebadi**, **Mr Abdolfattah Soltani** and **Mr Mohammad Sharif**.

Investigations about the case were said to be ongoing at the time this communication was sent and should he be sentenced in the court, he would serve a term of imprisonment.

304. By letter dated 8 September 2006, the Government of Iran replied to the communication of 11 August 2006. The Government indicated that the “Defenders of Human Rights Center” had been registered and had requested necessary license for its activities from the relevant authorities in Iran. However, its request had not yet been approved due to shortcomings in both form and content of its statute. Therefore that Center could not undertake any activities before the approval of the Ad hoc Commission of article 10 of “Bill of establishment and activities of parties and associations”, except for preparing its statute. The Government also indicated that article 10 of the mentioned Bill had provided to set up an Ad hoc Commission to grant license to establish parties, and that Commission is composed of two representatives of the Judiciary, two Members of Parliament and one representative of the Government.

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

305. By letter dated 20 February 2006, the Government of Iran replied to the communication of 16 June 2005 concerning Mr **Akbar Ganji**. It was reported that Mr Akbar Ganji had been charged with “measures against national security”, “gathering classified information” and “dissemination of false information” and has been sentenced to six years' imprisonment. He was serving his term at the time this letter was sent. The Government indicated that during his prison term, with the assistance of the Judiciary, he had gone on leave on numerous occasions and he was enjoying medical care as required. On the 17 June 2005 Mr Ganji had been hospitalized for an operation on his knee, for which he spent 40 days in hospital and had undergone necessary medical treatment and then returned to prison. The Government explained that Mr Akbar Ganji had been placed in a special suite of the prison and that he had met with his family and lawyer in a number of occasions. It was also reported that according to medical reports, he is in a satisfactory situation in terms of health and will be released shortly.

306. By letter dated 29 March 2006, the Government of Iran replied to the communication of 16 June 2005 concerning the situation of Mr **Akbar Ganji**, indicating that Mr Akbar Ganji was released on 20 March 2006.

307. By letter dated 4 January 2006, the Government of Iran replied to the communication of 7 December 2005, stating that the Revolutionary Courts have no jurisdiction in legal cases involving members of the Parliament, according to article 4 of the Law on Establishment of Public and Revolutionary Courts. It was reported that these cases fall exclusively under the jurisdiction of the Criminal Courts and that the allegation of summoning **Mr Niknam** was put forward to the Office of Public Prosecutor of Government employees who have found no legal record over the alleged case.

308. By letter dated 6 June 2006, the Government of Iran replied to the communication of 9 December 2005 concerning **Mr Karim Douraghi** and **Mr Firouz Abou Farhan**, stating that **Mr Karim Douraghi** was charged with “disturbing the public order” and detained on the order of the Office of Public Prosecutor in Ahwaz on 14 November 2005. It was also reported that **Mr Douraghi** was released on 3 December 2005 and that **Mr Abou Farhan** was detained for the same

charge and released on bail on 1 December 2005. The Government explained that no legal record of both persons had been found.

309. By letter dated 29 March 2006, the Government of Iran responded to the urgent appeal sent jointly by the Special Representative, and the Special Rapporteur on the promotion and protection of the right to freedom of expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the right of everyone to the enjoyment to the highest attainable standard of physical and mental health and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 27 June 2005 concerning **Mr Akbar Ganji**. The Government stated that Mr Ganji was released from detention on 20 March 2006.

310. By letter dated 3 April 2006, the Government of Iran responded to the urgent appeal sent jointly by the Special Representative, and the Special Rapporteur on the promotion and protection of the right to freedom of expression, the Special Rapporteur on the independence of judges and lawyers and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 4 August 2005 concerning **Mr Shirin Ebadi** and **Mr Adolfattah Soltani**. The Government stated that Mr Soltani had been arrested on charges of disseminating classified intelligence and thus presented a threat to state security. It was noted that the Court released Mr Soltani on bail.

311. By letter dated 3 April 2006, the Government of Iran responded to the urgent appeal sent jointly by the Special Representative, and the Special Rapporteur on the promotion and protection of the right to freedom of expression, on 14 December 2005 concerning **Mr Soltani**. The Government stated that Mr Soltani had been arrested on charges of disseminating classified intelligence and thus presented a threat to state security. It was noted that the Court released **Mr Soltani** on bail.

### **Observations**

312. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 16 February, 1 and 14 March, 8 May, 22 May, 17 July, 8 August, 14 and 22 September, 27 October, 13 November, 4 and 15 December 2006.

### **Iraq**

313. On 3 February 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Mr Alaa Issa Khalaf**, member of the Executive Board of the Baghdad branch of the Mechanics Union, and prominent member of the recently created General Federation of Iraqi Workers (GFIW). According to the information received, on 25 January 2005, Mr Alaa Issa Khalaf was shot dead by several unidentified men in Baghdad. Concern was expressed that this murder might be linked to his activities as a labour rights activist. Concern was heightened by the fact that this event followed other similar attacks on labour activists. In particular, on 18 February 2005, the Iraqi labour leader **Mr Ali Hassan Abd** (Abu Fahad), member of the Oil and Gas Union, was murdered; and on 4 January 2005, **Mr Hadi Saleh**, International Secretary of the Iraqi Federation of Trade Unions (IFTU), was tortured and murdered at his home in

Baghdad. The Special Rapporteur and the Special Representative expressed their concern at the apparent emerging trend of murders of labour leaders in Iraq.

314. On 27 February 2006, the Special Rapporteur sent a letter of allegation concerning Iraqi citizens **Atwar Bahjat**, correspondent for *Al Arabiya* television; her cameraman **Adnan Khairallah**; and soundman **Khaled Mohsen**. According to information received: on 22 February 2006, in the outskirts of Samarra, they were kidnapped and killed by unidentified gunmen. The three journalists were covering the aftermath of the bombing of a Shi'ite shrine in the city. Ms Bahjat started working for *Al Arabiya* television two months before when she started receiving death threats.

315. On 27 March 2006, the Special Rapporteur sent a letter of allegation concerning **Hawez Hawezi**, 31, high school teacher and journalist for the independent Kurdish weekly *Hawlati*. According to information received, on 17 March 2006, in Koya near the city of Arbil, he was arrested by Kurdish security forces, reportedly affiliated with the Patriotic Union of Kurdistan (PUK). Mr Hawezi was released on 19 March 2006 after having been questioned by an investigating judge. He faced unspecified defamation charges for an article he wrote on 15 March 2006 criticizing the local Kurdish authorities, and PUK and the Kurdistan Democratic Party (KDP), the two main political parties in Iraq's northern Kurdistan region of governing northern Iraq badly and referring to them as Pharaohs. The article also called for new leadership in Iraqi Kurdistan.

316. On 1 June 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Mr Thabet Hussein Ali**, Head of the General Trade Union for Health Sector Workers in Iraq. According to the information received on 27 April 2006, Mr Thabet Hussein Ali was abducted by an alleged armed group as he was leaving his union's headquarters in Baghdad's Al-Mansour neighbourhood. His body was found the next day displaying gunshot wounds and evidence of brutal torture including by an electric drill. Concern was expressed that this killing might be related to the activities of Mr Thabet Hussein Ali in favor of labour rights. Concerns were heightened by the fact that this incident comes after the reported killings of several trade union leaders in Iraq.

317. On 6 June 2006, the Special Rapporteur sent a letter of allegation concerning **Jaafar Ali**, presenter for the national TV station *Al-Iraqiya*. According to the information received, on 31 May 2006, unidentified gunmen shot Mr Ali in Chora Rabia, in south Baghdad. Reports indicated that he was the eleventh employees of *Al-Iraqiya* TV station killed since March 2003. *Al-Iraqiy* TV station is part of the Iraqi Media Network, reportedly affiliated with the ruling Shiite parties. Grave concern was expressed that Jaafar Ali might have been targeted because of his work, in light of continuous reports of killings and abductions of journalists. Reports indicated that 97 journalists and media workers had been killed, 48 had been abducted, and three journalists were being held hostage, at the date this communication was sent.

318. On 26 September 2006, the Special Rapporteur sent a letter of allegation regarding the assassination and aggressions of journalists during the last months as well as regarding the situation of the media. On 29 July 2006, **Adel Naji al-Mansouri**, correspondent for the Iranian state-run channel *Al-Alam*, was shot by unidentified gunmen. Mr Al-Mansouri had previously

received several death threats. On 7 August 2006, **Mohammed Abbas Mohammed**, editor for *Al-Bayannah Al-Jadida* newspaper, was shot by two men in Baghdad. It had been reported that Mr Abbas was highly critical of politicians and Iraqi officials. Reportedly, he had received several death threats in connection with his work in the paper. On 7 September 2006, the Baghdad bureau of the Dubai-based *Al-Arabiya Satellite TV* was closed by the Government. Allegedly, police entered its Baghdad offices to halt operations after the cabinet chaired by Prime Minister Nouri al-Maliki ordered the suspension of its work. The channel had received a letter with a Government statement saying that the TV station was practicing unprofessional reporting and inciting sectarian violence. The mentioned statement made no reference to the violation of any national clause or law. On 9 September 2006, **Abdel Karim Al-Roubai**, journalist of the government daily *Al-Sabah*, was shot dead while travelling in a car in Baghdad. **Ahmed Sami**, another employee of the said newspaper who was with him in the car, was seriously wounded. Reportedly, Mr Al-Roubai had received death threats via e-mail against him and his family, signed by the military wing of the Mujahedeen Council. Reports indicated that the daily *Al-Sabah* had already been twice attacked. The first time was on 7 May 2006, when a car-bomb went off in the newspaper's garage, killing **Ismail Mohammad Khalaf**, a print shop technician; and the second time was on 29 August 2006, when another car-bomb went off in the newspaper's parking leaving two people dead and 25 people wounded. On 13 September 2006, **Safa Isma'il Enad**, photographer for *Al-Watan* newspaper, was shot in Baghdad's by two gunmen who entered the store and asked for Mr Enad's first name before shooting him. *Al-Watan* newspaper is affiliated with the Iraqi National Movement. On 18 September 2006, **Ahmed Riyadh al-Karbouli**, correspondent for *Baghdad TV*, was shot dead by six gunmen in the town of Ramadi. Reportedly, Mr Al-Karbouli had received numerous death threats from insurgents over the past four months. They had warned him to leave the satellite channel, which is owned by the Iraqi Islamic Party, a major Sunni political group in the country backing the Iraqi government. On 21 September 2006, **Kalshan al-Bayati**, correspondent for the London-based Arabic-language daily "*Al-Hayat*", was arrested by Iraqi forces when she went to collect her previously confiscated computer from local authorities. It had been reported that Ms Al-Bayati appeared that day before a judge in Tikrit, and since remained in the women's prison of the city. On 11 September 2006, Iraqi forces raided Ms Al-Bayati's house in al-Zuhour. Before being arrested, her personal computer, notes and articles were seized. Subsequently, she was jailed for three days before being released by local authorities. Allegedly, she was working on an article about insurgents in Saleheddin province when she was first detained by security forces. On 1 February 2006, **Rim Zeid** and **Marwan Khazaal**, journalists working for *Al-Sumariya TV*, were abducted by four armed men as they left a press conference at the headquarters of the Iraqi Islamic Party in Baghdad. Their whereabouts were unknown at the date this communication was sent. Furthermore, since 12 April 2006, **Bilan Hussein**, a Pulitzer Prize-winning freelance journalist working for *The Associated Press* in Iraq, had been allegedly held by United States military forces without official charges. Mr Hussein had photographed events in Fallujah and Ramadi.

319. On 17 November 2006, the Special Rapporteur sent a letter of allegation to the Government of Iraq concerning *Al-Zaura Salah-Eddin and Al Sharkiya TV station* and the death of journalists from various Media groups. On 5 November 2006, *Al-Zaura and Salah-Eddin TV* stations have been closed down allegedly for having incited violence by screening footage of protests against former President Saddam Hussein's death sentence. In addition, main daily newspapers are said to have been suspended for three days, beginning 5 November, under a

curfew decreed prior to the verdict. In a related incident, Baghdad studios of the *Al Sharkiya TV station* were threatened by police to refrain from broadcasting programmes about Saddam's trial to avoid their closure. On 3 November 2006, **Ahmed al Rashid**, *Al Sharkiya's* journalist was killed in his car as he was leaving the station. On 1 November, the dead body of **Abdelmajid Isma'il Khalil**, a freelance journalist working for various local newspapers who had been abducted on 18 October was found by the police. On 29 of October 2006, **Naqshin Hamma Rashid**, a presenter of Kurdish-language news on *Atyaf TV channel* and his driver Anis Qassem were killed by unidentified gunmen. On 26 October 2006, **Saed Mahdi Shalas** journalist for the *Rayat al-Arab* newspaper and his wife were murdered by unidentified gunmen in their house in the Al-Aamariyah neighborhood in Baghdad. On 13 October 2006, **Raid Qaies Aswat** journalist for the *al-Iraq news* agency and Sawt Al Iraq Radio, was murdered by unidentified gunmen who blocked his car and shot him death in the northern neighborhood of Al-Dura. On 11 October 2006, the body of **Azad Mohammad Hassan**, who worked for radio station *Dar Al Salam*, was found dead in Baghda a week after he had been abducted. On 12 October 2006, **11 employees** of *Al Shaabiya TV* station were murdered. The dead included five security guards, director **Abderrahim Nasrallah Al Shumari**, the deputy director **Nawfal Al Shumari**, technicians **Hussein Ali**, **Dhakir Hussein Al Shuwaili** and **Ahman Shaaban**, and head administrator **Sami Nasrallah Al Shumari**. Journalists **Mishtak Al Maamur** and **Mohammed Kazem Al Finiyin** were badly injured in the attack.

### Replies from the Government

320. By letter dated 8 June 2006, the Government of Iraq replied to the communication of 3 February 2006.

### Follow-up to previously transmitted communications

321. By letter dated 29 June 2006, the Government of Iraq responded to the urgent appeal sent on 30 September 2005.

### Observations

322. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications received.

### Israel

323. On 20 January 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Hassan Mustafa Hassan Zaka**, researcher with The Public Committee against Torture in Israel (PCATI). PCATI is a non-governmental organization that investigates complaints of human rights abuses of Palestinians who claim to have been the victims of torture or other ill-treatments and infringements of their human rights by Israeli authorities. Hassan Mustafa Hassan Zaka is also employed by the non-governmental organization Ansar Asajeen, which provides legal aid to Palestinian detainees and prisoners. According to the information received: On 11 January 2006, Hassan Mustafa Hassan Zaka was arrested and detained while attempting to cross a military

checkpoint between Nablus and Tul Karem. He was reported to be detained at the Hawarah Military Detention facility near Nablus. On 17 January 2006, the Israeli Defense Force Regional Commander issued a six-month order of administrative detention against Hassan Mustafa Hassan Zaka on the grounds of “endangering the security of the region”.

324. On 14 March 2006, the Special Rapporteur sent an urgent appeal, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, concerning **Ziyad Muhammad Shehadeh Hmeidan**, human rights defender and fieldworker for Al-Haq, a Palestinian non-governmental organization (NGO), and affiliate organization of the International Commission of Jurists which conducts research and advocacy works on human rights. Ziyad Muhammad Shehadeh Hmeidan had already been the subject of three previously transmitted urgent appeals. According to the new information received: on 12 March 2006, Ziyad Muhammad Shehadeh Hmeidan was informed that his administrative detention order was to be extended for a further four months. Mr Hmeidan was scheduled to be released on 21 March 2006. It was also reported that during the 3 January 2006 appeal hearing against the first extension of Mr Hmeidan’s detention order, the military court acknowledged that the public evidence against Mr Hmeidan was insufficient to justify his ongoing detention.

325. On 19 May 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Ziyad Muhammad Shehadeh Hmeidan**, human rights defender and fieldworker for Al-Haq, a Palestinian NGO and affiliate organization of the International Commission of Jurists which conducts research and advocacy works on human rights. Mr Hmeidan had already been the subject of four previously transmitted communications. According to the reply from the Government to a previous communication, administrative detention orders are limited to six-month periods and any extensions require re-evaluation of the relevant intelligence.<sup>‡</sup> Mr Hmeidan had been in administrative detention since 23 May 2005 and continued to be held at Kedziot prison. To the date of this communication, neither he nor his lawyer had been informed of the reasons for his arrest. It was however noted that the Government advised that Mr Hmeidan was “arrested on suspicion of involvement in terrorist activities.”<sup>§</sup> It was also noted that the Special Representative of the Secretary-General on the situation of human rights defenders visited Mr Hmeidan in prison during her official mission to Israel and the Occupied Palestinian Territory in October 2005. According to information received, on 10 May 2006 a military judge decided to uphold the third extension of Mr Hmeidan’s administrative detention order. It was reported that Mr Hmeidan’s detention order would expire on 12 July 2006. The military order of 10 May 2006 represented the third extension of his original administrative detention issued on 30 May 2005 which was originally for 18 days. It was reported that each extension of the detention orders was done almost at the last minute, which caused severe anxiety and anguish to the detainee and their families, amounting to psychological torture. Grave concern was expressed that Mr Hmeidan’s order might be subject to indefinite renewal.

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<sup>‡</sup> Government of Israel’s response to the Report of the Special Representative of the UN Secretary-General on Human Rights Defenders, under Item 17, dated 22 March 2006

<sup>§</sup> Letter from the Mission of Israel of 11 July 2005 in response to communications of 7 June 2005 and 1 July 2005.

326. On 6 June 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Hassan Mustafa Hassan Zaka**, a researcher who works with the non-governmental organizations the *Public Committee Against Torture in Israel* (PCATI) and *Ansar Asajee*. PCATI investigates complaints of torture or other ill-treatments and infringements of human rights by Israeli authorities and Ansar Asajeen provides legal aid to Palestinian detainees and prisoners. Mr Zaka was the subject of a previously sent urgent appeal. According to the new information received: on 22 May 2006, the decision to extend Mr Zaka's administrative detention order by four months was upheld by the Ketziot Military Court. It was reported that the reason given by the General Security Service was that Hassan Mustafa Hassan Zaka "endangers the security of the region". Mr Zaka had not been given the opportunity to refute the charges brought against him and he was still being held in Ketziot Detention Center.

327. On 18 July 2006, the Special Rapporteur sent an urgent appeal concerning several journalists. On 17 July 2006, Mr **Walid Al-Omari**, *Al-Jazeera's* bureau chief in Israel, was arrested and detained while covering live the cross-border clashes with Lebanon in northern Israel. The journalist was interrogated, and reportedly mistreated, for more than four hours. Apparently, police had already arrested and questioned Mr Al-Omari on 16 July, when he spent the night in detention. On the same day, Israeli authorities shortly detained another *Al-Jazeera* crew, including journalist **Elias Karr am**, who was reporting on developments in the city of Haifa. Israeli authorities had instructed the *Al-Jazeera* crew to keep away from strategically sensitive sites. On a separate development, on 12 July 2006, reporter **Bassel al-Aridi**, cameraman **Abed Khayat** and assistant cameraman **Ziad Sawan**, working for the Lebanese television channel *New TV*, were seriously wounded during the attack against the al-Mahmoudiyeh Bridge in southern Lebanon, when their vehicle was hit and destroyed by bombs

328. On 25 July, the Special Rapporteur sent a letter of allegation concerning **Layal, Nagib** a Lebanese press photographer, **Sleiman Chidia** a technician for the *TV station Lebanese Broadcasting Corporation (LBC)*, **Faten Elwan**, a correspondent for the television station Al-Hurra and **Wael Tanous** a satellite technician with the TV channel *Al-Jazeera*. On 23 July 2006, **Layal Nagib** was killed when a missile exploded near her car on the road between Cana et Siddiqin, while covering the bombing of southern Lebanon for the magazine *Al Jarass (The Bell)*. On the same day, **Sleiman Chidia** was killed in the bombing of media installations in Satka, in East Beirut. Other air strikes at Terbol, in northern Lebanon, resulted in the disruption of broadcasting of LBC, Avenir TV and Al-Manar in several parts of the country. In a separate incident, on 19 July 2006, **Faten Elwan**, and **Wael Tanous** were wounded during an Israeli army operation in the city of Nablus, West Gaza. Reportedly, both Elwan and Tanous were wearing a vest labeled "TV" and were working from a remarkable distance from the fighting.

329. On 21 August 2006, the Special Rapporteur, jointly with the Special Rapporteur on Human Rights and counter terrorism, sent a letter of allegation concerning Mr **Aziz Dweik**, Speaker of the Palestinian Legislative Council. According to the information received, Mr Dweik, an academic aged 57 and member of Hamas, was elected Speaker of the Palestinian Legislative Council after the most recent elections. On 5 August 2006, Israeli Defense Forces



(IDF) surrounded Mr Dweik's house in Ramallah and took him into custody. From there he was taken to Ofer prison. On or around 10 August 2006, a court in Ofer decided to extend Mr Dweik's detention, for further eight days. In these proceedings he had the assistance of a lawyer. He was then transferred to the Kfar Youna detention centre. IDF has confirmed the detention of Mr Dweik, stating that it was justified by Hamas being listed as a terrorist organization. Mr Dweik remains in IDF detention. Israeli forces had already, on 29 June 2006, arrested eight members of the Palestinian Authority's government and 20 or more members of the Palestinian Legislative Council.

330. On 4 September 2006, the Special Rapporteur sent a letter of allegation concerning reporter **Sabbah Hmaida**, who was seriously injured in the leg and **Fadel Shana**, cameraman, who lost consciousness when an Israeli aircraft fired two missiles on their armored Reuters vehicle as they were following an Israeli Defense Forces incursion into the Gaza Strip on 27 of August 2006. Reportedly the vehicle was clearly marked with press identification signs on the roof and sides. The Special Rapporteur noted that similar incidents have been subject of previous communications sent on 25 July 2006 (ISR 15/2006) and 18 July 2006 (ISR 14/2006).

331. On 25 October 2006, the Special Rapporteur, jointly with the with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning the detention of **Mr Ahmad Abu Haniya**, a Palestinian human rights activist and Youth Project Coordinator in the Alternative Information Centre. This Centre is a joint Palestinian-Israeli organisation based in Jerusalem which promotes human rights and advocates social change in the region. Reportedly, on 22 May 2005, **Mr Haniya** was arrested at an Israeli military checkpoint on his way to work. He was subsequently detained under an administrative detention order and has been accused of membership of the Palestinian Front for the Liberation of Palestine (PLFP) and of a group called Al-Islamia. He was reported to be detained at Ketziot detention centre in the Negev. The administrative detention order against him was renewed twice since he was first detained. Under the terms of an administrative detention order, the authorities are neither required to file charges against the detainee nor to bring the case to trial. The order is usually for a determined period of time but is often renewed before it expires and it can be renewed indefinitely. Neither the defendant nor his legal representative are entitled to view the "classified" evidence against the defendant. The current order is due to expire on 15 November 2006, but it is feared that it may be renewed. Concern is expressed that **Mr Ahmad Abu Haniya** may be detained in order to prevent him from carrying out peaceful activities in defence of human rights.

### **Replies from the Government**

332. By letter dated 7 August 2006, the Government replied to the communication of 18 July 2006 concerning several journalists. The Government of Israel explained that on the night of 16 July 2006, the police questioned **Mr Al-Omari** but did not arrest him or detain him for interrogation. He was released after half an hour and did not spend the night in detention neither was mistreated. It was also indicated that the next morning, on 17 July 2006, **Mr Al-Omari** was again convoked for questioning by the police for violation of the censorship instructions. The Government reported that **Mr Al-Omari** was broadcasting live from the sites where the missiles

hit, thereby violating the instructions published the day before by the censorship. During the whole period of questioning, **Mr Al-Omari** was accompanied by the lawyer of Al-Jazeera network. The Government informed that he was released after checking the footage he had taken did not infringe censorship instructions. As to **Mr Elias Karram**, the Government indicated in this response that the police had questioned him on 16 July 2006, the first day when the city of Haifa was targeted. The reason for the questioning was the wide-angle picture that **Mr Karram** had taken of the city of Haifa, giving the enemy a panoramic view of the sites where the missiles hit. The Government informed that he was released after two hours.

333. By letter 4 December 2006 the Government of Israel replied to the communication dated 25 of October 2006.

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

334. By letter dated 26 May 2006, the Government of Israel responded to the urgent appeal sent on 26 July 2005 concerning **Mr Khalil Abu Shammala**. The Government stated that prior to 12 September 2005, whilst the State of Israel was in control of the border passages, Mr Shammala's exit from the Gaza Strip was prevented for security reasons following intelligence gathered by the Security forces which indicated that Mr Shammala posed a security threat if allowed to leave the country. The Government indicated, that in accordance with the declaration signed by the Commander of the IDF Southern Command Unit on 12 September 2006, which confirmed the end of Israel's military rule in the Gaza Strip, Mr Shammala's movements from the Gaza Strip to Egypt were no longer under Israeli military control.

335. By letter dated 19 January 2006, the Government of Israel responded to the urgent appeal sent on 29 November 2005 concerning **Mr Ziyad Muhammad Shebedah Hmeidan**. The Government acknowledged receipt of the aforementioned communication sent on 29 November 2005 and indicated that it had been sent to the relevant authorities in Israel. The Government also noted that relevant information would be forwarded to the Special Representative, and the Special Rapporteur in due course.

336. By letter dated 1 November 2006, the Government of Israel responded to the urgent appeal sent on 26 July 2005 concerning **Mr Nabil Al Mazzawi**. The Government stated that the aforementioned case was referred from the Military Investigative Police to the Department for the Investigation of Police Officers as it was concluded that the matter referred to border police officers as opposed to servicemen. As such, the Government noted that a criminal investigation has been launched against the border police officers allegedly involved in the incident.

### **Observations**

337. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 20 January, 14 March, 19 May, 6 June, 25 July, 21 August and 4 September 2006.

## Italy

338. On 30 August 2006, the Special Rapporteur sent a letter of allegation concerning the journalists, **Cristina Zagaria, Claudio Ernè** and the newspaper "**La Repubblica**". According to the information received, on 11 August 2006, the Milan and Rome offices of the newspaper "**La Repubblica**" were searched, on the orders of the Brescia city prosecutor, as part of an investigation into the alleged kidnapping of the imam Abu Omar, in February 2002, by the Central Intelligence Agency (CIA). It has been reported that the office and the house of Ms Zagaria were searched with particular thoroughness, notes and papers confiscated, and documents in her computer copied. In addition, the computer of the journalist Carlo Bonini, who is involved in the main judicial enquiry on the kidnapping of the imam, was allegedly seized. On the night of 11 August 2006, also the offices of the newspaper "Il Piccolo" in Trieste and the home of one of its journalist Claudio Ernè, were meticulously combed. Ms Zagaria and Mr Ernè have been accused of violating legal confidentiality rules and handling secret documents under article 648 of the Criminal Code as part of a lawsuit, because they quoted in their newspaper remarks that the Chief of the Italian Military Intelligence in the district of Trieste made during an interrogation about the kidnapping.

### Replies from the Government

339. By letter dated 15 November 2006, the Government of Italy replied to the communication of 30 August 2006 concerning journalists Cristina **Zagaria, Claudio Ernè** and the newspaper "**La Repubblica**." The Government of Italy informed that the Public Prosecutor's Office at the Tribunal in Brescia clarified that the searches of the newspapers were carried out within the framework of a criminal proceeding, initiated on 17 July 2006 further to the filing of a complaint. The complaint related to the issuance by media of the contents of the transcript concerning the examination of an indicted person who was involved in the criminal proceeding relating to the so-called "Abu Omar case". The Government indicated that the Public Prosecutor's Office at the Tribunal in Brescia underlined that no specific search of the premises of the Italian newspapers: "La Repubblica" and "Il Piccolo di Trieste" had taken place. However, specific searches were carried out on some notebooks and office desks, in addition to a specific search on the email server and on the in-and out-bound fax tabulations. The Government of Italy stressed that article 14 of the Italian Constitution, recognising the inviolability of personal domicile was fully respected.

### Observations

340. The Special Rapporteur thanks the Government for its response.

## Kazakhstan

341. On 14 March 2006, the Special Rapporteur sent a letter of allegation concerning the **Zhumash-Kokberi** company, owners of the *Juma Times* newspaper. According to information received, on 6 March 2006 the Specialised Economic Inter-District Court of Almaty ordered the closure of Zhumash-Kokberi company and the cancellation of Juma Times' registration. This sentence was based on article 100 of the Election Campaigning Rules concerning the publishing of falsehoods about the President in an attempt to affect the outcome of the presidential elections.

The charges were based on a number of articles published by Juma Times which were found by the court to be insulting to the honour and dignity of the President who was running for re-elections. Juma Times had declared itself the successor of the opposition paper Soldat which was shut down in 2003; Soldat was itself the successor of *Dat* newspaper which had gone bankrupt after having been sued for libel.

342. On 14 March 2006, the Special Rapporteur sent a letter of allegation concerning **Gulzhan Yergaliyeva**, editor in chief of *Svoboda Slova* newspaper and member of the *For A Fair Kazakhstan* bloc. According to information received, on 1 March 2006 Ms Yergaliyeva was fined approximately US\$ 316 for holding an unauthorized demonstration on 26 February 2006 to pay final respects to victims of political repression following the killing of the former Information Minister and leader of the opposition party Ak Zhol, Altynbek Sarsenbayev. On 2 March 2006, this sentence was reviewed as the prosecutor deemed the sentence handed down on 1 March 2006 as light, and he was then sentenced to five days' administrative detention. She went on a hunger strike in protest and another member of the For A Fair Kazakhstan bloc, **Marzhan Aspandiyarova**, joined the hunger strike. She was also sentenced to ten days of administrative arrest.

### Replies from the Government

343. By letter 1 of May 2006, the Government replied to communication of 14 March 2006. On 9 December 2005, the Auezov district procurator in Almaty brought an action with the Almaty special inter-district economic court for the closure of the company which owns the **newspaper Juma Times**, the Jûmash Kökböri limited partnership, and to halt publication of the newspaper. In pursuance of that action, and on the application of the petitioner, the court placed a ban on the publication of Juma Times by its rulings of 20 December 2005 and barred its alienation (transfer of ownership) to other persons until such time as the dispute had been considered on its merits. It was reported that the action for the closure of Jûmash Kökböri was brought in response to its repeated and flagrant violations of the stipulations of Kazakh law (article 49, paragraph 2.4, of the Civil Code of the Republic of Kazakhstan) committed in the course of publishing the newspaper Juma Times. In particular, on two occasions, by decisions of the Almaty special inter-district administrative court dated 21 October and 4 November 2005 relating to the dissemination in issues 41 and 44 of Juma Times of knowingly false information about N. Nazarbaev, candidate for the post of President of the Republic of Kazakhstan, with the aim of influencing the outcome of the elections, administrative charges were brought against the company Jûmash Kökböri under article 100 of the Kazakh Code of Administrative Offences and it was fined 14 monthly notional units (46,608 tenge). The Government stated that, during the election period, Jûmash Kökböri failed to observe the requirements of article 28, paragraph 5, of the Kazakh Constitutional Act on Elections in the Republic of Kazakhstan, stipulating that, during the period of elections, printed campaign materials must contain information about the organization responsible for the publication of such materials, the place where they are printed, the size of the print-run, the persons commissioning their publication and the funds used to pay for them. It was noted that publications by the newspaper Juma Times, which were campaign materials, contained no information about the persons who had commissioned them or the funds used to pay for their publication. In addition, by publishing an article containing the results of opinion polls without including the required information the company Jûmash Kökböri violated the provisions of article 28, paragraph 9, of the Constitutional Act on Elections. It was further

reported that article 27, paragraph 7, of the Constitutional Act on Elections stipulates that the media must refrain from publishing campaign materials and other information which knowingly impugn the honour, dignity and good standing of candidates. In breach of those stipulations, Jûmash Kökböri published some articles. The Government explained that other violations by Jûmash Kökböri of the requirements of law were also attested; in particular, for breaching the tax regulations by failing to submit its tax returns on time during the third quarter of 2004, administrative charges were laid against Jûmash Kökböri by decision dated 14 December 2004 of the Auezov district tax committee in Almaty, under article 206, paragraph 1, of the Kazakhstan Code of Administrative Offences, and the company was fined 18,380 tenge. Following its consideration of the action brought by the Auezov district procurator in Almaty, on 6 March 2006 the Almaty special inter-district economic court handed down a judgement ordering the closure of the company that owns Juma Times, the limited partnership Jûmash Kökböri, and halting the newspaper's publication, in response to its violations of the elections law and its failure to comply with the tax regulations. No appeal was lodged against the court's judgement, which entered into force on 23 March 2006. In view of that situation, the information and archives committee of the Kazakhstan Ministry of Culture and Information, acting pursuant to article 13, paragraph 5, of the Kazakh Media Act, is currently examining the issue of cancelling the registration of the newspaper Juma Times. The administrative sanctions imposed on the editor-in-chief of the newspaper **Svoboda Slova, G. Ergalieva**, and the member of the Kazakh voluntary association Democratic Forces Coalition for a Just Kazakhstan, **M. Aleksandrova**, were ordered in response to violations of the Peaceful Assemblies, Rallies, Marches, Pickets and Demonstrations. It was noted that under article 5 of the Rallies Act, such measures may only be held in accordance with the purposes specified in the application, within the specified time period and at the agreed venue. In the conduct of such measures, the organizers and other persons involved are obliged to observe the laws and not to disturb public order. Those provisions notwithstanding, and in disregard of the interpretation of the law provided on 24 February 2006 by the Almaty procurator's office, in their organization and conduct of the public activities devoted to the Day to Commemorate Victims of Political Terror, G. Ergalieva and M. Aleksandrova, together with other leaders of the Democratic Forces Coalition for a Just Kazakhstan, flagrantly violated the provisions of the article cited above. Permission had been granted by the Almaty city akimat for the activities in question to be held on 26 February 2006 in the square behind the Ary-Arka cinema. Yet the activities were conducted by the persons named above on 26 February 2006 in Valikhanov Square in Almaty - in other words, at a venue that had not been sanctioned by the local authorities. In addition, the organizers rallied local citizens to attend the activities in Valikhanov Square through announcements in the periodical publications Svoboda Slova and Aina Plyus, thereby deliberately flouting the provisions of article 5 of the Rallies Act. Given that situation, by its decisions of 28 February 2006, the Almaty special inter district administrative court found M. Aleksandrova and G. Ergalieva guilty of the administrative offence described in article 373, paragraph 3, of the Kazakhstan Code of Administrative Offences. M. Aleksandrova was ordered to serve a penalty of 10 days' administrative detention and G. Ergalieva received an administrative fine of 40 monthly notional units. Following an objection by the Almaty procurator's office, the court's decision regarding G. Ergalieva was overturned by a ruling of the Almaty City Court of 2 March 2006 and she was ordered to serve a penalty of five days' administrative detention. By rulings of the Almaty City Court of 3 and 4 March 2006, the penalties imposed on G. Ergalieva and M. Aleksandrova in the form of administrative detention

were approved without change and their appeals were dismissed. G. Ergalieva and M. Aleksandrova have by now served their administrative detention penalties.

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

344. By letter dated 19 January 2006, the Government of Kazakhstan replied to the communication of 15 November 2005 concerning alleged “violations” of the rights of journalists during the pre-election period and also in connection with the death of **Kamanbek Nurkadilov**. It was reported that Kaziz Toguzbaev was found guilty of an administrative violation under article 373, paragraph 3 of the Code of Administrative Offences of Kazakhstan. He was sentenced to administrative arrest for a period of five days. The case was not appealed, and Mr Toguzbaev did not submit any petitions to higher courts for verification of the legality of the court’s decision. Mr Toguzbaev was prosecuted for an administrative offence that did not involve his journalistic activities but rather the organization and participation in an unauthorized procession that violated the public order. The Government stated that the record of the administrative offence of 11 October 2005 indicated that Mr Toguzbaev took part in a procession of some 50 citizens in Almaty on 10 October 2005, who disrupted the traffic and damaged planted areas. Mr Toguzbaev declined the legal assistance of counsel and requested that he be given the maximum length of administrative arrest. The Government noted that the administrative penalty was consistent with the sanctions. Mr Toguzbaev began a dry hunger strike to protest against injustice. It was reported that Mr Toguzbaev refused to sign the record or to give written explanations of the hunger strike. The Government noted that this case had been closed. Pursuant to a decision of the Almaty special interdistrict administrative court on 21 October 2005, the owner of the newspaper *Svoboda Slova* was found guilty of an offence under article 100 of the Code of Administrative Offences and was ordered to pay a fine. The court ordered the confiscation and destruction of issue No.33 of this newspaper, which was used in the commission of the offence and which belongs to the owner of the newspaper. It was reported that on 2 November 2005, the Almaty city court upheld the decision and rejected the complaint and that a report was drawn up concerning the administrative offence committed by the newspaper on grounds of disseminating knowingly false information about candidates and political parties. The Government confirmed that no procedural violations were committed in the institution of administrative proceedings or in the court’s consideration of the case. It was reported that the case had been closed. On the other hand, by ruling of 17 November 2005, the Almaty city court upheld the decision of the Almaty special interdistrict administrative court of 21 October 2005, in which the Jumash-Kokbori Company, which owns the **newspaper *Juma Times***, was convicted pursuant to article 100 of the Code of Administrative Offences and was fined. On 14 October 2005, a report was drawn up on the administrative offence committed by the Jumash-Kokbori Company, which published articles where, although there was no evidence of a crime committed, the acts insulted the honour and dignity of a candidate for President of the Republic of Kazakhstan. These acts, according to the Government’s information, were qualified under article 100 of the Code of Administrative Offences and the administrative penalty was consistent with the sanctions. The Government stated that this case had been closed. With reference to the activities of the **newspaper *Altyn Gasyr***, on 15 September 2005, Ms Taizhanova came to the duty unit of the Atyrau internal affairs office and requested that measures be taken against unidentified individuals who had beaten her son, **Azamat Bolatovich Dospanov**, and her nephew, **Mr Abilkaliev**, the editor-in-chief of the newspaper. It was reported in the investigation that on 14 September 2005, **B. Lukpanov, E. Shanenov, R. Shukatirov** and an

unidentified individual beat Azamat Bolatovich Dospanov, who had to be taken to the hospital as a result of the injuries. On 28 September 2005 authorities instituted criminal proceedings on the basis of an offence contrary to article 257, paragraph 2 of the Criminal Code of Kazakhstan. On 27 September 2005 material concerning a publication in the newspaper describing the beating was registered in the Atyrau department of internal affairs. Despite the fact that a decision was taken not to institute criminal proceedings on 28 September 2005, on 26 October 2005 the Atyrau procurator's office overturned that decision and materials were sent for further investigations. It was noted that **Mr Abilkaliev** had not reported his beating to the law enforcement authorities and that he refused to undergo a forensic examination. Criminal proceedings were not instituted in this case. The Government indicated that the investigation of the criminal proceedings instituted pursuant to the assault on Azamat Dospanov revealed that the aforementioned incidents were not related to the activities of the newspaper *Altyn Gasyr*. Concerning the investigation into the death of **Zamanbek Nurkadilov**, the Government stated that on 12 November 2005 his death body was found at his home together with a revolver belonging to him. It was established that Mr Nurkadilov and his wife had been living apart in two houses situated on the same parcel of land. The territory of the estate was monitored by several video cameras. Relatives were questioned and they stated that Mr Nurkadilov led a solitary life and did not receive any strangers. The Government provided with detailed activities of Mr Nurkadilov habits and the events of the night of the killing. It was reported that forensic examinations conducted revealed that Mr Nurkadilov died from several shots causing wounds, which confirm by the nature and location of them that they were consequence of a gun fired by the victim himself. It was established that already in September 2005 Mr Nurkadilov had tried to commit suicide with a large dose of sleeping pills. The Government noted that investigations into the case are continuing.

### **Observations**

345. The Special Rapporteur thanks the Government for its replies.

### **Kyrgistan**

346. On 18 May 2006, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Ms Aziza Abdurasulova**, head of the non-governmental organization Kylym Shamy, an organization that monitors human rights violations in Kyrgyzstan. According to the information received, on 19 April 2006 Ms Aziza Abdurasulova had appeared on a television programme where she asked the President of Kyrgyzstan a number of questions. On 20 April 2006, Ms Abdurasulova was visited by an unknown man who asked her questions regarding the financing of her organization. On 25 April 2006 Ms Abdurasulova was visited by Kyrgyz security personnel who asked her questions relating to Kylym Shamy. It is reported that she was asked questions concerning the finances of the organization and who was "the leader of their party". Concern is expressed that the above events are related to the activities of Ms Abdurasulova in defence of human rights and may be an attempt to intimidate and prevent her from carrying out her legitimate activities in defence of human rights.

### **Replies from the Government**

347. By letter dated 4 July 2006, the Government of Kyrgyzstan replied to the communication of 18 May 2006 and stated that the State Security Service of the Kyrgyz Republic had found no substantiation for the facts of the allegation concerning Ms A. Abdrasulova. Prior to 2006, and up to the date of this reply, Ms **A. Abdrasulova** and her family had not been summoned to the premises of the State Security Service of the Kyrgyz Republic, nor were they under the surveillance of the institutions of that Service. At present, the State Security Service of the Kyrgyz Republic is continuing its efforts to clarify the facts of this case and information was said to be provided in the future accordingly.

### **Observations**

348. The Special Rapporteur thanks the Government for its reply.

### **Lebanon**

#### **Suivi des communications précédemment transmises**

349. Le 6 avril 2006, le Gouvernement a répondu à une lettre d'allégation envoyé par le Rapporteur spécial en date 14 décembre 2005 sur l'assassinat du journaliste et député **Gebran Tueni**. Avant de répondre aux questions posées et aux demandes formulées, le Ministère libanais de la justice a souhaité apporter les éclaircissements suivants: L'État libanais, en tant que Membre fondateur et actif de l'Organisation des Nations Unies, est lié par les instruments internationaux adoptés par cette dernière, et notamment la Déclaration universelle des droits de l'homme. La Constitution libanaise du 23 mai 1926, telle que modifiée par la loi constitutionnelle n. 18 du 21 septembre 1990, a consacré ce principe, notamment au paragraphe b) de son préambule. En outre, le Liban applique l'ensemble des conventions et des pactes internationaux qu'il a ratifiés, en particulier le Pacte international relatif aux droits civils et politiques et le Pacte international relatif aux droits économiques, sociaux et culturels. D'ailleurs, la législation libanaise accorde à ces instruments la primauté sur toutes les lois nationales. Le droit à la liberté d'opinion et d'expression fait partie des droits fondamentaux au Liban. Il s'agit en effet de l'un des principaux droits inscrits dans la Constitution. L'alinéa c du préambule de celle-ci stipule ce qui suit: « Le Liban est une république démocratique parlementaire, fondée sur le respect des libertés publiques et, en premier lieu, la liberté d'opinion et de croyance... ». Ce droit est également consacré à l'article 13 de la Constitution, qui est libellé comme suit: « La liberté d'exprimer sa pensée par la parole ou par la plume, la liberté de la presse, la liberté de réunion et la liberté d'association sont également garanties dans les limites fixées par la loi. ». En conséquence, le droit à la liberté d'opinion et d'expression est un droit sacré, que l'État libanais s'efforce de renforcer et de protéger par tous les moyens disponibles. L'assassinat du député Gebran Tueni constitue non seulement une atteinte à la liberté d'expression, mais aussi un crime terroriste s'inscrivant dans le cadre de toute une série d'agressions, d'attentats à la bombe et de meurtres dont est victime le Liban depuis environ une année, qui visent à terroriser tous les Libanais, et pas seulement les journalistes. L'État libanais s'est clairement et ouvertement engagé à combattre le terrorisme par tous les moyens en sa possession, à retrouver les auteurs de ce crime et à les traduire en justice. Deuxièmement, en réponse à la demande du Rapporteur spécial tendant à ce que des enquêtes soient diligentées sur les violations perpétrées, à ce que les



responsables soient traduits en justice et à ce que soient prises toutes les mesures nécessaires pour prévenir la répétition de ce qui s'est produit, il convient de fournir les informations ci après. Le Ministère de la justice a obtenu des autorités judiciaires compétentes chargées de l'enquête les renseignements suivants. Pour ce qui est de diligenter des enquêtes sur les violations commises, il y a lieu de souligner que, dès que l'attentat s'est produit, les services de sécurité ont établi un cordon de sécurité autour du secteur où il a eu lieu et procédé aux investigations nécessaires sous l'égide des autorités judiciaires compétentes. Au moment de l'établissement du présent rapport, l'enquête judiciaire était toujours en cours. Pour ce qui est des autres mesures demandées par le Rapporteur spécial, il convient de signaler que l'État libanais a pris plusieurs dispositions dont voici les plus importantes: le renforcement des mesures de sécurité dans toutes les régions du Liban; la mise en place d'une cellule spéciale au Ministère de la défense, dirigée par un officier supérieur de l'armée et composée d'officiers des différents services de sécurité aux fins d'adopter les décisions et les directives requises en vue de faire face à tout nouvel acte de terrorisme; l'organisation du déplacement des membres des services de sécurité vers l'endroit où a été commis le crime, recherche d'indices et transfert du dossier de l'enquête au premier juge d'instruction militaire; la stricte surveillance du lieu du crime afin d'éviter que des indices soient détruits; l'organisation d'exercices pour tous les services de sécurité en coopération avec les autorités judiciaires compétentes afin d'apprendre aux membres de ces services ainsi qu'aux officiers et aux juges compétents à faire face aux attentats et agressions répétés et à appliquer de façon rationnelle les directives émanant de la cellule spéciale. Le plus important de ces exercices, effectué au mois de juin passé dans la région de Nahr al Mawt, a donné des résultats extrêmement satisfaisants et permis de savoir dans quelle mesure les forces de sécurité étaient prêtes à faire face aux attentats. La restructuration des institutions et des services de sécurité pour leur permettre de s'acquitter pleinement de leurs fonctions a été une autre disposition prise. Troisièmement, en réponse aux questions du Rapporteur spécial sur certains faits qu'il a évoqués dans sa lettre et au sujet des enquêtes judiciaires et des résultats auxquels elles ont abouti, il convient avant de se pencher sur les faits en question et l'enquête judiciaire de rappeler le principe fondamental qu'est la nécessité de préserver le secret de l'enquête. Au Liban la violation de ce secret constitue une infraction pénale punie par la loi. Le législateur libanais a placé les activités de la justice sous le sceau du secret pour permettre au juge d'instruction d'opérer en toute liberté et autonomie, à l'abri des pressions que peut exercer sur lui l'opinion publique, et pour éviter au prévenu toute publicité qui pourrait nuire à sa cause, surtout si les accusations sont abandonnées par la suite. Le principe du secret de l'enquête est consacré aux articles 53 et 42 du nouveau Code de procédure pénale en date du 7 août 2001. L'article 53 stipule que l'enquête reste secrète tant que l'affaire n'a pas été renvoyée devant le tribunal et punit quiconque divulgue le secret de l'enquête. Quant à l'article 42, il oblige le fonctionnaire judiciaire chargé de l'enquête à mener la procédure dans le secret le plus total. Dans cette optique, après avoir consulté l'autorité judiciaire chargée de l'enquête, le Ministère de la justice s'est penché sur les faits et les mesures judiciaires générales qui ne sont pas de nature à porter atteinte au secret de l'enquête, laissant au juge d'instruction compétent toute la liberté de prendre la décision voulue, sachant que la décision que prendra le premier juge d'instruction militaire, Rachid Mezher répondra pleinement aux questions du Rapporteur spécial. Concernant les précisions au sujet des faits mentionnés dans le résumé du Rapporteur spécial, selon les informations obtenues auprès du tribunal compétent, l'assassinat a été commis le 12 décembre 2005 vers 9 heures du matin à Mkalles au moyen d'une voiture piégée. Cet attentat visait le député Gebran Tueni qui était également un journaliste connu et le propriétaire du journal *Al Nahar* et deux de ses compagnons. Cinq personnes qui se trouvaient sur les lieux de l'attentat ont

été blessées. Pour ce qui est de la question de savoir si M. Gebran Tueni a reçu ou non des menaces de mort, nous estimons que conformément au principe de l'indépendance de la justice et pour ne pas porter atteinte au secret de l'enquête, il faut laisser le soin de trancher aux tribunaux qui disposeront de tous les éléments nécessaires pour le faire, et eu égard aussi au fait que de telles menaces constitueraient, le cas échéant, un mobile pour la commission du crime et, partant, un élément constitutif de celui-ci. Concernant les renseignements pouvant être fournis au Rapporteur spécial au sujet de l'enquête judiciaire et de ses résultats, le juge d'instruction militaire chargé du dossier nous a communiqué les renseignements suivants. Dès que le crime a été commis, il a été ordonné à l'ensemble des services de sécurité d'établir un cordon de sécurité autour du lieu de l'explosion; le premier juge d'instruction militaire, Rachid Mezher s'est immédiatement rendu sur les lieux de l'attentat pour prendre en main l'enquête, en présence du délégué du Gouvernement auprès du Tribunal militaire, le juge Jean Fahd, sachant que cette affaire est du ressort de la justice militaire parce que le crime a été commis au moyen d'explosifs; dès son arrivée, le juge d'instruction a commencé à superviser le travail de tous les officiers et membres des forces de sécurité et la recherche d'indices; les restes des victimes et les blessés ont été transportés à l'hôpital avec l'aide de la protection civile et de la Croix Rouge; un médecin légiste a été chargé d'identifier le corps des personnes tuées et les blessés; les déclarations des témoins et des blessés ont été recueillies; les lieux de l'explosion et les bâtiments voisins ont été passés au peigne fin; le juge d'instruction militaire et des officiers supérieurs faisant partie de ses collaborateurs se sont rendus dans les hôpitaux pour examiner les restes des victimes et prendre des nouvelles des blessés; tous les organes de sécurité ont reçu par écrit l'ordre de procéder aux investigations nécessaires pour aider les enquêteurs à identifier le ou les responsables des actes terroristes qui ont coûté la vie au député Gebran Tueni et à deux de ses compagnons; il a été décidé de charger des experts des matières explosives appartenant à l'armée libanaise et aux forces de sécurité intérieure de déterminer le type d'explosif utilisé, la puissance de la charge et d'autres détails techniques se rapportant aux explosifs employés. Le Conseil de sécurité central s'est réuni, moins d'un quart d'heure après l'explosion, sous la présidence du Premier Ministre, M. Fouad Siniora et en présence des Ministres de l'intérieur, de la défense et de la justice ainsi que du Procureur général près la Cour de cassation, de tous les responsables des services de sécurité, du juge d'instruction militaire et du délégué du Gouvernement auprès du tribunal militaire, afin de prendre connaissance des données préliminaires recueillies sur les lieux du crime et d'adopter les dispositions voulues. Le 12 décembre 2005, vers 15 heures, le juge d'instruction militaire a tenu dans son bureau une réunion avec tous les responsables des services de sécurité ainsi que des spécialistes des matières explosives, au cours de laquelle les renseignements émanant des services de sécurité ont été examinés et les instructions requises ont été données. Le lendemain de l'attentat, c'est à dire le 13 décembre 2005, le juge d'instruction militaire a effectué une visite d'inspection sur les lieux du crime où il s'est assuré que les forces de sécurité se trouvant sur place s'acquittaient de leur devoir, conformément aux instructions qui leur avaient été données. La Direction de la sécurité intérieure a publié un rapport dans lequel a été révélé le type de véhicule utilisé dans l'attentat (une Renault Rapid), son numéro d'identification et la façon dont il était entré au Liban. Les services de sécurité compétents ont été invités à effectuer une enquête plus approfondie auprès du concessionnaire automobile qui avait vendu la voiture utilisée dans l'attentat et à déterminer la manière dont elle avait été conduite jusqu'au lieu du crime; il s'est avéré que la voiture n'avait pas été volée mais cédée au moyen d'un contrat de vente sur lequel le nom de l'acheteur n'était pas mentionné. Les services de sécurité compétents ont été chargés de procéder aux investigations nécessaires pour identifier l'acheteur de la voiture utilisée dans l'attentat. Un

portrait-robot de l'acheteur a été établi, ce qui a permis d'appréhender plusieurs suspects; certains d'entre eux ont été placés en liberté surveillée alors que d'autres sont encore en état d'arrestation. Le Directeur du Bureau de lutte contre le terrorisme et le grand banditisme a été chargé d'obtenir de la société de téléphone ALFA des renseignements sur les communications téléphoniques effectuées à partir de Mkalles durant les 24 heures allant du 11 au 12 décembre à minuit. Des investigations ont été effectuées auprès de la société de la téléphonie fixe OGERO et des sociétés de téléphonie mobile MTC et ALFA en vue d'obtenir des renseignements sur les communications effectuées par le biais de ces sociétés au cours de la même période. Le lendemain du crime, le juge d'instruction militaire a de nouveau réuni dans son bureau tous les chefs des services de sécurité pour faire le point avec eux sur les renseignements disponibles. Il a été décidé de diffuser le portrait-robot de l'un des suspects; à la suite de cela plusieurs personnes ont été arrêtées et sont actuellement interrogées. Les services de sécurité ont été priés de se faire aider par des experts étrangers et locaux de la société Range Rover car la voiture de M. Tueni était de cette marque, le but étant de repérer les restes des pièces du véhicule du défunt pour pouvoir fournir à la justice les renseignements requis. Le 14 décembre 2005, deux jours après l'assassinat, il a été décidé de passer au peigne fin les immeubles entourant l'endroit de l'explosion et se trouvant sur la route empruntée par le député, pour déterminer si des caméras avaient été utilisées pour filmer les lieux et obtenir, le cas échéant, les films pour les utiliser dans le cadre de l'enquête. Il a été décidé de passer au crible la zone mitoyenne et celle qui fait face à l'endroit où a eu lieu l'explosion pour identifier les personnes qui s'y trouvaient et, en particulier, les responsables des chantiers de construction se trouvant dans le secteur et les travailleurs libanais et étrangers employés dans ces chantiers. Il a été décidé d'obtenir un rapport complet sur l'identité et les fonctions des agents de la sûreté publique, des forces de sécurité intérieure, des douanes et autres qui travaillaient à l'aéroport international de Beyrouth le jour du retour du député au Liban. Il a été décidé de prendre les mesures nécessaires pour identifier les personnes qui étaient au courant du retour du député au Liban, qu'il s'agisse de proches de ce dernier ou d'autres personnes. Il a été décidé d'établir un portrait-robot pour identifier le conducteur de la BMW qui avait permis au conducteur de la voiture piégée de quitter les lieux quelques minutes avant l'explosion. Le 20 décembre 2005, le juge d'instruction a convoqué une réunion de sécurité dans ses bureaux, à laquelle ont participé le délégué du Gouvernement auprès du Tribunal militaire, les chefs des services de sécurité et des experts hollandais chargés d'établir un rapport technique détaillé sur l'assassinat; étaient également présents le professeur Ayoub, un spécialiste des analyses d'ADN qui était également chargé d'examiner les indices du crime. Le juge d'instruction s'est rendu au domicile de la victime pour recueillir les témoignages de son épouse, Sihem Assili, et d'autres membres de la famille. Plusieurs témoins et suspects ont été entendus, dont certains ont été arrêtés. Le 22 décembre 2005, une autre réunion a eu lieu au bureau du juge d'instruction en présence des experts hollandais et de certains officiers des forces de sécurité intérieure; au cours de cette réunion, le juge d'instruction a pris connaissance des premières impressions des experts sur les mesures prises pour éviter la destruction d'indices sur les lieux du crime et sur la façon de travailler des services de sécurité libanais en comparaison avec ceux de leur pays; les experts étaient très satisfaits de la manière dont l'enquête était conduite. La route sur laquelle a eu lieu l'attentat a été ouverte au public après que les experts hollandais ont conclu que tous les indices qui se trouvaient sur les lieux avaient été recueillis. Les services de sécurité ont reçu l'ordre par écrit de déterminer quels chantiers de construction se trouvaient dans le voisinage du domicile du député, y compris les 11 et 12 décembre 2005. Il a été décidé d'identifier les vendeurs ambulants qui se trouvaient à proximité du domicile du

député. Il convient de signaler qu'à la date de l'élaboration du présent rapport, l'enquête suivait son cours sous l'autorité du premier juge d'instruction militaire.

### **Observations**

350. Le Rapporteur spécial remercie le Gouvernement pour sa réponse du 6 avril 2006 et le prie de le tenir au courant de tout développement ultérieur.

### **Libyan Arab Jamahiriya**

351. On 3 February 2006, the Special Rapporteur, together with the Independent Expert on Minority Issues, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous sent a letter of allegation concerning information received regarding **discrimination toward Berbers**, particularly on the existence of discriminatory legislations toward the Berber culture and identity, such as the law number 24 of the year 1369 w.r. (1991). Reportedly, the said laws prevent people from using any other language than Arabic in the country and also forbid literature and writings which is not in Arabic, and therefore, the use of the Berber language. It is also alleged that it is forbidden to use names of Berber origin to name children. It has been also alleged that the Libyan government deliberately withholds the development of regions with Berber communities. As an example, the only hospital in the region of Zouara, which was closed in the 1980's, has not been reopened and that there is no hospital in the region. Similarly, it has been alleged that the water projects in the country have deliberately excluded the regions of Nefoussa and Zouara. The information also alleged that the Libyan education system and school books do not take into account the Berber component in Libya's geography, history and culture. Allegations also report the harassment and ill-treatment of persons working for the defence of the Berber community, culture and identity.

### **Observations**

352. At the time this report was finalized, the Special Rapporteur had not received any reply to the communication dated 3 February 2006. The Special Rapporteur invites the Government to respond to this communication.

### **Malaysia**

353. On 18 July 2006, the Special Rapporteur and the Special Rapporteur on freedom of religion or belief sent a letter of allegation concerning the alleged facts that during the last month, the Internal Security Ministry of Malaysia has **banned eighteen books**, mainly devoted to the study of inter-religious matters, on the grounds that they could have 'disrupted peace and harmony'. Twelve of these books were printed in English and the rest in Malay. The books had been banned under the Printing Presses and Publications Act 1984 section 9(1), by which the Internal Security Ministry of Malaysia may forbid any publication, article, caricature, photograph, report, notes, writing, sound, music, statement or any other expression which is considered) to be prejudicial to public order, morality, security, the relationship with any other country; to alarm public opinion or be contrary to any law; or is otherwise prejudicial to public interest or national interest. The ban was enforced despite the recent approval, by the Malaysian

Government, of the Media Council Bill (2006) which seeks to ameliorate the most restrictive provisions included in the said Printing Presses and Publications Act. It was also reported that more than 45 books have been banned by the Malaysian authorities since 2003.

354. On 18 December 2006, the Special Rapporteur sent a letter of allegation concerning the alleged bann to enter the territory of Malaysia of a list of **109 books** by customs officers at various entry points. Reportedly the books banned included works by Kahlil Gibran, Salman Rushdie's award-winning *Midnight's Children* and *Shalimar the Clown*, Gabriel Garcia Marquez's *Memories of My Melancholy Whore*, as well as Anthony Burgess' *The Malayan Trilogy* and Chinua Achebe's *Things Fall Apart*. According to the information received, the Printing Press Act (PPPA) grants the Internal Security Ministry discretionary power to ban undesirable publications (section 7 of PPPA), and foresees that Ministry officers at the border refuse the importation of those publications threatening public order, morality security or national interest even if they have not been previously banned by the Ministry (section 9 of PPPA).

### **Observations**

355. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

### **Maldives**

356. On 30 November 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr **Ahmed Falah**, a freelance cameraman who has documented incidents of police brutality and the suppression of peaceful demonstrations in order to draw international attention to the situation of human rights violations in the Maldives. According to the information received, on 13 November 2006, Mr Falah was arrested at his home in Malé. There were no indications that a summons had been issued for him to report to a police station. Sources indicate he is being investigated in relation to terrorist charges as the authorities allege, that while on an official visit to Naifaru Island in October 2006, “he patted his pockets and said that he had box-cutters”. According to reports received, he is currently detained in Dhoonidoo Detention Centre. Mr Falah has reportedly been subject to police harassment on previous occasions in relation to his participation in peaceful demonstrations and his work in recording human rights violations. On 21 September 2003 he was allegedly arrested in the context of the civil protests which occurred in Malé following the alleged killing of an inmate and subsequent shootings of other prisoners in Maafushi Prison. He is reported to have been arrested at 2:00 a.m. by 15- riot police who were accompanied by an armoured tank. He was allegedly handcuffed and blindfolded upon arrest and remained so for three days, while also being tied to more than fifty other prisoners. According to reports, he was later kept in solitary confinement and was eventually released without charge after spending 45 days in detention. In January 2004, Mr Falah was reportedly arrested after filming a confrontation between the mother of a prisoner who was reportedly tortured and murdered in prison, and a member of the police who had been in charge of the prison and was allegedly involved in the shootings in Maafushi. He was asked to surrender the videotape which he refused to do. He was detained for several days and released without charge. According to sources, in June 2004, after the death of a heroin addict hours after he had been

released from police custody, Mr Falah went to the hospital where the victim had been brought, in order to inquire about what had happened and to record the event. The following day he allegedly received a summons to attend the police station where he was questioned in relation to his visit to the hospital however he was released later that day. On 15 February, after Mr Falah's name apparently appeared on a list of nominees for the Caretaker Committee of the exiled Maldivian Democratic Party, police came looking for him and his sister-in-law at his home but as he was not there, his wife and sons were allegedly taken and detained by the police and a summons was issued. He went to the police station on 14 February and his family were released the following day. On this occasion he reportedly spent 35 days in detention before he was released without charge. On 12 and 13 August 2004, Mr Falah reportedly attended and filmed a demonstration which was held in protest against the detention of three political prisoners. According to reports he was arrested on 14 August 2006 and was blindfolded for fifteen hours and handcuffed for five days. He was allegedly held at Girifushi Military Training Island, before being transferred to Dhoonidhoo Detention Island where he was held until 28 November 2004. During the journey to Dhoonidhoo it is reported that he was severely beaten while blindfolded and handcuffed. Mr Falah was again arrested on 22 January 2005 supposedly for filming confrontations between voters and election officials during the Maldivian parliamentary elections, which allegedly resulted in the police using force to disperse the crowd. Furthermore, the police reportedly used an electric shock baton on Mr Falah and destroyed his video camera. He was charged on 12 April 2005 for "disobedience to order" after apparently raising his voice near Giyysudheen school on 22 January and was instructed not to attend any assemblies. On 7 May 2006, Mr Falah was allegedly arrested at his home for evading court summons which he claims he never received. He was released on 10 May 2006. However, he had mentioned when questioned that he had a knife under his motorcycle from a fishing trip which was subsequently found during a police search. Reports indicated that later the same day, an announcement was made on state-run television and radio stations that it was illegal to carry knives or other such weapons. He was later charged and convicted of "disobedience to order". Concern is expressed that Mr Falah's most recent arrest may represent an attempt by the authorities to deter and prevent Mr Falah from documenting and publicising human rights violations perpetrated by state agents in the Maldives.

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

357. By letter dated 8 July 2006, the Permanent Mission of the Republic of Maldives responded to the urgent appeal sent jointly by the Special Representative, and the Special Rapporteur on the promotion and protection of the right to freedom of expression, on 8 July 2005. The Mission stated that pending the official response from the Government in relation to the aforementioned communication it wished to forward, for information, a press release issued on 11 July 2005. The press release refers to the Maldives Government's commitment to the Universal Declaration of Human Rights and indicates that the protection and promotion of human rights is at the heart of the democratic agenda outlined by the President in June 2005.

### **Observations**

358. At the date this report was finalized, no reply had been received regarding the communication sent by the Special Rapporteur on 30 November 2006. The Special Rapporteur invites the Government to reply to this communication.

## Mauritania

359. Le 21 février 2006, le Rapporteur spécial a envoyé un appel urgent concernant le journaliste **Khalil Ould Jdoud**. Le 15 février 2006, plusieurs hommes, aux ordres d'un ancien colonel de l'Armée, auraient fait irruption dans les locaux du quotidien *Al Akhbar*, à Nouakchott, à la recherche du rédacteur en chef du quotidien, Khalil Ould Jdoud, qui était absent à ce moment-là. L'agression manquée serait liée à la publication, dans le numéro d'*Al Akhbar* paru le même jour, d'une enquête sur la situation financière d'une banque mauritanienne active dans le commerce et le marché de l'investissement. Avant l'irruption dans les locaux du journal, Khalil Ould Jdoud aurait été menacé au téléphone par un haut cadre de cette banque. Plus tard, le journaliste aurait été victime d'un accident de la route: sa voiture aurait été violemment percutée par un autre véhicule dans le centre de Nouakchott. Le journaliste, qui serait parvenu à prendre la fuite sans avoir été blessé, aurait porté plainte et, craignant pour sa sécurité, serait immédiatement entré en clandestinité.

### Réponses du Gouvernement

360. Le 17 mars 2006, le Gouvernement a répondu à l'appel urgent envoyé par le Rapporteur spécial en date 21 février 2006. Le gouvernement informe que les faits relatés sont, par l'essentiel, corrects. La victime a néanmoins fini par retirer sa plainte, ce qui éteint l'action civile. En revanche, le Procureur de la République a décidé de poursuivre l'action publique. Dans ce cadre, les prévenus ont été déférés devant le Parquet et entendus par un Juge d'Instruction. L'examen de l'affaire continue donc dans l'intérêt de l'ordre public, en dépit du retrait de la plainte. Tout développement ultérieur sur son issue définitive sera communiqué au Rapporteur spécial.

### Observations

361. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à l'appel urgent envoyé le 21 février 2006.

## Mexico

362. El 16 de enero de 2006, el Relator Especial, juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la independencia de los magistrados y abogados, y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con el señor **Martín Amaru Barrios Hernández**, abogado y Presidente de la Comisión de Derechos Humanos del Valle de Tehuacán (CDHL), organismo que trabaja en defensa de los derechos humanos de los obreros maquiladores en Tehuacan y la Sierra de Puebla. Según la información recibida, el 29 de diciembre de 2005, Martín Amaru Barrios Hernández fue detenido por miembros de la Policía Judicial de Puebla bajo el cargo de "presunto chantaje", en virtud de las denuncias formuladas por un empresario y dueño de una de las maquiladoras de la región. Dicho empresario habría denunciado que Martín Amaru Barrios Hernández le exigió la suma de 150.000 pesos a cambio de poner fin a un movimiento de 163 obreros que exigían una justa liquidación tras haber sido despedidos por este empresario. Martín Amaru Barrios Hernández combatía la presunta explotación de la cual serían víctimas los trabajadores de las maquiladoras de Tehuacán. Asimismo denunció los daños que las maquiladoras estarían ocasionando a los ríos

y tierras de la región, que estaban quedando improductivas por la contaminación de los químicos que desechan las maquiladoras. El 4 de enero de 2006, el juez del Juzgado Tercero de lo Penal decretó auto de prisión formal contra Martín Amaru Barrios Hernández por la comisión del delito de chantaje en contra del denunciante. Según la información recibida, la defensa habría anunciado que existían varias anomalías en el proceso y que presentaría por ello una queja ante la Corte Interamericana de Derechos Humanos.

363. El 9 de febrero de 2006, el Relator Especial envió un llamamiento urgente en relación al arresto del periodista **Ángel Mario Ksheratto**, columnista del diario *Cuarto Poder* el cual fue supuestamente detenido el 4 de febrero de 2006 y acusado de desacato a la autoridad en relación con una demanda penal por difamación interpuesta contra él en 2003 por informar sobre supuesta corrupción gubernamental. De acuerdo con las informaciones recibidas, el periodista permanecería encarcelado en la prisión de máxima seguridad “El Amate”, en el municipio de Cintalapa en el momento de enviarse la comunicación. La antedicha denuncia habría derivado de dos artículos publicados por el Sr. Ksheratto en agosto de 2002, en los que se alegó que una funcionaria estatal había hecho uso de recursos públicos para edificar su vivienda. La funcionaria en cuestión demandó penalmente a Ksheratto, quien fue arrestado el 9 de enero del 2003 y puesto en libertad al día siguiente tras el pago de una fianza.

364. El 1.º de marzo de 2006, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con el Sr. **Mario M. Ruiz**, colaborador de la Comisión de Apoyo a la Unidad y Reconciliación Comunitaria (CORECO). De acuerdo con la información recibida, el 2 de febrero de 2006, Mario M. Ruiz sufrió varios actos de hostigamiento por personas desconocidas que le siguieron en un vehículo y le amenazaron. Se comunicó que estas amenazas estarían relacionadas con el trabajo que éste realiza en favor de los derechos de las comunidades indígenas. Asimismo, se informó de que mientras Mario M. Ruiz conducía su coche, una camioneta le habría cerrado el paso en varias ocasiones, bajándose dos de sus ocupantes para amenazarle de muerte. Este hecho se enmarcaría, según la información recibida, en un aparente contexto de amenazas a otros miembros de organizaciones en defensa de los derechos humanos que realizan su labor en el estado de Chiapas y en particular contra aquellos que trabajan en defensa de los derechos humanos de las comunidades indígenas de la región.

365. El 2 de marzo de 2006, el Relator Especial, juntamente con el Relator Especial sobre la independencia de los magistrados y abogados, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente en relación con **Martín Barrios Hernández**, presidente de la CDHL, y **Rodrigo Santiago Hernández** y **Gastón de la Luz Albino**, integrantes de la CDHL. El Sr. Martín Barrios Hernández fue objeto de un llamamiento urgente enviado el 16 de enero de 2006 por la Representante Especial, la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la independencia de los magistrados y abogados y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión. La Representante Especial agradeció al Gobierno de México su respuesta a dicha comunicación. De acuerdo con nuevas informaciones, el 12 de febrero de 2006, durante un foro público celebrado en el municipio de Altepexi, una persona cercana a la familia Barrios le comentó a la hermana del Sr. Martín que la vida de su hermano corría peligro. Ese mismo día, otro individuo se acercó



a Martín Amaru Barrios Hernández para señalarle la misma información. De acuerdo con la información recibida, Rodrigo Santiago Hernández y Gastón de la Luz Albino, integrantes ambos de la CDHL, se habrían percatado de que, en distintos momentos desde mediados del mes de febrero de 2006, un grupo de hombres jóvenes les había seguido, vigilado y fotografiado. Se teme que estas amenazas puedan estar relacionadas con el trabajo que lleva a cabo Martín Barrios Hernández en defensa de los derechos humanos de los indígenas y de los obreros maquiladores en Tehuacan y la Sierra de Puebla. De acuerdo con la información recibida se habrían solicitado medidas cautelares a la Comisión Interamericana de Derechos Humanos y a la Comisión de Derechos Humanos del Estado de Puebla para la protección de Martín Barrios Hernández.

366. El 2 de marzo de 2006, el Relator Especial, conjuntamente con el Relator Especial sobre la independencia de los magistrados y abogados, y la Representante Especial del Secretario-General para los defensores de los derechos humanos, envió un llamamiento urgente en relación a **Erica Serrano Farías**, asesora jurídica de la Red de Organizaciones No Gubernamentales Ambientalistas de Zihuatanejo (ROGAZ) cuyo objetivo es la protección, rescate y conservación de la bahía de Zihuatanejo. De acuerdo a dicha información, el 23 de Febrero de 2006 en el municipio de José Azueta (Estado de Veracruz), se encontró una granada de uso exclusivo del Ejército enfrente de la entrada del negocio. Posteriormente, el Director de Seguridad Pública del Municipio, Eduardo Enrique Domínguez, habría acudido al domicilio de la familia Serrano Farías para explicar que se trataba de una “granada de práctica” utilizada por los militares con fines de entrenamiento. Tanto Erica Serrano como su familia ya habían sido objeto de amenazas e intimidaciones en virtud de sus actividades como abogada. Así, sus padres habían sido amenazados con la clausura del negocio familiar y los trabajadores de éste último fueron objeto de agresiones físicas.

367. El 8 de marzo de 2006, el Relator Especial envió un llamamiento urgente en relación con la periodista **Isabel Arvide**. De acuerdo con la información recibida, el 1.º de marzo de 2006, el juez Octavio Rodríguez Gaytán, Juez Segundo de lo Penal en el Estado de Chihuahua, dictó una sentencia condenatoria contra la Sra. Arvide a un año de prisión y 200.000 pesos por delito de difamación. Según se informa, el motivo de la denuncia habría sido un artículo publicado por la periodista en 2001, en el cual se afirmaba que varios funcionarios del gobierno estatal, entre ellos el ex Procurador de Justicia de Chihuahua, Jesús José Solís Silva, habían establecido un cartel de la droga en ese Estado. El 4 de marzo de 2003, la periodista fue arrestada por la policía, y tras permanecer poco más de 24 horas detenida, fue liberada bajo fianza. Desde ese momento, la Sra. Arvide estuvo obligada a presentarse ante el Juez Rodríguez Gaytán cada 15 días.

368. El 14 de marzo de 2006, el Relator Especial, conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con **Ernesto Ledesma Arronte**, director de la organización de derechos humanos Centro de Análisis Político e Investigaciones Sociales y Económicas (CAPISE). El señor Ernesto Ledesma Arronte también es adherente de *La Otra Campaña*, que trabaja por los derechos de las personas que puedan verse afectadas por la privatización del agua y por el acuerdo del Área de Libre Comercio de las Américas. Según la información recibida, el 26 de febrero de 2006 el Sr. Ledesma regresó a su domicilio en la ciudad de San Cristóbal de las Casas y encontró la puerta principal forzada. Sus documentos relacionados a su trabajo estaban dispersos por la sala de estar y sus cartas personales y fotografías familiares extendidas

cuidadosamente sobre la cama. En el año 2003 Ernesto Ledesma Arronte había recibido ya amenazas de muerte y la investigación oficial no habría identificado a los autores.

369. El 14 de marzo de 2006, el Relator Especial envió una comunicación urgente en relación con **Jaime Arturo Olvera**, fotógrafo independiente y ex corresponsal de los periódicos *Diario de Morelia* y *La Voz de Michoacán*, y **Ramiro Téllez Contreras**, periodista de la radio local Exa 95.7 FM. De acuerdo con la información recibida, el 9 de marzo de 2006 un desconocido se acercó al Sr. Olvera en una parada de transporte público y le disparó a quemarropa alcanzándole mortalmente en el cuello. El fiscal especial, encargado de investigar delitos contra periodistas, inició una investigación preliminar para determinar si el asesinato del Sr. Olvera podría guardar relación con su labor periodística. El Relator Especial expresó su satisfacción ante la acción inmediata emprendida por la fiscalía especial dado que el asesinato del Sr. Olvera podría estar relacionado con su trabajo como fotógrafo independiente, y en particular con su cobertura fotográfica de crímenes. Además, el 10 de marzo de 2006, Ramiro Téllez Contreras habría recibido dos disparos cuando se encontraba delante de su domicilio. El periodista fue inmediatamente trasladado al hospital San José, donde falleció a consecuencia de las heridas. Se alegó que el Sr. Téllez Contreras había recibido amenazas en los días anteriores a su asesinato y que el fiscal general del Estado de Tamaulipas habría abierto una investigación sobre el homicidio. El Relator Especial expresó su satisfacción ante la acción inmediata emprendida por las autoridades para investigar este incidente dado que el asesinato del Sr. Téllez Contreras podría estar relacionado con su cobertura periodística del narcotráfico en la región. El Relator Especial expresó también su preocupación ante el hecho de que este incidente elevase a siete el número de periodistas asesinados en el Estado de Tamaulipas desde el 2000.

370. El 31 de marzo de 2006, el Relator Especial, conjuntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con la detención de **Alejandro Cruz Juárez**, dirigente del Movimiento Agrario Indígena Zapatista (MAIZ), que trabaja por los derechos de los campesinos e indígenas del Ejido Cantera de Villagrán, Municipio de Tepeji del Río, Hidalgo, México. Según la información recibida, el 14 de marzo de 2006, Alejandro Cruz Juárez fue detenido durante una reunión pacífica fuera de la Policía Ministerial de la Procuraduría General de Justicia del Estado de Hidalgo cuando esperaba a que liberaran a setenta campesinos detenidos durante un desalojo. El Sr. Cruz Juárez fue informado de que habría sido detenido por agresiones a la policía. Más tarde, el mismo día, fue acusado de ultraje a la autoridad.

371. El 10 de mayo de 2006, el Relator Especial, conjuntamente con el Relator Especial sobre la independencia de los magistrados y abogados y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente en relación con **Damián Gustavo Camacho Guzmán**, coordinador jurídico de la Comisión Independiente de Derechos Humanos de Morelo. De acuerdo con la información recibida, el 4 de mayo de 2006 Damián Gustavo Camacho Guzmán habría sido detenido por miembros de la Policía Federal Preventiva frente a un hotel ubicado en las inmediaciones de San Salvador Atenco. Damián Gustavo Camacho Guzmán estaba actuando en calidad de observador de las violaciones de los derechos humanos que en ese momento estaban ocurriendo y como abogado defensor comisionado por la Comisión Independiente de Derechos Humanos de Morelo

para monitorear las violaciones de derechos humanos que se habrían cometido en contra del pueblo de San Salvador Atenco. Al momento de ser detenido, Damián Gustavo Camacho Guzmán estaba brindando a periodistas información relativa a las detenciones. De acuerdo con la información recibida, la policía lo habría arrestado sin presentar una orden de aprehensión y sin que se le encontrara en flagrancia cometiendo algún ilícito. Se teme que la detención de Damián Gustavo Camacho Guzmán fuese arbitraria y pudiera ser relacionada con su trabajo en defensa de derechos humanos, en particular por su defensa de los vendedores de flores en San Salvador Atenco.

372. El 18 de mayo de 2006, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento urgente en relación con las supuestas amenazas sufridas por **Jaime Loeza Juárez** y **Aquilino Loeza Juárez**, líderes indígenas de la comunidad chatino de Temascaltepec, municipalidad de Juquila, estado de Oaxaca. Ambas personas habrían fundado la Organización de los Pueblos Unidos para la Defensa de sus Tierras y liderarían la defensa de la propiedad comunal de sus tierras contra los intentos de compra por parte de inversores no indígenas. Según la información recibida, el 3 de abril de 2006, tres personas les habrían amenazado en la estación de autobuses de la Ciudad de Oaxaca. Tales amenazas se habrían repetido el 19 de abril de 2006, siendo posteriormente denunciadas ante la Procuraduría general de Justicia del Estado. El 5 de enero de 2006 Jaime Loeza habría sido detenido y presuntamente amenazado de muerte por la Unidad Policial de Operaciones Especiales, quienes le habrían acusado de robar ganado, aunque posteriormente habría sido liberado por falta de pruebas. El 8 de marzo ambas personas habrían sido detenidas, junto con otras cinco personas, con motivo de una manifestación. Alegan que habrían sido golpeados mientras se encontraban bajo detención. El 15 de marzo habrían sido liberados sin cargos por el juez.

373. El 22 de junio de 2006, el Relator Especial envió una comunicación en relación con la emisora **Radio Plantón 92.1 FM**, situada en el Estado de Oaxaca. De acuerdo con la información recibida, el 14 de junio de 2006 se habría producido una fuerte represión policial en el Estado de Oaxaca contra los maestros que se manifestaban desde el pasado 22 de mayo en la capital del estado. Según los informes, en el transcurso de esta intervención la policía habría desalojado a la fuerza a diversos empleados de *Radio Plantón 92.1 FM* que se encontraban retransmitiendo la manifestación. Se alega que durante dicho desalojo las fuerzas del orden habrían golpeado a diversos empleados de la emisora y destruido sus equipos de grabación.

374. El 27 de julio de 2006, el Relator Especial envió una comunicación en relación con la emisora Radio Universidad, ubicada dentro de las instalaciones de la Universidad Autónoma Benito Juárez, en la ciudad de Oaxaca. De acuerdo con la información recibida, el 22 de Julio de 2006 un grupo de hombres armados habría descendido de cuatro camionetas cercanas a las instalaciones de Radio Universidad. Instantes después estos hombres habrían comenzado a disparar contra el inmueble y las antenas de transmisión del edificio de la emisora, por lo que su locutora **María del Carmen López Velásquez** habría denunciado en ese mismo momento la agresión en la radio antes de que la transmisión se interrumpiese. Según esta información, sería una huelga de docentes en reclamo de un aumento salarial lo que habría provocado una ola de protestas antigubernamentales en Oaxaca durante el mes de junio de 2006. Radio Universidad

habría cubierto desde entonces los acontecimientos, denunciando las actuaciones policiales que tales protestas habrían provocado, así como la responsabilidad del gobierno de estado en dichas actuaciones. Se informó además que los periodistas de Radio Universidad habrían recibido previamente llamadas en la emisora con las que se les habría de amenazado de muerte en caso de que la estación continuase pidiendo responsabilidades al gobernador en relación a los hechos descritos. El Relator Especial señaló que Radio Universidad habría sido la voz principal de este movimiento social de protesta en Oaxaca después del desalojo y presunta destrucción del equipo de Radio Plantón, ocurrido el 14 de junio de 2006.

375. El 15 de agosto de 2006 el Relator especial envió un llamamiento urgente en relación con la situación del periódico *Noticias, Voz e Imagen de Oaxaca*, del Estado de Oaxaca. Según la información recibida, el 9 de agosto de 2006, dos empleados del citado periódico, **Adrián Cortés** e **Isabel Cruz**, resultaron heridos de gravedad cuando dos individuos entraron en la oficina del periódico disparando contra las instalaciones y preguntando acerca del paradero de Ericel Gómez Nucamendi, director del periódico. El director editorial del periódico, Ismael Sanmartín Hernández, ha presentado una denuncia ante las autoridades y ha acusado directamente al gobernador y a su ex secretario de gobierno de ser los instigadores del ataque, a causa de la crítica línea editorial del periódico.

376. El 29 de agosto de 2006, el Relator especial envió un llamamiento urgente en relación con la situación que se vive en Oaxaca. Según la información recibida, el 8 de Agosto, varios individuos encapuchados entraron en los estudios de **Radio Universit **, emisora perteneciente a la Asamblea Permanente de los Pueblos de Oaxaca (APPO) y quemaron con  cido parte del material radiof nico. Según la informaci n recibida, la APPO es un movimiento social que re ne entre otros a movimientos sindicales y grupos ind genas, que est  encabezando protestas contra el gobernador de dicho Estado. El 16 de agosto, el peri dico *Milenio* denunci  que **Oscar Rodr guez**, uno de sus corresponsales, hab a sido agredido por miembros de la APPO, quienes le acusaron previamente de estar divulgando informaci n falsas. El 21 de agosto, varios hombres encapuchados efectuaron disparos contra las instalaciones de la **Corporaci n Oaxaque a de Radio y Televisi n (CORTV)** momentos antes de que fueran a emitirse las reivindicaciones del Sindicato Nacional de Trabajadores de la Educaci n (SNTE). Dichas instalaciones llevan ocupadas desde el 1.  de agosto por miembros de la APPO, quienes desde entonces emiten sus protestas contra el gobierno local. Como consecuencia de este ataque result  herido el sindicalista **Sergio Vale Jim nez**, quien todav a contin a hospitalizado. El mismo d a 21 de agosto, los estudios de las radios privadas **ACIR, La Ley, Radio Oro, Magia 680, Tu FM, La Grande 89.7, Est reo Cristal, La Ley 710, Est reo  xitos AM/FM, Radio Mexicana, S per Q 101.1 FM, Dimensi n 820 AM, La Grande de Oaxaca y La Tremenda de Oaxaca** fueron ocupadas por la APPO con el prop sito de continuar sus denuncias a trav s de sus emisoras y solicitar la dimisi n del gobernador. El 22 de agosto, **Jorge Lu s Plata**, fot grafo del diario *Reforma*, **Lu s Alberto Cruz**, fot grafo del diario *Milenio*, y **Edgar Galicia**, periodista de Televisi n Azteca, fueron disparados por miembros de la polic a municipal mientras cubr an una operaci n de desalojo a los miembros de la APPO que en ese momento ocupaban la emisora La Ley 710. De acuerdo con esta informaci n, los efectivos dispararon a los reporteros sin que existiera previa provocaci n por su parte, y arrebataron la c mara de video, el micr fono y los tel fonos m viles a todos los integrantes del equipo de Televisi n Azteca.

377. El 30 de agosto de 2006, el Relator Especial envió un llamamiento urgente en relación al periódico ***Por esto!*** y a los periodistas **Jaime Vargas Chablé y Manuel Acuña López**. Según la información recibida, el 23 de agosto, la sede del periódico *Por Esto!* fue atacada por varios individuos que desde un vehículo arrojaron dos granadas contra la entrada de las oficinas. El 22 de agosto, el vehículo de Jaime Vargas Chablé fue destruido por el impacto de una bomba casera lanzada por varios individuos cuando éste se encontraba estacionado cerca de su domicilio. El 21 de junio, el domicilio de Manuel Acuña López fue atacado por varios individuos que, lanzando cócteles molotov contra la fachada de éste, provocaron un incendio que destruyó su vehículo y los exteriores del inmueble. Según estas mismas fuentes, el periódico *Por Esto!* realiza reportajes de investigación sobre narcotráfico, crimen organizado y corrupción. En concreto, El Sr. Vargas Chablé y el Sr. Acuña López habían publicado varios artículos sobre casos de corrupción en Mérida que afectaban a las autoridades locales.

378. El 25 de septiembre de 2006, el Relator Especial envió un llamamiento urgente en relación con la situación de **Mario Viveros Barragán, Juan Pablo Ramos Jiménez y Miguel Ángel Fuentes Cortina**. Según la información recibida, el 15 de septiembre de 2006, Mario Viveros Barragán, Juan Pablo Ramos Jiménez y Miguel Ángel Fuentes Cortina, reporteros de la productora de documentales Canal 6 de Julio, fueron agredidos por agentes de la Seguridad Pública, la policía del centro histórico y la policía judicial de México D.F. El Sr. Ramos Jiménez, cuya cámara fue completamente destruida por los agentes, tuvo que ser posteriormente hospitalizado como consecuencia de la agresión. Según la información recibida, los tres periodistas del Canal 6 de Julio se encontraban en ese momento grabando la detención de una banda de jóvenes por parte de los agentes mencionados.

379. El 9 de octubre de 2006, el Relator Especial, juntamente con el Relator Especial sobre la cuestión de la tortura, envió una comunicación en relación con una información según la cual miembros de la policía habrían golpeado y disparado a un grupo de personas que protestaban en contra del Gobernador del Estado de Oaxaca. Según la información recibida, el 24 de septiembre de 2006 un grupo de miembros de la APPO organizó una manifestación para protestar en contra del gobernador de Oaxaca. Según informaciones recibidas, los manifestantes habrían sido atacados por un grupo de policías, encabezado por el director de la policía municipal. Se alega que miembros de la policía vestidos de civil formaban parte del grupo de atacantes. **Juan Martínez Herrera y Martín Ortiz González** fueron golpeados en la espalda y las costillas y **Margarita Chávez Díaz** fue golpeada en un ojo. Según se informó, dos diputados federales presenciaron estos hechos.

380. El 2 de noviembre de 2006, el Relator Especial, juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación con la situación de los menores **Pedro César Cornejo y Marcelo Adam Vergara Barrera**; así como sobre **Nayeli Martínez, Isabel Galindo Aguilar, Héctor Guzmán Acosta, Armando Aguilar y Abel Martínez Pacheco, Javier Moreno Colmenares, Juan Crisóstomo Aparicio, Hugo Joaquín, Daniel Olmedo, Inti Martínez y Francisco Núñez Basan**, quienes habrían sido detenidos el 2 de noviembre de 2006 en la ciudad de Oaxaca. Igualmente, se han recibido informaciones sobre la supuesta detención el día 1.º de noviembre de 2006 de **Juan José Flores Hernández** y de **Alfonso Rutilio García Martínez**. Según la información recibida, el 2 de noviembre de 2006 la Policía Federal Preventiva inició un operativo con el fin de desalojar las instalaciones de la estación de Radio de la Universidad Autónoma de Oaxaca. La Policía habría

detenido tres menores, dos cuyos nombres son conocidos por la Presidenta-Relatora y el Relator Especial. Igualmente, se afirma que fue detenida **Nayeli Martínez** por unos desconocidos. Sin embargo, según las informaciones recibidas, los testigos no precisaron si se trataba de miembros de la Policía. También se informa de que simultáneamente los estudiantes de la Universidad Nacional Autónoma de México, **Isabel Galindo Aguilar, Héctor Guzmán Acosta y Armando Aguilar**, fueron detenidos por la Policía cuando se encontraban en el Instituto de Ciencias de la Educación en la Universidad Autónoma de Oaxaca. De otra parte, se alega que **Juan José Flores Hernández, Alfonso Rutilio**, quienes habrían sido detenidos el 1.º de noviembre, así como **Javier Moreno Colmenares, Juan Crisóstomo Aparicio, Hugo Joaquín, Isabel Galindo, Daniel Olmedo, Inti Martínez y Francisco Núñez Basan**, quienes habrían sido detenidos al día siguiente, se encuentran en la base militar donde se apostaron los helicópteros de la Policía Federal Preventiva, aparentemente en manos de la policía ministerial bajo los cargos de terrorismo. Se desconoce si dichas personas han sido llevadas ante el Ministerio Público. Se informa también de que cuando los familiares de Javier Moreno Colmenares se presentaron en dicha base militar, con el fin de solicitar informaciones, la Policía Federal Preventiva señaló que no estaba autorizada a dar dicho tipo de informaciones, agregando que no había ninguna persona detenida en el lugar. Según la información recibida, otras tres personas habrían sido detenidas por la Policía Federal Preventiva el 2 de noviembre de 2006, en el marco de la misma operación policial. Se trata de **Abel Martínez Pacheco, Juan** de 23 años cuyo apellido se desconoce y un menor de 17 años, cuyo apellido también se ignora.

381. El 8 de noviembre de 2006, el Relator Especial, juntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, envió una comunicación en relación con la situación siguiente. El 29 de octubre de 2006, **Alberto Jorge López Bernal** murió a consecuencia del impacto que sufrió por una bomba de gas lacrimógeno en el estómago, durante su participación en una manifestación de la APPO. El 27 de octubre **Bradley Wheyley**, camarógrafo de la agencia de prensa *Indymedia* murió cuando cubría una manifestación de la APPO a consecuencia de un disparo en el pecho. Durante los mismos enfrentamientos, **Oswaldo Ramírez**, fotógrafo del diario *Milenio*, resultó herido en un tiroteo.

382. El 8 de diciembre de 2006, el Relator Especial, juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación con el arresto de las 151 personas abajo mencionadas, entre las cuales se encuentran seis menores de edad, y su mantenimiento en detención en lugares no determinados. El 25 de noviembre de 2006, se inició una manifestación convocada por la APPO en la que tuvo lugar una confrontación entre manifestantes y agentes de la Policía Federal Preventiva, en la que resultaron tres personas muertas y al menos unas 140 personas heridas. Las detenciones fueron practicadas por agentes de la Policía Federal Preventiva y de la Policía Judicial del Estado. Muchas personas fueron arrestadas mientras transitaban por diversas calles. Varios de los detenidos se encontraban acompañados de sus hijos menores de edad, quienes fueron detenidos conjuntamente con sus padres. Según testigos, muchos fueron golpeados. Se informa que una gran parte de los detenidos no había participado en la manifestación y se habían refugiado en lugares públicos para protegerse. Terminada la manifestación salieron de dichos lugares para dirigirse hacia sus domicilios y fueron así los primeros en ser arrestados. Las autoridades policiales afirmaron que los detenidos fueron conducidos principalmente a dos centros de detención: el Reclusorio de Miahuatlan (Oaxaca), y el Centro de Readaptación Social Femenino de Tlacolula (Oaxaca). Sin embargo, cuando familiares de los detenidos acudieron a los referidos centros fueron informados

que sus familiares no se encontraban allí. Se informa que muchas personas detenidas fueron llevadas al aeropuerto de la ciudad de Oaxaca y trasladadas al Estado de Nayarit. Representantes del Centro de Derechos Humanos y Asesoría a los Pueblos Indígenas (CEDHAPI, AC) han solicitado información sobre las personas detenidas tanto a la Comisión de Derechos Humanos de Oaxaca como a la Subsecretaría de Derechos Humanos del Gobierno del Estado, pero no se les ha brindado ninguna información. Las siguientes 57 personas estuvieron detenidas en el Reclusorio de Miahuatlán y actualmente no se conoce su paradero: **Adrián Bautista Espinosa, Cesar Chaata Salazar Ramírez, Eleazar Hernández Salaza, Julio Alberto López Hernández, Jorge Sánchez García, Roberto Morales Hernández, Antonio Abad Mendoza Olivera, Oscar Marcelo Adad Pobrete, Miguel Ángel Martínez García, Juan Carlos Méndez Martínez, Cesar Pérez López, Javier Álvarez Ramírez, José López Morales, Cristian Marcelo Cebollero, Jairo Vásquez García, Jorge Rosales González, Héctor Hernández Martínez, Agustín Cruz Bautista, Avelino Solana Luján, Avelino Santiago Rivera, Misael Velasco Fabián, Rolando Reyes García, Buenaventura Hernández Cruz, Roque Coca Gómez, Raúl Ramírez Matías, Miguel Santiago Rivera, Juan Martínez, Luis Pérez Suárez, Alberto Santiago Pérez, Regino Sánchez Gómez, Pablo Solano Martínez, Juan García Aguilar, Rigoberto Vásquez Torres, Isidro Vásquez Cruz, Álvaro Rodríguez Damián, Francisco Muñoz Cruz, Javier Sosa Martínez, Socorro Antonio Soriano Sanjuán, Esperanza Ofelia Robles, Marcela Contreras, Elia Copla Gómez, Aurora Ruiz García, Sandra Pérez María, Florinda Martínez Jiménez, Hilda Coca Gómez, Rosalía Aguilar Sánchez, Esmeralda Velasco, Lourdes Soriano Sanjuán, Paulina Ramírez, Jovita Sánchez Cruz, Edith Coca Soriano, Carmen Sánchez Cruz, María del Socorro Cruz Alarcón, Blanca Martínez Ramírez, Jenny Araceli Pérez Martínez, Hilario Jorge Reyes Hernández y María Cabrera.** Las siguientes 95 personas estuvieron detenidas en el Centro de Readaptación Social Femenino de Tlacolula, Oaxaca y no se conoce su paradero actual: **Abisaí Wenceslao Hernández Ojeda, Abraham Reyes Herrera, Alejandro Luna López, Abel Orozco Moreno, Armando García Salas, Alejandro Ortiz Ortiz, Alberto Alejandro Correa Orozco, Benito Santiago Caballero, Bladimir Daniel Márquez Reyes, Celerino Leyva Ramírez, Augusto Cruz Campos, Cornelio López Sánchez, Carmelo Cruz Hernández, Ciro Pedroza Guadarrama, Didier Cervantes Ventura, David Melchor Cervantes, David Fernández Pacheco, Dionicio Martínez Luis, Eladio Guzmán Valdivia, Eloy Morales Pastelón, Edgar René Cruz Campos, Eusebio Bautista Cruz, Edgar Alejandro Molina Cuevas, Eber Ignacio Legaria Hernández, Felipe Sánchez Rodríguez, Filemón Ortiz García, Fortunato Morales Pastelón, F.S.R. (menor de nueve años), Gerardo David Morales Treviño, Gerardo Silva Domínguez, Gerardo Bonilla Lezama, Giovanni Alonso Palomec, Gerardo Suárez Martínez, Gilberto Toledo de los Santos, Gildardo Herrera Flores, Gonzalo Santiago Orea, Humberto Luis Gallegos, Isaí Padilla Tobón, Ismael Sánchez Estrada, Ignacio Mendoza Santiago, Isaí Cruz Martínez, Jaime Legaria Ramírez, Jaime Aurelino Martínez Gordillo, Jesús Bolaños Santiago, Jesús Manuel Cruz Cruz, Jesús Santiago Apolinar, José Luis Oropeza Hernández, José Luis Ramírez Morales, Joel Zaragoza Carrera, J.I.P. (menor de edad), Juan de Dios Gómez Ramírez, Juan Carlos Luis Mendoza, Juan Carlos Martínez Domínguez, Julián Alejandro Ortega, Justino Alejandro Gil Bautista, Luis Adán Baños Flores, Lamberto Miguel Cruz Cruz, Luis Javier Pacheco, Marco Antonio Aquino Silva, Manuel Ventura Santiago, Miguel Pérez Méndez, Miguel Ángel Matus Morelos, Pedro Antonio José Pérez, Porfirio Domínguez Muñoz Cano, Reynaldo Contreras, Santiago Reymen López Niño, Rainier Valdés Álvarez, Rosein García Guzmán, Rubén Elberth Morales Treviño, Salomón González Aguilar, Sergio Barrios**

**Robles, Severiano Vásquez Ortiz, Teodulfo Luis garcía, Uriel Julio Méndez Hernández, Wenceslao Bautista Jiménez, Celia Elia Salazar Hernández, Aurelia Santiago Reyes, B.O.O** (menor de edad), **Bernardina Ortiz Bautista, B.G.A.** (menor de edad), **Elizabetzh Cantón Brena, Florina Aragón Peralta, Guadalupe Orea Hernández, Juana Reyes Espinosa, María Pérez Gutiérrez, Maricela Margarita Velasco Balseca, Martha Méndez Pérez, M.M.B.** (menor de edad), **Paola Santos Reyes, Rufina Pretronila Martínez López, Silvia Brígida Juárez Martínez, R.O.O.** (menor de 9 años), **Rosario Alicia Castañeda y Victoria Francisaca Santiago Reyes.**

### **Respuestas del Gobierno**

383. Por carta con fecha 21 de abril y 5 de Junio de 2006 el Gobierno de México transmitió la siguiente información en relación con el llamamiento urgente del 16 de enero de 2006 sobre el caso del Sr. **Martín Amaru Barrios Hernández**. El Gobierno de México informó que de acuerdo con la decisión de la Comisión Interamericana de Derechos Humanos (CIDH), sobre la adopción de medidas cautelares para proteger la vida y la integridad personal de Martín Amaru Barrios Hernández, Martín Barrios Torres, Concepción Hernández Méndez, Inti Naxhietii Barrios Hernández, Eulalia Martínez Sánchez, Rodrigo Sánchez Hernández y Gastón de la Luz, el 10 de abril de 2006, tuvo verificativo la segunda reunión de trabajo. Se indicó que por parte del Gobierno Federal asistieron representantes de la Unidad para la Promoción y Defensa de los Derechos Humanos de la Secretaría de Gobernación; de la Coordinación General de Participación Ciudadana y Derechos Humanos de la Secretaría de Seguridad Pública y la Secretaría de Relaciones Exteriores; por el Gobierno Estatal de Puebla, la Secretaría de Gobernación, la Procuraduría General de Justicia y la Secretaría de Seguridad Pública, y por parte de los peticionarios asistieron Martín Amaru Barrios Hernández, Inti Naxhietii Barrios Hernández, y su representante Luisa Pérez Escobedo del Centro de Derechos Humanos Miguel Agustín Pro Juárez. Se informó que se alcanzaron los siguientes acuerdos: *a)* que sean intensificados los rondines implementados por la Policía Federal Preventiva (PFP), y que sean más visibles en el domicilio de Martín Barrios Hernández; *b)* que la Secretaría de Seguridad Pública elevara una petición al Estado Mayor de la Policía Federal Preventiva para la aprobación de rondines en los domicilios de los otros dos beneficiarios; *c)* que la Procuraduría General de Justicia del Estado de Puebla (PGJ-Puebla), investigara si se ha iniciado alguna denuncia ante el ministerio público relacionado con los peticionarios; *d)* que se celebraría una próxima reunión, el 16 de mayo de 2006. Se indicó que los peticionarios manifestaron su conformidad por la forma en que se vienen implementando las medidas cautelares, aclararon que han coadyuvado con la PGJ-Puebla en el esclarecimiento de los hechos de las averiguaciones previas manifestadas en la minuta de fecha 6 de marzo de 2006.

384. Por carta con fecha 10 de febrero de 2006 el Gobierno de México transmitió la siguiente información en relación con el llamamiento urgente del 16 de enero de 2006 sobre el caso de **Martín Amaru Barrios Hernández**. El Gobierno de México informó de que ya se han iniciado las investigaciones por parte de la Procuraduría Estatal y se indicó que la detención del Sr. Barrios Hernández obedeció a la orden de aprensión librada por el Juez Tercero de lo Penal dentro de la causa penal 496/2005, por el delito de chantaje cometido en agravio de Lucio Gil. Asimismo se informó de que durante el tiempo que el Sr. Barrios Hernández permaneció en el Centro de Readaptación Social del Estado de Puebla, a petición de la Comisión de Derechos Humanos de Puebla, las autoridades del dicho centro otorgaron medidas precautorias para



salvaguardar su vida e integridad física. Además, referente a un incidente ocurrido el 30 de diciembre de 2003, en que el Sr. Barrios Hernández fue agredido por una persona de nombre Iván Carrera, y posteriormente a ese hecho, manifestó ser amenazado de muerte por medio de un mensaje de correo electrónico, se informó que como consecuencia de estos incidentes la autoridad ministerial inicio una averiguación previa pero no se ha procesado a persona alguna por dichos hechos.

385. Por carta con fecha 27 de abril de 2006 el Gobierno de México transmitió la siguiente información en respuesta al llamamiento urgente del 9 de febrero de 2006 sobre el arresto del periodista **Ángel Mario Ksheratto**. Se informó que, tras la publicación de un artículo del Sr. Ksheratto sobre una supuesta malversación de recursos públicos, éste fue denunciado por un delito de difamación. Se informó de que el artículo publicado era falso por lo que la autoridad judicial ordenó su aprehensión como probable responsable del delito. El 10 de enero de 2003 el juez concedió al Sr. Ksheratto la libertad provisional. Asimismo, el Gobierno de México señaló que el procesado incumplió las obligaciones procesales al no asistir a firmar el libro de control de procesados ciertos días y que por ello se le revocó la libertad provisional. Sin embargo, se destacó que el inculcado se encuentra actualmente de nuevo en libertad provisional bajo caución. El Gobierno de México insistió en que las reformas introducidas en febrero de 2004 en su legislación nacional no han convertido el delito de difamación y calumnia en delitos graves. Además indicó que la ley mexicana garantiza plenamente la libertad de opinión y expresión e impide que en el ejercicio del derecho de denuncia de delitos contra el honor se obstaculice la libertad de opinión y expresión.

386. Por carta con fecha 5 de junio de 2006 el Gobierno de México transmitió la siguiente información en respuesta al llamamiento urgente del 2 de marzo de 2006 sobre los hechos en los que se vieron involucrados los señores **Martín Barrios Hernández, Rodrigo Santiago Hernández y Gastón de la Luz Albino**. El Gobierno de México indica que la Comisión Interamericana de Derechos Humanos (CIDH) otorgó medidas cautelares a favor señores citados anteriormente, junto con Martín Barrios Torres, Concepción Hernández Méndez, Inti Naxhietii Barrios Hernández y Eulalia Martínez Sánchez, el 21 de febrero de 2006. Se informó de que fueron distribuidos aparatos para mantenerse en contacto con las autoridades que se encargan de su protección. Además la Procuraduría General de Justicia del Estado De Puebla manifestó su disposición para dar seguimiento a las investigaciones. Por otro lado, se comunicó que los hechos contenidos en el comunicado corresponden a la narración de Barrios Hernández y que sobre éstos no existe denuncia más que por Gastón de la Luz Albino. Las investigaciones sobre el caso no se han concluido ya que se desconoce la identidad de la persona a la que el Sr. De la Luz Albino hizo referencia en su denuncia. Se informó también de que al no haber concluido la etapa de averiguación previa, para la búsqueda de los elementos probatorios, aún no se ha dado intervención a la autoridad judicial y que hasta el momento no se han solicitado medidas de seguridad y auxilio en la averiguación previa. Por todo lo cual se señaló que al no existir sentencia no se ha condenado a persona alguna al pago de indemnización a favor del denunciante.

387. Por carta con fecha 25 de mayo de 2006 el Gobierno de México transmitió la siguiente información en respuesta al llamamiento urgente del 8 de marzo de 2006 sobre la periodista **Isabel Arvide Limón**. Se informó que la Sra. Arvide Limón difundió notas periodísticas cuyo contenido era tendente a desacreditar al entonces Procurador General de Justicia de Chihuahua,

José Jesús Solís Silva, quien presentó querrela por delito de difamación en contra de ésta, la cual fue detenida y después puesta en libertad provisional bajo caución. Se dictó sentencia condenatoria, contra la cual la Sra. Arvide solicitó un amparo impugnándola. El ofendido otorgó su perdón a la Sra. Arvide y el proceso se sobreseyó. Asimismo, se informó de la congruencia del proceso penal alegando los artículos 6 y 7 de la legislación penal mexicana, y el artículo 29 de la Declaración Universal de Derechos Humanos.

388. Por carta con fecha 2 de junio de 2006 el Gobierno de México transmitió la siguiente información en respuesta al llamamiento urgente del 14 de marzo de 2006 sobre la situación del Sr. **Ernesto Ledesma Arronte**. Se informó de que los hechos de allanamiento y daños en el domicilio del Sr. Ledesma se denunciaron ante el Fiscal del Ministerio Público, quien inició una averiguación previa que aún continúa abierta. Debido a la naturaleza de los hechos, el Fiscal del Ministerio Público ordenó realizar una investigación minuciosa y resguardar la integridad física del Sr. Ledesma. Se señaló que el Sr. Ledesma no compareció ni presentó a los testigos que ofreció para que declarasen con relación a los hechos y que la indemnización será atendida en el momento procesal oportuno.

389. Por carta con fecha 26 de mayo de 2006 el Gobierno de México transmitió la siguiente información en relación con la comunicación del 14 de marzo de 2006 sobre los casos de **Jaime Arturo Olvera Bravo y Ramiro Téllez Contreras**. El Gobierno mexicano informó que la Fiscalía Especial para la Atención de delitos cometidos contra periodistas realizó investigaciones sobre la muerte de las dos personas anteriormente citadas, ante la presunción de que ésta pudiera estar relacionada con sus actividades periodísticas. La autoridad ministerial averiguó que el Sr. Olvera ya no realizaba labores periodísticas en el momento de su muerte. En relación al Sr. Téllez Contreras, a pesar de las investigaciones, no se ha podido precisar que trabajara como periodista. El Gobierno de México informó de que hasta el momento no ha sido posible determinar la identidad de los autores de los asesinatos y descartó que éstos estuvieran relacionados con la labor periodística de ambas víctimas. Por carta con fecha 17 de julio de 2006 el Gobierno de México transmitió información adicional en relación con el llamamiento urgente del 10 de mayo de 2006 sobre el caso **San Salvador Atenco**. El Gobierno de México informó que ya se han iniciado las investigaciones por parte de la Procuraduría General de la República (PGR) en los casos en que se hubiera podido cometer abusos por parte de las autoridades en el caso San Salvador Atenco. Se señaló que el Gobernador del Estado de México reconoció que se podrían acreditar excesos en el uso de violencia, por lo que instruyó al Procurador General de Justicia para iniciar las averiguaciones previas. Por el momento se han anunciado la imposición de sanciones administrativas a nueve policías y se han solicitado órdenes de aprehensión en contra de otros 23.

390. Por carta con fecha 18 de agosto de 2006 el Gobierno de México transmitió la siguiente información en relación con el llamamiento urgente del 10 de mayo de 2006 sobre **Damián Gustavo Camacho Guzmán**. El Gobierno de México informó de que la detención del Sr. Camacho Guzmán, quien manifestó ser estudiante, obedeció a que se le encontró en flagrancia participando en los hechos violentos del 4 de mayo de 2006 en San Salvador Atenco. Se indicó que ninguna queja fue presentada, pero que sin embargo los sucesos ocurridos fueron objeto de análisis por parte de la Comisión Estatal de Derechos Humanos del Estado de México. Asimismo se informó de que se hicieron visitas de inspección en el lugar de los enfrentamientos, que se solicitaron medidas precautorias tendentes a garantizar el derecho a la vida de las personas

involucradas en el suceso, que se verificó el estado de salud de las personas detenidas y que entrevistó al Sr. Camacho Guzmán. Además se indicó que el Juez Segundo de lo Penal ordenó la libertad del Sr. Camacho tras éste exhibir garantía suficiente. Por el momento se han anunciado la imposición de sanciones administrativas a nueve policías y se han solicitado órdenes de aprehensión en contra de otros 23, acusados de haber cometido el delito de abuso de autoridad.

391. Por carta con fecha 22 de agosto de 2006, el Gobierno de México transmitió la siguiente información en relación con la comunicación del 22 de junio de 2006 sobre la emisora **Radio Plantón 92.1 FM**. Se informó que, con el intento de rezonificar las plazas de trabajo, el Sindicato Nacional de Trabajadores de la Educación (SNTE) tomó estaciones de radio y bloqueó oficinas de gobierno. El Gobierno mexicano, mediante la Subsecretaría de Derechos Humanos del Estado de Oaxaca, informó de que los hechos aseverados en el llamamiento urgente no han sido denunciados, lo cual impide la investigación penal. Sin embargo, se informó que se están recabando mayores datos y que una vez se cuente con esa información se comunicará oportunamente. El Gobierno de México afirmó también que se están implementando acciones tendientes a favorecer el acercamiento entre el Gobierno de Oaxaca, el magisterio e integrantes de la Asamblea Popular del Pueblo de Oaxaca (APPO).

392. Por carta con fecha 5 de junio de 2006 el Gobierno de México transmitió la siguiente información en relación con el llamamiento urgente del 2 de marzo de 2006 sobre el caso de la Sra. **Erica Serrano Farías**. El Gobierno de México informó de que no está en posibilidad de determinar sobre su exactitud y veracidad, toda vez que el Gobierno de Veracruz manifestó que después de que sus autoridades ministeriales realizaran una búsqueda exhaustiva en los libros de gobierno de la Agencia del Ministerio Público de José Azueta Veracruz, no se halló registro alguno de investigación ministerial o averiguación previa que tenga relación con la descripción de los hechos referidos en el llamamiento urgente. Se indicó que personal perteneciente a la Agencia del Ministerio Público de José Azueta (Veracruz) investigó si alguno de los restaurantes de dicho municipio pertenecía a la familia de Erica Serrano Farías y obtuvo respuesta negativa. Se informó de que en concordancia con la política que sobre el particular ha consolidado México sobre el particular y que ya ha sido expuesta, se conmina a la Sra. Serrano a presentar su denuncia sobre los hechos de los que dice haber sido objeto ante las autoridades ministeriales del Estado de Veracruz, para estar en posibilidad de iniciar las investigaciones correspondientes y en su caso sancionar a los responsables.

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

393. Por carta con fecha 28 de febrero de 2006, el Gobierno de México transmitió la siguiente información en respuesta a la comunicación de 17 de noviembre de 2004 en relación con el caso de **Raúl Javier Gatica Bautista**. Se informó de que el 27 de septiembre de 2004 la CIDH solicitó medidas cautelares a favor del Sr. Gatica Bautista. En atención a esa solicitud, el Gobierno de México realizó cinco reuniones de trabajo en las que estuvo presente el Sr. Gatica Bautista y sus representantes, entre otros. En las reuniones las autoridades ofrecieron diversas medidas de protección, que fueron rechazadas por el beneficiario de manera reiterada y sin mediar fundamento razonable para ello. El Gobierno indicó asimismo que como resultado de diversas gestiones posteriores, el Estado mexicano instrumentó las siguientes medidas de seguridad a favor del Sr. Gatica Bautista. La Policía Federal Preventiva instrumentó un servicio de escolta personal para el beneficiario durante todos los trayectos que éste realizara dentro de

las carreteras federales. También el Gobierno informó de que se agilizaron los trámites administrativos para que tuviera acompañamiento internacional. De la misma forma, se entregó una lista al Sr. Gatica Bautista que contenía los números telefónicos de diversos servidores públicos en caso que se presentara alguna situación de emergencia. Respecto de las investigaciones iniciadas sobre los hechos denunciados por el Sr. Gatica Bautista, el Gobierno del Estado de Oaxaca ofreció concentrar las averiguaciones previas relacionadas con las amenazas a su vida e integridad física. El Gobierno Federal también ofreció que por medio de la Secretaría de Gobernación se diera seguimiento a las investigaciones, ofrecimiento que fue rechazado. Se informó de que con motivo de la visita del Comisionado para México de la CIDH durante el mes de agosto 2005, los representantes de Raúl Gatica solicitaron una reunión en la que se informó que el Sr. Gatica Bautista había abandonado el país desde hacía unos meses, a pesar de que para efecto de las autoridades, las medidas cautelares seguían disponibles para el Sr. Gatica Bautista. Como consecuencia de este hecho, el Gobierno de México solicitó a la CIDH dar por concluidas las medidas cautelares otorgadas a favor del Sr. Gatica Bautista. El Gobierno indicó que a la fecha no se ha recibido respuesta de la CIDH.

394. Por carta con fecha 24 de febrero de 2006, el Gobierno de México transmitió la siguiente información en respuesta a la comunicación de 15 de noviembre de 2005 en torno a la situación de la Sra. **Yésica Sánchez Maya y del Sr. Irreal Ochoa**. El Gobierno informó de que los hechos de la alegación son ciertos, a excepción de la persona encargada del paraje denominado “La Guadalupe”, que fue el suboficial Víctor A. Hernández López. Se desmintió que la Policía Preventiva del Estado de Oaxaca amenazarán a los pasajeros y que les obligaran a bajar del autobús en que viajaban para poder realizar el control. Según informaciones del Gobierno, la Sra. Sánchez se negó a cooperar con las autoridades. El 3 de noviembre de 2005 fue presentado un escrito en el que la Directora de Derechos Humanos Tepeyac informó a diversas autoridades federales de los hechos ocurridos. De este modo se inició de oficio una averiguación previa que ahora se encuentra en trámite. Se informó de que los elementos de la Secretaría de Seguridad Pública del Estado de Oaxaca actuaron conforme a sus atribuciones y conforme a la legalidad y que, de acuerdo con el artículo 21 de la Constitución y el artículo 2 de la Ley de Seguridad Pública para el Estado de Oaxaca, la entidad federativa y los municipios son los encargados de la seguridad pública y su finalidad es salvaguardar la integridad y derechos de las personas. Así pues, el Gobierno mexicano afirmó que el operativo de vigilancia realizado por la Policía Preventiva el 30 de octubre de 2005 se realizó en cumplimiento a lo establecido anteriormente. En el caso de denuncia de hechos delictivos se daría vista al Ministerio Público correspondiente para que éste iniciase la averiguación previa. El Gobierno informó de que, con el propósito de aclarar los hechos referidos en su llamamiento urgente, será solicitada la intervención de los integrantes del Consejo de Honor y Justicia de la Policía del Estado de Oaxaca, para que se inicie un procedimiento administrativo de investigación para poder determinar su presunta responsabilidad y en su caso la sanción que les corresponda.

395. Por carta con fecha 1.º de marzo 2006, el Gobierno de México transmitió la siguiente información en respuesta a la comunicación de 9 de junio 2005 en relación a la situación de **Albertano Peñalosa Domínguez**. El Gobierno mexicano informó de que el 19 de mayo de 2005 el Sr. Peñalosa, en compañía de sus hijos, fue emboscado por un grupo de desconocidos armados. Como consecuencia de la agresión el Dr. Peñalosa murió y sus hijos resultaron heridos. Estos hechos motivaron la iniciación de averiguaciones previas por delitos de homicidio y lesiones. Se informó de que se practicaron las siguientes diligencias; el certificado médico

practicado al hijo del Sr. Peñalosa, en el que se diagnosticó que habría “incapacidad temporal para la ambulación”; se dio fe de los daños que presentaba la camioneta en la que viajaban los agraviados y se levantaron 58 casquillos percutidos al parecer de diferentes calibres. El Gobierno afirmó que la averiguación previa continúa en trámite y hasta el momento se desconoce la identidad de los responsables, por lo que no se ha podido ejercer la acción penal respectiva.

## Observaciones

396. El Relator Especial agradece al Gobierno las informaciones recibidas y le invita a responder a las comunicaciones enviadas los días 1.º y 13 de marzo, 18 de mayo, 27 de julio, 15, 29 y 30 de agosto, 25 de septiembre, 9 de octubre, 8 de noviembre y 8 de diciembre de 2006.

## Morocco

397. Le 20 février 2006, le Rapporteur a envoyé une lettre d'allégation sur les journalistes **Aboubakr Jamaï** et **Fahd Iraqi**, respectivement directeur de la publication et secrétaire de rédaction du *Journal hebdomadaire*, qu'auraient été condamnés, le 16 février 2006, pour « diffamation », à une amende de 3 millions dirhams (300 000 euros) au civil et à une amende de 50 000 dirhams (5 000 euros) chacun, par le tribunal de première instance de Rabat. Les avocats des deux journalistes auraient annoncé qu'ils allaient faire appel. La plainte pour diffamation aurait été déposée par un centre privé européen de recherche stratégique suite à la publication, par le *Journal hebdomadaire*, d'un dossier mettant en cause l'impartialité d'une étude réalisée par ce centre sur le Polisario.

398. Le 18 mai 2006, le Rapporteur a envoyé une lettre d'allégation sur **Driss Chahtane**, directeur de l'hebdomadaire *Al Michaâl*, qu'a vu sa peine d'un an de prison avec sursis et l'amende de 100 000 Dirhams (environ 10 000 euros), pour diffamation envers le Président algérien Abdelaziz Bouteflika, confirmée par la Cour d'appel de Casablanca, le 9 mai 2006. La Cour a condamné le journaliste pour « atteinte à la personne d'un chef d'État », sur la base de l'article 52 du code de la presse marocain. L'hebdomadaire avait publié, dans son édition du 31 mai 2005, une caricature et un article satirique sur la vie privée du Président algérien. Le 5 juin de la même année, Driss Chahtane avait été interrogé par la police judiciaire casablancaise, et ensuite par le procureur près le Tribunal de première instance de Casablanca.

399. Le 29 juin 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de **Brahim Sabbar**, secrétaire général de l'Association sahraouie des victimes des violations graves des droits de l'Homme commises par l'Etat du Maroc au Sahara occidental (ASVDH), **Ahmed Sbai**, membre du Conseil de coordination de l'ASVDH et du Comité pour la protection des détenus de la Prison noire, et **Sidi Mohamed Mahmoud Kainnan Haddi**, **Saleh Haddi**, et **Yadhih Laaroussi**, sympathisants de l'association. Selon les informations reçues, le 17 juin 2006 alors qu'ils revenaient de Boujdour où ils avaient supervisé la création d'une section de l'ASVDH, Brahim Sabbar, Ahmed Sbai, M. Sidi Mohamed Mahmoud Kainnan Haddi et son frère, Saleh Haddi, et Yadhih Laaroussi auraient été arrêtés à l'entrée de la ville de Laâyoune, à un barrage de police. Des membres des Groupes urbains de sécurité (GUS) les auraient forcés à sortir de leur véhicule, les auraient insultés et frappés sur les jambes, têtes, genoux et dos. Brahim Sabbar

et Ahmed Sbai auraient ensuite été conduits au commissariat Hay Almatar où ils auraient été frappés, puis à Laâyoune, où ils auraient passé le reste de la nuit. Le lendemain, ils auraient été interrogés par la police judiciaire et emmenés de force à la Prison noire de Laâyoune, où ils auraient une nouvelle fois subi de mauvais traitements. Ahmed Sbai aurait dû être hospitalisé à l'hôpital Hassan Bel Mehdi de Laâyoune après avoir perdu connaissance, en raison d'une maladie cardiaque chronique et à des blessures graves infligées lors de sa détention. M Brahim Sabbar aurait été transféré à un endroit en dehors du village et frappé. Le 19 juin 2006, M. Brahim Sabbar et M. Ahmed Sbai auraient été inculpés des chefs d'accusation d'« association de malfaiteurs », « incitation à la violence », « destruction de biens publics et mise d'obstacles sur la voie publique », « atteinte au fonctionnaire d'État », « participation à des groupements armés » et « adhésion à une association non autorisée ». Ces événements interviennent après que M. Sabbar aurait déjà été arrêté et détenu pendant plusieurs heures le 4 juin 2006, avant d'être libéré sans qu'aucune charge n'ait été retenue à son encontre. Cette arrestation faisait suite à la publication d'un entretien accordé à l'hebdomadaire *Albidaoui*, dans lequel il appelait à juger les responsables d'exactions commises par l'État marocain au Sahara occidental, et à l'organisation d'un référendum d'autodétermination pour cette région.

### Réponses du Gouvernement

400. Le 8 mars 2006, le Gouvernement a fourni une réponse à lettre du Rapporteur spécial, envoyée le 20 février 2006, au sujet du jugement prononcé à l'encontre des journalistes **Aboubakr Jamaï et Fahd Iraqi**. Le Gouvernement informe que le bâtonnier Mohammed Ziane, avocat au barreau de Rabat, avait déposé, le 29 décembre 2005, une plainte auprès du Président du Tribunal de première instance de Rabat, au nom du Centre européen pour le renseignement stratégique et la sécurité (ESISC), en tant que partie civile, contre les dénommés Aboubakr Jamaï, Directeur du *Journal hebdomadaire*, et Fahd Iraqi, journaliste, plainte qui a débouché sur une action en justice, dans l'activation de laquelle le Bureau du Procureur général n'a joué aucun rôle. Selon cette plainte, l'ESISC avait publié en juin 2005 une étude analytique au sujet du «Front Polisario» dont le but était de déterminer si cette entité avait effectivement des racines dans les tribus sahraouies, faisant d'elle une organisation populaire remplissant les conditions requises pour être le représentant exclusif des populations sahraouies. Les responsables du Centre ont été surpris de lire dans le numéro 233 du *Journal hebdomadaire* (semaine allant du 3 au 9 décembre 2005), qui paraît en langue française, un article dans lequel il était prétendu que l'étude effectuée par l'ESISC n'était pas scientifique, et qu'elle était téléguidée par le Maroc et peut être même financée par lui en vue d'induire en erreur la communauté internationale, mais que celle-ci était composée de sociétés conscientes et capables de se démarquer des résultats de cette étude. Cet article disait en substance que l'opinion publique internationale ne se laisserait pas influencer par une étude fallacieuse émanant d'un centre fictif d'études sans fondement. Le même journal a publié à sa première page le titre suivant: « Un rapport téléguidé par Rabat ». Et pour bien montrer de quoi traite l'étude, on a ajouté le gros titre suivant: « Le Polisario est-il fini ? ». Le *Journal hebdomadaire* consacre en outre une bonne partie de ses quatrième et cinquième pages à la même allégation, affirmant que toutes les analyses sur le Polisario ne faisaient que reprendre la thèse officielle marocaine et que, même si le Polisario était moribond, les conclusions de cette étude «dirigée» n'étaient ni productives ni crédibles. À la page 22 du *Journal hebdomadaire* figure le titre: « Les mauvais arguments d'un rapport téléguidé par Rabat; le Polisario est-il fini ? », avec en tête le mot *Révélation*, comme si le journal cherchait à donner l'impression qu'il divulguait des secrets, à

savoir que, étant donné qu'il est faux d'affirmer ouvertement que le Polisario est fini, c'est le Gouvernement marocain qui a chargé le Centre européen d'étude stratégique de tirer des conclusions favorables au Royaume en employant des méthodes contraires à l'éthique (achat de consciences et falsification des faits). À la page 23 de la revue, le journaliste Fahd Iraqi dit en substance que le rapport du Centre européen de la sécurité et de l'intelligence stratégique relatif au Polisario a les faiblesses de n'importe quel travail de commande. Il ajoute que la thèse du Centre n'est qu'une caricature des thèses marocaines. L'hebdomadaire publie aux pages 24 et 25 un autre article non signé (ce qui donne à penser qu'il contient la position officielle de la revue) intitulé « Un rapport sur commande ». En substance, il y est dit en introduction que le Centre est une entreprise commerciale qui se finance sur la base de contrats de recherche avec des sociétés privées et qu'il est possible que le Royaume du Maroc ait demandé à des sociétés privées travaillant pour lui de financer cette étude. L'auteur de l'article conclut en affirmant clairement que le Maroc a versé de l'argent au Centre pour qu'il tire des conclusions propres à satisfaire le Royaume, mais qu'une communauté internationale avisée ne se laissera pas influencer par les conclusions de l'étude. L'avocat du plaignant a estimé que l'affirmation du *Journal hebdomadaire* selon laquelle les auteurs de l'étude étaient acquis à la thèse marocaine était fautive, insultante et diffamatoire, et constituait une atteinte flagrante à la crédibilité du Centre car ce dernier n'était pas composé de mercenaires qui mettaient leurs connaissances au service de la partie qui paie le plus. Il s'agissait en effet d'une institution prestigieuse qui occupait une place de premier plan sur la scène internationale dans le domaine de la recherche stratégique sur la sécurité et des renseignements. En conséquence, il ne pouvait considérer qu'en publiant ces articles l'hebdomadaire avait fait preuve de bonne foi, agissant dans le cadre de ce que le législateur marocain a qualifié d'objectifs nobles de la presse consistant à transmettre les informations de manière fidèle et honnête. Après la présentation de l'affaire au tribunal, l'avocat des deux défendeurs a demandé au juge d'autoriser la comparution de deux témoins et de ne pas accepter les allégations de l'avocat du plaignant. Le tribunal a décidé de ne pas faire droit à la demande de l'avocat de la défense au motif qu'elle n'était pas justifiée; selon le juge, la déposition de témoins ne pouvait remplacer des éléments de preuve, surtout qu'il ne s'agissait pas de démontrer la véracité du contenu de l'article, dans la mesure où le plaignant visé par la diffamation n'était pas une personne de droit public, contrairement à ce que requiert la loi. En outre, le juge a estimé que les conditions visées à l'article 73 du Code de la presse et de l'édition, qui devaient être remplies dans leur totalité, n'étaient pas réunies et que la demande de comparution de témoins aurait dû être assortie de pièces prouvant que l'étude effectuée par le Centre avait été financée par le Maroc comme l'exige l'article 49 du même Code, qui stipule ce qui suit: «Les responsables de la publication doivent disposer avant publication de preuves établissant les faits qu'ils rapportent.». Il était indiqué dans la demande que les témoins démontreraient que le contenu du rapport ne répondait pas aux critères scientifiques et était contraire à la vérité. Or ce qui est calomnieux et insultant dans les articles du *Journal hebdomadaire*, c'est plutôt l'affirmation selon laquelle le rapport a été financé par le Maroc et qu'il s'agissait d'un travail accompli contre rémunération. À la même séance, à la demande de l'avocat des défendeurs, le procès a été ajourné. À la séance suivante tenue le 2 février 2006, étaient présents les deux défendeurs, leur avocat et le représentant en justice et avocat du Centre, le bâtonnier Mohammed Ziane. Après que leur avocat eut pris connaissance des documents pertinents, les deux défendeurs ont déposé une déclaration écrite dans laquelle ils ont annoncé qu'ils se retiraient, refusant d'obtempérer à l'injonction de la Cour de répondre aux questions figurant dans la plainte. Ce retrait constituait une tentative pour entraver le cours de la justice et a privé les deux défendeurs du droit d'utiliser les moyens de défense dont ils disposaient face à la

partie demanderesse. Après avoir entendu la plaidoirie de l'avocat du plaignant et la réquisition du Procureur général, la Cour a décidé de mettre le verdict en délibération jusqu'au 16 février 2006. À cette date, la Cour a condamné le prévenu Aboubakr Jamaï, pour calomnie et injures publiques, et le prévenu Fahd Iraqi, pour complicité dans ces actes, à une amende de 50 000 dirhams et à verser solidairement à la partie demanderesse 3 millions de dirhams de dommages intérêts. La législation nationale relative à la presse et à l'édition est la suivante. Le législateur marocain a réglementé les activités de la presse dans le Dahir du 15 novembre 1958 tel que modifié par la loi n° 77 du 3 octobre 2002. Conformément aux instruments internationaux relatifs aux droits de l'homme consacrant le principe du respect de la liberté d'expression, le Code de la presse et de l'édition stipule que la liberté de publication des journaux, de l'imprimerie, de l'édition et de la librairie est garantie, tout comme le droit de se procurer des informations et d'accéder aux sources d'information. Toutefois, cette liberté n'est pas absolue. Elle doit être exercée dans le respect d'une série de principes constitutionnels, législatifs et déontologiques, et de manière honnête et sincère. Le Code énumère d'autre part les différentes infractions pénales commises par l'un des moyens publics visés à son article 38, infractions dont fait partie la calomnie, qui est définie par le législateur, à l'article 44, comme toute « allégation ou imputation d'un fait qui porte atteinte à l'honneur ou à la considération des personnes ou du corps auquel le fait est imputé ». En outre, toute « expression outrageante, terme de mépris portant atteinte à la dignité, ou invective qui ne renferme l'imputation d'aucun fait, est une injure ». Le législateur marocain établit dans le même article la responsabilité pénale résultant de la publication directe ou par voie de reproduction de la diffamation ou de l'injure, même si elle est faite sous forme dubitative ou si elle vise une personne ou un corps non expressément nommé, mais dont l'identification est rendue possible par les termes du discours, des cris, des menaces, des écrits ou des imprimés, des placards ou des affiches incriminés. Il convient de signaler que l'article 67 du Code de la presse et de l'édition désigne les personnes dont la responsabilité pénale est engagée en cas de commission par la voie de la presse des infractions susmentionnées, à savoir: les directeurs de publication ou éditeurs, quelles que soient leurs professions ou leurs dénominations; à leur défaut, les auteurs; à défaut des auteurs, les imprimeurs; à défaut des imprimeurs, les vendeurs et les distributeurs et afficheurs. Dans les cas où les écrits, images, dessins, symboles ou les autres moyens d'expression utilisés pour commettre l'infraction ont été publiés à l'étranger, et dans tous les cas où il s'avère, pour quelque raison que ce soit, impossible de reconnaître l'auteur de l'infraction ou de le poursuivre, sera puni comme auteur principal l'auteur de l'article, de l'image, du dessin, du symbole ou du moyen d'expression ou celui qui en est l'importateur, le distributeur ou le vendeur. On notera aussi que les propriétaires des journaux, publications périodiques et moyens d'information audiovisuels et électroniques sont responsables des condamnations pécuniaires prononcées au profit des tiers contre les personnes désignées dans les articles 67 et 68 du Code de la presse à défaut d'application desdites condamnations à l'encontre des condamnés. Il convient par ailleurs de signaler que le jugement de première instance susmentionné n'est pas définitif. Il a fait l'objet d'un appel qui sera examiné le 14 mars 2006 par la cour d'appel de Rabat. À cette occasion, les défendeurs pourront présenter tous les arguments juridiques qu'ils jugeront pertinents dans cette affaire. Le 10 mars 2006, le gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial le 3 novembre 2005 sur **Anas Tadili**. Le gouvernement informe que le dénommé Anas Tadili a été condamné par le Tribunal de première instance de Rabat à six mois d'emprisonnement avec sursis, au paiement d'un montant de 506 720, 86 dirhams à l'Administration de douanes et des contributions indirectes et à une amende de 2 604 533, 30 dirhams. Ce jugement a été confirmé en appel le 8 mai 2001. L'Administration des impôts et des contributions indirectes a demandé



que soit émise une ordonnance de contrainte par corps à son encontre pour non-paiement de la somme exigé. La durée de la contrainte par corps a été fixée à 10 mois. Le 16 avril 2004, l'intéressé a été incarcéré pour exécuter cette peine. Au terme de la période de 10 mois susmentionnée, M. Tadili a commencé à exécuter une autre peine d'un an d'emprisonnement, à laquelle il avait été condamné pour avoir insulté et calomnié un ministre. Compte tenu de ce qui précède, le maintien en détention de M. Tadili pour qu'il exécute le reste de sa peine est tout effet conforme à la loi. Selon les informations fournies par le Directeur des établissements pénitentiaires et de la réinsertion, l'intéressé est actuellement détenu dans une cellule individuelle comme il avait demandé oralement au Directeur de la prison. Il est soumis au régime ordinaire, en ce sens qu'il peut effectuer des promenades en plein air avec les autres prisonniers, prendre des douches et recevoir des visites et qu'il jouit de tous les autres droits qui lui sont garantis par la loi. Sur le plain sanitaire, il bénéficie des soins nécessaires chaque fois que son état de santé le requiert.

401. Le 20 février et le 30 mars 2006, le Gouvernement a répondu à une lettre d'allégation envoyée par le Rapporteur spécial et le Rapporteur spécial sur la question de la Torture, le 3 novembre 2005. Le 30 octobre 2005, la ville de Laâyoune fut le théâtre de violences au cours desquelles environ 150 individus participèrent. Ils jetèrent des pierres aux passants sur la rue de la Mecque, endommageant deux véhicules des forces de l'ordre et effrayèrent la population. L'individu dénommé **Hamdi Lmbarki** fut gravement blessé; il fut transporté à l'hôpital mais succomba à ses blessures. Le Bureau du Procureur Public ordonna une autopsie sur le corps du défunt. L'autopsie fut réalisée par 3 docteurs à l'hôpital Moulay Hassan Ben El-Mehdi qui conclurent que la mort avait pour origine des blessures au niveau du crâne. Le père du défunt, M. Lmbarki al-Salek, déposa une plainte au bureau du Procureur du Roi de la Cour d'Appel de Laâyoune, demandant l'ouverture d'une enquête afin de connaître les circonstances entourant la mort de son fils. L'affaire fut transférée à la Division nationale de la Police judiciaire afin qu'une enquête soit ouverte et pour déférer devant la justice les personnes responsables de cette mort. Par ailleurs, le Bureau du Procureur ordonna une seconde autopsie pour déterminer les coups et blessures reçus et identifier les causes de la mort. Cette autopsie fut conduite par des spécialistes de l'Hôpital universitaire Ibn Rushd à Casablanca. La famille du défunt fut informée de toutes les mesures prises au cours de cette l'affaire. Sur la base des résultats de l'enquête, il fut décidé que les deux agents de police impliqués dans l'affaire devaient être présentés au magistrat en charge de l'enquête au motif d'avoir infligé des blessures avec arme et d'avoir causé la mort sans intention de la donner dans l'exercice de leurs fonctions d'agents de l'État. Après avoir interrogé les deux agents, le même magistrat les condamna à des peines de prison. Il convient de signaler que les deux policiers, Amsaoud Abderrahim et Hassen Rochdi, ont demandé, par l'intermédiaire de leurs avocats, Mohammed Kerrouf du barreau de Rabat et Mohammed Jankal du barreau de Casablanca à la Chambre pénale de la Cour suprême de se saisir de l'affaire aux fins de faire prévaloir l'intérêt public et d'assurer la bonne administration de la justice. L'affaire qui fait l'objet des dossiers n° 06/6/1188 et 06/6/1189 est encore en instance devant la Chambre.

402. Le 20 février 2006, le Gouvernement a répondu à un appel urgent envoyé, le 8 novembre 2005, par le Rapporteur spécial, conjointement avec le Vice-président du Groupe de Travail sur la détention arbitraire, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Le Procureur du Roi à la Cour d'Appel de Laâyoune conduisit une enquête avec la Police judiciaire au sujet de l'usage allégué de la force contre **Gaoudi Mohamed Fadel**, un membre de la branche Sahara du Forum Vérité et Justice,

**Hammoud Iguilid**, Président la section de Laâyoune de l'Association marocaine pour les droits de l'homme, **Brahim Sabbar** et **Brahim Dahane**, Président de l'Association sahraouie des victimes de violations graves des droits de l'homme, au cours de leur visite à **Lakhal Mohamed Salem**, détenu au siège des forces de police. Il apparaît que les derniers cités ne furent jamais arrêtés ou détenus et ainsi aucune enquête ne fut conduite à leur sujet. Il s'avère que Iguilid Hammoud and Brahim Sabbar étaient recherchés par la Police judiciaire pour leur implication dans les événements violents à Laâyoune et que ces deux hommes avaient pris part à des actes de destruction et de violence causant des dégâts aux domaines public et privé. Fadel Gaoudi, pour sa part, avait été précédemment présenté au Procureur du Roi de la Cour d'Appel de Laâyoune (dossier n° 936/CRIM/JP), le 23 janvier 2005. Après examen, le Procureur décida de ne pas engager de poursuites à son encontre et le dossier fut classé en raison de l'absence de preuve de toute activité criminelle de la part de l'individu concerné. Brahim Dahane fut également présenté au Procureur du Roi de la Cour d'Appel de Laâyoune (dossier n° 1270/CRIM/JP), le 1<sup>er</sup> novembre 2005. Il ressort de l'enquête qu'il avait loué une maison sur la rue Tantan et, au prétexte d'y vivre, y avait établi le quartier général d'une association non-enregistrée à laquelle il avait donné le nom de Association Sahraouie des victimes de violations graves des droits de l'homme afin de la faire passer pour une association s'occupant des droits de l'homme. En fait, lui et ses complices avaient décidé d'établir des cellules à travers lesquelles ils avaient l'intention de mettre à exécution leurs décisions et plans dans le plus grand secret. Suite au transfert d'un des détenus, Ahmed Hadi, ils profitèrent de l'occasion pour organiser une manifestation devant la maison de la famille de l'individu en question et essayèrent de déstabiliser la situation en jetant des pierres et des cocktails Molotov sur les forces de l'ordre et en faisant exploser des bouteilles de gaz, causant ainsi de nombreux dégâts. Le 30 novembre 2005, suite à la mort de Hamdi Lmbarki, l'individu en question en compagnie d'autres personnes se réunirent sans autorisation. Ils étaient lourdement armés de couteaux, qui étaient clairement visibles, de pierres et de cocktails Molotov. Quand il leur fut intimé l'ordre de se disperser, ils jetèrent des pierres sur les forces de l'ordre, brûlèrent le drapeau national et jetèrent une grande bouteille de gaz avec la claire intention de vouloir infliger de nombreuses blessures dans les rangs des forces de l'ordre. Plusieurs agents de police furent gravement blessés et deux voitures de police furent détruites. Ainsi, le Procureur du Roi décida d'ouvrir une enquête (dossier n° 166/05) avec l'intention de poursuivre en justice l'individu en question. L'enquête suit son cours. À noter que ni la police, ni le Bureau du Procureur du Roi n'ont été informés de plaintes relatives à des violences contre la femme ou deux sœurs de Fadel Gaoudi.

403. Le 7 décembre 2006, le Gouvernement a répondu à un appel urgent envoyé le 29 juin 2006. Le Gouvernement informe que, le 17 juin 2006, à l'entrée de la ville d'El Aaiun, la police a arrêté **Ahmad al-Siba`i**, **Ibrahim al-Sabar**, **Sidi Mohammed Huday** et **Sidi Ahmad Mahmud Huday** pour infraction au code de la route. Ahmad al-Siba`i a tenté de s'enfuir mais a été appréhendé ; les quatre ont ensuite été amenés au poste de police provincial. Ahmad al-Siba`i était déjà recherché par les autorités puisqu'il était suspecté d'avoir formé un groupe criminel armé, d'attaque armée, d'agression contre un fonctionnaire public, de sédition et de dégradation des biens de l'État. Deux avis de recherche avaient été émis à son égard. Interrogé par les agents, il a avoué avoir voulu intégrer le Forum pour la Vérité et la Justice, une organisation bannie en 2004. Il a également avoué avoir organisé des manifestations en soutien d'un individu appelé Al-Kanan, qui aurait été transféré à la prison de Ayt Malul. Ahmad al-Siba`i aurait aussi participé aux émeutes du 25 mai 2005 dans la ville d'El Aaiun et à une grève non autorisée le 17 juin 2005. Il aurait joué un rôle clef dans l'organisation des émeutes du 4, 5 et 8 août où les

bureaux de la police du cinquième arrondissement, du camp Al-Wahdah et de la zone industrielle furent attaqués. Ahmad al-Siba`i a été écroué le 17 juin 2006 et son cas fut examiné le 21 juin par un juge du Parquet. Le même jour, il a demandé de passer un examen médical, chose faite le 13 septembre 2006. L'examen n'a détecté aucun signe de violence physique et aucune plainte de violence n'a été déposée par Ahmad al-Siba`i ou par son avocat. À l'instar de Ahmad al-Siba`i, Ibrahim al-Sabar fut également conduit au poste de police provincial; deux avis de recherche avaient également été émis contre lui, pour formation de groupe criminel armé, attaque armée, agression de fonctionnaire public, sédition et dégradation des biens de l'État. Ibrahim al-Sabar a été écroué le 17 septembre 2006 et le 19 septembre, il a été condamné à deux ans d'emprisonnement ferme et à une amende de 2 000 dirhams. Cette condamnation a été confirmée en appel. Sidi Mohammed Huday a été emprisonné le 17 juin 2006 et son cas fut examiné le 19 juin par un juge du parquet. Il a ensuite été condamné à trois ans de prison ferme et au paiement d'une amende de 2 000 dirhams, verdict confirmé en appel. Malgré cela, Sidi Mohammed Huday a décidé de déposer une plainte qui a été enregistrée au numéro 64/06. Le droit marocain qualifie de crimes les actes de violence et de torture, même s'il ne définit pas ces termes de manière précise. De ce fait, c'est un crime que de violer une liberté fondamentale d'une personne, son intégrité physique ou sa dignité, et il y a plusieurs lois et mesures en place pour dissuader de commettre de tels crimes. Par exemple, le Code pénal dispose, inter alia, qu'un juge, qu'un membre ou agent des autorités publiques ou des forces de l'ordre ne peut en aucun cas commettre un acte arbitraire qui viole une des libertés fondamentales ou des droits civiques. La Section 225 du Code prévoit une peine de privation des droits civiques pour de tels actes et le coupable se verra appliquer une peine prévue au paragraphe 3, section 436 du Code, en l'occurrence la suspension des droits civiques pour une durée de 20 à 30 années si le coupable était investi de l'exercice de l'autorité publique ou s'il appartient à l'une des catégories de personnes mentionnées dans la section 225 et si l'acte arbitraire ou la violation de la liberté fut commis ou ordonné à des fins personnelles ou pour satisfaire des désirs tiers. Puisque le Maroc est déterminé à renforcer et promouvoir les droits et libertés, à modifier sa législation interne pour la mettre en conformité avec les instruments internationaux qu'il a ratifiés, et à consolider les mécanismes institutionnels qui supervisent le respect des droits de l'homme, le pays a ratifié tous les instruments internationaux en matière de protection des droits de l'homme, notamment la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants ratifiée le 21 novembre 1996. Dans le but de mettre en conformité la législation interne avec la Convention, la loi Anti-Torture n° 43.04 définit la torture conformément à la définition contenue dans la Convention, identifie les victimes et spécifie les peines relatives à la torture. Les circonstances aggravantes dont il fait référence dans la loi incluent les cas où le crime est commis contre un juge ou un membre des forces de l'ordre ou un agent public, durant l'exercice de ses fonctions, ou contre un témoin, une victime ou un plaignant, soit parce que cette personne a fait une déclaration ou déposé une plainte dans le but d'intenter une action en justice, soit pour dissuader cette personne d'agir de la sorte.

## **Observations**

404. Le Rapporteur spécial remercie le Gouvernement pour les réponses envoyées et le prie de le tenir au courant de tout développement ultérieur concernant les cas traités ci-dessus.

## Myanmar

405. On 30 January 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent a letter of allegation regarding Mr **Shabang Maulid Abdul** (imprisoned since October 2000), Mr **Maringo Makuku** (imprisoned since September 2000), and Mr **Ganyua Muimure** (imprisoned since September 2000), all of them currently at Maputo B.O. Prison, and Mr **Abdul Kariem Gabral (S.P. Kunene)**, held at Maputo B.O. Prison between 24 December 2003 and 14 September 2004). According to the information received, no charges have been brought against Mr Shabang Maulid Abdul, Mr Maringo Makuku and Mr Ganzua Muimure since 2000. No charges were brought against Mr Kuene during his term in prison. Moreover, he could not understand the policemen and guards as he did not speak Portuguese and no interpretation was provided. Conditions in Maputo B.O. Prison were harsh, there were no toilets or running water, no sleeping mats were provided; prisoners got only one meal per day (dirty boiled beans and rice). Malaria was endemic. When Mr Kunene and Mr Makuku contracted it, they vomited blood. However, they did not receive any medical treatment, until they fell into a coma. Only then, they were given medicine (which, however, had expired more than two years earlier). The two prisoners experienced and continue experiencing serious health problems (in particular heart and stomach problems). During the initial period in prison inmates were chained from their necks, down to the waist, and to the legs, 24 hours a day, which meant that they were carrying 10 kg of chain. Moreover, prison guards routinely assaulted, shot and killed inmates in the prison yard.

406. On 27 January 2006, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights in Myanmar and Special Representative of the Secretary-General on the situation of human rights defenders sent a letter of allegation concerning a political prisoner, **Ko Khin Maung Lwin** (38 years old), who died on January 11 2006 in Putao hospital. A pro-democracy activist, originally involved in the demonstrations of 1988, Ko Khin Maung Lwin subsequently joined the Democracy Party and was a candidate in the 1990 elections, for the Kunchangon township constituency. In 1998, he wrote an open letter of appeal entitled "HELP" to the Sangha Maha Nayaka (the Senior Buddhist Abbots' Council), the Government of Myanmar and the General-Secretary of the National League for Democracy, Daw Aung San Suu Kyi. In the letter he expressed his concern about the poverty and hardship experienced by the people of Myanmar and stated the need for action to be taken to address these issues. He was subsequently arrested under the Printers and Publishers Registration Law, which is invoked against those who print, publish or distribute written materials without official permission from the Government.' He was sentenced to ten years' imprisonment with hard labour. Since 1998, he has been variously held in Insein, Kale, Loikaw and Putao prisons. Throughout his imprisonment, he suffered on a consistent basis from heart disease, hypertension, haemorrhoids, urethra stricture and malaria. Despite his repeated requests to the prison authorities for the necessary medical treatment and several recommendations from the prison superintendent and a senior doctor in Putao Prison for Ko Khin Maung Lwin to be treated in an outside hospital, appeals for adequate medical attention were reportedly not followed up upon by the authorities. On 10 January, following diagnosis by the prison doctor that he was incurably and seriously ill, Ko Khin Maung Lwin was finally transferred to Putao hospital. One day later, he was pronounced dead. Grave concern is expressed that Ko Khin Maung Lwin's arrest and denial of

medical treatment whilst in prison, may represent an attempt to prevent him from carrying out his legitimate activities in defence of human rights.

407. On 6 April 2006, the Special Rapporteur, jointly with Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal, concerning **Ko Thar Cho**, a photojournalist also known as **U Thaug**; **Ko Moe Htun**, a columnist for the magazine *Dhamah-Yate*, also known as **Ko Kyaw Thwin**; and seven students: **Hnin Wint Wint Soe**, **May Su Su Win**, **Ne Linn Kyaw**, **Thet Oo**, **Win Min Htut**, **Maung Muang Oo** and **Zeya Aung**. According to the information received, on 23 March 2006, Ko Thar Cho and Ko Moe Htun were arrested while they were driving around the capital city, filming and taking photographs. On the following day, they were sentenced to three years' imprisonment for allegedly having violated the Television and Video Act, for operating filming business for commercial purpose without a video business licence, at the Yamaethin district court. On 29 March 2006, seven above-mentioned students from the University of Pegu were arrested for having written and published a poem advocating democracy. The poem was entitled 'Daung Man', which reportedly means "Strength of the Fighting Peacock", the symbol of the pro-democracy movement. There are unconfirmed reports that the students were initially detained in a police station in Pegu before being transferred to the city's prison. Allegations have been received that a government prosecutor was visiting them on a daily basis, yet the students have not been permitted to see their families.

408. On 26 June 2006, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights in Myanmar and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Dr. **Salai Tun Than**, professor and human rights defender. He has been appealing to the Government of Myanmar to guarantee the civil and political rights of the people of Myanmar. According to the information received, Dr. Salai Tun Than's passport was revoked by the Myanmar authorities on 7 June 2006, while he was staying in Thailand, days in advance of his planned peaceful protest in Myanmar. The protest was scheduled to take place on 19 June. It is alleged that his passport was revoked without due course. Prior to this, Dr. Salai Tun Than has been arrested by the security forces in November 2001 and detained until May 2003 having petitioned for multi-party elections. Grave concern is expressed at the reports indicating that Dr. Salai Tun Than's passport was revoked as a direct attempt to prevent him from organizing a peaceful protest.

409. On 27 June 2006, the Special Rapporteur sent an urgent appeal concerning four pro-democracy activists: **Aung Than**, a member of the National League for Democracy (NLD); **Zeya Aung**, a student of Pegu University; **Maung Maung Oo**, an owner of a printing workshop; and **Sein Hlaig**. Zeya Aung and Maung Maung Oo have been the subject of the communication on 6 April 2006. According to the information received, on 9 June 2006, the four above-mentioned persons were tried in Pegu, north of Rangoon. They are accused of publishing an anti-government book of poems called "The Strength of the Fighting Peacock". Peacock is used as a symbol of the pro-democracy movement in Myanmar. It is reported that Aung Than and Zeya Aung were sentenced to 19 years' imprisonment. They are also reportedly accused of unlawfully crossing the border with Thailand and working with illegal organizations. Maung Maung Oo is the owner of the printing workshop where the book was printed, and was sentenced to 14 years'

imprisonment. Sein Hlaig is accused of assisting in dissemination of the book, and was sentenced to 7 years' imprisonment. Sein Hlaig is also convicted of printing T-shirts with a clenched fist, which is a symbol of struggle.

410. On 6 October 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal concerning **Min Zeya**, **Pyone Cho**, **Myint Aye**, former chairman of National League for Democracy, a political party in Kyeemyingdaing township, **Paw Oo Tun** (also known as Min Ko Naing), **Ko Ko Gyi**, and **Htay Kywe**. According to the allegations received, between 27 and 30 September 2006, they were arrested at their homes in Yangon by the police and taken to an unknown location. It is reported that when they were previously arrested, they were subjected to kicking, prolonged solitary confinement, deprivation of sleep, food and water, and were beaten until they were unconscious.

411. On 30 November 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on the situation of human rights in Myanmar and the Special Rapporteur on the Independence of Judges and Lawyers, sent an urgent appeal concerning **Mr Ko Win Ko** and **M.r Phyo Zaw Latt** (aka Ko Wa Toat). Mr Win Koa, a member of the National League for Democracy (NLD) was at the moment when this communication was sent, detained at Paungte Prison, and Mr Zaw Latt detained at Tharawaddy Prison. According to the allegations received, both men were stopped by about ten members of the Letpadan Township Police and of the Union Solidarity and Development Association (USDA) at Letpadan Train Station on 6 October 2006. While searching the men, the officials found more than 400 signatures for a petition calling for the release of Ms Daw Aung San Suu Kyi, General Secretary of the National League for Democracy, and also student activists who had been detained, including Paw Oo Tun (aka Min Ko Naing), Ko Ko Gyi, Htay Kywe, Min Zeya, and Pyone Cho. The latter were already the subject matter of a joint urgent appeal on 6 October 2006, which remained without a reply from your Government. Following the search, U Than Myat Soe, USDA Executive, and U Than Zaw Win, USDA member, both from Letpadan Township, produced evidence that they claimed to have found in Ko Win Ko's bag. The two men were taken to the Letpadan Township Police Station, where Ko Win Ko was charged pursuant to Section 353(2) of the Penal Code on accounts of resisting arrest and pursuant to Sections 15(a) and 16(a) of the Gambling Act on accounts of illegal gambling. Phyo Zaw Latt was apparently not charged immediately, but kept in detention. The signature sheets were confiscated. On 19 October 2006 senior lawyer U Khin Maung Yin arrived at the Letpadan Township Court to represent Ko Win Ko at his trial scheduled for that day. However, he noted that Ko Win Ko had already been heard, convicted and sentenced to three years' imprisonment on the day before (criminal case Nos. 652/06 and 653/06). On 25 October 2006 the lawyer attempted to gain access to his client at Paungte Prison, but was informed by prison director U Myint Aung to wait for few more days. It is not known whether U Khin Maung Yin has been able to establish contact with his client up until today. On 22 October 2006, Phyo Zaw Latt was released from police custody by the Letpadan Township Court on a six- months good behaviour bond pursuant to Section 5(1)(f)(g) of the 1961 Restriction and Bond Act. However, already on the same day, he was rearrested by the Moenyo Township Police at his home township and charged pursuant to Sections 420, 465 and 468 of the Penal Code on accounts of deceit and forgery. He was detained

incommunicado at Tharawaddy Prison awaiting trial. The trial was scheduled for 3 November 2006 before a special tribunal within the prison, although Phyo Zaw Latt was charged with ordinary offences for which the establishment of a special tribunal is not known under Myanmar law. He was not allowed to appoint a lawyer to act on his behalf at the trial. Concern is expressed that the arrest, detention and sentencing of Ko Win Ko and Phyo Zaw Latt may be connected to their peaceful human rights activities, namely their legitimate exercise of their right to freedom of association and freedom of opinion and expression on behalf of those advocating for democratic change. In view of their incommunicado detention further concern is expressed as regards their health and physical integrity.

### **Replies from the Government**

412. By letter dated 8 December 2006, the Government of Myanmar replied to the communication of 6 October 2006. The Government of Myanmar stated that **Min Zeya, Pyone Cho, Myint Aye, Paw Oo Tun, Ko Ko Gyi** and **Htay Kywe** committed a number of crimes punishable under the existing laws of Myanmar and therefore, they were detained to be examined in accordance with the law and procedures of Myanmar. It was found that they received assistance from the Embassies of Western countries stationed in Myanmar to make contacts with the ex-members of the Myanmar exiled students union in order to receive cash donations from abroad. The Government indicated that they used these funds to instigate the people to create unrest. In addition, the Government informed that these individuals collected and provided distorted information to Foreign News Agencies with the intention to disseminate this information to the international community to create misunderstanding of the situation in Myanmar. It was also reported that they had contacts with terrorist organizations and that they took part in the so-called Plot of the People Battle Committee which had been organised and carried out by terrorist organisations.

### **Observations**

413. The Special Rapporteur thanks the Government for its replies, and invites the Government to respond to the communications dated 27 and 30 January 2006, 6 April 2006, 26 and 27 June 2006 and 30 November 2006.

### **Namibia**

414. On 11 August 2006, the Special Rapporteur sent an urgent appeal concerning Ms **Ruusa Malulu**, Chairperson of the Committee of Ex-combatants People's Liberation Army of Namibia (PLAN) and Ms **Lapaka Ueyulu**, Namibian Broadcasting Corporation (NBC) reporter. According to the information received, during a public meeting of the South-West Africa People's Organization, (SWAPO) held in Windhoek on 30 July 2006, Ms Ruusa Malulu and Ms Lapaka Ueyulu, received death threats allegedly made by the President of SWAPO and former President of Namibia. Ms Malulu was threatened due to her activism and opinions expressed regarding the compensations' demands of the Committee of Ex combatants- PLAN she represents, for their contributions made during Namibian independence struggle. Reportedly, Ms Lapaka Ueyulu was threatened for having conducted an interview with Ms Malulu and giving publicity as well as credibility to her demands. It should be noted that on 24 August 2005, a businessman was killed under unknown circumstances. His death came within hours after media

reports indicated he could have disclosed information regarding SWAPO leaders' alleged involvement in a social security scandal.

### **Replies from the Government**

415. By letter dated 4 December 2006, the Government of Namibia replied to the communication of 11 August 2006, concerning the alleged threats made against Ms Ruusa Malulu and Ms Lapaka Ueyulu. The Government informed that they were not aware of any complaints made or cases lodged with the Namibian Police in this regard, and for these reasons there were no investigations being carried out to that effect. The Government also indicated that there are enforceable available remedies in their national regulations open to any citizen of Namibia who alleges a violation of human rights. Concerning the killing of a businessman on 24 August 2005, the Government informed that the allegations in the communication were too broad to give an answer to it. It was stressed that the Government of Namibia gives serious attention to any killings, which are duly investigated by the Police and other law enforcement agencies. Finally, the Government informed that both the right of freedom of expression and the right to life are entrenched in the Namibian Constitution.

### **Observations**

416. The Special Rapporteur thanks the Government for its reply.

## **Nepal**

417. On 24 January 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning the arrest on 19 January 2006 of over 100 activists. Reportedly, among them there are human rights defenders **Krishna Pahadi**, founder chairperson of the Human Rights and Peace Society (HURPES) and one of the coordinators of the Citizens' Movement for Peace and Democracy (CMPD) and subject of an urgent appeal on 11 February 2005 and a letter of allegation sent on 14 September 2005; Dr. **Devendra Raj Panday** chairperson of the Rural Self Reliance Development Centre (RSDC) and also a coordinator of CMPD and subject of a letter of allegation sent on 14 September 2005; **Shyam Shrestha** editor of the monthly magazine "Mulyankan Monthly and subject of a letter of allegation on 14 September 2005, and Dr. **Mathura Prasad Shrestha** the coordinator of the organization Civic Solidarity for Peace (CSP) and subject of a letter of allegation sent on 14 September 2005. CMPD is an alliance of civic and human rights groups in Nepal. HURPES is a non-governmental organization which exposes human rights violations by both Maoist and government parties. It is reported that they were arrested because of their involvement in the organization of large-scale peaceful demonstrations calling for a boycott of municipal elections called for 8 February 2006. Furthermore, it is reported that on 19 January 2006, telephone lines and mobile phones were cut off in Kathmandu and other major cities by the Nepalese authorities.

418. On 2 February 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning **the arrest and detention of over 1000 human rights defenders and protestors**, including members of the *All Nepal National Free Students' Union, the Nepal Student Union, the General*



*Federation of Nepalese Trade Unions* and nine journalists, who were protesting at the manner by which authorities recently prevented planned large-scale peaceful demonstrations from taking place. Some of these arrests and detentions were the subject of an urgent appeal sent on 24 January 2006. According to new information received, on 26 January 2006, over 200 human rights defenders and protestors were arrested during a nationwide strike that had been called by the democratic alliance in Nepal. It is also reported that on 21 January 2006, thousands of protestors took to the streets of Kathmandu to protest at the disruption of demonstrations that were supposed to take place on 20 January 2006. It is reported that the police intervened to break up the demonstration and that some protestors were injured as the police used batons and tear gas shells to disperse the crowds. According to the information received, between 19-25 January 2006 over 1,243 people were arrested, and as of 26 January 2006, 848 of those persons still remain in detention. It is alleged that some of those arrested were given a detention order for 90 days under the Public Security Act. Grave concern was expressed that the above-mentioned arrests and detentions of protestors and human rights defenders is a deliberate attempt to prevent them from carrying out their peaceful activities in defence of human rights in Nepal. Further concern was expressed regarding the deteriorating situation for human rights defenders in Nepal.

419. On 20 April 2006, the Special Rapporteur and the Special Rapporteur on the question of torture sent an urgent appeal concerning **more than 140 journalists**. According to the information received, since 5 April, there had been nationwide pro-democracy demonstrations. During the demonstrations, 97 journalists have reportedly been detained and 24 other journalists have been injured. On 5 April in Kathmandu, 13 journalists were arrested while participating in a demonstration organized by the Professional Alliance for Peace and Democracy (PAPAD), protesting against the government's ban on demonstrations. Amongst them were **Bishnu Nishturi**, President of the Federation of Nepalese Journalists (FNJ); **Mahendra Bista**, Secretary General of FNJ; and **Binod Pahari**, committee member of FNJ. They were released later on the same day. **Gopal Thapaliya**, President of the South Asia Free Media Association (SAFMA) was injured by police. On 5 April 2006, FNJ organized another demonstration, protesting against the government's censorship of the media. During this demonstration, 24 journalists were arrested and were held at Janasewa police station. Amongst them were **Shiva Gaunle**, Vice President of FNJ and **Kanak Dixit**, editor of the magazine *Himal South Asia*. They were reportedly released on the same day. On 6 April 2006, in the pro-democracy demonstration in Ilam, four journalists were arrested while covering the demonstration. They were released on the same day. On 7 April 2006, ten journalists were arrested in various parts of the country while participating in demonstrations or reporting on the demonstrations. **Madhav Basnet**, correspondent for *Dristi Weekly*, was reportedly beaten by police in Kathmandu while reporting on pro-democracy meetings. It is now known whether or not the ten journalists have been released. On 8 April 2006, seven journalists were assaulted by police in Baglung, while covering a protest organized by the Seven Party Alliance (SPA). **Hari Narayan Gautam**, Secretary of the FNJ's Baglung Chapter, was seriously injured. Other journalists beaten by police include: **Himal Sharma**, **Ram Bahadur GC**, **Ram Krishna Sharma**, **Khim Bahadur Karki** and **Yougendra Milan Satyal**. In other parts of the country, many more journalists were beaten and mistreated, including: **Suresh Regmi**, journalist for *Synergy FM*; **Tej Prakash Pandit**, chief editor of *Nayayug Bani*; **Santosh Sharma**, journalist for *Kantipur*; **Shyam Syrestha**, cameraman for *Kantipur*; **Tilak Koilara**, journalist for *Nepal One TV station*. On the same day, **Kanak Mani Dixit**, journalist and editor of the magazine *Himal South Asia*, was arrested in Kathmandu. It is reported that Kanak Mani Dixit is still in detention. On 9 April 2006, **Tej Prakash Pandit**, President of the

National Union of Journalists, was beaten by police in Kathmandu. Security personnel attacked the office of *Paradarshi dainik* newspaper. On the same day, 18 journalists were arrested in Butwal while demonstrating against the arrests of journalists. 14 other journalists were arrested in Dhankuta, Katumandu and Baglung. It is not known whether they have been released. In other incidents on the same day, **Tek Raj Joshi**, reporter for *Ghodaghodi FM radio station*; and **Tika Upreti**, journalist for the daily *Sudur Sandesh*; were severely beaten by police in Dhanghadi. **Binod Poudel**, correspondent of *Annapurna Daily*, was also severely beaten by police in Chitwan. On 10 April 2006, **Jagat Saud**, correspondent for the daily *Farwest Times*; and **Prayag Joshi**, of the daily *Sudur Sandesh* were arrested and assaulted by police in Dhanghadi, while reporting on demonstrations organized by SPA. It is not known whether they have been released. On 11 April 2006, **Yagya Raj Thapa**, **Pushkar Thapa** and **Umesh K.C. Narayan** were arrested in Dailekh, while reporting on a rally organized by SPA. It is reported that police ill-treated them and threatened them with further action if they continue reporting on activities organized by SPA. The journalists were released on the same day. On 12 April 2006, police took into custody 29 journalists in Katmandu. Those arrested include: **Mahendra Bista**, General Secretary of the FNJ; **Ramji Dahal** and **Binod Pahadi**, central committee members of FNJ; and journalists **Nirmala Sharma**, **Kishore Shrestha**, **Damodar Dawadi**, **Bharat Raj Pokhrel**, **Punya Bhandari**, **Iswori Neupane**, **Iswori Wagle**, **Damber Giri**, **Dipak Acharya**, **Chetnath Dhamala**, **Amarnath Dhakal**, **Sribabu Karki**, **Nabvaraj Sharma**, **Sitaram Baral**, **Rohit Dahal**, **Surya Neupane**, **Santosh Kandel**, **Bharat Khadka**, **Devraj Rimal**, **Nanda Rishi Neupane**, **Krishna Humagain**, **Shiva Devkota**, **Kapil Kafle** and **Shyam Basnet**. On the same day, 19 journalists were arrested while they were in a peaceful rally in Pokhara. Those arrested include: **Gangadhar Parajuli**, Central Vice-President of FNJ; **Rabindra Bastola**, President of FNJ Kaski district branch; and journalists **Punya Poudel**, **Himnidhi Laudari**, **Navin Sigdel**, **Madhav Sharma**, **Badri Binod Prateek**, **Navaraj Subedi**, **Hari Bastola**, **Bednidhi Timilsina** and **Biswo Shanker Palikhe**. It is reported that police used excessive force to arrest them. All the journalists arrested and detained on 12 April 2006 were reportedly released on the same day. On the same day in Udayapur, journalists **Rabindra Kumar Chaudhary**, **Kushal Babu Basnet**, **Shanta Rai** and **Mohan Gole** were beaten by security personnel with sharp objects, while reporting on a peaceful rally organized by SPA. On 14 April 2006, 13 journalists were taken into custody by police, while they were in a social meeting in Baglung. Those journalists include: **Rajesh C Bhandari**, **Himal Sharma**, **Ram Bahadur GC**, **Rajan Thapa**, **Prakat Kumar Shishir**, **Durga Dutta Acharya**, **Babulal Shakya**, **Bishnu Sharma**, **Gyanendra Gautam**, **Yogendra Milan Santhal**, **Prakash Poudel**, **Purna B.K.** and **Mahesh Poudel**. On the same day, journalist **Dipak Adhikari** was taken into custody from his home in Hetauda. Police manhandled him while arresting him, and he received injury. He was released later on the same day. Grave concern was expressed at the reported pattern of arrests and assaults against journalists, who attempt to report on the ongoing demonstrations and protests against the Government.

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

420. On 22 March 2006, the Government provided information concerning a communication sent on 18 December 2003. **Ram Krishna Adhikari**, a journalist working for the weekly *Saanghu*, was arrested on 10 December 2003 under PSA in Tripureswor, Kathmandu. He was brought before the competent authority and held by the order of such authority. During his

detention, he was allowed to see his family and to meet with a lawyer of his choice. He was released on 19 December 2003.

421. On 22 March 2006, the Government provided information concerning a communication sent on 3 February 2004. **Durga Prasai** and **Rakesh Prasai** were arrested on 24 January 2004 for general enquiry under the “Terrorist and Disruptive Activities (Punishment and Control) Ordinance” (TADO). They were later on released on 4 July 2004. During their detention, they were informed of the grounds of their arrest and detention, were allowed to see their families and to meet with a lawyer of their choice.

422. On 22 March 2006, the Government provided information concerning a communication sent on 3 February 2004. **Bhagarith Kharel** was held in preventive detention at the Kathmandu Jail by the order of the District Administrative Office of Kathmandu under the Public Security Act on 25 November 2003 and released on 3 January 2004. He was rearrested on 4 January 2004 by the order of the District Administrative Office of Kathmandu and released on 3 January 2005. During his detention, he was allowed to see his family and to meet with a lawyer of his choice.

423. On 22 March 2006, the Government provided information concerning a communication sent on 10 February 2004. **Narendra Maharjan** was arrested on 21 January 2004 at Kirtipur, Kathmandu. He was brought before the competent authority, held by the order of such authority, and released on 27 January 2004. During his detention, he was allowed to see his family and to meet with a lawyer of his choice.

424. On 22 March 2006, the Government provided information concerning three communications sent on 16 February 2004. **Lekhnath Sapkota** was arrested on 3 February 2004 for the necessary investigation and released on 11 March 2004. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. **Gyan Bahadur Koirala** was held in preventive detention in Kaski Jail under TADO since 2 January 2004. He was brought before the competent authority and held by the order of such authority. As of 22 March 2006, he was still detained at the Sundarijal Detention Centre. During the custody, he has been allowed to see his family and to meet with a lawyer of his choice. **Maheswar Pahari** was arrested on 2 January 2004 and held in preventive detention in Kaski Jail under TADO, where he died of tuberculosis. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. The Government did not have information to offer concerning the arrest and detention of **Sho Prasad Khatiwada**.

425. On 22 March 2006, the Government provided information concerning a communication sent on 24 February 2004. **Dhananjaya Khanal** was arrested on 21 February 2004 for investigations under TADO at Lalitpur. He was brought before the competent authority and held by the order of such authority. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. He was released on 26 January 2004. **Bal Khrisna Devokota** was arrested on 21 February 2004 for the necessary investigations under TADO, and was released on 26 January 2004. During his detention, he was allowed to see his family and to meet with a lawyer of his choice.

426. On 22 March 2006, the Government provided information concerning four communications sent on 26 February 2004. **Lok Krishna Bhattarai** was arrested on 18

February 2004 for investigations. He was brought before the competent authority, held by the order of such authority and eventually released on 27 January 2004. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. **Purushotam Chudal** was arrested on 18 October 2004 in Jhapa Municipality area and held in preventive detention at the Jhapa District Jail. He was released on 18 October 2005 and rearrested on 20 October 2005. His preventive detention period at the Jhapa District Jail ended on 26 March 2006. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. **Chandra Prasad Nepal** was arrested on 17 February 2004 for investigations under TADO, and was released on 18 April 2004. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. **Savitri Nepal** was arrested on 17 February 2004. She was informed of the grounds of her arrest and detention, and eventually released on 18 April 2004. During her detention, she was allowed to see her family and to meet with a lawyer of her choice. **Keshav Chudal** was arrested on 21 November 2003 in Dadhikot, Bhaktapur for interrogation under TADO. He was released on 29 December 2003, and rearrested on 20 February 2004 to be ultimately released, on 27 March 2004, by the order of the Supreme Court. He spent the second period of preventive detention at the Kathmandu Central Jail. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. **Mukunda Ghimire** was arrested under TADO on 20 February 2004. He was brought before the competent authority and held by the order of such authority. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. He was released on 14 September 2004.

427. On 22 March 2006, the Government provided information concerning a communication sent on 27 February 2004. **Shankha Buddha Lama** was arrested on 24 February 2004 and released on 26 May 2004. During his detention, he was allowed to see his family and to meet with a lawyer of his choice.

428. On 22 March 2006, the Government provided information concerning a communication sent on 1 March 2004. **Laxmi Pandey**, member of the Nepal Press Union and journalist, was arrested on 21 February 2004. She was brought before the competent authority and held by the order of such authority. During her detention, she was allowed to see her family and to meet with a lawyer of her choice. She was released on 25 February 2004.

429. On 22 March 2006, the Government provided information concerning a communication sent on 2 March 2004. The Government did not have information to offer concerning the arrest and detention of **Arjun Pokhrel** and **Kaushalya Pokhrel**. **Madhu Mandal** was arrested on 23 November 2003. He was brought before the competent authority and held by the order of such authority. During his detention, he was allowed to see his family and to meet with a lawyer of his choice. He was released on 26 April 2004.

430. By letter dated 22 March 2006, and in addition to responses of 8 November, 14 September and 8 March 2004, the Government replied to the two communications of 4 March 2004, concerning **Bhimsen Kuman Gautam Ambir Babu Gurung** who was arrested on 16 February 2004 and detained in Maharajgunj Barracks. He was released on 12 April 2004. No additional information was provided regarding **Surendra Rai**.

431. By letter dated 22 March 2006, and in addition to responses of 14 September and 8 March 2004, the Government replied to the communication of 10 March 2004. The Government noted

that **Yamanath Lohani** was arrested on 1 March 2004 under TADO and was released on 9 April 2004.

432. By letter dated 22 March 2006, and in addition to responses of 14 September and 8 March 2004, the Government replied to the communication of 17 March 2004 noting that **Dhani Ram Tharu** was detained in Banke Jail and released on 13 July. He was allowed to meet with his family members and consult with a legal practitioner of his choice.

433. By letter dated 22 March 2006, and in addition to responses of 14 September and 8 March 2004, the Government replied to the communication of 19 March 2004, indicating that **Chakrapadi Acharya** was allowed to meet with his family members and consult with a legal practitioner of his choice.

434. By letter dated 22 March 2006, and in addition to responses of 8 November and 8 March 2004, the Government replied to the communication of 23 March 2004. **Narayan Dhvaj Mahat** was arrested on 16 March 2004 under TADO and released on 27 January 2005. The Government indicated that, as stated in previous replies, HMG had no information about the arrest and detention of **Tikaram Bishwakarma**.

435. By letter dated 22 March 2006, and in addition to responses of 8 November 2004, 8 March 2004 and 14 September 2005, the Government replied to the communication of 2 April 2004. The Government indicated that **Govinda Ghimire** and **Surya Bastakoti** had not been arrested. **Man Bahadur Shreshta** was arrested on 10 December 2003 under TADO and was released on 29 July 2004. **Samundra Budhathoki** was arrested under PSA on 19 March 2004 and was then released 5 days later on 24 March 2004. **Sitaram Tamang** was arrested under TADO on 24 March 2004 and released on 1 April 2004. The Government noted that during custody they were allowed to meet with their family members and consult with a legal practitioner of their choice.

436. By letter dated 22 March 2006, and in addition to responses of 8 November 2004, 8 March 2004 and 14 September 2005, the Government replied to the communication of 14 April 2004. The Government noted that during custody **Kedar P. Bidari** was allowed to meet with his family members and consult with a legal practitioner of his choice. Regarding Ngadar Bhote, whose whereabouts were unknown, no information was provided.

437. By letter dated 22 March 2006, the Government of Nepal replied to the communication of 26 April 2004 concerning **Girija Prasad Koirala, Shyam Kumar Shrestha, Gopi Krishna Thapaliya, Gopi Bahadur Bhandar, Basudev Sigdel, Krishna Silwal and Laxman Prasar Ayril**, stating that Mr Thapaliya was arrested on 4 November 2003 and then released on 14 November 2003. On 6 September 2004 Mr Basnet was arrested and on 18 October 2004 he was released. The Government indicated that during custody they were allowed to meet with their family members and consult with a legal practitioner of their choice. The Government stated that HMG had no information about the arrest and detention of Mr Silwal. No information was provided about **Mr Koirala, Mr Shrestha, Mr Bhandar, Mr Sigdel and Mr Ayril**.

438. By letter dated 22 March 2006, and in addition to responses 8 March and 14 September 2005, the Government replied to the communication of 2 June 2004 concerning **Khadga Bahadur Swar**, also known by the name of K.B.Jumli. She was arrested and held in preventive

detention under TADO on 11 April 2004 and was released on 9 July 2004. During custody, she was allowed to meet with his family members and consult with a legal practitioner of his choice.

439. By letter dated 22 March 2006, and in addition to responses of 14 September, 8, 10, 22 and 30 March 2005, the Government replied to the communication of 9 June 2004. **Chandra Bahadur Lal Prasai, Dev Raj Pradhan** were released on 5 December 2004, rearrested on 15 December 2005 and released on that same date. The Government noted that during custody, Chandra Bahadur Lal Prasai, **Dev Raj Pradhan Gangaram Lamitaray (Lamitade)** and **Phulmaya Dahal** were allowed to meet with their family members and consult with a legal practitioner of their choice.

440. By letter dated 22 March 2006, and in addition to responses 8 March and 14 September 2005, the Government replied to the communication of 11 June 2005 concerning **Jeetendra Khadka**. The Government noted that he was arrested on 18 May 2004 and he was found to be involved in terrorist activities. He was handed to the Central Jail on 9 July 2006 for preventive detention under TADO. He was released on 9 November 2004 by order of the Supreme Court. During custody, he was allowed to meet with his family members and consult with a legal practitioner of his choice.

441. By letter dated 22 March 2006, and in addition to responses of 16 November 2004, 12 October, 14 September 8 and 22 March 2005, the Government replied to the communication of 7 July 2004. The Government noted that **Ms B.K** was released on 12 December 2005 by the order of the Supreme Court on 12 December 2005. The Government noted that Ms B.K. was informed of the grounds of her arrest and detention and was allowed to meet with his family and consult a legal practitioner of his choice. Concerning **Ms MS** the Government noted that she was brought to Panchkhal Barracks on 17 February 2004 at 8.30. The Colonel ordered two Captains to interrogate her. She was questioned and due to wrong methods during the interrogations she died at 11.30. The General Martial Court found the three officers guilty. The two officials who had interrogated her were sentenced to six months' imprisonment. The Colonel was ordered to pay 50,000 rupees and each of the two Captains 25,000 rupees.

442. By letter dated 22 March 2006, and in addition to responses 8 March and 14 September 2005, the Government replied to the communication of 12 July 2004 concerning **Babu Raja Prajapati**. He was held in preventive detention at Kathmandu Jail under TADO and was released on 11 March 2005. He was allowed to meet his family members and to consult with a legal practitioner of his choice.

443. By letter dated 22 March 2006, and in addition to responses of 8 March and 14 September 2005, the Government replied to the communication of 13 July 2004 concerning **Hari Sharan Maharjan**, on whom HMG has no information of arrest and detention.

444. By letter dated 22 March 2006, and in addition to responses of 8 March 2004 and 8 March 2005, the Government replied to the communication of 21 July 2004. **Dil Bahadur Shahi** preventive detention since 11 March 2005 was released on 1 December 2005 by the order of the District Administration Office. The Government noted that HMG had no information as to the arrest or detention of **Hari Bishnu Oli**. Concerning **Kamal Thapa**, he was arrested under

TADO on 28 September 2004 and released on 22 December 2004. No information was provided regarding **Narayan Sha** of the weekly *Dristi*.

445. By letter dated 22 March 2006, the Government of Nepal replied to the communication of 30 July 2004 stating that HMG had no information about the arrest or detention of **Ajaya Shahi**.

446. By letter dated 22 March 2006, and in addition to the previous responses of 14 September 8 and 22 March 2005, the Government replied to the communication of 26 August 2006. On 8 April 2006, **Devendra Niroula, Jeevan Dangol, Kundan Kaphley, Om Bahadur Karki, Ram Prasad Adhikari** and others including police personnel, were injured when demonstrators started throwing stones at police, though there were no major casualties. The Government noted that there were no records of the arrest of **Kamala Pant**. Regarding **N. M.** (at that time a 16-year-old student), was arrested on 9 November 2003 and released on 9 December 2003. During his custody he was allowed to meet his family and consult with a legal practitioner. The Government indicated that HMG had no information about the arrest or detention of **Ram Kumar Mahato**. On 19 July 2004, **Ram Mani Mishra** sub-editor of *Nawajagrit*, was called for interrogation at a security check-point by the Security personnel. Upon his denial security forces resorted to minimum force. The Government denied that he was beaten. **Subid Guragain** was released on 31 October 2004.

447. By letter dated 22 March 2006, and in addition to the previous response of 8 March 2005, the Government replied to the communication of 1 September 2004. Concerning **Arun Shingania, Punya Prasad Poudel, Raju Timilsina**, the Government indicated that there was no information about the alleged threats against them. No information was provided about **Brij Kuman Yadav** in this reply.

448. By letter dated 22 March 2006, the Government replied to the communication of 15 September 2004 concerning **Hira Lal Khadka**, who was released on 3 November 2004 and was informed of the grounds for his arrest and detention, and during custody he was allowed to meet with his family members and consult with legal practitioner of his choice.

449. By letter dated 22 March 2006, and in addition to the previous responses of 8 March and 9 February 2005 the Government replied to the communication of 23 September 2004, stating that **Man Bahadur Budhamagar was**, one day after his initial release, ataken **again** into custody on 16 September 2004 and was released on 29 October 2004. The Government noted that he was informed of the grounds of his arrest and detention, and during custody he was allowed to meet with his family members and consult with legal practitioner of his choice.

450. By letter dated 22 March 2006, and in addition to the previous response of 8 March 2005, the Government replied to the communication of 14 October 2004 stating that **Yagya Khakal** was arrested on 9 October 2004 and released the following day. The Government noted that he was informed of the grounds of his arrest and detention, and during custody he was allowed to meet with his family members and consult with legal practitioner of his choice.

451. By letter dated 22 March 2006, and in addition to the previous response of 8 March 2005, the Government replied to the communication of 14 October 2004 providing information about one of the alleged victims, **Mr Ek Nath Chaulagain**. The Government stated that he was

arrested on 11 September 2003 from Koteshwar, Kathmandu under TADO. He was released from Central Jail by the order of District Administration Office (Kathmandu) on 12 July 2004. He was informed of the grounds of his arrest and detention, and during custody he was allowed to meet with his family members and consult with legal practitioner of his choice.

452. By letter dated 22 March 2006, and in addition to the previous response of 8 March 2005, the Government replied to the communication of 14 October 2004 providing information about one of the alleged victims. The Government replied to the communication of 14 October 2004 stating that HMG had no information regarding neither the arrest nor the detention **Ghana Shyam Ojha**.

453. By letter dated 22 March 2006 the Government replied to the communication of 25 October 2004 stating that there was no information regarding the arrest nor the beating of **Rajendra Karki**.

454. By letter dated 22 March 2006 the Government replied to the communication of 17 November stating that HMG had no information regarding neither the arrest nor the detention of **Surya Bahadur Chand**.

455. By letter dated 22 March 2006 the Government replied to the communication of 14 December 2004 and 22 November concerning **Mr Prakash Thapa** in addition to the previous information provided in the replies of 7 and 8 March 2005. The Government stated that on 23 December 2004 Mr Thapa was rearrested under TADO from Lokanthali, Bhaktapur and was released on 16 June 2005 by the order of the Supreme Court.

456. By letter dated 22 March 2006 the Government replied to the communication of 24 January 2005, stating that it had no information concerning any harassment of **Sudip Pathak**, a member of the National Human Rights Commission of Nepal at the time the letter was sent.

457. On 22 March 2006 the Government replied to the communication of 26 January 2005, providing additional information to its previous replies of 28 January, 9 June and 14 September 2005. Regarding **Bhupendra Shahi** and **Naman Kumar Shahi**, the Government added that they had been neither harassed nor threatened. **Bishnu Prasad Bastola** was arrested at a demonstration organized in a restricted area in January 2005 and was released on the same day. The Government noted that **Dhana Jaisi Sharma**, **Narsarulla Ansari** and **Kailash Thakur**, about whom it had previously reported that they were at the scene of a crime when a mob became aggressive with them accusing them, were not arrested but rescued by Security Force from the grip and took him in protective custody. He was later on released on the same day after general inquiry. He was handed over to Surdarsan Pant, Chairman of District Bar Association. No information was provided in this reply about **Jitman Basnet**, a lawyer and journalist.

458. By letter dated 22 March 2006, the Government replied to the communication of 7 February 2005 providing additional information to its previous replies of 7 March 2005. The Government indicated that there was no information about the arrest or detention of **Khagendra Sangraula**. Concerning **Sindhu Nath Pyakurel**, the Government noted that he was released on 24 February 2005 and that he was informed, like **Bishnu Nisthuri**, of the grounds of their arrests and detentions. During detention they were also allowed to meet with their families and consult



their legal practitioners of their choice. The reply of 22 March 2006, like the previous response of 7 March 2005 did not provide information concerning the alleged arrest of former Prime Minister **Sher Bahadur Deuba** and other leaders such as the former Foreign Minister.

459. By letter dated 22 March 2006, the Government replied to the communication of 11 February 2005 providing additional information to its previous replies of 7 March and 9 June 2005. The Government noted that **Amrit Bohara** and **C.P. Mainali** and **Bharat Mohan Adhikari** were held under preventive detention under PSA on 1 February 2005. Mr Mainali and Mr Adhikari were released on 30 April, and Mr Adhikari on 21 April 2005. **Bijaya Rai** was held under preventive detention on 3 April 2005 under PSA and was released on 2 May 2005. **Dinesh Yadav** was held in preventive detention on 1 February and was released on 28 April 2005 in Siraha district. **Divakar Devkota** was held in preventive detention under PSA on 1 February 2005 and was released on 18 May 2005 in Saptari district. **Gagan Thapa** was again arrested for organizing demonstration in restricted area in Bhotebahal on 3 August 2005 and released on 14 August 2005. **Girija Prasad Koirala** was released on 31 March 2005 by order of District Security Committee in Katmandú. **Ishwor Pokhrel** arrested on 1 February 2005 and was released on 28 April 2005. **K.P. Sharma Oli** held in preventive detention under PSA on 1 February 2005 and released on 13 February 2005. **Karan Bahadur Saud** was held in preventive detention under PSA on 1 February 2005 and released on 22 March 2005. **Krishna Pahadi** was held in detention under PSA on 3 February 2005 and was released on 4 July 2005. **Krishna Prasad Bhattarai and Lokendra Bahadur Chand** were released on 9 February 2005 after nine days of house arrest. **Kundan Raj Kafle** was released on 8 April 2005. **Nain Singh Gurung** was arrested on 19 April 2005 under PSA and released on 10 May 2005. **Narayanman Bijukche** was held in house arrest on 2 February 2005 and was released on 9 February 2005. **Narhari Acharya** was held in preventive detention under PSA on 1 February and released on 4 July 2005. **Nona Koirala** was held in preventive detention under PSA on 1 February 2005 and was released on 15 February 2005. In addition to all the above-mentioned persons, the Government noted that **Bamdev Gautam, Madhav Nepal, Narayan Datta Panta, Om Aryal Pradeep Nepal, Prakash Sharan Mahat, Rajendra Rai, Ram Kumar Chaudhari, Ram Singh Aeir, Rudra Raj Chattaut, Rupnarayan Shrestha, Sher Bahadur Deuba, Tarka Raj Bhatta** were informed of the grounds of their arrests and detentions, and that during detention they were allowed to meet with their families and consult their legal practitioners of their choice.

460. By letter dated 22 March 2006 the Government replied to the communication of 17 February 2005, providing additional information to its previous responses of 28 April and 9 June 2005. The Government noted that the real name of **Bal Kirshna Poudel (Chandra)** was Balchandra Paudel and that **Lok Prasad Nagar**, was again arrested on 14 March 2005 under TADO and was released on 17 September 2005. The Government noted that **Mr Bam Dev Adhikari, Nanda Bhandari (Nanda B.C.)** as well as Mr Kirshna and Mr Prasad were informed of the grounds of their arrests and detentions, and that during detention they were allowed to meet with their families and consult their legal practitioners of their choice.

461. By letter dated 22 March 2006 the Government replied to the communication of 22 February 2005, providing additional information to the previous response of 9 June 2006 concerning **Narayan Adhikari** and **Basant Parajuli** who were arrested on 13 February 2005 at Chitwan and released on 1 March 2005. The Government noted that they had all been informed

of the grounds of their arrests and detentions, and that during detention they were allowed to meet with their families and consult their legal practitioners of their choice.

462. By letter dated 22 March 2006 the Government replied to the communication of 10 March 2005, providing additional information to the previous response of 9 June 2006 concerning Arjun Prasad Shah, Lavadev Dhungana and **Monohar Pokhrel**. The Government explained that **Mr Prasad Shah** who had been released on 24 April 2005 was again arrested on 26 January 2006 and was released on 31 January 2006 by the order of Saptari Appellate Court. **Mr Dhungana** was released on 21 April 2005 and **Mr Pokhrel**, who was arrested under PSA on 20 February 2005 was released on 24 April 2005 by order of the Saptari Appellate Court. The Government noted that they had all been informed of the grounds of their arrests and detentions, and that during detention they were allowed to meet with their families and consult their legal practitioners of their choice.

463. By letter dated 22 March 2006 the Government replied to the communication of 24 March 2005 to which it had provided a previous response dated 9 June 2005. The Government noted that **Arjun Dhanuk, Ganesh Lama, Sharad Adhikari** and **Shuryaa Thapa** had been all informed of the grounds of their arrests and detentions, and that they were allowed to meet with their families and consult a legal practitioner of their choice during detention.

464. By letter dated 22 March 2006 the Government replied to the communication of 13 April 2005 concerning **Robin Poudel**, journalist and editor for the weekly *Tanahu Aawaj* was arrested on 8 April 2005 under PSA and was released on 13 April 2005 from Tanahun. The Government noted that he was informed of the grounds of his arrest and detention, and that during his detention he was allowed to meet with his family and consult a legal practitioner of his choice.

465. By letter dated 22 March 2006 the Government of Nepal replied to the communications of 19 April 2005 and 22 April 2004 concerning **Mr Shiva Kumar Pradhan**, a human rights defender and the Secretary-General of the People's Forum for Human Rights and Development (PFHRD). The Government explained that Mr Pradhan had been arrested on 19 September 2001 on the charge of murder of R.K Budhathoki in Jhapa and sentenced with three years' imprisonment on 22 August 2004. He was released on 20 September 2004. During the time he spent in custody he was allowed to meet with his family and consult a legal practitioner of his choice.

466. By letter dated 22 March 2006, the Government of Nepal replied to the communications of 29 April 2005 concerning **Surya Thapa** and **Rajendra Dahal**, stating that there was no information about the arrest or detention of Mr Dahal, Editor of *Himail Khabarpatrika* and that Mr Thapa, editor of the *Budhabar weekly*, was called to the Kathmandu District Administration Office for inquiry.

467. On 17 August 2005, the Government sent a reply concerning the communication dated 8 August 2005. **Mr Gagan Kumar Thapa** was detained since 27 July 2005 at the Hanuman Dhoka District Police Office, Kathmandu, and was accused of shouting anti-monarchist slogans during a demonstration in the Ratna Park area of Kathmandu on 24 July 2005. On 14 August 2005, Gagan Kumar Thapa appeared before the Special Court in Kathmandu, where he was formally charged with sedition, under the Offences against the State Act. Although the

Prosecutor demanded that he be held in detention during the investigation, the Special Court did not find it necessary and released him on parole.

468. On 22 March 2006, the Government sent a reply concerning the communication dated 8 August 2005. **Ratna Shrestha** was accused of embezzlement of school property and was called for questioning at Zonal Administrative Office, Baglung, on 27 July 2005 where she stayed for about four hours and was subsequently released. She was neither harassed nor threatened during the inquiry.

469. On 8 February 2006, the Government sent a reply concerning the communication dated 29 August 2005. **Krishna Kumar Khanal** and **Bijaya Kuswah** were summoned by the District Administrative Office Parsa concerning the publication of criticism of monarchy. They were strictly cautioned not to publish anything against the monarchy.

470. On 22 March 2006, the Government sent a reply concerning the communication dated 26 September 2005. **Bir Bahadur Karki** was released on 17 September 2005 by the Appellate Court of Mahendraganar, and rearrested on 21 September 2005 in Kanchampur district and held under preventive detention under TADO by the order of the Security District Committee of Kanchampur. He was informed of the grounds of his arrest and detention. He was finally released on 11 December 2005. During his custody, he was allowed to see his family and to meet with a lawyer of his choice. He was neither harassed nor threatened during custody. Birman Sarki was arrested on 17 August 2004 and released on 22 June 2005 by the order of the Security District Committee of Kanchampur. He was informed of the grounds of his arrest and detention. He was finally released on 11 December 2005. During his custody, he was allowed to see his family and to meet with a lawyer of his choice. He was neither harassed nor threatened during custody. **Dhawal Singh Bohara, Prem Bahadur Oli, Tek Bahadur Khatri, Man Bahadur Bista, Padam Sarki, Tapta Bahadur Giri, Padam Bahadur Budha, Gagan Singh Kunwar and Ujal Singh Dhami** were released on 17 September 2005 by the Appellate Court of Mahendraganar and rearrested on 21 September 2005 from Daivi VDC-3, Ojhakhali area of Kanchampur district. On 22 September, the District Security Committee ordered them to be held under preventive detention for six months in accordance with TADO. On 11 December 2005, Tek Bahadur Khatri, Padam Bahadur Budha and Ujal Singh Dhami were released by District Administration Office Kanchampur.

## Observations

471. The Special Rapporteur thanks the Government for the follow-up replies received. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent in 2006. The Special Rapporteur therefore invites the Government to respond to these allegations.

## Niger

472. Le 17 novembre 2006, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé une lettre d'allégation à l'égard de l'arrestation de **Claude Quémard**, secrétaire général de la section française du Comité pour l'annulation de la dette du tiers-monde (CATDM). Selon les

informations reçues, le 9 novembre 2006, M. Quémar aurait été interpellé par trois policiers à Tahoua, à 600 km au nord-est de Niamey, alors qu'il participait à une conférence sur le VIH/SIDA organisée dans le cadre de la *Caravane des alternatives sociales*. Aucun motif n'aurait été donné à M. Quémar lors de son interpellation; toutefois il semblerait que celle-ci fait suite à sa participation au *Deuxième Forum Social Nigérien* (FSN) qui s'est tenu à Niamey du 3 au 6 novembre 2006. M. Quémar y aurait animé plusieurs conférences et ateliers sur la globalisation et l'annulation de la dette de 18 pays pauvres. M. Quémar aurait été retenu plusieurs heures en garde à vue au commissariat central de Niamey, et se serait vu présenter des passages de l'une de ses interventions lors du FSN et demander s'il était l'auteur de ces déclarations. M. Quémar aurait ensuite été conduit dans les bureaux de la police judiciaire où il lui aurait été intimé l'ordre de quitter le territoire nigérien.

### Suivi des communications précédemment transmises

473. Le 8 avril 2006, le Gouvernement a répondu à la communication envoyée en date 4 octobre 2005. Poursuivi du chef d'injures publiques à l'endroit d'un dépositaire d'autorité publique (article 50 alinéa 1 et 2 de l'ordonnance n° 99-07 du 20 décembre 1999 portant régime sur la liberté de la presse), **Abdoulaye Harouna** a été reconnu coupable et condamné à la peine de quatre mois de prison ferme, au paiement de 20,000 francs d'amende et au paiement de 500 000 francs de dommages intérêts à la victime. M. Abdoulaye a fait aussitôt appel. La Cour d'Appel, le 19 janvier 2006, a annulé cette décision et déclaré nulle la procédure diligentée contre Abdoulaye Harouna pour violation de l'article 71 de la loi sur la presse. À ce jour, par contre, aucune plainte de M. Abdoulaye n'a été enregistrée par les services de la Justice de Agadez. En ce qui concerne **Raliou Ahmed Assaleh**, c'est effectivement sur plainte du Gouverneur de la Région d' Agadez que M. R.A. Assaleh, Directeur de la radio privée « Sahara » que ce dernier a été poursuivi en justice pour chef de diffamation envers un dépositaire de l'autorité publique en raison de la dépêche envoyée à RFI le 4 juillet 2005. Le dossier a été instruit, renvoyé devant le Tribunal correctionnel, M. Assaleh a été condamné le 20 décembre 2005 à la peine d'emprisonnement de 8 mois assortis du sursis et 20 000 francs d'amende, et un franc symbolique de dommage intérêt à la victime. M. Assaleh a interjeté appel à cette décision. La Cour d'appel n'a pas encore reçu le dossier de la procédure.

### Observations

474. Le Rapporteur spécial invite le Gouvernement à répondre à la lettre d'allégation envoyée le 17 novembre 2006.

### Nigeria

475. On 31 March 2006, the Special Rapporteur sent an allegation letter concerning the incidents of the 17 March 2006 in Dutse. Reportedly, on this day, a unit of the Nigerian Police Force (NPF), used tear gas to disperse supporters of the Advanced Congress of Democrats (ACD) who were holding a meeting, on the ground that ACD had no authorisation to hold such a meeting. **Hassan Karofi**, a correspondent of the privately-owned "Daily Trust" newspaper in the northern state of Jigawa, lost consciousness as a result of the tear gas used. ACD is a new opposition party formed with the aim of participating in next year's general elections. Moreover, on 16 March 2006, in response to a lawsuit brought by the Governor against *The News*, over a 6

February 2006 article alleging embezzlement by Government officials, the high court of Ekiti, forbade the newspaper to publish any "negative" reports about Governor Ayodele Fayose. Governor Fayose had demanded 25 billion nairas (€160 million) in damages and a ban on any further reporting on his activities by *The News*. Furthermore, on 15 March 2006, **Mahmud Jega**, the editor of *New Nigeria*, a government-owned weekly based in Kaduna, was fired by the Ministry of Information in connection with an article he wrote on 10 March 2006 headlined "Horror: Mantu Committee Adopts Third Term," on the decision by a parliamentary panel to approve a constitutional amendment that would let Mr Obasanjo run for a third term next year. On 14 March 2006, in Port Harcourt, a unit of the State Security Services (SSS) raided a privately-owned radio station, **Rhythm 93.7 FM**, and arrested **Segun Owolabi**, the news editor in charge that day, for airing a statement made the day before by the Claims Directory of Nigeria (CDN), a consumer association, calling for a protest against the regular power outages. Mr Owolabi was detained for nearly 24 hours on charges of 'attempting to disturb the peace'. The SSS has raided Rhythm 93.7 FM on several previous occasions in recent months. On 14 March 2006, at his home in Molete, **Dare Aleshinloye**, a photographer with the privately-owned daily "The Tribune", was beaten by police and his equipment was confiscated. On 8 March 2006 in Lagos, **Sesan Olufowobi**, a journalist with the weekly *Saturday Punch*, was summoned and threatened by members of a commission created by the President to investigate a recent series of deadly clashes between the police and the army. Mr Olufowobi had quoted the armed forces chief of staff, Lieutenant General. Martin Luther Agwai, saying that the commission was pointless and that the two sides could sort out the problem in their own way. Mr Agwai reportedly denied ever saying this.

476. On 18 April 2006, the Special Rapporteur sent an urgent appeal concerning four journalists: **Dare Aleshinloye**, photographer for the privately-owned newspaper *The Tribune*; **Dare Fasube**, photo journalist with the newspaper *Vanguard*, covering the national housing and population census exercise at the Ibadan North East Local Government Area in Oyo State, southwest Nigeria; **Emmanuel Ugwu**, correspondent for the newspaper *This Day*; and **Alfred Egbegi**, publisher of the privately-owned newspaper *Izon Link*. According to the information received, on 14 March 2006, Dare Aleshinloye was beaten by police and his equipment was seized when he was returning home. On 21 March, Dare Fasube was taking photographs of the long queue of census enumerators waiting for their payment. A government official, whose name is known as the Rapporteur, attacked Fasube upon seeing him taking photographs. He was hit several times, and this inflicted serious injuries on Fasube, and his camera was broken. On 24 March, Emmanuel Ugwu received a phone call, threatening to track him down and kill him if he did not retract the story within two days. Prior to that, he wrote a story about an assault on census enumerators participating in Nigeria's housing and population census. Ugwu has reportedly lodged a complaint with the State Commissioner of Police. Alfred Egbegi had also been receiving anonymous phone calls, threatening him with death for causing embarrassment to the state governor and his deputy. The phone calls followed his publishing a story critical of the state governor and his deputy on 10 April 2006. Concern is expressed that the assaults and threat against the above-mentioned journalists are directly connected to their journalistic work, particularly in light of the continuous reports on attacks and harassments against the media and journalists.

477. On 20 June 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr

**Bukhari Bello**, formerly Executive Secretary of the National Human Rights Commission in Nigeria. According to the information received, on 19 June 2006 Mr Bukhari Bello received a letter from the Director of Personnel Management at the office of the Attorney- General of the Federation and Ministry for Justice of Nigeria stating that he was to be removed from his position as Executive Secretary of the National Human Rights Commission in Nigeria. The letter did not state the reason for his removal. According to the information received, on 17 June 2006, Mr Bukhari Bello had received a text message from the Attorney- General of the Federation and Ministry for Justice requesting that he meet with him urgently. It is reported that Mr Bukhari Bello went to the home of the Attorney-General in response to this request and that during the meeting Mr Bukhari Bello was informed that the Government was “not happy” with the position of the National Human Rights Commission on a number of issues. In this regard, it is alleged that the Attorney-General cited a statement made by Mr Bukhari Bello on 12 May 2006 at the thirty-ninth session of the African Commission of Human and Peoples’ Rights, where Mr Bukhari Bello criticized constitutional amendments that aimed at extending the time limits that incumbent presidents were permitted to serve. It is further alleged that the Attorney-General cited a press conference given by Mr Bukhari Bello on 7 June 2006 in which he had criticized law enforcement authorities for their failure to abide by court orders; a television interview given by Mr Bukhari Bello on 14 June 2006 to the Nigerian Television Authority, where he had questioned the legality of the detention of prisoners held in Guantanamo Bay, and a press release issued by Mr Bukhari Bello on 16 June 2006, in which he condemned the arrest and detention of a television journalist with African Independent Television (AIT). Mr Bello was then reportedly informed by the Attorney-General that he would be removed from his position as Executive Secretary of the National Human Rights Commission in Nigeria and that he would receive a letter to this effect on 19 June 2006. Concern is expressed that the removal of Mr Bello from his position represents a reprisal for his critical work in the defence of human rights as the head of the National Human Rights Commission.

478. On 28 June 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Rotimi Durojaiye**, correspondent for the *Daily Independent* newspaper; and **Mike Gbenga Aruleba**, presenter at a private TV station *African Independent Television*. According to the information received, on 12 June 2006, Mr Durojaiye published an article on a presidential jet, implicating that there was fraud in the purchasing process. Mr Aruleba is a presenter for a daily show *Focus Nigeria*. On 13 June 2006, the show featured three guests, including a member of a ruling political party and member of the National Assembly. Mr Aruleba discussed Mr Durojaiye's article with the guests on his programme. On 14 June, State Security Service (SSS) agents arrested Mr Aruleba and requested him to hand over the videotape of the broadcast. He was released the next day. On 26 June, Mr Aruleba and Mr Durojaiye were arrested by SSS. The day after they appeared in court in Abuja, were reportedly charged with sedition and may face up to two years' imprisonment if convicted. Concern is expressed at the government's recourse to pre-trial detention for media-related offences.

## Observations

479. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

## Pakistan

480. On 30 January 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent a letter of allegation concerning the Chairperson of the Human Rights Commission of Pakistan (HRCP) and the United Nations Special Rapporteur on Religious Intolerance Ms **Asma Jahangir**, Mr **Afrasiab Khattak**, former HRCP Chairperson, Mr **Munizae Jahangir**, a journalist, and Mr **Muhammad Nadeem** a cameraman, who were conducting a fact-finding mission to investigate paramilitary action in Balochistan, Pakistan. According to the information received, on 8 January 2006, Ms Asma Jahangir and other members of HRCP were conducting a fact-finding mission to investigate paramilitary action in Balochistan, Pakistan. It is reported that when Asma Jahangir and other members of HRCP left Mulastan in a hired car, five or six intelligence agents photographed the car. In Dera Ghazi Khan, where the above-mentioned persons had stopped for a short break, they were again photographed by intelligence agents. According to information received, as the delegation was travelling to Sui, armed unidentified men opened fire on the vehicle they were travelling in. It is reported that Ms Asma Jahangir and the other members of HRCP reported this to the Rangers but were told that the Rangers did not have instructions to search for the perpetrators of the alleged incident. An application was then made to file a police report at the Frontier Corps Headquarters in Kashmol. On 9 January 2006, the media reported that the Balochistan Liberation Army (BLA) had claimed responsibility for the shooting however, it is alleged that two journalists testified that they had been pressurised by members of the secret services to issue the BLA statement, which did not appear to come from BLA. Grave concern is expressed that the above-mentioned shooting is an attempt to prevent Ms Asma Jahangir and other members of HRCP from investigating human rights violations in Balochistan. Further concern is expressed regarding the alleged pressure applied to journalists by intelligence agents to issue the statement from BLA.

481. On 20 February 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding **Amanullah Khan**, aged 77, Chairman of the Jammu and Kashmir Liberation Front (JKLF) political party. According to the information received, on 2 February 2006, Amanullah Khan was detained with other protesters in the city of Rawalpindi during a peaceful demonstration against the construction of the Basha Dam in the Gilgit region of the Northern Areas. He is being held at Adyala Prison in Rawalpindi, alongside convicted prisoners, under the Maintenance of Public Order Ordinance which allows the authorities to detain persons for up to three months without charge. Amanullah Khan has not been permitted to receive visitors. He is ill with complications related to high blood pressure and since his detention, his health has deteriorated, for what he needs medical care outside the prison. The Jammu and Kashmir Liberation Front are resisting the construction of the Basha Dam as they believe that the Government is ignoring the local population's concerns over its construction. Local leaders claim that the dam would displace 30,000 people and flood thousands of acres of land. Concerns were expressed for his health which may lead to irremediable damage if he does not receive adequate medical care. Moreover, there was concern that he and the other protestors arrested could be detained for the peaceful exercise of their rights to freedom of association and freedom of expression.

482. On 7 March 2006, the Special Rapporteur, together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr **Naeem Mirza**, Mr **Imran Shareef**, Mr **Saeed Khan**, Mr **Zamurrad Balouch**, Mr **Imran Fatima**, Ms **Sadia Mumtaz**, members of the *Aurat Foundation*, and Ms **Farzana Bari**, a member of the *Pattan organization*. The *Aurat Foundation* and the *Pattan organization* are organizations that work to promote and defend women's human rights. According to the allegations received, on 4 March 2006 the above-mentioned persons were arrested in Rawalpindi while on their way to a peaceful protest that had been organized by the Citizens Action Group to protest against the visit of the President of the United States of America to Pakistan. It is alleged that as they were proceeding towards the venue of the demonstration on Murree Road, members of the Punjab police forces manhandled them and used batons to beat them. It is alleged that they were taken to an unknown location. A communication was sent on 4 March 2006 requesting their release. The Ministry responded to the communication and assured that all defenders would be released. According to the information received, Sadia Mumtaz and Farzana Bari have been released but Naeem Mirza, Imran Shareef, Saeed Khan, Zamurrad Balouch and Imran Fatima remained in detention at the time this communication was sent. There are concerns that the human rights defenders were humiliated and ill-treated by police during their detention. Grave concern is expressed that the arrests, detentions and ill-treatment of the above-named persons are connected to their work in defence of human rights, particularly their participation in the above mentioned peaceful protest.

483. On 20 March 2006, the Special Rapporteur sent an urgent appeal concerning **Hayatullah Khan**, a journalist working for the English-language daily newspaper *The Nation*, the Urdu-language daily newspaper *Ausaf*, and the European Press-photo Agency. He is also the General Secretary of the Tribal Union of Journalists, a union of journalists working in the tribal areas of Pakistan near the Afghanistan border. According to the information received, on 1 December 2005, there was a missile attack against a house in Haisori village, North Waziristan region. Hayatullah Khan subsequently published a report with photographs on the missile attack, which contradicted the government version of the report. On 5 December, he was on his way to report about a protest against the missile attack, when he was abducted in the region by a group of unidentified gunmen. It is reported that Hayatulla Khan had been receiving anonymous threats for a few months prior to the abduction, warning him not to report on the security situation in the area.

484. On 22 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning Dr. **Imdad Baloch**, Dr. **Yousaf Baloch**, Dr. **Naseem Baloch**, **Ghulam Rasool**, Dr. **Allah Nazar**, Dr. **Akhtar Nadeem** and Dr. **Ali Nawaz**, all members of *Balochistan Students Organization*. According to the information received, on the night of 24 to 25 March 2005, they were arrested by approximately thirty armed men wearing police and ranger uniforms from a private residence on Norman Avenue, Gulistan-e-Johar, Karachi, after attending a peaceful rally against the army operation in Balochistan. Their whereabouts were unknown for two months. On 24 May 2005, Dr. Imdad Baloch, Dr. Yousaf Baloch, Dr. Naseem Baloch and Dr. Ghulam Rasool were released on bail. Dr. Imdad Baloch alleges that he and his fellow detainees had been detained incommunicado in solitary confinement for 33 days in Karachi, where they were subjected to torture and ill-treatment. He



was hit on the soles of his feet making him unable to walk and beaten all over his body, including on his kidneys, with leather straps while forced to lie prone in fetters on the ground. The four detainees were then taken to Quetta, where they were kept for 22 days and threatened with death if they continued to participate in politics. In August 2005, Dr. Allah Nazar, Dr. Akhtar Nadeem and Dr. Ali Nawaz were located at a police station in a village in Punjab province, held on charges of robbery. Dr. Allah Nazar was transferred to Balochistan and charged with terrorism. He is currently in at the Central Jail in Quetta. As a result of the treatment he received, he is virtually paralysed and has lost a substantial part of his memory. Akhtar Nadeem and Ali Nawaz were released on 2 November 2005.

485. On 12 May 2006, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Abdul Rauf Sasoli** and **Saeed Brohi**, both leaders of a Baloch political party, the Jamhoori Watan (Republican National Party). According to the information received, on 3 February 2006, Abdul Raof Sasoli was picked up by two plainclothes police officers in the Gulshan-e-Iqbal area of Karachi. The police then drove him away in his own car. On 10 March 2006, Saeed Brohi was picked up in Karachi. The whereabouts of the two men are unknown and they have not been seen or heard from since. The provincial police and military departments have denied having either man in their custody. According to the information received, a lawyer has filed a habeas corpus petition on behalf of the two men in the High Court. It is reported that Jamhoori Watan Party is one of a number of Baloch parties campaigning for the Balochistan province to be better developed, and for local people to be given both a bigger share of the revenue from the gas produced in the province, and more access to the gas itself. Since December 2005, Baloch political activists have campaigned over recent allegations of the unlawful killing of villagers by the army in Balochistan.

486. On 12 May 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, sent an urgent appeal regarding **Munir Mengal**, Director of "Baloch Voice" TV station. According to the information received, on 4 April 2006, he was arrested by intelligence agents at Karachi airport. Immigration officials informed his relatives that he was taken away by staff of the Inter- Services Intelligence (ISI), which is under the control of the army. His relatives tried to file a complaint with the police, but had not been allowed to do so. His current whereabouts are unknown although his relatives believe that he may be held in the Malir Cantonment of Karachi. There are concerns that his arrest was linked to plans to launch a Baloch-language TV station in Pakistan. Munir Mengal is the director of the first independent Baloch-language satellite television channel. The channel is based in the United Arab Emirates and is scheduled to start broadcasting in June 2006.

487. On 17 May 2006, the Special Rapporteur and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning Mr **Haneef Ramay**, Secretary General of the *Muttahida Labour Federation*, Ms **Ghulam Fatima** of the *Bonded Labour Liberation Front* and Ms **Farhat Parveen** of the *Pakistan Institute of Labour Education and Research*. According to the information received, on 2 May 2006 Mr Ramay, Ms Fatima and Ms Parveen, together with other workers and trade union leaders, were participating in a peaceful protest against bonded labour in the brick kiln industry in Pakistan in connection with International Labour Day. It is reported that police officers began a baton charge and beat a number of protestors including Mr Ramay, Ms Fatima and Ms Parveen, sustaining injuries. It is

alleged that 100 protestors were arrested and that 25 of them, including Haneef Ramay and Ms Ghulam Fatima, have been charged under section 16 of the Maintenance of Public Order Ordinance, 1960. Concern was expressed that the above events are connected with the activities of Mr Ramay, Ms Fatima and Ms Parveen in defence of human rights, in particular because of their peaceful participation in the protests against bonded labour in Pakistan.

488. On 26 June 2006, the Special Rapporteur sent an urgent appeal concerning **Mukesh Rupeta**, a correspondent with the independent television station *Geo TV*; and **Sanjay Kumar**, freelance cameraman. According to the information received, Mr Rupeta and Mr Kumar were kidnapped allegedly by the Inter-Services Intelligence (ISI) on 6 March 2006, while filming the base at Shahbaz, in Sindh province, where the United States military has its equipment and troops. No news was received regarding their whereabouts for three months. On 21 June, the two journalists were handed over to the Jacobabad police, who formally arrested them under the Official Secret Act on the charge of divulging official secrets. On the next day, they were taken before a judge in Jacobabad, who gave the police permission to hold them for another seven days. It is reported that Mr Rupeta and Mr Kumar had clear signs of having been tortured. Grave concern was expressed at the reported practice of ISI of kidnapping and torturing journalists. It is reported that there have been at least 21 cases of journalists kidnapped by ISI since October 1999.

489. On 26 September 2006, the Special Rapporteur, jointly with the Special Rapporteur on freedom of religion or belief, sent a letter of allegation concerning **Sultan Dogar** and **Abdul Sattar Khan**, both employees of the Daily Alfazal, a newspaper run by the Ahmadi community, in Lahore. According to the allegations received, on 9 September, Chenab Nagar (Rabwah) police raided the offices of the Daily Alfazal, where they arrested two of the newspaper's employees, Sultan Dogar, a printer and Abdul Sattar Khan, a journalist. The two men were charged under article 298B (offence of a member of the Ahmadi faith misusing holy personages or places) and article 298C (offence of a member of the Ahmadi faith calling himself a Muslim) of the Pakistan Penal Code, article 16 of the Maintenance of Public Order Act and article 9 of the Anti-Terrorism Act. Abdul Sattar Khan was subsequently released, but Sultan Dogar is still in detention. According to the information received, the police had indicated that the raid was part of the Government's policy of preventing the dissemination of hate literature. The charges are based on the articles in the newspaper which discussed Qadiyani beliefs and described Ahemdis as Muslims.

### **Replies from the Government**

490. By letter dated 10 May 2006, the Government of Pakistan replied to the communication of 20 February 2006, informing that on 2 February 2006 Mr **Amanullah Khan of Jammu** and Kashmir Liberation Front was detained at Rawalpindi along with other protestors during a demonstration against the construction of Bhasha Dam in the Gilgit region of the Northern Areas. The Government stated that during the demonstration Mr Amanullah disrupted the flow of the traffic of one of the busiest roads in Rawalpindi. He was arrested after having showed defiance and exhibited adamant behaviour, and on 25 February 2006 he was released on bail. The Government indicated that Mr Amanullah was not maltreated while in jail nor was he denied medical attention when required. Moreover, he was given all facilities permissible according to the rules and regulations.

491. By letter dated 19 December 2006, the Government of Pakistan responded to the communication of 7 March 2006 concerning the arrest of Mr **Naeem Mirza**, Mr **Imran Sharef**, Mr **Saeed Khan**, Mr **Zamurrad Baloch**, Mr **Imran Fatima** and Ms **Sadia Mumtaz**, all members of the Aurat Foundation, and Ms **Farzana Bari** member of the Pattan organization stating that no case against these six persons had been registered.

492. By letter dated 16 October 2006, the Government of Pakistan replied to the communication of 22 March 2006 concerning Dr. **Allah Nazar** and **Akhtar Nadeem**, explaining that they were suspected to be involved in terrorist activities, i.e. bomb blasts and murder. For this reason, they were kept under preventive detention in accordance to Section 3 of the Maintenance of Public Order. Dr. Nazar was released due to the lack of sufficient evidence to file an indictment, and Mr Nadeem, on whom sufficient evidence was found, was sent to judicial custody for facing trial in the court at Turbat. According to the inquiry report of the Home Department of Balochistan, no physical or mental torture had been inflicted upon the suspects.

### **Observations**

493. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 30 January 2006, 20 March 2006, 12 and 17 May 2006, 26 June 2006 and 26 September 2006.

### **Paraguay**

494. El 15 de febrero de 2006, el Relator Especial envió un llamamiento urgente en relación con el periodista de Radio Azotey, **Enrique Galeano**. De acuerdo con la información recibida el Sr. Galeano se encontraría desaparecido desde el día 4 de febrero de 2006. El Sr. Galeano habría sido víctima de amenazas de muerte recientemente, como resultado de las cuales habría tenido protección policial en su domicilio durante cinco días durante el mes de enero de 2006. Según nuestras fuentes, estas amenazas, así como la supuesta desaparición del Sr. Galeano, podrían estar asociadas a su trabajo periodístico mediante el cual habría denunciado en varias ocasiones actividades delictivas de autoridades de la región de Horqueta.

495. El 9 de marzo de 2006, el Relator Especial envió una comunicación en relación con el periodista **Juan Augusto Roa**, corresponsal del diario *ABC Color* en Encarnación (Sur). De acuerdo con la información recibida, el 27 de febrero de 2006, dos individuos que circulaban en una moto y portaban armas de fuego habrían disparado sobre el vehículo que conducía el Sr. Roa entre las localidades de Mayor Otaño e Itapúa. Los presuntos autores de los disparos se habrían dado a la fuga. Se informó que el periodista, que salió ileso de la agresión, habría presentado una denuncia en la comisaría de Yatytay, y que la policía estaría buscando a los dos supuestos agresores. El Relator Especial mostró su satisfacción por la acción inmediata emprendida por las autoridades para investigar este incidente. No obstante, expresó su temor a que esta agresión pudiera estar relacionada con la labor periodística del Sr. Roa, en concreto con sus investigaciones sobre el tráfico de drogas, robo de coches y corrupción local en la región.

496. El 20 de julio de 2006, el Relator Especial envió un llamamiento urgente en relación con el periodista **Luis Alcides Ruiz Díaz**. De acuerdo con la información recibida, el 15 de Julio de

2006 el Sr. Ruiz Díaz habría recibido amenazas a través de un mensaje de texto anónimo. Este sería el tercer mensaje de este tipo que habría recibido desde el comienzo de su trabajo informativo acerca del tráfico de drogas en la ciudad de Pedro Juan Caballero y la publicación de una lista con los nombres de los supuestos narcotraficantes. Así, el 19 de junio el Sr. Ruiz Díaz habría recibido por primera vez un mensaje intimidatorio, al cual siguió uno similar al cabo de unos días. Tales amenazas, denunciadas por el Sr. Ruiz Díaz el 17 de julio de 2006, podrían estar vinculadas a la tensa situación que actualmente se vive en la zona norte de Paraguay fronteriza con Brasil, donde el trabajo informativo sobre el tráfico de drogas en la zona habría provocado también la desaparición del periodista Enrique Galeano, que ya fue objeto de llamamiento urgente del Relator Especial el 15 de febrero de 2006 (llamamiento al que el Gobierno del Paraguay respondió el 27 de febrero de 2006). El Relator Especial expresó su temor a que estas amenazas pudieran estar relacionadas con la labor periodística del Sr. Ruiz Díaz, y en concreto con sus investigaciones sobre el tráfico de drogas en la zona.

497. El 25 de julio de 2006, el Relator Especial envió una comunicación en relación con **Luís Martínez, Zacarías Vega y Daniel Romero Bordón**, líderes de la Comunidad de San José del Norte, en el departamento de San Pedro. Según la información recibida, el 11 de julio de 2006 Luis Martínez y Zacarías Vega habrían sido increpados en su camino hacia San José del Norte por miembros de las Comisiones Vecinales de Seguridad (patrullas civiles armadas), quienes les habrían disparado tras preguntarles hacia dónde se dirigían. Luís Martínez habría resultado muerto con motivo de este suceso, mientras que Zacarías Vega habría logrado escapar tras resultar herido. El día siguiente a estos acontecimientos, Daniel Romero Bordón y familiares de Luís Martínez habían recibido amenazas a causa de las investigaciones que estaban llevando a cabo en torno a la muerte de este último. El 13 de julio de 2006, la esposa de Luís Martínez y el Sr. Romero Bordón habrían presentado una denuncia a la fiscalía del distrito, en la que se solicitaba una investigación sobre estos hechos. El mismo día, la Coordinadora de Derechos Humanos del Paraguay (CODEHUPY) habría presentado hábeas corpus por el que se solicitaba protección para el Sr. Romero Bordón y su familia. Según esta misma información, no existiría constancia de una protección adecuada por parte de las autoridades para que los líderes de esta comunidad puedan desempeñar legítimamente sus actividades sin miedo a ser amenazados o que se atente contra ellos y contra sus familiares. El Relator Especial teme que los acontecimientos descritos puedan estar relacionados con las labores de difusión de información que el Sr. Martínez desarrollaba como líder comunitario, y en concreto con sus protestas referentes a los derechos de los campesinos y a sus campañas contra el uso excesivo de pesticidas, así como a su oposición al uso de armas por parte de patrullas civiles en la zona.

498. El 29 de septiembre de 2006, el Relator Especial envió una comunicación en relación con la situación del periodista **Carlos Dogliani Staricco**. Según la información recibida, el 18 de septiembre de 2006 Carlos Dogliani Staricco, periodista del semanario local *El Regional*, fue condenado a cinco meses de prisión por la Corte Suprema de Justicia de Uruguay acusado de cuatro delitos de difamación. En diciembre de 2004, el Sr. Dogliani fue condenado a cinco meses de prisión por la juez local de Paysandú por estos mismos delitos. Sin embargo, en julio de 2005 un tribunal de apelaciones revocó de manera unánime esta sentencia, la cual acaba de ser restituida por la Corte Suprema. Los delitos de difamación se deben a la publicación de una serie de artículos en los que el Sr. Dogliani acusaba a un funcionario local de haber condonado gran parte de la deuda tributaria de un contribuyente.

499. El 19 de octubre de 2006, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió una comunicación en relación con **Martín Almada**, abogado defensor de derechos humanos y miembro del Comité Ejecutivo de la Asociación Americana de Juristas (AAJ). De acuerdo con la información recibida, recientemente Martín Almada habría sido objeto de un juicio público en el cual se le habría acusado de los delitos de difamación, calumnia e injuria. Según las informaciones recibidas, el Comisario Rolando Alum inició un pleito contra Martín Almada después de que hiciera declaraciones a la prensa en las cuales denunciaba la herencia de la dictadura y a los que apoyaron al régimen militar. Se expresa la preocupación de que el juicio de Martín Almada represente un intento de desacreditarle y pueda estar relacionado con sus actividades en defensa de los derechos humanos.

500. El 27 de noviembre de 2006, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la independencia de los magistrados y abogados, envió una comunicación en relación con **Martín Almada**. De acuerdo con la información recibida, Martín Almada se encontraría hoy sometido a procesos penales por supuestos delitos contra el honor de conocidos exponentes de la dictadura de Alfredo Stroessner: el ex comisario Rolando Alum e Hirán Delgado Von Leppel. Martín Almada ha sido víctima de prisión y torturas en las cárceles durante el periodo de la dictadura. Desde entonces, Martín Almada ha realizado una de las más importantes contribuciones para el esclarecimiento de los crímenes cometidos durante el régimen de Alfredo Stroessner con el hallazgo de los archivos de la Policía Política de la dictadura militar de Alfredo Stroessner. Desde que descubrió estos archivos, Martín Almada promovió querrela criminal contra Alfredo Stroessner, Sabino A. Montanaro —ex Ministro del Interior— y Pastor Coronel —ex Jefe de la Policía Política—, y pidió a la justicia paraguaya la investigación del Operativo Cóndor, pacto entre los militares de Argentina, Brasil, Bolivia, Chile, Paraguay y Uruguay. En el año 2000, comenzó el hostigamiento judicial de Martín Almada por sus comentarios hechos a la prensa sobre la corrupta gestión de , Magno Ferreira Falcon, administrador durante la dictadura de la empresa binacional Yacyreta (Argentina/Paraguay). En octubre de 2003, Martín Almada trató de "torturador" al Comisario Rolando Agustín Alum, quien le promovió una querrela criminal por difamación y calumnia. En los archivos, Martín Almada encontró las pruebas que señalaban al Comisario Alum como responsable de torturas, que fueron presentadas al Juzgado de Liquidación y Sentencia que absolvió a Martín Almada en el 2005. Pero la Cámara de Apelación anuló la decisión y ordenó reiniciar el juicio. También, en agosto de 2006, Martín Almada declaró a la prensa que la herencia de la dictadura era la corrupción y la impunidad, y que los cómplices y encubridores del dictador debían ser juzgados y remitidos a la Penitenciaría Nacional. El ex Presidente de la Corte Suprema de Justicia, Hiram Delgado von Leppel, se dió por aludido y promovió una querrela criminal por difamación y calumnia en contra de Martín Almada, por haberle herido en su honor. La primera audiencia de conciliación estaría fijada para el lunes 27 de noviembre. En este contexto, se expresa temor que las querrelas criminales presentadas en contra de Martín Almada tengan el propósito de disuadirlo en el ejercicio legítimo de su libertad de expresión y de sus actividades de abogado y defensor de los derechos humanos.

### Respuestas del Gobierno

501. Por carta con fecha 27 de febrero de 2006 el Gobierno del Paraguay transmitió la siguiente información en respuesta al llamamiento urgente del 15 de febrero de 2006 sobre la presunta desaparición del periodista **Enrique Galeano**. El Gobierno del Paraguay informó que efectivamente existe una causa abierta en la Fiscalía Zonal de Horqueta en la que se investiga la supuesta desaparición de Enrique Galeano. Se informó igualmente que en la Fiscalía no existe ninguna denuncia de amenaza de muerte formulada por Enrique Galeano o por sus familiares hacia su persona y que en ningún momento se brindó protección policial al citado o a su familia.

502. Por carta con fecha 18 de mayo de 2006 el Gobierno del Paraguay transmitió la siguiente información en respuesta a la comunicación del 9 de marzo de 2006 sobre los supuestos disparos al vehículo del periodista **Juan Augusto Roa**. Se indicó que la Dirección de Derechos Humanos del Ministerio Público solicitó un informe de la causa al Agente Fiscal de la Unidad Uno. Se informó de que Augusto Roa sufrió una tentativa de homicidio por dos personas con arma de fuego en mano, y que el hecho fue denunciado por el propio Sr. Roa. Se indicó que se estaban realizando investigaciones con pobladores de la zona, aunque se indicó que es una zona muy despoblada. El Gobierno de Paraguay señaló la dificultad de poder identificar a los delincuentes salvo si éstos actuaran de modo similar. De todas maneras, la carpeta fiscal de investigación continúa abierta. El Gobierno expresó que las medidas cautelares solicitadas para evitar incidentes similares no se pueden otorgar al no haberse identificado los autores del intento de homicidio.

503. Por carta con fecha 3 de octubre de 2006 el Gobierno del Paraguay transmitió la siguiente información en respuesta a la comunicación del 25 de julio de 2006 sobre los Sres. **Luís Martínez, Zacarías Vega y Daniel Romero Bordón**. El Ministerio de Relaciones Exteriores del Paraguay, por medio de la Dirección de Derechos Humanos, informó que el Ministerio Público se está ocupando de la investigación del hecho pudiendo identificar a uno de los autores del homicidio de nombre Tomas Dosantos Mikoski, quien se declaró en rebeldía. Se informó que una orden de captura se ha impartido en todo el territorio.

### Observaciones

504. El Relator Especial agradece al Gobierno la información recibida y le invita a responder a las comunicaciones enviadas los días 20 de julio, 29 de septiembre, 19 de octubre y 27 de noviembre de 2006.

### Peru

505. El 16 de febrero de 2006, el Relator Especial envió una comunicación en relación con la supuesta agresión sufrida por la periodista **Karina Chávez** por parte de seguidores de un candidato presidencial durante un mitin político. De acuerdo con las informaciones recibidas, la Sra. Chávez, quien se encontraba cubriendo un mitin del partido Unión por el Perú (UPP), habría sido directamente increpada por el candidato presidencial Ollanta Humala Tasso, quien habría señalado que cierto sector de la prensa estaría realizando una campaña en su contra. Se alega que instantes después, al bajar del estrado, se encontró con un grupo de simpatizantes de Humala que le hubieran preguntaron a que medio pertenecía. Al indicar que trabajaba en el programa *Prensa*

*Libre* de América Televisión, la periodista habría recibido un escupitajo y un puñetazo en el rostro.

506. El 25 de abril de 2006, el Relator Especial envió una comunicación en relación con la periodista **Marilú Gambini**, directora del programa *Confidencial* del Canal 31 de televisión. De acuerdo con la información recibida, el 5 de abril de 2006 la Sra. Gambini abandonó el país con sus dos hijos tras ser amenazada de muerte por individuos aún sin identificar. Según se informa, el 28 de marzo de 2006 la periodista habría recibido una llamada telefónica en la cual una mujer desconocida le habría asegurado que le quedaba una semana de vida y le habría advertido que se preocupara por sus hijos. Se alega que la Sra. Gambini habría sido anteriormente víctima de dos robos cometidos en marzo y mayo del 2005, durante los cuales unos desconocidos habrían allanado el domicilio de la periodista y sustraído diversos documentos y videos relacionados con investigaciones sobre el narcotráfico. El Relator Especial expresó su temor a que estas acciones estén relacionadas con la labor periodística de la Sra. Gambini, en particular con sus informes sobre la presunta influencia de narcotraficantes en la política peruana.

507. El 29 de mayo de 2006, el Relator Especial, conjuntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos envió un llamamiento urgente en relación al **Centro de Asesora Laboral (CEDAL)**, una organización que promueve los derechos económicos y sociales en el Perú. De acuerdo con la información recibida, el director ejecutivo de la Agencia Peruana de Cooperación Internacional (APCI) habría declarado públicamente la posibilidad de recurrir al artículo 96 del Código Civil en contra del CEDAL. Este artículo establece que “el Ministerio Público puede solicitar judicialmente la disolución de la asociación cuyas actividades o fines sean o resulten contrarios al orden público o a las buenas costumbres.” Según se informa, estas declaraciones habrían ocurrido tras una teleconferencia de prensa el 12 de abril de 2006, durante la cual integrantes del CEDAL habrían llamado la atención acerca de los impactos negativos del Tratado de Libre Comercio (TLC) entre los Estados Unidos y Perú en materia de derechos humanos. Según las informaciones la APCI también habría acusado al CEDAL de desviar donaciones extranjeras para financiar una campaña en contra del TLC. Se expresó temor a que estos eventos pudieran estar relacionados con el trabajo que hace el CEDAL en defensa de los derechos económicos y sociales de los ciudadanos de Perú, y que las supuestas acciones llevadas a cabo por la APCI puedan ser un intento de minar la labor que hace el CEDAL en defensa de los derechos humanos.

508. El 30 de agosto de 2006, el Relator Especial envió un llamamiento urgente en relación con la situación del periodista **Mauricio Aguirre Corvalán**. Según la información recibida, el 15 de agosto de 2006 la Segunda Fiscalía Superior Penal de Lima solicitó que se impusiera a Mauricio Aguirre Corvalán una sanción de ocho años de prisión y un pago de 600.000 soles por haber cometido el delito de “revelar secretos de interés nacional en agravio del Estado”. La denuncia responde a la difusión, en septiembre de 2003, de un video grabado en septiembre de 1998 en el que aparecen imágenes del ex presidente Alberto Fujimori reunido con miembros del Consejo de Defensa Nacional. Según estas mismas fuentes, las imágenes emitidas por el programa *Cuarto Poder* habían sido previamente difundidas en el año 2000 a través de un video perteneciente a la segunda campaña de reelección del mencionado ex presidente.

509. El 12 de diciembre de 2006, el Relator Especial envió un llamamiento urgente en relación con la situación siguiente. El 30 de octubre de 2006, la jueza del 35.º Juzgado Penal de Lima

ordenó al director del diario *Expreso*, Luis García Miró, que se abstuviera de publicar cualquier noticia o reportaje periodístico que tuvieran relación con Diego García Sayán, ex ministro de justicia. La orden acompañó a la decisión judicial de abrir investigación ante una querrela interpuesta por Diego García Sayán contra Luis **García Miró** por el supuesto delito de injuria y difamación agravada, tras una serie de acusaciones contra el ex ministro que publicó el diario *Expreso*. El 14 de noviembre de 2006, el periodista **Michael Cahuas**, corresponsal del diario *La Jornada*, fue agredido por Ciro Gavilán, candidato a la alcaldía en Ayacucho. De acuerdo con la información recibida, Ciro Gavilán y varios militantes de su agrupación política increparon al periodista por las críticas al candidato y lo golpearon y amenazaron de muerte. Michael Cahuas denunció el hecho ante la gobernación de la ciudad y solicitó garantías a la Prefectura. El 17 de noviembre de 2006, desconocidos pintaron mensajes intimidatorios en la Plaza Central de Huaraz, contra **Lalo Villa**, director periodístico del programa *Primera Edición*, contra **Gudelia Gálvez**, conductora y directora del informativo *Noticias en Re* y contra **Javier Poma**, director y conductor del programa informativo *ATV Noticias Regional*. En los mensajes los amenazaban de muerte y los acusaban de corruptos y de defender los intereses de la empresa minera Barrick.

510. El 20 de diciembre de 2006, el Relator Especial envió un llamamiento urgente en relación con la situación siguiente. El 10 de diciembre de 2006, el director de la emisora *La Voz de Cainarachi*, el sacerdote **Mario Bartolini**, fue amenazado de muerte con un mensaje pintado en la fachada de la Iglesia de Barranquita. Según la información recibida la intimidación se debería a la cobertura que, desde hace más de un año, el medio realiza sobre las protestas de los pobladores por la concesión de más de 20.000 hectáreas de tierras expropiadas por el Estado a los campesinos y cedidas a la empresa Palmas de Cainarachi.

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

511. Por carta con fecha 3 de febrero de 2006, el Gobierno del Perú transmitió la siguiente información en respuesta a la comunicación de 27 de octubre de 2005 en relación con las amenazas que habría recibido Salomón Lerner. El Gobierno indicó que se solicitó información al Ministerio del Interior y Ministerio Público y que la Comisión Nacional de Derechos Humanos del Ministerio del Interior realizó un informe en respuesta a este caso. Se informó de que la denuncia formulada se encuentra en estado de investigación policial a cargo de la Dirección de Seguridad del Estado por plazo de 30 días. Se dispuso que se realizaran de forma preliminar la manifestación del agraviado y la diligencia de verificación y transcripción de los mensajes electrónicos mediante los cuales se efectuaron las amenazas de muerte e insultos. El Ministro de Justicia remitió el Oficio de 24 de enero de 2006 a Salomón Lerner por el que reiteró las expresiones de solidaridad y respaldo por parte del Gobierno Nacional y concertó una reunión en el Despacho Ministerial de Justicia, la cual no se concretó porque Salomón Lerner consideraba innecesario que el Estado peruano adoptara en su favor medidas de protección.

### **Observaciones**

512. Al finalizar este informe, el Relator Especial no había recibido respuesta a las comunicaciones enviadas. El Relator Especial invita al Gobierno a responder a dichas comunicaciones.



## Phillippines

513. On 1 March 2006, the Special Rapporteur sent an urgent appeal concerning the newspaper *The Daily Tribune*. According to the information received, on 24 February, President Arroyo had declared a national state of emergency, following an alleged coup plot against her Government. On the following day, the police conducted a raid of the editorial office and printing press of *The Daily Tribune*, reportedly without presenting a warrant. The police confiscated copies of the newspaper and other documents. Later on the same day, the head of the national police announced the temporary “takeover” of *The Daily Tribune* at a news conference. The police had been constantly present at the editorial office of *The Daily Tribune* since the raid. Concern was expressed that the raid may have been conducted in an attempt to prevent *The Daily Tribune* from publishing news critical of the Government. Concern was heightened in light of a report that the National Telecommunications Commission had stated that the Government reserved the right to close down or take over any media networks, if they did not comply with the rules on media coverage, set by the Government.

514. On 26 April 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation regarding Mr **Elpidio de la Victoria**, an environmental lawyer and programme director of the Cebu City Bantay Dagat Commission, and his colleague Mr **Antonio Oposa**, an environmental lawyer and leader of the Visayan Seas Squadron. The Cebu City Bantay Dagat Commission and the Visayan Seas Squadron are organizations that oppose illegal commercial fishing and campaign against the environmental degradation in the Visayan Sea Marine Triangle. According to the information received, on 12 April 2006 Mr Elpidio de la Victoria was shot in the back of the head by an unknown gunman, as he was leaving his house in Barrangay Daus, Talisay City. It is reported that Mr Elpidio de la Victoria was taken to hospital, where he died on 13 April 2006 as a result of his injuries. It was further reported that a police officer had been arrested in connection with this killing. It was alleged that in the weeks prior to his killing, Mr Elpidio de la Victoria had reported to friends and relatives that those opposed to his and Mr Antonio Oposa’s work had raised 1 million pesos to kill them both. It is also reported that Mr Antonio Oposa had received serious death threats in recent weeks. Grave concern was expressed that the killing of Mr Elpidio de la Victoria and the threats against Mr Antonio Oposa may have been connected to their work in defence of the environment in particular because of work to protect coral reefs in the Visayan Sea Marine Triangle from illegal fishing and environmental degradation. Further concern was expressed that the life of Mr Antonio Oposa may be in immediate danger.

515. On 31 May 2006, the Special Rapporteur sent a letter of allegation concerning **Paul Manaog**, president of the Camarines Sur Capitol Press Association and reporter for the local radio station *DWLL*; **Albert Orsolino**, photojournalist with *Saksi Ngayon* daily newspaper and former president of Camanava Press Corps; **Iring Maranan**, columnist for the tabloid *Ratsada Balita* and host of the local television programme *Sapul, Walang Sablay* on the cable network in San Pablo; and **Fernando Batul**, commentator for the radio station *DYPR*. According to the information received, on 6 May 2006, Paul Manaog was shot by unidentified gunmen, and seriously wounded in the central city of Naga, Camarines Sur Province. It was reported that he was in a critical condition in a local hospital. Reports indicated that the motive of the attack may have been linked to Paul Manaog's critical reporting about local political figures. On 16 May,

Albert Orsolino was ambushed and shot dead by unidentified men in Caloocan City, north of Manila. The reason for his murder is unknown. On the same day, Iring Manaog was violently attacked by a San Pablo City Councillor inside the San Pablo city hall building. It is reported that Iring Maranan had been receiving threats in relation with his open criticism against alleged anomalies at the local government. Furthermore, on 22 May 2006, Fernando Batul was shot dead by unidentified gunmen, on the way to work in Puerto Princesa on Palawan Island. Prior to his murder, he broadcasted on a case of illegal recruitment of workers, in which local government officials were implicated to be involved. Grave concern was expressed that the attacks against the above-mentioned journalists may have been linked to their work, particularly in light of the information indicating that at least some of them had reported on sensitive issues involving local government officials.

516. On 19 June 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers, sent an allegation letter concerning Ms **Elisa Tita Lubi**, a pro- democracy activist, member of the Board of Trustees of SELDA, an organization of former political prisoners, a participant in the Program and Management Committee and Regional Council of the Asia-Pacific Forum on Women, Law and Development (APWLD) and former Coordinator of the GABRIELA Commission on Women's Rights. SELDA is a member organization of the National Alliance for the Advancement of People's Rights National Alliance for the Advancement of People's Rights (KARAPATAN). According to the information received, the Ministry of Justice of the Philippines was currently seeking a court order for an arrest warrant to be issued for Ms Elisa Tita Lubi, together with 48 other individuals, based on the charges of rebellion/insurrection under articles 134 and 135 of the Revised Penal Code, allegedly because of Ms Lubi's pro democracy activities and her open criticism against the Government. It is reported that on 4 May 2006, the judge of the Makati Regional Trial Court (RTC) dismissed the charges against Ms Lubi. It is further reported that the Department of Justice filed a motion against this judgement on the grounds that the judge had not acted impartially and that a new judge was assigned to the case of Ms Lubi. According to the information received, the case will be heard again on 21 June 2006. Concern was expressed that the charges may have been related to Ms Lubi's legitimate activities in defence of human rights, in particular because of her pro-democracy activities.

517. On 23 June 2006, the Special Rapporteur sent a letter of allegation concerning **George Vigo**, a frequent contributor to *Union of Catholic Asian News (UCAN)* and presenter on radio *dxND*; and his wife **Macel Alave-Vigo**, presenter of a programme on radio *dxND*. They were also known for having helped create the Federation of Reporters for Empowerment and Equality (FREE). According to the information received, on 19 June 2006, Mr Vigo and Mrs Alave-Vigo were shot by two unidentified gunmen near their home in Kidapawan on the southern island of Mindanao and died at the hospital. Concern was expressed that the attack against Mr Vigo and Mrs Alave-Vigo was directly linked to their journalistic activities.

518. On 4 July 2006, the Special Rapporteur sent an urgent appeal concerning Mr **Crispin Beltran**, Mr **Saturnino C. Ocampo**, Mr **Teodoro A. Casino**, Mr **Joel G. Virador**, Mr **Rafael V. Mariano** and Ms **Liza L. Maza**, members of the House of Representatives (HOR) of the Philippines Congress representing three opposition parties Bayan Muna Party, Anakpawis Party and Gabriela Women's Party. They are collectively known as "Batasan 6". According to the

information received, on 25 February 2006, police arrested Mr Beltran based on a 21-year-old arrest warrant, which was issued during the martial law regime. He was subsequently charged for rebellion, and remains in custody to date. On the same day, police made an attempt to arrest Mr Ocampo without showing him his arrest warrant, after he spoke at the press conference held by the opposition bloc of the House of Representatives. Following those events, Mr Ocampo, Mr Casino, Mr Virador, Mr Mariano and Ms Maza sought the protective custody of HOR on 27 February and on 1 March. In this relation, the Senate passed a resolution stating that the rights under the Constitution and existing law should be upheld and that the Congress must continue to extend protection to Mr Ocampo, Mr Casino, Mr Virador, Mr Mariano and Ms Maza. Since then, the judiciary and the police have made several attempts to charge the five representatives of rebellion, especially when they decided to leave the protective custody. Despite their recourse to the Supreme Court against the charges brought against them, their freedom of movement and expression is gravely restricted, which appears to be a violation aggravated by the fact that the "Batasan 6" are elected members of HOR. Reports also indicate that Mr Ocampo's travels outside the Philippines were blocked by the Department of Justice on three different occasions. The members of "Batasan 6" have been openly requesting thorough investigation into the allegation that the President may have been involved in electoral fraud during the 2004 presidential elections. They have also been openly critical about the Government's policy on different issues, including the division between the rich and the poor, land reform and the conflict between the government and the National Democratic Front.

519. On 5 July 2006, the Special Rapporteur sent a letter of allegation concerning a community radio station, **Radyo Cagayano**. According to the information received, on 2 July 2006, several masked and armed men raided and torched Radyo Cagayano, in Cagayan province. Six members of the radio's staff, including the station's director, Susan Mapa, who were on the premises at the time, were able to leave the radio station. They were only slightly injured in spite of an attempt by the raiders to handcuff them before setting fire to the building. According to information received, the National Union of Journalists of the Philippines has allegedly accused the Army, often criticized in Radyo Cagayano's programs, of carrying out this raid. The National Union of Journalists of the Philippines has also condemned inaction by the police at the time of the attack.

520. On 12 July 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning Mr **Wilfredo Cornea**, leader of the Mulawin Lanatan Agrarian Reform Beneficiaries Association (MULARBA), an organisation that works in defence of the economic rights of rural workers, Mr **Eladio Dasi-An**, a volunteer with the Alliance for the Advancement of People's Rights (KARAPATAN), Mr **Tito Marata**, provincial officer of the Rural Missionaries of the Philippines and a member of the Farmers for Agrarian Reform Movement, Mr **George Vigo**, project officer of the Mindanao Youth Leadership Program of the Community and Family Services, International (CFSI), a non-governmental organisation which provides rehabilitation programmes for internally displaced persons and co-founder of the Federation of Reporters for Empowerment and Equality, Ms **Maricel Vigo**, wife of Mr George Vigo and area coordinator for SPOTS (Solar Power Technology System) of the Department of Agrarian Reform (DAR), a project which distributes solar power to communities who have no access to electricity and co-founder of the Federation of Reporters for Empowerment and Equality and Mr **Mario Domingo**, President of the Hacienda Cambuktot Agrarian Reform Beneficiaries Association (HACARBA), an organization that works in defence of the economic rights of rural workers by advocating for

land reform. According to the information received, on 17 May 2006 Mr Mario Domingo was shot and killed in the Hacienda Cambuktot, la Castellana, allegedly by armed employees of a former landowner whose land had been redistributed to a number of farmers by the Department of Agrarian Reform. On 17 June 2006 Mr Tito Marata was shot dead by a gunman in Loboc village, Oroquieta City. On 19 June 2006, Mr George Vigo and Ms Maricel Vigo were shot and killed by two armed masked men in Mindanao province. On 20 June 2006 Mr Eladio Dasi-An was killed by two unknown men as he was travelling home in Barangay Malusay. On 26 June 2006, Mr Wilfredo Cornea was shot by two unidentified men at his home in Hacienda Sagay. Grave concerns were expressed that the killings of Mr Mario Domingo, Mr Eladio Dasi-An, Mr Wilfredo Cornea and Mr Tito Marata are connected with their activities in defence of the human rights of rural workers, in particular because of their advocacy for land reform in the Philippines. Further concerns were expressed that the killings of Mr George Vigo and Ms Maricel Vigo were connected with their defence of the right to freedom of expression and opinion in the Philippines.

521. On 12 August 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a joint letter of allegation concerning **the death of 10 journalists**, whose cases had not been solved or had been solved only partially. **Edgar Damalerio**, a radio commentator for DXKP-Pagadian, managing editor of the "Zamboanga Scribe", and host of the cable TV program "Enkwentro" (Encounter), was gunned down on 13 May 2002 in Pagadian. Reportedly the killer received a long prison sentence on 29 November 2005, but there are allegations that no investigations had been conducted with regard to the instigation or involvement of third persons in the crime; the latter being particularly relevant in the context of Pagadian, where several killings of journalists have taken place in recent years. **Edgar Amoro**, a journalist, was murdered on 2 February 2005 in Pagadian. Reportedly, arrest warrants had been issued for the two suspects, who were not detained at the time the communication was sent. **Rolly Cañete**, a radio journalist was murdered in Pagadian on 20 January 2006. **Marlene Esperat**, a journalist and anti-corruption activist was murdered on March 2005. According to the information received, the trial of the alleged perpetrator is ongoing, though investigations on the presumed instigators had been disrupted. **George Benaogan**, a radio journalist who had survived an ambush on August 2004, was shot dead in December 2005. **Rolando "Dodong" Morales**, a radio journalist for DXMD, was brutally killed on 3 July 2005 in Polomolok. This killing was the subject of a previous communication on 6 July 2005, (AL PHL 14/2005), on which he had received two replies from the Government on 19 October and 12 January 2006. **Armando Pace**, the host of a program on local radio station DXDS, who had often been threatened for his criticism of local politicians and drug trafficking, was gunned down on 18 July 2006 in Digo, Mindanao. Reportedly, the murderers have not been identified. **George Vigo**, a contributor to the Union of Catholic Asian News (UCAN), a news agency, and his wife, Maricel Vigo, the host of a program on radio DXND, who were both also human rights activists, were murdered on 19 June 2006 in Kidapawan. **Ely Binoya**, a Radyo Natin political commentator, who was reportedly outspoken in his criticism of corruption in the local elite, was gunned down by two men as he was returning home on 17 June 2004 in the southern city of Malongon.

522. On 17 August 2006, the Special Rapporteur sent a letter of allegation concerning, **Roger Panizal**, a reporter of the Newspaper *TikTid*, who was seriously injured after being shot three times. Allegedly, the victim had identified the alleged perpetrator, who was accompanied by two accomplices. Since 1 of August 2006, **Hazel Gup-ay**, a local public radio station presenter in

Tabuk, had been receiving death threats, reportedly, due to her reporting on an ambush against a left-wing activist and her criticism of the local authorities.

523. On 25 August 2006, the Special Rapporteur sent a letter of allegation concerning **Angelo Gavarra, Manolito Gertes, Joseph Alicabo, Ricky Bindol, Rommel Mariano and Jun Torres**, trade union workers members of Toyota Motor Corporation Philippines Workers Association (TMCPWA). Allegedly they were injured in a serious manner, by police and security guards while submitting a petition concerning a labor union case at the Department of Labor and Employment office in Intramuros, Manila. Later on the same day, 21 TMCPWA members, including the six injured, were charged of inciting to sedition, trespassing, damages to properties and physical injuries. According to information received, the Department of Labor and Employment discarded an earlier application concerning TMCPWA as a legally recognized trade union, preferring instead to support the application of another trade union, in spite of a decision of the Supreme Court of the Philippines favorable to TMCPWA.

524. On 5 September 2006, the Special Rapporteur sent an urgent appeal concerning **Raffy Tulfo**, a columnist of "Abante Tonite" newspaper and part-time television broadcaster. According to the information received, on 31 of July 2006, the Court of Appeals confirmed the conviction on 14 counts of libel of Mr Tulfo. He was sentenced to 32 years and eight months imprisonment plus a fine of over US\$285,000. Reportedly, the counts of libel were related to several articles he had written nearly a decade ago about a customs officer. In its 31 July 2006 decision, the Court of Appeals stated that the prosecution had successfully proven that Tulfo's stories were written in reckless disregard as to its truth.

525. On 14 December 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of Human Rights Defenders, sent an urgent appeal concerning death threats against **Father Rolando de Leon**, a Roman Catholic Priest of the Diocese of Malolos, Bulacan and Parish Priest of San Andres Apostol Parish, Norzagaray, and spokesperson for the Catholic Church's provincial human rights office in Bulacan's capital of Malolos. Fr Rolando de Leon was the subject of a joint communication addressed to the Government on 2 December 2005. According to the new information received, Fr de Leon has repeatedly been subjected to acts of intimidation and death threats since October 2005 when he received envelopes containing M-16 bullets. It is reported that during a series of meetings held by members of the military in Bulacan Province between January and October 2006, Fr de Leon was accused of membership of the New People's Army. Previously, in December 2005, he was reportedly depicted in posters displayed in the main public square of Norzagaray and its immediate environs, wearing a robe with the logos of the Communist Party of the Philippines and the New People's Army. Furthermore, in March 2006, General Jovito Palparan Jr, the former military commander of the region, reportedly stated in local newspaper *Balita* that Fr Rolando de Leon "cannot be trusted because he is a liar". This statement was apparently made in response to comments Fr de Leon had made at a press conference in relation to human rights violations in Bulacan Province which had been documented by the aforementioned human rights office in Malolos. It is also reported that uniformed soldiers have repeatedly visited the church asking for Fr de Leon without giving a reason for their presence. According to sources, armed soldiers also remain in the church's courtyard on occasion. Concern was expressed for the safety and security of Fr Rolando de Leon as it was feared that the sustained campaign of hostility against him, represented an attempt by the military, to deter him from carrying out his legitimate

activities in defence of human rights, in particular his work in documenting and raising awareness of human rights violations in the Bulacan Province.

### **Replies from the Government**

526. By letter dated 3 August 2006, the Government of Philippines replied to the communication of 31 May 2006 concerning some reported attacks on journalists. As to Mr **Alberto Orsolino**, the Government informed that on 16 May 2006, he was ambushed by two motorcycle-riding men who shot Mr Orsolino causing his instantaneous death. The Police indicated that one of the suspects, Franklin Sabe, has been harbouring ill-feelings against the victim due to the killing of Franklin's brother on 18 May 2005. The Sabe family suspected that Mr Orsolino was the mastermind of Franklin's brother killing and a complaint of murder was filed against him, although dismissed later on for lack of evidence. The Government also informed that on 26 May 2006, Police filed a case of murder before the Department of Justice against the suspects Franklin Sabe, Roland Manaug and the alleged gunman Rommel C. Lizaran. Concerning the journalist **Ireneo Dumanog**, alias Ering Maranan, the Government indicated that on 16 May 2006 he was kicked once on his thigh and choked on the neck by San Pablo City Councilor Edgardo Adajar while the City Council was in session. Mr Maranan filed cases of coercion and dereliction of duty against Councilor Adajar at the Prosecutor's Office. The Government also reported the situation of journalist Fernando Batul, who, according to police investigations, was shot dead on 22 May 2006. Two days after this Police Officer Aaron Madamay was arrested and a case of murder was filed against him. This suspect is now detained in jail and investigation is still continuing to unveil the other perpetrator. Finally, the Government informed that there is no record of any incident against Mr Paul Manaug, and that the case is still being verified.

527. By letter dated 20 October 2006, the Government of the Philippines replied to the communication of 31 May 2006 concerning the journalist **Mr Paul Manaug**. Based on the investigation by the Police, the Government informed that Mr Manaug and his wife were inside a bistrot at Villa Caceres Hotel when one of the five suspects confronted him. It was also reported by the Government that without any apparent reason the suspects mauled and shot Mr Manaug when he decided to leave the hotel with his wife. The Government informed that gun shot wounds caused his death.

528. By letter dated 28 August 2006, the Government replied to the communication of 19 June 2006, stating that a complaint against **Ms Lubi and other individuals** for the crime of rebellion is pending consideration before the trial court. The Government indicated that the usual domestic procedure begins with a police investigation of the case, then a criminal complaint is filed against the person who was found by the police to have committed the offense and the complaint is then filed before the municipal/city prosecutor's office (of the Department of Justice). The Government's reply explained in its entirety the whole criminal procedure according to Philippine's regulations. In the present case, the Directorate for Investigation and Detective Management of the Philippine National Police (PNP) conducted an investigation of several individuals suspected of committing the continuing crime of rebellion. The offence of rebellion is punishable under articles 134 and 135 of the Revised Penal Code. In the Philippine jurisprudence, the crime of rebellion is by its nature a crime of a multitude, a vast movement of men and complex net of intrigues and plots. In committing the offence, participation by the

offender in the actual clash of arms with government forces is not absolutely necessary. The mere fact that a person knowingly identifies himself with an organization which is openly fighting to overthrow the Government is enough to make him liable for rebellion. In the case at hand, it appears that following police investigation, PNP instituted a complaint for rebellion against Jose Ma. Sison and 50 other individuals, including Ms Tita Lubi, before the National Prosecution Service of the Department of Justice (DOJ). The complaint was docketed as I.S 06-225. The charges against Ms Lubi and her co respondents were based on the results of the preliminary investigation conducted by the prosecutors pursuant to their legally-mandated functions and reflected in their findings and resolutions which are in accord with the law, evidence, and established jurisprudence on the matter. When asked about submitting the written responses to the charge, Ms Tita Lubi chose not to participate in the preliminary investigation and did not answer the complaint against her. DOJ found probable cause against the respondents, including Ms Lubi, for the crime charged. Criminal information for rebellion was thereafter instituted against the respondents before the Regional Trial Court of Makati (RTC). About the same time, it appears that another case for rebellion was also being instituted against 14 individuals by DOJ. The complaint was docketed as I.S No. 06-226 and is separate and distinct from the complaint instituted against Ms Lubi. It appears, however that his case was also raffled to Branch 137 of the RTC Makati City presided by Judge Delorino and was docketed as Criminal Case No. 06-452. Subsequently, following the conduct of preliminary investigation in IS. No 06-226, it was discovered by DOJ that the respondents in IS. No. 06-225, and in IS. No. 06-226 were guilty of the same act of rebellion. Hence, DOJ sought to amend the criminal information filed in Criminal Case No. 06-452(which stemmed from the complaint subject of IS No 06-226) by including those respondents in I.S. No. 06-225. After the accused in a criminal case has entered his plea, an amendment of the information against him can only be made with leave of court. In the instant case, DOJ sought the permission of Judge Delorino to amend the information filed in Criminal Case No 06-452 against the 14 individuals. By amending the information in Criminal Case No. 06-452, DOJ would have had included the 50 other individuals subject of IS No. 06-225 in this case (criminal case NO. 06-452). Judge Delorino however denied DOJ's plea. After the denial of its plea to have information in Criminal Case No. 06-452 amended, DOJ filed a motion for the inhibition of Judge Delorino. Judge Delorino voluntarily inhibited herself from hearing Criminal Case No. 06-452. Judge Delorino also issued an order inhibiting herself from hearing the criminal case which stemmed from IS No. 06-225 filed against the 50 individuals which include Ms Tita Lubi.

529. By letter dated 17 August 2006, the Government of Philippines replied to the communication of 23 June 2006 regarding the case of **George Vigo** and his wife **Maricel Alave-Vigo**. The Government indicated that Mr George Vigo was a block timer radio commentator, an active member of a movement for Lumad muslim and christian youth, a project officer of an NGO and a former correspondent of the Union of Catholic Asian News (UCAN). It was also reported that Ms Maricel Alave-Vigo was the co-anchor of a radio program and a secretary of Congresswoman Emily Talino Santos of the 1<sup>st</sup> District of Cotabato Province. The Government informed that the victims were shot to death on 19 June 2006 by two unidentified men riding a motorcycle. The Government indicated that the motive for the killing is revenge; in November 2004 George Vigo attended a media dialogue with Commander Benjie of the New People's Army (NPA) in Makilala. During the dialogue, the Philippine Army raided the area that resulted in the killing of Commander Benjie. Since then, the Communist Party of the Philippines-New People's Army (CPP-NPA) doubted the loyalty of George Vigo. The Government also informed

that a case with IS Number 2006F-268 had been filed against suspects Junever Madaguit a.k.a. Jek-Jek, Juning, Dionisio and Bobong, an active member of CPP-NPA Guerilla Front 51, North Cotabato, and three other John Does.

530. By letter dated 20 October 2006, the Government of the Philippines replied to the communication of 5 July 2006 concerning the case of **Radyo Cagayano**. The Government informed that, based on the report submitted by the Regional Intelligence and Investigation Division-Police Regional Office 2, on 2 July 2006 the Community Police Action Center (COMPAC) received a call informing that a fire incident was in progress a Radyo Cagayano. According to the Government's reply, eight unidentified armed men attacked the radio station, held all the employees inside, and took their cell phones. One of the armed men set the building on fire with the use of an unknown substance. The Government indicated that one of the victims, Mr Richard Ayudan, claimed that the armed men were wearing military watches, leading them to conclude that the perpetrators were members of the Philippine Army. The Government informed that the Baggao Police Station was continuing its efforts to identify the perpetrators, despite the reluctance and disinterest of the victims to pursue the case.

531. By letters dated 23 August 2006, 29 August 2006 and 20 October 2006 the Government of Philippines replied to the communication of 17 August 2006 regarding the case of **Mr Roger Panizal** and **Ms Hazel Gup-ay**. The Government informed that in a report submitted by the Philippine National Police (PNP) based on their investigation, on 14 August 2006, Mr Roger Panizal, a tricycle driver, was attacked along Juliana Sreet, in Malinta, Venezuela. Two suspects in the incidents have been identified, while two others are still at large. The Government informed that police are still conducting further investigation on the case.

532. By letter dated 31 October 2006, the Government of the Philippines replied to the communication of 17 August 2006 regarding the case of **Ms Hazel Gup-ay**. The Government informed that on 1 and 7 August 2006, Ms Hazel Gup-ay, received phone text messages criticizing her alleged bias in presenting the facts behind the ambush of Dr. Constancio Claver through her local radio programme. The messages received were not really threats but only strongly worded criticism and a plea for Ms Gup-ay to be objective in her reporting. The Government reported that no complaint had been lodged. According to a report of the Philippine National Police-Provincial Regional Office (PNP-PRO) Ms Gup-ay reported the matter to the Tabuk Police Station for appropriate action. The police tried to locate the sender of the messages even though the messages were not really threats. The Government indicated that Ms Gup-ay no longer receives such messages, and the police assured her that appropriate assistance would be provided to her if the need arises.

533. By letter dated 6 November 2006, the Government of the Philippines replied to the communication of 25 August 2006 concerning **Angelo Gavarra**, **Manolito Gertes**, **Joseph Alicabo**, **Ricky Bindol**, **Rommel Mariano** and **June Torres** (all members of the Toyota Motors Corporation Philippines Workers Association, TMCPWA), stating that the individuals above were violently dispersed when they staged a protest at the Department of Labor and Employment (DOLE) office in Manila on 16 August 2006. The Government reported that more than 21 members of TMCPWA forced their way to the DOLE building by overpowering the guards at the entrance gates of the building. Six persons went to the seventh floor where DOLE officials hold office, and inflicted injuries and threatened the lives of the security guards that were trying



to stop them. They refused to leave the premises until their demands were met. According to the Government's reply, some security guards were injured in their effort to keep the gates of the building closed and lives of DOLE officials and employees could have been jeopardized were not for the security guards' action. The police conducted an investigation but the 21 members of the TMCPMWA refused to give any statement and insisted on seeing a lawyer. The group was released the following day, after giving their statements. The Government informed that this incident was not the first where members of TMCPWA were involved in violent actions. No complaint had been lodged by the alleged victims or on their behalf. However, the Philippine authorities were at the time this reply was sent, in the process of determining the liabilities of those TMCPWA members under the penal statutes that they may have violated. The Government reported that no prosecutions had been undertaken against the alleged perpetrators. As far as the domestic legislation is concerned, the Philippine 1987 Constitution guarantees freedom of speech and of the press and the right of assembly and petition. Also the Public Assembly Act of 1985 requires a mayor's permit prior to the holding of a public assembly. The Government indicated that it has always been the rule that the applicant has the right to a permit subject only to reasonable regulation, and that the sole limitation of the rights of free speech and assembly is the danger, or a character both grave and imminent, of a serious evil to public safety, public morals, public health, or any legitimate public interest.

534. By letter dated 21 July 2006, the Government of the Philippines replied to the communication of 12 July 2006 concerning the killing of **Mario Domingo**, Tito Marata, Eladio Dasi-An, Wifredo Cornea and Mr and Mrs George Vigo, asking the Special Rapporteur to provide more complete information on the places where the incidents occurred to ensure a proper coordination with the local government authorities of the Philippines.

535. By letters dated on 8 September 2006 and 20 October 2006, the Government of the Philippines replied to the communication of 5 September 2006 concerning **Raffy Tulfo**. The Government informed that the Court of Appeals affirmed the 28 February 2005 decision of the Regional Trial Court of Pasay City convicting the accused Raffy Tulfo, together with two more people. The court sentenced him to imprisonment for six months to two years and to indemnify private complainant, Mr Carlos Ding So, for moral damages in the amount of PhP 500,000.00 (US\$10,000). Mr Tulfo appealed the CA's decision affirming his conviction for 14 counts of libel before the Supreme Court, where it is pending to date. As for the background of the case, the Government indicated that Mr Tulfo has a regular column in a daily tabloid. From 3 March 1999 to 12 May 1999, Mr Tulfo wrote 14 articles in his column about the supposedly shady dealings in the Bureau of Customs involving the complainant Carlos Ding So. According to Mr Tulfo, his sources in the Bureau of Customs reported about the alleged extortion activities of Mr So, as well as his supposed affair with a married woman. According to the Government's reply, Mr Tulfo called Mr So an "extortionist", a "corrupt public official", a "smuggler", an "adulterer" among other insults and asked Acting Customs Commissioner Nelson Tan to dismiss Mr So from the service. This prompted Mr So to institute complaints for libel against the three accused. It is also reported by the Government that Mr Tulfo, while not denying authorship and publication of the defamatory articles, insists that his writings were not libellous for lack of malicious intent. In its decision, the Court of Appeals found the existence of actual malice and denied the defence of Mr Tulfo. According to the Court of Appeals, Mr Tulfo wrote the news articles "with reckless disregard of whether they were false or not". The Government of Philippines informed that freedom of speech and expression includes freedom from prior

restraint and subsequent punishment. The Supreme Court ruled that the freedom of expression ranks in the hierarchy of constitutional rights higher than freedom from poverty and, hence, the norms for the regulations of expression place more stringent limits on State action. Philippine laws, however, do not protect libellous, slanderous and obscene speech. The Government informed that every libel prosecution is tested by the courts on the rigorous and exacting standard of whether it could violate such fundamental guarantee. Articles 353 to 359, together with articles 200 and 201 of the Revised Penal Code are mentioned.

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

536. By letter dated 19 January 2006, the Government of the Philippines replied to the communication of 25 August 2005 regarding the alleged attempt on the life of **Attorney Romeo T. Capulong**. The Government, following information from the Philippine National Police (PNP), informed that the allegation that Atty. Capulong was a victim of an attempt on his life by 15 unidentified gunmen on 7 March 2005 is unsubstantiated. An investigation conducted by PNP revealed that there was no such incident reported or recorded. The Government indicated that elicitation on the matter was conducted in the neighbourhood concerned in Hacienda Luisita but it yielded no information. Police authorities continue their monitoring and any developments will be duly relayed to the Special Rapporteur. The Government also informed that no complaint has been lodged and that no penal, disciplinary or administrative sanctions have been imposed.

537. By letter dated 12 January 2006, the Government of the Philippines replied to the communication of 6 July 2005 concerning Mr **Rolando Morales**. It was reported that the Department of Justice informed that State Prosecutor Juan Navera issued charges against the accused, Mr Federico Sarifa, Sonny Dimol a.k.a “Onyot” and a number of still unidentified “John Does” for the murder of Mr Morales and frustrated homicide as regards Ms Leticia Antigwa, Mr Morales’ companion. The Government indicated that two criminal cases for murder and frustrated murder were filed with the General Santos City Regional Trial Court against Sarifa, Dimol and the John Does. The Court issued warrants of arrest against Sarifa and Dimol on 4 November 2005, and would later schedule arraignment and pre-trial proceedings. . Furthermore, the Government explained that the widow and family of Mr Morales were granted monetary compensation. It was further reported that there was no clear evidence yet regarding the motive for the murder and whether it was a consequence of the victim’s occupation as radio commentator.

538. By letter dated 19 January 2006, the Government of the Philippines replied to the communication of 23 November 2005 concerning the killing of Mr **Roberto Ramos** and Mr **Ricardo “Ding” Uy**. The Government indicated that an initial police investigation revealed that on 20 November 2005, Mr Ramos was shot death and immediately after the shooting his assailants fled on a motorcycle. A “Task Group Ramos” was formed by the Police to investigate this killing. At the moment this reply was sent, a criminal complaint was yet to be instituted pending police investigations into the circumstances surrounding this death as well as the identification of the assailants. The Government explained what the procedure to follow in such cases was under the Philippine criminal justice system. As far as Mr Ricardo Uy is concerned, it was reported that initial police investigation revealed that on 18 November 2005, Mr Uy was shot to death inside his store and that police attempted to pursue the gunman but the responding police officers failed to catch the suspect. “Task Force Uy” was formed to

investigate his killing. The Government also stated that at the time this reply was sent, criminal complaint was yet to be instituted pending police investigation of the circumstances surrounding the death of Mr Uy as well as the identification of his assailants.

539. By letter dated 19 January 2006, the Philippine Government responded to the urgent appeal sent on 25 August 2005 concerning Mr **Castor Gamalo**, Rev. **Edison Lapuz**, Mr **Alfredo Malinao**, Mr **Fedilito Dacut**, Mr **Romeo T. Capulong**, Fr. **Allen Caparro** and Ms **Aileen Caparro**. The Government stated that the Philippine National Police found that the the alleged attempt on the life of Mr Capulong by 15 unidentified gunmen, on 7 March 2005, was unsubstantiated. It was noted that an investigation conducted by PNP concluded that no such report was filed regarding the aforementioned incident and that an inquiry launched in the concerned neighbourhood of Hacienda Luisita, yielded no results. The Government indicated that PNP continues to monitor the situation and will provide information on any further developments regarding the case as appropriate.

### **Observations**

540. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 1 March 2006, 26 April 2006, 12 August 2006 and 14 December 2006.

### **Republic of Korea**

541. On 22 March 2006, the Special Rapporteur jointly, with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding two human rights activists: Park Lae-goon of Sarangbang Group for Human Rights, an organization which works on human rights monitoring and advocacy, publication, providing resources and human rights education; and Cho Baek-ki of the Catholic Human Rights Committee, an organization which works on human rights advocacy. According to the information received, on 15 March 2006, a peaceful demonstration was held in Daechu-ri, Pyungtaek village, in Kyungki-do, against the forced eviction of villagers by riot police. The eviction followed the agreement by the United States and Korean Governments to expand the United States military base in Pyungtaek. The protesters were met by the riot police, who arrested a number of protesters and brought them to the police station, including Park Lae-goon and Cho Baek-ki. Reports indicate that Park Lae-goon was arrested while sitting in front of the village school, while Cho Baek-ki was arrested while he was trying to stop the forklift truck that was used for evicting villagers from their homes. Some of the villagers were injured after being pushed to the ground by the riot police. Most of the arrested protesters were released on 17 March, but Park Lae-goon and Cho Baek-ki were held in Pyungtaek Prison at the time this communication was sent. There has been a national campaign since February 2006 against the forced eviction in Pyungtaek.

542. On 13 April 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Mr Jang Do-jeong**, **Mr Shin Yong-gwan**, and **28 other protestors**, who according to the information received, were arrested on 7 April 2006 while peacefully protesting against the cutting off of waterways leading to rice fields in Pyeongtaek, Gyeonggi province. It is further

reported that the 28 protestors were released but that Jang Do-jeong and Shin Yong-gwan, remain in detention and had been charged with interference with government operations and illegal protest. It is alleged that during the arrests, police officers used excessive force and that 10 protestors were injured as a result. It was reported that daily candlelight vigils had been held for over 500 days in in Pyeongtaek, in opposition to the forced eviction of farmers from their land for the expansion of a United States military forces base in Pyeongtaek. The protestors included people from Pyeongtaek and hundreds of local farmers who claimed that the expansion of the United States military base will affect the livelihoods of hundreds of local farmers and their families; and members of the South Korea Committee Against the United States Base Extension in PyeontaeK (KCPT), and peace activists who claim the expansion of the United States military base may have a negative impact on peace in the Korean Peninsula. It was reported that the Defence Ministry had blocked two out of three canals leading to the rice fields and one pump pipe in order to prevent farmers from planting rice. Furthermore allegedly, the Ministry of Defence had destroyed some rice fields and some bridges to prevent farmers from accessing the rice fields. Concern was expressed that the charges against Jang Do-jeong and Shin Yong-gwan may have represented an attempt to prevent them from legitimately peaceful protesting in defence of human rights, in particular the rights of the rice farmers whose livelihoods will be adversely affected by the closing of waterways in Pyeongtaek and who await their appeal to be heard at the Central Land Tribunal.

543. On 27 June 2006, the Special Rapporteur sent an urgent appeal concerning **more than 100 participants of a demonstration** against the restructuring of the Rural Development Administration (RDA). According to the information received, on 25 May 2006, about 200 members of the Korean Government Employees Union (KGEU) participated in a peaceful demonstration in front of RDA, protesting against restructuring plans and the alleged repression against KGEU. The demonstration had been legally notified to the authority in advance. It was reported that the riot police had violently raided the demonstration and blocked people from participating in in it. Several people were severely beaten by the riot police and plain clothes police officers, including **Mr Kim Jeong Soo**, KGEU, Secretary-General; and **Mr Choi Nak Sam**, Secretary of Public Relations. They were taken to the hospital. Eight KGEU members were arrested, against whom warrants of detention were issued. They were brought before the Suwon Joongbu police station. The court subsequently approved four of those warrants, which resulted in the detention of **Mr Park Woon Yong**, Secretary of Organizing and Dispute; **Mr Lee Jeong Soo**, Director of Organizing and Dispute; and two KGEU vice-presidents, **Mr Park Kee Han** and **Mr Han Seok Woo**. The other four were released. On 9 June 2006, **Mr Park Woon Yong**, **Mr Lee Jeong Soo**, **Mr Park Kee Han** and **Mr Han Seok Woo** were prosecuted by the Suwon Regional Prosecutor's Office. They were charged for all or several of the following: bodily injury by special obstruction of public duty, special obstruction of public duty, general obstruction of traffic, violation of Assembly and Demonstrations Act and violation of Local Public Officials Act. The first hearing of their trial should have been held on 28 June 2006.

544. On 19 October 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Korean Government Employees Union (KGEU)** Chapter Offices as part of the implementation of the "Directive to promote the transformation of illegal organisations into legal trade unions (voluntary withdrawal of membership)" issued on 22 March 2006 by the Ministry of Government Administration and Home Affairs. According to the information received, on 22

and 25 September 2006, thousands of riot policemen were reportedly deployed around more than 100 municipalities to implement the Directive which qualified KGEU as an “illegal organisation” for failing to submit notice of establishment pursuant to this law. These policemen allegedly allowed groups of men hired by municipalities to storm various KGEU local offices and forcefully remove its members. In some cases, riot policemen allegedly cut off electricity, Internet access and phone lines. In a number of incidents, members of KGEU and members of solidarity organisations, such as the Korean Public Service Union (KPSU) and the Democratic Labour Party, were arrested. Reports indicated that, so far, more than 81 KGEU chapter offices were closed down across the country. An urgent appeal concerning this organization was sent on 27 June 2006. Concerns were expressed that these acts of repression against KGEU members and offices may have been in retaliation of their legitimate activities in defence of labour rights in South Korea.

### **Replies from the Government**

545. By letter dated 19 April 2006, the Government of the Republic of Korea replied to the communication of 22 March 2006 concerning the arrest of protesters against expanding the United States base in Pyongtaek. The Government informed that on 15 March 2006, the police arrested illegal and violent protesters, among whom Mr **Park Rae-Goon** and Mr **Joh Baek-Gi**; they were sent to the Prosecutor’s Office on 24 March 2006 and 5 days after that they were released on bail. The Government indicated that the suspects were leaders of illegal and violent riots, interfering in the execution of provisional disposition of lands and buildings around Daechu branch school in line with the court’s decision. Additionally, the Government explained that suspects had interfered in police arrests of criminals and in the banning of agricultural activities by the Ministry of National Defence, and attacked the police officers with fists. The Korean Government stated that it was not a peaceful protest and that “Urgent Action”, a group demanding a release of Park Rae Goon and Joh Baek Gi, submitted a petition to the National Human Rights Commission (NHRC) on 24 March 2006 claiming that the police used force against protesters. In response, NHRC expressed its willingness to pay special attention to matters relating to the arrest of two human rights activist Park and Joh. The Government reported that peaceful rallies and demonstrations are guaranteed in accordance with relevant laws. Nonetheless, with a view to maintaining the rule of law principle, the Korean Government informed that they impose stringent measures against illegal or violent demonstrations involving an act of challenging public authority or occupying public facilities. The Government stated that the arrest of Park Rae-Goon and Joh Baek-Gi is legal given that obstructing the performance of official duties and leading an illegal and violent riot constitute a crime under article 70 of the Criminal Procedure Code. Hence, the Government indicated that the international regulations on freedom of opinion and expression are not applicable to this case.

546. By letter dated 6 September 2006, the Government of the Republic of Korea replied to the communication of 13 April 2006, indicating that on 7 April 2006, the police arrested illegal and violent protesters, among whom **Shin Yong-Gwan** and **Jang Do-Jeong**. On 14 April 2006, three days after both individuals were issued detention warrants, they were sent to prosecution and on trial. The Government informed that suspects Shin Yong-Gwan and Jang Do-Jeong, against the relocation of the United States basis, interrupted the Ministry of National Defence (MND) presentation for residents on the construction of United States bases in Pyeongtaek and attacked police by throwing burning rice straws. According to the Government, this was done in an

attempt to hamper the duty of MND to block farm roads and waterways of the lands planned for the said United States bases. The Government indicated that this was not a peaceful protest, and that the suspects themselves used illegal violence. It was reported that there had been no appeal until now from either of the suspects. The Korean Government informed that they respect peaceful demonstrations. The two suspects were detained in accordance with article 70 on the Code of Criminal Procedure.

### Observations

547. The Special Rapporteur thanks the Government for its replies, and invites the Government to respond to the communications dated 27 June 2006 and 19 October 2006.

### Republic of Serbia

548. On 1 September 2006, **Slavko Savic**, senior editor of *RTV Kursumlija*, was allegedly sentenced by the Municipal Court in Prokuplje to four months' imprisonment without parole for libel. This judgment confirmed the first degree sentence. From 11 March through 1 April 2005, *RTV Kursumlija* was broadcasting text messages (SMS) sent by viewers, among which there were some, in an anonymous form, assuming that a member of the Municipal Assembly of Kursumlija had allegedly committed a petty crime in a town store. *RTV Kursumlija* is a member of the *Association of Independent Electronic Media (ANEM)*.

549. On 4 October 2006, the Special Rapporteur sent a letter of allegation concerning **Snezana Nikolic**, a journalist of the daily *Dnevnik*, who on 21 September 2006, was given a six-month prison sentence, suspended for two years, by the Novi Sad District Court for an article she had published on *Dnevnik* four years ago. In the said article, Ms Nikolic reported about the involvement of a lawyer in a conflict surrounding some construction sites in Vojvodina. Reportedly, the District Court's sentence stated that, in Nikolic's case, a suspension in the execution of the sentence was less harsh than a fine.

### Observations

550. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

### Romania

551. Le 27 février 2006, le Rapporteur spécial a envoyé une lettre d'allégation sur la situation de **Marian Garleanu**, correspondant du journal *Romania Libera* dans la région de Vrancea, qu'aurait été arrêté, le 16 février 2006, pour avoir acquis de manière apparemment illicite des documents confidentiels concernant les activités des forces armées occidentales déployées en Afghanistan. Le journaliste aurait été libéré le 18 février après avoir été mis formellement en accusation par le Tribunal. Le 22 février, le procureur du Tribunal de la ville de Focsani, aurait mis en accusation pour la même raison un autre journaliste, **Sébastien Oancea**, correspondant du journal national *Ziua*. Selon les informations reçues, ni *Romania Libera* ni *Ziua* auraient publié le contenu des documents confidentiels. Si retenus coupables, les deux journalistes risquent une peine jusqu'à sept ans de prison.

## Réponses du Gouvernement

552. On 23 May 2006, the Government replied to an allegation letter send by the Special Rapporteur on 27 February 2006, on the cases of the two Romanian journalists, Mr **Garteanu** and Mr **Oancea**, investigated for the possession of classified documents. These two cases are investigated under the file no. 51/D/P/2006, instrumented by the Department for Investigating Organized Crime and Terrorism Offenses, within the General Prosecutors' office of the High Court of Cassation and Justice. According to the information provided by the Romanian competent institutions, in both cases, the investigations concerns offenses stipulated by the Law no. 51/1991 on the national security of Romania. Article 19, paragraph 1 forbids the collection and transmission of information of a secret or confidential nature, by any means, without respecting the legal framework. Law No. 182/2002 regarding classified information, referred to in your letter, does not include criminal law provisions. Consequently, in establishing the criminal responsibility on cases of illegal transmission of classified information, the Romanian law does not distinguish between persons that are compelled to keep confidential information and the other citizens. Nevertheless, a broad revision of the entire legal framework concerning national security and intelligence activity in Romania is under way. The new laws will meet the latest developments, as well as European and international requirements in these areas, and appropriate attention will be paid to increasing the guarantees afforded for the full respect of the freedom of expression. The case of the two journalists is investigated within the criminal file no. 51/D/P/2006, instrumented by the Department for Investigating Organized Crime and Terrorism Offenses (DIOCTO) within the General Prosecutors' office of the High Court of Cassation and Justice. DIOCTO is checking the circumstances under which the leak of classified military information took place at some units of the Ministry of Defence and is identifying those responsible. The criminal investigation initiated against Mr Marion Garleanu and Mr Sorin Oancea (the journalist who possessed CDs with classified information) aims to collect the evidence regarding the crimes of unlawful possession and transmission of secret documents, to identify the perpetrators and establish their responsibility, in order to decide whether to start the legal action. Up till now, the investigation had shown that the two journalists held the CDs with classified military information for five months. They did not use the information for journalistic purposes, nor did they give the CDs over to the authorities, although they mentioned their existence during private and official conversations. Moreover, in December 2005 and January 2006, respectively, the two journalists independently sent the CDs to other people. DIOCTO states that other journalists revealed publicly the leaks of classified information from the Ministry of Defence and, at the same time, gave the CDs over to the competent authorities. DIOCTO mentions that none of the investigations made in this case was aimed to identify any journalistic source or to restrain the freedom of expression or information of the two journalists. The deeds of the two journalists, namely possessing classified military information and transmitting such information under other circumstances than those stipulated by the law, qualify as offences under the Criminal code and the Law on the National Security of Romania. The two laws do not exonerate journalists that commit such deeds from criminal responsibilities.

## Observations

553. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à l'appel urgent envoyé le 27 février 2006.

### Russian Federation

554. On 22 August 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning Ms **Elina Ersenoyeva**, an employee of the non-governmental organisation INFO-MOST, a journalist with the "Chechen Society" newspaper and her aunt Ms Rovzan Ersenoyeva. INFO-MOST provides information for young HIV/AIDS sufferers in Chechnya and is funded by UNICEF. As a journalist, Ms Elina Ersenoyeva has written a number of articles which have reported on human rights violations allegedly committed by the authorities in Chechnya. According to the information received, on 17 August 2006, Ms Elina Ersenoyeva and Ms Rovzan Ersenoyeva were abducted by a group of armed, masked men in Prospekt Pobedy, Grozny, Chechnya. Elina Ersenoyeva and Rovzan Ersenoyeva were reportedly forced into a car and had their heads covered. It was reported that they were taken to an unknown location and forced into basement. Approximately two hours later, Rovzan Ersenoyeva was taken from the basement and to a street in Grozny, where she was released. Allegedly, Elina Ersenoyeva contacted her mother on the evening of 17 August 2006 by mobile telephone and stated that she would be released that same evening. Reportedly, Elina Ersenoyeva has not been seen since 17 August 2006 and her whereabouts remain unknown. On 15 August 2006, by letter to a number of international human rights organizations, Elina Ersenoyeva had reportedly stated that she and her family had been threatened and harassed by Russian security forces. Allegedly, the security forces had arrested and beaten Elina Ersenoyeva's mother and had confiscated her personal possessions. Grave concerns were expressed regarding the physical and psychological integrity of Ms Elina Ersenoyeva and the fact that her alleged abduction may have been connected with her activities in defence of human rights, in particular her reporting of human rights violations in Chechnya.

555. On 8 September 2006, the Special Rapporteur sent a letter of allegation concerning the situation of the independent newspaper *Permsky Obozrevatel's*. According to information received, on 22 August 2006, the home of **Vladimir Korolyov**, a *Permsky Obozrevatel's* photojournalist, was searched in his absence. Allegedly, investigators took personal items from his home and told Korolyov's wife that a federal warrant had been issued for Mr Korolyov. On 10 August 2006, **Evgeniya Silivanova**, a *Permsky Obozrevatel* journalist, was followed by an unknown man as she was returning home from work. The man, who later on introduced himself as an investigator from the Perm Prosecutor's Office, accused Ms Silivanova of lack of cooperation with an investigation, warning her of being under investigation for her involvement in illegal activities. Ms Silivanova reportedly filed a complaint with the Perm's Prosecutor Office. On 2 August 2006, the offices of *Permsky Obozrevatel* and its partner company, *Alfa*, were raided by a group of law enforcement officers, including armed Federal Security Service (FSB) agents, investigators from Perm's Prosecutor's Office, and local police officers. It has been reported that they took computers, floppy disks, flash cards, as well as personal items. The authorities argued the newspaper had been accused of disclosing state secrets. Reportedly the seized equipment has not been returned. On 25 May 2006, *Permsky Obozrevatel's* and *Alfa's* offices were searched by OMON team masked members. Newspaper material and equipment were confiscated. Although the Perm Regional Court ruled in favor of the newspaper, ordering the authorities to return the confiscated computers, on 13 June 2006 the computers were allegedly still in their possession. On 17 March 2006, the special edition on the elections issued by *Permsky Obozrevatel* was confiscated following an order issued by the Mayor candidate, Igor



Shubin. The confiscated edition allegedly contained negative information about Shubin's election campaign. At the moment when this communication was sent, *Permsky Obozrevatel* was under investigation for allegedly having committed the crimes of "insult," "violating the right to private life," and "disclosing state secrets."

556. On 6 October 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning Mr **Lev Ponomarev**, Executive Director of the Russian movement "For Human Rights", a coalition of non-governmental organisations and civil society groups involved in the promotion and protection of human rights in Russia. Mr Ponomarev was subject of an urgent appeal sent on 24 February 2004. According to the information received, on 26 September 2006, Mr Ponomarev was arrested and sentenced to three days' detention for organising a peaceful demonstration in honour of the victims of the Beslan tragedy. Reportedly, the organizers of the event had complied with the Federal Law of the Russian Federation on assemblies, meetings, demonstrations, processions and pickets by informing the relevant authorities of their intention to hold a commemorative event in Lubyanka square in Moscow on 3 September 2006. According to sources the authorities suggested that the demonstration be held on a different day in order to guarantee "maximum security for the participants" involved. However, a crowd of approximately 50 demonstrators gathered at Lubyanka Square on 3 September, where they encountered members of the police force, and subsequently a number of individuals were allegedly detained for a brief period. It is reported that 13 individuals were charged with offences pertaining to the administrative code of the Russian Federation. It is further reported that Mr Ponomarev was the first of those charged to appear before a court where he was sentenced to three days' detention and, according to sources, he was released on 29 September 2006. Concerns were expressed that the arrest and subsequent detention of Mr Ponomarev was an attempt to prevent him from carrying out his activities in defence of human rights.

557. On 12 October 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and Special Rapporteur on the question of torture, sent an allegation letter concerning, journalist and author **Anna Politkovskaya**, who was killed on 7 October 2006, in her apartment building in Moscow. She was one of the leading journalists on Chechnya, known for her independent reporting on human rights violations against civilians in Chechnya. She also published several books about Chechnya and on the political situation in the country. Well known and appreciated in Russia and abroad, she won several international awards for her commitment to human rights and her professional activity. Ms Politkovskaya repeatedly faced intimidation and harassment, and was detained and threatened on several occasions, including in Chechnya. She often received death threats. Grave concerns were expressed that Ms Politkovskaya was killed because of her legitimate activities in defence of human rights, i.e. her continuous denunciation of human rights abuses committed by Russian forces and their Chechen allies through two wars in Chechnya. In particular, the Special Rapporteur on torture, in view of his at that time planned mission to the Russian Federation with one of its focuses being on the Republic of Chechnya, expressed his concern that she may have been killed in connection with a report she was to have filed in relation to torture and disappearances in Chechnya.

### **Replies from the Government**

558. By letter dated 4 October 2006, the Government of the Russian Federation replied to the communication of 22 August 2006 concerning the abduction of Ms **E.A. Ersenoeva**. The Government noted that criminal proceedings were instituted by the procurator's office of the Zavod district in Grozny on the basis of evidence of an offence contrary to article 126, paragraph 2 (a), of the Criminal Code of the Russian Federation (abduction by a group of persons by prior conspiracy). In accordance with the results of the investigation no information indicated that Russian law enforcement agencies were threatening Ms Ersenoeva and her family, or that her disappearance was linked to her work as a human rights defender, in particular her reports of human rights violations in the Chechen Republic. According to the Government of the Russian Federation, Ms Ersenoeva wrote about 12 articles about social issues such as the disabled and refugees while working for the newspaper "Chechen Society" and her published work contained nothing controversial or critical. The Government indicated that the investigation of this criminal case had not yet been completed.

559. By letter dated 24 November 2006, the Government of the Russian Federation replied to the communication of 22 August 2006 providing supplementary information to the case of Ms **E.A. Ersenoeva**. The Government noted that on 17 August 2006, Elina Alaudinovna Ersenoeva, a freelance reporter with the newspaper Chechenskoe Obshchestvo ("Chechen Society"), was abducted by a group of eight unidentified men armed with automatic weapons. On 29 August 2006, criminal proceedings were initiated on this matter by the Zavodskoy district procurator's office in Grozny. In the course of the criminal investigation, the authorities of the Procurator of the Chechen Republic took steps to verify statements in an open letter addressed by a number of non-governmental organizations (International Helsinki Federation for Human Rights, International Federation of Human Rights and the Demos Centre) to the effect that, several days before her abduction, Elina Ersenoeva had appealed to them for protection from harassment by the security forces to which she was being subjected because she was the wife of Shamil Basaev. The Government indicated that Elina Ersenoeva's mother, M.I. Ersenoeva, who was also questioned in the case as a victim, stated that, after her daughter had married Basaev, she had not been harassed by anyone. After Shamil Basaev's death, in the summer of 2006, they were visited at her house by employees of the Federal Security Service from the town of Nazran, who voiced no complaints to her daughter during their discussions with her. The Government informed that E.K. Astamirova, also questioned in this matter as a witness, affirmed that she was the aunt of Elina Ersenoeva. According to E.K. Astamirova, she was someone in whom Elina Ersenoeva confided, yet the latter never mentioned to her that she was being subject to harassment. It was reported by the Government that before her niece was abducted, she was not aware that she had ever approached any human rights organizations. The Government concluded that there was no evidence from the records of the questioning of T.M. Aliev, editor-in-chief of the newspaper Chechenskoe Obshchestvo, who was brought in as a witness, indicating that Elina Ersenoeva had appealed to him for help in connection with any harassment. The investigations into this matter were continuing under the supervision of the authorities of the procurator of the Chechen Republic at the time this letter was received.

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

560. By letter dated 24 April 2006, the Government of the Russian Federation responded to the urgent appeal sent on 9 June 2005 concerning **Mr Stanislav Dmitrievsky**, Director of the Nizhny Novgorod-based Russian human rights NGO Russian Chechen Friendship Society (RCFS), and its Deputy Director, **Ms Oksana Chelysheva**. The Government stated that in January 2005, following the publication of two articles, “An appeal to the Russian people by Ahmed Zakaev, Deputy Prime Minister of the Chechen Republic of Ichkeria” and “An appeal by President Aslan Maskhadov of the Chechen Republic to the European Parliament” *Pravozashchita* newspaper, which is published by the Nizhny Novgorod Human Rights Association and the interregional voluntary organization Russian-Chechen Friendship Society, the Nizhny Novgorod regional procurator’s office opened criminal proceedings under article 282, paragraph 2, of the Criminal Code of the Russian Federation (Incitement to national, racial or religious hatred). The Government indicated that in the course of the criminal investigation, the executive director of the Nizhny Novgorod Human Rights Association, S.M. Dmitrievsky, was charged. On 3 February 2006, the Sovetsky district court in Nizhny Novgorod found him guilty as charged and he was sentenced to two years’ in prison, suspended, with a four-year probation order. It was also noted that Criminal proceedings were also initiated against the Russian-Chechen Friendship Society on 2 September 2005, under article 199, paragraph 2, of the Criminal Code of the Russian Federation (Non-payment by an organization of tax and/or duty).

### **Observations**

561. The Special Rapporteur thanks the Government for its replies, and notes that the communication dated 6 October 2006 was still in the process of being translated, at the time this report was finalised.

### **Saudi Arabia**

562. On 11 August 2006, the Special Rapporteur jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning the journalist and writer **Wajeha Al-Houwaider**. According to the information received, on 4 August 2006, Ms Al-Houwaider was arrested, while walking on the bridge connecting Saudi Arabia with Bahrain holding a banner that stated “Give women their rights”. According to the information received, Ms Al-Houwaider had been banned from writing in the Saudi press in 2003, in accordance with the decree passed by the Ministry of Information in that same year. Concern was expressed that her arrest may have represented an attempt by the authorities to prevent her from carrying out legitimate activities to raise awareness of women’s human rights and her exercise of freedom of expression.

563. On 10 November 2006, the Special Rapporteur, the Special Rapporteur on violence against women, its causes and consequences and Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning Ms **Wajeha Al-Huwaider**, a member of the group Human Rights First in Saudi Arabia. According to information received, officers of the Mabahith security force detained Ms Wajeha Al-Huwaider in Khobar on 20 September 2006. They interrogated her for six hours about a women's rights protest she was organizing. During the interrogation, the Mabahith officers demanded Ms Al-

Huwaider to provide written answers to prepared questions concerning her internet writings and human rights activities. They then demanded that she signed a pledge not to engage in any future human rights activities, including writing articles, organizing protests and speaking to journalists or foreign organizations. They did not provide her with a copy of the signed pledge. Officers had also threatened her with losing her job with Saudi Aramco, the national oil company, if she were to break the pledge made. Following her release, she tried to return to Bahrain where she resides. Reportedly, border officials told her that her name appeared on a list of persons banned from travel, and that she was not allowed to leave Saudi Arabia. Only on 28 September 2006, officials lifted the ban and allowed her to return to Bahrain. Reportedly, Ms Al-Huwaider had been arrested before due to her advocacy for women's rights. She was the subject of a previous urgent appeal dated 11 August 2006. Concern was expressed that the arrest and interrogation of Ms Al-Huwaider and the signed pledge extracted from her may have represented a new attempt by the authorities to prevent her from carrying out her legitimate activities to raise awareness of women's human rights and her exercise of freedom of expression.

### **Observations**

564. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

## **Serbia and Montenegro**

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

565. By letter dated 26 January 2006, the Government of Serbia and Montenegro replied to the communication of 14 September 2005 concerning threats to **Mr Matic, Mr Momcilo Veljkovic and Mr Sasa Stojkovic**. In relation to Mr Matic, police found out that its Belgrade Secretariat had not reported any hate mail addressed to Mr Matic. However it was discovered that the letterbox of the B92 Broadcasting Agency, contained on 5 September 2005 a letter that the organization calling itself the "Serbian Volunteer Regiment" wrote to Mr Matic. A criminal complaint was lodged with the First Belgrade District Prosecutor's Office against unknown persons for violating safety and security, an offence under Article 67 of the Criminal Code of the Republic of Serbia. Officers of the Public Law and Order Department of the Belgrade Secretariat found out that the B92 broadcaster was e-mailed twice on 6 June 2005 by unknown individuals belonging to an organization called "Brotherhood of Serbs Knights", issuing death threats against B92 director, Mr Matic. Investigations have found out that the e-mails were coming from various sites, one of them from the Netherlands. Interpol has been asked to locate the PC used to send the messages concerned out of the Netherlands but failed to respond to this request. The Government indicated that the police was not able to gather evidence on the so-called Serbian Volunteer Regiment organization, but if messages were sent again forensic experts would

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\*\* The reply from the Government was sent before 3 June 2006, when the Secretary-General received a letter from the President of the Republic of Serbia informing him that the membership of Serbia and Montenegro in the United Nations was to be continued by the Republic of Serbia and that the name "Republic of Serbia" was henceforth to be used instead of the name "Serbia and Montenegro".

analyze them. As regards to Mr Momcilo Veljkovic, who received an email containing death threats, he was interviewed by the Police and a report was made thereon. Other journalist of the newspaper, together with a judge and a public prosecutor were also sent this messages, which were signed on behalf of the “Serbian Liberation Front”, “Serbian Liberation Resistance”, “Serbian Liberation Army”, “Serbian Death Squad” and “Serbian Volunteer Regiment”. The real identity of the authors is still unknown. Finally, the Government reported on the situation of Mr Sasa Stojkovic, who received also a verbal threat by the local secretary of the Serbian Radical Party on 2 September 2005. This incident was not reported to the police. The Government indicated that the Municipal Public Prosecutor’s Office in Vranje will decide on the described incidents.

### Senegal

566. Le 11 mai 2006, le Rapporteur spécial a envoyé une lettre d’allégation concernant **Pape Cheikh Fall**, journaliste de la station sénégalaise *Radio Futurs Médias* à Mbacké, qui aurait été attaqué, le 4 mai 2006, par plusieurs hommes armés de barres et de câbles de fer. Frappé au crâne, à la nuque et à la tempe, le journaliste s'est vu signifier une incapacité de travail de 15 jours. Selon les informations reçues, l'un de ses agresseurs ferait partie des disciples d’un marabout, dont le nom est connu du Rapporteur, qui aurait annoncé à la presse son intention de soutenir la réélection du président actuel lors du scrutin présidentiel prévu en février 2007. Le marabout aurait assuré d’être en mesure de mobiliser quatre millions de disciples. Quelques jours avant, Pape Cheikh Fall avait réalisé et diffusé une interview avec un disciple du marabout qui avait exprimé des opinions divergentes quant au soutien populaire de son maître, qui, à son tour, après l’agression du journaliste aurait déclaré n’être pas en mesure de contrôler les agissements de ses disciples.

567. Le 7 juillet 2006, le Rapporteur spécial et la Présidente-Rapporteuse du Groupe de travail sur les détentions arbitraires, ont envoyé un appel urgent au sujet de **Moustapha Sow**, directeur de publication du quotidien *L'Office*, qui aurait été incarcéré, le 29 juin 2006, pour purger une peine à six mois de prison ferme, pour diffamation à l'encontre d'un homme d'affaires, prononcée par un tribunal de Dakar en février 2006. Un mandat d'arrêt aurait été lancé en février, mais n'avait été suivi d'aucun effet jusqu'à la convocation du journaliste à la Brigade de Recherche. Moustapha Sow serait actuellement détenu à la maison d'arrêt de Reubeuss. Ses avocats auraient déposé une demande de mainlevée devant la cour d'appel de Dakar. Le directeur de publication de *L'Office* était poursuivi pour diffamation à l'encontre d'un homme d'affaires – dont le nom est connu du Rapporteur – parce que *L'Office* aurait publié de nombreux articles sur le rôle présumé que cet entrepreneur aurait joué dans une affaire de corruption sur les chantiers de Thiès.

### Réponses du Gouvernement

568. Le 25 septembre 2006, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial et la Présidente-Rapporteuse du Groupe de travail sur les détentions arbitraires, le 7 juillet 2006. Le Gouvernement informe qu’un citoyen sénégalais, en l’occurrence Bara Tall, jouissant de tous ses droits civiques, civils et politiques, a estimé que son honneur, sa respectabilité et sa réputation ont été bafoués par plusieurs articles du journal *L'Office* dont Monsieur **Moustapha Sow** est le directeur de publication, pour saisir, de sa propre initiative et sous son entière responsabilité, la justice sénégalaise. L’État du Sénégal est

donc un tiers absolu dans cette affaire. Il s'agit d'un dossier strictement privé opposant deux citoyens dont l'un a choisi de s'adresser à la justice. Dès lors, les faits invoqués ne sauraient appeler aucun commentaire particulier, dans la mesure où les procès en diffamation sont courants dans la justice et ancrés dans l'opinion. Ces procès opposent en général, deux particuliers, comme c'est d'ailleurs le cas en l'espèce. Il n'y a eu ni enquête, ni investigation judiciaire pour la simple raison que Bara Tall, qui s'est porté partie civile, a directement saisi la juridiction compétente. Une telle procédure est parfaitement légale. Elle est obtenue grâce au mécanisme de la citation directe, laissé à l'appréciation de la partie demanderesse, à ses risques et périls, en vue du succès ou de la succombance pouvant éventuellement découler de cette action. Cette procédure est prévue par les articles 376, 380 et 396 du Code de procédure pénale du Sénégal. Au Sénégal, la liberté d'opinion et d'expression est protégée. Aucune formalité n'est, à cet égard, nécessaire pour créer un journal et aucune censure n'est imposée aux articles et aux propos des citoyens publiés dans les journaux. La Constitution sénégalaise du 22 janvier 2001 dispose en son article 8 que : « La République du Sénégal garantit à tous les citoyens les libertés individuelles fondamentales, les droits économiques et sociaux, ainsi que les droits collectifs ». Parmi ces libertés figurent, en bonne place, la liberté d'expression. Par conséquent, au Sénégal, la liberté d'expression est inscrite dans le droit positif. La valeur constitutionnelle qui lui est attachée est gage de son respect. S'agissant de la liberté de la presse, elle tire sa substance de la liberté d'expression dont elle est une émanation et une des manifestations. La liberté de la presse, anciennement organisée par la loi n° 79 - 44 du 11 avril 1979, modifiée par la loi n° 86 - 22 du 16 juin 1986, est aujourd'hui régie par la loi n° 96 - 04 du 22 février 1996 portant Code de la presse. Cette nouvelle législation qui part de la refonte de la loi n° 79 - 44 modifiée, du 11 avril 1979, conséquence de l'approfondissement de la démocratie au Sénégal, était devenue nécessaire « pour mieux tenir compte des réalités du nouveau paysage médiatique sénégalais, caractérisé par une diversité de journaux et de publications ainsi que par l'ouverture du secteur de l'audiovisuel. » Dans les principes généraux qu'il vise, l'exposé des motifs de la loi n° 96 - 04 du 22 février 1996 portant Code de la presse, fait référence au respect de l'article 8 de la Constitution, notamment, en ce que ce Code reconnaît à tout citoyen, le droit d'exprimer et de diffuser librement ses opinions par la parole, la plume, l'image, dans les limites prescrites par les lois et règlements, et dans le respect de l'honneur d'autrui. Ces limites prescrites sont prises en charge par le droit pénal sénégalais. Ainsi, le Code de procédure pénale, dans ses articles 618 à 632, prévoit une procédure spéciale en matière de délits de presse tandis que le Code pénal, avec les articles 248 à 279, prévoit les infractions et les sanctions liées aux délits de presse. Par ailleurs, la diffamation est régie par les articles 248, 268 alinéa 1 et 261 alinéa 1 du Code pénal, comme dans les articles 618 à 632 ci-dessus mentionnés, du Code de procédure pénale. La législation sénégalaise qui régleme la liberté de la presse en tenant compte des limites prescrites, ci-dessus évoquées, est conforme à l'article 19 du Pacte international relatif aux droits civils et politiques du 16 décembre 1966 que le Sénégal a ratifié le 13 février 1978. Cette disposition prescrit la liberté d'expression en ses alinéas 1 et 2, mais proscrit tout abus en envisageant « certaines restrictions qui doivent, toutefois, être expressément fixées par la loi et qui sont nécessaires a) au respect des droits ou de la réputation d'autrui, b) à la sauvegarde de la sécurité nationale, de l'ordre public, de la santé ou de la moralité publique ». Par conséquent, la liberté de la presse est encadrée tant au plan national qu'au plan international. Au surplus, dans le préambule de la Constitution, le constituant sénégalais affirme l'adhésion du Sénégal « à la Déclaration des Droits de

l'Homme et du Citoyen de 1789 et aux instruments internationaux adoptés par l'Organisation des Nations Unies et l'Organisation de l'Unité Africaine ». Ce qui constitue une autre garantie consolidée, surtout avec l'élargissement du bloc de la constitutionnalité des lois au préambule de la Constitution, par le Juge constitutionnel sénégalais, dans sa décision du 16 décembre 1993 relative au Traité de Port-Louis créant l'Organisation pour l'Harmonisation du Droit des Affaires en Afrique (OHADA). S'agissant de la procédure suivie dans cette affaire, la procédure initiée par Bara Tall, entrepreneur, a commencé par la remise de la citation à comparaître, servie par ce dernier à Moustapha Sow le 15 novembre puis le 16 décembre 2005 devant le Tribunal régional Hors Classe de Dakar. Elle s'est achevée, en premier ressort, par le jugement contradictoire du 7 février 2006, par lequel le Tribunal régional de Dakar, admettant la culpabilité de Moustapha Sow, auteur des articles de presse, l'a condamné à une peine d'emprisonnement de six (06) mois ferme. Tout au long de la procédure, M. Sow était assisté de son conseil, n'étant pas présent lors du prononcé du verdict, pour des raisons qu'il n'a pas eu à indiquer, c'est à bon droit qu'un mandat d'arrêt lui a été servi pour exécution de la sanction édictée conformément aux articles 122, 449 et 452 du Code de procédure pénale. Cette exécution est intervenue le 26 juin 2006. À la demande de M. Sow exprimée devant la Cour d'Appel, le mandat d'arrêt a été levé le 14 juillet 2006 et l'affaire a été renvoyée au 1er décembre 2006. Comme on peut l'observer dans cette affaire, il ne peut être question de détention arbitraire qui serait le fait de l'État. Il appartient au parquet d'assurer l'exécution des décisions sur l'action publique et il est de la responsabilité exclusive du condamné de relever appel d'une décision dont il a connaissance pour avoir assisté aux débats et entendu la date à laquelle le jugement est rendu. Le Parquet a exercé correctement ses fonctions. Le condamné, quant à lui, ne s'est manifesté qu'à l'exécution de la sentence. Les dispositions légales applicables en l'espèce y compris celles déjà mentionnées et concernant la diffamation, sont les suivantes : en ce qui concerne la saisie des tribunaux par les particuliers en citation directe: les articles 376, 380 et 396 du Code de procédure pénale; en ce qui concerne l'exécution du mandat d'arrêt et sa mainlevée: les articles 122, 449 et 452 du Code de procédure pénale. Le droit sénégalais permet ainsi à toute personne qui pense avoir subi des dommages découlant de la commission d'une infraction de soumettre directement le cas devant les juridictions compétentes, à ses risques et périls. Ces principes ont trouvé application dans le délit qui a fait l'objet de la correspondance des rapporteurs sur la détention arbitraire et sur la liberté d'opinion et d'expression. Par ailleurs, aujourd'hui, l'un des débats les plus actuels, au Sénégal, est la dépénalisation des délits de presse. Dans ce sens, le 19 octobre 2004, Monsieur le Président de la République a marqué son accord pour la dépénalisation des délits de presse au Sénégal, tout en invitant les journalistes à formuler des propositions permettant de sanctionner, autrement, les délits de presse, afin d'assurer un équilibre entre leurs droits et leurs devoirs.

## **Observations**

569. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à l'appel urgent envoyé le 7 juillet 2006, et l'invite à répondre à son appel urgent envoyé le 11 mai 2006.

## **Singapore**

570. On 20 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning Dr. **Chee Soon Juan**, the

Secretary- General of the Singapore Democratic Party (S.D.P.) and the chairman of the NGO Alliance for Reform and Democracy for Asia ARDA, who is facing a court hearing on 16 March 2006 for contempt of court. According to the information received, it was reported that Dr. Chee Soon Juan had strongly and consistently criticized the Government policies. In 1993, when he was a lecturer at the National University of Singapore, he was fired for misusing his research funds. It is alleged that this happened because he joined S.D.P. When he disputed the dismissal, he was sued by the head of the department of the University and two other staff members for defamation, which resulted in a judgment against him for approximately US\$ 71,000. On November 1995, Dr. Chee was censured by the Parliament for endorsing attacks on the judiciary during a Forum held in the United States in September 1995. It is alleged that even if these accusations were made by Mr Francis Seow, former solicitor general and Mr Christopher Lingle, the Government attributed them to Mr Chee, affirming that his failure to contradict the attacks constituted positive assent by “clever omission”. In 1996, the Parliament fined him and other S.P.D members approximately US\$25,000 for contempt Parliament in the context of a health-care debate. In addition, it is reported that in 1999 Dr. Chee was imprisoned in two occasions for making public speeches without a permit. Moreover, Mr Chee was fined S\$ 3,000 for speaking on a religious topic at Singapore’s Speaker’s Corner and S\$4,500 under Public Entertainment Acts. However, it is reported that he chose to serve a five-week jail term instead of paying these fines. In 2001, during the national election campaign, Dr. Chee raised questions about alleged government financial support to Indonesia over the previous four years. In response to his comments, Dr. Chee was sued for defamation by former Prime Ministers Mr Lee Kuan Yew and Goh Chok Tong. On 11 January 2002, Mr Chee filed an application asking the admission of Mr Stuart Littlemore as his attorney. Mr Littlemore is an Australian Queen’s Counsel and a defamation expert. It is alleged that Mr Chee submitted this application because he could not find a local lawyer to represent him because they were afraid of Government reprisal. It is reported that on 18 January 2002, the High Court ruled that Mr Littlemore was not fit to practice in the country, because he had criticized judiciary in an earlier case involving another opposition leader, when he was an observer for the International Commission of Jurists. Dr. Chee made a second application to admit Hong Kong’s Martin Lee and Australian William Nicholas, both Queen’s Counsels. It is reported that the tribunal dismissed them, declaring that the case was not complex enough to warrant the assistance of Queen’s Counsels. Moreover, it is alleged that in the meantime, Mr Lee Kuan Yew and Mr Goh Chok Tong, engaged a Senior Counsel, which is a Singapore’s equivalent to Queen’s Counsel, whereas Dr. Chee represented himself. On 19 August 2002, the court allowed to carry out a summary judgment, which allegedly took place in the Registrar’s private chambers. It is reported that as result of this procedure the two former Prime Ministers were awarded approximately US\$ 300,000 in damages. Dr. Chee appealed the decision, but his appeal was rejected on 4 April 2003. It is reported that Mr Lee Kuan Yew and Mr Goh Chok Tong submitted to the courts a bankrupt petition against Dr. Chee, when he failed to pay. It appears that on 10 February 2006, during the bankrupt’s hearing, Dr. Chee accused the judiciary of not being fair and independent, especially when it decides defamation cases involving opposition politicians. It is alleged that the courts declared Dr. Chee bankrupt, consequence of which is that he would be barred from standing in future elections. Finally, it appeared that the Attorney General applied for a hearing to commit Dr. Chee to prison for contempt of court and that the trial took place on 16 March 2006. The details of the hearing are not yet known. Serious concern was expressed at the Government’s recourse to criminal sanctions for Dr. Chee’s legitimate exercise of his right to freedom of opinion and expression.



571. On 19 September 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal the attention of the Government to information they have received concerning **members of civil society groups and non-governmental organizations**, who wish to attend the annual meetings of the World Bank and International Monetary Fund which will take place in Singapore on 19 and 20 September 2006. Some members include Ms **Chona Leah Ramos** and Ms **Bobbie Diciembre** from the Philippines; M.r. **Wilfred D'Costa**, Mr **K Raghu** and M.r **Biswaranjan Mishra** and Mr **Ashok Bharti** from India; Ms **Hyekyung Kim** from South Korea;, Mr **Mohan Uranga Rasinghe** and Mrs **Chandrani Janaki Aramasinghe Comapannage** who are Sri Lankan members of the *Global Call to Action against Poverty* (GCAP); *Action Aid* campaigners, Ms **Maria Clara Soares** (Sri Lanka), Ms **Rose Wanjiru** (Kenya), Ms **Thao Haong** (Vietnam) and M.r **Rashid Titumir** (Bangladesh); and Ms **Irma Yanni** and Mr **Achmad Yakub** from Indonesia. According to the information received, the Singaporean authorities had agreed that permission would be granted to civil society members to attend events at the actual venue of the meetings. It was reported that the Singaporean authorities have already detained and deported a number of civil society activists including two participants from the Philippines who were accredited to attend the *Global Call to Action against Poverty* (GCAP) gathering in Batam in Indonesia. Ms **Chona Leah Ramos**, member of *Jubilee South* and Ms **Bobbie Diciembre**, a representative of the *Freedom from Debt Coalition* were subjected to questioning, inspection of their belongings including their mobile phones and laptop computers, and they were fingerprinted and photographed before they were deported back to the Philippines. Reports also indicate that three Indian delegates were prevented from entering Singapore en route to Batam. On 13 September 2006, Mr **Wilfred D'Costa**, General Secretary of the *Indian Social Action Forum* (INSAF), who reportedly is in current possession of a two -year multiple entry visa to Singapore, was denied entry and deported after a six-hour detention which included an interrogation, inspection of his baggage and the confiscation of documents. According to reports, another two Indian delegates, Mr **K Raghu** and Mr **Biswaranjan Mishra**, representing the *National Confederation of Officers Associations*, were held for 38 hours despite the fact that they had been granted transit visas and the remaining three members of their delegation were permitted to travel through Singapore on their way to Batam. M.r **Ashok Bharti**, Coordinator of the *National Conference of Dalit Organisations*, representing Wada no Todo for the GCAP Indian campaign, was also detained for five hours. On 13 September 2006, it was reported that Ms **Hyekyung Kim**, Chairperson of the International Affairs Committee of the South Korean *Citizens' Coalition for Economic Justice*, was deported from Singapore to Seoul at 23.10 p.m. after being detained for six hours during which time she was questioned regarding her background and intended activities in Batam. It was further reported that two Sri Lankan delegates namely Mr **Mohan Uranga Rasinghe**, media and website coordinator of GCAP Sri Lanka Youth, and Mrs **Chandrani Janaki and Aramasinghe Comapannage**, Campaigner for the GCAP Women's Sector, were also deported. On 15 September 2006, it was reported that Ms **Maria Clara Soares**, *ActionAid's* Policy Director for the Americas region, and former economic advisor to the Ministry of Finance in Brazil, was deported as she was on her way to attend the peaceful protests organized in Batam. Three of her *Action Aid* colleagues, Ms **Rose Wanjiru** (Kenya), Ms **Thao Haong** (Vietnam) and Mr **Rashid Titumir** (Bangladesh) were detained for questioning but were later released after they had been fingerprinted. It was further reported that on 18 September 2006, two members of *The Federation of Indonesian Peasants Union* (FSPI), M.r **Achmad Yakub** and Ms **Irma Yani**, were detained for approximately fourteen hours in Changi airport. The two activists had intended to hold a press conference in Singapore

concerning the IMF and World Bank policies on farmers. They were deported to Jakarta by Singaporean authorities after they had been interrogated, photographed and fingerprinted. It had further been reported that the Singaporean authorities have prohibited peaceful outdoor demonstrations and have insisted that permission must be granted for any indoor events to be held by civil society groups in relation to the World Bank/International Monetary Fund meetings. Concerns were expressed that the alleged deportation of the aforementioned members of civil society and the prohibition on peaceful demonstrations, organized by civil society members in Singapore, were an attempt to prevent civil society activists from carrying out their legitimate activities in defence of human rights, in particular activities which highlight the impact of World Bank and IMF policies on women's rights, trade and finance, the environment, migrant workers and indigenous people and their right to freedom of peaceful assembly.

### **Replies from the Government**

572. On 31 March 2006, the Government replied to the joint allegation letter sent by the Special Rapporteur on 20 March 2006 concerning Dr. **Chee Soon Juan**, the Secretary General of the Singapore Democratic Party (S.D.P.), stating that the information received by the Special Rapporteur was not fully accurate and even misleading to some extent. It pointed out that Singapore has an open and transparent legal system, enabling critics of the Government and political opponents to freely express their views. According to the Government, many opposition politicians in Singapore are openly vocal in criticizing the Singapore Government, both within and outside Parliament, and are not sued or prosecuted purely because of the expression of their views. It however added that no one who commits breaches of the law, including contempt of Parliament or contempt of court can, claim immunity from prosecution on account of being a politician. Singapore's law of defamation follows the common law model. Those who have been defamed without justification have the right to seek legal redress to protect their reputations, since according to the Government the right to freedom of speech does not include a right of defamation. In the August 2002 proceedings, a defamation order was made summarily by a Senior Assistant Registrar in chambers. According to the Government of Singapore, this is a standard procedure by a Senior Assistant Registrar in chambers and in many common law countries. A plaintiff who feels that the defendant does not have a defence may apply for summary judgement under Order 14 of the Rules of Court. In that case, the plaintiff made such an application and the Registrar was satisfied that the defendant did not have a defence. The Government indicated that on 16 March 2006, the High Court found Dr Chee to be in contempt of court. He compounded his contemptuous statement in court and was sentenced to a day's imprisonment and fined \$6000 (approximately US\$3700). Dr Chee chose not to pay the fine and was jailed for another seven days in lieu of the fine. The Government asserted that with respect to the Basic Principles on the Role of Lawyers, Dr Chee has never been prevented from having legal representation. In the most recent proceedings relating to contempt of court, a lawyer addressed some issues on his behalf while Dr Chee chose to address the court directly on other points. In earlier cases, Dr Chee had applied for Queen's Counsels to represent him. The ad hoc admission of Queen's Counsels (QC) in Singapore is provided for by the Legal Profession Act, which sets out the conditions for such admissions, one of which is that the difficulty and complexity of the case should warrant the employment of a QC. One of Dr. Chee's applications was rejected because the case did not comply with this condition. Another application was rejected by the court because that QC had, on several previous occasions, made statements that showed contempt and disrespect for the Singapore Judiciary, and would thus not have been of

assistance to the court in its deliberations upon the proceedings. The Government concluded stating that Singapore's legal and judicial system is internationally recognised to be independent, efficient and honest and that if Dr Chee Soon Juan insisted in intentionally flouting the laws of Singapore, he should be prepared to face the courts and answer for his actions.

573. The Special Rapporteur thanks the Government for its reply and invites the Government to respond to the communication dated 19 September 2006.

### **Somalia**

574. On 27 June 2006, the Special Rapporteur sent a letter of allegation concerning **Martin Adler**, Swedish award-winning freelance journalist and photographer. He was a frequent contributor to the *UK's Channel 4 News*, Swedish daily *Aftonbladet*, and several other newspapers. According to the information received, on 23 June 2006, Mr Adler was fatally shot by an unidentified armed man, while he was filming a demonstration in Mogadishu. The demonstration was organized by the Islamic Courts Union, and was attended by thousands of people in support of a peace agreement reached on 22 June 2006 between the Islamic courts and Somalia's transitional government. The participants of the demonstration were also protesting against the suggestion that foreign peacekeepers be sent to Somalia. Some demonstrators were burning American and Ethiopian flags. Reports indicate that the gunman was clearly targeting Mr Adler, and shot him at a close range.

575. On 2 November 2006, the Special Rapporteur sent an allegation letter concerning three journalists, **Fahad Mohammed Abukar** of *Warsan Radio* in Baidoa, **Mohammed Adawe Adam** of *Radio Shabelle* and **Muktar Mohammed Atosh** of *HornAfrik*, both based in Mogadishu, were reportedly arrested in a village near Baidoa by militias loyal to the federal Government. According to information received, the journalists were arrested, and their material confiscated, because they were working on the alleged presence of Ethiopian troops in Somalia, in order to help the federal Government in its effort to fight against the Islamic Courts, which control the former capital Mogadishu and a large part of the Somali territory. Fahad Mohamed Abukar was subsequently released on 28 October 2006, while the other two journalists are still detained. The Special Rapporteur has received supplementary information concerning violence against journalists in Somalia. On 28 October 2006, security guards of General Adde Muse, in Bossaso, severely beat **Idle Moallim Omar** who works for the website <http://www.somaliwya.com>. On 29 October 2006, journalists **Abdulkadir Barre Moallim** and **Nur Barre of Radio Warsan** were briefly arrested by the police on the orders of the governor of the Bay region; because of his dissatisfaction with a *Warsan Radio* broadcast news relating to the activities of the Bay region Council.

### **Replies from the Government**

576. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

## Spain

577. El 5 de abril de 2006, el Relator Especial envió una comunicación con relación al caso del periódico de lengua vasca *Euskaldunon Egunkaria*. De acuerdo con la información recibida, el 20 de febrero de 2003, este periódico fue objeto de una operación policial ordenada por el juez Juan del Olmo. En esta operación fueron incautados documentos y ordenadores, y los activos del periódico fueron congelados. Además, diez personas que eran o habían sido empleados del periódico fueron detenidas y puestas en régimen de incomunicación por un periodo de cinco días. El 25 de febrero, fueron puestos en libertad **Martxelo Otamendi, Inma Gomila, Luis Goia y Fermin Lazkano**, mientras que ingresaron en prisión **Joan Mari Torrealdai, Iñaki Uria, Xabier Oleaga, Txema Auzmendi y Xabier Alegria**. El 28 de febrero y el 10 de marzo de 2003, el juez Juan del Olmo ordenó la clausura temporal del periódico con el objetivo de investigar la presunta vinculación del entramado empresarial del periódico con la organización terrorista ETA. En diciembre de 2004, siete de los diez detenidos, **Iñaki Uria, Joan Mari Torrealdai, Txema Auzmendi, Xabier Alegria, Pello Zubiria, Xabier Oleaga y Martxelo Otamendi**, fueron procesados por formar una “asociación ilegal” y por “ser miembros de, o colaborar con, ETA”. Según se informó, estos delitos son sancionables con penas de 1 a 14 años de cárcel. Todos los periodistas acusados negaron la totalidad de las imputaciones y, el 29 de diciembre de 2004, interpusieron un recurso de apelación contra el auto de procesamiento ante la sala segunda de la Audiencia Nacional. El 15 de marzo de 2005, el juez Del Olmo ordenó la liquidación del grupo *Egunkaria*. El dinero restante obtenido en la gestión de la liquidación se encuentra en manos del juez, en una cuenta bloqueada. El 13 de febrero de 2006, se confirmó el procesamiento de Joan Mari Torrealdai, Txema Auzmendi, Iñaki Uria, Pello Zubiria, Xabier Oleaga, Martxelo Otamendi y Xabier Alegria. El auto publicado el 22 de febrero de 2006 avaló la existencia de “indicios de una relación entre el periódico y sus órganos dirigentes con la banda terrorista ETA”, los cuales, podrían no obstante “no ser considerados por el tribunal juzgador como prueba suficiente para dictar sentencia condenatoria”. Según se informó, tras la ratificación del procesamiento de las citadas personas, el Juez Del Olmo debería terminar con la instrucción y cerrar el sumario, para posteriormente enviarlo a la Sala que se encargará del Juicio Oral.

### Respuestas del Gobierno

578. Por carta con fecha 11 de abril de 2006 el Gobierno de España informó al Relator Especial de que la comunicación del 5 de abril de 2006 sobre el periódico de lengua vasca *Euskaldunon Egunkaria* había sido enviada a las autoridades competentes en España y que la respuesta se la haría llegar cuando se dispusiera de ella. Al mismo tiempo se aseguró que siendo España un país democrático, la lucha contra el terrorismo siempre ha tenido como límite y fundamento el respeto de los derechos fundamentales. Por carta con fecha 6 de junio de 2006 el Gobierno de España transmitió la siguiente información en respuesta a dicha comunicación del 5 de abril de 2006 sobre el periódico de lengua vasca *Euskaldunon Egunkaria*. El Gobierno español informó que el cierre del periódico se produjo en ejecución de una decisión del Juzgado Central de Instrucción de la Audiencia Nacional en febrero de 2003 como culminación de las investigaciones policiales y judiciales practicadas sobre la instrumentalización de este medio por parte de la organización terrorista ETA para fines delictivos. En consecuencia las actuaciones judiciales realizadas no están vinculadas con la garantía del libre ejercicio del derecho a la libertad de opinión y expresión, protegido en la Constitución española. Respecto a la veracidad de los hechos alegados en la comunicación el Gobierno señala que sólo son ciertas las

referencias a la sucesión de trámites de procedimiento pero con errores en las fechas. El gobierno añade que Egunkaria S.A. se encontraría presuntamente en el frente mediático creado por ETA, y bajo su jerarquía militar, con la finalidad de señalar objetivos terroristas y crear un estado de opinión favorable a los fines de ETA de territorialidad, autodeterminación y la creación de un Estado propio. Según se indicó, el análisis de documentos intervenidos a ETA y sus dirigentes en el transcurso de operaciones anti-terroristas ponen de manifiesto el control y participación en la financiación y Consejo de Administración de Egunkaria S.A. y el control de la línea editorial del periódico. Los indicios sobre la relación entre los órganos dirigentes del proyecto editorial *Egunkaria* y la banda terrorista ETA están incorporados en dos procedimientos judiciales. Sobre la duración estimada del proceso, el Gobierno señala que la duración del mismo no determina por sí misma una dilación indebida y que el juicio sobre si la dilación es o no indebida ha de hacerse según las circunstancias, complejidad, pruebas periciales y demás factores de cada caso. El Gobierno español afirmó que todas las resoluciones del Juez investigador han resultado conforme a la ley y que actualmente el proceso Sumario 44/04 está en su fase final, por lo que es inminente la resolución de conclusión del Sumario. Se destacó también que el auto de procesamiento no es una sentencia condenatoria, puesto que no implica un juicio definitivo sobre la culpabilidad o inocencia de los imputados-procesados y por lo tanto por su naturaleza el procesamiento no puede vulnerar la presunción de inocencia. El Gobierno añadió que el Auto de procesamiento reflejó que existían indicios —que no pruebas— de una relación entre el periódico y sus órganos dirigentes con la banda terrorista ETA. Se indicó que la constitución de una organización subordinada a la banda armada pueden ser encuadrados entre los delitos de terrorismo, siempre que se llegue a establecer la subordinación de *Egunkaria* a ETA. Las medidas cautelares de disolución de asociaciones ilícitas que se adoptaron en relación con el caso se apoyan en la legislación española al efecto (artículo 515, 520 y 129 del Código Penal). La clausura de una empresa y suspensión de sus actividades con carácter cautelar no está prohibida por la Constitución Española cuando se realiza con el fin de evitar que una organización terrorista mantenga la actividad de un medio integrado en su sistema y que se ello se llevó a cabo para prevenir la continuidad en la actuación delictiva en los casos de delitos de asociación ilícita. Se informó también de que el artículo 121 de la Constitución y la legislación española prevén el derecho de los perjudicados a ser indemnizados como consecuencia del funcionamiento anormal de la Administración de Justicia.

## Observaciones

579. El Relator Especial agradece al Gobierno la respuesta recibida a su comunicación de 5 de abril de 2006.

### Sri Lanka

580. On 6 January 2006, the Special Rapporteur sent a letter of allegation concerning Mr **Joseph Pararajasingham**, leader of the parliamentary group Tamil National Alliance, who was murdered on 24 December by unknown gunmen in the cathedral of his home town Batticaloa, where he was participating in the midnight Christmas Eve mass with his wife Sugunam, who was also seriously wounded in the attack. According to reports received, Mr and Mrs Pararajasingham had not visited their home town Batticaloa in the recent past because of security concerns. Pararajasingham had drawn international attention to the attacks against Tamil civilians, including the killing of lawyers and journalists, in the North-East part of the country,

including the town of Batticaloa, an area in which, despite the Ceasefire Agreement, the ethnic and political confrontation continues to be very violent.

581. On 28 February 2006, the Special Rapporteur sent a letter of allegation concerning the Sinhala-language weekly *Irudina* and its English counterpart *The Sunday Leader*. The two newspapers have already been the subject of a communication sent on 28 October 2005. According to the new information received, on 10 February 2006, the police summoned and interrogated members of *Irudina* and *The Sunday Leader*, regarding the article on claymore mines, which was published by *Irudina* on 22 January. The focus of the interrogation was the management structures of *Irudina* and *The Sunday Leader*. Following this investigation, on 11 February, several members of the weekend newspaper *Sathdina* were assaulted by an unidentified group of men. It is reported that *Sathdina* staff members were attacked because the assailants mistook them as members of *Irudina*. The assailants told the *Sathdina* staff members that it was forbidden to put up *Irudina* posters. The assault ceased once a *Sathdina* member told the assailants that they were not working for *Irudina*. Concern was expressed that these series of events were directly connected with the journalistic work of *Irudina* and *The Sunday Leader*. Concern was heightened in light of the report that a parliamentarian made a statement on 1 February 2006, inciting hatred against the editor of *The Sunday Leader*, accusing him of supporting terrorism activities in Sri Lanka.

582. On 4 May 2006, the Special Rapporteur sent an urgent appeal concerning **Sivaramya Sivanathan**, a young female Tamil journalist attached to the Sri Lanka Broadcasting Corporation (SLBC). According to the information received, on 1 May 2006, she was arrested at the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Press Freedom Day Conference. Ms Sivanathan was there to report on the conference. She was reportedly arrested by the Cinnamon Garden police, for not presenting an official invitation, despite the fact that she presented her Press identity card and national identity card. The SLBC director has also verified her identity. At the time this communication was sent, she was detained at the Welikada Prison, and was called at the court on 5 May 2006.

583. On 7 June 2006, the Special Rapporteur sent an urgent appeal concerning five journalists: **Sunanda Deshapriya** and **Sitha Ranjane** of the Free Media Movement; **Poddala Jayanthe**, of the Sri Lanka Working Journalists Association; **Dharmasiri Lankapeli**, of the Federation of Media Employees Trade Unions; and journalist **Prasanna Fonseka**. Sunanda Deshapriya was the subject of an urgent appeal sent on 23 May 2005. According to the information received, the five above-mentioned journalists were amongst the representatives of journalist groups who went to Kilinochchi to meet with the chief of the Political Wing of the Tamil Tigers on 16 May 2006. Reports indicate that they went to raise their concern about the Tamil Tigers' earlier call for Tamil journalists to resign from positions in the media affiliated to the Government. Following the meeting, several media published articles accusing the five journalists of being Tamil Tiger spies. They have subsequently received several phone calls from unidentified individuals, threatening that they would be killed.

584. On 6 July 2006, the Special Rapporteur sent a letter of allegation concerning Mr **Sampath Lakmal de Silva**. According to the information received, on 2 July 2006, the freelance journalist, **Sampath Lakmal de Silva** was murdered by an unknown group. He was abducted at 5.00 a.m. from his parents' home in Borallasgamuwa, south of Colombo, and his body was found

later on three kilometres away. De Silva, a specialist in defence matters, was a correspondent of the weekly "Sathdina" and worked as a full-time journalist until April 2006. He principally covered the conflict between the Government and Tamil separatists and there were rumours that he could have held and transmitted sensitive information to both sides. His killing comes in a context of renewed violence against journalists and media workers: reportedly, six of them have been killed in the last 16 months.

585. On 24 August 2006, the Special Rapporteur sent a letter of allegation concerning **Sathasivam Baskaran**, a driver of the *Sudar Oli press group*, who was gunned down in Jaffna on 15 August 2006, while delivering copies of one of its daily newspapers, *Uthayan*, in a vehicle marked with the press sign. Reportedly, he was killed by soldiers. On that same date, a raid was carried out on Sudar Oli's premises in Colombo by police officers, during which the identity of journalists was checked and those from the north were questioned. Allegedly, Suresh Kumar, *Uthayan's* head of marketing, and Ranjith Kumar, both journalists of Tamil origin, were shot dead in an attack on the newspaper in Jaffna on 2 May 2006. According to the information reported, the newspaper management gave the authorities the name of a leader of the Tamil paramilitary group who was suspected of carrying out the attack, but no investigation was carried out. *Uthayan* Managing Director, Mr Saravanabhavan reported that the security provided to Editor Mr N. Vithyatharan and himself was withdrawn on 14 August 2006.

586. On 25 August 2006, the Special Rapporteur sent a letter of allegation concerning **Sinnathamby Sivamaharajah**, Managing Director of Jaffna Tamil daily *Namathu Eelanadu*, who was murdered on 20 August 2006, by unknown gunmen at his residence in Tellippalai, Jaffna, inside a high security zone of the Sri Lanka Army (SLA). Mr Sivamaharajah was a former parliamentarian (TULF) and a senior member of Ilankai Tamil Arasu Katchi (ITAK), the main constituent party of the Tamil National Alliance (TNA). He was also very active in the cause of resettling internally displaced peoples. In a separate development, on 18 August 2006 two warehouses belonging to the newspaper *Udayan*, were burned down by unidentified persons. According to the *Udayan* group of newspapers' general manager, Mr Saravanabhavan, the warehouses contained newsprint and electronic equipment worth approximately US\$ 28,850. *Udayan* is the most popular and oldest newspaper in the Jaffna peninsula. In recent times, the *Udayan* group has been the target of death threats and bomb attacks.

587. On 11 September 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning human rights defenders in Sri Lanka, including 17 staff members of the non-governmental organization *Action Against Hunger (Action Contre la Faim)*, Mr **Ketesh Loganathan**, Deputy Secretary-General of the Sri Lankan Government Peace Secretariat and staff members of the *Uthayan* and *Surdaroli* newspapers. According to the information received, during the month of August, Mr Ketesh Loganathan was killed. Furthermore, humanitarian workers and human rights defenders in Sri Lanka have been subjected to threats, harassment and intimidation aimed at preventing them from carrying out their activities in defence of human rights. Four staff members of the *Uthayan* newspaper have been killed and newspaper premises have been attacked. Journalists with the *Uthayan* and *Surdaroli* newspapers have allegedly been prevented from traveling to areas in the north and east of Sri Lanka. According to further information received, during the month of August, aid convoys have been prevented from delivering essential supplies to internally displaced people by the authorities in Trincomalee. It

was further reported that humanitarian workers in Sri Lanka had been subjected to threats, harassment and intimidation aimed at preventing them from carrying out their activities in defence of human rights. On 4 August 2006, 17 staff members of *Action Against Hunger* were killed in Muttur, Trincomalee District, Sri Lanka. It was reported that 15 of them had been killed, shot in the back of the head, and that their murders followed heavy fighting between Sri Lankan government forces and the Liberation Tigers of Tamil Eelam (LTTE). The Special Representative of the Secretary-General on Human Rights Defenders; the Special Rapporteur on extrajudicial, arbitrary and summary executions, and the Special Rapporteur on the Right to Food, Jean Ziegler issued a press release expressing their serious concern over these killings and the escalation of violence on 11 August 2006.

588. On 8 December 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning the arrest and charges brought against **Fr Jesuratnam Jude Bernard Omi**, Director of the Centre for Peace and Reconciliation (CPR) in Jaffna, Sri Lanka. According to the information received, on 24 November 2006, Fr Omi was arrested after he intervened in a matter concerning, Mr Mariyanayaham Godfry Morris Gnanageethan who had been detained for allegedly distributing leaflets issued by the Justice Peace Commission (JPC) concerning the humanitarian situation in Jaffna. It is reported that the Mr Mariyanayaham had been queuing for food at the 6 CLI army camp when his cousin Ms Alanday Dinoshah had spoken with him and given him one of the aforementioned leaflets to read. Members of the Sri Lankan Army (SLA) reportedly confiscated the leaflet and asked Mr Mariyanayaham questions relating to its origin. When he referred to his cousin, members of the army allegedly went to her house in order to arrest her. A member of JPC, Fr Francis Xavier Jeyasegaram accompanied Fr Omi, Ms Alanday and her mother to the army camp where Mr Mariyanayaham was detained. They were allegedly photographed by members of the SLA and threatened by Colonel Manjula who said, "If you all can organise a campaign against the forces we will also do things against you all. You all will face the consequences soon". After they had left the army camp with Mr Mariyanayaham, the Colonel allegedly drove around them on a motorcycle. Later that day, it is reported that Fr Omi went to the High Court where Brigade Commander Godipilli stated that Fr Omi and Fr Jeyasegaram had distributed the leaflets to people in the queue. Two soldiers were apparently called as witnesses but they never appeared before the court. It was further reported that Fr Omi then went to the District Court to record a statement but while there, members of SLA surrounded the office of CPR and arrested Fr Jeyasegaram and took him to CPR. According to reports, Fr Omi went to the Human Rights Commission and recorded a statement before he reported to the 6 CLI Camp escorted by members of the Non-Violent Peaceforce (NP). The sources indicate that SLA transferred the two priests along with Mr Mariyanayaham, Ms Alanday and their parents to the police station in an army vehicle, where they were handed over to the police. Reportedly they all made individual statements, and Ms Alanday was subjected to a full body search. On 29 November 2006, the four above-mentioned individuals appeared before the Magistrate's Court of Jaffna where they were allegedly charged under criminal law although they were not informed of the charges brought against them. They were told that their file would be sent to the Attorney General's Department and the charges against them should be announced by 31 January 2007. They have all reportedly been ordered not to leave the country and they will not be permitted to leave Jaffna before the start of the trial. Concern was expressed that the arrest of Fr Jesuratnam Jude Bernard Omi may have been related to his defence of the right of Mr Mariyanayaham Godfry Morris Gnanageethan and Ms Alanday Dinoshah to exercise



their freedom of expression. Further concern was expressed that the charges against him were fabricated and he will not receive a fair nor impartial trial.

### **Replies from the Government**

589. By letter dated 17 January and 30 June 2006, the Government of Sri Lanka replied to the communication of 6 January 2006 concerning the assassination of **Joseph Pararajasingham**, leader of the parliamentary group Tamil National Alliance. The Government strongly condemned Mr Pararajasingham's murder and indicated that the General Police Inspector had been instructed to appoint a special investigation team, which started investigating the case on 25 December 2005. At the time the shooting took place during the midnight mass of 12 December 2005 at St. Mary's Church in Batticola, security officers of Batticola police were with him. According to Mr Pararajasingham's wife, his decision of attending midnight mass was made short in advance. The Government noted that this case led to the LTTE and Karuna factions accusing each other for the crime. One witness provided a description of the assailants however, at the moment this reply was sent, and in the absence of evidential material, the investigation had come to a deadlock though inquiries continued.

590. By letter dated 27 June 2006, the Government of Sri Lanka replied to the communication of 7 June 2006 concerning five journalists (**Sunanda Deshapriya, Sita Ranjani, Poddala Jayanthe, Dharmasiri Lakapeli and Prasanna Fonseka**) who received threatening phone calls. The Government indicated that the five above-mentioned persons were amongst the representatives of a group of journalists who went to Kilinochchi for a meeting with the chief of the political wing of the Tamil Tigers. After that meeting there were several media reports accusing the said journalists of being Tamil Tigers spies. The Government of Sri Lanka stated that it is unknown if the journalists had made a formal complaint about the allegations and that in the event an investigation could be conducted. The Government informed about the possibility of keeping surveillance on the journalists' telephones in order to ascertain from where the calls originated, and stated that if the journalists did not consent to this method, it would be difficult to establish the identity of such callers. The Government reported that it had no control over media reports given the independence of the press, other than frequent appeals to the press for restraint in the reporting of matters of sensitive political nature. It was also reported that the State has allowed self-regulation of the media without any interference.

591. By letter dated 6 October 2006, the Government of Sri Lanka replied to the communication of 6 July 2006 concerning the murder of the journalist **Sampath Lakmal** on 1 July 2006. The Government informed that the body of Sampath Lakmal was discovered on 2 July 2006 and the examination was conducted by the Judicial Medical Officer, who established the time of the death. It was reported that on 1 July 2006, Sampath Lakmal had met some intelligence operatives and according to his mother's explanations she received two telephone calls that got disconnected before she could answer them. The Government of Sri Lanka indicated that inquiries had revealed that Sampath Lakmal had met with a member of the Army Intelligence Unit (Lt. Anthony), who gave him information concerning Liberation Tigers of Tamil Eelam (LTTE) and ordered one Pvt. Kumara from the Welisara Army Camp to meet him. They met, went in the direction of Dehiwela and when Sampath suggested to visit Godagama, Pvt. Kumara had declined and returned to the Welisara camp. It was also reported that Sampath

Lakmal had published several articles about one Vindana, who had made a complaint to the Police but the matter had been settled thereafter.

592. By letter dated 14 September 2006, the Government of Sri Lanka replied to the communication of 11 September 2006. The Government informed that it condemns the attack on the offices of the three **international NGOs engaged in humanitarian assistance** in Muutur, Trincomalee on 21 May 2006, and had ordered an investigation and provided all needed assistance to the injured persons

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

593. By letter dated 11 May 2006, the Government of Sri Lanka replied to the communication of 21 July 2004 concerning the killing of **Mr Aizathurai Nadesan** and **Mr Kumaravel Thambiah**. The Government stated that the Criminal Investigations Department (CID) of Sri Lanka Police had commenced an investigation into this complaint under the orders received from the Inspector General of Police. The Government indicated that investigations are in progress.

594. By letter dated 19 June 2006, the Government of Sri Lanka responded to the urgent appeal sent on 3 December 2004 concerning **Mr Uswatta Liyanage, Mr Anthony Joseph Perera** and **Ms Lalith Rajapakse**. The Government stated that an investigation was initiated by the Criminal Investigation Department on 22 November 2004 into the alleged death threats against Mr Perera and Mr Liyanage. It was noted that whilst investigations continue, Mr Perera and Ms Rajapakse have been provided with 24-hour police protection and that a special police team was deployed to protect Ms Rajapakse during her court hearing at the High Court, Negombo on 21 February 2005. The Government also indicated that police protection has been withdrawn from Mr Perera's house on his request.

595. By letter dated 23 January 2006, the Permanent Mission of the Democratic Socialist Republic Sri Lanka responded to the urgent appeal sent on 2 November 2005 concerning **Mr Sanjeewa**. The Mission stated that the Special Investigations Unit (SIU) of Sri Lanka had informed the Ministry of Foreign Affairs that an official complaint from Mr Sanjeewa regarding the allegations outlined in the communication of 2 November 2005 had not been received. It was noted that a request had been made by the SIU to the Ministry of Foreign Affairs for Mr Sanjeewa's address so that an official statement could be recorded.

#### **Observations**

596. The Special Rapporteur thanks the Government for its replies and invites the Government to reply to the communications dated 28 February 2006, 4 May 2006, 24 and 25 August 2006, and 8 December 2006.

#### **Sudan**

597. On 27 January 2006, the Special Rapporteur, jointly with Special Representative of the Secretary-General on the situation of human rights defenders, sent a number of **delegates** at a **non-governmental organization forum** in Khartoum, including **Faisal al Baqir**, a freelance journalist and member of the organization Reporters Sans Frontières and associated with the Sudanese Organization Against Torture (SOAT) and Dr. **Nagib Najmedin**, director of the Amal

Centre and the Khartoum Centre for Human Rights. Mr al Baqir was the subject of an allegation letter sent on 6 September 2004. The NGO forum had brought together national and international NGO's, two representatives from the United Nations and representatives from the European Union. The NGO Forum was being held at the same time as Summit of the African Union in Khartoum. According to the information received, on 23 January 2006 at approximately 6 p.m.m, security forces entered the building where the NGO forum was being held. It was reported that security forces then ordered the delegates to hand over all documents and laptops. Some of the delegates resisted these demands, and it is reported that some of them were pushed and threatened by the security forces. It is also reported that still and digital photographs and video material were forcibly taken from the delegates by the security forces. It is alleged that a crowd of journalists and diplomatic representatives that had gathered outside the building while these events were taking place were prevented from entering by the security forces. At approximately 9 p.m., it was reported that security forces attempted to release delegates who were representing international organizations, but not Sudanese nationals. International delegates resisted these attempts and finally all delegates were released. Concern was expressed that the detention of NGO delegates including Faisal al Baqir and Nagib Najmedin was a deliberate attempt to prevent them from carrying out their legitimate activities in defence of human rights.

598. On 20 March 2006, the Special Rapporteur jointly with the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders sent **Sudan Social Development Organization** (SUDO), a humanitarian and development non-governmental organization which works in West Darfur, Sudan. SUDO also monitors human rights violations in Darfur and assists women who have suffered gender -based violence as a result of the conflict in Darfur. According to the information received, on 11 March 2006 the Humanitarian Aid Commission (HAC), a Government agency, issued a formal notice to the directors of SUDO in Zaillingiee and Geneina, ordering the suspension of all its activities within West Darfur. It was reported that the directors of SUDO were ordered to hand over all the assets of the organization and to close down its health and nutrition centres and its food distribution unit. It was alleged that the legal grounds for this suspension based in the "Organization of Humanitarian and Voluntary Work Act", but HAC did not specify which provisions of the Act SUDO had violated. This legislation was the subject of an urgent appeal sent on 16 November 2005. In that communication, concern was expressed regarding the powers granted to HAC by this legislation, particularly regarding powers to suspend NGO activities, dissolve their executive committee and replace it with a transitional committee, cancel registration, and expel International NGOS from the Sudan upon approval from the Minister, without judicial review. Concern was expressed that the suspension of the activities of SUDO was connected with its work in defence of human rights and will prevent it from carrying out its humanitarian and development work.

599. On 10 April 2006, the Special Rapporteur, jointly with Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture regarding **Osman Hassan Al-masri**, General Secretary of the Beja Congress in Gadarif State (arrested on 6 March 2006), **Alamin Alhaj**, Chairperson of the Beja Congress in Gadarif State (arrested on 6 March 2006), **Ali Hussain Omer**, Member of the Beja Congress Secretariat in Kassala State (arrested on 7 March 2006 – transferred form security detention to Kassala Prison, began a hunger strike on 26 March 2006), **Ali Omer**, Member of the Beja Congress Secretariat in Kassala State (arrested on 8 March 2006), **Mahmoud Ibrahim Osman**, Assistant General

Secretary of the Beja Congress in Kassala State (arrested on 10 March 2006), **Ali Omer Mohamed Ali**, Member of the Eastern Front (arrested on 7 March 2006, began a hunger strike on 26 March 2006), **Haroun Mohamed Ali**, Member of Eastern Front (arrested on 7 March 2006, began a hunger strike on 26 March 2006), **Mohamed Din Suleiman**, Chairperson of the Secretariat of the Beja Congress in Kassala State (arrested on 3 April 2006), **Gafar Mohamed Adam**, General Secretary of the Beja Congress in Kassala State General (arrested on 3 April 2006, previously arrested on 10 March 2006), **Mohamed Osman Alkhalifa**, Member of the Beja Secretariat in Kassala State (arrested on 3 April 2006), **Hashim Hangag**, Lawyer, Spokesperson for the Beja Congress in Kassala State (arrested on 04 April 2006, previously arrested on 10 March 2006), and **Alamin Alfaidabi**, Member of the Secretariat (arrested on 4 April 2006). According to the information received, on 6, 7 and 8 March 2006, Osman Hassan Al-masri, Alamin Alhaj, Ali Hussain Omer, Ali Omer, Mahmoud Ibrahim Osman, Ali Omer Mohamed Ali and Haroun Mohamed Ali were arrested by the National at their homes in the Red Sea state, Kassala. Gadarif states in what appeared to be a mass arrest of leading members of the Beja Congress in Red Sea state, Kassala and Gadarif states by security officers. At the time this communication was sent, they were held incommunicado, without charges, in unknown locations in the area. Ali Hussain Omer, Ali Omer Mohamed Ali and Haroun Mohamed Ali had been on hunger strike since 2 April 2006 in protest at their continued detention. On 3 and 4 April 2006, Mohamed Din Suleiman, Gafar Mohamed Adam, Mohamed Osman Alkhalifa, Hashim Hangag and Alamin Alfaidabi were arrested in similar conditions by security officers in Kassala State, Eastern Sudan. No reason was given for the arrests and detention. Concern had been expressed that the wave of arrests aimed at intimidating the Beja Congress from participating in the at that time ongoing peace negotiations in Asmara, Eritrea with the government under the auspices of the United Nations.

600. On 24 April 2006, the Special Rapporteur and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding the non-governmental organization **Women Awareness Raising Group- Red Sea (AWOON Red Sea)**. AWOON Red Sea provides legal assistance and legal advice to women in Port Sudan, Sudan. According to the information received, on 11 April 2006, the Humanitarian Aid Commission (HAC) issued a formal letter to AWOON Red Sea, notifying the organization that its assets would be frozen. It was reported that HAC invoked the Humanitarian Aid Commission Act 1988 as the legal basis for freezing the assets of AWOON Red Sea, and that under this Act, AWOON Red Sea's activities were illegal because AWOON Red Sea had submitted a funding application to the European Union without first seeking approval of HAC. It is further reported that HAC made reference to the "Organization of Humanitarian and Voluntary Work Act" to further justify the closure of AWOON Red Sea. Grave concern was expressed that the freezing of the assets of AWOON Red Sea may have been a deliberate attempt to prevent it from carrying out its activities in defence of human rights and result in its effective closure. Furthermore, serious concern was expressed that this may have formed part of a campaign on the part of the Sudanese authorities to prevent non-governmental organizations from carrying out their activities in defence of human rights. These concerns are heightened by the fact that on 11 March 2006, the activities of the Sudan Social Development Organization (SUDO), a humanitarian and development non-governmental organization which works in West Darfur, Sudan, were suspended. This suspension of activities was the subject of an urgent appeal sent on 20 March 2006.

601. On 25 August 2006, the Special Rapporteur jointly with the Special Rapporteur on the question of torture, the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, sent an urgent appeal concerning **Naser Eldien Ahmed Altayeb**, journalist working for the Arabic daily *Alayam*. According to the information received, on 16 August 2006, Naser Eldien Ahmed Altayeb was arrested by the police, taken to a nearby vehicle and allegedly beaten by police officers. As a result, he was hospitalized at the Khartoum Teaching Hospital. Naser Eldien was reporting on the forced relocation of residents in Dar al Salaam, Algazera province, mainly internally displaced persons (IDPs) from Southern Sudan and Darfur who have resided in the area for over two decades. Concerns were expressed that the arrest and beating of Naser Eldien Ahmed Altayeb occurred because of his activities in defence of human rights, in particular the right not to be forcibly evicted.

602. On 30 August 2006, **Paul Salopek**, a correspondent for the "Chicago Tribune" daily newspaper, his driver, **Suleiman Abakar Moussa** and his interpreter, **Abdulraman Anu** have been held in detention since 6 August 2006. Reportedly, they have been recently charged with spying, disseminating illegal information and entering Sudan illegally - crimes punishable by long prison terms under the Sudanese criminal code. Mr Salopek was allegedly working on a report about the Sahel region for the "National Geographic" magazine when he was arrested with his driver and interpreter on 6 August 2006.

603. On 8 September 2006, the Special Rapporteur, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders sent concerning two demonstrations planned to take place in Khartoum on 30 August 2006 and in Kosti on 2 September 2006 organized by a variety of political opposition groups and trade unions against the recent increases in the prices of some items and a demonstration that took place on 6 September 2006 in Khartoum. According to the information received, on 30 August 2006 and prior to the demonstration, four activists of various political parties and one journalist were arrested in Khartoum, and later taken to Khartoum North security offices (Political Section). Mr **Sattiaa Mohamed Alhag**, lawyer and member of the Arab Nassrist Party, and Mr **Alhag Warrag Sid Ahmed**, column writer with the *Al-Sahafa* daily and former Chairperson of "The New Forces Movement" (HAQ), were detained without interrogation for ten hours and released without charge on the same day. Reportedly, the whereabouts of the other three detainees, Mr **Ibrahim Ahmed Alsheikh**, member of the Sudanese National Congress Party, Mr **Alfatih Omer Alsaied**, member of the Sudanese National Congress Party, and Mr **Mohamed Dia-aldin**, member of the Baathist Arab Party remained unknown. On that same date, Sudanese police and security forces violently broke up the demonstration, blocked access to the "green tomb square" where it was taking place, and closed access roads. Eyewitness accounts suggested that protestors were beaten and dispersed by armed riot police who shelled the area with tear gas. Mr **Sidig Mahgoub Munawar** reportedly suffocated to death from the effects of the tear gas. It was reported that authorities had denied permission to hold the demonstration. During the incident, and according to the information received, at least 35 protestors and bystanders were arrested. On August 31, 2006, those arrested were brought before three courts in Khartoum and charged under articles 67 (rioting) and 69 (disturbance of public peace) of the 1991 Penal Code. In all, 11 individuals were found guilty and 25 were released after having been found not guilty or in the absence of valid charges. Reportedly, Mr **Surag -aldin Yousif** and Mr **Suleiman Tahir** as well as Mr **Mohamed**

**Suleiman Hor** and Mr **Mohamed Omer Idris** were sentenced to two and one- months' imprisonment respectively. Mr **Alamin Idris Awad**, Mr **Mohieldin Hasan Altahir**, Mr **Abdullah Abdelsalam** and Mr **Higazi Ali** were sentenced to a fine of SD. 30000 or a one-month imprisonment. Additionally, Mr **Alsadig Hassan**, Ms **Nazik Izzeldin Abass** and Mr **Ibrahim Atta-almannan Al-zubair** were sentenced to a fine of 10.000 SD or one-month imprisonment. Reportedly, additional trials were ongoing at the time the communication was sent. Regarding the demonstration planned for 2 September 2006 in Kosti city, the organizers were informed on 1 September by the Security Committee in Kosti that the permission to hold the protest on the next day had been withdrawn for security reasons, although it had been previously granted by the same Committee. In a separate incident, on 6 September 2006, Security and Police forces in Khartoum arrested **56 men and an unknown number of women** including human rights defenders and political activists who were taking part in a peaceful demonstration in Khartoum. Among the detainees there were human rights defenders and political activists including: **Moniem Eljack**, **Bushra Alsayim** and **Marwa Mamoun Alhaj**, who were awaiting trial, **Sidiq Alsaddig Al Mahdi** and **Mariam Alsaddig Al Mahadi**, who were respectively sentenced to one month and two months' imprisonment respectively as well as Dr. **Murtada Alghali** and **Sara Nugdalla**, who were tried and released on 7 September 2006. Reportedly, a number of the male detainees were manhandled and beaten during arrest and transfer from Abu Jinzair Police Station to Algism Alshimili Police Station. The detainees, who are currently detained in Khartoum North Court, are awaiting trial. It was reported that non of the 56 defendants detained in the cell have been informed of charges against them and have not been granted access to legal advice, despite the presence of several lawyers waiting outside of the court to provide advice and representation. Serious concern was expressed that the arrest and trial of these human rights defenders was linked to their activities in defence of human rights, and formed part of a campaign of harassment and intimidation against human rights defenders in Sudan.

604. On 19 September 2006, the Special Rapporteur sent a letter of allegation concerning **Mohammed Taha**, editor-in chief of the private daily *Al-Wifaq*, who was kidnapped on 5 September 2006 by masked gunmen outside his home in east Khartoum. A day after, police found his severed head next to his body in the south of the capital. Reportedly, Mohammed Taha had written critically about the political opposition and armed groups in west Darfur region. In May 2005 he was detained for several days, fined US\$3.200 and his paper was closed for three months for having republished an article from the Internet regarding Prophet Muhammad. Demonstrators outside the court demanded death penalty for blasphemy. On 11 September 2006, security officers visited the offices of *al Sahafa* daily newspaper and ordered that a number of articles and columns be removed prior to printing. Two articles removed related to a meeting convened by journalists to discuss the abduction and murder of the above-mentioned journalist.. On the evening of 6 September 2006, security officers from the Press and Media Department of the National Security Bureau visited the print room of *Ray al Shaap* daily newspaper and ordered the removal of references to demonstrations which had been held earlier on the same day in Khartoum. Security Officers ordered the removal of the front page headline and the entirety of text on page three of the paper. The paper went to print without a front page headline nor page three. On a separate event, on 9 September 2006 the Sudanese authorities confiscated all copies of *al-Sudani* newspaper, allegedly aiming at preventing the publication of articles that would compromise the investigation on Mr Taha's death. It was as well reported that Sudanese authorities had expressed their "reservations" about the coverage of current issues by the

newspaper. Reportedly, the edition confiscated included articles regarding the recent banned demonstrations against a rise of oil and sugar prices.

### **Replies from the Government**

605. By letter dated 28 October 2006, the Government of Sudan replied to the communication of 19 September 2006, indicating that the freedom of opinion and expression in Sudan is defended and protected in the Interim Constitution and law. The Government informed that, in the aftermath of the crime of the journalist **Mohammad Taha**, the authorities prohibited the publication of articles that may have interfered with the investigation on Mr Taha's death. It was also reported by the Government that some newspaper violated such prohibition and accordingly articles like those mentioned in the communication were barred from publication.

606. By letter dated 8 May and 2 August 2006, the Government replied to the communication of 10 April 2006. The Government noted that **Osman Hassan Al-Masri** and **Alamin Alhaj** were arrested in the Sudanese-Eritrean border for suspicion of their identity, but were later on released after their identity was verified during the interrogation. Regarding **Ali Hussain Omer** and **Ali Omer Mohamed**, they were arrested on 7 March 2006 for supporting the armed branch of Albiga Congress and charged with the offence of collaboration with Beja Armed Organization and with Eritrea. They were released after the investigation proved no charges against them. **Mohamed Din Suleiman, Gafar Mohamed, Hashim Hangag, Alamin Alfaidabi** and **Mohamed Osman Alkhalifa** were arrested on 28 March 2006 for inciting people to protest against the existence of police camp (anti-smuggling) inside the state of Kasala, being released the next day, on 29 March 2006. The Government stressed that none of the abovementioned persons were tortured.

607. By letter dated 2 August 2006, the Government replied to the communication of 24 April 2006 concerning the non-governmental organization **Women Awareness Raising Group** (AWOON). The Government explained that AWOON is registered with the Humanitarian Aid Commission (HAC), which provides legal assistance to women in Port Sudan. The Government noted that AWOON contravened the law (section 15/2 of the Humanitarian Aid Act 1995) for funding a project without HAC's permission. The project was funded by EU and aimed at strengthening the capacity of civil society in human rights. The Government concluded that for these reasons HAC decided to freeze the bank accounts and activities of AWOON.

### **Observations**

608. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 27 January, 20 March, 25 and 30 August, and 30 September 2006.

### **Syrian Arab Republic**

609. On 21 February 2006, the Special Rapporteur jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture sent an urgent appeal regarding two university students, Mr **Ali Nazeer Mustafa** and Mr **Husam Ali Mulhim**, who were allegedly arrested by Air Force Intelligence officers in Damascus, on 26

January 2006, allegedly at the Air Force Intelligence Branch in Harasta, near Damascus, and no formal charges against them were known to have been raised. Considering that Ali Nazeer Mustafa and Husam Ali Mulhim are allegedly held incommunicado at an undisclosed location, there were concerns that they might have been at risk of torture or other ill-treatment. Concern were expressed that the reason for their arrest and detention was their participation in pro-democracy discussions with fellow students. This concern was corroborated by reports that two other students who were part of those discussions were arrested for several hours on 14 February 2006 and were now obliged to present themselves twice a day for interrogation at the Air Force Intelligence Branch in Harasta.

610. On 6 April 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Ali al-Abdullah**, a journalist writing for several Arab newspapers, including *Al Nahar*, *Al Hayat* and *Al Quds En Arabi*, and a member of the Atassi Forum. Ali al-Abdullah had been already arrested on 26 May 2005 and his case was the subject of a communication dated 6 July 2005. According to the Government's response dated 29 December 2005, Ali al-Abdullah was released from detention on 4 November 2005. Unfortunately, this communication did not address the concerns expressed in the letter of 6 July 2005, i.e. that his alleged detention – first incommunicado and then in solitary confinement – might have placed him at risk of torture or other forms of ill-treatment, and that his detention might have violated his rights to freedom of opinion and expression and to speak and act for the promotion of human rights. According to the allegations received, on 23 March 2006 Ali al-Abdullah and his son Mohammad were arrested at their home in Ktene, south of Damascus. It was not known whether the officials carrying out the arrest showed an arrest warrant or other document justifying the deprivation of liberty and setting forth the charges against the two men. It is also not known where the two men were being detained at the time this communication was sent. As a consequence, concerns were expressed that Ali al-Abdullah and his son Mohammed might have been at risk of torture or other ill-treatment.

611. On 11 April 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Mohammed Ghanem**, a novelist and journalist, resident in Ar-Rika, North Syria. According to the information received Mohammed Ghanem was arrested by officers of an armed patrol of the Syrian Military Intelligence Department (SMID) at his residence in Ar-Rika on 31 March 2006. SMID immediately transferred him to Damascus, where he is currently detained in the "Palestine Branch" of the Military Intelligence Security (Branch 235). It is not known whether he has been charged with any offense, and he has not been allowed to meet either his lawyer or members of his family. The Special Rapporteurs are concerned that his detention might be due to his having posted articles denouncing human rights violations in Syria on his website "Souriyoun". Considering his allegedly incommunicado detention, there is also the concern that he might be at risk of torture or other inhuman or degrading treatment.

612. On 4 May 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defender,s sent



an urgent appeal concerning Mr **Fateh Jamus**, a human rights defender and pro-democracy activist. According to the information received, on 1 May 2006, Mr Fateh Jamus was arrested and detained by State Security Officers at Damascus Airport, Syria. He had just returned from a trip to Europe during which he had spoken at an Amnesty International conference about human rights and asylum issues. He is currently being held in incommunicado detention at State Security Branch 255 in Damascus. Grave concern was expressed that the arrest and detention of Mr Fateh Jamus may have been connected with his activities in defence of human rights, in particular because of his peaceful advocacy for democratic reform in Syria. In the light of his incommunicado detention, further concern was expressed that he may have been at risk of torture or ill-treatment.

613. On 17 May 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Michel Kilo**, president of the *Organization for the Defence of Freedom of Expression and the Press*, an organization that advocates for the right of freedom of expression and opinion in Damascus; and a journalist with *al-Quds*, an Arabic paper that is published in London. According to the information received, on 14 May 2006, Mr Kilo was summoned to meet with the Syrian intelligence services. It was reported that since that date he had been in incommunicado detention and his whereabouts were unknown. It was reported that Mr Kilo had recently signed a petition calling for improvement of relations between Syria and Lebanon. Concern was expressed that the above events may have been connected with Mr Kilo's activities in defence of the right to freedom of expression and opinion in Syria. In light of his incommunicado detention, further concern was expressed regarding his physical and psychological integrity.

614. On 19 May 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Muhammad Ghanem**, online journalist at the news website *Surion*, Mr **Anwar Al Bunni**, human rights lawyer and member of the Syrian Organization for Human Rights, Mr **Ghaleb Ammar**, board member of the Arab Organization for Human Rights (AOHR), Mr **Mahmoud Merri**, secretary of AOHR, Mr **Sulieman Al Shamr**, member of the National Democratic Coalition, Mr **Abbas Abbas**, a journalist, Mr **Khalil Hussein**, former political prisoner and leader of the political organization "Kurdish Future", Mr **Mahmoud Issa**, former political prisoner, and Mr **Nidal Darwish**, board member of the Defence Commission for Human Rights and Democratic Freedoms in Syria. According to the information received, on 31 March 2006 Mr Ghanem was arrested at his home in al-Raqqah by military intelligence officers. He was immediately transferred to Damascus and detained in the "Palestine Branch" of the Military Intelligence Security (Branch 235). On 15 May 2006, he appeared before a military court in the northern town of al-Raqqah on charges of publishing false news about human rights violations committed by the Syrian authorities. He was then transferred to al-Raqqah al-Markazi prison where he remains in detention. Mr Ghanem, who had been previously arrested and detained for 15 days by military intelligence officers in March 2004, has not been allowed to see his lawyer or his family since his arrest. On 16 May 2006, Mr Nidal Darwish and Mr Mahmoud Merri were arrested and detained by Syrian security forces in Damascus. Furthermore, on 17 May 2006, Mr Anwar Al Bunni, Mr Sulieman Al Shamr, Mr

Ghaleb Ammar, Mr Sulieman Al Shamr, Mr Khalil Hussein, Mr Mahmoud Issa and Mr Abbas Abbas were arrested and detained by security forces in Damascus. Their whereabouts remained unknown at the time this communication was sent, and reportedly they had no access to their families or to legal representation since their arrest. It was reported that they had all recently signed a petition calling for improvement of relations between Syria and Lebanon. Grave concern was expressed that the above arrests and detentions were connected with the activities of the above-named people in defence of human rights, in particular their activities in defence of the right of freedom of opinion and expression in Syria.

615. On 2 June 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding Mr **Michel Kilo**, president of the Organization for the Defence of Freedom of Expression and the Press, an organization that advocates for the right to freedom of expression and opinion in Damascus; and a journalist with al-Quds, an Arabic paper that is published in London, Mr **Anwar Al Bunni**, human rights lawyer and member of the Syrian Organization for Human Rights, Mr **Ghaleb Ammar**, board member of the Arab Organization for Human Rights (AOHR), Mr **Mahmoud Merri**, secretary of AOHR, Mr **Sulieman Al Shamr**, member of the National Democratic Coalition, Mr **Abbas Abbas**, a journalist, Mr **Khalil Hussein**, leader of the organization “Kurdish Future” an organization that defends the rights of the Kurdish population in Syria, Mr **Mahmoud Issa**, former political prisoner, and Mr **Nidal Darwish**, board member of the Defence Commission for Human Rights and Democratic Freedoms in Syria. Mr Michel Kilo was the subject of an urgent appeal sent on 17 May 2006. Mr Al Bunni, Mr Ammar, Mr Merri, Mr Al Shamr, Mr Abbas, Mr Hussein, Mr Issa and Mr Darwish were the subjects of an urgent appeal sent on 19 May 2006. According to the information received, the above-mentioned people were arrested on 17 and 18 May 2006, and were detained in Adra prison in Damascus. They were charged with “weakening nationalist feelings and inciting racial or sectarian strife”, under article 285 of the Syrian Penal Code. These charges allegedly related to a petition calling for the improvement of relations between Syria and Lebanon, which was signed by the above-named individuals. Should they be convicted of these charges, they may face sentences of up to 15 years’ imprisonment. It was reported that during their interrogation they were beaten by prison officers and that at the time this communication was sent, they had been allowed to meet with their lawyers only once since their arrest. Mr Anwar Al Bunni had allegedly been on hunger strike since his arrest on 17 May 2006 in protest at his arrest and detention. It was reported that he was in a weakened state of health. Grave concern was expressed that these charges were related to the activities of the above-named people in defence of human rights, in particular because of their defence of the right to freedom of expression and opinion. Further concern was expressed that they were being denied adequate access to legal representation.

616. On 28 June 2006, the Special Rapporteur sent a letter of allegation concerning Mr **Muhammad Ghanem**, online journalist at the news website *Surion*. He was a subject of the communication sent on 19 May 2006, to which no reply had been received. According to the new information received, Mr Ghanem was found guilty by a military court on 6 June 2006 of insulting the president, undermining the state's dignity, and inciting sectarian divisions. The charge stems from his critical articles published on line. In those articles, he advocated political

and cultural rights for Syria's Kurdish minority, and he has been critical of the ruling Baath party's handling of domestic issues. Reports indicate that Ghanem was sentenced to a one year in jail but the judge commuted his sentence to six months for unknown reasons. Concern was expressed at the authority's recourse to criminal sanctions against Mr Ghanem for his writings advocating political and cultural rights for Kurdish minority.

617. On 30 June 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning Mr **Radwan Ziadeh**, Director of the Damascus Centre for Human Rights Studies in Damascus, Syria. According to the information received, on 26 June 2006 Mr Ziadeh was allegedly stopped by Syrian security forces at the border between Syria and Jordan and prevented from crossing the border, while he was on his way to participate in an international conference entitled "Human rights within the framework of Criminal Justice: current challenges and needed strategies in the Arab World", organised by the Amman Centre for Human Rights Studies (ACHRS), which was due to take place in Jordan from 27 to 29 June 2006. It was alleged that Mr Ziadeh was not given any reason as to why he was prevented from leaving Syria and that he was told to report to the General Security Administration (Al-moukhabarat). It was also reported that, on 26 June 2006, members of the Syrian security forces went to Mr Radwan Ziadeh's house in Damascus and questioned his brother Mr Mrr about the reasons for Mr Radwan Ziadeh's travel to Jordan. Concerns were expressed that Mr Radwan Ziadeh was allegedly prevented from travelling to Jordan in order to prevent his participation in the above-mentioned conference, and to restrict his activities in defence of human rights.

618. On 23 August 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the arrest of Mr **Ali Shahabi**, an intellectual, a writer and a teacher, who had been involved in promoting fundamental freedoms and democracy in Syria by taking part in public discussions forums, sit-ins and meetings dedicated to the defence of human rights. He was also the author of several articles on political and social issues published on the website *Hiwar al-Mutamedn* ('Civilised Dialogue'), and has had two books published in Syria on social affairs. According to the information received, on 10 August 2006 at 10am, Mr Shahabi was reportedly summoned to the State security services in Damascus, as it had been regularly the case over the last past months. He has not been seen or heard of since then. On 12 August 2006, Mr Shahabi's wife enquired about him at the State Security centre at Kafr Soussa, Damascus, and was told that he was being held there, but that she could not see him. No explanation was reportedly given for his summons or continuing detention. On 17 August 2006, Mr Shahabi's wife tried a second time to visit him, but again was reportedly denied access to him, although security officers did take some personal items from her which they said they would give to him. She was told to make an official application to get permission to see him and to return again in another week. Mr Shahabi has reportedly not been charged with any offence. The conditions of his detention are unknown. Serious concerns have been expressed that Mr Shahabi's arrest was linked to his various activities in the defence of human rights, and may form part of a campaign of harassment and intimidation against human rights activists in the country.

619. On 4 October 2006, the Special Rapporteur sent a letter of allegation concerning **Habib Saleh**, writer and journalist for the Lebanese daily *An-Nahar*, who was sentenced on 16 August 2006 to three years' imprisonment by a military court in the city of Hamas. Mr Saleh, who regularly posted open letters on internet about the ruling Baath Party, was reportedly charged with "spreading false and exaggerated information". In a separate affair, on 6 June 2006, **Mohammed Ghanem**, editor of the news Web site *Surion*, was sentenced to one-year imprisonment by a military court. Mr Ghanem was found guilty of "insulting the President, undermining the state's dignity, and inciting sectarian divisions". The judge later commuted his sentence to six months. Mr Ghanem had written many articles advocating political and cultural rights for Syria's Kurdish minority and has been vocal on the Baath Party's handling of domestic issues. He had already been detained for almost one month in March 2004 because of his articles on the activities of the Syrian army and intelligence services against the Kurdish minority. Mr Ghanem has been the subject of two previous communications on 29 June 2006 on 19 May 2006.

620. On 12 October 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, sent a letter of allegation regarding the situation of the online journalists **Muhened Abdulrahman** and **Ali Sayed al-Shihabi**. According to the reports received, on 7 September 2006, Muhened Abdulrahman, a journalist working for independent news sites *Rezgar* and *Syrianforum*, was arrested by security services in Damascus on his return from the village of Qamishly, where he had interviewed a Kurdish political leader. Since then, his whereabouts are unknown. Mr Abdulrahman had posted in Internet numerous interviews and profiles of Syrian political figures. He had also urged diplomats in posts in Damascus to intervene on behalf of Habib Saleh, Mohammed Ghanem and Ali Sayed al-Shihabi, other three online journalists now imprisoned in Syrian jails. On 10 August 2006, Ali Sayed al-Shihabi, editorialist on the site *Rezgar*, was summoned to a meeting with State Security agents in Damascus. He has not been seen since then. On 12 August Mr Al-Shihabi's wife enquired about him at the State Security centre at Kafr Soussa, in Damascus. She was told that Mr Al-Shihabi was being held there but she was not allowed to see him. Reportedly, he was not charged with any offence and no explanation has been given for his detention. Mr Al-Shihabi's had posted articles on political and social issues on the website *Hiwar al-Mutamedn*. He had also published two books on social affairs. Besides being summoned many times in the past, he had been imprisoned for a year in 1975 and for nine years from 1982 to 1991 for being a member of the outlawed Communist Party of Syria.

621. On 25 October 2006, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning information they have received regarding Mr **Michel Kilo**, president of the Organization for the Defence of Freedom of Expression and the Press and a journalist with al-Quds, an Arabic paper that is published in London, and Mr **Anouar Al Bunni** founding member of the Syrian Human Rights Association (ASDH) and member of the Committee for the Defence of Prisoners of Conscience. According to the information received, Mr Kilo and Mr Al Bunni, at the time this communication was sent, were detained at the Adra prison and faced charges of "undermining national pride" and "incitement to racial and sectorial hatred" under article 285 of the Penal Code. Allegedly these charges relate to a petition calling for the improvement of relations between Syria and Lebanon, which was signed by the above-named individuals. If convicted of these charges, it is reported that they may face sentences of up to 15 years' imprisonment. Mr

Kilo and Mr Al Bunni had been arrested in May 2006, along with other human rights defenders and political activists, after signing the “Beirut-Damascus Declaration”, a petition drawn up by Syrian and Lebanese intellectuals and activists calling for the improvement of the relations between the two countries. Mr Kilo and Mr Al Bunni were the subject of an urgent appeal on 17 May 2006 of 19 May 2006 respectively, as well as an urgent appeal on 2 June 2006. Concern was expressed that the arrests and charges against Mr Kilo and Mr Al Bunni may have represented an attempt to silence and prevent them from carrying out their human rights activities, in particular their work advocating for the right to freedom of expression.

### **Replies from the Government**

622. By letter of 8 September 2006, the Government replied to the communication of 21 February 2006 concerning two university students, Mr **Ali Nizar Mustafa** and Mr **Husam Ali Mulhim**. The Government noted that they were both arrested due to their participation in activities hostile to the State and due to the use of the Internet to incite public unrest. The Government explained that under article 307 of the Criminal Code, any act, writing or correspondence aimed at, or resulting in, the creation of confessional or racial strife or encouragement of conflict between the confessional groups and different ethnic communities of the nation shall be punished by a term of six months up to two years' imprisonment and a fine of 100 to 200 Syrian pounds, together with deprivation of the rights enumerated in article 65, paragraphs 2 and 4. The Government added that both Ali Nizar Mustafa and Husam Ali Mulhim had established a cell of an organization that advocates acts of terrorism against society and the State and solicited support from abroad, being punishable under article 306, paragraph 10, and article 364 of the Criminal Code. Accordingly, they were arraigned before the Higher State Security Court, pursuant to arraignment order No. 2/9/100 of 4 April 2006. At the time this reply was sent they were on trial.

623. By letter dated 30 October 2006, the Government replied to the communication dated 2 June 2006 concerning Mr Michel Kilo, Mr **Anwar Al Bunni**, Mr Ghaleb Ammar, Mr Mahmoud Merri, secretary of AOHR, Mr Sulieman Al Shamr, Mr Abbas Abbas, Mr Khalil Hussein, Mr Mahmoud Issa, former political prisoner, and Mr Nidal Darwish. The Government noted that Mr Al Bunni provided offices for the *Institute for Assistance and Solidarity*, based in Brussels, to carry out trainings of civil society; employed a local Syrian team and had furnished the Institute. The Government noted that Mr Al Bunni had done this before the organization had received a license to operate in Syria in contravention of the regulations and laws in force. Furthermore he published information on the Internet making false allegations against Syria damaging its standing in the domestic and international arenas, what is punishable under articles 286 and 287 of the Syrian Criminal Code. Additionally, Mr Al-Bunni signed and encouraged intellectuals to sign the Damascus-Beirut Declaration, which contains allegations and assertions made by a Lebanese faction that is hostile to Syria. Mr Al-Bunni accepted support from foreign governments and entities that are hostile to Syria, what is punished under article 264 of the Syrian Criminal Code. The Government explained that a legal case has been brought against Mr Al-Bunni for battery and assault of Ms Ghada al-Hamawi. When this woman was examined by a police doctor, she was found to have bruising on the stomach and head and abrasions on the stomach and in the pelvic area. She was prescribed 20 days of treatment and 10 days off work. The Government stated that the incident happened after Mr al-Bunni refused to return the money

he had taken from her pursuant to a contract engaging him as her defence counsel. At the time this communication was sent the case was before the courts.

624. By letter dated 25 October 2006, the Government replied to the communication of 4 October 2006 concerning **Mr Mohammed Ghanem**. The Mission stated that Mr Ghanem was arrested on 31 March 2006 for carrying out activities hostile to the State. These activities consisted of calling for the dismemberment of Syria and the establishment of sectarian and ethnic statelets. The letter noted that this act is punishable under Syrian law in accordance with articles 286 to 307 of the Syrian Criminal Code. Mr Ghanem was brought before the military prosecution department in Damascus on 7 April 2006 for an examination of the charges against him and not for writing articles condemning human rights violations in Syria. The letter concluded by stating that Mr Ghanem's civil rights are guaranteed under Syrian law.

### **Observations**

625. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 4, 17 and 19 May, 28 and 30 June, 23 August, 12 and 15 October 2006. At the time this report was finalized, the replies of the Government of Syria regarding the communications of 6 and 11 April were still in the process of being translated.

### **Tajikistan**

626. On 16 October 2006, the Special Rapporteur sent a letter of allegation concerning five online publications, *arianastorm.com*, *centrasia.org*, *charogiruz.ru*, *ferghana.ru*, and *tajikistantimes.ru* which were reportedly blocked, following the reported instruction on 7 October 2006 from the state information-regulation agency of the Ministry of Communications, to search twelve web providers and close websites that allegedly aimed to undermine the Government's policies in the field of information. Concern was expressed that this measure aimed at restricting access to alternatives sources of information, especially in light of the political elections which were to be held on 6 November 2006. Furthermore, according to the information received, the newspaper *Adolat* ceased publication on 5 October 2006, after the printing company refused to continue their collaboration, allegedly claiming that it was acting on instructions from the Ministry of Culture.

### **Observations**

627. The Special Rapporteur invites the Government to reply to his communication.

### **Thailand**

628. On 28 March 2006, the Special Rapporteur jointly with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding the situation of **Angkhana Neelaphaijit**, wife of the disappeared human rights lawyer Somchai Neelaphaijit who was already subject of an urgent appeal on 17 March 2004 and on 25 June 2004. Ms Angkhana Neelaphaijit was the subject of a prompt intervention letter addressed to your

Government on 22 July 2005 and of an urgent appeal sent on 7 September 2005. According to information received, Mrs Angkhana Neelaphaijit was reportedly threatened on 21 March 2006, by a man believed to be a state officer or acting on behalf of the state (the name is known to the Special Representatives and the Special Rapporteurs). The man allegedly came to her home and warned her against travelling stating, “you may get in an accident or find a bomb under your car.” This new threat occurred a day before Mrs Angkhana Neelaphaijit lodged a complaint with the Ombudsman of Thailand against four policemen in relation to her husband’s case and while the search for her husband’s remains continued. It was reported that the person who reportedly made the threat had come previously to Ms Angkhana Neelaphaijit’s residence, on 12 March 2006 and also in April 2005, when he threatened her against contact with the United Nations and media regarding the case of her disappeared husband. Concerns were reiterated that these threats represented a means to intimidate Angkhana Neelaphaijit in order to dissuade her from continuing to seek truth and justice in the case of her husband.

629. On 11 September 2006, the Special Rapporteur sent a letter of allegation concerning Mr Surakiart Sathirathai, Deputy Prime Minister of Thailand, who had filed a defamation suit against **Mr Asda Jayanama**, the former Ambassador of Thailand to the United Nations, in connection with the opinions expressed during his intervention in an academic seminar held on 15 February 2006 at the Faculty of Political Science Ramkhamhaeng University in Bangkok. Allegedly, Mr Asda had pointed out during his presentation that Mr Surakiart had failed as an administrator and politician in his former capacity of Foreign Minister, and therefore, he should have not been proposed as a United Nations Secretary-General candidate. Reportedly, the criminal court had accepted the defamation case brought by Mr Sathirathai in his capacity as a public and private person.

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

630. By letter dated 29 June 2006, the Government of Thailand responded to the urgent appeal sent on 20 July 2004 concerning Ms **Supinya Klangnarong**, **Mr Thaweesin Sathitrattanacheewin**, **Mr Roj Ngammaen** and **M.r Kannikar Wiriyakul**. The Government stated that on 15 March 2006, Thailand’s Criminal Court of Justice withdrew charges against Ms Klangnarong, the Thai General Group Company Ltd, Mr Thaweesin Sathitrattanacheewin, Mr Roj Ngammaen and Mr Kannikar Wiriyakul who were facing a libel case filed by Shin Corp. The Criminal Court ruled that Shin Corp and its affiliates within the Shin Group were registered within the stock markets and as such was considered a public entity and could be subject to examination. The Government noted that Shin Corp also withdrew its civil lawsuit which requested compensation of 400 million baht.

631. By letter dated 16 February 2006, the Government of Thailand responded to the urgent appeal sent on 7 September 2005 concerning **Ms Angkhana Neelapaijit**. The Government stated that when Ms Neelapaijit was interviewed by the Department of Rights and Liberty Protection, she indicated that the phone call she received on 18 April 2005 from a member of the police in relation to her husband’s disappearance was not considered threatening; however she did feel that it was an infringement on her privacy and personal rights. The investigation also revealed that Ms Neelapaijit received phone calls which could be perceived as threatening from unknown individuals on a regular basis, and that she had not officially reported them as sometimes the callers did not issue direct threats, however she had been in contact with the Ban

Yi Police Station who had assisted her when necessary. The Government indicated that as Ms Neelapaijit had not lodged official complaints against the callers, no investigative measures or judicial action had been taken. Furthermore it was noted that Ms Neelapaijit would not accept financial assistance but rather requested that the Department of Special Investigation, expand its investigation in relation to her husband's disappearance. The Government concluded that great importance is attached to Mr Neelapaijit's case and that it is currently being investigated in accordance with article 21,1 (3) of the Special Investigations Act 2004. Assistance has also been offered to Ms Neelapaijit should she require it.

### **Observations**

632. At the time this report was finalized no reply had been received concerning the communication sent in 2006. The Special Rapporteur invites the Government to reply to these allegations.

#### **The former Yugoslav Republic of Macedonia**

633. On 20 June 2006, the Special Rapporteur jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning **Zoran Bozinovski**, a journalist known for his work exposing corruption and human rights abuses. He was the subject of communications sent on 19 December 2003 and on 4 May 2004. According to the information received, Mr Zoran Bozinovski was facing numerous defamation/insult legal suits, convictions of imprisonment and at least one summons to serve a prison sentence, even though on 10 May 2006 the Macedonian Parliament abolished imprisonment as a means of punishment of journalists for offences in performing their profession. It was reported that, following the changes to legislation, the authorities were intending to deliver a Referral Order to Mr Bozinovski to report himself to a Penitentiary institution in Skopje to serve the prison sentence. Mr Bozinovski was sentenced by the Kumanovo Basic court to three months' imprisonment on 25 November 2004 because of the use of offensive expressions in an article published in the Bulevar weekly of 5 December 2003. The article presented the author's view regarding the dependency and link of the Kumanovo journalists to the support of business and political "mentors", and also described some semi-illegal activities that surrounded the work of the two local broadcasting services. This case was one of several dozens of defamation/insult cases pending against Mr Bozinovski, out of which 14 ended in his convictions: two sentences to imprisonment, two conditional sentences to imprisonment and 10 fines. Concern was expressed that the Referral Order may have represented a further attempt to prevent and punish Mr Bozinovski from carrying out his legitimate work, in particular his activities to expose human rights abuses.

### **Replies from the Government**

634. At the time this report was finalized, the Special Rapporteur had not received any reply to the communications sent. The Special Rapporteur therefore invites the Government to respond to this allegation.



## Tunisia

635. Le 5 janvier 2006, le Rapporteur spécial et la Représentante du Secrétaire-Général concernant les défenseurs des droits de l'homme ont envoyé un appel urgent concernant **Saïda Akrami**, avocate, militante des droits de l'homme, secrétaire générale de l'Association internationale de soutien aux prisonniers politiques. Du 29 novembre au 2 décembre 2005, Mme Akrami aurait participé aux activités du Forum international des femmes défenseurs des droits de l'homme au Sri Lanka auquel a également participé la Représentante spéciale du Secrétaire-Général. Selon les informations reçues, lors de son retour en Tunisie, des agents des douanes et de la police auraient fouillé ses affaires et ses vêtements et saisi des documents relatifs aux droits de l'homme qui avaient été distribués lors du forum par les associations participantes. En particulier le rapport annuel 2004 de l'Observatoire international de lutte contre la torture et la revue d'Amnesty International relative à la traduction des droits en pratique auraient été saisi, de même que certains autres documents relatifs à la violence contre les femmes. Par ailleurs, Mme Akrami ferait l'objet d'une surveillance policière depuis plusieurs années, serait régulièrement suivie dans ses déplacements et aurait déjà fait l'objet de plusieurs raids dans son cabinet.

636. Le 27 janvier 2006, le Rapporteur spécial a envoyé une lettre d'allégation concernant les hebdomadaires *Al Maoukif*, publié par le parti démocratique progressiste, et *Akhbar Al Joumhouria*. Le 20 janvier 2006, les autorités tunisiennes auraient saisi dans tout le pays les éditions des hebdomadaires *Al Maoukif* et *Akhbar Al Joumhouria*. Le directeur de publication de *Al-Maoukif*, **Néjib Chebbi**, qui est aussi secrétaire général du Parti démocratique progressiste, aurait déclaré ne pas avoir été informé de la saisie par les autorités et que l'hebdomadaire ne contenait aucune information illégale ou diffamante. L'hebdomadaire *Akhbar Al Joumhouria* aurait été saisi pour avoir publié un article sous forme de lettre ouverte au Président Ben Ali, évoquant une affaire des concessions pour activités commerciales dans laquelle des personnes proches du chef de l'État seraient impliqués.

637. Le 31 janvier 2006, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la violence contre les femmes et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégation concernant **l'Association tunisienne des femmes démocrates (ATFD) et le Collectif du 18 octobre pour les droits et les libertés**. Le 18 janvier 2006, un dispositif policier aurait été déployé devant le siège de l'ATFD et ses membres auraient été empêchés d'entrer pour participer à une réunion. Selon les informations reçues, les policiers en civil auraient usé de violences contre la présidente de l'ATFD, **Ahlem Belhaj** ainsi que **Balkis Mechri**, **Moufida Belghith** et **Leila Chaabouni**. Le 24 janvier 2006, une réunion du Collectif du 18 octobre pour les droits et les libertés, prévue au local du Forum démocratique pour le travail et les libertés (FDLT), n'aurait pu se tenir, la police politique ayant interdit l'accès au local du FDTL. Plusieurs défenseurs des droits de l'homme et opposants, particulièrement **Ayachi Hammami**, **Hamma Hammami** et **Lotfi Hajji**, auraient été violemment agressés par la police déployée sur place.

638. Le 2 mars 2006, le Rapporteur spécial a envoyé une lettre d'allégation concernant un rassemblement devant le siège du **Forum démocratique pour le travail et les libertés (FDTL)**, qu'aurait été dispersé par la police avec brutalité, le 24 février 2006. Nombreux autres manifestants auraient été empêchés de participer à un tel rassemblement par le déploiement d'un dispositif policier aux alentours du siège du FDTL. Les manifestants, jeunes, militants

politiques, associatifs et syndicalistes, revendiquaient la liberté de réunion suite à l'appel lancé par le **Collectif 18 octobre pour les droits et les libertés en Tunisie**. Plusieurs manifestants auraient été violemment agressés par les forces de l'ordre, parmi eux: **Mohamed Mzem, Abdallah Garram, Abdelhamid Sghaïer, Ahmed Khaskhousi, Néjib Chebbi, Hama Hammami, Ayachi Hammami, Nabil Yahyaoui, Samir Taâmallah, Mounir Flah, Walid Azzouzi**. Les avocats **Khaled Krichi, Fayçel Jadlaoui et Adel Mbarki**, auraient été détenus pendant plus de deux heures. Selon les informations reçues, nombre de militants venant de différentes régions du pays auraient été empêchés d'arriver à Tunis, parmi eux: **Anouar Kousri** de Bizerte, **Abderahmane Hédhili** de Monastir, **Néjib Hosni** et l'avocat **Hédi Mannai** qui auraient été bloqués par la force aux environs de la capitale.

639. Le 3 avril 2006, le Rapporteur spécial, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats ont envoyé une lettre dans la quelle ils exprimaient leur vive préoccupation en ce qui concerne la situation de **Mohammed Abbou**, avocat, et sa famille. M. Abbou, sa famille et ses avocats ont déjà fait l'objet d'un appel urgent du 9 mars 2005, envoyé par la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire, le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ; d'un appel urgent du 17 mars 2005, envoyé par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression ; et de deux appels urgents du 12 mai et le 16 juin 2005, envoyés par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme. Selon les allégations reçues, M. Abbou, emprisonné depuis le 1<sup>er</sup> mars 2005, subirait les vexations des gardiens et de certains détenus de droit commun, particulièrement à la suite des manifestations en sa faveur, le 2 mars 2006, devant la prison de Kef où il est incarcéré. Il aurait notamment été réveillé dans la nuit par les gardes qui l'auraient battu. Pour protester contre ces mauvais traitements, M. Abbou aurait entamé une grève de la faim le 11 mars 2006. Depuis lors, ses conditions de santé se seraient considérablement aggravées, et il n'aurait pas pu avoir accès à des soins médicaux appropriés. D'autres violations ont également été signalées : la mère de M. Abbou aurait pu voir son fils, au cours de la visite hebdomadaire, pendant trois minutes seulement avant d'être éloignée par les gardiens, tandis que sa femme, **Samia Abbou**, serait systématiquement suivie par les forces de l'ordre sur le trajet entre la capitale et la prison de Kef. A cause de la pression exercées sur elle et son mari, Mme Abbou aurait dû renoncer à voir son mari et se contenterait, les jours de visite, d'un sit-in pacifique dehors l'établissement pénitentiaire. Le 20 mars 2006, Mme Abbou aurait été arrêtée par des policiers à l'aéroport de Carthage de retour de Genève, où elle aurait participé à des réunions relatives à l'appel à la libération de son mari. Les affaires de Mme Abbou auraient fait l'objet d'une fouille totale et la photo de son mari aurait été saisie. Mme Abbou aurait été bloquée pendant cinq heures à l'aéroport et aurait été victime pendant ce temps d'insultes et d'agressions verbales de la part de policiers. Un agent l'aurait également tenue par l'épaule pendant qu'un deuxième l'aurait menacée en lui disant « Je vais te casser la gueule » et en lui indiquant qu'il ne se gênerait pas d'user de tout son pouvoir répressif si elle ne se plierait pas à leurs demandes. Mme Abbou aurait enfin été libérée suite à l'intervention d'un médecin et d'amis qui auraient manifesté dans la salle des arrivées de l'aéroport. M. Abbou, ancien dirigeant de l'Association de jeunes

avocats (AJA), membre du Conseil national pour les libertés en Tunisie (CNLT) et de l'Association internationale pour le soutien des prisonniers politiques (AISSP), avait été condamné le 29 avril 2005 à trois ans et six mois de prison, peine confirmée en appel le 10 juin 2005. Il a été reconnu coupable d'une agression physique sur l'une de ses consœurs en 2002 et d'avoir diffusé de fausses informations sur Internet. Ainsi que relevé dans l'appel urgent adressé au Gouvernement le 16 juin 2005, le procès d'appel n'aurait pas respecté les normes internationales relatives à la tenue d'un procès équitable. La presse, l'épouse de l'inculpé et de nombreux observateurs nationaux et internationaux auraient été évacués avant le début de l'audience et n'auraient pas été en mesure d'assister aux débats. Seuls les avocats de la défense et ceux mandatés par les organisations non gouvernementales internationales auraient été présents, mais ils n'auraient pas pu prendre la parole pour assurer la défense de Mohammed Abbou. Aucune preuve tangible n'aurait appuyé l'accusation d'agression physique à l'une de ses consœurs. Dans sa réponse du 5 septembre 2005 à l'appel urgent du 16 juin 2005, le Gouvernement indique que M. Abbou aurait bénéficié de toutes les garanties légales, dont notamment le droit de s'entretenir régulièrement avec ses avocats. Toutefois, en dépit des informations fournies, les Rapporteurs et la Représentante spéciale restent inquiets par rapport au respect de normes internationales relatives au procès équitable dans le procès de M. Abbou, notamment en l'absence de réponse du Gouvernement sur les allégations selon lesquelles la presse, l'épouse de l'inculpé et de nombreux observateurs nationaux et internationaux n'auraient pas été autorisés à assister aux débats. Les Rapporteurs et la Représentante spéciale ont aussi souligné leur crainte que la condamnation de M. Abbou soit surtout liée à l'expression de ses opinions à travers la publication sur Internet d'articles sur des sujets divers comme l'utilisation de la torture en Tunisie, les invitations faites à certains chefs d'état étrangers d'assister au Sommet mondial sur la société de l'information (SMSI) et des réflexions sur la famille du Président Ben Ali. Dans ce contexte, les Rapporteurs et la Représentante spéciale ont exprimé leur vive préoccupation pour l'intégrité physique et psychologique de M. Abbou et de sa famille, notamment à la lumière des violences et harcèlements dont il ferait l'objet, et ont appelé le Gouvernement tunisien à prendre de manière urgente toutes les mesures nécessaires pour garantir l'intégrité physique et psychologique de M. Abbou et de sa famille. Par ailleurs, ils ont également appelé le Gouvernement à transmettre leur vives inquiétudes aux autorités compétentes afin qu'elles procèdent à l'annulation de son jugement qui n'aurait pas respecté les normes et principes internationaux du procès équitable, et qu'elles le relâchent sans conditions dans les meilleurs délais.

640. Le 20 avril 2006, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme Gouvernement ont envoyé un appel urgent sur la situation de la **Ligue tunisienne des droits de l'homme** (LTDH) qui, suite à la plainte déposée par 22 membres de la ligue réputés proches du Gouvernement, avait fait l'objet d'une décision en référé du tribunal de première instance en septembre 2005 enjoignant l'organisation à suspendre la tenue de son congrès annuel et tous les préparatifs attenants jusqu'à ce qu'une décision soit prise sur le fond. Cette décision en référé avait déjà fait l'objet d'un appel de la part du Rapporteur spécial et de la Représentante spéciale du Secrétaire général en date du 6 septembre 2005. Selon de nouvelles informations reçues, l'affaire aurait fait l'objet de multiples reports successifs et le tribunal n'aurait toujours pas rendu son jugement au fond, ce qui continuerait de bloquer la tenue du congrès annuel de l'organisation. Une nouvelle audience concernant cette même affaire serait prévue pour le 6 mai 2006. Le 5 avril 2006, le Comité Directeur de la LTDH se serait réuni en application des décisions prises par le Conseil national

de la Ligue tunisienne pour la défense des droits de l'homme qui s'est tenu le 12 mars 2006 afin d'étudier la date et l'organisation du 6ème congrès de la LTDH. Il aurait décidé que les assises du congrès se dérouleraient les 27 et 28 mai 2006. Le 15 avril 2006, les membres des comités de section du Grand Tunis et du Nord de la LTDH auraient été violemment empêchés par les forces de l'ordre de se rendre aux bureaux de l'organisation à El Omrane, où devait se tenir une réunion préparatoire au 6ème Congrès national de la LTDH, prévu les 27 et 28 mai 2006. En outre, le 14 avril 2006, les 20 plaignants qui s'étaient retirés de la première plainte auraient informé la LTDH qu'ils intentaient une seconde procédure sur le fond, identique à la première, pour obtenir l'annulation de la convocation du Comité directeur pour la tenue du Congrès de la LTDH, ainsi que de tous les travaux préparatoires afférents.

641. Le 20 avril 2006, le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent concernant **Souhayr Belhassen**, vice présidente de la Ligue tunisienne pour la défense des droits de l'homme, chargée des relations extérieures et également vice présidente de la Fédération internationale des ligues des droits de l'homme (FIDH). Selon les informations reçues, le passeport de Souhayr Belhassen aurait été volé le 26 janvier 2006 à Madrid, elle aurait pu rentrer en Tunisie grâce à un laissez-passer délivré par l'Ambassade de Tunisie en Espagne. Dès son retour en Tunisie, Souhayr Belhassen aurait informé les autorités de ce vol et aurait déposé une demande de renouvellement le 30 janvier 2006 qui serait sans réponse à ce jour. Des craintes ont été exprimées que l'absence de réponse à la demande de renouvellement du passeport de M. Belhassen ne soit liée à ses activités en la faveur des droits de l'homme et ne vise en particulier à entraver sa liberté de mouvement et à limiter sa participation à des rencontres avec d'autres organisations de droits de l'homme à l'étranger.

642. Le 12 mai 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général sur les défenseurs des droits de l'homme, a envoyé un appel urgent à l'égard de **Ayachi Hammami**, **Raouf Ayadi** (qui ont fait l'objet de plusieurs communications en 2005 et d'une lettre d'allégation envoyée par le Rapporteur spécial le 2 mars 2006) et **Abderrazak Kilani**, avocats, ainsi que d'autres membres du Conseil de l'ordre des Avocats. Selon les allégations reçues, le 11 mai 2006, des agents de la police auraient agressé plusieurs avocats devant la Maison du Barreau à Tunis. Ayachi Hammami aurait perdu connaissance à la suite des coups violents qu'il aurait reçus. Raouf Ayadi et Abderrazak Kilani, membres du Conseil de l'Ordre des avocats, auraient également été blessés. Ils auraient été hospitalisés avec retard car les services d'urgence n'auraient été autorisés à accéder aux lieux où se trouvaient les blessés qu'une heure après les faits. Au moment des faits, Ayachi Hammami, Raouf Ayadi et Abderrazak Kilani ainsi que d'autres avocats auraient tenu un sit-in devant leurs locaux en signe de protestation contre des attaques dont l'ordre des avocats aurait fait l'objet les jours précédents. Selon les informations reçues, le 8 mai le Ministère de la Justice aurait présenté au Parlement un projet de loi, portant création d'un Institut de formation des avocats, alors qu'une commission mixte associant le Conseil de l'ordre des Avocats et le ministère de la Justice aurait au préalable travaillé sur un projet de loi commun. La création de cet Institut ferait partie d'un programme de modernisation de la justice financé par l'Union européenne qui prévoirait la participation active du Conseil de l'ordre des Avocats dans la définition et la gestion de cette institution. Le 9 mai, une délégation du Conseil de l'ordre des Avocats qui se serait dirigée vers le Parlement en vue d'informer les députés de leurs propositions aurait été bloquée par les forces de police qui, en usant de

violences verbales et physiques, auraient quadrillé le quartier et barré la voie aux membres du Conseil de l'Ordre en les empêchant de rejoindre le Parlement. Le 9 au soir, la Chambre des députés aurait adopté le projet de loi en question, dans la version élaborée de façon unilatérale par le ministère de la Justice et sans avoir pu connaître les propositions du Conseil de l'ordre des Avocats. Depuis lors, il serait interdit aux avocats de se rendre à la Maison du Barreau.

643. Le 24 mai 2006, le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé une lettre d'allégation concernant **Yves Steiner** membre du Comité exécutif de sa Section suisse d'Amnesty Internationale. Selon les informations reçues, le 21 mai 2006, trois policiers en civil aurait tenté d'interpeller Yves Steiner une première fois à l'hôtel Amilcar, où avait lieu l'Assemblée générale de la Section tunisienne d'Amnesty International, à Sidi Bou Saïd, localité située dans la banlieue de la capitale, Tunis. Certaines personnes se seraient interposées et il aurait pu se réfugier à l'étage et donner l'alerte. Plus tard, néanmoins, plusieurs policiers appelés en renfort auraient emmené de force Yves Steiner, qu'aurait été expulsé vers Paris, le même jour, sans pouvoir retourner à l'hôtel prendre ses effets personnels. Lors de son arrestation et de son transfert à l'aéroport, M. Steiner aurait été malmené par les forces de l'ordre. Il aurait été saisi par la nuque, sa tête plaquée contre les genoux et son téléphone portable arraché. À l'aéroport, il aurait été enfermé dans une pièce désaffectée pendant deux heures. Cette arrestation et expulsion survient après que le 20 mai, Steiner qui était invité à l'Assemblée générale de la Section tunisienne d'Amnesty International, aurait prononcé un discours dans lequel il avait dénoncé la multiplication des atteintes aux droits humains survenues ces derniers mois en Tunisie, notamment les entraves à la liberté d'expression et à la liberté d'association.

644. Le 31 mai 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la Torture et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé un appel urgent sur la situation de la **Ligue tunisienne des droits de l'homme** (LTDH) et certains de ses membres. La LTDH a fait l'objet de communications envoyées le 20 avril 2006 et le 11 novembre 2005. Selon les informations reçues, le 27 mai 2006, à l'occasion de l'ouverture du 6<sup>ème</sup> congrès de la LTDH dont la tenue aurait été interdite par les autorités, les principales villes de Tunisie abritant des sections locales de l'organisation notamment Bizerte, Gafsa, Jendouba, Monastir auraient été le théâtre d'impressionnants déploiements des forces de police, visant à empêcher les membres de la LTDH de rejoindre la capitale. Parallèlement à Tunis, de nombreux barrages policiers aurait été établis pour bloquer les rues menant au siège de la LTDH. En outre, plusieurs membres de la LTDH qui tentaient de rejoindre le siège de la ligue auraient été victimes de violences verbales ou physiques, en particulier **Khedija Cherif**, **Héla Abdeljaoued** et **Samia Abbou**, auraient été frappées et insultées par les forces de l'ordre. **Souhayr Belhassen**, vice-présidente de la LTDH, aurait été giflée et insultée par des policiers en civil qui aurait arrêté son véhicule, alors qu'elle accompagnait plusieurs observateurs internationaux à leur hôtel. Mme Belhassen a fait l'objet d'un appel urgent envoyé le 20 avril 2006 par le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. La situation de Mme Abbou a été évoquée dans une communication envoyée le 3 avril 2006 par la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats. D'autres défenseurs des droits de l'homme et représentants d'institutions internationales invités au

congrès parmi lesquels Hélène Flautre, présidente de la Sous-commission des droits de l'Homme du Parlement européen, et Abdelhamid Amine, président de l'Association marocaine des droits humains (AMDH) auraient également été brutalisés et empêchés d'accéder aux locaux.

645. Le 19 juin 2006, le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent sur la situation de **Ali Ben Salem**, vice-président de l'Association de lutte contre la torture en Tunisie (ALTT) et président de la section de Bizerte de la Ligue tunisienne des droits de l'Homme (LTDH). Selon les informations reçues, le 3 juin 2006 au matin, Ali Ben Salem aurait été arrêté par la police et conduit au poste de police de Bougatfa, à Bizerte. Après avoir été présenté dans l'après-midi au juge d'instruction pour « diffusion de fausses informations de nature à porter atteinte à l'ordre public », Ben Salem aurait été interdit de quitter le pays et placé en liberté provisoire. Son domicile, qui abrite également la section de Bizerte de la LTDH, ferait l'objet d'une présence policière assidue depuis novembre 2005. Le 1<sup>er</sup> juin 2006, la LTDH avait publié un communiqué de presse, que M. Ben Salem avait signé en tant que président de la section de Bizerte, dénonçant les mauvais traitements et actes de torture dont ferait l'objet les prisonniers de la prison de Borj Erroumi. Ce communiqué avait été largement repris par la presse tunisienne.

646. Le 11 juillet 2006, le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent concernant **Ali Ben Salem**, président de la section de Bizerte de la Ligue tunisienne des droits de l'Homme (LTDH) et vice-président de l'Association de lutte contre la torture en Tunisie (ALTT) qui avait déjà fait l'objet d'un appel urgent envoyé le 19 juin 2006 par le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et d'une lettre d'allégation envoyée le 11 juin 2004 par le Rapporteur spécial, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la question de la torture. Selon les nouvelles informations reçues, depuis le 4 juillet 2006, des policiers encercleraient le domicile de M. Ben Salem, situé au-dessus du siège de la section de la LTDH à Bizerte, et en empêcheraient l'accès sauf aux membres de sa famille les plus proches. Ces événements feraient suite à une réunion organisée par la section locale de la LTDH le 4 juillet 2006 dans ses locaux, portant sur les entraves alléguées à la liberté de réunion contre elle, sur l'interdiction de la tenue du congrès national et sur les poursuites judiciaires dont la LTDH est l'objet. Cette réunion aurait rassemblé de nombreux membres de la LTDH ainsi qu'une représentante de l'ONG « Fund For Global Rights ». Selon les informations reçues, la police aurait fait évacuer par la force de la salle de réunion après avoir tenté en vain d'empêcher l'accès des participants à la réunion. Au cours de ces événements, M. Ben Salem aurait été violemment bousculé par les policiers et du être emmené à l'hôpital.

647. Le 26 juillet 2006, le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent concernant le Conseil national pour les libertés en Tunisie (CNLT) et l'un de ses membres, **Naziha Rjiba** (alias Om Zied), membre fondatrice et responsable de la communication au comité de liaison du CNLT, et rédactrice en chef du journal en ligne *Kalima*. Mme Rjiba avait fait l'objet d'un appel urgent envoyé par la Représentante spéciale du Secrétaire général le 31 décembre 2003. Selon les informations reçues, le 21 juillet 2006, les membres du CNLT, qui devaient participer à une réunion interne dans la matinée, ont été empêchés d'accéder à

l'immeuble qui abrite leur local, à Tunis, par un important dispositif de policiers en civil encerclant le quartier. Les policiers ont également agressé verbalement et physiquement les membres du CNLT qui s'approchaient de l'immeuble. À cet égard, Naziha Rjiba a été violemment frappée et insultée. Elle a ensuite été placée de force dans un taxi par les policiers, qui ont ordonné au chauffeur de la conduire n'importe où, ajoutant qu'elle était une prostituée et qu'il pouvait « s'en servir à sa guise ». Lorsque Naziha Rjiba a pu rejoindre son domicile, celui-ci était encerclé par des agents en civil, qui l'ont surveillé toute la matinée. Naziha Rjiba aurait déjà fait l'objet d'actes de harcèlement. Le 3 décembre 2005, Naziha Rjiba avait été mise en garde par une source proche du pouvoir, qui l'avait informée du mécontentement des autorités concernant certains de ses articles, critiquant les excès autoritaires du régime et la corruption. De même, le 14 novembre 2005, à la veille de l'ouverture du Sommet mondial sur la société de l'information (SMSI), elle avait été violemment prise à partie par des membres des forces de sécurité, et avait été victime d'un malaise cardiaque, alors qu'elle devait participer à une réunion de préparation du Sommet citoyen sur la société de l'information – finalement interdite – à l'Institut *Goethe*, à Tunis. Elle a par ailleurs fait l'objet d'une surveillance constante de la police politique, durant toute la tenue du Sommet.

648. Le 3 octobre 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé une lettre d'allégation sur la situation de **Wassila Kaabi**, magistrate. Wassila Kaabi avait déjà fait l'objet d'une communication envoyée par le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, le 7 septembre 2005. Selon les informations reçues, le 27 septembre 2006, Wassila Kaabi aurait été bloquée à l'aéroport de Tunis-Carthage par la police, qui l'aurait empêchée de quitter le territoire pour se rendre en Hongrie afin de participer au congrès de l'Union internationale des Magistrats. Ce refus de la laisser voyager aurait été motivé par la non-présentation de l'autorisation de quitter le territoire exigée pour les fonctionnaires en service. Selon les informations reçues, Wassila Kaabi étant en congé annuel depuis le 25 septembre et ce jusqu'au 24 octobre 2006, elle n'était tenue que par l'obligation d'aviser l'administration, chose qu'elle a néanmoins faite par lettre recommandée avec accusé de réception et par voie administrative par une demande présentée le 19 septembre 2006.

649. Le 24 novembre 2006, le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé une lettre d'allégation sur la situation de **Kamel Jendoubi**, ancien président de la Fédération des Tunisiens Citoyens des Deux Rives, fondateur du Comité pour le Respect des libertés et des droits de l'homme en Tunisie, et actuellement président du Réseau euro-méditerranéen des droits de l'homme. Selon les informations reçues, depuis mars 2000, les autorités tunisiennes auraient refusé, à plusieurs reprises, de laisser retourner M. Jendoubi dans son pays d'origine afin de revoir ses proches et notamment d'assister aux obsèques de son père en 2004. Le motif avancé serait les poursuites judiciaires dont M. Jendoubi ferait l'objet, pour « diffusion de fausses nouvelles » et « diffamation des autorités publiques et judiciaires », et dont il n'aurait jamais été officiellement informé.

650. Le 22 décembre 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante du Secrétaire général sur les

défenseurs des droits de l'homme, a envoyé une lettre d'allégation sur la situation de M. **Néjib Hosni**, avocat spécialisé dans les droits de l'homme et membre fondateur du Conseil national des libertés en Tunisie (CNLT), **Abderraouf Ayadi**, ancien membre du Conseil de l'Ordre et ancien secrétaire général du CNLT, **Abdelwahab Maatar**, avocat à Tunis et membre du Congrès pour la République (CPR, parti politique non autorisé), **Tahar Laabidi**, journaliste, **Ali Ben Salem**, président de la section de Bizerte de la Ligue tunisienne des droits de l'Homme (LTDH) et vice-président de l'Association de lutte contre la torture en Tunisie (ALTT), **Moncef Marzouki**, ancien président de la LTDH, ancien porte-parole du CNLT et dirigeant du CPR, **Samia Abbou**, épouse de l'avocat et défenseur des droits de l'homme Mohammed Abbou, le journaliste **Slim Boukhdir** et l'avocat **Samir Ben Amar**. Plusieurs communications ont été envoyées au sujet de M. Hosni, Mme Rejiba, Mme Belhassen, M. Ben Salem, M. Abbou et sa famille. Le 3 décembre 2006, plusieurs personnes, dont Néjib Hosni, Abderraouf Ayadi, Abdelwahab Maatar, Tahar Laabidi et Ali Ben Salem, aurait été insultées, menacées, et parfois même malmenées par les forces de l'ordre devant le domicile de Moncef Marzouki à qui elles souhaitaient rendre visite, à Tousse. Ce dernier serait inculpé d'« incitation à la désobéissance civile » pour avoir appelé le peuple tunisien, lors d'une interview diffusée par la chaîne *Al-Jazeera*, le 14 octobre 2006, à protester pacifiquement contre les restrictions imposées à leurs droits fondamentaux. M. Marzouki serait passible de trois ans de prison. Le groupe de personnes aurait également été soumis à de nombreux contrôles d'identité lors de leur trajet entre Tunis et Tousse. Certains de ces contrôles auraient duré plusieurs heures. Enfin, M. Marzouki aurait été empêché de rejoindre ses amis en partance pour Tunis. Le 7 décembre 2006, Mme Abbou, M. Marzouki, M. Boukhdir et Me Ben Amar auraient été stoppés à trois reprises par des barrages routiers tenus par les forces de l'ordre alors qu'ils se rendaient à la prison du Kef (à 170 km de Tunis) où est actuellement emprisonné M. Mohammed Abbou. Au troisième barrage, une quarantaine de policiers les auraient bloqués, leur interdisant de reprendre la route que ce soit dans un sens ou dans un autre. Leurs papiers auraient été confisqués. Le groupe de personnes aurait ensuite été autorisé à continuer sa route, mais ce serait fait agresser tout d'abord à la sortie d'un restaurant où ils auraient été pris à partie par un groupe de jeunes qui les auraient insultés et bousculés; puis devant la prison de Kef où une trentaine de personnes les auraient attendus et s'en seraient pris physiquement à Mme Abbou, M. Marzouki, M. Boukhdir et Me Ben Amar et auraient détérioré leur véhicule. Mme Abbou, M. Marzouki, M. Boukhdir et Me Ben Amar se seraient finalement résignés à rentrer à Tunis, sans avoir pu rendre visite à Mohammed Abbou, et très choqués par ces événements successifs.

651. Le 27 décembre 2006, le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme ont envoyé un appel urgent concernant l'arrestation de **Lotfi Hajji**, président du syndicat des journalistes tunisiens, vice-président de la section de Bizerte de la *Ligue tunisienne des droits de l'homme* et membre actif du *Collectif 18 octobre pour les droits et les libertés*. Selon les informations reçues, Lotfi Hajji aurait été arrêté, par un groupe de policiers, l'après-midi du 18 décembre 2006 à son domicile dans la ville de Bizerte, et emmené vers une destination inconnue. M. Hajji aurait participé à une réunion organisée par le Groupe parlementaire socialiste européen en septembre 2006 à Strasbourg et aurait récemment publié un document de suivi de cette réunion. Précédemment M. Hajji a été l'objet de cinq communications.



## Réponses du Gouvernement

652. Le 19 avril 2006, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial et la Représentante du Secrétaire général sur les défenseurs des droits de l'homme le 5 janvier 2006, concernant **Saïda Akrami**. Le Gouvernement précise qu'aucun document appartenant à Saida Akremi ne lui a été confisqué, lors de son retour en Tunisie après un séjour au Sri Lanka. Mme Akremi a seulement fait l'objet, comme tout autre passager, d'un contrôle ordinaire de bagages et ce, conformément aux règles et procédures douanières en vigueur. Quant aux autres allégations de « surveillance policière » et de « suivi des déplacements » dont l'intéressée prétend de faire l'objet, celles-ci sont dénuées de tout fondement. Mme Akremi s'adonne normalement à ses activités et se déplace librement à l'intérieur du pays ainsi que à l'étranger. S'agissant de ladite « Association internationale de soutien aux prisonniers politiques », dont Mme Akremi prétend être secrétaire générale, il y a lieu d'indiquer qu'elle n'a aucune existence juridique en Tunisie, dans la mesure où aucun dossier de constitution de cette association n'a été déposé au près des autorités compétentes selon la procédure légale en vigueur.

653. Le 11 juillet 2006, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 20 avril 2006, concernant la demande de duplicata de passeport formulée par **Souhayr Belhassen**. Le Gouvernement informe qu'après le temps nécessaire pour l'accomplissement de la procédure d'usage, une suite favorable a été réservée à la demande en question. Un nouveau passeport a été délivré à l'intéressée le 27 avril 2006. Il y a lieu de préciser que toute demande de duplicata de passeport est soumise à une procédure prévue par la réglementation tunisienne en vigueur. Par ailleurs Mme Belhassen exerce normalement ses activités et se déplace librement à l'intérieur du pays ainsi que à l'étranger.

654. Le 11 juillet 2006, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 24 mai 2006, concernant **Yves Steiner**. Le Gouvernement informe que M. Steiner a violé, par son comportement outrageant et indécent, les lois du pays et atteinte à sa souveraineté, pendant qu'il assistait au congrès de la section d'Amnesty International siégeant à Tunis. Depuis son arrivée en Tunisie, M. Steiner s'est obstiné dans ses comportements provocateurs, usant en public de termes indécents et inacceptables qui portent atteinte à la souveraineté du pays et à la crédibilité de ses institutions. Les agissements de M. Steiner sont intolérables d'autant plus que ces agissements ne sont pas compatibles avec l'accord de siège entraînant l'obligation pour les membres et les structures de l'organisation concernée de s'abstenir de s'impliquer dans les questions concernant le pays qui abrite leur section. De ce fait, et en conformité avec la réglementation en vigueur, M. Steiner a été prié, le 21 mai 2006, de quitter le territoire tunisien.

655. Le 24 juillet 2006, le Gouvernement a répondu à la lettre d'allégation envoyée par le Rapporteur spécial, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats, le 3 avril 2006. Le Gouvernement affirme que M. **Abbou** s'est rendu coupable de voies de fait sur la personne d'une de ses consœurs et de diffamation des autorités judiciaires tunisiennes qu'il est censé, sous serment déontologique, respecter en toute circonstance. Tout le

long de son procès, M. Abbou a bénéficié de toutes les garanties d'un procès équitable. Il a été défendu par plusieurs avocats et il a usé de son droit à interjeter appel et à se pourvoir en cassation. Depuis son incarcération en vertu d'un jugement définitif et exécutif, M. Abbou bénéficie, à l'instar de tous les autres détenus, de toutes les garanties d'un traitement humain et conforme à la législation en vigueur, dont notamment les droits à être soumis à un examen médical, à s'entretenir avec ses avocats et à recevoir les visites de ses proches. S'agissant de l'accès aux soins médicaux, M. Abbou a eu droit, dès son dépôt dans l'institution pénitentiaire, à un examen médical général et a bénéficié de visites et de soins médicaux chaque fois que cela s'est avéré nécessaire. Son état de santé est tout à fait normal et ne présente aucun danger pour sa vie ou son intégrité physique. Pour ce qui est du droit de visite, il a reçu plus de 60 visites de la part de son épouse, de ses enfants, de sa mère et son oncle. Il a même été autorisé à recevoir ses enfants à plusieurs reprises sans aucun obstacle. Une quinzaine de ses avocats lui ont également rendu visite à 20 reprises. Le juge d'application des peines l'a également visité les 3 janvier 2006 et 8 mai 2006 ainsi que la délégation du Comité international de la Croix-Rouge (CICR) qui l'a rencontré lors d'une visite à la prison civile du Kef le 14 février 2006. Il importe de relever le caractère invraisemblable de la plainte selon laquelle M. Abbou « subirait les vexations des gardiens et de certains détenus. ». Ce, d'autant plus qu'il est notoirement connu que les prisonniers sont solidaires entre eux et qu'ils ne peuvent exécuter des instructions venant de l'Administration. Sa qualité d'avocat ne peut aucunement lui conférer un traitement de faveur qui serait incompatible avec les dispositions de la loi n° 52-2401 en date du 14 mai 2001 portant organisation des prisons, qui interdit toute discrimination entre les personnes privées provisoirement de leur liberté. La Tunisie a adopté les normes internationales, harmonisé sa législation interne avec les instruments de protection des droits de l'Homme et modernisé son appareil judiciaire. Depuis le 4 novembre 1988, la Tunisie s'est dotée d'un décret portant organisation des prisons et n'a cessé d'œuvrer pour l'amélioration des conditions de détention en prenant diverses mesures organiques et fonctionnelles dont on peut citer particulièrement:

a) Adoption de la définition de la torture telle que formulée dans la Convention pertinente des Nations Unies et ce, en vertu de la loi n° 89 du 2 août 1999 portant amendement du Code pénal. Cette loi, a également interdit le travail obligatoire au sein des institutions pénitentiaires et a institué une peine alternative à la peine de travail pour l'intérêt général.

b) Institution du système du double degré de juridiction en matière criminelle en vertu de la loi du 17 avril 2000 portant amendement du Code de procédure pénale.

c) Création de la fonction du juge d'application des peines en vertu de la loi du 31 juillet 2000 portant amendement du Code de Procédure pénale telle que modifiée par la loi du 29 octobre 2002.

d) Transfert de la tutelle sur l'administration pénitentiaire du Ministère de l'intérieur au Ministère de la justice et des droits de l'Homme et ce, en application de la loi du 3 mai 2001.

e) Promulgation d'une loi portant organisation des prisons en date du 14 mai 2001 en remplacement du décret du 4 novembre 1988.

f) Insertion dans l'article 13 de la Constitution de la République Tunisienne de l'obligation de traiter les personnes privées de liberté dans le plein respect de leur dignité et intégrité physique.

g) Institution du droit à réparation pour toutes les personnes indûment arrêtées et ce, en vertu de la loi du 29 octobre 2002 relative aux dédommagements des personnes arrêtées ou détenues et dont l'innocence a été ultérieurement prouvée.

h) En plus de visites inopinées du Comité supérieur des droits de l'Homme et des libertés fondamentales, les autorités Tunisiennes ont conclu, en avril 2005, un accord avec le CICR autorisant celui-ci à visiter tous les lieux de garde à vue et d'incarcération, observer le traitement réservé aux personnes privées provisoirement de leur liberté et entendre celles qu'il choisit librement en dehors de tout contrôle de l'administration. La mission du CICR se poursuit encore.

656. Le 3 octobre 2006, le Gouvernement a répondu à deux appels urgents envoyés le 19 juin et le 11 juillet 2006, par le Rapporteur spécial et la Représentante du Secrétaire général sur les défenseurs des droits de l'homme sur la situation d'**Ali Ben Salem**. Le Gouvernement informe qu'une plainte pour diffamation a été présentée par le directeur de la prison civile de Bourj-Erroumi (Bizerte) au Procureur de la République auprès du Tribunal de première instance de Bizerte, suite à la diffusion d'un communiqué publié sur la signature d'Ali Ben Salem et alléguant de « mauvais traitement de détenus » et « d'atteinte à la sainteté du Saint Coran ». Le Parquet de Bizerte a ordonné l'ouverture d'une instruction judiciaire sur ces allégations afin d'apporter les éclaircissements nécessaires et de délimiter les responsabilités éventuelles à ce sujet. Dans le cadre de l'instruction judiciaire au cours de laquelle ont été entendus des diverses parties concernées, il a été décidé du maintien du garde à vue d'Ali Ben Salem, puis de sa mise en liberté provisoire, vraisemblablement en raison de son âge avancé et de son état de santé précaire. L'instruction suit son cours.

657. Le 5 octobre 2006, le Gouvernement a répondu à une lettre d'allégation envoyée par le Rapporteur spécial en date 27 janvier 2006, concernant les hebdomadaires *Al Maoukif*, publié par le parti démocratique progressiste, et *Akhbar Al Joumhouria*. Le Gouvernement informe que les deux hebdomadaires en question n'ont pas fait l'objet d'aucune mesure de saisie. Ils sont publiés et distribués régulièrement et sans aucune entrave sur le territoire national. Aucune plainte à ce sujet n'a été présentée aux autorités compétentes. En Tunisie, la liberté de publication est strictement organisée par la loi. Aucun journal ne peut être suspendu sans une décision de justice. D'ailleurs depuis le 7 novembre 1987, pas un seul journal ou magazine n'a fait l'objet d'une décision de suspension. L'État consacre d'importantes ressources pour aider matériellement la parution de la presse des partis politiques afin qu'elle contribue à l'enrichissement et à la diversification du paysage médiatique. Un texte de loi a été récemment adopté portant sur la majoration de la subvention annuelle accordée à la presse des partis politiques.

658. Le 5 octobre 2006, le Gouvernement a répondu à une lettre d'allégation envoyée par le Rapporteur spécial en date 2 mars 2006, concernant un rassemblement devant le siège du Forum démocratique pour le travail et les libertés (FDTL). Le Gouvernement indique que le FDTL, formation politique légale, exerce ses activités en toute liberté et sans aucune entrave. S'agissant du rassemblement du 24 février 2006, celui-ci était illégal et instigué par des formations n'ayant

aucun statut juridique. L'intervention des autorités pour empêcher le déroulement dudit rassemblement a eu lieu sans incident. Quant aux prétendues agressions de manifestants et détention de certains d'entre eux, elles sont dénuées de tout fondement. D'ailleurs, aucune plainte n'a été présentée aux autorités judiciaires compétentes à ce sujet. En Tunisie, toutes formations politiques légalement constituées vaquent sans entrave à leurs activités dans le cadre de l'Etat de droit et du respect de la loi. Pour ce qui est de la liberté de réunion, elle est garantie par la Constitution (article 8) et est exercée dans les conditions définies par la loi n° 69-4 du 24 janvier 1969 relative à la réglementation des réunions publiques, cortèges, défilés, manifestations et attroupement.

659. Le 5 octobre 2006, le Gouvernement a répondu à une lettre d'allégation envoyé par le Rapporteur spécial conjointement avec la Rapporteuse spéciale sur la violence contre les femmes et la Représentante du Secrétaire général sur les défenseurs des droits de l'homme, en date 31 janvier 2006, concernant l'Association tunisienne des femmes démocrates (ATFD) et le Collectif du 18 octobre pour les droits et les libertés. Le Gouvernement affirme que l'ATFD exerce ses activités, comme toute autre information légale, en toute liberté et sans aucune entrave dans le cadre de l'Etat de droit et du respect de la loi. Quand au soi-disant « Collectif du 18 octobre pour les droits et les libertés », cette formation n'a aucun statut juridique en Tunisie, ses membres (parmi lesquels les personnes citées dans la communication, **Ayachi Hammami**, **Hamma Hammami** et **Lofty Hajji**) ont choisi d'agir en marge de la légalité cherchant des actions spectaculaires à usage de communication douteuse en vue de provoquer agitation et désordre.

660. Le 5 octobre 2006, le Gouvernement a répondu à les lettres d'allégation, envoyées par la Représentante spéciale sur la situation des défenseurs des droits de l'homme et les Rapporteurs spéciaux sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et sur la torture, le 20 avril et le 31 mai 2006, faisant état d'allégations concernant la Ligue tunisienne des droits de l'homme (LTDH). À la demande de sept présidents de sections locales de la LTDH (contestant les mesures de fusion-dissolutions de sections prises par le comité directeur de la ligue, en violation des statuts de l'association), un premier jugement en référé, à été rendu le 5 septembre 2005, par le tribunal de première instance de Tunis décidant la suspension du congrès de la LTDH, initialement prévu du 9 au 11 septembre 2005 pour violation par le comité directeur des statuts et du règlement intérieur de la Ligue et l'arrêt de tous les actes préliminaires ou préparatoires de ce congrès, en attendant de réunir tous les éléments nécessaires pour trancher le litige quant au fond. En quête d'un règlement à l'amiable, les plaignants (à l'exception des présidents des sections de Tunis-Medina et de Montfleury) ont retiré leur plainte afin de trouver une solution au litige. Cependant, le comité directeur, tournant le dos à cette initiative et faisant fi des statuts de la Ligue, de son règlement intérieur et des décisions de justice a, malgré tout, décidé de tenir le congrès les 27 et 28 mai 2006. Les plaignants, usant de leurs droits légitimes, ont alors de nouveau saisi la justice qui a décidé, le 18 avril 2006, par jugement en référé, la suspension du congrès de la Ligue et l'arrêt de tous les actes préliminaires ou préparatoires du congrès projeté, en attendant de trancher le litige quant au fond. À la demande d'un huissier de justice mandaté par les plaignants, le Procureur de la République territorialement compétent a autorisé l'assistance de la force publique pour l'exécution du dit jugement. L'intervention autorisée de la police s'est déroulée selon les procédures usuelles dans le cadre de la loi. Le congrès n'a finalement pas eu lieu. Il convient de noter enfin que le 3 juin 2006, le

tribunal de première instance de Tunis à décidé de reporter l'affaire pour le 8 juillet 2006 et ce, sur la demande de l'une des parties. L'audience a été reportée au 14 octobre 2006.

### **Suivi des communications précédemment transmises**

661. Le 9 février 2006, le Gouvernement a répondu à l'appel urgent envoyé le 14 novembre 2005 par le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme concernant **Christophe Boltanski**. Le Gouvernement informe que suite à une plainte déposée par M. Boltanski, une double enquête policière et judiciaire a été ouverte et l'affaire fut enrôlée sous le n° 2399/4. Dans sa réponse le Gouvernement souligne que cette affaire de droit commun est du ressort de la justice et qu'il incombe à l'avocat de M. Boltanski d'assurer son suivi.

662. Le 20 février 2006, le Gouvernement a répondu à l'appel urgent envoyé le 19 mai 2005 par le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme concernant **Lofti Hajji**. Selon le Gouvernement, M. Hajji, ancien du comité de « l'Association des journalistes tunisiens » (Association non gouvernementale) a usé de sa qualité à des fins partisans et pour servir les visées personnelles de certains éléments de l'association au nombre extrêmement réduit. Confronté à l'opposition de la majorité écrasante des adhérents, l'intéressé a créé une autre formation appelée « Syndicat des journalistes Tunisiens » ; formation qui n'a pas d'existence légale et dont les objectifs sont incompatibles avec la nature de l'activité syndicale. M. Hajji n'a accompli aucune des formalités juridiques indispensable à la création d'une association selon les textes de loi tunisienne. De surcroît, M. Hajji a diffusé des communiqués au nom de la formation illégale en question. Les autorités compétentes ont alors attiré son attention, en mai 2005, sur l'illégalité des ses actes. Il est à souligner que, contrairement aux allégations parvenues, l'intéressé ne fait l'objet d'aucune poursuite judiciaire ou de harcèlement. Il exerce sa profession de journaliste de façon normale. Il a même publié, en 2004, un livre intitulé « Bourguiba et l'Islam : le leadership et l'imamat », disponible dans les librairies tunisiennes. La Tunisie a toujours autorisé l'existence des formations et d'organisations à la condition que leur action soit conforme aux dispositions légales en vigueur. Néanmoins, toute personne entreprenant une quelconque activité au nom d'une formation qui n'a aucune existence juridique est en infraction avec la loi et est passible de poursuites judiciaires.

663. Le 10 mars 2006, le Gouvernement a répondu à l'appel urgent envoyé le 27 octobre 2005 par le Rapporteur spécial et la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme au sujet de **Hédi Menai**. M. Menai, avocat exerçant à Jendouba, membre de la section régionale du Conseil de l'ordre des avocats et membre du bureau de la section de la Ligue tunisienne pour les droits de l'homme (LTDH) à Jendouba, n'a présenté, selon le Gouvernement, aucune plainte au Procureur de la République près du Tribunal de première instance de Jendouba au sujet des faits dont il se prétend victime. En revanche, l'intéressé avait déposé, le 29 septembre 2005, une plainte au nom de son chauffeur, Fethi Taboui, indiquant que celui-ci aurait été injustement arrêté par des agents de la sûreté. Les investigations menées par le parquet à ce sujet ont révélé que M. Taboui a été effectivement amené, le 20 septembre 2005, par des agents de la sûreté au Tribunal de première instance de Jendouba et ce, en vertu d'une réquisition de recherche n° 19346 en date 2 avril 2005 dans l'affaire 2004/4826, suite à des jugements par défaut rendus à son encontre. Après vérification

des registres, il s'est avéré que l'affaire en question avait déjà fait l'objet d'une demande d'opposition de la part de M. Taboui et celui-ci fut immédiatement libéré. Le 30 septembre 2005, le Procureur de la République, ayant vérifié les raisons de l'arrestation de M. Taboui, a conclu à l'inexistence de l'infraction de la part des agents de la sûreté lors de l'interpellation de l'intéressé, et a décidé, sur la base de l'article 30 du Code de procédure pénale, de classer la plainte sans suite. Il ressort de ce qui précède qu'il s'agit de faits ordinaires qui ne sont aucunement en rapport avec l'exercice de la profession d'avocat ni avec la qualité de membre d'un bureau de la section de la LTDH et de M. Menai.

664. Le 19 avril 2006, le Gouvernement a envoyé une réponse à la lettre d'allégation du Rapporteur spécial et de la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme, envoyée le 18 novembre 2005, au sujet d'une réunion parallèle au Sommet mondial pour la société de l'information (SMSI), qui s'est tenu à Tunis les 16, 17 et 18 novembre 2005. Le Gouvernement informe que l'autorisation des activités parallèles au SMSI était du ressort de l'Union internationale des télécommunications et non des autorités tunisiennes. S'agissant de la prétendue « réunion parallèle au SMSI » du 14 novembre 2005, le Gouvernement indique qu'un groupe de personnes guidées par **Radhia Nasaroui** se sont rassemblées devant l'Institut culturel allemand à Tunis. Certaines personnes étrangères se sont jointes. Elles ont généré par cette attitude la curiosité des passants, constituant ainsi un véritable attroupement sur la voie publique qui a perturbé la circulation. Les agents de circulation ont dû alors intervenir pour rétablir la liberté de passage et disperser la foule.

665. Le 5 octobre 2006, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, en date 14 novembre 2005, concernant **Robert Ménard**. Le Gouvernement informe que M. Ménard a été empêché d'entrer sur le territoire tunisien, en raison de poursuites pénales engagées à son encontre en Tunisie, pour des délits de droit commun, à savoir l'intrusion violente dans un bureau de l'Office tunisien du Tourisme à Paris en 2001, le saccage des lieux et l'agression d'une employée. Il s'agit d'une affaire délictuelle où M. Ménard a sciemment porté préjudice à des personnes et des biens tunisiens. L'instruction judiciaire de cette affaire étant encore ouverte en Tunisie, M. Ménard ne peut accéder au territoire tunisien que pour répondre à une convocation du juge instructeur en charge de l'affaire.

666. Le 5 octobre 2006, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial, le Rapporteur spécial sur la question de la torture et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, en date 11 novembre 2005. Le Gouvernement informe que des personnes appartenant au soi-disant « Comité national pour le soutien des grévistes de la faim » se sont rassemblés le 8 novembre 2005 devant la maison de la culture « Ibn Khaldoun » à Tunis, voulant y pénétrer pour tenir une réunion qu'elles n'ont pas déclarée au préalable à l'administration de l'institution, alors qu'il est d'usage dans ce cas faire une réservation. Bien qu'elles aient été avisées de l'existence de travaux de restauration, qu'on pu constater de visu, elles ont persisté à s'y introduire de force et à semer le désordre sur la voie publique. Alertés par l'administration de la dite institution, les agents de la police ont dû alors intervenir pour maintenir l'ordre et rétablir la liberté de passage. Certaines personnes (**Mokhtar Trifi, Mohamed Jmour, Khemaies Chammari, Mounir Fallah, Chawki Laarif et Salah Belhouichet**) ont pu pénétrer à l'intérieur de la maison de la culture « Ibn Khaldoun », les agents de police sont alors intervenus pacifiquement pour les

persuader de quitter les lieux. Le Gouvernement souligne qu'aucune plainte n'a été présentée faisant état d'actes de violence perpétrés par des agents de police à l'encontre des personnes en question.

667. Le 4 décembre 2006, le Gouvernement a répondu à un appel urgent envoyé par la Représentante spéciale sur la situation des défenseurs des droits de l'homme et les Rapporteurs spéciaux sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et sur la torture, en date 19 octobre 2005. Le 19 septembre 2005, **Mohamed Ataya** a prétendu avoir été repoussé par un agent de l'ordre devant le siège de la section de la Ligue tunisienne des droits de l'homme (LTDH) de Mahdia. Les éléments d'information recueillis à ce sujet attestent que M. Ataya a demandé au trésorier de la section, Mohamed Sioud, de le transférer à l'hôpital universitaire de la région où il a subi des examens médicaux qui ont confirmé que son état de santé était normal et qu'il ne présentait aucun signe de violence apparent ou présumé. Le 2 octobre 2005, certains membres de la Ligue ainsi que d'autres personnes ont tenté de tenir une réunion au siège du « Mouvement Attajdid » à Kairouan. Avisés du caractère illégal de cette réunion, ils ont exprimé leur refus avant d'accepter de quitter les lieux sans provoquer d'incidents, à l'exception de M. **Messoud Romdhani** (Président de la section de la LTDH à Kairouan, gouvernorat d'où l'actuel président de la LTDH est originaire) qui a prétendu avoir été agressé par des agents de police. M. Messoud Romdhani s'est rendu au poste de police de la ville pour déposer une plainte, où il lui a été demandé, comme l'exige la procédure, de présenter un certificat médical attestant le préjudice corporel prétendu, chose qu'il n'a pas effectué jusqu'à ce jour. S'agissant du cas de Zakia Dhifaoui (membre du groupe de Kairouan de la section tunisienne d'Amnesty international), il y a lieu d'indiquer que bien qu'elle ait refusé au départ de quitter le siège du « Mouvement Attajdid », elle a fini par accepter de se conformer à la demande des agents de l'ordre. D'ailleurs, elle n'a déposé aucune plainte et n'a été ni interpellée, ni auditionnée. Quant à **Mokhtar Trifi** (Président de la LTDH), il est à préciser qu'il est libre des ses mouvements et qu'il n'a jamais été empêché de rejoindre les sections de la ligue. Les membres des sections de la Ligue à Kairouan, Nefta et Mateur se sont attroupés sur la voie publique, ce qui a nécessité l'intervention des agents de l'ordre. Plusieurs d'entre eux ont fini par libérer la voie publique sans incident. Pour ce qui est de **Abdellatff Bouhjila**, il y a lieu d'indiquer qu'il a été condamné à une peine de 11 ans d'emprisonnement pour appartenance à une bande de malfaiteurs ayant pour but de porter atteinte aux personnes et aux biens, ainsi que pour tenue de réunions clandestines. Contrairement aux allégations parvenues, M. Bouhjila bénéficie, depuis son incarcération le 24 septembre 1998, d'un suivi médical approprié. Il a subi une opération chirurgicale réussie pour l'excision d'adénome sclérosé et de kyste. Des traitements nécessaires lui ont été prodigués pour la régulation de sa tension artérielle et le soin de ses dents. Des examens sur les reins, thorax et le cœur ont révélé que son état de santé était normal. Par ailleurs, il bénéficie de son droit à la correspondance et à la visite de ses proches conformément à la réglementation en vigueur. Il refuse parfois la visite de certains de ses proches pour simuler une atteinte à son droit de visite. Quant à **Naceur Bejaoui**, il a été incarcéré à la prison civile de Tunis, en exécution de jugements définitifs le condamnant à 19 ans d'emprisonnement pour la constitution d'une bande de malfaiteurs dans le but de porter atteinte aux personnes et aux biens et fournitures d'un lieu de réunion à cette bande. Ayant rempli les conditions juridiques, il a été libéré le 25 février 2006, avant l'accomplissement de sa peine et ce, par bénéfice d'une remise de peine en 2002 et 2005 et d'une mesure de libération conditionnelle en 2006. Tout au long de son

incarcération, l'intéressé a bénéficié d'un suivi médical régulier. Il a subi en 2005 un examen de gastroscopie qui a révélé qu'il était atteint d'une ulcération d'estomac. Des soins appropriés lui ont été prodigués et il a bénéficié régulièrement de la visite de ses proches.

### **Observations**

668. Le Rapporteur spécial, en remerciant le Gouvernement pour avoir répondu à ses communications, l'invite à répondre aux communications du 12 mai, 26 juillet, 3 octobre, 24 novembre, 22 et 27 décembre 2006. Le Rapporteur tient à exprimer sa préoccupation au sujet de la détention de **M. Abbou** et prie le Gouvernement de le garder constamment informé sur sa situation.

### **Turkey**

669. On 14 February 2006, the Special Rapporteur jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning **Murat Belge, Haluk Sahin, Erol Katircioglu and Ismet Berkan** of the daily *Radikal* and **Hasan Cemal** of the daily *Milliyet*. According to the information received, they were charged in December for attempting to influence the outcome of an ongoing case through their writing. They are also facing prosecution for publicly denigrating Turkishness and the institutions of the Turkish state. Charges are stemming from the articles which criticized a ban on a university conference about mass killing of Armenians during World War I. On 7 February 2006, the judge adjourned the hearing until 11 April to allow the prosecution time to study defence objections. If convicted, they could face prison terms of six months to ten years. An urgent appeal was sent on 31 May 2005 concerning certain articles of the Penal Code, under which they were charged.

670. On 14 February 2006, the Special Rapporteur jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding **Ibrahim Kaboglu**, a professor of constitutional law at the university of Marmara (Istanbul) and **Baskin Oran**, a professor of political sciences at the university of Ankara. According to information received, on 15 February 2006, Ibrahim Kaboglu and Baskin Oran would appear before the magistrate's court of Ankara on charges of humiliation of jurisdictional power (article 301/2 of the new penal code) and incitement of the people to hatred and hostility (article 216/I). It was alleged that these charges resulted from a report written by Ibrahim Kaboglu and Baskin Oran in their respective capacities as President and Reporter for the Consultative Council of Human Rights on the rights of minorities and cultural rights, and which was transmitted to the Deputy Prime Minister on 22 October 2004. It was reported that if convicted of the above-mentioned charges, Ibrahim Kaboglu and Baskin Oran would probably face many years of imprisonment. Grave concern was expressed that the charges against Ibrahim Kaboglu and Baskin Oran represented an attempt to prevent them from carrying out their legitimate activities in defence of human rights.

671. On 5 April 2006, the Special Rapporteur jointly with the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding Ms **Eren Keskin**, a lawyer who works with the project "Legal Aid for Women Raped or Sexually Assaulted by State Security Forces" in Turkey. This project provides legal assistance to victims of sexual violence and is funded by the United Nations Voluntary Fund for Victims of Torture. Ms Eren Keskin



was the subject of an urgent appeal sent by the Special Representative of the Secretary General on the situation of human rights defenders on 22 April 2005. According to the information received, on 14 March 2006 Ms Keskin was sentenced to ten months' imprisonment by the Kartal 3rd Court of First Instance. The sentence of ten years' imprisonment was converted into a fine of 6,000 Turkish liras. It was reported that Ms Keskin has refused to pay the fine. The sentencing results from charges brought against Msher for insulting the armed forces. These charges were brought against Ms Keskin after she gave a speech at a meeting in Cologne, Germany in 2002 about cases of sexual violence against women inmates by the Turkish State Security Forces. It was reported that Msshe has appealed this decision to the Court of Appeal. Concern was expressed that the above decision was connected with Ms Keskin's activities in defence of human rights, in particular the rights of women who have been the victims of sexual violence.

672. On 16 June 2006, the Special Rapporteur sent an urgent appeal concerning Ms **Perihan Magden**, a novelist and columnist. According to the information received, Ms Magden was called before the court to hear charges, brought by the Turkish military, of turning people against military service in an article on a conscientious objector. In the article, Ms Magden defended a conscientious objector, who is being penalised for refusing to undertake military service, and described conscientious objection as a human right. Her trial was initially scheduled on 7 June 2006, but was adjourned to 27 July 2006 to enable the gathering of further evidence. The prosecution was asking for three years' imprisonment. Concern was expressed at the authority's resorting to the criminal law and sanction. Concern was heightened at reports indicating that a number of other writers, publishers and journalists were accused of various charges: from insult to the state, judiciary, military or the memory of Ataturk; to attempting to influence the judiciary.

673. On 22 June 2006, the Special Rapporteur jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding Mr **Resit Yaray**, board member of the Batman branch of the Human Rights Association (HRA); Mr **Mursel Kayar**, a member of the Batman branch of HRA; Mr **Ali Oncu**, member of the Diyarbakir Branch of the HRA and chairperson of TES-IS; Mr **Edip Yasar** and Mr **Mecail Ozel**, members of the Diyarbakir Branch of HRA; Mr **Necdet Atalay**, former Spokesman of the Diyarbakir Democracy Platform, Secretary-General of the Machine Engineers' Association, and HRA member; Mr **Erdal Kuzu**, lawyer and Secretary-General of the Mardin branch of HRA; and Mr **Hüseyin Cangir**, Chairperson of the Mardin branch of HRA. According to the information received, on 29 March 2006, Mr Resit Yaray and Mr Mursel Kayar were arrested and detained in the Directorate of Security in Batman, as they were trying to observe riots that were taking place in Batman village. While in custody, Mr Resit Yaray and Mr Mursel Kayar were allegedly beaten by police officers after their arrest. On 2 April 2006, Mr Resit Yaray and Mr Mursel Kayar were charged with "assisting and supporting illegal organizations" and transferred to Batman prison, where they remain. The first hearing of the trial of Mr Resit Yaray and Mr Mursel Kayar was scheduled to take place on 30 June 2006 before Diyarbakir Aggravated Penalty Court. Furthermore, on 29 March 2006, Mr Necdet Atalay was arrested and was detained in Diyarbakir D Type Prison. He has been charged with "assisting and supporting illegal organizations" and the first hearing of his trial will take place on 13 July 2006. On 30 March 2006, Mr Mecail Ozel was arrested and detained by police officers in Ofis, Diyarbakir. It

is alleged that he was held incommunicado until 3 April 2006. On 4 April 2006, Mr Mecail Ozel was brought before the Diyarbakir Criminal Court charged with “assistance and support to illegal organizations” and transferred to the Diyarbakir Prison where he was being held at the time this communication was sent. It is reported that the first hearing of Mr Mecail Ozel’s trial will take place on 13 July 2006. On 2 April 2006, Mr Erdal Kuzu, and Mr Hüseyin Cangir, Chairperson of the HRA Mardin branch, were arrested in the city of Kiziltepe they allegedly tried to prevent attacks by security forces against civilians. They were seriously beaten during their detention and were released several hours later. On 4 April 2006, Mr Ali Oncu and Mr Edip Yasar were arrested and detained by the anti-terrorism branch of the security forces. On 5 April 2006, they were charged with “assisting and supporting illegal organizations” and were transferred to Diyarbakir Prison where they remain in detention. Mr Edip Yasar’s trial was scheduled to begin on 13 July 2006. Grave concern was expressed that the above events are connected with the activities of the above-named people in defence of human rights, in particular because of their efforts to observe and report on human rights violations allegedly committed by the security forces during the disturbances in Turkey in March and April 2006.

### **Replies from the Government**

674. By letter dated 5 April 2006, the Government of Turkey replied to the communication of 14 February 2006 regarding the case of **Murat Belge, Haluk Sahin, Erol Katircioglu, Ismet Berkan** and **Hasan Cemal**. The Government informed that the Union of Jurists in Istanbul lodged a complaint with the Chief Public Prosecution Office of Bagcilar against the individuals cited above with regard to their articles concerning an ongoing case. Upon the complaint of the Union of Jurists, an indictment was issued on 21 November 2005 by the Chief Public Prosecutor of Bagcilar, charging Murat Belge, Haluk Sahin, Erol Katircioglu and Hasan Cemal with attempting to influence judiciary under article 288 of the Turkish Penal Code (TPC) and denigrating the judicial institutions of the State under article 301/2 of TPC. Whereas, Ismet Berkan was indicted on a single charge for violating article 288 of TPC. The Government also indicated that according to the indictment, the above-mentioned journalists had not responded to the invitation by the Chief Public Prosecutor’s Office of Bagcilar to raise defence objection to the allegations of the petitioners. The Chief Public Prosecutor pointed out that the offences committed through press require due consideration to be given to the freedom of press, right to criticize and impart information which are essential for public awareness and safeguarded under the Constitution. In this context, the Government pointed out that the members of the press should impart information responsibly and prudently, respect the rights of others and should refrain from disseminating misinformation and defamatory or denigrating statements. The Chief Public Prosecutor, according to the information provided by the Government, also elaborated on the principle of the independence of the judiciary in the context of the aims and purposes of article 288 of TPC and held that the impugned articles contained statements beyond the lines of criticism which denigrated the judicial system, as well as prejudicial and inappropriate statements with regard to an ongoing case. The Government informed that on 7 February 2006, the five journalists raised their defence objections when appearing before the Court. The trial was suspended until 11 April 2006. The Government of Turkey also stated that the independence of the judiciary has been safeguarded under article 138 of the Constitution.

675. By letter dated 11 September 2006, the Government of Turkey replied to the communication of 14 February 2006, providing some additional information to their response on

5 April 2006. The Government informed that the 2<sup>nd</sup> Penal Court of First Instance of Bagcilar dismissed the charges against **Ismet Berkan, Haluk Sahin, Hasan Cemal and Erol Katircioglu** in June 2006. The case against **Murat Belge** was separated from the others and examined under a separate file by the Court. The Government indicated that the Court had recently dismissed the charges against Murat Belge under articles 288 and 301 of TPC in connection with his articles entitled “Massacre of Law” and acquitted the charges regarding “A Court Decision.” Both articles had been published in the Radikal newspaper on 24 September 2005 and 15 October 2005 respectively. In this judgement, the Court held the opinion that the views expressed in the article entitled “A Court Decision” remained within the boundaries of the right to freedom of opinion and expression and the freedom of press, which are guaranteed by the Constitution, the Press Law N. 5187 as well as article 301/4 of TPC.

676. By letter dated 4 September 2006, the Turkish Government replied to the communication of 22 June 2006 concerning **Mr Resit Yaray, Mr Mursel Kayar, Mr Ali Oncü, Mr Edip Yasar and Mr Mecail Ozel, Mr Necdet Atalay, Mr Erdal Kuzu, and Mr Hüseyin Cangir**. The Government stated that Resit Yaray and Mursel Kayar, members of the Batman Branch of HDA, participated in riots which took place in the province of Batman from 30 to 31 March 2006. The letter indicated that Mr Yaray and Mr Kayar were responsible for breaking and entering the Turkish Telecom building, and that they were subsequently apprehended with the rest of the group. On 2 April 2006, they were officially arrested upon the decision of the Penal Court of First Instance, in the province of Batman, pursuant to article 100/3-a-9 of the Criminal Procedure Code. Mr Yaray and Mr Kayar were to be tried at the 5<sup>th</sup> Penal Court of Diyarbakir on charges of willfully assisting illegal organizations. Furthermore, the letter stated that Mr Ozel had been involved in marking the doors of private residences of law enforcement authorities in order to highlight them and their families as targets in Diyarbakir and for responding violently to police intervention. It was noted that Mr Ozel was subsequently detained and that his family was officially informed of his detention on the same day as his arrest and he was allowed access to his lawyer. On 3 April 2006, Mr Ozel was referred to the 4<sup>th</sup> Penal Court by the Public Prosecutor, where he was to be tried on charges of willfully assisting illegal organizations. At the hearings of 17 May 2006 and 15 June 2006, it was decided by the Court that Mr Ozel should remain in detention pursuant to article 100/3 of the Criminal Procedure Code. The Government stated that an investigation had been initiated by the Chief Public Prosecutor in response to a complaint lodged by Mr Ozel alleging that he had been subjected to torture whilst in prison. Similarly, an investigation was initiated by the Office of the Chief Public Prosecutor into claims that Mr Cangir and Mr Kuzu had been arrested and detained. The Government noted that Mr Oncü was detained on 4 April 2006 and officially arrested on 5 April 2006 for his involvement in the incidents which took place during the funerals in Diyarbakir. On 13 July 2006, a decision was taken by the 6<sup>th</sup> Penal Court of Diyarbakir to release Mr Oncü and a court hearing was suspended until 10 October 2006.

677. By letter dated 30 May 2006, the Turkish Government replied to the communication of 5 April 2006 concerning **Ms Eren Keskin**. The Government stated that Ms Keskin was sentenced to ten months in prison by Kartal 3<sup>rd</sup> Court of First Instance charged with insulting the armed forces. The letter indicated that the sentence had been converted to a fine of 6,000 Turkish Lira. It was noted that Ms Keskin had lodged an appeal against the Courts decision, and that proceedings were underway.

678. By letter dated 13 March 2006, the Turkish Government replied to the communication of 14 February 2006 concerning **Mr Ibrahim Kaboglu** and **Mr Baskin Oran**. The letter stated that the case against the aforementioned individuals was being closely monitored by the Government as it had attracted considerable public interest. According to the Office of the Public Prosecutor, the case involved two separate charges under article 301 and article 216 of the Penal Code, which entered into force on 1 June 2005. It was indicated that at the first hearing held in February 2006, the court found that the prosecution was initiated at a time when the repealed Turkish Penal Code no.765 was still in force. A decision was taken to seek authorization from the Ministry of Justice in order to proceed with the case and the trial was adjourned until 10 April 2006. The letter highlighted Paragraph 4 of article 301 of the Turkish Penal Code which requires the Courts to give due consideration to freedom of speech and expression when evaluating any act charged under this article. Pursuant to article 90 of the Constitution, international norms take precedence over domestic legislation. The letter also refers to the new Turkish Penal Code which formed part of an extensive reform initiative regarding the administration of justice.

679. By letter dated 30 May 2006, the Turkish Government replied to the communication of 14 February 2006 concerning **Mr Ibrahim Kaboglu** and **Mr Baskin Oran**. The Government stated that at the final hearing of the case against the aforementioned individuals, held at Ankara 28<sup>th</sup> Penal Court of First Instance on 10 May 2006, the Court dismissed the case against Mr Ibrahim Kaboglu and Mr Baskin Oran, who had been charged with public denigration of the State's institutions under Article 301 and inciting hatred under article 216 of the new Turkish Penal Code (TPC).

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

680. By letter dated 20 February 2006, the Government of Turkey replied to the communication of 22 June 2005 concerning the case of Mr **Mehmet Tarhan**. The Government stated that the Military Court of the 5<sup>th</sup> Infantry Training Brigade Command convicted Mehmet Tarhan on the two insubordination charges and sentenced him to a total of 4 years imprisonment. This judgment was reversed by the Military Court of Appeals on 25 October 2005, on the ground that Mr Tarhan had stated in his defence that he was gay. It was decided that a medical examination was required in order to find out whether he was eligible for military service. The Military Court however decided that such examination would have amounted to discrimination based on sexual preference according to the jurisprudence of the European Court of Human Rights and that it would be inconsistent with law. Therefore, the Court ruled on the continuation of his 4 years' imprisonment.

#### **Observations**

681. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communication dated 16 June 2006.

#### **Turkmenistan**

682. On 15 March 2006 the Special Rapporteur jointly with the Special Rapporteur on the question of torture sent an urgent appeal regarding two journalists **Dzhumadurdy Ovezov** and

**Meretmuhammet Khommadov**, both working for Radio Liberty, a United States- funded radio network. According to the information received, Dzhumadurdy Ovezov and Meretmuhammet Khommadov have been held incommunicado since they were arrested on 7 March by police. The reason for their arrest and their whereabouts were not known at the time this communication was sent. Concern was expressed that their arrest may have been directly connected to their journalistic work for *Radio Liberty*, which frequently broadcasts programmes criticizing the Turkmen authorities. Concern was heightened at reports that staff members of Radio Liberty had been harassed prior to the arrest of two above-mentioned journalists, including their telephone lines being cut off. Fears were expressed that the above-named persons may have been at risk of torture or other forms of ill-treatment.

683. On 29 June 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning **Ogulsapar Muradova**, correspondent for *Radio Free Europe/Radio Liberty* and former member of Turkmenistan Helsinki Foundation (THF), a non-governmental organization working on human rights advocacy; her children **Sana Muradova**, **Maral Muradova** and **Berdy Muradova**; **Elena Ovezova** and **Annakurban Amanklychev**, members of THF; and **Sapardurdy Khadzhirv**, a relative of the director of THF. According to the information received, on 16 June 2006, Mr Amanklychev was detained by agents of Ministry of National Security. Reports indicated that he was under a strict surveillance for more than a year. Ms Muradova was arrested on 18 June 2006 by Ashgaba city police officers without arrest warrant. After her arrest, her children were repeatedly requested by the National Security Ministry officers to submit Ms Muradova's computers, fax and mobile phone. They refused to cooperate with the request. On 19 June, law enforcement officials arrested the children: Sana, Maral and Berdy Muradova. Reports indicate that Ms Muradova has been subject to various forms of harassment, including surveillance, bugging and cutting off of her telephone, and threat. Moreover, Ms Ovezova was arrested on 18 June, and Mr Khadzhirv on 19 June both by law enforcement officials in Ashgabat. All of them were reportedly being held at the Interior Ministry building in Ashgabat. Prior to the arrests, THF publicized information about prison conditions and the imprisonment of a number of people allegedly following unfair trials. Concern was expressed at what appeared to be a direct attempt to silence people who were or were seen to be affiliated with a group working on human rights advocacy.

684. On 24 July 2006, the Special Rapporteur jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding **Amankurban Amanklychev**, **Ogulsapar Muradova**, and **Sapardurdy Khajiev**, all of them associated with the Turkmenistan Helsinki Foundation (THF), a non-governmental organization based in Bulgaria that monitors and reports on human rights conditions in Turkmenistan. Ms Muradova is also a journalist for Radio Liberty. They were included in a joint urgent appeal sent on 29 June 2006. According to the information received, Mr Amanklychev was arrested on 16 June 2006, Ms Muradova and Mr Khajiev on 18 June 2006. They have been held incommunicado since. They were charged on 12 July 2006, considerably later than the three-day limit prescribed by the Turkmen Code of Criminal Procedure requires. Previously Mr Amanklychev had assisted in the production of a documentary critical about the human rights situation in Turkmenistan for *Galaxie Presse*, a

French television production company that also supplied the camera. Following his arrest, various authorities, such as the national security minister and by the Turkmenistan News Service made statements accusing Mr Amanklychev of having been involved in subversion and espionage. In view of their prolonged incommunicado detention, fears were expressed that Mr Amanklychev, Ms Muradova and Mr Khajiev may have been at risk of torture and other forms of ill-treatment in custody.

685. On 19 September 2006, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding the death in custody of Ms **Ogulsapar Muradova**, a prominent human rights activist associated with the Turkmenistan Helsinki/Foundation (THF) and journalist for Radio Free Europe/Radio Liberty, for whom two urgent appeals were already sent to the Government on 29 June and 24 July 2006. According to the information received, Ms Muradova was arrested in mid-June on accusations of “subversive activities, along with Mr Amankurban Amanklychev and Mr Sapardurdy Khajiev, two other human rights defenders both members of THF. Mr Amanklychev had been arrested on June 16, 2006 by police officers, when he was working on a documentary with two French production companies, dealing with the deterioration of the health and education systems in Turkmenistan, and the personality cult of the President of the Republic. Mr Khajiev and Ms. Muradova were arrested on June 18, 2006, at their homes. They all remained detained incommunicado in a National Security Service pre-trial detention centre for more than two months, during which they were reportedly subjected to ill-treatment. Besides, they were never notified about the charges against them, nor were their lawyers, and they were not allowed to meet them. On June 19, 2006, the highest authorities’ representatives, such as the President of the Republic and the National Security Minister, publicly accused the three defendants of having conspired with foreigners in order to destabilize the State. According to the information received, their trial took place in camera. Indeed, the lawyers were denied access to Court. As a consequence, only the Prosecutor and the defendants were allowed to attend the hearing, which lasted just a few minutes. Moreover, the Court building and the streets leading to it were cordoned off by armed soldiers, preventing the defendants’ relatives and supporters from coming in. On August 25, 2006, the Azatlyk District Court of Ashgabat respectively condemned Mrs Muradova and Mr Amanklychev to a six-year and seven-year prison terms, while Mr Khajiev was sentenced to a seven-year term in a high-security prison. All three were sentenced for “illegally possessing ammunitions” (article 287-2 of the Criminal Code), on the basis that police officers would have found some arms in Mr Amanklychev’s car. The three defendants decided to appeal this verdict on August 29 and 30, 2006. In the morning of 14 September 2006, members of the security forces went to the house of Ms Muradova and took her three children, Sana, Maral and Berdy Muradova, to the morgue where they were asked to sign a document identifying and reclaiming Ms Muradova’s body. The siblings requested an examination of the body by an independent doctor, which was reportedly denied. According to reports, they went to the United States Embassy and returned with an American representative who was permitted to accompany them to view their mother’s body which bore signs of ill treatment, with various wounds in the head and the neck. Reports indicate that Ms Muradova’s children are under surveillance and that their phone line has been cut. They reportedly approached the police who refused to acknowledge their complaint. Concerns are expressed for the security of Ms Muradova’s children as there has been no further contact with them since their telephone line got cut.

## Observations

686. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

### Uganda

687. On 7 March 2006, the Special Rapporteur a letter of allegation concerning *Radio Katwe* website, whose access was allegedly blocked by the Authorities blocked a week before the presidential elections of Thursday 23 February 2006. It was reported that the Government-controlled Uganda Communications Commission instructed Uganda's leading telecommunications company, MTN, to block the website on the basis that Ugandan law empowers the Commission to direct any telecom operator to operate networks in such a manner that is appropriate to national and public interest. Concern was expressed that this decision was in direct connection with the highly critical reporting by *Radio Katwe* of the ruling party, and could therefore have been an attempt at silencing all criticism in the run-up to the presidential elections. Moreover, according to information received, on 24 February 2005, the website and radio station of the independent daily newspaper, The Monitor, were blocked in Uganda, reportedly to prevent The Monitor Group from publishing early results concerning the presidential elections. The website was, however, accessible outside of Uganda. The Monitor Group was intending to publish a running vote based on actual results from the different polling stations. The Uganda Broadcasting Council, the Electoral Commission, the police and the Internal Affairs Ministry, all urged The Monitor to stop compiling independent results.

688. On 13 March 2006, the Special Rapporteur sent a letter of allegation concerning the independent radio station *Choice FM*. According to information received, on 1 March 2006, police accused the radio station of posing a security threat following a programme it aired, which featured opposition and ruling party candidates. The opposition candidates reportedly criticised local civilian and military authorities for alleged corruption and mistreatment of detainees. Following the radio programme, a local court issued a warrant allowing police to carry out a search at the stations' premises, during which they reportedly confiscated audiotapes and disks and ordered the station to turn over a copy of its licence, its programming policy guidelines and a recording of the broadcast. The radio station could not hand over the broadcast since the necessary equipment malfunctioned. No explanation was provided for the search. Moreover, on Friday, 3 March 2006, the police arrested Radio FM's radio programme manager, **Martin Ojara Mapenduzi**, detained him and released him the next day after paying bail. The authorities threatened to prosecute him and other journalists working at the station if the station failed to turn over all the documents requested.

689. On 14 June 2006, the Special Rapporteur sent an urgent appeal concerning editor **James Tumusiime** and reporter **Semujuu Ibrahim Nganda**, both working for the independent *Weekly Observer*. According to the information received, the two journalists were summoned to a police station in Kampala in December 2005, when they were charged with promoting sectarianism. They were released on bail on the same day, after being charged. The charges allegedly stem from a report by Mr Nganda published on 1 December 2005, which described that the opposition

Forum for Democratic Change (FDC) had accused a small group of army generals and the President of persecuting the FDC leader Kizza Besigye. Mr Tumusiime and Mr Nganda were called to appear before a court on 15 June 2006. If convicted, they would be facing up to five years' imprisonment. Concern was expressed at the authority's resorting to the criminal law for a media related offence. Concern was heightened at various reports on alleged intimidation by the authority against the press and journalists in relation to the trials against Kizza Besigye. A communication was sent by the Special Rapporteur on this issue on 5 December 2005.

### **Observations**

690. At the time this report was finalized, the Special Rapporteur had not received any replies to the communications sent. The Special Rapporteur therefore invites the Government to respond to these allegations.

### **United Arab Emirates**

691. On 8 September 2006, the Special Rapporteur jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning Mr **Mohamed al-Mansoori**, a lawyer, a human rights activist and President of the Independent Jurist's Association, and Mr **Mohamed' Abdullah al-Roken**, a lawyer, a human rights activist and former President of the UAE's Jurists Association. According to the allegations received, on 17 June 2006, an arrest warrant was issued against Mr Mohamed al-Mansoori, based on an accusation of "insulting the Prosecutor". It was alleged that the real motive of this order was to silence Mr Mohamed al-Mansoori, after he gave several interviews to Arab satellite television in which he criticized the human rights situation in the country. Moreover, on 23 August 2006, Mr Mohamed' Abdullah al-Roken had reportedly been arrested by members of the State Security, Amn al-Dawla. The reasons of his detention remained unknown. Previously, Mr al-Roken had been arrested and held for one night on July 2006, after he gave an interview regarding the recent conflict in Lebanon, to an Arabic television channel. It was also alleged that both Mr al-Mansoori and Mr al-Roken had been banned for a number of years from giving interviews or writing articles to the media. In addition, in September 2005, the authorities of the Emirate of Fujairah allegedly banned a conference on civil rights, women's rights and democracy, organized by the Jurists' Association, without giving any reasons. Serious concerns were expressed that Mr al-Mansoori and Mr al-Roken may be detained on account of their peaceful activities in defence of human rights, and that their detention may form part of a campaign of harassment and intimidation against defenders of human rights in the United Arab Emirates.

### **Observations**

692. At the time this report was finalized, the Special Rapporteur had not received any reply to this communication. The Special Rapporteur therefore invites the Government to respond to this allegation.



### United Republic of Tanzania

693. On 23 August 2006, the Special Rapporteur sent an urgent appeal concerning **Richard Mgamba**, an investigative journalist of the newspaper *The Citizen*, who fled his hometown of Mwanza because of a mounting hostility against him by local authorities and police, which would have organized a public demonstration against him. The journalist had been investigated and could allegedly have been deported to Kenya because of his involvement in the making of a movie on illegal economic activities carried out in the vicinity of Lake Victoria. The legal basis for his deportation reportedly consisted in the fact that the journalist completed his studies in Kenya, though he was born in Tanzania and his parents were Tanzanians. Another person that appeared in the movie, **Raphael Tukiko**, a night watchman working at Lake Victoria, allegedly received threats and was instructed to report to police. Recently, President Jakaya Kikwete would have criticized the contents of the movie saying that it gave a negative impression of Tanzania and its citizens, and may jeopardize the fish trade with Western countries.

### Replies from the Government

694. By letter dated 24 August 2006, the Government of Tanzania replied to the communication of 23 August 2006, stating that article 18 of the Constitution of Tanzania recognizes the right of freedom of expression and opinion and that print and electronic media write freely in Tanzania. The Government noted that the content of the communication sent was false and its content based on rumours.

### Observation

695. The Special Rapporteur thanks the Government for the reply to his communication.

### United States of America

696. On 4 August 2006, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding Mr **Josh Wolf**, a freelance journalist. According to the information received, on 1 August 2006, Mr Josh Wolf was imprisoned in a federal jail in Dublin, California, following the decision of a San Francisco federal judge to arrest him for contempt of court. The journalist allegedly refused to hand to the authorities a video footage of demonstrations in San Francisco in June 2005. Josh Wolf was denied bail and his lawyer has filed an appeal to ask for his immediate release. Reportedly, Wolf's tape documents clashes between demonstrators and San Francisco police during a violent protest, on which a grand jury was investigating, against a G8 summit. Mr Wolf could have remained in custody for several months should the appeal for his release have been rejected.

697. On 25 September 2006, the Special Rapporteur sent an urgent appeal concerning Mr **Josh Wolf**, a freelance journalist, who had been the subject of a previous communication dated 4 August 2006, due to his imprisonment for refusing to provide to a Grand Jury his unedited video footage of a protest in San Francisco against a G8 summit in Scotland. According to the information received, on 1 September, Mr Wolf was released on bail, upon his lawyer's request. On 11 September 2006, a panel formed by three of the court's judges rejected the substance of the request made, and upheld the lower court's decision to hold him in contempt. Two days later,

federal prosecutors filed a motion for his bail to be revoked. On 18 September 2006, Mr Wolf was sent back to prison following the revocation of his bail by the three above-mentioned judges, for refusing to hand over his unedited video footage of a demonstration to a grand jury. Reportedly, in July 2005, during the abovementioned protest in San Francisco against a G8 summit, a clash between protesters and police led to a police car being set on fire. Mr Wolf posted his film of the protest on his blog, which was also aired by a cable television station and then picked up by local affiliates of the national networks. Allegedly, Mr Wolf had always denied having footage of the attack on the police car and refused to name sources or surrender unpublished material and notes, on the basis of his rights under the United States Constitution's First Amendment and a Californian shield law that allows journalists to refuse.

### **Replies from the Government**

698. By letter dated 13 November 2006, the Government replied to the communication of 4 August 2006 concerning **Josh Wolf**. The Government noted that according to press reports, he was present at the scene of a violent San Francisco protest during which a police officer suffered a fractured skull and protesters attempted to burn his patrol. As a witness to this criminal activity he cannot claim immunity from the process for being there as a journalist. Moreover, if Mr Wolf possesses video footage of the crime or potential suspects, his status as a journalist does not exempt him from having to provide his evidence to authorities. The Government stressed the strongest protection of freedom of expression and that it is guaranteed in the Bill of Rights to the United States Constitution and is protected by law to a significantly greater degree than is provided for in the International Covenant on Civil and Political Rights. There is no federal protection shielding journalists from being required to testify or to produce evidence regarding crimes they have witnessed directly, and journalists should be treated the same as any other individual who personally and directly witnesses a crime.

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

699. By letter dated 7 August 2006, the Government of the United States of America replied to the communication of 2 September 2005 concerning the case of Mr **Abraham Al-Mashadani**. The Government stated that the Multi-National Force-Iraq (MNF-I) is authorized under United Nations Security Council Resolution 1546 to intern individuals "where necessary for imperative reasons of security" and that Abu Graib, was a detention facility in which MNF-I holds security detainees. Since Mr Al-Mashadani was detained by MNF-I for imperative reasons flowing from the conduct of an armed conflict, pursuant to Chapter VII Security Council resolutions, the Government of the United States of America considers that the Working Group and the Special Rapporteur do not have competence to deal with this issue. It was further reported that the Government disagreed that security internees who are detained in the context of armed conflict are entitled to take proceedings before a court, in order that the court may decide on the lawfulness of their detentions pursuant to article 9 of ICCPR. In contrast, consistent with the Geneva Conventions, a Detaining Power can use an administrative board to review and decide challenges to their detention by protected persons. The Government of the United States noted that MNF-I released Mr Al-Mashdani in January 2006.

700. By letter dated 25 October 2006, the Government of the United States of America replied to the communication of 12 September 2005 concerning Mr **Tim Harper**, Mr **Lucas Oleniuk**

and **Mr Gordon Russel**. The Government indicated that the United States Constitution guarantees the right of freedom of speech and freedom of press and that the United States does not censor the media nor are there government reprisals against media outlets or media professionals. It was reported that the allegations of police mistreatment in the aftermath of Hurricane Katrina have to be considered taking into account the conditions in New Orleans at the time of the incident. Hurricane Katrina, a Category Four storm caused the largest evacuation in the history of the United States with more than a million people displaced. It was also explained that after Hurricane Katrina journalists received daily updates about rescue and response operations and were allowed to accompany rescue and response teams when security allowed for them to do so. A week after the hurricane, there were an increasing number of media reports about the deteriorating security situation in New Orleans. Subsequently martial law was implemented. The Government of the United States noted that the allegations of police brutality occurred during the period of martial law in areas of the city that government officials had warned the public to avoid due to insecurity. According to the information received from the Government of the United States, the journalists did not file complaints with the state or federal law enforcement authorities and there was no indication that any of these individuals suffered any professional repercussions after they went public with their allegations. The Government is of the opinion that considering that the range of domestic proceedings have neither been sought out nor exhausted, this case does not rise to the level necessary for assistance from outside of the domestic context.

### **Observations**

701. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 25 September 2006.

### **Uzbekistan**

702. On 16 January 2006, the Special Rapporteur jointly, with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding the suspension of the activities of the non-governmental human rights organization **Freedom House**. Freedom House is an organization that promotes freedom and democracy around the world and has supported human rights defenders in Uzbekistan since 2002. On 13 January 2006 the civil court in Tashkent issued a verdict to suspend the activities of Freedom House, following a request to this effect from the Uzbek Ministry for Justice on the basis that Freedom House had broken Uzbek laws. According to information received, charges brought against Freedom House included non-compliance with a secret decree, issued by the Uzbekistan government cabinet, the contents of which was reported to be unknown. Violations cited by the Ministry for Justice included allowing human rights defenders free access to the internet. Concern was expressed that the suspension of the activities of Freedom House based on its alleged non compliance with a secret decree, was an attempt to prevent Freedom House from carrying out its legitimate activities in defence of human rights in Uzbekistan. Concern was also expressed that the charge against Freedom House for providing human rights defenders free access to the internet, was an illegal attempt to isolate and prevent human rights defenders from communicating and sharing information with others throughout the world.

703. On 18 January 2006, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding Mr **Saidjahon Zainabitdinov**, Chairman of the Andijan human rights group Apellatsia ("Appeal"), an organization working on religious and political persecution. Mr Zainabitdinov had already been the subject of an urgent appeal sent on 26 May 2005. Mr Zainabitdinov was arrested on 21 May 2005 by the Uzbek authorities after he had recounted his version of the events in Andijan on 13 May 2005 to some western media sources. It was reported that on 4 January 2006 the trial of Mr Zainabitdinov began in Chirchik, a town near Tashkent where he was reportedly charged with defamation and anti-government activities. It was believed that on 12 January Mr Zainabitdinov was found guilty and sentenced to 7 years imprisonment in what appears to have been a closed trial as information about the proceedings did not become available until after the fact. It was further alleged that the trial was held at a secret location and that no official information concerning the proceedings was made available to relatives of Mr Zainabitdinov. Concern was expressed that Saidjahon Zainabitdinov's trial may have been linked to his activities in the defence of human rights, in particular his descriptions of the recent events in Andijan and of the general human rights situation in Uzbekistan which have appeared in the press.

704. On 6 February 2006, the Special Rapporteur jointly with the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning Ms **Mutabar Tadjibayeva**, head of the *Ut Yuraklar* human rights organization, an unregistered women's rights organization, member of the Organization for the Defence of Rights and Freedoms of Uzbek Journalists, the Human Rights Society of Uzbekistan (HRSU) and the Committee for Freedom of Speech and Expression. Ms Tadjibayeva, also a Nobel Peace Prize Laureate (part of the initiative "1000 Women for the Nobel Peace Prize") was the subject of a communication sent on 18 July 2005 and on 27 October 2005. According to the information received, on 30 January 2006, Uzbek authorities prevented people from observing the trial of Ms Tadjibayeva. It was reported that a Human Rights Watch representative (whose name is known to the Special Rapporteurs and Special Representative), was stopped at a police checkpoint and refused entry to Dustobod when he told the police that his purpose for visiting was to observe Ms Tadjibayeva's trial. It was alleged that the police stopped each car entering the town and asked the occupants what were their reasons for visiting Dustobod. It was also alleged that an Uzbek human rights defender (whose name is known to the Special Rapporteurs and Special Representative), was prevented from entering the courthouse where the trial was taking place. Ms Tadjibayeva was facing 17 charges, including slander, extortion, swindling, tax evasion, polluting the environment and violating rules on trade and land use. Her lawyer was initially denied access to Ms Tadjibayeva and when she was able to see her client on 1 February 2006 it was in the presence of four guards. In addition, the defence lawyer was given one day to review and prepare the case for trial. It is further alleged that during the trial the judge demonstrated preferential treatment by granting motions in favour of the prosecution and denying all applications made by the defence. Concern was expressed that access to the proceedings had been denied to the public, including relatives, friends, colleagues and independent trial monitors which may result in Ms Tadjibayeva being denied the right to fair and transparent hearing. Furthermore concern was expressed that the charges against Ms Tadjibayeva were a political attempt to discredit her and prevent her from carrying out her human rights activities and may have been linked to her open criticism of the events that occurred in Andijan on 13 May 2005.

705. On 10 March 2006 the Special Rapporteur jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning **Mutabar Tadjibayeva**, head of the Ut Yuraklar human rights organization, an unregistered women's rights organization, and member of the Organization for the Defence of Rights and Freedoms of Uzbek Journalists, the *Human Rights Society of Uzbekistan (HRSU)* and the Committee for Freedom of Speech and Expression. Ms Tadjibayeva was the subject of three communications dated 6 February 2006, 18 July 2005 and 27 October 2005. According to new information received, on 6 March 2006 Mutabar Tadjibayeva was convicted of slander, extortion and misuse of land. She was also found guilty of membership of an illegal organization and has been sentenced to eight years imprisonment. It was alleged that Ms Tadjibayeva was denied the opportunity to prepare and present an adequate defence and that her lawyer did not have adequate time or opportunity to discuss the case with her. Grave concern was expressed that the prison sentences inflicted on Mutabar Tadjibayeva is connected to her activities in defence of human rights, in particular to her open criticism of the Uzbek authorities in relation to the Andijan massacre in May 2005.

706. On 2 June 2006, the Special Rapporteur jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding Mr **Ilhom Zainabitdinov**, a human rights defender and the son of Mr **Saidjahon Zainabitdinov**, Chairman of the *Andijan human rights group Apellatsia* ("Appeal"), an organization working on religious and political persecution. Mr Ilhom Zainabitdinov had reportedly provided journalists with information concerning human rights violations allegedly committed by the Uzbek authorities in relation to the Andijan massacre in 2005. Mr Saidjahon Zainabitdinov was the subject of a letter of urgent appeal sent on 26 May 2005. According to the information received, on 22 May 2006 Mr Ilhom Zainabitdinov did not return to his home. It was reported that on the same day police went to his home, showed Mr Zainabitdinov's mother an arrest and search warrant and conducted a search of the house. On 26 May 2006 it was alleged that the police officers returned to his house and conducted another search, during which they confiscated two 50 dollar bills which they claim to have been counterfeit. On this occasion it was alleged that the police officers informed Mr Zainabitdinov's mother that he was being held in a detention centre in Andijan, but did not provide information as to why he was being detained. Concern was expressed that the alleged detention of Mr Ilhom Zainabitdinov may have been connected with his own activities in defence of human rights, in particular because he was suspected of providing information on human rights violations to journalists and also because his father is a high profile human rights defender.

707. On 25 September 2006, the Special Rapporteur sent a letter of allegation concerning the situation of **Dadakhon Khasanov**, who on 8 September 2006 was given a suspended sentence of three years imprisonment by the Tashkent City Court for the crime of "insulting", in this case Uzbek President Islam Karimov and for "threatening public security and order." Reportedly, the verdict was reached behind closed doors and only two witnesses for the prosecution attended the final phase of the court hearings. Mr Khasanov was in house arrest, since his detention on 12 April 2006 by the Uzbekistan's Security Service (SNB). Tapes, disks and books were confiscated from his house without any official protocol on the said items. On 31 of July he was charged under article 158, 159 paragraph 3 b, and 244-1 paragraph 3 a of the Penal code. On 1 August

2006 the trial was adjourned until 9 of August 2006 and subsequently till 5 September 2006. It was reported that on 10 August 2006, Mr Khasanov met with officials of the Ministry of Interior, who allegedly attempted to persuade him to reject the services of his public defender and lawyers under the promise of a lighter sentence. On 5 September 2005, the trial resumed and Mr Khasanov waived his right to legal representation. The Public Defender gave a statement at the court indicating that Mr Khasanov had been pressured to reject his lawyers and public defender.

### **Replies from the Government**

708. By letter dated 19 April 2006, the Government of Uzbekistan replied to the communications of 6 February 2006 and 10 March 2006. The Government informed that on 6 March 2006 **Mutabar Tajibaeva** was convicted by the criminal court of Tashkent province under articles 165, para. 3 (a), 167, para. 3 (a), 168, para. 2 (b), 184, para. 2 (b), 189, para. 3, 197, 209, para. 1, 28, 209, para. 2 (a), 216, 228, para. 2 (b), 228, para. 3, 229 and 244-1, para. 3 (b), of the Criminal Code of Uzbekistan, and sentenced under articles 59 and 61 of the Criminal Code to eight years deprivation of liberty. He was also stripped of the right to occupy managerial and financially responsible posts and to engage in business activity for a period of three years. According to the court judgement, M. Tajibaeva used the pretext of defending the rights and interests of Akhmadullo Abdullaev and Khafizidin Koraboev during investigation and in court to extort from them first 100,000 sum (Uzbek currency), then US\$ 900, by means of deceit and abuse of their trust, thereby causing particularly extensive losses. The Government informed that, with the aim of unlawfully taking possession of half the fish bred by T. Mamadaminov, a lessee of the company Andizhonbalik, M. Tajibaeva used threats and coercion to make him transfer his rights of ownership into her name, on signature of a contract to that effect. On 6 October 2005 M. Tajibaeva obtained 350,000 from Mamadaminov by extortion and the next day M. Tajibaeva was arrested in flagrante delicto by law-enforcement officers in the act of receiving 250,000 from Mamadaminov. The Government reported that in 2002 M. Tajibaeva set up an illegal voluntary association called the "Ardent Hearts Club". It was reported that she thereupon used funds received from abroad to organize unauthorized demonstrations in front of buildings housing local authorities and government bodies in Tashkent and Fergana provinces for the purpose of putting pressure on them and their representatives. During these demonstrations she disseminated false information with full knowledge of this fact. The Government pointed out that M. Tajibaeva did not declare the financial assistance received for organizing the activities of the "Ardent Hearts Club" to the tax authorities and deliberately evaded payment of taxes and other charges to the value of 2,042,900. It was reported by the Government's communication that M. Tajibaeva set up a trading and manufacturing company and used forged documents to obtain a loan of 8 million from the National Bank in Margilan, which she diverted for improper use. M. Tajibaeva unlawfully used 6.8 hectares of land belonging to the Nomuna shirkat farm in the Akhunbabaev district of Fergana province. The Government indicated that, having unlawfully taken possession of this plot of land, M. Tajibaeva left it untended, as a result of which it was waterlogged and infested with weeds. In consequence the productivity of this farmland fell and the provisions on land use and regulations on soil protection were directly breached. The Nomuna shirkat farm suffered a total financial loss of 1,601,512 and the Bokijon Ota farm a loss of 8,579,304. The land tax was deliberately evaded. The Government indicated that the criminal prosecution against M. Tajibaeva is not related to her human rights work, but that she has been convicted for perpetrating specific criminal acts. The case is currently being prepared for review by the court of appeal.

## Observations

709. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 16 and 18 January 2006, 2 June 2006 and 25 September 2006.

### Venezuela (Bolivarian Republic of)

710. El 17 de marzo de 2006, el Relator Especial envió una comunicación en relación con el supuesto ataque contra las oficinas del diario *La Región* en Los Teques, al suroeste de Caracas y las amenazas proferidas contra su editor **Romel Flores**. De acuerdo con la información recibida, el 8 de marzo de 2006 atacantes desconocidos lanzaron tres bombas caseras en las oficinas del diario *La Región*. Según se informa nadie resultó herido en el ataque, que causó daños menores. De acuerdo con las informaciones, los supuestos atacantes dejaron panfletos amenazando a Romel Flores y a varios periodistas venezolanos que estaban en el lugar de los hechos. Según se informa, nadie se ha adjudicado el ataque, y las autoridades han iniciado una investigación. El Relator Especial acoge con satisfacción la acción inmediata emprendida por las autoridades para investigar este incidente, especialmente dado que el antemencionado ataque puede estar relacionado con la información publicada por el diario sobre corrupción gubernamental.

711. El 10 de mayo de 2006, el Relator Especial envió una comunicación en relación con los periodistas **Henry Crespo** y **Miguel Salazar**, redactores del semanario radicado en Caracas *Las Verdades de Miguel*. De acuerdo con la información recibida, el 3 de mayo de 2006, el Sr. Crespo habría sido condenado por difamación penal y sentenciado a 18 meses de prisión en suspenso por el Tribunal 18 de Juicio del Área Metropolitana de Caracas. Según se informa, la demanda contra el Sr. Crespo, presentada por el gobernador del estado de Guárico Eduardo Manuitt en enero del 2005, habría estado motivada por dos artículos publicados durante ese mes en los que el periodista denunció corrupción gubernamental y violaciones de derechos humanos en el estado de Guárico. Igualmente, el Sr. Miguel Salazar, editor y columnista de *Las Verdades de Miguel*, habría sido demandado por difamación penal por el gobernador Manuitt tras la publicación de una columna donde acusaba al gobernador de haber contratado a sicarios para asesinarlo. De acuerdo con nuestras fuentes, el juicio contra el periodista habría comenzado el 19 de abril y se encontraría actualmente a la espera de un veredicto.

### Seguimiento de las comunicaciones transmitidas previamente

712. Por carta con fecha 20 de marzo 2006, el Gobierno de la República Bolivariana de Venezuela transmitió la siguiente información en respuesta a la comunicación del 17 de marzo 2004 en relación al caso de **Víctor José Serra Rojas**. El Gobierno informó de que la Fiscalía 13.<sup>a</sup> de Derechos Fundamentales del Ministerio Público inició de oficio averiguación ante los presuntos actos violentos de los cuales fue objeto el ciudadano Víctor José Serra Rojas, por parte de funcionarios policiales el 12 de febrero de 2004. Dicho expediente fue remitido al Cuerpo de Investigaciones Científicas, Penales y Criminalísticas, en donde cursa con el número de averiguación G816835. El Gobierno indicó que el 15 de abril de 2004 la Defensoría del Estado de Mérida se trasladó al Cuerpo de Investigaciones Científicas, Penales y Criminalísticas observando que las averiguaciones contenían lo siguiente: Oficio de la Fiscalía solicitando

practicar diligencias, de fecha 29 de marzo de 2004, e informar al periodista Víctor Serra para que acudiera a una entrevista el 5 de abril de 2004; examen médico forense de fecha 7 de abril de 2004, en donde se señala que no se observaban por el momento lesiones superficiales ni secuelas de lesiones recientes; entrevista realizada el 1 de abril 2004 en la sede del Diario *El Cambio*; oficio al comandante José Ibarra Rosales, Director de la Policía del Estado Mérida, solicitando información de los sucesos; y oficio a la emisora OMC Televisión solicitando video de la marcha del 12 de febrero 2004 en las inmediaciones del Consejo Nacional Electoral. Asimismo, se informó por parte del Gobierno de Venezuela que el 29 de abril de 2004 se remitió invitación al ciudadano Víctor Serra para comparecer ante la mencionada Defensoría el 4 de mayo de 2004 para entrevistarle y poder tener más información de lo sucedido. El Gobierno informó de que el Sr. Serra no compareció a la invitación. El 27 de julio de 2004 se decretó el archivo fiscal de la causa del Sr. Víctor Serra por no haber elementos suficientes de conformidad con los artículos 105 z 315 del Código Orgánico Procesal Penal. El Gobierno indicó que el 6 de agosto de 2004 la Defensoría cerró el expediente dado que se llevó a cabo el debido proceso penal de la investigación, el cual no arrojó elementos que ratificaran las lesiones y la vulneración de la integridad personal.

### **Observaciones**

713. Al finalizarse este informe, el Relator Especial no había recibido respuesta a las comunicaciones enviadas en 2006 e invita al Gobierno a responder a las mismas.

### **Viet Nam**

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

714. By letter dated 24 January 2006, the Government of Vietnam responded to the joint urgent appeal sent on 29 November 2005 concerning **Mr Hoang Minh Chinh**. The Government stated that the allegations outlined in the communication of 29 November 2005 were unfounded. The Government indicated that during time spent in the United States for medical treatment, Mr Minh Chinh was involved in activities detrimental to the state of Vietnam including urging the United States to cut off aid to Vietnam. It was noted that since his return to Vietnam the Government has received requests from the public to take disciplinary action against Mr Chinh. The Government stated that Mr Chinh's life is not in danger and that no complaint has been received from him in this regard.

### **Zimbabwe**

715. On 23 January 2006, the Special Rapporteur sent an urgent appeal concerning Mr **Sidney Saize**, a journalist working for the banned *Daily News*, who was on 18 January 2006, reportedly arrested on allegations of "practicing journalism without accreditation" as required by the Access to Information and Protection of Privacy Act (AIPPA), and of "publishing falsehoods" regarding the contents of a programme apparently broadcast by radio Voice of America. According to AIPPA provisions, the first offence carries a two-year prison term, a fine of Z\$400,000 (approx. \$US4,300), or both; the second one carries a maximum fine of Z\$100,000 (approx. \$US1,080), or a five-year jail term, or both. Officers from the Criminal Investigation Department allegedly interrogated Saize for three hours following his arrest and then detained him at the local police



station. Saize's lawyer reported that it was unclear when the judiciary would be seized of his client's arrest and detention, and that he filed an urgent application with the Magistrates Court to order the police to proceed in due time.

716. On 16 February 2006, the Special Rapporteur jointly, with the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning 181 *Women of Zimbabwe Arise* (WOZA) activists, among them **Jennifer Williams** and **Magodonga Mahlangu**. WOZA was a grassroots organization working to promote and protect women's activism, whose members had already been the subject of previous communications on 20 May 2005, 29 September 2004 and 26 September 2003. According to the information received, on 13 February 2006, Jennifer Williams, Magodonga Mahlangu and approximately 100 other WOZA activists were arrested and detained in central Bulawayo, Zimbabwe while they were engaging in a peaceful protest designed to bring attention to the social and economic conditions facing the people of Zimbabwe. It was alleged that the detainees had been charged with violating section 24 of Public Order and Security Act, for participating in an unsanctioned protest and that they were detained at Bulawayo Central Police Station. It was reported that they were released on 15 February. According to further information received, on 14 February 2006, between 60 and 100 WOZA activists were arrested in Harare, Zimbabwe, while engaging in a peaceful protest. It was reported that they were being detained at Harare Central Police Station. Grave concern is expressed at the above arrests and detentions as it is believed that they are connected with legitimate activities of WOZA activists in defence of human rights. Further concern is expressed that these arrests and detentions form part of campaign against WOZA activists to prevent them from engaging in peaceful protest.

717. On 27 February 2006, the Special Rapporteur sent a letter of allegation concerning **Gift Phiri**, previously working for the weekly *Zimbabwe Independent*. According to the information received, on 16 February 2006, Gift Phiri was beaten up by unidentified men in Sunningdale, suburb of Harare. Gift Phiri was reportedly severely injured by the attack, and was left with injuries to his ribs and face. The assailants accused him of working for the American public radio station *Voice of America (VOA)* and one of the few Zimbabwean private radio station *Voice of People (VOP)*, which they referred to as media hostile to the Zimbabwean government. Concern was expressed, particularly in light of a report that, on 27 January 2006 on the *Manica Post*, the State Security Minister warned journalists working for foreign media that despite the fact that they were often working under pseudonyms, they would be identified.

718. On 21 April 2006, the Special Rapporteur jointly with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding Mrs **Felistus Chinyuku**, a 65- year- old human rights defender and former chairwoman of Porta Farm residents' committee, who spoke out against forced evictions that took place in 2004 and 2005. According to the information received, Felistus Chinyuku received persistent threats from the ruling party youth and government officials at Hopley Farm, the internally displaced persons' camp where she used to reside after having been evicted from Porta Farm. In particular, it was reported that on 17 October 2005, she was called to a meeting attended by the Minister of Local Government, Public Works and Urban Development and other government officials. It was further reported that during this meeting, she was told that she had "sold out" by giving information to human rights organizations, and was threatened not to be

allowed to stay at Hopley Farm should she continue to interact with human rights groups. She also received death threats. Subsequently, a residential stand which had been allocated to her was reportedly withdrawn, allegedly on the instructions of an official from the Ministry of Public Service, Labour and Social Welfare, which runs Hopley Farm IDP camp. As a result of the continuing harassment against her and fearing for her safety, Felistus Chinyuku left Hopley Farm. Fears were expressed with regards to her safety. Additionally, serious concerns were expressed that the recurrent harassment which she was being the object of may have represented a form of retaliation for her outspoken stance against the eviction and may represent an attempt to restrain her freedom of speech and her access to international human rights organizations.

719. On 15 May 2006, the Special Rapporteur jointly with the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning Mr **Beloved Chiweshe**, Secretary General of the *Zimbabwe National Students Union (ZINASU)*; other members of ZINASU and peaceful participants in a demonstration against increases in school fees. ZINASU is an organization that defends the rights of students in Zimbabwe. According to the information received, on 4 May 2006, members of the Zimbabwe Republic Police (ZRP) entered a meeting being held by the ZINASU General Council in Harare, Zimbabwe. It was reported that the police officers demanded that those present identify the president of ZINASU. The students were reportedly detained overnight and released without charge on 5 May 2006. Furthermore, on 4 May 2006, it was reported that 73 children, who were participating in a peaceful demonstration against increases in school fees, were arrested in Bulawayo, Zimbabwe. On 8 May 2006 it was reported that armed members of Zimbabwe Republic Police entered Bindura University and arrested Mr Beloved Chiweshe and 17 other students who were peacefully demonstrating against new fee structures for universities. It was reported that the arrested students were assaulted and that Mr Beloved Chiweshe and a female demonstrator were injured. It was further reported that the demonstrators were taken to Bindura central police station and that they have been released. Concern was expressed that the above events are connected with the activities of the above-mentioned people in defence of human rights in particular because of their peaceful participation in protests to defend the right to education.

720. On 31 July 2006 the Special Rapporteur and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning Ms **Evidence John**, Mr **Future Matondo**, Mr **Alinmah T. Munafireyi Rajabo**, Ms **Florence Bundo**, Mr **Tapuwa Mundangepfupfu**, Mr **Shelter Zimunhu**, Mr **Albert Mhetu**, Mr **Louis Chizaka**, Ms **Shelly Saburi**, Mr **Stewart Muzhambi**, Ms **Ruth Katsande** and other members of the National Constitutional Assembly (NCA). NCA is a group of non-governmental organizations that advocates for democratic reform in Zimbabwe. According to the information received, on 12 July 2006, Ms Evidence John, together with 127 other NCA members, were arrested in Harare and detained at the Harare Central police station, while participating in a peaceful protest calling for democratic reform in Zimbabwe. They were charged under Section 46 of the Criminal Law Act, related to the obstruction of traffic. It was further reported that Ms Evidence John was denied access to medical treatment after she collapsed while in detention. The detainees were released on 15 July 2006 on free bail and were due to appear in court on 4 August 2006. On 13 July 2006 Mr Future Matondo, Mr Alinmah T. Munafireyi Rajabo, Ms Florence Bundo, Mr Tapuwa Mundangepfupfu, Mr Shelter Zimunhu, Mr Albert Mhetu, Mr Louis Chizaka, Ms Shelly Saburi, Mr Stewart Muzhambi and Ms Ruth Katsande were arrested

and detained in Mutare while participating in a peaceful protest calling for democratic reforms in Zimbabwe. It was reported that they were charged under Section 17 of the Criminal Law Act which criminalizes demonstrations that pose a threat to public order. It was further reported that they were released on bail of 50,000 Zimbabwean dollars each, and that their hearing would take place on 31 July 2006. Concerns were expressed that the above events were connected with the activities of the members of NCA in defence of human rights, in particular because of their participation in peaceful protests calling for democratic reforms in Zimbabwe.

721. On 21 August 2006, the Special Rapporteur jointly the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning the arrest of Mr **Wellington Chibebe**, General Secretary of the Zimbabwe Congress of Trade Unions (ZCTU) on 15 August 2006. Mr Chibebe was the subject of an urgent appeal sent on 9 October 2003, and of a letter of allegation sent on 26 November 2003. Mr Chibebe was again the subject of an urgent appeal sent on 15 February 2005. According to the information received, on 15 August 2006, Mr Chibebe was reportedly arrested at a roadblock and detained at Waterfalls Police station as he was traveling by car from Masvingo with his family. He was stopped at a roadblock near Waterfalls, where the Police demanded to search his car, supposedly in order to look for cash. At first, Mr Chibebe was reportedly accused of “failure to cooperate with a police officer”. However, according to the information received, the police would have later deliberately changed the charges to “common assault against a police officer”. On 17 August 17 2006, Mr Chibebe appeared before the Mbare Magistrates Court. He was reportedly charged of contravening section 176 of the Criminal Law (Codification and Reform) Act [chapter 9:23], which states that “[a]ny person who assaults or by violent means resists a peace officer acting in the course of his or her duty, knowing that he or she is a peace officer or realising that there is a risk or possibility that he or she is a peace officer, shall be guilty of assaulting or resisting a peace officer and liable to a fine not exceeding level twelve or imprisonment for a period not exceeding ten years or both”. Mr Chibebe was granted ZWD 2000 bail (US\$ 8), and the trial date was set for 4 September 2006. Concerns were expressed that the reported arrest may be in retaliation for his activities in defence of the rights of workers, and may form part of a continuous pattern of harassment and repression of Zimbabwe’s human rights defenders, including trade- union leaders.

722. On 15 September 2006 the Special Rapporteur, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Wellington Chibhebhe**, the Secretary-General of the Zimbabwe Congress of Trade Union (ZCTU), **Lovemore Matombo**, President of the ZCTU, Ms **Lucia Matibenga**, 1st Vice-President of the ZCTU, **Ian Makone**, Organising Secretary, Movement for Democratic Change, Mr **Ngondo**, Mr **Nkiwane**, Mr **Gumbo**, Mr **Chigwada**, Mr **Nyahunzvi**, and Mr **Shonhe**. Mr Chibebe was the subject of two urgent appeals sent on 21 August 2006 and 15 February 2006 and Ms Lucia Matibenga was the subject of the urgent appeal sent on 15 February 2006. According to the allegations received, on 13 September 2006, they were arrested and detained by the Zimbabwe Republic Police, and then transported to Matapi Police Station and severely assaulted and tortured by police officers while in detention. The lawyer acting on their behalf was unable to obtain medical assistance for them, despite repeated requests. Two of the detainees were alleged to be unconscious the night before, and when food was provided in the morning, they were unable to walk, and were incoherent. An urgent High Court application has been made to access treatment for the victims. Five other trade

unionists are also detained. A large number of others are being detained at Harare Central Police Station. Grave concern was expressed that the arrest, detention and torture of Mr Chibhebhe and other human rights defenders may be in retaliation for their activities in defence of the rights of workers, and may form part of a continuous pattern of harassment and repression of Zimbabwe's human rights defenders, including trade union leaders.

723. On 15 September 2006, the Special Rapporteur, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning the ongoing harassment of members of the NGO *Women of Zimbabwe Arise* (WOZA). WOZA is a grassroots organization working to promote and protect women's activism, whose members have already been the subject of previous communications on 16 February 2006, 20 May 2005, 29 September 2004 and 26 September 2003. According to the information received, on 21 August 2006, over 200 activists from WOZA reportedly took the streets in the city of Bulawayo in order to protest over the introduction and implementation of the Monetary Policy by the Governor of the Reserve Bank. Among the concerns of the women's organisation were the arbitrary searches, confiscation and subsequent depositing of old bearer cheques with authorities from the Reserve Bank; furthermore, in terms of the regulations issued by the President and being implemented by the Reserve Bank Governor, there is reportedly no remedy before the courts to challenge a confiscation. In the open letter that WOZA members wanted to deliver to the Governor, they protested against the Government's alleged solution to Zimbabwe's economic crisis, the so-called "Operation Sunrise". At around 11.15 a.m., the activists reportedly began their procession along Main Street. They were then intercepted by the police at the corner of Leopold Takawira Avenue and Main Street. It was alleged that the police arrested 153 of the women, who were brought to five separate holding places and police cells, namely: Bulawayo Central, Saucitown Police Station, Mzilikazi, Queens Park, and Barbourfields Police. Later on that day, their lawyers managed to secure the release of 39 persons, on condition that they report to Bulawayo Central Police everyday until the date of the initial appearance in court. During their arrest, Ms **Ephy Khumalo**, one of WOZA activists, reportedly fell from the police truck and sustained a fractured arm. Besides, several juveniles complained of beatings while being interrogated by members of the Law and Order Section at Bulawayo Central before being released into the custody of their lawyers. On 23 August 2006, the activists appeared in court and were charged for contravening section 37(1) (b) of the Criminal Law Codification and Reform Act, which provides that "any person acting together with one or more other persons present with him or her in any place or at any meeting performs any action, utters any words or distributes or displays any writing, sign or other visible representation that is obscene, threatening, abusive or insulting, intending thereby to provoke a breach of the peace or realising that there is a risk or possibility that a breach of the peace may be provoked shall be guilty of participating in a gathering with intent to promote public violence, a breach of the peace or bigotry, as the case may be, and be liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both". However, on the same day, all WOZA activists were granted free bail and remanded out of custody. They are due to appear in Court on 10 October 2006. Concern was expressed that these arrest, detention and conviction of WOZA members are linked to their activities in defence of human rights, in particular women's rights, and may form part of a campaign of harassment and intimidation against human rights defenders in Zimbabwe.

724. On 7 December 2006, the Special Rapporteur jointly with the the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on Independence of Judges and Lawyers, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal concerning the situation of members of **Women of Zimbabwe Arise (WOZA)** and **Men of Zimbabwe Arise (MOZA)**. WOZA, and its subdivision MOZA, is a grassroots organization working to promote and protect women's activism, whose members have already been the subject of previous communications on 15 September 2006, 16 February 2006, 28 June 2005, 20 May 2005, 29 September 2004 and 26 September 2003. On 31 August 2005, your Excellency's Government replied to the communication of 28 June 2005, which had concerned events similar to those now reported to us. While we welcome that reply, it did not allay our concerns. According to the allegations recently received, on 29 November 2006, more than 60 WOZA members and four MOZA members were arrested while demonstrating peacefully through central Bulawayo to the government offices at Mhlanhlandlela. The march, composed of 200 participants, was to mark the launch of the People's Charter and the "16 Days of Activism Against Gender Violence", an international campaign running until International Human Rights Day on 10 December, as well as to protest against the Public Order Security Act (POSA). A large group of riot police officers allegedly assaulted the group with baton sticks, forcefully dispersing most of it. Many people – including a young baby – were beaten, and received medical care at Mpilo Hospital. Forty-one persons were reportedly taken to Drill Hall by police officers who subsequently beat them, before releasing them without charge on the same day. The other marchers, including WOZA leaders Ms Jenni Williams and Ms Magodonga Mahlangu, were taken to Bulawayo Central Police Station, and 36 members, including six mothers with babies, spent the night there. On 30 November 2006, the six mothers with babies were released. As of 1 December 2006, 34 WOZA/MOZA members reportedly remained in police custody, beyond the 48-hours limit provided for by law. WOZA and MOZA members, including the six mothers released, were charged on 1 December 2006 under two separate sections of the Criminal Law (Codification and Reform) Act: Chapter 46 section 2 (v) – "employing any means whatsoever which are likely materially to interfere with the ordinary comfort, convenience, peace or quiet of the public, or does any act which is likely create a nuisance or obstruction" and Chapter 37 – "participating in a public gathering with the intent to cause public disorder, breach of peace or bigotry". If found guilty, the members could be fined or imprisoned for a period not exceeding six months or both. A lawyer for WOZA was also threatened with arrest for "interfering with the course of justice" whilst trying to attend to her clients. She only managed to see the group on 30 November 2006, in the afternoon, several hours after being in police custody. Serious concern was expressed about these new arrests of WOZA/MOZA members and the charges against them are in relation to their legitimate activities in defence of human rights, in particular the promotion and protection of women's rights. This concern was reinforced by the fact that this incident took place on the occasion of the first International Day on Women Human Rights Defenders celebrated every 29 November. Further concern was expressed that this new instance of repression against WOZA/MOZA members may have formed part of a campaign of harassment and intimidation against human rights defenders in Zimbabwe.

### **Replies from the Government**

725. By letter dated 20 February 2006, the Government of Zimbabwe replied to the communication of 23 January 2006, indicating that **Siney Saize** was arrested on 18 January 2006 for practicing journalism without being accredited and for communicating falsehoods, contravening section 83(1) of the Access to Information and Protection of Privacy Act as well as section 15(1) of the Public Order and Security Act (POSA). The Government informed that Saize was heard by a Mutare municipal employee speaking on his mobile phone about an alleged politically motivated assault involving two Secondary school teachers who were said to have been assaulted by some Border Gezi youths, war veterans and Zanu PF youths. The two victims were reported by Saize to be in a serious condition. Checks with school have since established that no such teachers were ever assaulted giving rise to the charge under POSA for publishing falsehoods. It was later established that Saize had been filing this false story for Voice of America's Studio 7. The Government indicated that Saize is not accredited as a journalist in accordance with the law and therefore cannot practice as such. On 21 January 2006, Saize was taken to court under Mutare Central CR 222-3/01/06, after which he was released and the public prosecutor is still considering the case. Besides, the Government indicated that Saize had not lodged a complaint with the Police concerning this matter. It was reported by the Government that the gravity of the false story was to further injure the image of the Border Gezi youths by alleging falsehoods, and that the inclusion of war veterans was done with a view to inculcating fear in those hearing the story with the result that the audience would believe that there is a breakdown of law and order in Zimbabwe. The Government also pointed out that freedom of opinion and expression is guaranteed in Zimbabwe, which has many newspaper publications, some of which are critical of the present government and its leadership.

726. By letter dated 31 March 2006, the Permanent Mission of the Republic of Zimbabwe to the United Nations replied to the communication of 16 February 2006 concerning **Women of Zimbabwe Arise (WOZA)** activists, among them **Jennifer Williams** and **Magodonga Mahlangu**. The Mission stated that on 14 February 2006, Jennifer Williams and Magodonga Mahlangu were charged under section 24 of the Public Order and Security Act (POSA) for failing to notify the Regulating Authority of their intention to organize a public demonstration which took place in central Bulawayo on 13 February 2006. It was noted that the recording of statements and fingerprinting of Jennifer Williams and Magodonga Mahlangu was conducted in line with normal police procedures. Other demonstrators were charged under the Miscellaneous Offences Act for conduct likely to provoke the breach of peace and were due to be summonsed. On 15 February 2006, 149 WOZA members were required to pay fines after participating in a demonstration the previous day. They were charged with contravening Section 7c of the Miscellaneous Offences Act. The Mission responded to allegations that suspects arrested in Harare with their babies were detained in open cells and separate from other inmates. The letter also states that Tafadzwa Mugabe, a lawyer from ZLHR who was amongst a group of protesters arrested at the demonstration, was released when he produced his business identity card. The Mission further stated that the Zimbabwean Republic Police force has committed itself to the observance of human rights in discharging its duties.

727. By letter dated 11 September 2006, the Permanent Mission of the Republic of Zimbabwe to the United Nations replied to the communication of 21 August 2006 concerning the arrest of **Mr Wellington Chibebe**, General Secretary of the Zimbabwe Congress of Trade Unions

(ZCTU) at a roadblock on 15 August 2006. The Mission stated that an investigation was initiated by the Waterfalls Police Station into the case. The letter noted that Mr Chibebe had appeared in court on 17 August 2006 charged with contravening Sections 76 and 89 of the Criminal Law (Codification and Reform) Act Chapter 9:23 for resisting arrest and assaulting a police officer. The Mission stated that prior to Mr Chibebe's arrest the aforementioned roadblock had been widely publicized by the media and was intended to curtail money-laundering. It was noted that everyone, irrespective of social status, was searched at the roadblock including a police officer who was arrested and tried. Mr Chibebe's identity was not known to police officers at the time of his arrest.

728. By letter dated 14 December 2006, the Permanent Mission of the Republic of Zimbabwe to the United Nations replied to the communication of 7 December 2006 concerning the situation of members of **Women of Zimbabwe Arise (WOZA)** and **Men of Zimbabwe Arise (MOZA)**. The Mission stated that according to a police report issued by the Z.R. Police General Headquarters, 40 members of WOZA, including Ms Jennifer Williams, were arrested on 29 November 2006. Members of the group were taken to Bulawayo Police Station where they were detained in police cells. The group was subsequently charged with intent to promote public violence, breach of peace or bigotry by participating in a public gathering, under Section 37 (1) (b) of the Criminal Codification Act Chapter 9:23. The letter indicates that the group was taken to Court on 1 December 2006, where the Public Prosecutor declined to place them on remand, and advised police to proceed with a summons. The Mission states that those arrested were not subjected to assault by police nor was there any record of a child being among those arrested. WOZA's legal representative, Perpetua Dube, was permitted to see her clients without threats from the police, and there is no record of a complaint issued by Ms Dube for alleged threats against her.

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

729. By letter dated 11 July 2006, the Government of Zimbabwe responded to the joint urgent appeal sent on 3 November 2005 concerning **Nyaungwe Officen, Claris Madhuku, Masunungure Sozwaphi, Makatura Isiah** and **Shonhiwa Wilson**. The Government acknowledged receipt of the aforementioned communication and stated that the matter is being investigated and that developments will be advised in due course.

730. By letter dated 23 January 2006, the Government of Zimbabwe responded to the joint urgent appeal sent on 16 November 2005 concerning **Ms Netsai Mushonga**. The Government stated that in order to provide a meaningful reply to the aforementioned communication, information regarding the name of the police station at which the complainant was detained, the identity of the police officers involved, as well as information as to whether Ms Mushonga was arrested whilst addressing the meeting along with the name of the court at which she is due to appear, would have been required. However the Government indicated that based on previous experience some sections of the community have vowed to defy the provisions of the Public and Security Act. According to Section 24 of the Act the authorities must be notified four days in advance of all public gatherings, meetings or processions, in order to allow the police to decide whether protection is required or not. The Government noted that this provision was not unique to Zimbabwe and that it is common practice in most democratic states.

**Observations**

731. The Special Rapporteur thanks the Government for its replies and invites the Government to respond to the communications dated 27 February 2006, 21 April 2006, 15 May 2006, 13 July 2006 and 15 September 2006.



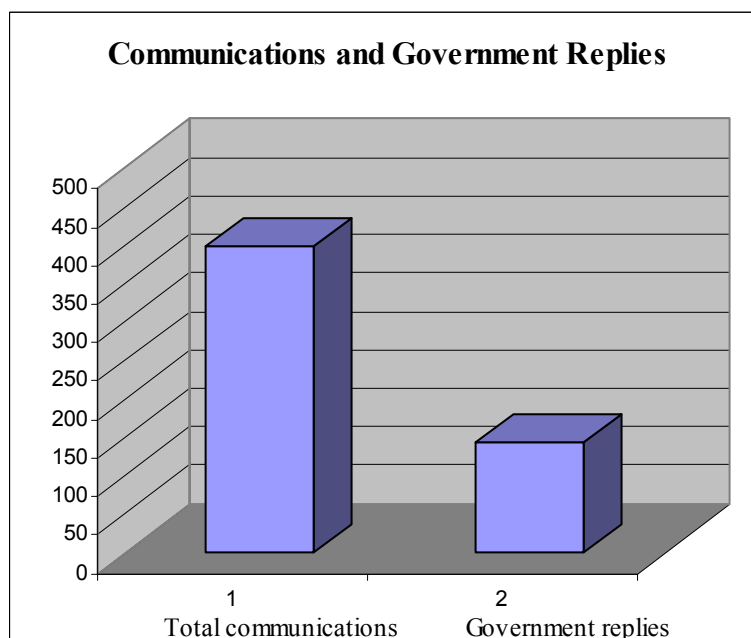
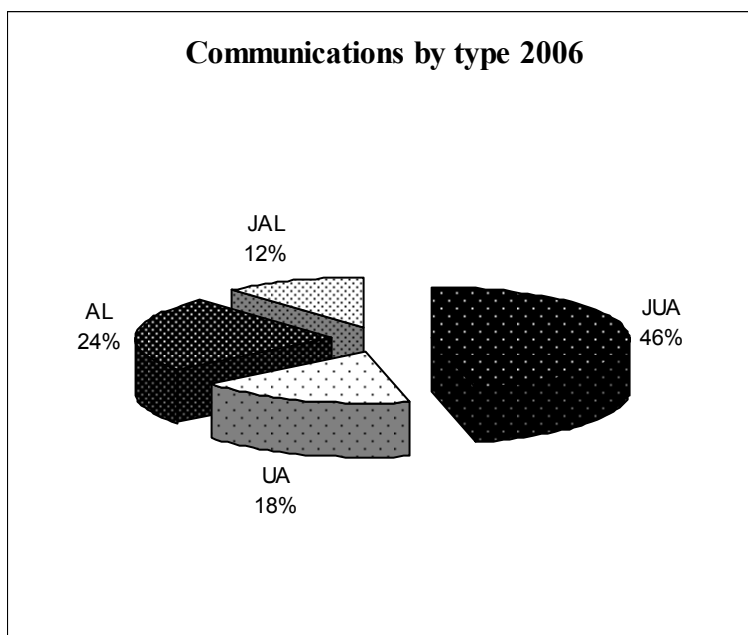
**Annex**

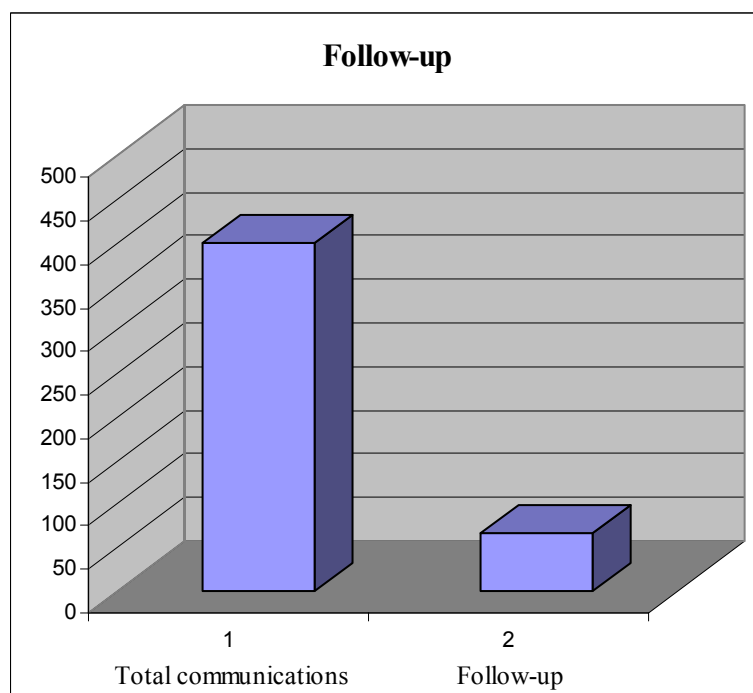
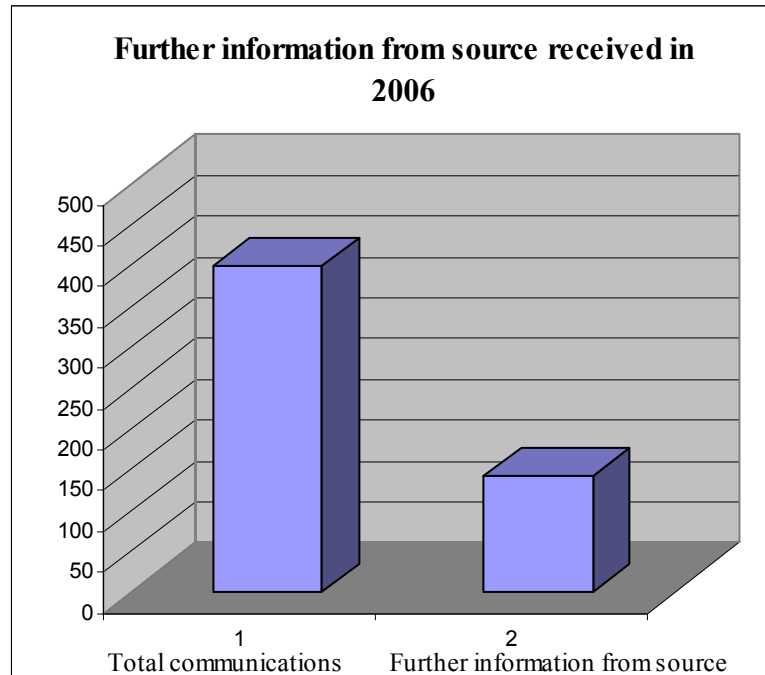
**COMMUNICATIONS SENT BY THE SPECIAL RAPPORTEUR  
ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF  
OPINION AND EXPRESSION  
(January-December 2006)<sup>††</sup>**

- Total number of communications: 399
- Number of individual victims: 1227
- Communications sent to 89 countries
- Government replies: 36%
- Further information from source: 35%
- Follow-up: 16.5 %

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<sup>††</sup> General statistical information on communications sent by Special Procedures in 2005 is available on OHCHR website: [www.ohchr.org](http://www.ohchr.org)





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