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IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”

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

Addendum

Summary of cases transmitted to Governments and replies received *

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

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Introduction

1. The present document is submitted by the Special Representative of the Secretary-General on the situation of human rights defenders, Ms Hina Jilani, to the Human Rights Council pursuant to resolution 2003/64 of the Commission on Human Rights. The document provides summaries of the communications on specific cases addressed by the Special Representative to Governments, as well as summaries of the replies by Governments that she has received, and her observations thereon.
2. In the past, such information had been included in an annex. Following up on a practice adopted in her report to the Commission on Human Rights at its fifty-ninth session, the information on specific cases raised by the Special Representative over the year is now published in the present addendum to her main report (A/HRC/4/37) to the Council at its fourth session (.).
3. The cases raised by the Special Representative in this addendum relate to cases reported to her between 1 December 2005 and 1 December 2006. The addendum contains summaries of responses received from Governments and, where necessary, translated up to and including 1 February 2006. Most of the responses by Governments refer to cases raised by the Special Representative during the period December 2005 to December 2006; however, some of the responses are to cases addressed by her in earlier reporting periods. While the summaries of these responses are included in this report, the summaries of the cases to which they refer will be found in the Special Representative's reports from preceding years (see E/CN.4/2004/94/Add.3, E/CN.4/2005/101/Add.1, and E/CN.4/2006/95/Add.1, covering the previous three years).
4. For ease of reference, and as indicated in the table of contents, cases have been grouped by country, with countries listed alphabetically according to their names in English.

Algeria

Communications envoyées

5. Le 26 mai 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent concernant la situation de **Amine Sidhoum Abderramane**, avocat algérien et défenseur des droits de l'Homme, membre de l'organisation non gouvernementale (ONG) SOS Disparus. Selon les informations reçues, Amine Sidhoum Abderramane aurait reçu des menaces lors de la 39ème session de la Commission africaine des droits de l'homme et des peuples (CADHP), qui s'est réunie 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 ligues des droits de l'homme (FIDH) sur la situation des droits de l'homme sur le 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 5 660 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 ». La Représentante spéciale et les Rapporteurs spéciaux expriment leur profonde préoccupation face à cette allégation qui semblerait indiquer que Amine Sidhoum Abderramane aurait reçu ces menaces afin de l'empêcher d'exercer son activité de défenseur des droits de l'homme et l'aurait effectivement empêché de s'exprimer dans le cadre de CADHP, une enceinte dont le mandat est dédié à la protection des droits de l'homme.

6. Le 8 septembre 2006, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, la Représentante spéciale a envoyé un appel urgent concernant la situation de **Amine Sidhoum Abderramane**, avocat algérien et défenseur des droits de l'homme, membre de l'ONG SOS Disparu(e)s, qui avait déjà fait l'objet d'une communication envoyée par le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 26 mai 2006. Selon les informations reçues, le 23 août 2006, Amine Sidhoum Abderramane aurait reçu une convocation du juge d'instruction du tribunal de Sidi M'Hammed à Alger qui le notifiât d'une plainte déposée à son encontre par le Ministre de la Justice pour « diffamation » à la suite de ses déclarations publiées dans l'article « Aoufi passe son trentième mois en détention » paru dans le quotidien arabophone « Chourouk » le 30 mai 2004. Me Sidhoum aurait été accusé de jeter le discrédit sur une décision de justice et de porter outrage à un corps constitué de l'État. M. Sidhoum encourrait une peine de trois à six années d'emprisonnement, et une amende comprise entre 230 000 et 450 000 DZD. Lors de son entretien avec la journaliste auteure de l'article susmentionné, M. Sidhoum aurait dénoncé la détention arbitraire de son client dans la prison de Seradji qui durait depuis 30 mois. Cependant, la journaliste n'aurait pas rapporté de manière fidèle les propos de M. Sidhoum, écrivant que le client de ce dernier « passe son trentième mois à Serkadji suite à une décision arbitraire rendue par la Cour suprême ». En effet, au moment où M. Sidhoum a tenu ces propos, aucune décision n'avait encore été rendue par la Cour suprême, qui ne s'est prononcée que le 28 avril 2005, soit un an après la parution de l'article. En outre, d'après les informations reçues, M. Sidhoum aurait été convoqué le 22 août 2006 en tant qu'accusé par le juge d'instruction du tribunal de Bab El Oued pour « introduction d'objets interdits au détenu », suite à la découverte de deux cartes de visite à son nom chez un de ses clients détenus. La convocation aurait été reportée au 9 septembre 2006, à la demande de M. Sidhoum. Des craintes ont été exprimées que les charges retenues contre M. Sidhoum ne visent à empêcher ce dernier de poursuivre ses actions en faveur de la défense des droits des familles de disparus au sein de SOS Disparu(e)s et s'inscrivent dans un contexte d'intimidation et de harcèlement auquel sont confrontés les défenseurs algériens, notamment lorsqu'il s'agit de défendre les droits des familles de disparus.

7. Le 5 octobre 2006, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, la Représentante spéciale a envoyé un appel urgent concernant la situation de M. **Hassiba Boumerdassi** et M. **Amine Sidhoum Abderramane**, avocats algériens et défenseurs des droits de l'homme, membres de l'ONG SOS Disparu(e)s. M. Amine Sidhoum Abderramane avait déjà fait l'objet d'une communication envoyée par le Rapporteur spécial sur

l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 26 mai 2006 et d'une autre 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 8 septembre 2006. Selon les informations reçues, le 10 septembre 2006, M. Hassiba Boumerdassi et M. Amine Sidhoum Abderramane auraient comparu devant le juge d'instruction du tribunal de Bab El Oued en raison des poursuites initiées à leur encontre pour avoir remis à leurs clients retenus en prison des documents relatifs à leur défense. Ainsi, dans le cas de M. Hassiba Boumerdassi, il s'agirait du dossier du procès verbal du détenu concerné et ce malgré l'autorisation d'un gardien de la prison, et dans celui de M. Amine Sidhoum Abderramane, de la remise de ses cartes de visite. D'après les informations reçues, M. Hassiba Boumerdassi a été accusée d'avoir violé l'article 166 du Code de l'organisation pénitentiaire et de l'insertion sociale des détenus qui dispose qu'il est interdit de remettre, d'essayer de remettre ou de faire parvenir à un détenu dans des conditions illégales, en quelque lieu que ce soit, des sommes d'argent, correspondances, médicaments ou tout autre objet non autorisé. De même, elle aurait été accusée de violer l'article 16 de la loi relative à la sécurité des prisons qui établit qu'il n'est pas permis d'introduire ou de faire sortir de sommes d'argent ou correspondances, sauf si elles sont permises par le règlement intérieur de la prison ou si elles sont autorisées expressément par le directeur de la prison. Également, M. Hassiba Boumerdassi aurait été poursuivie pour violation de l'article 31 de la loi portant sur le règlement intérieur de prisons qui dispose que le prisonnier qui remet ou envoie dans des conditions illégales ou tente de remettre à un autre prisonnier ou à toute autre personne des sommes d'argent, correspondances, médicaments ou autre chose s'expose à des sanctions pénales. Selon les informations reçues, M. Boumerdassi et M. Sidhoum Abderramane devaient se présenter devant le juge d'instruction le 25 septembre 2006. Cependant, leur audience aurait été reportée au début du mois de novembre 2006. Des craintes ont été exprimées que les charges retenues contre M. Hassiba Boumerdassi et M. Amine Sidhoum Abderramane ne visent à empêcher ces derniers de poursuivre leurs actions en faveur de la défense des droits des familles de disparus au sein de SOS Disparu(e)s et s'inscrivent dans un contexte d'intimidation et de harcèlement auquel sont confrontés les défenseurs algériens, notamment lorsqu'il s'agit de défendre les droits des familles de disparus.

Communications reçues

8. Le 4 janvier 2006, le Gouvernement a répondu à la communication du 23 septembre 2005 envoyée par la Représentante spéciale, conjointement avec le Rapporteur spécial sur la torture et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, sur les situations respectives de **M. Bellatrèche**, président des familles de disparu(e)s constantinoises, **Mme Saker**, membre de familles disparu(e)s constantinoises, **M. Arab**, 75 ans, père d'un disparu et membre de SOS Disparus à Alger, **Mme Yous**, la présidente de SOS Disparus, bureau à Alger, **Mme Ferhati**, membre du bureau de SOS Disparus à Alger, **Mme Nekrouf**, la secrétaire du bureau SOS Disparu à Oran et des **familles de disparu(e)s constantinoises**. 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 : a) 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 ; b) 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 ; c) 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 et de la communication 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'État 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 chargée 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, dans sa formation ad hoc, et 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'État de l'ensemble des victimes et de leurs ayants droits, y compris les disparus.

9. Le 20 juillet 2006, le Gouvernement a répondu à l'appel urgent conjoint envoyé le 26 mai 2006 concernant **Amine Sidhoum Abderramane**, apportant un démenti aux allégations de la communication. Le Gouvernement a indiqué que l'Algérie a inscrit dans sa Constitution un chapitre sur les droits et libertés et un autre sur le pouvoir judiciaire. Il considère que les textes juridiques cités dans la communication, relatifs à la mise en œuvre de la Charte pour la paix et la réconciliation nationale sont conformes aux engagements internationaux contractés, et que les affirmations selon lesquelles l'ordonnance rétrécit l'activité des citoyens ne reposent sur aucun fondement juridique recevable. Le respect intégral des droits des citoyens serait préservé aussi bien par l'Ordonnance que par les décrets d'application qui seraient compatibles avec les

dispositions des traités auxquels l'Algérie est partie. L'ordonnance du 27 février 2006 n'émettrait aucune objection à l'exercice de la liberté d'expression qui est clairement stipulé par l'article 41 de la Constitution. De même, la liberté d'association resterait ouverte à tous les citoyens jouissant de leurs droits civiques, comme énoncé par la loi organique relative aux associations à caractère politique du 6 Mars 1997. Le Gouvernement a indiqué que les restrictions énoncées dans l'Ordonnance figurent déjà à l'article 42 de la Constitution algérienne ainsi que dans ladite loi organique et concernent uniquement 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. Le Gouvernement a ajouté que bien que le droit d'accès à la justice et le droit d'exercer un recours soient érigés en droit par le Pacte international sur les droits civils et politiques, il reste que ces droits accordés aux justiciables doivent de respecter les procédures nationales prévues à cet effet. Le Gouvernement a souligné que le chapitre six de l'Ordonnance portant Charte pour la paix et la réconciliation a été plébiscité par le peuple algérien, seule source de légitimité, lors du référendum du 28 septembre 2005. Cette disposition viserait le traitement légal, social et humain d'une situation fort complexe induite par une décennie de criminalité terroriste à grande échelle. Elle aurait pour but de protéger le droit des citoyennes et des citoyens, qui se sont prononcées à 99 % des voix contre toute attaque ou remise en cause de la part des tiers. Le Gouvernement a déclaré que le choix du peuple devait être respecté. Il a conclu en affirmant que les textes d'application de la Charte pour la paix et la réconciliation nationale étaient en conformité avec la législation internationale s'agissant de la qualité de victime et d'ayants droits et retiennent le principe d'indemnisation en ce qui concerne la question des « disparitions ».

10. Le 15 novembre 2006, le Gouvernement a répondu à l'appel urgent conjoint envoyé le 8 septembre 2006. Le Gouvernement a indiqué que l'avocat **Amine Sidhoum Abderramane** a fait l'objet d'une convocation du juge d'instruction de Sidi M'Hamed à Alger le 25 août 2006 lui notifiant la plainte déposée à son encontre par le Ministère de la justice pour diffamation, à la suite de ses déclarations publiées par le Quotidien *Al Chourouk* (édition du 30 mai 2004), qualifiant d'arbitraire la décision rendue par le tribunal à l'encontre de M Aoufi, client de l'avocat. Le Gouvernement algérien estime que les déclarations d'**Amine Sidhoum Abderramane** jetaient le discrédit sur une décision de justice et portaient outrage à l'institution judiciaire suprême. Le Gouvernement a déclaré que **Amine Sidhoum Abderramane** avait refusé de se rendre à cette convocation, et qu'il est poursuivi en application des articles 144, 146 et 147 du Code pénal algérien, régissant les outrages et violence à fonctionnaires et institutions de l'État (section I du chapitre V relatif aux crimes et délits commis par des particuliers contre l'ordre public). L'affaire aurait été portée devant le juge d'instruction compétent.

Observations

11. The Special Representative thanks the Government for its detailed responses of 4 January, 9 January, 20 July and 15 November 2006, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication of 5 October 2006.

12. She welcomes the declaration made by the Government on the importance given to the respect of human rights. She is very concerned that all her communications sent in 2006 concern the lawyer **Amine Sidhoum Abderramane**. She acknowledges the response of the Government to the communication of 26 May 2006, but it does not dispel entirely her concern that Mr

Sidhoum was threatened not to take the floor on behalf of the Fédération internationale des ligues des droits de l'homme before the African Commission on Human and Peoples' Rights. She wishes to remind the Government that article 6 paragraph (c) of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the Declaration on human rights defenders) provides that "[e]veryone has the right, individually and in association with others: (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters". She further acknowledges the response of the Government to the communication of 8 September 2006, but it does not entirely dispel her concern either. It was chronologically impossible for Mr Amine Sidhoum Abderramane to comment on the decision of the Supreme Court in the newspaper -and therefore to defame the Court- since this decision was taken one year after the publication of the article. Furthermore, the response does not address the issue of the business cards given by Mr Amine Sidhoum Abderramane to one of his clients.

13. She acknowledges the response of the Government regarding Mr **Bellatrèche**, Ms **Saker**, Mr **Arab**, Ms **Ferhati**, Ms **Nekrouf**, and some Constantine families of disappeared persons, but it does not entirely dispel her concern that the aforementioned people were not arrested in connection with their human rights activities. She wishes to recall Article 5 paragraph (a) of the Declaration on human rights defenders that provides that "[e]veryone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully; (b) To form, join and participate in non-governmental organizations, associations or groups; (c) To communicate with non-governmental or intergovernmental organizations" and Article 6 paragraph (c) aforementioned.

Angola

Communications sent

14. On 5 April 2006, the Special Representative sent a letter of allegation concerning Mr **Luis Araujo**, coordinator of the non-governmental housing rights organisation SOS Habitat, Manuel Pinto and Andre Augusto, staff members of SOS Habitat and staff members of the international development organisation Oxfam. According to the information received, on 13 March 2006, Luis Araujo, Manuel Pinto, Andre Augusto and staff members of Oxfam were witnessing forced evictions of residents of Cambamba districts 1 and 2 in Luanda, Angola, which it is alleged were carried out violently. It is reported that a camera belonging to Andre Augusto and a mobile phone chip belonging to Luis Araujo were confiscated. It is further alleged that the staff members of Oxfam were interrogated and threatened by police as they tried to take photographs of the evictions. It is further alleged that Manuel Pinto was arrested and released shortly afterwards. Concern was expressed that the above events were connected with the activities of the above mentioned people in defence of human rights, particularly in relation to their defence of the rights of those persons evicted in Cambamba districts 1 and 2, Luanda.

15. On 16 August 2006, the Special representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the 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). According to the information received, on 20 July 2006, in a case instituted by the Angolan government against Mpalabanda, the Provincial Court of Cabinda reportedly ruled that Mpalabanda should be banned. Mpalabanda has appealed against the decision, which was apparently based on the Law of Associations of May 1991 (Lei das Associações de Maio de 1991). Concern was expressed that the court ruling against Mpalabanda might represent an attempt to prevent the organisation from carrying out its legitimate work in defence of human rights. Furthermore, concern was expressed that this would seriously affect all human rights defenders in Cabinda and their ability to carry out human rights monitoring work and evaluation.

16. On 29 September 2006, the Special Representative sent a letter of allegation concerning the situation of Mr **Agostinho Chicaia**, an agronomist engineer and President of Mpalabanda. Mpalabanda was the subject of a joint urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Representative on 16 August 2006. According to the information received, on 30 August 2006, two trucks of the national police with a number of soldiers, criminal investigators and agents of the national police reportedly raided the house of Mr Chicaia in order to arrest him. Mr Oliveira da Silva, from the Provincial Criminal Investigation Department, was allegedly heading the activity, and was carrying a warrant whose signature was not legible. However, Mr Chicaia was away at the time of the operation. The only person present was the brother of Mr Chicaia who informed them that he was in Luanda. Mr Oliveira da Silva then reportedly phoned Mr Chicaia, and urged him to inform him of the date of his return to Cabinda. It is reported that the military and police officers ransacked the home of Mr Chicaia. Concern was expressed that the attempt to arrest Mr Chicaia and the ransack of his house might be in retaliation for his activities in defence of human rights, and might form part of a campaign of intimidation and harassment against human rights defenders in Angola, and more precisely in the Cabinda region.

17. On 30 November 2006, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation to the Government regarding the situation of Mr **Raúl Danda**, journalist and spokesperson of Mpalabanda (Associação Cívica de Cabinda), the only human rights organization which was operating in Cabinda before its ban ordered by the Provincial Court of Cabinda on 20 July 2006. 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). Mpalabanda was the subject of a joint urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 16 August 2006. According to the information received, on 29 September 2006, Mr Danda was reportedly arrested by agents identified as members of the Provincial Criminal Investigation Police (DPIC), upon his arrival at Cabinda airport. His luggage was searched thoroughly and he was subsequently put in detention on the premises of the DPIC. It is reported that no legal order authorizing the search, arrest and detention was produced at the time of the incident. According to the 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, Mr Danda’s lawyers reportedly claimed that these documents could not be considered as illegal as they were already published opinion articles about Cabinda. There was also a draft of an unfinished article by Mr

Danda himself and a letter of 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 the following day, without specifying the duration. The alleged basis for the decision was "instigation, provocation and apology for crimes against state security" in violation of Article 27 of Law 22C/92 of 9 September 1992, Law on Crimes against State Security. 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 that the search, arrest and detention of Mr Danda might be in relation to his legitimate activities in the defence of human rights in the Cabinda region.

Communication received

18. In a letter dated 10 October 2006, the Government of Angola responded to the communication sent on 16 August 2006. It stated that unlike law-abiding associations, Mpalabanda, rather than pursuing the objectives set forth in its charter (i.e. the promotion of human rights and welfare of the people of the Province of Cabinda), has chosen to follow a different path, engaging in political activities which is contrary to the purposes of its creation and violates State law. Only political parties are allowed to carry on such activities. The seriousness of these violations went to the extent of waging a campaign of incitement to civilian disobedience and rejection of the legitimacy of local authorities, fuelling tension in the enclave of Cabinda. The leadership of Mpalabanda must be accountable for the recklessness of their acts. If Mpalabanda wishes to conduct political activity, it is free to do so, as long as it fulfils the necessary requirement, like the 120 political parties registered in Angola.

Observations

19. The Special Representative thanks the Government for its response of 10 October 2006, but regrets the absence of replies to the other communications sent.

20. Concerning the ban on **Mpalabanda**, the response of the Government does not dispel entirely the concerns of the Special Representative regarding the ban on Mpalabanda which was the only human rights organisation operating in the Cabinda region. The Special Representative remains concerned about the persistent misconception of the role of human rights defenders which is labelled as political. She wishes to remind the Government of Article 5 paragraph (b) of the Declaration on human rights defenders which states that "[e]veryone has the right, individually and in association with others, at the national and international levels: To form, join and participate in non-governmental organizations, associations or groups".

Argentina

Comunicaciones enviadas

21. El 16 de diciembre de 2005, la Representante Especial envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación a la situación de inseguridad y peligro en la que se encontraría **Rodolfo Yanzón**, abogado de varios organismos de derechos humanos, incluidos la Liga Argentina de Derechos Humanos (LADH) y el Movimiento Ecuuménico por los Derechos Humanos (MEDH). Según la información recibida, el 10 de diciembre de 2005, Rodolfo Yanzón habría recibido una llamada telefónica en su vivienda, en la que habría sido

amenazado. También habría recibido un mensaje de texto que decía: “el domingo les vamos a meter tanto caño (bombas) y va a correr sangre que eso va a parecer un cementerio”. Se expresaron graves temores por la seguridad y la integridad física y psicológica de Rodolfo Yanzón, en particular como es uno de los abogados que llevan adelante las causas, ahora reabiertas, contra los militares acusados de crímenes contra la humanidad durante la última dictadura.

22. El 27 de diciembre de 2005, la Representante Especial, junto con el Relator Especial sobre la independencia de los magistrados y abogados, envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación a la situación de inseguridad y peligro en la que se encontrarían **Pablo Gabriel Salinas**, abogado de derechos humanos, y su familia, así como **María Angélica Escayola** y **Alfredo Guevara Escayola**, ambos abogados de derechos humanos. Los tres abogados han trabajado como representantes de varias familias de víctimas de violaciones de derechos humanos cometidas durante el periodo de gobierno militar en Argentina entre 1976 y 1983, así como a familias de víctimas de presuntos homicidios cometidos por la policía en la provincia de Mendoza. Además han conseguido que la Corte Interamericana de Derechos Humanos intervenga en casos de trato inhumano y de duras condiciones de detención en los establecimientos penitenciarios de la provincia. Según la información recibida, el 16 de diciembre del 2005, aproximadamente a las 05.00 horas, la esposa de Pablo Gabriel Salinas habría recibido una llamada telefónica en casa de la familia en Mendoza. Una voz masculina desconocida habría dicho: “te voy a hacer de todo [...] te voy a culiar”. El 15 de diciembre de 2005, a la misma hora, Pablo Salinas habría recibido una llamada en la que se podía escuchar una grabación de la voz de su hijo de 8 meses. Anteriormente, el 5 de diciembre de 2005, alguien habría pintado la palabra “ratas” en el muro de las oficinas que comparten Pablo Salinas y sus colegas María Angélica Escayola y Alfredo Guevara Escayola, con una flecha que señalaba a la puerta. Además, el 15 de noviembre del 2005, tras la muerte de uno de los colegas de Pablo Salinas, Alfredo Ramón Guevara, alguien habría pintado “chau cerdo” en los muros de la oficina. Pablo Salinas ha presentado una denuncia judicial ante la Fiscalía pero todavía no han recibido ninguna protección. Se expresaron graves temores por la seguridad y la integridad física y psicológica de Pablo Gabriel Salinas y su familia, María Angélica Escayola y Alfredo Guevara Escayola. Se teme que el acoso de los abogados esté relacionado con su trabajo de defensa de los derechos humanos.

23. El 13 de febrero de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación al supuesto reiterado acoso y repetidas amenazas recibidas por parte de **Mariano Saravia** desde la publicación de su libro *La Sombra Azul* en marzo de 2005, en el cual denunció diversos casos de tortura por parte de la policía provincial durante y después del régimen militar. De acuerdo con las informaciones recibidas el Relator Especial desea llamar la atención del Gobierno sobre las siguientes alegaciones: En noviembre de 2005 se habría registrado una serie de incidentes alarmantes, incluyendo el ingreso a su casa por parte de extraños sin fines de robo, la desaparición de su perra y la destrucción de una maceta en su jardín; durante ocho meses, el Sr. Saravia habría recibido llamadas anónimas y amenazantes en su casa, en las cuales habría oído insultos, silencios largos, risas, gritos fuertes, ladridos de perros y música fúnebre durante estas llamadas. Estas llamadas telefónicas amenazantes, habrían ido acompañadas de diversos actos de vandalismo en el domicilio del Sr. Saravia, tras los cuales éste habría encontrado casquillos de bala, un pájaro muerto, y una cruz esvástica pintada sobre el portón de su domicilio. El Sr.

Saravia habría denunciado cada uno de estos incidentes ante la policía. El Sr. Saravia habría recibido también varias cartas de ex militares argentinos, encarcelados por crímenes de lesa humanidad y nombrados en su libro, instándole a retractarse. Uno de ellos habría iniciado una demanda civil por difamación en contra del periodista como resultado de la cual, una jueza habría embargado el 20% del salario de Saravia mientras estudiaba el caso. La Representante Especial, en base a esta información, expresó temores por la vida e integridad física del Sr. Saravia, y expresó su preocupación ante la posibilidad de que las acciones de acoso y amenazas sufridas por este se deban al ejercicio de su libertad de expresión.

24. El 16 de mayo de 2006, la Representante Especial, junto con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con la **Asociación de Lucha por la Identidad Travestí Transexual (ALITT)**, una organización que trabaja en defensa de los derechos de las personas travestís y transexuales en Argentina. De acuerdo con la información recibida, el 16 de septiembre de 2003 la oficina de Inspección General de Justicia (IGJ) habría negado la solicitud de otorgamiento de la personería jurídica de la ALITT. En la carta de negación la IGJ habría basado su decisión en el artículo 33, segunda parte, inciso 1 del Código Civil, que requiere que los objetivos de las organizaciones civiles tengan el objeto de bien común. Según el IGJ, los propósitos de la ALITT que incluyen la lucha para que “el Estado y la sociedad acepten el travestismo como una identidad propia y la construcción de una ciudadanía travestí - transexual” que ofrezca un marco valioso para el desarrollo de la convivencia, integrando así el patrimonio espiritual y cultural de la comunidad, no encuadraban en el concepto de “bien común”. Según la información recibida la ALITT habría apelado la decisión de la IGC en la Corte Suprema en Argentina y hasta la fecha no habría recibido una respuesta. Se expresó temores que la negación de solicitud de otorgamiento de la personería jurídica de la ALITT impida a la defensa de los derechos humanos de las personas travestís y transexuales en Argentina, incluido su derecho a la seguridad de la persona.

25. El 10 de noviembre de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con aumento de actos de hostigamiento en contra de defensores de derechos humanos desde el inicio del proceso contra **Miguel Osvaldo Etchecolatz**, ex director de investigaciones de la Policía de Buenos Aires durante la dictadura militar y, de manera particular, desde la desaparición del **Sr. Jorge Julio López**, ex detenido-desaparecido a manos del gobierno militar y principal testigo y querellante en dicha causa judicial. Las distintas fuentes señalan una larga lista de defensores de derechos humanos víctimas de amenazas o agresiones. Entre ellos se destacan **Ariel Montes** y **María Montes**, integrantes del Movimiento 26 de Junio. También se encuentran **Chicha Mariani**, presidenta de la Asociación Anahí y ex Presidenta y fundadora de Abuelas de Plaza de Mayo, **Ramiro González**, miembro de la asociación Hijos e Hijos por la Identidad y la Justicia contra el Olvido y el Silencio (HIJOS), **Nilda Eloy**, testigo y querellante, así como otros miembros de organizaciones defensoras de derechos humanos como la Asamblea Permanente por los Derechos Humanos, la Asociación de Ex Detenidos-Desaparecidos y la Asociación Anahi. Además, familiares de varias víctimas de desapariciones o que sufrieron bajo el régimen militar, han sido amenazados en relación con sus esfuerzos por lograr justicia para dichas víctimas, entre ellos **Tula Saborido**, hija de una persona desaparecida, **Milagros Demiryi**, coordinadora del MEDH y testigo en el juicio contra individuos implicados en violaciones de derechos humanos, su suegra **Argentina Sabaj de Castro**, **Margarita Alegre de Papetti**, madre de un

desaparecido, la Sra. Graciela Margarita Zalar, hermana de un desaparecido y Carlos Razzeti, víctima de una desaparición. Igualmente, se indica que los periodistas **Joaquín Morales Sola** y **Jorge Fontevicchia** han sido amenazados. Finalmente se informa que varios jueces han recibido amenazas y que 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, también se ha recibido llamadas amenazantes. De acuerdo con la información recibida, el 9 de octubre de 2006 Ariel Montes y María Montes, del Movimiento 26 de Junio, habrían sido detenidos y golpeados brutalmente por efectivos de la Comisaría de la localidad de José Mármol. Ariel Montes y María Montes también habrían sido amenazados con correr la misma suerte que el desaparecido Jorge Luis López. El 8 de octubre de 2006, Tula Saborido, hija de María Cristina Saborido, ex detenida en el Pozo de Banfield, habría recibido por correo electrónico el mensaje siguiente: “zurda de mierda cuídate porque te vamos a meter picana hasta en el orto y cuida a tus hermanos porque también se la tenemos jurada y al zurdito del novio de tu hermana lo tenemos enlistado también ya vas a ver lo que le hacemos. VIVA LA PATRIA”. La madrugada después de recibir este mensaje un pariente de la ex detenida-desaparecida Cristina Saborido, habría sido amenazada y agredido con un arma punzante. El 17 de octubre de 2006, alrededor de las 23.45 horas, el Sr. González habría sido secuestrado por cuatro desconocidos armados que viajaban en un vehículo rojo. Según los informes, los desconocidos lo golpearon durante dos horas y lo amenazaron diciéndole que lo matarían si no dejaba sus actividades en favor de los desaparecidos. También se informa que los desconocidos tomaron sus huellas digitales y que 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 después de dos horas con órdenes de correr sin mirar atrás. Supuestamente la asociación HIJOS presentó una querrela ante la Cámara Penal el 18 de octubre, en relación con el presunto secuestro. El secuestro del Sr. González se habría llevado a cabo horas antes de una manifestación en relación con la desaparición del Sr. Jorge Julio López. Según los informes, también habrían sido víctimas de intimidaciones algunos miembros del poder judicial. Dos jueces del Tribunal Oral, el Sr. Norberto Lorenzo y el Sr. Horacio Insaurralde, 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 de que el juez Carlos Rozansky recibió dos llamados telefónicos amenazantes presuntamente provenientes del Servicio Penitenciario Federal, uno de la Unidad 2 de Devoto y otro de la Unidad 27. De acuerdo con las informaciones recibidas, el 1.º de octubre, el Sr. Leandro Despouy 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 y le indicaron que saliera a la calle para que pudiera verlos dentro de una camioneta. El Sr. Despouy habría contactado a sus familiares, desde un teléfono celular, para asegurarse de que estaban bien. Igualmente, se informa que después de cortar la comunicación el Sr. Despouy vio a un patrullero y a otras dos personas alejarse de su casa. Se señala que no solo en el caso del Sr. Despouy sino también en el del juez Carlos Rozansky y el de Ramiro González de la asociación HIJOS se cree que las amenazas fueron realizadas desde un establecimiento penitenciario, lugar desde el cual el emisor transmitiría a la víctima elegida el mensaje amenazante resguardado en un ámbito que le brinda garantías de impunidad, dejando a su vez en evidencia la peligrosidad que denota la calidad criminal del emisor. Esta metodología, que según las informaciones recibidas, se propaga en el país con llamativa impunidad, buscaría quitarle

entidad política a la amenaza que, disfrazada de delito común, pretende ser banalizada. Asimismo, se señala que en algunos casos, ciertos medios de prensa alientan este tipo de prácticas, puesto que descalifican a las víctimas que denuncian estos hechos. 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. Supuestamente en una de ellas se le advertía que: “Si Etchecolatz es condenado, volamos la cueva montonera”, en referencia a la casa en la que en 1976 fue asesinada su nuera Diana Teruggi y secuestrada su nieta Clara Anahí. Su hija desapareció a manos de la dictadura en 1976. 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. El 16 de septiembre, un día antes de la desaparición de Jorge Julio López y tres días antes de la condena a prisión perpetua contra Etchecolatz, 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. Adicionalmente, según los informes, varios periodistas han sido víctimas de diferentes tipos de amenazas. Tal es el caso de Joaquín Morales Sola y Jorge Fontevecchia, quienes tienen una amplia trayectoria en los medios de comunicación nacional y que sostienen posiciones críticas frente a la gestión actual. Según información recibida recientemente, el día 25 de septiembre 2006 en la sede de la organización no gubernamental MEDH en la ciudad de Santa Fe se dejaron algunos folletos que decían “Terrorista Jorge Julio Lopez, Desaparecido 30.001, ¿Quién será el 30.002?”. Las organizaciones argentinas de derechos humanos afirman que 30.000 personas desaparecieron durante los años de gobierno militar. Asimismo, el 28 de septiembre de 2006, un desconocido habría llamado a la Universidad Nacional de Quilmes, en la provincia de Buenos Aires, donde trabaja Sra. Milagros Demiryi, coordinadora de MEDH. El desconocido habría dicho que había una bomba en la Universidad, pero después se descubrió que la amenaza era falsa. Al día siguiente, 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” y ella pudo oír música fúnebre en el teléfono. Las llamadas habrían continuado durante cuatro días. La Sra. Demiryi denunció estas llamadas a las autoridades provinciales. De acuerdo con las informaciones, el 11 de octubre de 2006 Margarita Alegre de Papetti y Graciela Margarita Zalasar, parientes de desaparecidos, fueron víctimas de amenazas de muerte por vía telefónica en dos incidentes distintos. Es importante señalar que ese mismo día habrían tenido lugar los análisis de sangre para ayudar a las autoridades a identificar los restos de los desaparecidos. Según nuestras fuentes, las llamadas provenían de la ciudad de Concordia en la provincia de Entre Ríos. 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, Constantino Razzeti, dirigente político, quien fue asesinado en octubre de 1973. Se expresó preocupación por las amenazas y actos de intimidación en contra de los defensores de los derechos humanos en Argentina, sobre todo aquellos que han participado en el proceso judicial de Miguel Etchecolatz por delitos de lesa humanidad cometidos durante el último gobierno militar de Argentina. Además se expresó temor de que los hechos descritos pueden 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.

Comunicaciones recibidas

26. Por carta con fecha 4 de octubre de 2006 el Gobierno de Argentina transmitió la siguiente información en relación con el llamamiento urgente del 16 de mayo de 2006 sobre el caso de la **Asociación de Lucha por la Identidad Travestí Transexual (ALITT)**. El Gobierno informó a la Representante Especial sobre una queja presentada por la ALITTI, ante la Cámara Nacional de Apelación sobre una decisión de la Inspección General de Justicia (IGJ) del 16 de septiembre de 2003 denegatoria de la autorización para funcionar como persona jurídica. Luego, ante la confirmación de este rechazo de parte de este Tribunal, el 17 de abril de 2005, se habría interpuesto un recurso extraordinario ante la Corte Suprema de Justicia de la Nación.

27. Por carta con fecha de 9 de enero de 2007, el Gobierno transmitió la siguiente información en relación con el llamamiento urgente del 10 de noviembre de 2006. El Gobierno informó que el Sr. Jorge Julio López falta de su hogar desde el 18 de septiembre de 2006. La denuncia fue presentada por su hijo en la Comisaría 3 de la Ciudad de la Plata. La causa tramitó primero ante el Juzgado de Garantías N.º 4 del Departamento Judicial de la Plata. Se informó de que el 14 de diciembre de 2006 la Corte Suprema de Justicia resolvió que la justicia federal es la competente para intervenir en la investigación. Se indicó que a partir del momento en que se recibieron información sobre los hechos, se comenzaron a articular las acciones dentro del Gobierno de la Provincia de Buenos Aires. Se informó que inmediatamente después de radicada la denuncia desde el Ministerio de Seguridad se recabaron testimonios de las personas allegadas y vecinos que pudieran haberlo visto en momentos previos de su desaparición. Además el mismo día se solicitó colaboración de los periodistas de la ciudad de la Plata y se divulgaron fotografías del Sr. López por la Provincia de Buenos Aires, y el Gobernador de la Provincia ofreció compensación pública de 200.000 pesos suma que luego fue elevada a 400.000, a quien aporte datos veraces que permitan dar a la paradero del Sr. Lopez.

Observaciones

28. The Special Representative thanks the Government for its detailed replies to her communications of 16 May 2006 and 10 November 2006. She is particularly encouraged by the response of 9 January 2007, and commends the concrete measures and overall attention that the Government has paid to investigating the case of Sr. **Jorge Julio López**, disappeared since 17 September 2006. She appreciates the efforts made by the Government in launching a national campaign to discover the whereabouts of Mr López and offers of a reward in an attempt to bring the perpetrators to justice. The Special Representative requests that the Government continue with its efforts in its search for Mr López and take all steps necessary to bring the perpetrators to justice. She would be grateful if the Government of Argentina would keep her informed as to the developments in this case.

29. The Special Representative is disappointed by the National Appeal Courts decision to uphold the resolution passed by the General Inspectorate for Justice (IGJ) to deny the **Asociación de Lucha por la Identidad Travestí Transexual (ALITT)** legal personality. She is concerned that the IGJ's argument that ALITT's objectives do not comply with the definition of 'for the common good' as outlined in Article 3 (2) of the Criminal Code, is contrary to Article 5 of the Declaration on human rights defenders.

30. The Special Representative regrets that she did not receive responses from the Government to the remainder of her communications. She is particularly disappointed that the Government did not reply to her communication of 10 November 2006, which highlights a number of cases of human rights defenders, including Mr **Leandro Despouy**, United Nations Special Rapporteur for the independence of judges and lawyers, who have been subjected to ongoing harassment, intimidation and threats. The Special Representative is particularly concerned that the majority of the aforementioned cases are related human rights defenders seeking justice for the human rights violations committed during the military dictatorship between 1976 and 1983, including lawyers, journalists, writers and court witnesses. The Special Representative is also concerned by reports that many of the aforementioned threats have been carried out from within prisons. She urges the Government to respond to her unanswered communications and to assure her that investigations have been initiated in the above-mentioned cases and that necessary measures have been taken to protect human rights defenders in Argentina. The Special Representative wishes to remind the Government of its obligations under Article 12, Paragraph 2 of the previously mentioned Declaration, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.

Azerbaijan

Communication received

31. In a letter dated 17 July 2006, the Government of Azerbaijan responded to the urgent appeal sent jointly by the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention 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. 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

32. The Special Representative thanks the Government of Azerbaijan for its response to her communication of 28 October 2005. The Special Representative would be interested in receiving further details regarding developments in the investigation and measures taken to ensure the protection of Mr Aliyev and Mr Insanov whilst in detention.

Bahrain

Communications sent

33. On 14 December 2005, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning the situation of Mr **Abdulhadi Alkhawaja**, President of the Bahrain Center for Human Rights, **AbdulRaof Alshayeb**, National Committee of Martyrs and Victims of Torture, **Hassan AbdulNabi**, Unemployed Committee, **Mohsin Al Salman**, Unemployed Committee, **Sazzed Sharaf Elsitri**, Bahrain Youth Society For Human Rights, **Hassan AlHaddad**, **AbdulRedha Abdulla**, **Nader Ibrahim** and **Layla Dashti**, human rights defenders, **Mousa Abdali**, Unemployed Committee. Mr Abdulhadi Alkhawaja was subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on 1 October 2004, and of an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on 25 July 2005. According to the new information received, on 14 December 2005, Mr Abdulhadi Alkhawaja, who has been on hunger strike since 30 November 2005, received a phone call from a man who refused to give his name. The unidentified man warned that if a planned sit-in, which is due to commence on 15 December 2005, takes place he will be charged with treason and all participants will be treated with force. The sit-in has been planned outside the United Nations building in Manama, Bahrain, to call for protection measures for human rights defenders in Bahrain due to increased numbers of attacks on these defenders. According to the information received, two such cases include: Mr Mousa Abdali who was abducted from his home by armed men wearing black masks in five cars on the evening of 22 November 2005 after midnight. He was reportedly taken to an isolated place and subjected to physical and sexual assault. His colleague, Mr Hassan Abdulnabi, was also subjected to physical assault and both were threatened by the perpetrators and ordered to halt demonstrations in front of the Royal Court. No investigation has commenced into these cases. Concern is expressed that the threats against Mr Abdulhadi Alkhawaja, Mr Mousa Abdali and Mr Hassan Abdulnabi constitute an attempt to prevent them from carrying out their human rights work and to prevent the planned protest from taking place.

34. On 9 March 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture, concerning the situation of **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 Jasssim Rabea**, all arrested and detained in connection with a peaceful protest. According to the information received, on 19 January 2006 the above-named persons were arrested in the Daih and Sanabis areas of Manama. They had gathered to peacefully protest at the detention of 21 people, who were arrested on 25 December 2005 at Bahrain Airport for peacefully protesting against the detention of Sheikh Sanad, who had called for a referendum under the supervision of the United Nations 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, 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 Jasssim Rabea were threatened and assaulted by police officers. It is also alleged that during the first days of their detention, their families were not told of their whereabouts. It is reported that 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 people remain in custody. Concern is expressed that the arrests, detentions and mistreatment of the above-named persons might be connected with their activities in defence of human rights.

35. On 27 March 2006, The Special Representative sent an urgent appeal to the Government concerning the **Bahrain Centre for Human Rights (BCHR)**. The BCHR was previously the subject of a letter of urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and Special Representative on 1 October 2004. According to new information received, on 20 February 2006, the BCHR lost an appeal against its dissolution by the Labour and Social Affairs Ministry. The BCHR was dissolved on 28 September 2004 for allegedly breaching Law No. 21 of the 1989 Societies law. It is reported that members of the BCHR have also been ordered to pay the costs of the court proceedings. Concern is expressed that the above decision is an attempt by the authorities to silence the BCHR and other human rights defenders in Bahrain, and to prevent them from carrying out their legitimate activities in defence of human rights.

36. On 20 July 2006, the Special Representative sent an urgent appeal to the Government concerning Mr **Abdulraoof Al-Shayeb**, President of the National Committee of Martyrs and Victims of Torture (NCMVT) and his wife Ms **Wedad Al-Shayeb**. Mr Abdulraoof Al-shayeb was previously the subject of an urgent appeal sent by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 7 April 2004 and an urgent appeal sent by the Special Representative on 1 November 2004. According to new information received, on 1 July 2006, Mr Abdulraoof Al-Shayeb was convicted in absentia of involvement with a prostitution network and sentenced to a one year prison term. It is reported that this charge related to allegations that a woman from Uzbekistan had entered Bahrain with a false marriage certificate using Mr Abdulraoof Al-Shayeb's name. It is reported that Mr Abdulraoof Al-Shayeb denies any knowledge of this woman and that when he first discovered that this woman had illegally used his name, he had requested the police to investigate. It is alleged that adequate investigations were not undertaken in response to Mr Abdulraoof Al-Shayeb's request. It is also reported that Mr Abdulraoof Al-Shayeb's lawyer was denied permission by the trial judge to call a handwriting expert as a witness to verify whether the signature on the marriage certificate was Mr Abdulraoof Al-Shayeb's. Mr Abdulraoof Al-Shayeb was previously charged in 2004 with "moral indecency" but was acquitted because there was no evidence to support the charges. It is further reported that on 14 May 2006 Mr Abdulraoof Al-Shayeb had participated in a television programme broadcast by the Al-Hurra channel during which he had commented on alleged human rights violations committed by the Bahrain authorities. On 22 May 2006, Mr Abdulraoof Al-Shayeb was allegedly detained for questioning in relation to comments he had made on this programme and was released the same day. On 5 July 2006, Ms Wedad Al-Shayeb received a telephone call from the Ministry of Education in Bahrain, requesting her to go to their premises to answer questions, without specifying the nature of the questions. It is reported that when she refused this request as she had not been informed of the nature of the questions or the reasons why she was being summoned,

Ms Wedad Al-Shayeb was threatened that the State Security Authorities would be called if she did not comply with the request. Ms Wedad Al-Shayeb was also allegedly told that the questions related to a summer camp organized by the Bahraini Youth Society for Human Rights which was held between 2 July 2006 and 5 July 2006 in the premises of the kindergarten owned by Mr Abdulraoof Al-Shayeb and Ms Wedad Al-Shayeb. Concerns are expressed that the above events may form part of a campaign of harassment by the Bahraini authorities against Mr Abdulraoof Al-Shayeb and may be aimed at preventing him from carrying out his activities in defence of human rights, in particular the right to freedom of expression and opinion. Further concerns are expressed that these events took place shortly after Mr Abdulraoof Al-Shayeb's attendance at the Human Rights Council in Geneva and that the charges brought against Mr Abdulraoof Al-Shayeb in 2004 also followed his attendance at the sixtieth session of the Commission for Human Rights in Geneva in 2004.

Communications received

37. On 27 December 2005, the Government responded to the communication sent on 14 December 2005, concerning the situations of Mr **Abdulhadi Al-Khawaja**, who had reportedly received threatening phone calls, and Mr **Mousa Abdali**, who claimed that he had been assaulted and injured by individuals claiming to be from "an authority dealing with governmental security" during a peaceful demonstration held on 28 November 2005. The Government informed the Special Representative that the information provided to her was distorted and it denied any governmental involvement in any of these incidents. The Government informed the Special Representative that a commission of investigation (whose membership reportedly includes two representatives from non-governmental human rights groups) had been established under the auspices of the Ministry of the Interior to investigate Mr Abdali's allegations, and that a similar independent inquiry had been established to investigate Mr Al-Khawaja's allegations.

38. On 29 March 2006, the Government of Bahrain responded to the communication sent on 27 March 2006, stating that the Ministerial Order to close the **Bahrain Centre of Human Rights Association** (BCHR) was made after the group repeatedly and clearly demonstrated that it was more interested in political campaigning than in human rights issues. The Government of Bahrain repeatedly warned the board of the BCHR, both verbally and in writing, of the importance of complying with the law and with its own constitution (on which basis the group came into being and was licensed under the Societies Law 1989). Despite these warnings, and despite the resignation of several members due to their disagreement with the group's growing non-human rights agenda, the BCHR continued these activities. The Minister of Labour therefore had no option but to close the Centre by Ministerial Order 47 (2004) in September 2004, closing the BCHR and prohibiting its members from continuing the group's activities. Members of the BCHR challenged this order in Bahrain's courts, but this challenge failed both in the lower courts and on appeal. The courts found that the Minister acted within his powers and within the law, and that there was no basis on which the order could successfully be challenged. These findings were upheld by Bahrain's Cassation Court in February 2006. BCHR members who brought the case were ordered to pay the costs of proceedings, as in most judiciary systems where unsuccessful parties to litigation pay the costs thereof.

39. On 18 May 2006, the Government of Bahrain responded to the communication sent on 9 March 2006. The Government reported that the crowd was asked to disperse in a peaceful and amicable manner. However, the protesters refused to comply and began rioting and damaging

public property. They set fire to tyres and garbage containers, which they threw out into the middle of the public highway, endangering the lives of passers-by and the general security forces. They also threw stones at the police who took steps to help restore law and order. As a result of all this, 13 individuals were arrested. On 21 January 2006, the arrested persons were presented to the Department of Public Prosecutions which charged the defendants with unlawful assembly and rioting under articles 178-180 of the Bahraini Criminal Code. After all the legal and constitutional procedures had been completed, the Department of Public Prosecutions ordered the detention of seven of the accused persons and released the remaining six accused persons, due to lack of sufficient evidence for a criminal prosecution. The case file and the accused persons in detention were referred to the competent criminal court to hear the charges against them. On 19 April 2006, the court issued a judgement, sentencing each of the accused persons to one year's imprisonment. The case is still being heard by the court of second instance (court of appeal). The authorities responsible for investigations, whether the police, the Department of Public Prosecutions or the competent criminal court, acted in a manner that was legally transparent and impartial and afforded all legal and procedural safeguards to the defendants from the date of their arrest to the date on which the case was heard by the competent court. This matter is clearly illustrated by the following facts: the police officers at the scene corroborated the charges against the accused persons through the statements that they made during the investigation by the Department of Public Prosecutions and the photographic evidence which showed that the accused persons had taken part in the rioting. Some of the accused persons who were arrested gave detailed confessions to the police and investigators of the Department of Public Prosecutions, admitting that they had caused a riot and set fire to garbage containers and car tyres. They did not indicate that their confessions had been extracted as a result of coercion or violence. This is also evidenced by the fact that some of them gave statements to the police denying the charges against them. The legal arrests made by the police were based on a legal provision which provides that arrested suspects must be presented to the Department of Public Prosecutions within 48 hours. This is what the police did. The Department of Public Prosecutions told the accused persons that they had to have defence counsel present during questioning. Thus lawyers appeared with the accused persons and presented their legal defence. The Department of Public Prosecutions heard the statements of the witnesses for the defence, at the request of the accused persons. From the very beginning of the investigation, anyone against whom there was insufficient evidence for a prosecution was released. The Department of Public Prosecutions sent the accused persons who had been injured during the riot to a police doctor to assess their injuries and prescribe treatment for them, even though they did not indicate who had caused the injuries. The families and lawyers of the accused persons were allowed to visit them on 21 January 2006, i.e. two days after the incident occurred. The father of Abdullah Madan was allowed to visit his son on 22 January 2006 and to give him the medicines that he needed.

40. On 10 October 2006, the Government of Bahrain responded to the communication sent on 20 July 2006 concerning Mr **Abdulraoof Al-Shayeb** and his wife Ms **Wedad Al-Shayeb**. The Government reported that on 3 May 2003, Mr Abdulraoof Abdallah al-Shayeb submitted a handwritten application to the Director of the General Department for Immigration and Passports requesting an entry visa to Bahrain for his wife, Olga Lakhina, an Uzbek national and the holder of a passport bearing the number CA1699740. The document was enclosed with the application. On 23 June 2003, Mr Al-Shayeb submitted a report to the investigations and prosecutions department of the General Department of Nationality, Passports and Residence, in which he stated that he had asked his cousin, Ali Ja'afar al-Musawi, to bring a Turkish woman into the

country so that he could marry her. He had signed an application form for an entry visa without filling in the applicant's details and had not enclosed a marriage certificate, because he was not married. Some time later, Ali Ja`afar had told him that the application had been turned down by the competent authorities. Two days later, he told him that he could reapply through an intermediary called Salah. On Monday, 23 June 2003, Ali Ja`afar called him and told him, that he had brought in an Uzbek woman and that she would arrive in the country that same day. He asked him to meet her at the airport. Mr Al-Shayeb replied that he had not asked for an Uzbek woman and that she was not his wife. Ali Ja`afar told him that he had altered the applicant's details, using a false marriage certificate between Mr Al-Shayeb and the Uzbek woman. He had obtained an entry visa for her under the sponsorship of Abdulraoof al-Shayeb. Mr Al-Shayeb also said that he was submitting the report, because he wanted to stop the woman from entering the country and to send her back, because she was not his wife. On 22 December 2003, judges of the Ja`afari division of the Higher Sharia Court wrote to the Director of the General Department of Criminal Investigations asking him to release Olga Alexandrovna Lakhina, an Uzbek artist and holder of a passport bearing the number CA1699740. They asked for the woman to be brought before the Court, if she was under arrest, for abandoning the marital home and because her husband Abdulraoof Abdallah al-Shayeb did not know what address she was living at. This action was taken on the basis of a petition which Mr Al-Shayeb had submitted to the Court, in Sharia case No. 881/2003, which he had brought against his wife with a view to obtaining a divorce. The judges of the Ja`afari division of the Higher Sharia Court wrote to the Secretary of State for Nationality, Passports and Residence asking him to provide them with information, before the sitting scheduled for Saturday, 14 February 2004, about the most recent departure of Olga Alexandrovna Lakhina, the port of exit, whether she had entered Bahrain, and what her address was. This was based on the petition that Mr Al-Shayeb had submitted to the court in Sharia action 881/2003, which he had brought against his wife with a view to obtaining a divorce. On 3 May 2004, Mr Al-Shayeb sent a handwritten letter to the director of the investigations and prosecutions department, asking him to cancel the report which he had submitted previously concerning the entry of his wife, Olga Alexandrovna Lakhina, into the country without his knowledge and without him seeing her. He said that his wife had returned to him. On 25 May 2004, Olga Alexandrovna Lakhina sent a handwritten letter to the security director for the district of Hura, authorizing her husband, Abdulraoof al-Shayeb, to report her passport with the number CA1699740 missing. She indicated that she had deputized him to pick up the police report so that the competent Uzbek authorities could issue a passport to replace the lost document. On 23 June 2004, Mr Al-Shayeb filed a report with the General Department of Criminal Investigations about the loss of the passport. On 6 September 2004, the judges of the Ja`afari division of the Sharia Court wrote to the director of investigations and prosecution of the Department of Nationality, Passports and Residence, further to the Department's letter asking for information about the marriage certificate of Abdulraoof Abdallah al-Shayeb, a Bahraini national with person identity number 640010687, and Olga Lakhina. They said that an examination of the official records showed that the two persons had married according to contract No. 146/A.H. 1426 issued on 30 Safar A.H. 1424, corresponding to 2 May 2003. It is clear from the foregoing that there is no truth to the allegations made by Mr Abdulraoof al-Shayeb about him being falsely charged with involvement in a prostitution ring. Mr Al-Shayeb knew, from his statements, that his Uzbek wife was involved in a prostitution network. This contradicts the letter that he submitted, on 3 May 2003, to the Director of the Department of Immigration and Passports asking for an entry visa for his wife Olga Lakhina and the fact that he filled out the relevant application form in accordance with the procedures in place. On 23 June 2003, he filed a report with the investigations department saying that he had been tricked; he had asked his

cousin Ali Ja`afar al-Musawi to bring in a Turkish woman so that he could marry her, but he had married him off to an Uzbek woman that he had never seen. On 3 May 2004, he went to the investigation section a second time and asked for the report about his wife to be withdrawn, because she had returned to the marital home. On 25 May 2004, the Manama police precinct received a report from Mr Al-Shayeb stating that his Uzbek wife had lost her passport and that she had deputized him to file the report. With a view to establishing the facts behind this case, the General Department of Immigration and Passports wrote to the Ja`afari division of the Sharia Court of Appeal to verify the validity of the marriage contract between the two sides, since Mr Al-Shayeb was claiming that the contract had been falsified. The Court replied that the contract was valid and that the marriage had been concluded in accordance with contract No. 146/A.H. 1426, dated 2 May 2003. It is clear from the foregoing, that the reports filed by Mr Al-Shayeb contradict one another, because he denied the marriage and then went back to ask for his complaint against his Uzbek wife to be withdrawn after she had returned to the marital home. All the procedures taken by the competent authority were in conformity with the law. Based on the information gathered and the inquiries made, the case was referred to the Department of Public Prosecutions so that a charge could be brought for incitement to debauchery and prostitution. The Department of Public Prosecutions in its turn referred the matter to the court of first instance, which gave Mr Al-Shayeb a one-year suspended sentence and ordered him to pay a surety of 1,000 dinars. Mr Al-Shayeb appealed the verdict and the case is still before the appeal court.

Observations

41. The Special Representative thanks the Government for its detailed replies to the communications sent.
42. Regarding the appeal against dissolution lost by the **Bahrain Centre for Human Rights**, the Special Representative acknowledges the response of the Government, but it does not dispel entirely her concern voiced in previous communications. She would like to remind the Government that article 5 of the Declaration on human rights defenders states that “for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right [...] to form, join and participate in non-governmental organizations, associations or groups”.
43. Regarding the situation of **Abdulhadi Al-Khawaja** and **Mousa Abdali**, the Special Representative welcomes the establishment of commissions of investigation to examine Abdali and Al-Khawaja’s allegations, but regrets that more than a year later she has not received the conclusions of the respective investigations yet. She urges the Government to forward any information related to these investigations.
44. The Special Representative acknowledges the replies of the Government to the communications of 12 December 2005 and 9 March 2006, but remains concerned at the reported restrictions on the right to freedom of assembly. She wishes to remind the Government of article 5 paragraph (a) of the Declaration on human rights defenders that “[e]veryone has the right, individually and in association with others, at the national and international levels to meet or assemble peacefully”, and of article 12 paragraph 2 which states that “[t]he State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or

de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration. And paragraph 3: In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.”

Bangladesh

Communications sent

45. On 7 December 2005, the Special Representative together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **a series of threats and attacks against the judiciary**, which have been taking place across the country. According to the information received, from 29 November 2005 to 1 December 2005, a number of suicide bomb attacks occurred at a courthouse, a law office and at an office where lawyers were due to meet, killing 12 people and wounding approximately 130. These attacks were the latest in a series of attacks and death threats against the judiciary that began on 17 August 2005. Two judges were killed, three were wounded and 13 received death threats in the last three months. A number of groups, including Harkat-ul-Jehad-al-Islami (HuJI), Jagrata Muslim Janata Bangladesh (JMJB), Jama'atul Mujahideen Bangladesh (JMBor Bangladesh Assembly of Holy Warriors) were thought to be responsible for the attacks. The attacks and threats have been targeted against the judiciary in order to force them to conduct court proceedings according to Islamic laws, since it is the intent of these groups to seek to replace the secular legal system with Islamic law. One suicide bomb attack occurred at an office where lawyers were due to meet. This attack coincided with a public strike in Dhaka protesting against such attacks to the judiciary in support of the Supreme Court Bar. Concern was expressed about the safety of judges and lawyers in Bangladesh and their freedom to carry out their legal work without pressures, threats or interferences.

46. On 31 May 2006, the Special Representative, together with the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on violence against women, its causes and consequences sent an urgent appeal concerning **Mr Atiur Rahman**, a lawyer, his wife **Ms Shahin Sultana Santa** and his legal assistant **Mr Nawsher Ahmed**. According to the information received, on 12 March 2006, Ms Shahin Sultana Santa was taken into custody and beaten by the police in Dhaka. She was pregnant at the time and lost her child. She filed a complaint together with her husband against the police officers. Since then, she and her husband have been receiving threats. In particular, on 24 May 2006, Mr Atiur Rahman was stopped by a group of armed and unidentified persons. The attackers held a pistol to his chest, questioned him about his identity and threatened to shoot him. That same morning, while Mr Atiur Rahman's legal assistant, Mr Nawsher Ahmed, went to collect documents from the record office regarding Ms Shahin Sultana Santa's court case, three persons confronted him and inquired if he worked for Mr Atiur Rahman and where they could find him. The men followed him for the rest of the day trying to prevent him from obtaining the documents he required from the record office. On 23 May 2006, an unidentified person called Mr Atiur Rahman and warned him against pursuing legal proceedings against the police. The caller said if he did not do this, he and his family would pay the ultimate cost.

Communications Received

47. With a letter dated 15 December 2005, the Permanent Mission of Bangladesh provided an interim reply to the urgent appeal of 7 December 2005 concerning a series of threats and **attacks against the judiciary**. On 27 December 2005 the Mission responded by stating that the bomb attacks and acts of violence in which government officials, police personnel, judges, lawyers, journalists and civilians have been killed or injured have been strongly condemned by the Government and by the people. The letter indicated that stringent measures had been taken by the Government to bring those responsible for such acts to justice, and militant groups have been banned. The Mission noted that police action has been stepped up throughout the country and international explosive experts have been assisting with investigations. Around 700 militants have been arrested, 160 cases filed and 80 cases have culminated in charges being issued. The letter noted that specific security measures have been taken to protect courts throughout the country, police presence in courts has been reinforced, and judges have been provided with full-time armed escorts. A nationwide campaign has been launched by the Government, along with religious leaders, to counter terrorism and extremist behaviour. The Government is also working towards the implementation of more stringent laws to counter terrorism.

48. In a letter dated 7 June 2006, the Permanent Mission of Bangladesh acknowledged receipt of the communication of 31 May 2006 concerning **Mr Atiur Rahman**.

Responses received to communications sent by the Special Representative in previous years

49. In a letter dated 13 February 2006, the Government of Bangladesh 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 opinion and expression, on 3 May 2004. The Government stated that Ms Ravindra Gosh rented an apartment to use as an office for the Human Rights Congress for Bangladesh Minorities (HRCBM). However investigations revealed that a dispute arose between the two brothers who owned the flat, Mr Maksudur Rahman and Mahamudur Rahman (father of Tariq Mahboob). Mr Maksudur Rahman was granted power of attorney in relation to the flat and requested that the flat be handed over to him. However Mr Mahboob refused given that a civil case was pending in court. The government indicated that on 22 April 2004, Maksudur Rahman, Zillur Rahman and Salina Akter and their neighbours forcibly took possession of the flat, by breaking signs, shifting furniture and moving items from the ground floor to the second floor of the building. It was noted that an investigation concluded that there was no evidence that doors had been broken or computers destroyed. The Government also indicated that Advocate Dulal Chowdry was not informed of the incident, whilst Mr Ghosh, president of HRCBM and Mr Biswas were out of the country on 22 April 2004. It was noted that Mr Sohag was alone in the office at the time and that there are no eye witnesses. It was also indicated that Mr Sohag was requested to complete a medical certificate in relation to the alleged assault on him. A submission has been made to the Court against Mr Rahman under sections 143, 448, 323 and 506 of the Penal Code, and the case is pending a decision. The Government noted that all investigations carried out by the police in relation to the aforementioned incident were done so in a lawful manner. The Government also stated that neither the Government office nor any political party was involved in the incident.

Observations

50. The Special Representative would like to thank the Government for its prompt response to her 7 December 2005 communication. She is encouraged by the Government's condemnation of the threats and attacks against the judiciary and that measures have been taken to ensure alleged violations are investigated and the perpetrators held accountable. She is also encouraged by the concrete measures and overall attention that the Government has paid to this issue.

51. She regrets that she has only received an acknowledgement letter to her communication of 31 May 2006 concerning Mr Atiur Rahman, Ms Shahin Sultana Santa and his legal assistant Mr Nawsher Ahmed. The allegations are serious and she looks forward to the Government's reply. She urges the Government to take all necessary measures to ensure that the perpetrators are brought to justice.

Belarus

Communications sent

52. On 7 December 2005, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal in relation to **amendments adopted to the Criminal Code and the Code of Criminal Procedure** of the Republic of Belarus by the Chamber of Representatives of the Belarusian Parliament on 2 December 2005. These amendments were to be adopted on 16 December 2005 if the Upper Chamber of Representatives of the Belarusian Parliament approved them at their second reading. The communication expressed concern that the adoption of many of the provisions included within the draft text would lead to violations of the Declaration on Human Rights Defenders – as well as other international human rights standards. Of particular concern were proposed amendments to introduce criminal sentences for the illegal organization of activities by an association or a foundation, or participation in their actions (article 1931), the criminalization of funding for any other type of educational activity, including the participation in “mass activities” (article 293), and the criminalization of funding and training of “group activities which seriously violate public order (article 342), the criminalization of providing “false information” to a foreign State or international organization, concerning the political, economic, military or international situation of the Republic of Belarus, as well as on the judicial situation of Belarusian citizens; the criminalization of providing information to foreign States or international organizations, when such information is detrimental to the internal security, sovereignty or territorial integrity of Belarus, with harsher prison sentences if such information is distributed through the mass media. In view of the fact that the terms ‘mass activity’ and ‘group activity’ are not defined, concern was expressed that these articles could potentially lead to their arbitrary and unjust interpretation, to the detriment, particularly, of members of independent organisations. The new provisions also stipulate that “people suspected of terrorism or vandalism may be detained for ten days before being charged” without providing definitions of what amounts to ‘terrorism’ or ‘vandalism’. Concern was expressed that these amendments, in addition to the new “Law on Public Association” adopted in August 2005, may further reduce the possibility for independent human rights organizations and the media to work in a free and democratic environment, which is particularly vital in the lead up to Presidential elections. Furthermore concern was expressed that the new article on “Discrediting the Republic of Belarus” may compromise the integrity and level of cooperation between civil society and

human rights defenders with international human rights bodies including the United Nations special procedures.

53. On 21 February 2006, the Special Representative sent an urgent appeal concerning the **Belarusian Union of Youth and Children's Public Associations (RADA)**. RADA is a non-governmental umbrella youth organisation and a partner of the Norwegian Youth Council (LNU). According to the information received, on 8 February 2006 a court in Minsk ordered the liquidation of RADA based on a number of charges. These charges included using the name RADA, instead of the full name Belarusian Union of Youth and Children's Public Associations, using an unregistered logo in letters and collaborating with unregistered organizations. It is alleged that these charges were made possible by the adoption of amendments to the Criminal Code and the Code of Criminal Procedure of the Republic of Belarus, adopted at the beginning of 2006. Concern was expressed that the above charges are connected with RADA's legitimate activities in defence of human rights.

54. On 17 March 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **the 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**. According to information received, 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 in Vitebsk, **Valery Shchukin**, a 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. A local court sentenced him today to seven days in jail for hooliganism. Furthermore, on 15 March 2006 in Pinsk, police detained **Viktor Yaroshuk**, a reporter for the independent newspaper *Myastsovy Chas*. A local court sentenced him to five days imprisonment; the circumstances of his detention and arrest, as well as the details of the charges and court verdict against him, remain unclear. On 14 March 2006, police officers, in the border city of Vitebsk, seized the entire press run of *Narodnaya Volya* as the newspaper staff was transporting copies from its publisher in Smolensk, Russia. Police also confiscated the *Narodnaya Volya* newspaper of 14 March. 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 when travelling by train. The two men were detained by Belarusian border guards for more than two hours and forced to return to Ukraine, despite holding the necessary documents from the Belarusian Foreign Ministry to work in Belarus. Moreover, on 13 March, a printing house in Smolensk, Russia, informed the *Delovaya Gazeta* and *Tovarishch* newspapers that their contracts had been terminated for "economic and political reasons." On 12 March 2006 in Minsk, **Hanna Horozhenko**, a 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 the live broadcast of a meeting held by opposition candidate Alyaksandr Milinkevich. She was later released after the Ukrainian Embassy in Minsk intervened on her behalf. 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**, a member of the campaign team of opposition presidential candidate Alexander Milinkevich, was sentenced to 15 days detention for "organizing an unsanctioned meeting" between the presidential candidate and voters in Minsk. It is reported that election law does permit such meetings. **Aleksandr Pavlovskii, Petr Babarenko, Alexander Zelko, Dmitrii Kudryavstev, Petr Topar, Vladimir Gribin, Aleksej Makovich, Sergei Pyantsevich and Artem Litvinko**, also members of the political opposition were also sentenced to 15 days detention for the same offence. On 1 March 2006, **Tatiana Protko**, the chair of the Belarusian Helsinki Association (BHC), was accused of tax evasion and the organization faces a potential fine of US\$ 70,000 and probable closure. These charges were first made in January 2004, when the tax inspection office of the Minsk Moskovskaia District accused BHC of using a grant, provided by a European Union (EU) programme, without registering the foreign humanitarian aid and not paying taxes in accordance with national legislation. A 1994 memorandum, agreed to by the Belarusian authorities and the European Union, grants tax exemption to this programme. 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 this year.

55. Furthermore, on 21 February 2006, **Mikalay Astreyka, Enira Branizkaya, Alyaksandr Shalayka**, and **Tsimafey Dranchuk**, all members of an unregistered organization called the Initiative Partnership (IP) which carries out independent election monitoring, were detained in Minsk by Belarusian KGB officers. They were charged with acting in the name of an unregistered organization under Article 193 part 2 of the Criminal Code which was introduced in November 2005; they could face possible maximum prison sentences of three years. They were formally charged on 3 March 2005 and are currently in detention. IP had monitored the elections and referendum in 2004 and was planning on monitoring the elections of 19 March 2006. KGB officers also raided and searched the organization's regional offices. The Special Rapporteur and the Special Representative expressed deep concern at the restrictions and harassment of the above-mentioned persons and bodies, particularly in light of the upcoming elections and the need for free, independent and objective monitoring and reporting necessary for any democratic elections.

56. On 24 March 2006 the Special Representative, together with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning the **mass arrests of peaceful demonstrators protesting against the election results of 19 March 2006** and calling for free and fair elections. According to information received, on 24 March 2006, at approximately 3.30 a.m., members of the police riot squad surrounded demonstrators in October Square (Kastychnitskaya Square) in Minsk, separated journalists from the protestors, and then forcefully dragged the protestors into trucks and drove them away. Approximately 300-400 people were detained, including at least 3 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 center on Akrestina Street and were not allowed access to defence counsel. The minors, who were released later in the morning, reported that they and other detainees were beaten by the police. The tents, flags, banners and belongings of the protestors were shattered by police, then loaded on to trucks and taken off to an unknown place.

The persons who remain in detention include **Kudzianava Eugenia, Zhalezka Katsyaryna, Lauranovich Yanina, Dziadzich Ina, Chehouskaya Nasta, Shchela Zoya, Vitkouskaya Tatsyana, Klimatka Ina, Zhyzhneuskaya Ina, Ivanova Ina, Burak Ina, Sergienka Aksana, Matskoil Siarhei, Mazur Ales, Arlou Viktar, Babich Nadzeya, Makism Znak, Kunich Dzmitry, Hryshkevich Viktar, Subach Mikhail, Delua Frederic (a Canadian citizen), Liava Artsem, Adamovich Aliaksey, Kharlamchu Pavel, Rudovich Aksana, Narel Natallia, Chyzyk Mikhas, Skarabagaty Leanid, Skarabagaty Artsem, Adonich Piotr, Kastenka Daria, Chamerka Aleh, Donich Viktar, Sheika Dzianis, Ulasenka Tatsyana, Yahorau Yury, Darafeeva Nasta, Sidarovich Alla, Konash Aliaksandr, Konash Aliaksey, Kletsauka Katsaryna, Kupchanka Vera, Mashkevich Maryjush, Siarheeu Pavel, Snitka Tatsyana, Chueshova Yulia, Krasiachkou Vital, Zavesnetski Yauhen, Hazizau Tsimur, Sechka Natalia, Radyna Alena, Kazlou Yahen, Muradava Hanna, Sidarovich Andrey, Zalatar Aliaksandr, Smok Vadzim, Sasnouski Anton, Sauchankava Valeryja, Kavaleuskaya Nadzeya, Zialinskaya Daria, Muraujeva Iryna, Sychugova Nadzeya, Shedko Yauhen, Vashkevich Dzianis, Kazlouski Aleh, Hlezin Eduard, Hbryelchyk Ina, Arlou Bahdan, Haiduk Ulian, Zhyh Dzmitry, Finkevich Pavel, Harachka Dzmitry, Sauchankava Valeria, Kudzianava Yahenia, Sverin Tastyana, Yahorau Yury, Kireeu Viktar, Sasnouski Anton, Shumovich Yury, Pisarchyk Siarhei, Ksiandzou Kiryl, Naskou Mikhail, Dzivina Marya, Karbinski Vital, Dzemchonak Natalia, Chehouskaya Nasta, Rugain Aliaksandr, Baranau Andrey, Vensko Dzmitry, Hizun Ales, Yankovich Katsiaryna, Yuhnovich Dzianis, Lukin Pavel, Lantuh Aliaksandr, Laryna Tatsyana, Hrudzko Tatsyana, Vania Tatsyana, Baranchuk Tatsyana, Netkachou Yauhen, Svidzerski Stsiapan, Dashkevich Dzmitry, Subach Mikhail, Inazemcau Danila, Benedyktau Ivan, Zenko Vadzim, Seiko Dzianis, Lacinski Siarhei, Buinitski Dzianis, Darahaucau Aliaksandr, Kuwshynau Aliaksandr, Snytkina Volha, Marchyk Siarhei, achobut Stas, Kudzianava Eugene, Bahdanau Stanislau, Rahachou Dzmitry, Shmyhau Viktar, Sinkevich Pavel, Shandovich Tastyana, Zoryn Uladzimir and Zaleski Mikita.** 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 before being taken away. Moreover, on the night of 19 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 sleeping bags and food to protestors. On 21 March 2006, Anatoly Lebedko, Alexander Dobrovolsky and Alexei Yanukiyevich were arrested. Anatoly Lebedko and Alexei Yanukiyevich were sentenced to 15 and 12 days imprisonment respectively; the whereabouts of Alexander Dobrovolsky are unknown. Furthermore, many of the arrests were accompanied by beatings. Several minors, who were released by the police, suffered injuries as a result of having been pushed off the buses in which other detainees were being held before being transported. Alexander Kasko was beaten by police and had his nose broken as he was pushed from a bus. He is currently being treated in hospital. His older brother Sergei Kasko allegedly suffered similar injuries. Reports indicate that a total of around 400 persons were arrested and these persons remain in detention and are being held in police holding cells in Minsk under conditions which fall below internationally recognized standards of detention conditions. Others have been brought to the temporary isolator in Valadarski Street and to an isolator in Navinki village. Many are 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 are students who could face expulsion from the university because of having participated in the demonstrations. Concern

was expressed that people were arrested and remain in detention for peacefully expressing their political views.

57. On 29 March 2006, the Special Representative together with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning information received regarding **the continued detention of hundreds of opposition supporters in Minsk after having being arrested by police agents during the protest actions which took place on 24 and 25 March 2006**. Presidential candidate **Alexander Kozulin** and members of his family were arrested during the forcible dispersal of a peaceful rally on Freedom Day, protesting for the outcomes of the recent presidential election but also commemorating the anniversary of the 1918 Declaration of Independence of the Republic of Belarus. Mr Kouzolin has reportedly being charged with hooliganism. His whereabouts were unknown until 26 March 2006, when he was located in a detention centre outside Minsk. It was also reported that Russian journalist Pavel Sheremet was beaten and arrested during the clashes. Other detained persons included the following: **Valyantsina Palevikova; Mariusz Maszkiewicz; Hanna Charnyshova, who has been diagnosed a traumatic brain injury; Inna Klimenko; Kudzyanava, Zhenya; Zhalyezka, Katsya; Laurenovich, Yana; Dzyadzich, Ina; Chekhouskaya, Nastya; Shchelo, Zoya; Vitkouskaya, Tanya; Klimatko, Ina; Zhyzneuskaya, Ina; Ivanova, Ina; Burak, Ina; Sergiyenka, Aksana; Matskoits', Syargei; Mazur, Ales; Arlou, Viktor; Babich, Nadzeya; Znak, Maksim; Kunich, Z'mitser; Gryshkevich, Viktor; Subach, Mikhail; Delyua, Fredery ; Lyava, Artsyom; Adamovich, Alyaksei; Kharlamchu, Pavel; Rudovich, Aksana; Narel', Natal'ya; Chyzyh, Mikhas'; Skarabagaty, Lyeand; Skarabagaty, Atsyom; Adonich, Pyotr; Kastenka, Dar'ya; Chamerka, Aleg; Donich, Viktor; Cheyko, Dzyanis; Ulasenka, Tatsyana; Yagorau, Yura; Darafeyeva, Anastasiya; Sidarovich, Ala; Konash, Alyaksandr; Konash, Alyaksei; Kletsauka, Katsyaryna; Kupchanka, Vera; Mashkevich, Mariyush; Syargyeu, Pavel;- Snitko, Tatsyana; Chyeshova, Yuliya; Krasyachkou, Vital'; Zavesnetski, Yaugen; Gazizaj, Tsimur; Sechko, Natalya; Radyna, Alyona; Kazlou, Yaugen; Muradava, Anna; Sidarovich, Andrei; Zalatar, Alyaksandr; Smok, Vadzym; Sasnouski, Anton; Sauchankava, Valeriya; Kavaleuskaya, Nadzeya; Zyalinskaya, Darya; Murauyova, Iryna; Sychukova, Nadzeya; Shedko, Yaugen; Vashkevich, Dzyanis; Kazlouski, Yaugen; Glezin, Eduard; Gabryelchik, Ina; Arlou, Bagdan; Gajduk, Yuliyen; Zhykh, Z'mitser; Finkevich, Pavel; Garachka, Z'mitser; Kudzyanava, Yaugeniya; S'veryn, Tatsyana; Yagorau, Yury; Kireyeu, Viktor; Shumovich, Yury; Pisarchyk, Syargei; Ksyandzou, Kiryl; Naskou, Mikhail; Dzivina, Maryya; Karbinski, Vital'; Dzemchonak, Natal'ya; Chekhouskaya, Anastasiya; Rugain, Alyaksandr; Baranau, Andrei; Vensko, Dz'mitry; Gizun, Ales'; Pachobut, Stas; Marchyk, Syarzhuk; Snytkina, Vol'ga; Kuushynava, Alyaksandr; Daragautsau, Alyaksandr; Buinitski, Dzyanis; Latsinski, Syargei; Sheiko, Dzyanis; Zen'ko, Vadim; Benedyktau, Ivan; Inazemtsau, Danila; Subach, Misha; Dashkevich, Z'mitser; Svidzerski, S'tsyapan; Netkachou, Yaugen; Baranchuk, Tatsyana; Vanya, Tatsyana; Grudz'ko Tatsyana; Laryna, Tatsyana; Lukin Pavel; Yukhnovchi, Dzyanis; Yankovich, Katsyaryna; Kudzyanava, Yaugeniya; Bagandanau, Stanislau; Ragachu, S'mitser; Shmygau, Viktor; Sin'kevich, Pavel; Shandovich, Tatsyana; Zoryn, Uladzimir; Zaleski, Mikita; Shalaika, Ruslan; Sinkevich, Alyaksandr and Sinkevich, Nadzyeya. Also among those arrested is Poland's former ambassador to Belarus, **Mariusz Maszkiecz**. These persons are being held in remand prisons in Minsk; in a special detention**

centre in Akrestsin Street; in the prison located in Valadarski Street and in a detention centre located in Zhodzina. Injured people are detained in some hospitals in Minsk. It was alleged that Syarhei Atroshchnka (Sergei Otroshchenko), who had been placed in Minsk Hospital Number 4 in grave condition after being injured during the march, was taken from the hospital to an undisclosed location. His whereabouts are unknown. Over 150 persons were reportedly already speedily tried without enjoying access to a defence lawyer and more people are expected to be taken to court in the next days. Grave concerns were expressed regarding the violation of their right to a fair trial. Family members of the detained cannot get information on the whereabouts of their relatives. Concern was expressed that these persons may be subjected to ill-treatment.

58. On 6 April 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding **Mariusz Maszkiecz**, human rights defender and former Ambassador of Poland to Belarus between 1998 and 2002. Mr Maszkiecz had traveled to Minsk, Belarus in solidarity with Belarusian human rights defenders and to observe whether the presidential elections would be free and fair. According to the information received, 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 is reported that Mr Maszkiecz was badly beaten and assaulted during his arrest and was sentenced to 15 days imprisonment by a court in Minsk. It is further reported that after his arrest, Mr Maszkiecz was transferred to hospital as his health was deteriorating and he was suffering from cardiac problems. It is reported that Mr Maszkiecz's condition is currently stable, but that he is still experiencing chest pains. It is alleged that under Belarusian law, Mr Maszkiecz's stay in hospital will not be considered as part of his 15 day sentence and that after he is released from hospital, he will have to return to prison for 10 days.

59. On 28 April 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding concerning **Mr Mikalai Astreika, Ms Enira Branitskaia, Mr Tsimafei Dranchuk, Mr Aliaksandr Shalaika**, all members of the unregistered NGO **Partnership**, and **Mr Artur Finkevich**, an individual human rights defender. Partnership is an organisation that monitors elections and conducts exit polls in Belarus. According to the information received, on 22 February 2006 Mikalai Astreika, Enira Branitskaia, Tsimafei Dranchuk and Aliaksandr Shalaika were arrested and detained in Minsk, Belarus on suspicion of managing an organisation that violated citizens' rights. It was reported that they were being held in solitary confinement in Minsk, and that on 2 March 2006 were charged under Article 193 (2) of the Belarusian Criminal Code (managing a public association or religious organisation that infringes the individuality, rights and obligations of citizens). It is further reported that Mikalai Astreika, Enira Branitskaia and Aliaksandr Shalaika have 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, Belarus on suspicion of drawing political graffiti. He was charged with violating Article 339(2) and Article 218 (3) of the Belarusian criminal code, and if convicted of violating the latter article he could be sentenced to 7-12 years imprisonment. Mr Artur Finkevich was being kept in solitary confinement. Grave concern was expressed that the criminal proceedings against Mr Mikalai Astreika, Ms Enira Branitskaia, Mr Tsimafei Dranchuk, Mr Aliaksandr Shalaika and Mr Artur Finkevich may be connected with their activities in defense of human rights, in particular because of their involvement in the promotion of democracy in Belarus.

60. On 16 August 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding **Mr Mikalay Astreyka, Ms Enira Branizkaya, Mr Alyaksandr Shalayka and Mr Tsimafey Dranchuk**, all members of the organization *Initiative Partnership*, an organization that monitors elections in Belarus. Mr Mikalay Astreyka, Ms Enira Branizkaya, Mr Alyaksandr Shalayka and Mr Tsimafey Dranchuk were the subjects of two urgent appeals sent jointly by the Special Representative, the Special Rapporteur on the situation of human rights in Belarus and the Special Rapporteur on the promotion and protection of the right of everyone to freedom of expression and opinion on 28 April 2006 and 17 March 2006. According to information received, on 4 August 2006 they were charged under Article 193 part 3 of the Belarusian Criminal Code for “organizing and running an unregistered organization that infringes the rights of citizens” and received prison sentences: Mr Mikalay Astreyka (2 years), Mr Tsimafey Dranchuk (1 year), Ms Enira Branizkaya (6 months) and Mr Alyaksandr Shalayka (6 months). Concerns were expressed that the sentences imposed on Mr Mikalay Astreyka, Ms Enira Branizkaya, Mr Alyaksandr Shalayka and Mr Tsimafey Dranchuk may be in connection with their activities in defence of human rights, in particular their participation in election monitoring activities in Belarus.

61. On the 23 November 2006, the Special Representative, sent an urgent appeal concerning the detention of seven activists including **Mr Vyacheslav Andreev, Ms Sviatlana Siarheichyk, Mr Svyatoslav Sementsov, Ms Tanya Ivanova, Mr Aleksei Filipenko, Ms Natallia Kavalchuk and Mr Viachaslau Bortnik** who promote the human rights of lesbians, gays, bisexuals and transgender (LGBT) persons in Belarus and are current members of the Organising Committee of the International LGBT Conference which was due to be held in Minsk. According to the information received, on 8 November 2006, at approximately 8:20pm, the seven aforementioned persons were arrested and detained when the apartment in which they were holding a meeting, was broken into by the police. It is alleged that the police confiscated materials relating to the conference and brought the activists to the Zheleznodorozhnyi Borrow Police Department where they were questioned in relation to the schedule of the conference, the list of participants and the venue of the conference. Four of the activists were released after two hours but Vyacheslav Andreev, Svyatoslav Sementsov and Viachaslau Bortnik were detained until 5:30pm the following day. All were released without charge. However, the International LGBT Conference was cancelled by the organizers after their arrest. Concern was expressed that the events described above may represent attempts by the Belarusian authorities to prevent the activists from carrying out their legitimate activities, in particular raising attention to the situation of LGBT persons in Belarus. Furthermore there were concerns regarding reported amendments to the Criminal Code adopted on 15 December 2005 which may be used to detain members of LGBT groups, or discredit their legitimate activities.

Communications received

62. On 1 December 2005, the Government of the Republic of Belarus replied to the urgent appeal sent on 28 September 2004 regarding the **Belarusian Helsinki Committee**, in particular its chair, **Tatiana Protsko**, and its head accountant, **Tatiana Rutkevich**. The Government informs that On 10 March 2004, the investigation division of the Financial Investigation Department of the State Monitoring Committee of Belarus for Minsk oblast and the city of Minsk instituted legal proceedings against certain officials of the Belarusian Helsinki Committee pursuant to article 243 (Tax evasion), paragraph 2, of the Criminal Code. The grounds for

instituting proceedings were the tax audit conducted by the Inspectorate of the Ministry of Tax and Duties, which is located in Minsk's Moskovsky district (hereinafter referred to as "the Inspectorate") on 27 January 2004, and the Inspectorate's decision of 19 February 2004 to apply economic sanctions against the Belarusian Helsinki Committee. According to information from the Inspectorate, during the period from 22 January 2002 to 19 March 2003, the Belarusian Helsinki Committee received €125,436 in the form of charitable assistance from the International Helsinki Federation for Human Rights and US\$ 21,281 and €24,932 from the delegation of the European Commission, on which profit tax in the amount of 76.3 million roubles and transport duty in the amount of 12 million roubles were not paid. After a second audit on 13 April 2004, the Inspectorate took a decision on additional taxes and fines in the amount of 110.5 million roubles, to be paid by the Belarusian Helsinki Committee. Thus, the total amount payable to the budget, taking account of the economic sanctions, was 155.2 million roubles. In the view of the Inspectorate, the international technical assistance in the form of monetary resources for the Belarusian Helsinki Committee, from 2002 to the adoption of Presidential Decree No. 460 of 22 October 2003 on international technical assistance offered to the Republic of Belarus, should have been taxed in accordance with the established procedure. The Belarusian Helsinki Committee appealed against the Inspectorate's decision on the application of economic sanctions against it in Minsk's economic court. On 10 May 2004, in connection with the Committee's court appeal against the Inspectorate's decision, the preliminary investigation in the criminal proceedings against officials of the Belarusian Helsinki Committee was suspended. By a decision of the Minsk economic court of 23 June 2004, the Belarusian Helsinki Committee won its lawsuit and the Inspectorate's decision on the application of economic sanctions against that voluntary association was declared null and void. In its decision of 29 July 2004, the cassational court of the Minsk economic court upheld the aforementioned decision. On 14 December 2004, the Supreme Economic Court of Belarus rejected the Inspectorate's appeal against the aforementioned judicial acts. The Minsk Office of the Procurator revoked the decision to suspend the preliminary investigation, and the criminal case was referred to the Financial Investigation Department of the State Monitoring Committee of Belarus for Minsk oblast and the city of Minsk for a decision to terminate criminal proceedings. On 28 December 2004, the State Monitoring Committee for Minsk oblast and the city of Minsk took a decision to terminate criminal proceedings against the chairperson of the Belarusian Helsinki Committee, Ms. Tatyana Protsko, and the chief accountant, Ms. Tatyana Rutkevich, pursuant to article 29 (Circumstances precluding criminal proceedings), paragraph 1, of the Code of Criminal Procedure because the aforementioned officials had not committed any socially dangerous act under criminal law.

63. On 20 June 2006, the Government of the Republic of Belarus replied to the urgent appeal of 6 April 2006 concerning **Mr Mariusz Maszkiewicz**, human rights defender and former Ambassador of Poland to Belarus between 1998 and 2002. The Government stated that Mr Mariusz Jerzy Maszkiewicz was found guilty of breaching the procedure for the conduct of large-scale activities on 24 March 2006. By decision of the Leninsky district court of the city of Minsk, dated 27 March 2006, pursuant to article 167-1, paragraph 1, of the Code of Administrative Offences of the Republic of Belarus, "Breach of 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", Mr Maszkiewicz was placed in administrative detention for a period of 15 days, and was kept in the special administrative detention facility of the internal affairs office of the Minsk city executive committee. The letter stated that on 29 March 2006, when his health started to deteriorate, Mr Maszkiewicz was hospitalized in Minsk city hospital No. 1, where he remained until 7 April

2006. By decision of the court, the period of Mr Maszkiewicz's administrative detention was considered from 23 March 2006. The period he spent being treated in hospital was also considered as part of his sentence. Following his treatment in hospital, Mr Maszkiewicz continued to complain of chest pains. As Mr Maszkiewicz required further medical treatment, law enforcement officials did not detain him any longer.

64. On 25 September 2006, the Government of the Republic of Belarus replied to the urgent appeal of 16 August 2006 concerning **Mikalay Astreyka, Enira Branizkaya, Alyaksandr Shalayka** and **Tsimafey Dranchuk**. The Government stated that according to information provided by the Office of the Procurator of Belarus, criminal proceedings against the persons who established the Partnership Initiative were opened on 21 February 2006. In the course of the criminal investigation, charges were brought against Mr Astreyka, Mr Dranchuk, Ms Branizkaya and Mr Shalayka. On 24 February 2006, they were remanded in custody as a preventive measure and charged under article 193, part 2, of the Criminal Code. They were accused of setting up a voluntary association whose activities were linked with the infringement of the rights, freedoms and legitimate interests of citizens and which failed to undergo State registration in the prescribed manner. The letter stated that between 2005 and 21 February 2006, under the auspices of the unregistered organization, Mr **Astreyka**, Mr Dranchuk, Ms **Branizkaya** and Mr **Shalayka** prepared unreliable information pertaining to the conduct and results of the presidential elections in Belarus for distribution and publication. In this way the activists from the Partnership Initiative infringed the legally established rights, freedoms and legitimate interests of citizens in receiving full, reliable and timely information on the activities of State bodies and political life in Belarus, and also, by deceiving citizens and misrepresenting reality, impeded the realization of their electoral rights: the right to vote freely and to decide personally whether to participate in the elections and for whom to vote. However, the court did not agree to this categorization of the defendants' activities and considered it necessary to shift the charge from article 193, part 2, to article 193, part 1, of the Criminal Code - organization of or participation in the activities of another voluntary association which has failed to undergo State registration in the prescribed manner. The court found that Mr **Astreyka**, together with Mr Dranchuk, Ms **Branizkaya** and Mr **Shalayka**, enrolled over 100 people as members of the Partnership Initiative and formed local branches, governing bodies and administrative bodies. The Government noted that Mr **Astreyka** and Ms **Branizkaya** pleaded guilty in part to the charges laid against them, and gave evidence to the court that they were among the founders of the Partnership Initiative. On 4 August 2006, the Central District Court of the city of Minsk sentenced Mr **Astreyka** to two years in prison, Mr Dranchuk to one year in prison and Ms **Branizkaya** and Mr **Shalayka** to six months imprisonment. The verdict of the court did not become enforceable, as appeals were submitted by Mr **Astreyka** and Mr Dranchuk and their counsel. A preliminary date of 15 September 2006 was set for the case to be heard in Minsk city court. Ms **Branizkaya** and Mr **Shalayka** have been released from custody, having served the sentences imposed by the court.

65. On 10 January 2006, the Government of the Republic of Belarus replied to the urgent appeal of 16 August 2006 concerning **Mr Mikalay Astreyka, Ms Enira Branizkaya, Mr Alyaksandr Shalayka** and **Mr Tsimafey Dranchuk**, all members of the organization *Initiative Partnership*, an organization that monitors elections in Belarus. The letter indicates that in the drafting of the Act of the Republic of Belarus on amendments and additions to certain legislative acts of the Republic 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 their State, public and family obligations. The following information was highlighted by the Government: Article 193 of the Act establishes responsibility for the commission implementing the existing prohibitions in the Republic of 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 association, 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 association, 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 completion of the offence provided for in the 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 the State and the confidence of the international community 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 citizens in the Republic of Belarus.

66. In a letter dated 10 January 2006, the Government of Belarus responded to the urgent appeal sent jointly by the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers 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 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

Ms Stremkovskaya made repeated 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.

67. On 10 January 2006, the Government of the Republic of Belarus replied to the communication of 7 December 2005. The Government indicates that in the drafting of the Act of the Republic of Belarus on amendments and additions to certain legislative acts of the Republic 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 their State, public and family obligations. The following information was highlighted by the Government: Article 193 of the Act establishes responsibility for the commission implementing the existing prohibitions in the Republic of 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 association, 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 association, 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 Governments 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 citizens in the Republic of Belarus.

Observations

68. The SR thanks the Government of Belarus for their detailed responses to five of her communications.

69. The Special Representative is particularly disappointed that the Government did not respond to her joint communication with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression of 7 December 2005 concerning **amendments**

to the Criminal Code and the Code of Criminal Procedure. The allegations are serious and their precise concerns seem to have been played out during the course of 2006. For instance, the liquidation of the **Belarusian Union of Youth and Children's Public Associations (RADA)** (subject of her (unanswered) urgent appeal of 21 February 2006), and the detention and prison sentences against four members of the **Initiative Partnership (IP)** were made possible by these new amendments to the Criminal Code. On 4 August 2006 the four human rights defenders (subject of joint urgent appeals with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 17 March 2006, 28 April 2006 and 16 August 2006), were charged under Article 193 part 3 of the Belarusian Criminal Code and received prison sentences: Mr Mikalay Astreyka (2 years), Mr Tsimafey Dranchuk (1 year), Ms Enira Branizkaya (6 months) and Mr Alyaksandr Shalayka (6 months).

70. The Special Representative thanks the Government for its response of 25 September 2006 in relation to the urgent appeals sent on behalf of the **Initiative Partnership**, but notes it was received some seven months after the first urgent appeal had been sent. The Special Representative remains concerned by the emphasis being placed on the organization as being an “unregistered organization” and would like to remind the Government that human rights defenders may act individually or in association with others. In addition the Special Representative is concerned that the staff members are accused of infringing upon the “legally established rights, freedoms and legitimate interests of citizens in receiving full, reliable and timely information on the activities of State bodies and political life in Belarus, and also, by deceiving citizens and misrepresenting reality”. The Special Representative wishes to remind the Government of Belarus that Governments are obligated to provide its citizens with reliable and timely information on the activities of State bodies and to ensure their right to freedom of opinion and expression.

71. The Special Representative reiterates her concerns that the charges imposed upon these human rights defenders were due to the organization's activities to monitor the election in Belarus. She is also concerned that such amendments to the Criminal Code may be used to detain members of **lesbian, gay, bisexual, transgender** and intersex (LGBTI) groups, or discredit their legitimate activities and encourages the Government to reply to her communication of 23 November 2006.

72. The Special Representative reiterates her concern that the terms ‘mass activity’ and ‘group activity’ not being defined, could potentially lead to the arbitrary and unjust interpretation of the new Criminal Code and the Code of Criminal Procedure, to the detriment of members of independent organizations. She also remains concerned that “people suspected of terrorism or vandalism may be detained for ten days before being charged” without definitions of what amounts to terrorism or vandalism. Concern is expressed that these amendments, in addition to the new Law on Public Association adopted in August 2005, has greatly reduced the possibility for independent human rights organizations and the media to work in a free and democratic environment. Concern remains that the new article on Discrediting the Republic of Belarus may compromise the integrity and level of cooperation between civil society and human rights defenders with international human rights bodies, including the United Nations special procedures.

73. The Special Representative notes that seven urgent appeals were sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression. The Special Representative regrets that her joint urgent appeal of 17 March 2006 concerning the targeting of human rights defenders, numerous journalists and media outlets and members of the political opposition in the run up to the 19 March 2006 elections remains unanswered. The allegations seriously bring into question the free, independent, objective monitoring and reporting necessary for any democratic elections.

74. With regard to the March 2006 elections, the Special Representative regrets that two additional joint urgent appeals of 24 March 2006 and 29 March 2006 with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention remain unanswered despite the seriousness of the allegations. These concerned the mass arrests of approximately 300-400 peaceful demonstrators calling for free and fair elections, including 45 minors. The Special Rapporteur on the independence of judges and lawyers joined the latter urgent appeal since it was reported that over 150 persons were being speedily tried without enjoying access to a defense lawyer and grave concerns were expressed regarding the violation of their right to a fair trial.

75. In relation to the mass arrests, the Government of Belarus only addressed the arrest of **Mariusz Maszkiewicz**, former Ambassador of Poland to Belarus between 1998 and 2002, who was subject of a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression of 6 April 2006. In its reply of 20 June 2006, the Government stated that Mr Maszkiewicz was found guilty of breaching the procedure for the conduct of large-scale activities pursuant to article 167-1, paragraph 1, of the Code of Administrative Offences of the Republic of Belarus, "Breach of 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 picket". However, the Government did not provide information as to the actual procedure. The Special Representative would be grateful for a copy of the applicable procedure to ascertain if it is compatible with international norms and standards on the right to freedom of assembly.

76. The Special Representative remains troubled that ordinary citizens including minors were arrested and detained for peacefully calling for free and fair elections and that many were charged with administrative offences which carried prison sentences of 10 to 15 days. A large number of demonstrators were said to have been students who could face expulsion from the university because of having participated in the demonstrations.

77. The Special Representative remains concerned by the allegations that the chair of the Belarusian Helsinki Association (BHC) was accused of tax evasion and the organization faces a potential fine of US\$ 70,000 and probable closure. The charges that were alleged to have been made in January 2004, accused the BHC of using a grant, provided by a European Union (EU) programme, without paying taxes. However, the Special Representative observes that two court decisions in 2004 confirmed that the organization's activities were lawful and complied with all procedures as required by the Belarusian authorities. This was also supported by a 1994 memorandum between Belarusian authorities and the European Union which grants tax exemptions. In the absence of any explanation by the Government of Belarus to her joint communication of 17 March 2006, the Special Representative remains gravely concerned that taxation laws may be arbitrarily used against NGOs to force their liquidation and closure.

Burundi

Communications envoyées

78. Le 13 avril 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant la situation de **Stany Mbazumutima**, un défenseur des droits de l'homme et moniteur pour l'organisation burundaise, Ligue Iteka, une organisation qui mène des enquêtes et fait des 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, notamment dans les camps de Musasa et Songore. Selon les informations reçues, le 4 avril 2006, Stany Mbazumutima avait publié un article sur le site web de la Ligue Iteka qui révélait que 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. Suite à 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, 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 de défenseur ne saurait le protéger.

79. Le 30 mai 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent concernant la situation de **Thacien Sibomana** et **Poppon Mudugu**, tous deux membres d'AC Génocide Crimoso, une ONG 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 de la réunion, 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'ordre du jour 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.

Observations

80. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications. She urges the Government to respond to her communications and the concerns raised by her.

Brazil

Communications sent

81. On 7 April 2006 the Special Representative together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **Ms Maria Aparecida Denadai**, a lawyer in the state of Espírito Santo. Maria Aparecida Denadai was previously the subject of an urgent appeal sent by the Special Representative and the Special Rapporteur on extrajudicial, summary or arbitrary executions on 14 June 2002. Maria Aparecida Denadai has been receiving persistent death threats in recent months and has also been the subject of intimidation as a result of the investigation surrounding the killing of her brother, lawyer Marcelo Denadai, in 2002 while he was preparing to reveal evidence on political corruption. Another five witnesses in the case have also been killed. In January 2006, the federal police began to provide Ms Aparecida Denadai and her family with protection after her case was submitted to the Inter-American Commission on Human Rights. According to new information received, it is reported that on 24 February 2006, the protection provided by the federal police was withdrawn without explanation. Concern was expressed that the threats against Maria Aparecida Denadai were connected with her activities in defence of human rights, in particular her investigation into the death of her brother, Marcelo Denadai. Serious concerns were expressed for her safety in view of the withdrawal of protection measures.

82. On 9 May 2006 the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding concerning **Conceicao Paganele**, president and founder of the Association of Mothers and Friends of Children and Adolescents at Risk (AMAR). AMAR is an NGO that defends the rights of adolescents detained in Foundation for the Well-Being of Minors (FEBEM) units. According to the information received, in January 2005 Ms Paganele publicly denounced the alleged practice of torture in the UI-41 Unit at the Vila Complex of the FEBEM. As a result of her statements, it is reported that she received death threats to her mobile phone and to the phone at AMAR's office. It is also 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 have not yet been found. It is 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. It is further reported that 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. Grave concern was expressed that the actions against Ms Paganele may be connected with her activities in defence of human rights, in particular because of her defence of the rights of adolescents detained in FEBEM units.

83. On 29 September 2006, the Special Representative sent an allegation letter concerning the deaths of **Josias de Barros** and **Samuel Ferreira**, two of the main national coordinators of the Movimento dos Trabalhadores Rurais Sem Terra (MST) in Pernambuco. MST is an NGO that advocates genuine agrarian reform and equitable land rights in Brazil. According to the information received, on 19 August 2006 Mr de Barros and Mr Ferreira arrived in the Alto da Balanca settlement, in the municipality of Moreno, in the metropolitan area of Recife, reportedly

to resolve internal problems. On 20 August 2006 in the morning, Mr de Barros and Mr Ferreira were reportedly killed by a group of 10-12 armed men when the victims refused to remove the MST flag from the area. It is alleged that the killers were infiltrated into the settlement by a politician from the region, with the intention of demobilizing the peasants and expelling the MST from the region. According to police chief Luiz de Oliveira, the dispute between the members of the settlement started last month, when a company that is building a gas pipeline in the region made an offer to buy the land in dispute, and compensate the peasants for appropriation of the plot. The MST leaders, however, made acceptance conditional on the company buying another plot of land to be distributed amongst the peasants. The rejection of the proposal, according to the police, generated high tensions among those interested in receiving the compensation immediately and those who chose to continue negotiating. Serious concerns were expressed that the deaths of Mr de Barros and Mr Ferreira were linked to their activities in defence of human rights, in particular the right to be free from arbitrary interference with one's home.

84. On 11 October 2006 the Special Representative, sent an allegation regarding the detention of **Jaime Amorim**, National Coordinator of the Landless Workers Movement (Movimento dos Trabalhadores Rurais Sem Terra, MST) and prominent labour activist in Pernambuco. MST is an NGO that advocates genuine agrarian reform and equitable land rights in Brazil. According to the information received, on 21 August 2006 at 1pm, Mr Amorim was leaving the burial ceremony of Mr Josias de Barros Ferreira, a state-level coordinator of the MST murdered earlier on that day, and was on his way to the burial of another MST coordinator, Mr Samuel Matias Barbosa, killed along with Mr de Barros Ferreira, in the municipality of Vitoria de Santo Antao when his car was reportedly surrounded by four police cars at the exit of the municipality of Itaquitinga, in the Zona da Mata region of Pernambuco. Mr Amorim was reportedly taken to the COTEL prison, located in the municipality of Abreu e Lima, in the metropolitan area of Recife. According to the police, there was an arrest warrant pending against Mr Amorim since 6 July 2006, related to the crimes of "formation of a criminal gang", "inciting crime" and "damage" during a demonstration against the visit of the President of the United States of America to Brazil on 5 November 2005. In the course of the demonstration, the American Embassy was devastated. However, according to the information received, Mr Amorim did not take part in the havoc of the Embassy; he allegedly only "threw a garbage can at police officers" who were repressing the demonstration. The arrest of Mr Amorim took place more than a month after the warrant was issued because, according to the police, Mr Amorim did not have a fixed residence, which made the delivery of the warrant impossible. However, according to the information received, Mr Amorim has known permanent home and work addresses. A first writ of habeas Corpus was presented on 22 August 2006 by members of MST and Terra de Direitos before the Pernambuco High Court (Tribunal de Justiça do estado de Pernambuco), but the judge rejected it on the same day. On 24 August 2006, a second writ of habeas corpus was presented before the Superior Court of Justice (Superior Tribunal de Justiça) which ordered the release of Mr Amorim on 28 August 2006, stipulating that "there was no justification to the preventive detention" (para. 4 of the decision). However, on 8 September 2006, the Pernambuco High Court re-examined the first habeas corpus writ, on its merits this time, and reordered the arrest of Mr Amorim. On 15 September 2006, the Superior Court of Justice Judge Nilson Naves reportedly accepted the third and last habeas corpus writ presented by the MST and Terra de Direitos, and revoked the prison order against Mr Amorim. Serious concerns were expressed that the arrest and detention of Mr Amorim were linked to his activities in defence of human rights, in particular economic and social rights of workers in Pernambuco.

Further concerns were expressed that the charges brought against Mr Amorim did not benefit from a fair and objective assessment of facts.

85. On 1 December 2006, the Special Representative sent a letter of allegation to the Government regarding concerning **the following cases that were brought to her attention during her visit to Brazil from 5 to 21 December 2005**. This compilation of cases is divided into three categories ('killings or attempts of killing', 'threats to physical integrity', and 'arrests'), and reflects the general trends of human rights violations against human rights defenders in Brazil documented during her visit, which are considered in her report on the situation of human rights defenders in Brazil presented to the Human Rights Council during its fourth session. The Special Representative informed the Government that she would also share information related to these cases with other special procedures mandate-holders to ensure enhanced cooperation.

Killings or attempts of killing

86. **Raimundo Rosa Neres**, a leader of the indigenous Pataxo Ha-Ha-Hae people in Pau Brazil, Southern Bahia. According to the information received, on 18 July 2002, Mr Rosa Neres was shot dead by gunmen reportedly employed by a local landowner who wounded him in the head, shoulders, and right arm with a .12-caliber rifle during an invasion by armed gunmen of the Letícia Estate where 25 Pataxo Ha-Ha-Hae families had settled. Grave concern is expressed that the killing of Mr Rosa Neres was related to his activities in defence of the rights of the Pataxo Ha-Ha-Hae community. This concern is heightened by the fact that on 15 July 2002, gunmen allegedly employed by the same landowner had attacked the Pataxo Ha-Ha-Hae community, seriously injuring one of its members.

87. **Ribamar Francisco dos Santos**, leader of the Rural Workers' Union (Sindicato dos Trabalhadores Rurais, or STR) in Rondon do Pará, Pará. Mr dos Santos was an active defender of the rights of rural workers in Pará and had publicly criticised the failure of private companies operating in Pará to respect relevant legislation. According to the information received, on 7 February 2004, Mr dos Santos was shot and killed by two unidentified gunmen who were travelling on a motorcycle. It is reported that prior to his murder, Mr dos Santos had received threats in connection with his activities in defence of the human rights of rural workers, and that these threats had been reported to the authorities, but that no action had been taken. It is further alleged that the superintendent of the civil police in northeastern Pará, whose name is known to the Special Representative, stated that the reason that Mr dos Santos was murdered was because of his activities in defence of human rights of rural workers and because of his public denunciations of alleged irregularities committed by companies operating in Pará. It is further reported that the perpetrators of the murder of Mr dos Santos have not been brought to justice. Grave concern is expressed that the murder of Mr dos Santos was a means of preventing him from carrying out his activities in defence of the human rights of rural workers in the state of Pará. This concern is heightened by the fact that on 28 January 2004, ten days prior to the murder of Mr dos Santos, Ezequiel de Moraes, president of the rural workers association in Pará, was allegedly shot and killed by an unknown gunman.

88. **Karina Pinheiro, D'Almeida Lins, João Mauricio Guedes Alcoforado and Andrea Cartaxo**, all judges and all part of a commission of investigation that investigated alleged corruption among members of the judiciary in Pernambuco. According to the information

received, on 26 April 2004 at approximately noon, close to the village of Riacho Doce in the municipality of Caruaru, the car that Ms Pinheiro, and Messrs Lins, Guedes Alcoforado and Cartaxo were travelling in was stopped by a truck blocking the road. It is reported that three armed men approached them in a car and told the judges to leave the car and lie down on the ground. It is further reported that the men took the mobile phones belonging to the judges and demanded to see Ms Pinheiro's briefcase that contained confidential documents. This was reportedly given to the armed men and it is alleged that they then started shooting at the vehicle, ordering Ms Pinheiro, and Messrs Lins, Guedes Alcoforado and Cartaxo to run towards the woods. It is reported that they all sustained injuries as a result of the shooting. After this incident, it is reported that they were given police protection. According to the information available to the Special Representative, the perpetrators of the attack described above have not been brought to justice. Concern is expressed that the alleged attack on the four judges may have been related to their defence of human rights, in particular their investigations into alleged corruption among members of the judiciary in Pernambuco. Further concerns are expressed that the perpetrators have not been brought to justice.

89. **Daniel Soares da Costa Filho**, former president of the STR and a defender of the human rights of rural workers in Pará. According to the information received, on 15 February 2005, Mr Soares da Costa Filho was murdered while travelling by motorcycle between Parauapebas and the Carlos Fonseca Settlement. Two unknown gunmen on a motorcycle allegedly pursued Mr Soares da Costa Filho and fired six shots at him. Grave concern is expressed that the killing of Mr Soares da Costa Filho was a means of preventing him from carrying out his activities in defence of the human rights of rural workers in the state of Pará. This concern is heightened by the fact that Mr Soares da Costa Filho was murdered a day after the murder of Sister Dorothy Stang, a defender of the rights of rural workers in Pará, and who was the subject of a letter of allegation sent by the Special Representative, the Special Rapporteur on extra-judicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers on 4 March 2005.

90. **Mr Neri Enó Beir**, president of the Sao Nicolau City Council, a member of the Workers' Party (PT) and an active defender of the rights of rural workers and fishermen in Rio Grande do Sul. As president of the Sao Nicolau City Council, Mr Enó Beir had defended the rights of rural workers and fishermen in Rio Grande do Sul. According to the information received, on 25 August 2005, Mr Enó Beir was shot and killed at his home in Rio Grande do Sul by unknown gunmen who fired seven bullets at him. It is reported that prior to his murder, on 29 June 2005, Mr Enó Beir had reported to the Sao Nicolau Police Headquarters that he had been receiving death threats. Grave concern is expressed that the murder of Mr Enó Beir was a means of preventing him from carrying out his activities in defence of the human rights of rural workers in the state of Rio Grande do Sul. Further concern is expressed that the Sao Nicolau police may not have taken adequate measures to investigate the death threats that Mr Enó Beir had been receiving prior to his murder.

91. **Claudio Pereira da Silva**, leader of the Comunidade Remanescente de Quilombo Piranhas and a defender of the rights of the quilombo community in Bom Jesus da Lapa, Bahia. According to the information received, on 8 September 2005, Mr Pereira da Silva was attacked by three armed men, allegedly employees of a local bar owner. It is reported that the men fired several shots in his direction, but that Mr Pereira da Silva managed to escape unharmed. Concern

is expressed that the attack on Mr Pereira da Silva may be connected with his defence of the human rights of the quilombo community in Dom de Jesus da Lapa.

92. **Claudio Alves dos Santos**, from the Centro de Referencia contra a Violencia e a Discriminacao Homossexual (CERCONVIDH). CERCONVIDH is an organisation that works in defence of the rights of homosexuals and lesbians and engenders communication between public security bodies, human rights organizations and homosexuals and lesbians. Mr Alves dos Santos had worked as a volunteer for CERCONVIDH and had also organized and participated in workshops to inform homosexuals and lesbians of their rights. According to the information received, Mr Alves dos Santos disappeared on 7 October 2005. His body was found three days later, reportedly with signs that he had been tortured. It is further alleged that in May and June 2005, the coordinator of CERCONVIDH had received death threats that were reported to the Human Rights Ombudsman, but that no investigations were undertaken by the authorities. Grave concern is expressed that the murder of Mr Alves dos Santos and the alleged threats against him are connected with the activities of CERCONVIDH in defence of the human rights of homosexuals and lesbians, in particular because Mr Alves dos Santos and CERCONVIDH had campaigned against impunity in relation to the alleged massacre of 30 transvestites which took place in Baixada Fluminense on 31 March 2005.

Threats to physical integrity

93. Fr **Tiago Thorlby** and Fr **Tomas Hayden**, missionaries who work with the Comissao Pastoral da Terra (CPT) in Pernambuco and are defenders of the rights of landless rural workers in the state of Pernambuco. According to the information received, on 7 January 2005, Fr Thorlby and Fr Hayden were attempting to take photographs of employees of a private company who were allegedly illegally cutting down trees in a reserve area in Nova Canaa, Goiana province, Pernambuco. It is reported that Fr Thorlby and Fr Hayden were chased by private armed security guards employed by the same company. It is further reported that the security guards followed Fr Thorlby and Fr Hayden to a restaurant named "Delicias da Roca" and took away the camera which had been used to take the photographs. It is alleged that following this event, as a result of the intervention of the military police, the camera was returned to Fr Thorlby and Fr Hayden, but it had been broken and the photos had been destroyed. It is further alleged that one of the private security guards who had chased Fr Thorlby and Fr Hayden identified himself as also being a military police officer. Following these events, an investigation was initiated by the military police into the alleged involvement of military personnel in the above described events, which confirmed their involvement. It is reported that the investigation also concluded that Fr Thorlby and Fr Hayden had not provided adequate information for the investigation. Reportedly Fr Hayden was in Ireland at the time that the investigation was being carried out. Furthermore, it is reported that another investigation was initiated by the Civil Police in Igarassu which held Fr Thorlby and Fr Hayden responsible for the incident on 7 January 2005. Concern is expressed that the above events may be connected with the activities of Father Thorlby and Fr Hayden in defence of human rights. Further concern is expressed that the authorities did not adequately investigate the alleged events that took place on 7 October 2005.

94. **Manoel Bezera de Mattos** and **Rosemary Souto Maior de Almeida** are human rights defenders who have been investigating human rights violations allegedly committed by death squads in the states of Pernambuco and Paraiba. According to the information received, on 23 September 2002, as a result of the numerous death threats received by Mr Bezera de Mattos and

Ms Souto Maior de Almeida, the Inter-American Commission on Human Rights (IACHR) recommended that Brazil provide precautionary measures to protect their life and personal integrity. It is reported that this protection was implemented on 2 October 2003 and removed in March 2004. It is further reported that in October 2004 Mr Bezera de Mattos and Ms Souto Maior de Almeida requested that this protection be reinstated as they had continued to receive threats, but that this request was denied and that the authorities did not undertake any investigations into the alleged threats. Concern is expressed that the threats against Mr Bezera de Mattos and Ms Souto Maior de Almeida are connected with their activities in defence of human rights, in particular because of their investigations into human rights violations committed by death squads in the states of Pernambuco and Paraiba. Further concern is expressed that the authorities failed to adequately investigate the alleged threats of Mr Bezera de Mattos and Ms Souto Maior de Almeida, following the withdrawal of protective measures against them.

95. **Maria Silva** and **Joao Sousa**, founders of the group Amigos da Justiça Ambiental, an organization that monitors environmental degradation in the municipality of Mage, Baixada Fluminense, Rio de Janeiro. According to the information received, in 2004, Ms Silva and Mr Sousa conducted research into allegations that industrial facilities in Mage had contaminated the surrounding environment and lobbied the local authorities to address the alleged contamination caused by the industrial facilities. According to the information received, on 12 March 2004, Mr Sousa was travelling on the Rio-Teresopolis highway when he was stopped by one of the managers of the companies who own the industrial facilities. It is reported that Mr Sousa was invited by this individual to speak with him in the company's office. It is further reported that Mr Sousa was told by the manager of the company that his every move was being watched. The manager also allegedly stated that if the company were to be shut down, the employees would make Mr Sousa "suffer for it". On 31 May 2004, it is reported that as Ms Silva was driving in the Zona Sul area of Rio de Janeiro when a taxi pulled up beside her and one of the passengers shot at her car, causing her minor injuries and breaking the window of her car. According to the information available to the Special Representative at the time of writing, the perpetrators of these incidents have not been brought to justice. It is alleged that after these events, in June 2004, the State Representative for Rio de Janeiro requested police protection from the office of the Special Secretary for Human Rights for Ms Silva and Mr Sousa but that this was not provided. It is further reported that as a result of these events and subsequent threats against them, Ms Silva and Mr Sousa have left the group Amigos da Justiça Ambiental and have moved to another State.

96. **Ana Maria dos Santos**, co-founder of the Santo Antonio Human Rights Forum (FDH), an organization that investigates allegations of human rights violations committed by death squads in Santo Antonio de Jesus and provides support to the victims of such violations. According to the information received, since March 2003, Ms dos Santos has been receiving telephone death threats. On 18 September 2003, she returned to her home to find that her house had been broken into and the assailants had left a piece of rope and a pipe in her house. On 12 May 2004, it is reported that Ms dos Santos was informed by a reliable source that the military police were attempting to devise a plot and fabricate evidence against her. On 20 June 2005, it is reported that an unknown man asked questions regarding her whereabouts. Serious concern is expressed that the above events may be connected with the activities of Ms dos Santos in defence of human rights and may form part of a campaign of intimidation and harassment against her.

97. **Francisco de Asis dos Santos Souza**, president of the Rural Workers' Union (Sindicato dos Trabalhadores Rurais) STR in Anapu, **Gabriel Domingos do Nascimento**, vice president of STR and STR secretary for agrarian and environmental policy, and Fr **Jose Amaro**, a defender of the rights of rural peasants in the state of Para. According to the information received on 14 February 2005, Mr de Asis dos Santos Souza received a death threat, two days after the murder of Sister Dorothy Stang. It is further reported that on 19 February 2005, Mr Domingos do Nascimento received a letter warning him of the consequences if he continued with his work in defence of the rights of rural peasants in Para. It is also reported that Father Amaro has received threats in connection with his activities in defence of the rights of rural workers in Para. Serious concerns are expressed that the threats against the above-mentioned people are connected with their activities in defence of human rights of rural workers in Para. Further concerns are expressed that these events took place shortly after the murder of Sister Stang.

98. **Joaquim Bernardo Pereira**, **Maria das Gracas Reis** and **Jose Antonio dos Santos** of the Movement of those affected by Dams (MAB). Mr Bernardo Pereira is an active defender of the rights of those adversely affected by the construction of the Candonga Hydroelectric Dam and has also denounced irregularities in the construction of the dam. Ms das Gracas Reis and Mr Antonio dos Santos have been involved in organizing protests in order to defend the rights of those adversely affected by the construction of the Candonga Hydroelectric Dam. According to the information received, on 17 February 2005, Mr Bernardo Pereira received a telephone call from an unknown man threatening that his car would be blown up. On 18 February 2005, it is alleged that Mr Bernardo Pereira received another threatening phone call in which the unknown caller stated "get out of the Candonga negotiation process or I will blow up your car". On 23 February 2005, a further telephone threat was made, the caller stated this time "your sister is already dead in the State of Para, and you will be next". Here it is believed that the caller was referring to the murder of Sister Stang, who had been killed on 14 February 2005. It is further reported that Ms das Gracas Reis and Mr Antonio dos Santos, have also received death threats in relation to their active defence of those adversely affected by the construction of the dam. Concern is expressed that the threats against Ms das Gracas Reis and Mr Antonio dos Santos are connected with their defence of the rights of people who have been adversely affected by the construction of the Candonga Hydroelectric Dam.

99. **Isac Tolentino de Araujo Junior**, a lawyer with the Rural Workers' Lawyers' Association (AATR), **Jose Gonzalez Acedo** and **Maria Pilar del Martin Rodiuejo**, missionaries with the Comissao Pastoral da Terra (CPT) and advisers to the Quilombo communities in Pau D'arco and Parateca in Bahia. According to the information received, on 29 September 2005, they accompanied a member of the Quilombo community to a hearing at a local court, because a complaint had been filed by the member of the Quilombo community against a local landowner who had been threatening him. It is reported that at the hearing this landowner directed threats and abuse towards Messrs Tolentino de Araujo Junior and Gonzalez Acedo, and Ms Pilar del Martin Rodiuejo stating that "they would be next". It is further reported that after the hearing, the landowner again threatened them and stated "you're on the hit-list" and "you'll pay for this". Concern is expressed that the threats against Messrs Tolentino de Araujo Junior and Gonzalez Acedo, and Ms Pilar del Martin Rodiuejo are connected with their activities in defence of the rights of the Quilombo communities in Bahia.

Arrests

100. Other **members of the Movement of those affected by Dams (MAB)**, a group that defends the rights of people who have been displaced and adversely affected by the construction of dams in Brazil. According to the information received, on 8 March 2005, the military police in Casca, Minas Gerais, used violence to break up a demonstration organized by MAB to protest against the construction of the Jurumirim Dam in the municipality of Rio Casca. It is alleged that 35 individuals, including 11 women and children, who were participating in the protest, were beaten by police officers and that six of the protestors were arrested and detained overnight. Furthermore, on 12 March 2005, in the State of Santa Catarina, it is reported that the military police arrested Edio Grasse, Carlos da Silva, Leodato Vicente, Joao Vilmar de Oliviera, Doneles Vicente and Aurelio Dutra, all human rights defenders who defend the rights of people displaced by the Campos Novos dam in Santa Catarina. It is alleged that the aforementioned people were arrested on the grounds of maintaining public order and that the petition for arrest had been requested by a consortium of companies involved in the Campos Novos Dam. It is further reported that they were held in preventive detention for 24 days in the Penitentiary Facility in Joacaba and then released without charge. Concern is expressed that the above events are connected with the activities of members of MAB in defence of the rights of people who have been displaced and adversely affected by the construction of dams in Brazil. Further concerns are expressed that the arrest of the above-mentioned people was aimed at preventing them from participating in peaceful protests that had been organised for “International Day of Action Against Dams” and which were due to take place on 14 March 2005.

Communication received

101. On 9 January 2007, the Permanent Mission of Brazil in Geneva replied to the communication of 11 October 2006 concerning the detention of **Jaime Amorim**. The letter stated that on 21 August 2006 the Pernambuco Military Police carried out a warrant of preventive arrest issued in July 2006 against Mr Amorim. Mr Amorim is accused of having committed the crime of doing damage to Government property when, during a protest against Iraq’s invasion in front of the United States Consulate in Recife in November 2005, the building was painted with graffiti and stoned. On 21 August 2006, during the wake of two state leaders of the Landless Workers’ Movement-MST, murdered the previous day, the Pernambuco Military Police carried out a warrant of preventive arrest issued in July against Mr Amorim. The letter stated that the preventative arrest had been ordered by a judge who deemed the measure to be necessary to ensure the application of penal law. According to the judge Mr Amorim had no fixed address and allegedly posed a risk to the “peace and safety of law-abiding citizens”. There was no connection with the right of free association provided for under the Federal Constitution and the International Covenant on Civil and Political Rights. On the same day a request was made for a writ of habeas corpus to the Pernambuco State Chief Justice, under the allegation of illegal constraint and requesting Mr Amorim’s immediate release. The request was denied through a preliminary order on the 22 August 2006. The Mission stated that a new request for a writ of habeas corpus was submitted to the Superior Court of Justice by the Landless Workers Movement (MST) lawyers, which was granted through a preliminary order of 28 August. On 8 September 2006, Mr Amorim was re-arrested on the advice of the Pernambuco State Panel of Judges who denied the request for a writ of habeas corpus, despite a decision made by the Superior Court of Justice and the favourable opinion of the Public Defenders Office. A new request for a writ of habeas corpus was submitted on 15 September 2006 and was granted

through a preliminary order and Mr Amorim was released. The letter states the first instance court once again ordered Mr Amorim's arrest under the argument he had not appeared at a hearing set for the prosecution witnesses. The defendant's lawyer explained that Mr Amorim did not appear because he would then be arrested, as there was an outstanding writ of arrest against him. This circumstance was presented once again to the Superior Court of Justice through a petition requesting the reinstatement of the preventive arrest's revocation. Finally, the Superior Court of Justice considered the merit of the second writ of habeas corpus (HC 64931/PE) and unanimously revoked all the previously issued writs of arrest. The original suit before the first instance court is still pending (001.2006.009023-6). The prosecuting witnesses and the witnesses lined up by the defence have already been heard and some testimonies are still lacking for closing the fact finding. The letter continues by stating that Mr Amorim's lawyers argue that he is being made victim of a criminalization process by the first instance court and the Pernambuco State Court of Justice because he is a human rights defender. The original court has autonomy and independence for deciding and if it acts in a manner contrary to the law, its decision will be revoked by higher courts. This is the course of the Brazilian judicial system; there is the right of dual jurisdiction and thus if there is some sort of curtailment of the right of defence and contestation, the law provides for apt instruments to solve this situation, as in the case of habeas corpus when there is suspicion of illegal constraint. In the case under discussion, all mechanisms are being employed by the defence. The first instance court understood that preventive arrest was necessary and has autonomy and independence for making this decision. If the lawyers think that this decision is mistaken, they appeal to the higher courts – in this case to the Pernambuco Court of Justice and then to the Superior Court of Justice – for a reevaluation of the decision, as they indeed did. These measures include, for instances, the National Human Rights Defenders Protection Programme, run by the Special Secretariat on Human Rights under the Office of the President of the Republic, and human rights commissions, such as the Chamber of Deputies' Commission.

Observations

102. The Special Representative thanks the Government for its response of 9 January, but regrets that at the time of the finalization of the report, no responses to the communications sent on 7 April, 9 May, and 29 September 2006 had been received. She looks forward to receiving detailed information regarding investigations undertaken as well as protective measures taken in cases mentioned in the letter of allegation of 1 December 2006.

103. She reiterates her serious concerns at violations committed against human rights defenders working to promote the rights related to land ownership and use rights of indigenous persons, and labour rights. A detailed analysis of the trends regarding the situation of human rights defenders in the country is contained in the report of the Special Representative on her mission to Brazil to the Human Rights Council at its fourth session (A/HRC/4/37/Add.2).

Cambodia

Communications sent

104. On 6 January 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal in relation to **Kem Sokha**, President of the Cambodian Centre for Human Rights

(CCHR), **Pa Nguon Teang** and **Yeng Virak**, Director of the Community Legal Education Centre (CLEC) and member of the organizing committee of the International Human Rights Day celebration on 10 December 2005. According to information received, Kem Sokha and Yeng Virak were arrested on 31 December 2005 and Pa Nguon Teang on 4 January 2006 on charges of defamation in relation to celebrations held in Phnom Penh to mark International Human Rights Day on 10 December 2005. The event held at the Olympic Stadium was organized with authorization from the Ministry of Interior and agreed upon by the Phnom Penh Municipal authorities. On Saturday 31 November 2005, at 10.30 a.m. a group of uniformed and plainclothes police officers from Daun Penh district and the Ministry of Interior surrounded the CCHR office in Phnom Penh 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 made against him. The warrants had been issued by Mr Sao Meach, Investigating Judge of the Phnom Penh Municipal Court, on different dates. At approximately 11.00 a.m. after dozens of journalists and CCHR supporters (from embassies, local and international developmental organizations and local and international human rights NGOs) began to arrive at the centre, the police locked the gates of the compound, preventing people from going in and out. The Ambassadors of the United Kingdom and the United States of America, as well as representatives from local and international NGOs who arrived later, were not allowed to enter the compound. CCHR's "Voice of Democracy" was allegedly shut down for several hours to prohibit it from broadcasting live coverage of the arrest. At around 13:30, Mr Sokha was arrested and taken to Phnom Penh Municipal Court where he was questioned by Mr Sao Meach for several hours. Police prevented reporters and supporters from entering the court building. Intervention police armed with electric batons dispersed the people crowding the street outside the Municipal Court. The investigating judge asked Mr Sokha about the banners used by CCHR on its booth during the 10 December activities. The judge said that the defamation case was based on alleged handwritten comments on the banner criticising the policy of Prime Minister Hun Sen, in support of which the police presented photographs. At around 16.15h, Mr Sokha was taken to the Prey Sor prison. Moreover, on the same day, at around 15.00h, police came to the office of the Community Legal Education Centre and demanded entry and meeting with Mr Virak. At around 15.20h, Mr Virak was taken to the Municipal Court, where 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. One of Mr Virak's lawyers confirmed that he was questioned by Investigating Judge Sao Meach and subsequently charged as related above. He was in pre-trial detention in Prey Sar Prison. On 4 January 2006, Pa Nguon Teang, Deputy President of the CCHR was arrested at Stung Treng. On 5 January 2006 he was taken to the Municipal Court in Phnom Penh where he was also charged with defamation and transferred to Prey Sar Prison. According to the information received, Messrs. Kem Sokha, Pa Nguon Teang and Yeng Virak are being 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 one year imprisonment and/or a fine of one million (about 210 euros) to ten million riels. It was understood that 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. Concern was expressed that these arrests were the most recent in a series of at least nine criminal defamation suits filed over the last year against representatives of NGOs, media, trade unions and the opposition Sam Rainsy Party. It was noted that in October 2005, radio journalist Mam Sonando was arrested on charges of defamation, while trade unionist Rohng Chhun was detained and charged with defamation and incitement.

Furthermore, on 22 December 2005, opposition leader Sam Rainsy was sentenced in absentia to 18 months imprisonment for defamation. Concern was also expressed that the arrests and the increasing use of criminal defamation charges are having a chilling effect on Cambodia's civil society and constitute a serious threat to freedom of expression.

105. On 28 February 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal in relation to **Kem Sokha**, President of the Cambodian Centre for Human Rights (CCHR); **Pa Nguon Teang**, CCHR Deputy President and Producer of the CCHR Voice of Democracy radio programme; **Yeng Virak**, Director of the Community Legal Education Centre (CLEC); **Rong Chhun**, President of the Cambodian Independent Teachers' Association; **Chea Mony**, President of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) and **Mam Sonando**, Director of Beehive Radio, who had already been the subject of two previous communications sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Representative of the Secretary-General on the situation of human rights defenders on 6 January 2006, and by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on 28 October 2005. According to the information received, on 3 February, government lawyers officially withdrew criminal defamation complaints against the aforementioned individuals. Nonetheless, under the UNTAC Penal Code adopted in 1992 (Provisions relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period), the withdrawal of a criminal defamation complaint does not mean that the charges are dropped. The Prime Minister has claimed that the criminal charges will remain as he cannot interfere in the work of the courts. It is reported that he has also declared that defamation should no longer be criminalized in Cambodia. The judges assigned to these cases at the Phnom Penh Municipal Court have allegedly confirmed that criminal charges will not be dropped but that the investigations will be left dormant until the statute of limitation of the alleged crimes expire.

106. On 24 May 2006, the Special Representative sent an urgent appeal concerning **Chi Samon**, president of the workers' union at the Bright Sky factory in Trapaing Thloeng village Sangkat Chaom Chao, Khan Dangkor in Phnom Penh municipality and an active defender of the rights of workers at the Bright Sky factory. According to the information received, on 9 March 2006 Mr Samon had a verbal dispute with the owner of the Bright Sky factory, because he was trying to advise the workers to go on strike. It is alleged that during the dispute, the factory director grabbed Mr Samon by the shirt and threatened to have him killed. On 3 May 2006 Mr Samon was attacked outside the Bright Sky factory in Phnom Penh by a group of five or six men, one of whose identity is known to the Special Representative. It is alleged that he was beaten on the head, face and body with a wooden club and a pipe, sustaining serious injuries which were treated in a private clinic where he was kept for several days. On 10 May 2006 Mr Samon allegedly filed a complaint to the police station of Chaom Chao, but according to the information available to the Special Representative no action has been taken by authorities following his complaint. On 23 May 2006, Mr Samon was allegedly warned by fellow workers that the men who had attacked him were waiting for him outside the factory where he works and at his home. Concern was expressed that the above events may be connected with the activities of Mr Samon in defence of the rights of workers at the Bright Sky factory. Further concern was expressed for the physical and psychological safety and security of Mr Samon.

107. On 30 May 2006, the Special Representative together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living issued a public statement over their concerns about the **ongoing process of forced evictions taking place in the Bassac river area in Phnom Penh**, affecting over a thousand poor families from informal settlements. There were disturbing allegations that municipal authorities had intervened to stop NGOs from distributing tents and humanitarian aid to the families who had become homeless. In some cases, security forces allegedly pulled down tents and destroyed personal belongings. The Special Representative reminded the Government of Cambodia of the provisions of the Declaration on Human Rights Defenders which guarantee the rights of human rights defenders, including NGOs, to carry out activities to promote and protect human rights and recommended that a constructive dialogue between all parties, including the NGOs be established and that NGOs be allowed to offer assistance and protection without interference to the families affected by the eviction.

108. On 26 June 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning the situation of **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 Hun To, Prime Minister Hun Sen's nephew, was involved in a case of land grabbing in Mondulkiri province. Following the publication of these articles on 19 June, You Saravuth was reportedly requested to meet Hun To. Subsequently, the meeting took place. During this meeting Hun To allegedly warned staff of the newspaper to be careful and demanded they provide him with proof of their accusations. Staff were allegedly threatened and intimidated by Hun To. He reportedly warned them that he would be able to trace You Saravuth's phone anywhere and track him down. On 21 June, a copy of You Saravuth's identity card with his face crossed out with pictures of skulls and bones was faxed to the newspaper's headquarters. Grave concerns were expressed for Mr You Saravuth's life as he was forced to go into hiding.

109. On 29 June 2006, the Special Representative together with the Special Rapporteur on adequate housing issued a further **public statement** condemning **the continued forced evictions targeting the remaining poor and vulnerable residents of Bassac, and denial of access to NGOs to provide humanitarian assistance to the victims.**

110. On 13 July 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Lach Sambo** president of the Free Trade Union of the Workers of the Kingdom of Cambodia (FTUWKC) in Jenchou Inn Factory in Kandal Province, Cambodia, **Gneom Khun**, general treasurer of FTUWKC and **Sal Koemsan**, member of the FTUWKC. The FTUWKC is a trade union that works in defence of the human rights of workers in Cambodia. According to the information received, on 3 July 2006 Ms ambo, Ms Khun and Mr Koemsan were arrested on charges of "illegally confining" other staff members of the Jenchou Inn factory under Article 35 of the Cambodian Criminal Code and are currently being detained in Prey Sar prison. It is reported that these charges were related to a strike that had been organised on 23 June 2006 at the Jenchou Inn factory to demand better pay and conditions for workers at the factory. It is further reported that at the time that the events occurred, Ms Sambo, Ms Khun and Mr Koemsan were at their respective homes and were not in the Jenchou Inn factory. Concerns were expressed

that the charges against them may be connected with their activities in defence of the human rights of workers in Cambodia and represent an attempt to obstruct their activities.

111. On 1 December 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning the alleged violent suppression of a peaceful strike organized by members of the Bright Sky Garment Factory in the Phnom Penh section of the Free Trade Union of the Workers of the Kingdom of Cambodia (FTUWKC) in which they called for better working conditions. Members who reportedly participated in the aforementioned strike include **Chi Samon**, the President of the Bright Sky Factory section of the FTUWKC, **Tuy Vang**, **Morm Thol**, **In Chai Teang**, **Top Savy**, **Eam Samrit**, **Leav Sothearath**, **Pin Samoeurn**, **Then Thach**, **Hean Vanrath** and **Nget Bora**. According to the information received, on 16 October 2006, the authorities reacted violently to a week-long peaceful strike at the Bright Sky Garment Factory in the Dangkor district of Phnom Penh. Reportedly when some of the strikers approached members of the management to seek permission for some of the demonstrators to leave the factory, they were confronted by hundreds of armed police. 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 Bright Sky Garment Factory reportedly closed down the night shift and dismissed the employees who usually work this shift as he announced that it was no longer profitable for the factory to continue its production at night. Furthermore, he allegedly announced publicly that he had sent the names of the alleged leaders who had organised the strike to the Garment Manufacturers Association of Cambodia, to the Ministry of Commerce and also the Ministry of Labour. Concern was expressed that the police may not have acted in accordance with the Code of Conduct for Law Enforcement Officials and the Basic Principles of the Use of Force and Firearms by Law Enforcement Officials and may have used excessive force in order to bring to an end the week of peaceful protests in the Bright Sky Garment Factory. Further concern was expressed that the FTUWKC members named above may have been blacklisted in an attempt to prevent and deter them from carrying out their legitimate activities in defence of human rights, in particular the defence of labour rights.

Observations

112. The Special Representative deeply regrets that the Government of Cambodia has never responded to any of her communications since the establishment of the mandate.

113. She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to her communications and the concerns raised by her. She reminds the Government that every resolution pertaining to her mandate at the Commission on Human Rights and the General Assembly has urged States to cooperate and assist her in the performance of her tasks and to furnish all information for the fulfilment of her mandate upon request. General Assembly resolution 60/161 urges States that have not yet responded to the communications submitted to them by her, to do so without further delay.

Cameroon

Communications envoyées

114. Le 28 décembre 2005, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de **Adama Mal-Sali**, représentant du Mouvement pour la défense des droits de l'Homme et des libertés (MDDHL) à Balaza-Lawane. Selon les informations reçues, le 30 novembre 2005, Adama Mal-Sali aurait aidé au dépôt d'une plainte contre le chef de canton (lawan) de Balaza-Lawane, pour « abus de pouvoir » et « escroquerie ». Le 15 décembre 2005, le Procureur de la République du tribunal de première et grande instance de Maroua l'aurait convoqué à son cabinet et l'aurait ensuite menacé, lui recommandant de « ne plus jamais écrire car la prochaine fois qu'il verra son écrit quelque part, il le fera jeter en prison ». Selon les informations reçues, Adama Mal-Sali aurait déjà fait l'objet d'attaques similaires par le passé, le même chef de canton aurait déjà déposé plainte contre lui pour « diffamation et dénonciations calomnieuses » au printemps 2005. Le 4 mai 2005, Adama Mal-Sali aurait comparu devant le tribunal de première instance de Maroua, mais l'affaire avait été renvoyée au 1er juin 2005 en raison de l'absence du plaignant, et de nouveau au 3 août puis au 12 octobre 2005. Le 23 novembre 2005, l'avocat du plaignant se serait présenté pour la première fois, et, ne connaissant pas le fond du dossier, aurait demandé un renvoi de l'affaire au 28 décembre 2005. Par ailleurs selon les informations reçues, en janvier 2005, le procureur de la République de Maroua aurait adressé aux officiers de police judiciaire une lettre-circulaire, leur demandant spécifiquement d'interpeller et de déférer à son parquet les militant des droits de l'homme se trouvant sur le territoire de sa circonscription en alléguant que des faussaires agissaient sous couvert de la défense des droits de l'homme. Le texte, critiqué par les organisations de défense des droits de l'homme, aurait été remplacé par une nouvelle lettre-circulaire en date du 3 novembre 2005, dans laquelle le procureur affirmait que « les activités des associations de défense des droits de l'homme ne sauraient souffrir d'une quelconque entrave, lorsqu'elles agissent dans le cadre des missions définies dans leurs statuts respectifs » mais, confirmant les mesures de la première circulaire, précisant qu'elles restaient « applicables à tout individu susceptible d'être poursuivi pour des faits d'escroquerie ».

115. Le 7 mars 2006, la Représentante spéciale a envoyé une lettre d'allégation relative à la situation de **Blaise Yacoubou**, chargé de protection et administrateur de la permanence du Mouvement pour la défense des droits de l'homme et des libertés (MDDHL), et **Ahmadou Rhékang**, également membre de cette organisation, à Maroua. Selon les informations reçues, le 10 février 2006 M. Rhékang se serait rendu aux bureaux de la division provinciale de la police judiciaire de l'Extrême Nord, à Maroua, pour apporter la plainte de Collins Okoro, citoyen nigérian, à cette division. Ce dernier aurait en effet sollicité l'aide du MDDHL après avoir été convoqué par les services de la division provinciale de la police judiciaire de l'Extrême Nord.. Ahmadou Rhékang aurait été retenu pendant plus de deux heures dans les bureaux de la police judiciaire. Les policiers l'auraient humilié et incité à démissionner du MDDHL s'il ne souhaitait pas être mis en prison. À la suite de l'arrestation de M. Rhékang, M. Yacoubou, auteur de la plainte, aurait été convoqué par le chef de la division, et insulté par l'agent de police venu lui remettre sa convocation. Le 1er mars 2006, M. Yacoubou aurait de nouveau été convoqué par la police judiciaire par l'intermédiaire d'un message radio (n°06/029, en date du 28 février 2006), copié au procureur de la République et au chef du service provincial de l'Extrême Nord, trois jours après qu'il eut coordonné un séminaire de formation des membres du MDDHL à Maroua.

Communication reçue

116. Le 15 novembre 2006, le Gouvernement a adressé une réponse relative à un appel urgent envoyé le 28 décembre 2005, par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant la situation de M. Adama Mal-Sali. Le Gouvernement déclare que :

a) Sur les faits : 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 Adama Mal-Sali, défenseur des droits de l'homme, devant le tribunal de première instance de Maroua 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.

b) 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 desquels « 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 ci-dessus, soit par la citation donnée directement au prévenu et aux personnes civilement responsables du délit par la partie civile ».

c) Sur la base légale des poursuites à l'encontre d'Adama Mal-Sali et de sa convocation chez le procureur de la République: les poursuites exercées contre M. 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 vidé sa saisine en déclarant 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.

d) 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 : 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 que 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 dans l'acte de saisie ne sont pas ceux communiqués aux rapporteurs spéciaux. Il y a manifestement une dénaturation délibérée des faits.

Observations

117. The Special Representative thanks the Government for its detailed response, but regrets the absence of reply to the communication sent on 7 March 2006. She urges the Government to respond to her communication and the concerns raised by her.

Central Africa (Republic of)

Communications envoyées

118. Le 1er février 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent relatif 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 d'assassinats et de nombreuses violations des droits de l'homme (et dont le nom est connu de la Représentante spéciale et des 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'État, aurait lui aussi été menacé après avoir participé, le 10 janvier 2006, à une réunion organisée par l'ECOSEFAD, une association œuvrant pour la promotion des libertés fondamentales pour ses critiques envers l'armée. Le soir même, en son absence, des individus dans un véhicule militaire auraient tenté de pénétrer dans son domicile.

119. Le 15 août 2006, la Représentante spéciale a envoyé un appel urgent concernant le vol de matériels informatiques et documents comprenant des informations confidentielles sur les adhérents de l'Organisation pour la compassion et le développement des familles en détresse (OCODEFAD), au domicile de **Bernadette Sayo Nzale**, présidente de l'organisation, ainsi que des menaces téléphoniques proférées en juillet 2006 à l'encontre de membres de cette même organisation. L'OCODEFAD, basée à Bangui, regroupe plus de 1 000 adhérents, victimes des

graves violations des droits de l'homme et du droit international humanitaire commises à l'occasion des conflits qui se sont succédés entre troupes loyalistes et rebelles depuis 2002. L'OCODEFAD a pour objectifs statutaires d'apporter un soutien économique, social et médical aux victimes et de les aider dans la constitution de plaintes auprès de la justice centrafricaine pour faire valoir leur droit à la justice et à réparation. Selon les informations reçues, le 3 août 2006, trois hommes armés se seraient introduits dans le domicile de Bernadette Sayo Nzale et auraient volé du matériel informatique et des documents appartenant à l'organisation, notamment des rapports trimestriels et des listes de victimes. Des objets de valeur, pourtant visibles dans la pièce principale, n'auraient pas été dérobés, confirmant l'hypothèse que les voleurs avaient pour but précis de ravir les documents confidentiels de l'OCODEFAD. Une personne qui rôdait près du domicile de Mme Sayo Nzale depuis plusieurs jours aurait été reconnue par un voisin comme étant un des voleurs. Ces derniers seraient passés à l'action en l'absence du gardien et des différents occupants de la maison au courant de la journée. Ce vol se serait produit une semaine après la diffusion, le 29 juillet 2006, d'un communiqué de presse de l'OCODEFAD qui exposait l'opposition des victimes adhérentes à la demande d'amnistie pour les auteurs des crimes commis en République centrafricaine depuis 2002. En représailles au communiqué de l'OCODEFAD, plusieurs des membres de l'organisation, dont sa présidente Mme Sayo Nzale, auraient reçu des menaces anonymes téléphoniques. Le 4 août 2006, Mme Sayo Nzale aurait porté plainte contre X pour vol auprès de la brigade territoriale de la gendarmerie. Cependant, le 9 août, l'avocat de l'OCODEFAD, Mathias Morouba, désireux d'obtenir copie de la plainte, aurait été informé que celle-ci était perdue. De vives craintes ont été exprimées que les actes relatés auraient pour but d'entraver les activités de défense des droits de l'homme de l'OCODEFAD, en particulier sa lutte contre l'impunité des auteurs des crimes les plus graves perpétrés depuis 2002 sur le territoire centrafricain.

Observations

120. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications.

121. Following new information received, she is extremely concerned about the situation of **Bernadette Sayo Nzale** and her family who had been receiving death threats since August 2006, and who left the country in January 2007. She would like to remind the Government of its obligation to ensure the protection of Ms Nzale and her family, in accordance with Article 12 paragraphs 2 and 3 of the Declaration on human rights defenders.

Chad

Communication envoyée

122. Le 2 mai 2006, la Représentante spéciale a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, de Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et Rapporteur spécial sur la torture, 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** et un de leurs proches, commerçants, **Noueuse Fadoul**, étudiant de 14 ou 15 ans, ainsi que d'au-moins six

autres personnes. Selon les informations reçues, le 16 avril 2006, M. Hamit aurait été arrêté, présenté à la télévision et accusé d'avoir hébergé des membres de l'opposition armée. Le 18 avril, des hommes en uniforme, apparemment membres de la police, auraient également arrêté MM. Hassan, Mahamat, 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, vers 19 heures, M. Fidel aurait été arrêté par des hommes en uniforme militaire. Son lieu de détention resterait inconnu. Enfin, le 25 avril, vers 22 heures, M. Fadoul 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 demeurent inconnues ainsi que leur lieu de détention. Il semblerait par ailleurs qu'ils n'auraient accès ni à leur famille, ni à leur avocat. Aux vues du caractère secret de ces détentions, tant concernant les causes que le lieu, des préoccupations sont exprimées concernant les possibilités de torture ou d'autres traitements inhumains auxquelles ces personnes pourraient faire face.

Observations

123. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication. She urges the Government to respond to her communication and the concerns raised by her.

Chile

Comunicaciones enviadas

124. El 16 de diciembre de 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con: **Diego Carrasco**, abogado y parte interesada a nombre de entidades de la Sociedad Civil regional en el proceso de extradición contra Alberto Fujimori, ex presidente del Perú, y Cesar Madani y July Palomino, ambos refugiados políticos peruanos en Chile y activistas que han liderado manifestaciones a favor de la extradición del Sr. Fujimori. Según la información recibida, el 30 de noviembre del 2005, unos individuos que parecían organizados habrían seguido a Diego Carrasco, y detenido y registrado su vehículo, además de dañarlo. Diego Carrasco habría sido amenazado con un arma de fuego y sus asaltantes le habrían robado su ordenador personal, documentos, teléfono celular, agenda de actividades y direcciones. Los hechos habrían ocurrido en la zona centro de la ciudad de Santiago. Días antes habría presentado una carta dirigida al Presidente Ricardo Lagos, a nombre de varias redes internacionales, en la cual se solicitaba la extradición del ex presidente Fujimori al Perú por los delitos cometidos en ese país durante su período presidencial. El 20 de noviembre del 2005, Cesar Madani habría organizado un seminario sobre refugiados y exiliados en Chile. Los días que precedieron este seminario, habría recibido varias llamadas telefónicas anónimas en las que el usuario no habría dicho nada. Además, un auto Mercedes Benz color plomo le habría estado siguiendo. El 22 de noviembre del 2005, July Palomino habría sido víctima de un robo en el centro de la ciudad de Santiago. Le habrían sustraído su teléfono móvil y su agenda de actividades. Desde entonces habría recibido constantemente llamadas anónimas amenazantes, y unos individuos la habrían seguido por la calle. El 30 de noviembre del 2005, aproximadamente a las 07.15, su domicilio habría sido allanado y registrado. Según los

informes, dos hombres y una mujer, identificándose como miembros de la Policía Internacional, sin mostrar el registro exigido por la ley, habrían entrado en su vivienda, revisaron papeles que encontraron y las habitaciones y habrían filmado todos los libros y documentos. Los hijos de la Sra. Palomino, de 9 y 2 años, se encontraban en la vivienda durante el allanamiento. Se expresaron temores de que estos incidentes constituyeran intentos de obstruir el trabajo de promoción y protección de los derechos humanos que realizan los Sres. Diego Carrasco y Cesar Mamani, y la Sra. July Palomino. También se expresaron temores por su seguridad y la de sus familias.

125. El 29 de diciembre de 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con **Juana Calfunao Paillalef** y la comunidad indígena mapuche de Juan Paillalef del municipio de Cunco, IX región, en Temuco. Juana Calfunao, tercera generación en su familia de mujeres activistas en la defensa de los derechos de la comunidad Mapuche, es *lonko* (autoridad tradicional) de su comunidad, miembro fundador de la organización no gubernamental Comisión Ética contra la Tortura y de la Red Comunitaria de Defensores de los Derechos Humanos de los Indígenas y miembro de la Red de Alternativas a la Impunidad y la Globalización del Mercado. Su situación ha sido el objeto de las comunicaciones con fechas de 23 de agosto y 22 de octubre de 2004 y 2 de septiembre 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. En un encuentro de mujeres defensoras de los derechos humanos que tuvo lugar en Colombo (Sri Lanka), a principios de diciembre de 2005, la Representante Especial tuvo el honor de entrevistarse con Juana Calfunao Paillalef, la cual la informó detalladamente sobre la situación en la que se encontraban ella misma y su comunidad. De acuerdo con nueva información llevada recientemente a la atención de la Representante Especial, el miércoles 21 de diciembre por la tarde un contingente policial integrado por fuerzas especiales de Temuco y Los Laureles habría disparado bombas lacrimógenas contra un grupo de personas de la comunidad Juan Paillalef que protestaban pacíficamente contra la construcción supuestamente ilegal de una carretera privada cuyo trazado pasaría por el centro de su comunidad rural y sus tierras. Juana Calfunao habría sido fuertemente golpeada junto a otros miembros de su comunidad mientras la policía habría disparado contra el caballo que montaba. Se alega que el 23 de diciembre, se habría producido en la comunidad otro allanamiento policial en el que las fuerzas de seguridad habrían hecho nuevamente uso excesivo de la fuerza. La policía no habría presentado a la autoridad mapuche la orden de allanamiento que requiere la ley. En esta ocasión, además de atacar la población con bombas lacrimógenas y balines, los agentes habrían destrozado viviendas, generadores eléctricos y de agua y enseres personales, y habrían esparcido alimentos. También se habrían llevado todos los materiales de trabajo agrícola y de comunicación. Un taller que se estaba reconstruyendo, después de un incendio supuestamente intencional ocurrido en julio de 2005, también habría sido arrasado. Los agentes de policía habrían confiscado todos los teléfonos móviles, dejando incomunicada a la comunidad. Juana Calfunao, que todavía estaba herida, habría sido golpeada en presencia de sus hijos y otros niños de la comunidad y detenida junto a su hermana Ana Luisa. Ambas habrían sido conducidas a la Tercera Comisaría de Padre Las Casas y no habrían sido puestas en libertad hasta el día siguiente. De acuerdo con la información recibida, habrían sido sometidas a tratos crueles, inhumanos y degradantes durante su detención. La juez del Tribunal de Garantía de Temuco, que ordenó su liberación habría tenido en cuenta las lesiones que las dos hermanas presentaban en el rostro y extremidades y habría determinado que el procedimiento en que

fueron detenidas ambas mujeres fue realizado de manera ilegal e irracional por parte de la fuerza pública a cargo del desalojo. Por otra parte, según las informaciones recibidas, existiría una orden del Ministerio Público de Temuco, en el sentido de que los carabineros de Los Laureles tendrían la responsabilidad de cuidar de manera personal a la *lonko* Calfunao. Las hermanas Calfunao habrían sido citadas para la audiencia de control de la detención en la cual la fiscalía intentó formalizar los cargos contra ellas por "desórdenes públicos" y "amenaza a Carabineros". Este procedimiento quedaría postergado hasta el 13 de febrero del 2006. Como muestran las comunicaciones enviadas previamente por mecanismos especiales de la Comisión de Derechos Humanos al Gobierno de Chile en relación con Juana Calfunao, no es la primera vez que la líder indígena y su comunidad son objeto de ataques y hostigamientos. Se teme que estos nuevos ataques contra Juana Calfunao y su comunidad estén nuevamente relacionados con su labor a favor de los derechos de las comunidades indígenas y constituyen un intento de intimidar a los integrantes de esta comunidad para que cesen sus reivindicaciones. Teniendo en cuenta estas alegaciones así como previos ataques y hostigamientos contra Juana Calfunao y su familia, se han expresado graves inquietudes por su seguridad. Estas inquietudes se extiende a todos los defensores de los derechos de la comunidad mapuche en Chile, quienes frecuentemente serían objeto de amenazas de muerte, de actos de acoso y de intimidación con el fin de presionarlos para que abandonen su lucha por su comunidad.

126. El 12 de enero de 2006, la Representante Especial, junto con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas enviaron un llamamiento urgente al Gobierno señalando informaciones recibidas en relación con **Juana Calfunao Paillalef**. De acuerdo con las informaciones recibidas, el 4 de enero de 2006 hacia las 16.00 horas la Sra. Juana Calfunao Paillalef habría sido detenida en cumplimiento de una orden expedida por el Tribunal de Garantía de Temuco, bajo los cargos de desórdenes públicos y amenazas contra los carabineros en servicio. Varios carabineros de las fuerzas especiales provistos de una orden de allanamiento e incautación de especies habrían llevado a cabo la detención en su domicilio de la Sra. Juana Calfunao Paillalef de la Sra. Mercedes Paillalef Moraga, de 71 años de edad, y de otros miembros de su familia. Estas personas habrían sido puestas en libertad tras un control de identidad, quedando solamente detenida Juana Calfunao Paillalef. El 5 de enero de 2006, Juana Calfunao Paillalef habría comparecido ante el Tribunal de Garantías en donde se le formalizaron los cargos por delitos de "desórdenes en la vía pública" y "amenazas a carabineros en servicio". El fiscal Alberto Chiffelle habría calificado a la comunidad de Juana Calfunao Paillalef como "una pandilla" y el Juzgado de Garantía de Temuco, acogiendo la solicitud del Ministerio Público, habría, a través de la Juez María Elena Llanos, decretado su prisión preventiva, "por considerarla un peligro para la sociedad". Juana Calfunao Paillalef habría sido trasladada al Centro de Cumplimiento Penitenciario Femenino de Temuco, a la espera de juicio simplificado en su contra y en contra de su hermana Luisa. El juicio debería llevarse a cabo el 13 de febrero de 2005. Ante estos antecedentes, se expresaron temores por la seguridad e integridad física de esta persona. Los Relatores Especiales y la Representante Especial instaron al Gobierno que adopte todas las medidas necesarias para proteger los derechos y las libertades de la persona mencionada, investigue, procese e imponga las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas y tome las medidas eficaces para evitar que se repitan tales hechos.

127. El 6 de marzo de 2006, la Representante Especial, junto con el Relator Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas señaló a la atención urgente del gobierno información recibida en relación con **Luisa Ana Calfunao Paillalef** y **Juana Rosa Calfunao Paillalef**. Esta última ya había sido objeto de varias comunicaciones al gobierno, entre ellas, la comunicación enviada por la Representante Especial el 12 de enero de 2006. De acuerdo con la información recibida, el 22 de febrero de 2006 se habría leído la sentencia que habría concluido el juicio iniciado la audiencia del 13 de febrero del mismo año, y que se habría desarrollado el 17 de febrero de 2006. La sentencia les habría impuesto una pena de 61 días de “presidio menor en su grado mínimo” por el delito de “desórdenes públicos” a las dos imputadas y a penas accesorias de suspensión de cargo y oficio público durante el tiempo de condena. Adicionalmente, según la información recibida, la Sra. Juana Rosa Calfunao habría recibido otra pena de 61 días de presidio por el delito de “amenaza a carabineros”. Debido al grado de las penas impuestas, el Tribunal, de oficio, les habría concedido el beneficio de la remisión condicional de la pena, bajo observación de la Gendarmería de Chile por un lapso de un año. Además, ambas habrían sido condenadas a pagar los costos del juicio. Juana Rosa Calfunao tendría otro proceso pendiente desde el 4 de enero de 2006 por los mismos delitos, “desórdenes públicos” y “amenazas a carabineros”. 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. La fecha de la audiencia de este segundo proceso no habría sido fijada por el momento. Se habían expresado graves temores que estas condenas formasen parte de una campaña de hostigamiento contra Luisa Ana Calfunao Paillalef y Juana Rosa Calfunao Paillalef y estén relacionadas con la labor que ambas personas realizan en la defensa de los derechos de su comunidad indígena, en particular con sus recientes protestas reclamando una indemnización al Ministerio de Obras Públicas por la construcción (supuestamente ilegal) de un camino privado que pasa por el centro de la comunidad rural mapuche. Los Relatores Especiales y la Representante Especial instaron al Gobierno que adopte todas las medidas necesarias para proteger los derechos y las libertades de la persona mencionada, investigue, procese e imponga las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas y tome las medidas eficaces para evitar que se repitan tales hechos.

128. El 11 de mayo de 2006, la Representante Especial, junto con el Relator Especial sobre el derecho a la alimentación, el Relator Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, el Relator Especial sobre la independencia de los magistrados y abogados, el Relator Especial sobre la promoción y la protección de los derechos humanos y las libertades fundamentales en la lucha contra el terrorismo y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente al Gobierno con respecto a información recibida sobre la situación de **Patricia Troncoso**, **Patricio Marileo Saravia**, **Jaime Marileo Saravia** y **Juan Carlos Huenulao Lienmil**, líderes y simpatizantes mapuches condenados a más de 10 años de prisión bajo la acusación de “incendio terrorista”. Según la información recibida, y referida en la comunicación anteriormente citada, en agosto de 2004, Patricia Troncoso, Patricio Marileo Saravia, Jaime Marileo Saravia y Juan Carlos Huenulao Lienmil habrían sido condenados a penas de diez años y un día de prisión después de haber sido acusados del delito de “incendio terrorista”, bajo la Ley Antiterrorista 18314, por un incendio

causado en el predio conocido como Poluco Podenco. De acuerdo con la información recibida, el juicio habría presentado irregularidades y las declaraciones de los testigos habrían presentado contradicciones. A la fecha del envío de la comunicación, los señores Patricia Troncoso, Patricio Marileo Saravia, Jaime Marileo Saravia y Juan Carlos Huenulao Lienmil se habrían encontrado en la ciudad del Angol y desde el 13 de marzo de 2006 habrían mantenido la huelga de hambre en protesta por las fuertes condenas recibidas y por la aplicación de la ley antiterrorista (que se utilizaría con frecuencia en relación con las reclamaciones agrarias y las reclamaciones para pedir un nivel de vida adecuado de los mapuches), habiéndose deteriorado gravemente su estado de salud tras más de 55 días de huelga de hambre. Se constataba con mucha preocupación que los jueces habrían aplicado la ley de manera discriminatoria; mientras que por los delitos contra la propiedad se aplican generalmente multas o penas de prisión muy cortas, en el caso de los mapuches, los jueces calificarían estos mismos delitos como actos de terrorismo y aplicarían penas de prisión muy severas, de por lo menos diez años. Se expresaron graves temores de que el uso de la Ley Antiterrorista en el caso anteriormente mencionado pudiese estar relacionado con sus actividades en defensa de derechos humanos, en particular por sus actividades en defensa de la comunidad mapuche. Además, se expresaron graves temores de que la situación de extrema fragilidad de las personas anteriormente mencionadas pudiese acarrear daños irreversibles para su salud física y psíquica y pueda poner en peligro sus vidas. Los Relatores Especiales y la Representante Especial instaron al Gobierno a que adoptase todas las medidas necesarias para proteger los derechos y las libertades de la persona mencionada, investigase, procesase e impusiese las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas y tomase las medidas eficaces para evitar que se repitan tales hechos.

129. El 30 de agosto de 2006, la Representante Especial, junto con el Relator Especial sobre la cuestión de la tortura y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas señaló a la atención urgente del Gobierno informaciones que había recibido en relación con la detención y el supuesto maltrato del joven **Waikilaf Manuel Cadin Calfunao**, miembro de la **comunidad mapuche Juan Paillalef**, Comuna de Cunco, IX Región, e hijo de la *lonko* mapuche, Juana Calfunao Paillalef, quien se encuentra detenido en la cárcel de Temuco. De acuerdo con estas informaciones, el 31 de julio de 2006, un grupo de trabajadores de la Empresa de Encomenderos Frontel habría penetrado en terrenos supuestamente pertenecientes a la Comunidad Juan Paillalef, acompañados de varios miembros de la policía, con el objetivo de cortar una hilera de árboles nativos como parte de las obras de ampliación del tendido eléctrico. Waikilaf Cadin habría intentado oponerse a la tala de los árboles, lanzándose a lomos de un caballo en contra de los trabajadores y los efectivos de la fuerza pública. Como resultado de dicha actuación, los carabineros habrían procedido a arrestar a Waikilaf Cadin. Durante su arresto y posterior detención, el Sr. Waikilaf Cadin habría sido objeto de malos tratos, y le habrían golpeado violentamente en la mayor parte del cuerpo y en el rostro. Tras ser liberado el mismo día de su arresto, el 9 de agosto de 2006 se llevó a cabo la audiencia de detención y la formalización de la investigación en contra de Waikilaf Cadin, imputándosele los cargos de daños, desórdenes en la vía pública y hurto. El 17 de agosto de 2006 Waikilaf Cadin se presentó en el Juzgado, fue detenido y trasladado en calidad de prisionero a la cárcel de Temuco. Asimismo, el caso fue trasladado a la Fiscalía Militar para que se investigasen los hechos en el plazo de cinco meses. Se dio la circunstancia de que el arresto y supuestos malos tratos sufridos por Waikilaf Cadin se dieron en el contexto del conflicto sobre la propiedad de tierras ubicadas en la Comunidad Juan Paillalef. Estas tierras, reclamadas como propiedad de la Comunidad sobre la base de títulos históricos y posesión ancestral, estarían siendo utilizadas por el Ministerio de Obras Públicas para la construcción de un camino y la

construcción de la infraestructura de servicios. Dicho uso, sin consulta a la Comunidad y sin su consentimiento, no habría dado lugar a una legítima indemnización por los daños sufridos. Asimismo, se dio la circunstancia de que Waikilaf Cadin es hijo de Juana Calfunao Paillalef, *lonko* de la Comunidad Juan Paillalef y fundadora de la organización no gubernamental Comisión Ética contra la Tortura. El caso de la Sra. Juana Calfunao había despertado la preocupación de Relatores Especiales y la Representante Especial en ocasiones anteriores, por lo que se refirieron a los llamamientos urgentes al Gobierno del 23 de agosto de 2004 [Ref. A G/SO 214 (107-4)], en relación con el incendio y destrucción de su casa en extrañas circunstancias, el 26 de junio de 2004, que condujeron al fallecimiento de Basilio Coñoenao, tío de Juana Calfunao, así como la intimidación y las amenazas supuestamente realizadas por terratenientes para que abandonaran su propiedad. En dicha comunicación, se hacía referencia asimismo a informaciones recibidas que alegaban que Juana Calfunao habría perdido un hijo como resultado de los malos tratos supuestamente recibidos por parte de carabineros. En una segunda comunicación conjunta dirigida al Gobierno en torno al caso de la Sra. Calfunao, con fecha de 26 de septiembre de 2004 [Ref. UA G/SO 214 (67-12) G/SO 214 (107-4) G/SO 214 (33-22) G/SO 214 (53-19)], se hacía referencia a las supuestas amenazas proferidas en contra de ésta y su hija de 17 años por parte de un funcionario de la Cooperación Nacional de Desarrollo Indígena (CONADI), así como a los disparos realizados en contra de la nueva vivienda de la Sra. Calfunao. En una tercera comunicación, datada el 2 de septiembre de 2005 [Ref. UA G/SO 214 (107-5) CHL 5/2005], se señaló a la atención del Gobierno de Su Excelencia un nuevo ataque incendiario contra la vivienda de la Sra. Calfunao, con serios riesgos para la vida e integridad física de su hija de siete años. En la comunicación conjunta de 12 de enero de 2006 [Ref. UA G/SO 218/2 G/SO 214 (67-13) G/SO 214 (107-5)], se hacía referencia a la detención de la Sra. Juana Calfunao y su hermana, la Sra. Ana Luisa Calfunao, bajo cargos de “desórdenes en la vía pública” y “amenaza en contra de carabineros en servicio”, en el curso de un allanamiento realizada en la Comunidad Juan Paillalef. En una comunicación posterior, enviada el pasado 6 de marzo de 2006 [Ref. UA G/SO 214 (67-13) G/SO 214 (107-5) G/SO 214 (78-11)], se hacía referencia a la imposición a las hermanas Calfunao de penas de 122 días y 61 días, respectivamente, de “presidio menor en su grado mínimo”, habiéndoseles otorgado el beneficio de la remisión condicional de la condena. En esta última comunicación se hacía referencia asimismo al proceso pendiente de Juana Calfunao, que, tras una primera condena penal, podría conducir a la aplicación de una agravante de reiteración en virtud del artículo 397 del Código Penal chileno. Ello podría llevar a la imposición de una pena de prisión de hasta tres años y un día. Como muestra del compromiso del Gobierno con el trabajo de los mecanismos especiales con mandato de la Comisión de Derechos Humanos, las anteriores comunicaciones fueron objeto de dos cartas de respuesta, con fechas de 22 de octubre de 2002 y 15 de septiembre de 2005 respectivamente. Ante los antecedentes, expresaron temores por la seguridad e integridad física del Sr. Waikilaf Manuel Cadin Calfunao durante su estancia en prisión y porque el arresto de Waikilaf estaría relacionado con la defensa del derecho a la tierra de la Comunidad Juan Paillalef, y en particular con el destacado papel de su madre, Juana Calfunao, como *lonko* de dicha Comunidad. En este sentido, se llamó la atención del Gobierno a lo señalado por el informe del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas sobre su visita a Chile (E/CN.4/2004/80/Add.3), en lo referente al “incremento de conflictividad en la zona mapuche en las Regiones VIII, IX y X”, la mayor parte de los cuales tendrían “su origen en reclamaciones agrarias de los mapuches” (párr. 28). El Relator Especial fue informado sobre un incremento en el nivel de conflictividad en la zona mapuche incluyendo en las regiones VIII, IX y X. La mayor parte de los conflictos reportados tienen su origen en reclamaciones agrarias de los mapuches y en términos generales pueden

quedar descritos bajo tres tipos de conflictos: *a)* Movilizaciones sociales como medidas de presión por parte de los interesados que han presentado demandas de ampliación o restitución de tierras que no han sido satisfechas; *b)* Ocupación de las tierras demandadas, como acciones de presión directa y de propaganda; *c)* Ocupación de tierras no ligadas a procedimientos de reclamación en curso, que implican acciones de hecho calificadas como graves (incendio de plantaciones forestales y de instalaciones, destrucción de equipos y cercados, cierre de vías de comunicación) y enfrentamientos con la fuerza pública. Como se puede apreciar, los límites entre estos tres tipos de conflictividad no son precisos y en algunos casos se puede observar un tránsito entre ellos según se retardan o dificultan las soluciones a las demandas de ampliación y restitución agraria. Cabe además hacer notar que el tercer tipo de conflictividad, el más grave, se concentra especialmente en las provincias que muestran mayor concentración indígena e índices de pobreza más elevados y que fueron objeto, entre 1973 y 1990, de procesos de reversión de las medidas adoptadas en aplicación de la Reforma Agraria. De igual manera, los Relatores Especiales y la Representante Especial se refirieron a las disposiciones relativas al derecho de los pueblos indígenas sobre sus tierras y recursos naturales recogidas en el proyecto de declaración de los derechos de los pueblos indígenas, aprobado por el Consejo de Derechos Humanos, y en particular el párrafo 1 del artículo 26, que estipula que los pueblos indígenas “tienen derecho a las tierras, territorios y recursos que poseen en razón de la propiedad tradicional u de otra forma tradicional de ocupación o utilización, así como a los que hayan adquirido de otra forma”; y el párrafo 1 del artículo 27, que establece que los pueblos indígenas “tienen derecho a la reparación, por medios que pueden incluir la restitución o, cuando ello no sea posible, una indemnización justa, imparcial y equitativa, por las tierras, los territorios y los recursos que tradicionalmente hayan poseído u ocupado o utilizado de otra forma y que hayan sido confiscados, tomados, ocupados, utilizados o dañados sin su consentimiento libre, previo e informado”. Los Relatores Especiales y la Representante Especial instaron al Gobierno que adopte todas las medidas necesarias para proteger los derechos y las libertades de Waikalaf Manuel Cadin Calfunao. Asimismo le instaron que tome las medidas eficaces para lograr una solución constructiva al conflicto en torno a las tierras de la Comunidad Juan Paillalef.

130. El 27 de octubre de 2006, la Representante Especial, junto con el Relator Especial sobre la cuestión de la tortura y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas agradecieron al Gobierno por la información transmitida y el interés demostrado en el caso del Sr. **Waikalaf Manuel Cadin Calfunao**. Notaron que, independientemente del mal comportamiento del recluso, la minuta transmitida por el Gobierno no hacía referencia a las alegaciones de maltrato físico y discriminación sufridos por el Sr. Cadin Calfunao en el curso de su arresto y posterior estancia en prisión, alegaciones que constituían el objeto de su anterior comunicación. Los Relatores Especiales y la Representante Especial quisieron volver a señalar a la atención urgente del Gobierno las alegaciones que continuaron recibiendo en este sentido. Según las nuevas informaciones recibidas en relación con este caso: Tras su detención el 17 de agosto de 2006 y su posterior internamiento en la cárcel de Temuco, el Sr. Cadin Calfunao habría alegado haber sido objeto de malos tratos y trato discriminatorio por parte de las fuerzas del orden público. Según las alegaciones, el pasado 7 de septiembre de 2006 el abogado defensor del Sr. Cadin Calfunao habría constatado que su cliente presentaba graves quemaduras en la espalda. Según la versión policial, estas quemaduras habrían sido causadas por los reclusos de la cárcel de Temuco, quienes supuestamente le habrían arrojado agua hirviendo. Asimismo, la nueva comunicación recibida informaba que, como medida de protesta contra los supuestos maltratos de los que ha sido objeto y su supuesta detención arbitraria, el Sr. Cadin Calfunao habría iniciado una huelga de hambre y sed el 8 de

octubre de 2006. Después de cuatro días, y tras presentar una crisis en su estado general de salud, el joven mapuche tuvo que ser trasladado al Hospital Hernán Henríquez de Temuco. Luego de ser sometido a un chequeo por parte de los facultativos, fue reingresado en el Centro de Cumplimiento Penitenciario de Temuco. El 17 de octubre, el Sr. Cardin Calfunao habría sido trasladado a la cárcel de alta seguridad de Santiago, alejándolo de los miembros de su familia y de su Comunidad. Se expresó preocupación por la seguridad y la integridad física de Waikilaf Manuel Cadin Calfunao durante su estancia en prisión y, en particular, como resultado de su huelga de hambre y sed. Se temía asimismo que la detención y el supuesto maltrato del Sr. Cadin Calfunao estuviesen relacionados con la defensa del derecho a la tierra de la Comunidad Juan Paillalef, y en particular con el destacado papel de su madre, Juana Calfunao, en la defensa de los derechos de los pueblos indígenas. Se dio la circunstancia que Juana Calfunao Paillalef había sido objeto de comunicaciones de 23 de agosto y 22 de octubre de 2004, y 2 de septiembre y 29 de diciembre de 2005, remitidas al Gobierno por titulares de distintos mecanismos especiales de la Comisión de Derechos Humanos y a las que el Gobierno respondió en cartas fechadas el 27 de diciembre de 2004 y el 6 de octubre de 2005. Los Relatores Especiales y la Representante Especial hicieron un llamamiento al Gobierno para que protegiera la integridad física y mental del Sr. Waikilaf Manuel Cadin Calfunao, e investigara, procesara e impusiera las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas, de conformidad, entre otros, a la Declaración Universal de Derechos Humanos, el Pacto Internacional de Derechos Civiles y Políticos, la Declaración sobre la Protección de todas las Personas contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes y la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes. Instaron, asimismo, el Gobierno a que tomase las medidas eficaces para evitar que se repitan tales hechos.

131. Con carta de fecha 1.º de diciembre de 2006, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, acusó recibo de la comunicación enviada por el Gobierno de fecha 11 de noviembre de 2006. En dicha minuta, se incluía una descripción sobre los desórdenes acaecidos en la audiencia pública seguida en contra de Juana Calfunao el 15 de noviembre de 2006, así como de la detención de nuevos miembros de la familia de Juana Calfunao y otros comuneros mapuche a raíz de tales hechos. Según nuevas informaciones recibidas, Juana Calfunao, así como su esposo, Antonio Cadin, su hermana, Luisa Calfunao, y su hijo, Jorge Cadin Calfunao, habrían sido objeto de presuntos maltratos físicos y trato degradante en el curso de su detención tras los hechos acaecidos en la audiencia pública seguida en contra de Juana Calfunao el 15 de noviembre de 2006. Asimismo, se indicaba que, como resultado de dichos acontecimientos, Juana Calfunao habría sufrido un ataque nervioso y, a consecuencia de ello, habría tenido que ser trasladada a la sección de Psiquiatría del Hospital Regional de Temuco. Se alegaba que Juana Calfunao no estaría recibiendo un tratamiento adecuado en dicha sección. Asimismo, se alegaba que Jorge Cadin Calfunao habría continuado con la huelga de hambre iniciada el pasado 8 de octubre durante su reclusión en un penal de alta seguridad de Santiago, pasando supuestamente a huelga de hambre y sed el 17 de noviembre. Las informaciones recibidas hacían referencia a la evaluación médica independiente llevada a cabo de Jorge Cadin Calfunao el 8 de noviembre, en virtud de la cual se atestiguaría una disminución severa de peso y de su masa muscular, con desnutrición severa y serios riesgos de alteraciones cardiorrespiratorias, renales, inmunológicas, gastrointestinales que podrían generar riesgos a su vida. En dicha visita se habrían atestiguado asimismo presuntos síntomas de agresiones físicas sufridas a raíz de su detención y posterior internamiento en el penal de Temuco. Se expresaba el temor de que el estado físico de Jorge Cadin Calfunao hubiese podido degenerar en los últimos días previos a la comunicación a raíz de

la continuación de su huelga de hambre. Se continuaba temiendo que la preocupante situación que atravesaba Juana Calfunao, su hijo, Jorge Cadin Calfunao, y otros miembros de su familia, podrían estar relacionados con un clima de hostigamiento en contra de Juana Calfunao, a raíz de su trabajo en defensa de los derechos de la comunidad indígena Juan Paillalef y otras comunidades del pueblo mapuche. Se expresaban además serios temores por la integridad física y mental de Juana Calfunao, de su hijo, Jorge Cadin Calfunao y de otros miembros de su familia que permanecen en prisión.

Comunicaciones recibidas

132. Por carta con fecha de 23 de noviembre de 2006, la Misión Permanente de Chile transmitió la siguiente información con respecto a la situación de Juana Calfunao Paillalef: el 15 de noviembre de 2006 en el tribunal de garantías de Temuco, a las 12.30 horas, al finalizar la audiencia de juicio simplificado por desórdenes acaecidos el 2 y 4 de enero de 2006 en Los Laureles, comuna de Cunco, en contra de Juana Calfunao Paillalef, dicha sesión debió suspenderse, ya que la imputada junto a otras 10 personas, agredieron a los fiscales y a algunos funcionarios, quienes sufrieron lesiones, aparentemente menores; una vez que golpearon a los funcionarios públicos, fueron detenidos en el exterior por carabineros seis mujeres y cuatro hombres. Huyó el hijo de la imputada, Sr. Jorge Landeros Calfunao. Durante la tarde del día 16 de noviembre de 2006, fue detenido por carabineros Jorge Landeros Calfunao, quién participó también en la golpiza de funcionarios del tribunal. Asimismo, el abogado de Juana Calfunao, Freddy Barriga, habría renunciado a representarla, luego del ataque a los funcionarios. Por último, 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 este 2006 en la comuna de Los Laureles. Cabe recordar que Juana Calfunao actualmente cumple una pena remitida por desórdenes públicos y amenazas a carabineros por hechos ocurridos en diciembre de 2005 también en Los Laureles.

133. Mediante comunicación del 23 de mayo de 2006, el Gobierno de Chile proporcionó información con respecto al llamamiento enviado el 11 de mayo. Indicó que los hechos por los que fueron condenados **Juan Patricio Marileo Saravia, Juan Henulao Lienmil, Florencio Jaime Marileo Saravio y Patricia Troncoso Robles**, se encontraban previamente tipificados como delitos en la ley penal y en la ley antiterrorista, al igual que sus penas (pena estipulada para el delito de incendio). Indicó que se trataba del incendio de los fundos Poluco y Pidenco, ubicados en la Provincia de Malleco, Comuna de Ercilla (IX Región), propiedad de la empresa forestal MININCO S.A., que ocasionó un daño cercano a los 600.000 dólares de los Estados Unidos de América. El Gobierno declaró que se cumplieron los principios del debido proceso. Afirmó que los inculcados, de acuerdo con lo dispuesto en el párrafo 3 del artículo 19 de la Constitución Política, contaron con defensa jurídica desde el inicio mismo de la causa, la que fue proporcionada por la Defensoría Penal Pública. Afirmó que hicieron uso de los recursos que proporciona la ley para impugnar las resoluciones judiciales: recurso de nulidad, de amparo y revisión. Por lo que se refiere a la invocación de la ley antiterrorista, el Gobierno afirmó que la Presidenta de la República, Sra. Michelle Bachelet, se ha comprometido a que el ejecutivo no invocará la aplicación de la Ley Antiterrorista, al hacer la denuncia o querrela que corresponda, cuando en hechos futuros tipificados como delitos por la Ley Antiterrorista y que puedan ser juzgados por la ley común se vean involucrados indígenas. Resaltó que, de todas maneras, en el caso concreto del delito de incendio, la pena que establece el Código Penal es tan grave como la que establece la Ley Antiterrorista. Destacó que los Senadores Alejandro Navarro y Jaime

Naranjo presentaron un proyecto de ley, sobre la libertad condicional, con el objeto de modificar el Decreto Ley N.º 321. Dicho proyecto establece la posibilidad de otorgar la libertad condicional a los condenados a penas privativas de libertad por delitos contemplados en la Ley 18314 (Ley Antiterrorista), y a los condenados por delitos sancionados en otros cuerpos legales, en causas relacionadas con reivindicaciones violentas de derechos consagrados en la Ley 19253 (Ley Indígena), siempre que los hechos punibles hayan ocurrido entre el 1.º de enero de 1997 y el 1.º de enero de 2006, y los mismos condenados suscriban en forma previa una declaración inequívoca y favorable al no uso de la violencia en la reivindicación de derechos establecidos en la Ley 19253 y en el derecho internacional de los pueblos indígenas. El 15 de mayo de 2006, el Ministro del Interior comunicó que el Gobierno había puesto “suma urgencia” a la tramitación del Proyecto de Ley para modificar el Decreto Ley 321. Con motivo de la presentación del citado proyecto, el 14 de mayo de 2006 los cuatro afectados mencionados anteriormente depusieron temporalmente la huelga de hambre, a la espera de los resultados de la tramitación del proyecto de ley.

134. El Gobierno especificó que la situación objeto de la comunicación no responde a una persecución política hacia el movimiento indígena o mapuche. A su vez, el Gobierno señaló antecedentes que a continuación se citan:

a) Sectores minoritarios ligados a la reivindicación de derechos territoriales indígenas iniciaron a partir del año 1999, una ofensiva destinada a ejecutar acciones contra empresas forestales y agricultores en algunas provincias de la VIII y IX regiones, consistentes en ocupaciones ilegales, robos y hurtos, incendios de bosques y plantíos, de edificaciones y casas patronales, así como incendios de maquinaria agrícola y forestal, vehículos y ataques a trabajadores y brigadistas forestales, a carabineros y propietarios de los predios mapuches por no aceptar estos métodos de acción. Estas acciones se diferenciaron de la conducta de la gran mayoría de las organizaciones indígenas quienes no recurren a la violencia para reivindicar sus legítimas aspiraciones;

b) La aplicación de la Ley Antiterrorista fue invocada frente a situaciones de extrema gravedad, lo que ha ocurrido en nueve procesos desde 2001 hasta la fecha. En la actualidad existen 9 personas de ascendencia indígena condenadas por esta Ley;

c) Las acciones judiciales iniciadas estuvieron encaminadas a castigar a los autores de delitos y no al pueblo mapuche. Sancionar a quienes cometen un delito no implica criminalizar una reivindicación social y menos a todo un pueblo;

d) El Estado de Chile ha reconocido como legítima la demanda de los pueblos indígenas, en especial del mapuche. Estas demandas han sido permanentemente asumidas por los Gobiernos democráticos y encauzadas por mecanismos y canales institucionales. En este sentido, la protección de la tierra se encuentra consagrada por la Ley Indígena N.º 19253, desde 1993, lo que ha permitido traspasar a la fecha aproximadamente 400.000 hectáreas de tierra a más de 500 comunidades a lo largo del país;

e) En Chile, ni el Presidente de la República, ni el Congreso, pueden, en caso alguno, ejercer las funciones judiciales, avocarse a causas pendientes, revisar los fundamentos o contenidos de sus resoluciones o hacer revivir procesos fenecidos (art. 73 de la Constitución Política). En consecuencia, el Ejecutivo no puede, bajo circunstancia alguna, revisar, modificar o anular un fallo judicial.

135. Con carta en fecha de 17 de octubre de 2006, el Gobierno informó de que el 9 de agosto de 2006 tuvo lugar en Temuco la Audiencia de Control de la detención, formalización de la investigación y medidas cautelares en contra del imputado **Waikilaf Cadín Calfunao** de 24

años, ante el Juez de Garantía Sr. Federico Gutiérrez, con la participación del Fiscal Cristian Paredes y de los abogados de la Defensoría Penal Pública Ricardo Cáceres y Jaime Lopez. En un comienzo el imputado no aceptó la representación de los abogados de la Defensoría Penal, por cuanto él tenía un abogado de su confianza, Freddy Barriga. Posteriormente aceptó la representación. Se solicitó la ilegalidad de la detención, en cuanto fue precedida de un control de identidad que no se ajustaba a los términos del artículo 85 del Código de Procedimiento Penal, y que en definitiva era una privación de la libertad. El tribunal rechazó la petición de la defensa, por cuanto la detención estaba precedida de una orden judicial. La defensa efectuó una denuncia por apremios físicos de parte de los funcionarios aprehensores. El tribunal tiene formulada la denuncia por parte de la defensa del Sr. Cadín por apremios físicos, debiendo remitirse dicha denuncia al juzgado militar competente. Waikalif Cadin fue acusado de los siguientes delitos: secuestro en la persona de los seis trabajadores de la empresa Innovateck (Código Penal, art. 141); daños calificados en perjuicio a la empresa Innovateck (art. 485, párr. 4); desórdenes públicos (art. 269); porte ilegal de arma blanca, (art. 188 bis); hurto (art. 446). El tribunal resolvió que se contaban con los antecedentes que justificaban el hecho delictivo y la participación en los delitos de desórdenes públicos, hurto y daños, no así respecto del secuestro y del porte de arma blanca. Por otra parte, la secretaría Ministerial de Justicia, IX Región de la Araucanía, recibió de la Asociación de Funcionarios Penitenciarios de la Provincia de Cautín, IX Región, un oficio el cual da a conocer maltratos recibidos a los gendarmes de la guardia interna del Centro de Cumplimiento Penitenciario de Temuco, por parte del interno, Waikalif Cadín, además de la instigación a los otros internos provocando desórdenes y desmanes dentro de la mencionada Unidad del Penal donde se encuentra recluido. Finalmente, el Alcaide del citado Centro de Cumplimiento Penitenciario informó a la juez del Juzgado de garantía de Temuco, del trato grosero y amenazante al personal por parte del Sr. Cadín, instruyendo al personal de no reaccionar antes sus provocaciones.

Observaciones

136. The Special Representative thanks the Government of Chile for its detailed responses to her communications, however she remains gravely concerned that the majority of the communications sent in 2006 relate to the indigenous mapuche community. She is particularly concerned about reports that **Juana Calfunao Paillalef** and her sister **Luisa Ana Calfunao Paillalef** have been subjected to inhuman and degrading treatment whilst in prison and that Sra Calfunao Paillalef was beaten by police officers, once in the presence of her young children. She is also disappointed to learn that the Public Prosecutor, Sr. Alberto Chiffelle publicly denounced Sra. Calfunao Paillalef's community by referring to them as a 'group of bandits'. The Special Representative would urge the Government of Chile to respond to her communication and clarify the facts of this case.

137. The Special Representative also wishes to express her concern regarding **Waikalif Calfunao** who is also reported to have been subjected to inhuman and degrading treatment whilst in detention, including being doused with boiling water. Whilst the Special Representative appreciates the detailed report of the Government of the legal proceedings against **Juana Calfunao Paillalef** and her son **Waikalif Calfunao** she would urge the Government to provide a detailed response assuring her that an investigation is being carried out into the serious allegations of police misconduct resulting in the ill-treatment of the aforementioned individuals along with other family members, including **Caldin Calfunao**.

138. The Special Representative urges the Government of Chile to take measures to review the law in relation to the indigenous communities in Chile, and in this regard she wishes to remind the Government of its obligations under Article 12, paragraph 2 of the previously mentioned Declaration on Human Rights Defenders, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.

China (People’s Republic of)

Communications sent

139. On 12 December 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Dae Sub Hwang**, Korean Catholic Farmers Association, **Kyoung Kyu Yang**, **Dae Hyuk Lim**, both from the Korean Confederation of Trade Unions, **Seung Kyu Kang**, **Young Hoon Lee**, **In Hwan Park**, **Il Kwon Yoon**, **Suk Namgung**, **Chang Joon Kim**, **Dong Ung Han**, **Hyung Jin Lee**, all from the Korean Peasants League (KPL), **Chien Ching Lee**, Taiwanese student, **Kosuke Makakiri**, Japanese journalist for People newspaper, and others detained at the World Trade Organisation (WTO) Ministerial meeting in Hong Kong. According to the information received: On 18 December 2005, at approximately 0300h, over 600 peaceful protesters were arrested at the WTO Ministerial meeting in Hong Kong. The persons mentioned above and one other individual remain in detention and have been charged with unlawful assembly under the Hong Kong Public Order Ordinance. They face trial on 23 December 2005 at the Kwun Tong Magistrates Court, Hong Kong. According to reports many of those arrested were mishandled by the police and were denied medical aid, food, water and bathroom facilities. Concern was expressed that these protesters had been arrested in an attempt to prevent them from carrying out their human rights activities.

140. On 14 December 2005, the Special Representative, with the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression and on the right to adequate housing sent an urgent appeal in relation to the detention of approximately **sixty human rights defenders who attempted to express their concern over ongoing forced evictions** and lack of protection of adequate housing of affected communities in Shanghai. According to the information received, on 1 December 2005, 60 persons were detained in front of the Oriental Pearl building in Shanghai as they attempted to deliver a letter addressed to United Nations Secretary-General, Kofi Annan, to United Nations officials who were attending the United Nations Global Compact Summit. Approximately 40 of the activists were detained at the Century Plaza police station in Pudong, Shanghai and were subsequently released and another 20 were returned to their home districts by local district officials. One of the activists, **Cai Wenjun**, who had only just been released after serving one year of “Re-education through Labour”, was officially notified that she remains under police investigation on suspicion of ‘disturbing public order’. Concern was expressed that the obstruction and detention of the 60 housing rights activists from delivering their letter to United Nations officials was an attempt to prevent them from raising human rights concerns.

141. On 21 December 2005, the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers sent an allegation letter in relation to the detention concerning **Gao Zhisheng**, a lawyer in Beijing. Gao Zhisheng was the subject of a previously transmitted communication by the Special Representative and the Special Rapporteur on the independence of judges and lawyers, dated 25 November 2005. According to the allegations received, on 2 December 2005, his law firm, Shengzhhi Law Firm, was ordered by the Justice Bureau, Beijing, to cease operations from 30 November 2005 to 29 November 2006. The authorities ruled that the firm improperly changed its registration when it moved office in June 2005, in contravention of Lawyers Law, article 9(2); and failed to use the firm's formal letterhead (article 47 of the Lawyers Law) when it issued a letter of introduction for two of its lawyers, one of whom was not registered at the firm, to visit a client, Mr Yang Maodong, detained in Gunagzhou Panyu Police Detention Centre. Accordingly Mr Gao was required to hand over the firm's license, official stamps, financial records, and licences of its lawyers to the authorities before 29 December, or face further penalties. He met with the Special Rapporteur on the question of torture during his recent mission to China, in the context of his work as a human rights defender, including in areas related to the mandate. Concern is expressed that Gao Zhisheng, has been specifically targeted because of his work as a human rights defender.

142. On 5 January 2006, the Special Representative together with the Special Rapporteur on the question of torture sent an urgent appeal concerning information received regarding **Mao Hengfeng**. According to information received, on 28 December 2005 in the afternoon, she was among about a dozen persons who were detained in Beijing by police when they went to view the ceremonial lowering of the flag in Tiananmen Square. **Mao Hengfeng**, who has petitioned the Government in relation to a number of human rights violations, and her two daughters, along with petitioners **Zhang Cuizhi** and **Zhang Xueying**, were forcibly taken to Beijing's Tianhai Reception Center that evening, while the others were immediately put onto the next train back for Shanghai. Among the latter group, **Sun Xicheng**, **He Guoguang** and others were reportedly beaten by Shanghai officials (jiefang renyuan). Sun Xicheng suffered a concussion as a result of his beating. Mao Hengfeng was dragged by her feet down a flight of stairs by three policemen. She and her daughters, along with Zhang Cuizhi and Zhang Xueying, were forced to return to Shanghai by train on the evening of December 29. Following her arrival in Shanghai on December 30, Mao Hengfeng immediately returned to Beijing with her daughters, but early on the morning of 1 January 2006, she was detained again and forcibly returned to Shanghai, where she and her daughters were taken directly to the Yangpu District dispatch station. Mao Hengfeng's daughters were released that afternoon, but she remains in custody of the Daqiao neighborhood municipal office. When her husband telephoned an official, Mr Jiang, he indicated that she would remain for several days. Her family has had no contact with her since her detention in Daqiao. Mao Hengfeng (the subject of a previously transmitted communication, E/CN.4/2005/62/Add.1, para. 296) was interviewed on 24 November 2005 during the mission to China of the Special Rapporteur on the question of torture. The Special Rapporteurs have also received information to the effect that on 15 December, petitioners **Zhou Xiudi**, **Chen Zonglai**, **Wu Yuping**, **Jin Huijun** and others were placed under criminal detention on charges of "disturbing public order" by Shanghai Hongkou public security authorities for their participation in a petition to the Shanghai municipal committee conference. On 22 December, Shanghai petitioner Ma Yalian was also detained by local police and neighbourhood committee members and held until 28 December without informing her family of her whereabouts. Mao Hengfeng has been frequently detained by the police and Residents' Committee since she was released

from a "Re-education through Labour" camp on 13 September 2005. She had been sent there in April 2004 because of her persistence in petitioning the authorities about being forced to have an abortion and being dismissed from her job in 1988. While detained in the "Re-education through Labour" facility, she was reportedly tied up, suspended from the ceiling and severely beaten. Since her release, she has continued to petition the authorities about this torture and ill-treatment, as well as the former abuses. She has also protested about other alleged victims of human rights violations, including people held in psychiatric hospitals and Shanghai residents who claim to have been evicted from their homes without adequate compensation. Because of his active support for Mao Hengfeng, **Wu Xuwei** may be at risk of human rights violations such as arbitrary detention, but is not thought to be in immediate danger.

143. On 19 January 2006, the Special Representative sent an urgent appeal regarding **Kyoung Kyu Yang** of the Korean Federation of Trade Unions, In Hwan Park and Il Kwon Yoon of the Korean Peasants League, who were arrested and detained while protesting at the World Trade Organization meeting in Hong Kong on 18 December 2005. Together with **Dae Sub Hwang** of the Korean Catholic Farmers Association, **Kyoung Kyu Yang**, **Dae Hyuk Lim**, both from the Korean Confederation of Trade Unions, **Seung Kyu Kang**, **Young Hoon Lee**, **Suk Namgung**, **Chang Joon Kim**, **Dong Ung Han**, **Hyung Jin Lee**, all from Korean Peasants League (KPL), **Chien Ching Lee**, Taiwanese Student and **Kosuke Makakiri**, Japanese journalist for People Newspaper, the three above named persons were the subject of an urgent appeal sent by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 22 December 2005. According to the information received, on 11 January 2006, Kyoung Kyu Yang, In Hwan Park and Il Kwon Yoon were released on bail and allowed return to their home country however the charge of unlawful assembly remains pending against them. The charges against the other persons mentioned above were dropped on 11 January 2006, but all persons named above had been detained for one week and many were mishandled or beaten by the police and were denied medical, aid, food, water and bathroom facilities and access to interpreters.

144. On 1 February 2006, the Special Representative together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning **Ms Mao Hengfeng**. She has been the subject of previously transmitted communications (e.g. E/CN.4/2005/62/Add.1, para. 296, and 5 January 2006. Mao Hengfeng was interviewed on 24 November 2005 during the recent mission of the Special Rapporteur on the question of torture to China. According to the information received, on 15 January, Mao Hengfeng had traveled to Beijing with her daughter to take part in an unofficial memorial service marking the first anniversary of the death of former Chinese leader Zhao Ziyang. On 24 January, they were detained by four Shanghai police officers at their hotel in Beijing. According to her daughter, the police treated Mao Hengfeng roughly, lifting her in an arm-lock and leaving her with bruising to her neck, arms and legs. The police took them to another hotel where Shanghai Residents' Committee officials were waiting to take them back to Shanghai by train. When the train arrived in Shanghai early the next day, Mao's daughter was released but Mao Hengfeng was taken to Daqiao Police Station, Yangpu district. She was held there for questioning for 24 hours. The next morning, Mao was able to telephone her husband, Wu Xuwei. She told him that she was being taken away from the police station by Yangpu district Residents' Committee officials but that she did not know where. He then heard Mao Hengfeng scream and the line went dead. Wu Xuwei immediately telephoned the district

Residents' Committee to find out where his wife was being taken, but they first denied that they were holding her. After repeated calls, the committee secretary confirmed that Mao Hengfeng was "in their hands" and that they wanted to "educate her" because her protests about human rights violations were creating "social instability". They have refused to indicate where she is detained and her family has not had access to her. With respect to her detention as alleged in the 5 January 2006 letter, further information received indicates that she was detained by seven Residents' Committee officials in a Shanghai hotel from 3-6 January. The officials reportedly beat her several times, grabbed her breasts and prevented her from sleeping during this period.

145. On 9 February 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an allegation letter concerning **Ma Yalian**, a housing rights activist and cyber dissident. Ma Yalian was the subject of an urgent appeal sent on 5 January 2006 by the Special Rapporteur on the question of torture and the Special Representative. As a cyber dissident, she has posted articles on the internet which have criticised China's administrative complaint and adjudication system. According to the information received, on 14 January 2006 Ma Yalian was arrested by police and taken to the Residents' Committee office of Haungpu district, Shanghai. It is reported that when in the police car, Ma Yalian's hands were cuffed behind her back and her head was covered. It is alleged that she was taken from the Residents' Committee office to a hotel. At the hotel, her hands and legs were tied for 24 hours. According to the information received, she was then transferred to another hotel, where her room was guarded by two policewomen and three policemen. It is 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. It is reported that no legal document was presented to Ma Yalian to justify her detention, and that she was released on 2 February 2006. Ma Yalian was previously arrested and detained between 22 December 2005 and 28 December 2005. On March 16 2004 the Shanghai Re-Education through Labour Management Committee sent Ma Yalian to a Re-Education through Labour Management camp for one year and six months for "disturbing social order and security". It is also reported that in August 2001 Ma Yalian was sentenced to serve one year in a Re-Education through Labour Management camp. Concern was expressed that Ma Yalian's arrest and detention are connected with her activities in defence of human rights and her criticism of the Chinese authorities.

146. On 6 March 2006, the Special Representative together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **Gao Zhisheng**, lawyer and director of the Shengzi Law Office in Beijing, and **Yang Maodong**, also known as Guo Feixiong, lawyer in the Shengzi Law Office in Beijing. Gao Zhisheng was the subject of previous communications by the Special Representative and the Special Rapporteur on the independence of judges and lawyers, dated 25 November 2005; and by the Special Representative, the Special Rapporteur on the question of torture and the Special Rapporteur on the independence of judges and lawyers, dated 21 December 2005. According to the information received around 10:30pm on 17 January 2006, Gao Zhisheng was driving in Beijing when a car travelling in front of him stopped suddenly, and he narrowly avoided colliding with it. The car in front had its license plates covered with newspaper. As he got out of his car, the car in front of him started moving towards him, forcing him to jump out of its path in order to save himself from being run over. A military vehicle had been following behind his car, also with covered license plates, leading Gao Zhisheng to believe that the incident was instigated by the authorities.

Both vehicles left the scene immediately after the event. Gao Zhisheng has been working in a number of high-profile cases, including a land dispute case in Taishi village. **Yang Maodong** has been providing legal assistance to villagers in Taishi, Guangdong province, in a local corruption case. It is reported that on 4 February 2006 he was detained in Linbe Police Station in Guangzhou for 12 hours after visiting Taishi village, with another lawyer, **Tang Jingling**. On their release, they were reportedly beaten by a group of unidentified men. It is alleged that on 8 February, Yang Maodong issued an open letter addressed to the authorities protesting the excessive use of force in government crackdowns on recent demonstrations, forced evictions, violence against human rights lawyers and tightening of media censorship. He began a hunger strike, with the support of Gao Zhisheng, to pressure the authorities to engage in a dialogue with villagers in order to avoid escalation of rural land disputes and to guarantee local democracy. It is alleged that Yang Maodong was immediately arrested without being informed of the charges. It is reported that he was released on 9 February. Nevertheless, it would appear that since then he and his family have been under permanent surveillance. It was alleged that between 9 and 13 February, 20 policemen were on guard in front of his house and seven still remained thereafter. It was alleged that the policemen follow Yang Maodong, his wife and their children, every time they go out.

147. On 7 April 2006, the Special Representative together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **Chen Guangcheng**, a blind self-educated lawyer. Chen Guangcheng was already the subject of a communication sent on 31 October 2005 by the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative, and of a communication sent on 19 September 2005 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative. Receipt of the Government's reply dated 12 December 2005 was acknowledged. It states that Chen Guangchen is suspected of having violated article 111 of the criminal code of the People's Republic by contacting illegal overseas organizations and receiving funding from them and was under Public Security Bureau investigation, therefore his detention could not be considered arbitrary. However, the Rapporteurs' concerns with respect to this case, particularly so in the light of more recent reports with regard to his access to legal counsel, were not alleviated. As already stated in previous communications, it was alleged that on 6 September 2005 Chen Guancheng was arrested in Beijing by Police from Shandong Province, in order to prevent him from getting advice from lawyers on the accusations against him related to his campaign against the use of forced sterilization and abortion in the city of Linyi. It is reported that the local police took him back to Linyi and placed him under house arrest, and that since then his house has been surrounded by up to 50 men and many cars, his landline and mobile phone services have been cut off and his computer seized. It is reported that on 4 October 2005, law lecturer Xu Zhiyong and lawyers Li Fangping and Li Subin attempted to visit him and tried to negotiate with local officials to have his house arrest lifted, but they were stopped on their way to the house. However, Chen reportedly managed to leave his house and spoke with them briefly, but was then forcibly taken back. The lawyers tried to go to Chen's house, but they were stopped and reportedly beaten up and taken to a police station where they were interrogated. They were told that the case now involved "state secrets" and escorted back to Beijing. On 10 October 2005, Chen Guangcheng's cousin Chen Guangli and another villager also surnamed

Chen, who had been giving interviews about Chen Guangcheng's situation to foreign reporters, were reportedly detained. It is alleged that on 24 October, two other Beijing scholars and friends of Chen Guangcheng went to visit him. As Chen ran out to greet them, he was stopped and beaten by more than 20 men stationed outside. Lawyer Teng Biao reportedly filed a lawsuit on Chen's behalf regarding this incident, before the People's Court of Yinan Country. However, reportedly the Court has so far ignored the suit. According to information received since the Government's reply, on 2 February 2006 a neighbour of Chen Guangcheng's, Mr Chen Hua, walked past Chen Guangcheng's house and protested against his detention to the policemen standing guard in front of the house. As a result, he was beaten. It is reported that on 4 February 2006, Mr Chen Hua was arrested and that he has not been allowed to contact his lawyer. Moreover, it is reported that on 11 March 2006, Chen Guangcheng's neighbour and cousin, Mr Chen Guangyu, was beaten by four hooded men who were waiting for him nearby his home. It is reported that when Chen Guangcheng discovered this, he went from his house with another villager, Chen Guangjun, to the Yinan Local Government to seek an investigation into the beating. It is alleged that when they were a few meters from the house, the three of them were arrested (Chen Guangcheng, Chen Guangyu and Chen Guangjun) by officers of the Yinan Public Security Bureau, and taken to the local police station. It is reported that their families were notified that they would be detained for 24 hours in order to investigate their participation in an offence named "blocking the traffic". However, it is alleged that they are still detained. Finally, it is reported that Chen Guangcheng has not been allowed to contact his lawyer, nor his family since his detention on 11 March 2006. Finally, it is alleged that law lecturer **Xu Zhiyong** and lawyers **Li Fangping** and **Li Subin**, who were asked for legal advice by Chen Guangcheng in cases related to forced sterilization and abortion policies in Linyi, are as a result now under significant pressure from the authorities and their employers.

148. On 13 April 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Liu Hua** and her husband **Yue Yongjin**, rural land rights activists in Zhanglinanbao Village, Honglingbao Township in Shengyang, China. Both have been active in denouncing corruption among village officials and since 2004 they have been petitioning central government authorities to intervene in forcible land seizures in their village. According to the information received, on 20 February 2006 Liu Hua and Yue Yongjin were arrested by officers of the Public Security Bureau's You'anmen dispatch station. It is reported that on 21 February 2006 Liu Hua and Yue Yongjin were transferred to Shengyang's Masanjia Re-education Centre, where they currently remain. It is further reported that family members of Liu Hua and Yue Yongjin have not been told of the reasons for their arrest and detention. Concern was expressed that the arrest and detention of Liu Hua and Yue Yongjin is related to their activities in defence of human rights, in particular because of their denouncement of corruption.

149. On 19 May 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Yang Tianshui**, a cyber-dissident. He has been the subject of a communication by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative, which was sent on 10 January 2005. We acknowledge the Government's reply which stated that his true name is Yang Tongyan, and that the Chinese judicial authorities acted in strict compliance with the Chinese Criminal Code, the Chinese Code of Criminal Procedure and with other relevant laws and regulations throughout the entire proceedings. According to the new information, on 16 May 2006, Yang Tianshui was sentenced

to 12 years' imprisonment for posting critical articles about the Government on line. He has posted numerous articles on different websites, such as the Chinese version of the daily Epoch Times and has reported on the use of torture against human rights activists, and alleged that the Chinese authorities gave protection to certain criminals. Reports indicate that his trial lasted a few hours. It is further reported that his website had been closed by the authorities the previous week. The closure of the website is 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.

150. On 19 June 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an allegation letter concerning **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 Fu Xiancai was summoned to meet with Public Security Bureau officials at a police station in Hubei province, China. It was reported that shortly after he left the police station Fu Xiancai was attacked and beaten by unknown individuals. It was further reported that as a result of this attack Fu Xiancai's neck was broken and he remains in hospital, paralyzed from the shoulders down. Concern was expressed that the alleged attack against Mr Fu Xiancai is connected with his activities in defence of human rights, in particular because of his defence of the rights of people who have been adversely affected by the construction of the Three Gorges Dam in China.

151. On 28 June 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on adequate housing sent an urgent appeal concerning **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, China. According to the information received, on 16 June 2006 Liu Zhengyou was arrested by police officers at Beijing airport while he was on his way to Geneva in order to participate in a human rights training workshop organized by an NGO. It is further reported that the police officers did not present an arrest warrant and that they informed 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. The police officers then allegedly put Liu Zhengyou on a train back to Zigong, where he was detained in Huidong Branch of the Zigong PSB and questioned by police officers as a criminal suspect in relation to his participation in a demonstration organized to protest against forced evictions in April 2005. Liu Zhengyou was reportedly released on 18 June 2006 and was told by police officers that he would have to return for more questioning at a later date. Furthermore, in the spring of 2005, Liu Zhengyou applied for a permit for the local farmers to hold a peaceful demonstration against forced evictions but the request was denied. It is further reported that on 20 April 2005, when 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 is alleged that Liu Zhengyou has been detained and beaten by the police several times over the past decade for his activism. Concern was expressed that the above events were connected with Liu Zhengyou's peaceful activities in defence of human rights, and particularly with regards to his efforts to protect the rights of farmers in Zigong, who were allegedly forcibly evicted from

their land, houses and livelihood without proper consultations, fair compensation and in compliance with the provisions contained in international legal instruments.

152. On 29 June 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning family members of **Rebiya Kadeer**, a human rights defender for the minority Uighur community in the northwest region of Xinjiang, in particular her three sons, Alim Abdureyim, Ablikim Abdureyim, Kahar Abdureyim, daughter Rushangul Abdureyim and brother Mamat. Ms Kadeer and her son, Ablikim Abdureyim, were the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 1 July 2005. According to new information received, on 13 June 2006, Alim Abdureyim, Kahar Abdureyim and Ablikim Abdureyim were formally arrested. Kahar was driven 200 miles from his home in Aksu in manacles and chained to the floor of a minibus. It is alleged that the three Abdureyim brothers are currently being held in Tianshan District police station in Urumchi, the regional capital of East Turkistan. Ms Kadeer's daughter, Rushangul has been placed under a form of house arrest, where seven police officers are stationed in her home whereas, Ms Kadeer's brother, Mamat, is also under house arrest. Previously, in late May 2006, Alim, Ablikim and Rushangul Abdureyim were reportedly detained by police in an effort to stop them meeting with a US congressional delegation visiting Urumchi at the time. According to reports, on 1 June 2006, both Alim and Ablikim Abdureyim were beaten by police in front of their children and their sister Rushangul. Ablikim Abdureyim was beaten unconscious and was hospitalised. Rushangul was then given a mobile phone by the perpetrators and told to call Rebiya Kadeer in the United States and inform her about what was happening. She was later taken to hospital and treated for symptoms of stress and shock. Furthermore, according to reports, Chinese police have been detaining and interrogating large numbers of people who have been in contact with Ms Kadeer's children, with the objective of collecting evidence to be used against them. It is also alleged that Alim and Kahar Abdureyim have been formally charged with tax evasion in connection with their business activities. It is reported that there is no evidence to substantiate this charge. Tax evasion carries a maximum prison sentence of seven years plus fines in China. Concerns were expressed that the above-mentioned alleged events represent a systematic campaign of harassment by the Chinese authorities against Rebiya Kadeer and her family, to obstruct, intimidate and prevent her from carrying out her legitimate human rights activities to defend the human rights of the minority Uighur community.

153. On 14 July 2006, the Special Representative together with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning concerning **Chen Guangcheng**, a lawyer and human rights defender in Linyi, Shandong province in China and 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. Chen Guangcheng was already the subject a communication sent by the Special Representative, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture on 7 April 2006; a communication sent on 31 October 2005 by the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and Special Representative; and of a communication sent on 19 September 2005 by the Chairperson-

Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative. The Government's reply dated 12 December 2005 has been received. According to the 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 Guo Qizhen was reportedly charged with "inciting subversion of state power" and is currently being held in the No. 2 Detention Center in Cangzhou City. On 10 June 2006 Chen Guangcheng was charged with "deliberate destruction of property" and "organising a mob to disrupt traffic", allegedly after he had spent 89 days in incommunicado detention in the Yinan County Detention Centre, where he remains. It is reported that he was arrested on 11 March 2006 but that his family were not informed of his whereabouts until 11 June 2006. It is still unknown whether Chen Guangcheng has been finally allowed to see his lawyer. Concerns were expressed that the charges against Chen Guangcheng, and Guo Qizhen were arbitrary and may be related to their activities in defence of human rights.

154. On 20 July 2006, the Special Representative together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **Zheng Enchong**, a lawyer who has defended the rights of persons who have been displaced and adversely affected by development in Shanghai and **Jiang Meili**, his wife. Mr Enchong and Ms Meili were the subject of an urgent appeal sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative dated 16 March 2004. Ms Meili was also the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 17 March 2005. According to the information received, on 12 July 2006 at approximately 6.30 p.m. Public Security police entered Zheng Enchong's home in Shanghai. It was reported that the police officers summoned Jiang Meili to report to the police station on suspicion of "impeding the officials of state organs in the execution of their duties" under Section 82 of China's Criminal Procedure Law. It is further reported that Zheng Enchong's house was searched and that a computer and documents relating to his work were seized, and that a search warrant was only presented after the search. Police officers returned to Zheng Enchong's home at 10 p.m. on the same day and summoned Zheng Enchong to accompany the police officers to the police station also on suspicion of "impeding officials of state organs in the execution of their duties". It was reported that Jiang Meili was permitted to return home but that Zheng Enchong remains in custody. Zheng Enchong had been released on 5 June 2006 after serving a three year prison sentence for "illegally providing state secrets overseas". Concerns were expressed that the above events may be in connection with Zheng Enchong's activities in defence of human rights, in particular his activities as an attorney of persons who have been displaced and adversely affected by development in Shanghai. Further concern is expressed that the charges against him may represent an attempt to prevent him from continuing his legitimate work as a lawyer.

155. On 22 August 2006, the Special Representative together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture sent an urgent appeal concerning **Gao Zhisheng**, aged 42, a human rights lawyer in Beijing. Gao Zhisheng was already the subject of two previously transmitted communications, one by the Special Representative and the Special Rapporteur on the independence of judges and lawyers,

dated 25 November 2005 and one by the Special Representative, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, dated 21 December 2005. According to information received, on 15 August 2006, Gao Zhisheng was residing with his sister in the city of Yingshe, Shandong province. At noon, ten to twelve plain clothes officers of the Beijing Public Security Bureau entered the house and detained him “for questioning related to his suspected involvement in criminal activities”. It is reported that Mr Gao had been under strict surveillance by the secret police for several months prior to this. The day before he was detained, the phone of the house where he was living was disconnected, as were the phones of many of his relatives, who also received warnings from the police. Mr Gao’s whereabouts remain unknown. The Special Rapporteur on the question of torture recalls that he strongly protested to the Ministry of Foreign Affairs against the intimidation and surveillance by the security services that he was subjected to during their meeting in Beijing on 20 November 2005. Moreover, the Special Rapporteur regrets that despite the numerous further allegations of threats and intimidation he received concerning Mr Gao, no measures have been carried out by the Government to investigate and prevent them.

156. On 28 August 2006, the Special Representative sent an urgent appeal concerning **Mr Tan Kai**, founder of Green Watch, an organisation that monitors the impact of environmental pollution and degradation in China. Green Watch had been actively reporting on alleged health effects on local people as a result of environmental pollution in Huashui Town, Dongyang City, Zhejiang Province. According to the information received, on 19 October 2005 Mr Tan Kai was reportedly arrested together with the five other co-founders of Green Watch after he had opened a bank account in order to seek funds that would legally permit the registration of Green Watch in China. It is reported that Mr Tan Kai was placed in criminal detention, while the others were released later that same day. On 11 August 2006 Mr Tan Kai was sentenced to 18 months’ imprisonment for “illegally obtaining state secrets” by the Hangzhou Municipal People’s Intermediate Court. It was reported that under Chinese law, in order to become legally registered, organisations must provide 30,000 Chinese Yuan in funding capital and open up a bank account for this purpose. However, until an organisation is legally established, an organisation is not allowed to raise funds, according to the Regulations for the Registration and Management of Social Organisations issued by China’s State Council. It places Green Watch in an extremely difficult financial situation, since it cannot pay the amount required. It was further reported that one of the other founders of Green Watch, **Lai Jinbiao** was arrested and detained between 12 April 2005 and 11 May 2005, on the grounds that he had illegally provided intelligence overseas. He was subsequently released without charges. Concern was expressed that the sentence imposed on Mr Tan Kai may be related to his involvement in Green Watch, in particular because of his reporting on the health implications of environmental pollution such as crop destruction and birth defects of local people in Huashui Town. Further concern was expressed that this may represent an attempt by the authorities to prevent Green Watch from operating.

157. On 30 November 2006, the Special Representative together with the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on violence against women, its causes and consequences sent an urgent appeal concerning regarding **Gao Zhisheng**, a lawyer and Director of the Shengzhi Law Office in Beijing, his wife **Geng He**, their children aged 13 years and two years and his 70 year old mother-in-law. Gao Zhisheng has represented victims of human rights violations; clients who

sought to hold the State accountable for corruption and neglect including forced evictions; and represented clients involved in cases related to freedom of speech and the press. He has been the subject of three communications sent to the Government: the first sent by the Special Representative and the Special Rapporteur on the independence of judges and lawyers, dated 25 November 2005; a second communication was subsequently sent by the Special Representative, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture on 21 December 2005; and the most recent communication dated 22 August 2006 was sent by the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers and the Special Representative.

According to the information received, on 24 November 2006 Ms Geng was beaten by members of the State Security police who had been following her movements and keeping her under surveillance. It is reported that Ms Geng, her 13 year old daughter and her mother have been constantly followed by police for approximately three months. The incident reportedly took place on a street in Beijing (Jingsong Road, near the Lidu Hotel on bus route 408), after Ms Geng told three police officers (two male, one female) to stop following her and her children. As a result of the beating by the two male police officers, Ms Geng is reported to have loosened teeth, a bleeding mouth and gums, her fingernail on one hand completely torn off and her leather clothing ripped into pieces. It is further reported that Gao and Ms Geng's 13 year old daughter, Gege, have also been harassed by the State Security Police who accompany her at all times, including while she is in school. It is reported that they follow her to her classroom, in the school corridors and even to the bathroom, which makes her educational environment difficult.

Furthermore, on 21 November, it is reported that Beijing police showed their badges and attempted to pick up Tianyu, their two year old son, but his kindergarten teacher refused to comply. It has also been reported that Ms Geng's 70 year old mother is also tailed by police if she leaves the house. On 12 October 2006, Gao Zhisheng was formally charged with "inciting to subvert the state". It is reported that on 6 October 2006, Ms Geng's birthday, she was allowed to see her husband at the Beijing No. 2 Detention Centre where they were watched and interrupted by police officers throughout the visit which lasted for approximately 20 minutes. However sources indicate that Gao Zhisheng has still not had access to his lawyer Mr Mo Shaoping despite the recent discovery of his current whereabouts, as the authorities have reportedly stated that his case concerns "state secrets". Prior to 6 October 2006 he had allegedly been held incommunicado since 15 August 2006 when he was arrested without a warrant at his sister's house in Dongying City in Shandong Province, by more than 20 plainclothes police officers from the Beijing Public Security Bureau. According to reports the official Xinhua News Agency released a statement on 18 August 2006 stating that Gao Zhisheng had been arrested "on suspicion of breaking the law" however details of the alleged crime he had committed were not provided. Concern was expressed for the physical and psychological integrity of Gao Zhisheng as it is feared that he may be subject to torture or ill-treatment while in detention. Concern was expressed that the charges against him may be fabricated and may represent an attempt to prevent him and deter others from carrying out legitimate legal work in defence of human rights. Further concerns were also expressed for the safety of his family, particularly his wife Ms Geng and his children, as it is feared that they may be subject to further acts of intimidation, harassment or violence because of Gao Zhisheng's human rights work.

158. On 1 December 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers sent an allegation letter concerning the enactment of tightening regulations regarding the legal profession, procedural obstacles to its

exercise and an increase in the harassment of lawyers. It is alleged that the Criminal Code and the Criminal Procedure Code have been misused by authorities, in order to undermine the defence work of lawyers, 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 prosecuted for destroying or fabricating evidence and 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 is reported that at least 100 lawyers have been accused of violating this article on the fabrication of evidence. These incriminations are reportedly used by authorities as a method to silence defence lawyers. It is 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 very 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 have 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 aims 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 to and accept supervision and guidance from judicial administrative organs. Collective cases are reportedly linked to land requisitioning, levying of taxes, building demolitions, forced evictions, 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 not to 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 is 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 is also reported that several procedural obstacles are preventing lawyers from performing their duties, in particular conducting investigations and gathering evidence. Lawyers are compelled, inter alia, to request an authorization from the investigative organ to meet their clients in prison and reportedly face restrictions on photocopying and recording case materials, necessary for defence work. Besides, in order to carry out their work lawyers reportedly often need to pay officials and judges "file retrieval fees", "services fees" and fees for referrals from judges. Furthermore, it has been reported that the national lawyers' 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. Finally, it is alleged that some lawyers are being harassed by authorities, because of their professional activities as legal representatives. Lawyers allegedly have no system of immunity linked to their professional activity. They are assimilated to their clients and like the suspects they defend, they are allegedly often held in prolonged pre-trial detention and have difficulty meeting with their own lawyers. When released, they and their

families may be subjected to intimidation by the authorities. One of the consequences of this situation would be that some defendants may have been unable to find a lawyer willing to take their case because of its sensitive nature. In this context, we would like to bring to your attention some cases of lawyers who have been allegedly victims of intimidation and harassment. According to the information received, **Yang Maodong**, a lawyer in charge of human rights cases, also known as Guo Feixiong, who was the subject of previous communication by the Special Representative and the Special Rapporteur on the independence of judges and lawyers, dated 6 March 2006, 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 **Gao Zhisheng**, a well known human rights lawyer, was arrested “for suspect involvement in criminal activities”. Gao Zhisheng was already the subject of three previously transmitted communications by the Special Rapporteur on the independence of judges and lawyers and the Special Representative dated 25 November 2005, 21 December 2005 and 22 August 2006. In response to his arrest, dozens of persons have signed a petition asking for his release. Several of them have been reportedly put under house arrest, as well as his wife and two children, who are allegedly under permanent surveillance and have been harassed by numerous female police officers based in front of their home. On 19 August 2006, the trial took place in Shandong province of China of **Chen Guangcheng**, a well-known human rights lawyer in Linyi, who has been instrumental in highlighting human rights violations committed in the course of the implementation of the one-child per couple policy. The trial reportedly took place without the presence of his legal team, because all of them have been either detained by the police or denied access to the court. On 24 August 2006, he was sentenced to four years and three months in prison. Moreover, two other lawyers associated with Mr Chen’s case, Yan Zaixin and Zhang Jiankang have been reportedly harassed and forcibly returned to their home. Chen Guangcheng was already the subject of several communications sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative and other mandate-holders on 14 July 2006, 7 April 2006, 31 October 2005 and 19 September 2005. On 27 June 2006, **Li Jinsong** resigned as Chen Guancheng’s chief Counsel after reportedly being attacked by 20 men who overturned his car while he was inside. On 19 August 2006, Mr Jinsong and another defense lawyer working on Chen Guancheng’s case, Zhang Lihui, were allegedly denied access to the trial. They were allegedly surrounded by the police after dinner the night before the trial. They were allegedly detained without charged and then released. **Xu Zhiyong**, who replaced Li Jinsong in defending Chen Guancheng, was allegedly beaten and taken into police custody by unidentified men on 18 August 2006, the day before Chen’s trial began. They were released 22 hours later, after Chen’s trial had already ended. **Zheng Enchong**, a lawyer who deals with human rights cases, served three years in prison for “leaking State secrets abroad” after he contacted an overseas human rights group about illegal forced evictions in Shanghai. Released in June 2006, he has since been reportedly under virtual house arrest and is allegedly being constantly monitored and harassed by the police. Zheng Enchong was the subject of two urgent appeals sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative and other special procedures mandate holders on 16 March 2004 and 20 July 2006. **Li Baiguang** was detained on 14 December 2004, allegedly because he provided legal representation to approximately 100,000 peasants seeking damages for forced land evictions. It

is reported that since his release he has been detained and physically attacked several times. **Ma Guanjun**, who represented a rape suspect in 2003, was detained and accused of “obstructing justice”. It is alleged that at the trial he produced seven witnesses who testified in favour of his client, but that during the trial recess, local police officers questioned the witnesses. The result was that witnesses changed their testimonies. According to the information received, at the retrial the witnesses said in their testimonies that the suspect could not have committed the rape, however police officers interrogated them and once again they changed their testimonies. 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 led to his release in March 2004.

159. On 1 December 2006, the Special Representative sent an allegation letter concerning the imprisonment of **Dolma Kyab** (also known as Lobsang Kelsang Gyatso), a teacher and author of an unpublished manuscript entitled “The Restless Himalayas” which discusses issues of Tibetan sovereignty, religion, history and geography including information on the sensitive subject of the number and location of Chinese military camps within the Tibetan Autonomous Region (TAR). Before his arrest Mr Kyab had also planned to collaborate on a project addressing women’s rights issues in Tibet. According to the information received, Mr Kyab was arrested in March 2005 and detained at the TAR Public Security Bureau Detention Centre, commonly known as Seitru in Tibetan. On 16 September 2005, he was reportedly sentenced to ten years imprisonment by the Lhasa People’s Intermediate Court for “endangering state security” and his sentence was later upheld on appeal. It is reported that he was transferred to Chushul prison in March 2006 after receiving treatment for tuberculosis which he apparently contracted during his detention. It is further reported that Mr Kyab’s detention may have remained hidden for many months due to the strict regulations on the dissemination of information which may be regarded by the authorities as information pertaining to “State secrets” which if disclosed may be punishable by a prison term. Furthermore, it is alleged that Mr Kyab was present in Chushul prison during the visit of the United Nations Special Rapporteur on the question of torture, on 27 November 2005. However his case was not yet known and he was reportedly hidden from view. Reportedly Mr Kyab smuggled a letter out of the prison notifying the former United Nations Commission on Human Rights of his situation and calling for appropriate action to be taken. Concern was expressed that Mr Kyab had been imprisoned due to his commentary on the political and social situation in Tibet and his work promoting human rights, in particular the right to freedom of religious beliefs and freedom of expression.

Responses received to communications sent by the Special Representative in previous years

160. In a letter dated 18 January 2006, the Government of China 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 opinion and expression on 29 November 2005 concerning **Zhao Xin**. The Government of China 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 the 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 this, 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.

Communications received

161. In a letter dated 17 May 2006, the Permanent Mission for the Republic of China replied to the communications of 6 March 2006, concerning **Gao Zhisheng** and **Yang Maodong**. The Mission stated that the Government had carefully examined the matters referred to in the communication and wished to submit the following response: in October 2005, the Beijing city judicial office, as part of the year-long programme of activities to standardize the work of law firms, investigated and prosecuted several law firms which were found, in the course of the office's enquiries, to be operating illegally and without registration. Among these the Shengzhi law firm, after moving to new office premises, failed to register its new address, in breach of article 21 of the Chinese Lawyers Act, which constitutes unlawful conduct punishable under article 9, paragraph 2, of the procedure adopted by the Ministry of Justice for disciplinary action against unlawful conduct by lawyers and law firms (herein under referred to as "the procedure"). The letter noted that the law firm was acting in non-compliance with the standardized procedures for the filing and use of legal documentation and, pursuant to articles 21 and 47 of the Lawyers Act and article 9 of the procedure, on 30 November 2005 the Beijing city judicial office, acting in accordance with the law, decided to impose a penalty of one year's suspension of all activities on this firm. The Government stated that no incident involving a deliberate collision occurred at the time and in the place indicated in the relevant report on the matter, nor has Mr Gao himself ever made any report to this effect to the Beijing police authorities. Regarding the case of Yang Maodong the Government indicated that on 13 September 2005, Mr Maodong was taken into police custody by the Guangdong public security authorities on suspicion of the offence of gathering a crowd with the intention of disturbing the peace and on 4 October his remand in detention was approved by the procuratorial authorities. On 27 December the Guangdong procurator's office decided not to proceed with his prosecution and he was released. The allegations that he was placed under "permanent surveillance" or beaten by the public security authorities are unfounded. The letter referred to Article 3, paragraph 4, of the Lawyers Act which stipulates: "Lawyers practising their profession in compliance with the law shall receive legal protection." The Government stated that lawyers must ensure equal justice for society and uphold basic human rights and, in accordance with the law, guarantees the practice of their profession by lawyers. However, it was noted that they must do so within the law, and that they must accept regulation and oversight by the Government. The letter cited Articles 3, paragraph 3, Article 4, Article 21, of the Lawyers Act which provide that whilst practicing their profession lawyers are obliged to undergo State scrutiny, and that law firms that undergo major changes, such as changing their name, moving to new offices, amending their statutes or making changes to their partnership structure, or which are dissolved, are obliged to report such changes or dissolution to the office which processed their original application for registration. Article 47 stipulates: "Law firms acting in breach of the stipulations of the present Act shall be instructed

by people's judicial administration departments at the provincial, autonomous region and centrally administered municipality level to take corrective measures, their illicit proceeds shall be confiscated and they may also be fined an amount of between one and five times the amount of the proceeds from their unlawful activity; if the circumstances of their offence are serious, they shall be ordered to suspend their practice for the purposes of internal rectification or their business license may be revoked." The procedure adopted by the Ministry of Justice for disciplinary action against unlawful conduct by lawyers and law firms stipulates, in article 9, paragraph 2: "Law firms engaging in the practices listed below shall be disciplined by the people's judicial administration departments at the provincial, autonomous region and centrally administered municipality level with a caution, by confiscation of their illegal gains, and by an instruction to suspend their practice for the purposes of internal rectification for a period of between three months and one year: ... 2. Changes to the company name, to the company statutes, to the designation of persons in charge of the company, to the partners, to the company's offices, to the partnership agreement, etc., which have not been registered within the stipulated time ..." The Government stated that the aforementioned case is a typical instance where the Chinese judicial administration authorities, during the conduct of a routine investigation into the activities of a law firm, have found a law firm operating in breach of the prescribed procedure and have taken disciplinary action. The Government noted that the Chinese judicial administration authorities have handled the above-mentioned case in accordance with both the facts and the law and the case has no connection with this law firm's legal representation services. Furthermore it was noted that all law firms must strictly respect the law and no law firm may claim, on the grounds of the special nature of a given case, to exercise special rights which exceed the provisions of the Constitution and the law.

162. In a letter dated 14 June 2006, the Permanent Mission for the Republic of China replied to the communication of 7 April 2006, concerning **Chen Guangcheng**. The Government stated that it had carefully examined the matters referred to in the communication and wished to submit the following response: on 11 March 2006, Mr Guangcheng and his family members Chen Guangjun, Chen Guangyu and others, assembled a crowd of villagers and obstructed traffic, causing a major traffic jam on national highway 205. On 12 March, Chen Guangjun and Chen Guangyu were taken into criminal detention, in accordance with the law, on suspicion of having committed an offence under article 291 of the Chinese Criminal Code, on the gathering of crowds for the purpose of disrupting the movement of traffic. Chen Guangcheng was held for questioning by the local public security authorities, in accordance with the law, on suspicion of involvement in the offence at the scene of the crime, and was released at 9 p.m. on 12 March. The letter referred to Article 291 of the Chinese Criminal Code which stipulates: "Where 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." The Government noted that Mr Guangcheng and his associates were remanded in custody for questioning by the public security authorities in compliance with the law. The Government stated that throughout this period their lawful rights were fully protected and there is no substance to the allegation that Chen Guangcheng was subjected to beatings and placed under house arrest.

163. In a letter dated 14 June 2006, the Permanent Mission for the Republic of China replied to the communication of 13 April 2006, concerning **Liu Hua** and her husband **Yue Yongjin**. The Government noted that it had carefully examined the matters referred to in the communications and wished to submit the following response: on 22 February 2006, Ms Hua was taken into administrative custody by the Sujiadun office of the Shenyang city public security bureau for disturbing the peace and obstructing officials in the performance of their duties and, on 23 March, the Shenyang city labour re-education committee ordered her to serve one year's labour re-education for endangering State security, from 22 February 2006 to 21 February 2007. The Government stated that as Ms Hua has a daughter of school age and her domestic situation is difficult, the committee decided that she could serve her punishment outside the custodial facility and she was returned to her community that same day. On 22 February 2006, Mr Yongjin was taken into administrative custody by the Sujiadun office of the Shenyang city public security bureau for disturbing the peace and obstructing officials in the performance of their duties and, on 23 March, the Shenyang city labour re-education committee ordered him to serve one year and six months labour re-education for endangering State security, to run from 22 February 2006 to 21 August 2007. Mr Yongjin is currently serving his term of labour re-education in the Shenxin labour re-education facility in Shenyang city, the Government indicated that his state of health is good. The letter refers to Chapter III, article 10, paragraph 5, of the Chinese proposed methods for labour re-education which stipulate that, where persons engage in continuous and unwarranted agitation, disrupting production activities, business activities, educational and scientific activities and normal life, obstructing officials in the performance of their duties and refusing to heed advice and orders to desist, the security authorities shall, in accordance with the law, require them to undergo labour re-education. In dealing with the above case, the Government noted that the security authorities acted in strict compliance with the law and Liu Hua's and Yue Yongjin's lawful rights have been fully upheld.

164. In a letter dated 28 November 2006, the Permanent Mission for the Republic of China replied to the communication of 19 May 2006, concerning **Mr Tianshui Yang**. At the time of writing this report the response from the Government is being translated.

165. In a letter dated 21 August 2006, the Permanent Mission for the Republic of China replied to the communication of 28 June 2006, concerning **Liu Zhengyou**. The Government indicated that it had carefully investigated the matters referred to in the aforementioned communication and wished to make the following reply: the Government noted that on numerous occasions Mr **Zhengyou** sought to organize illegal meetings and disrupt traffic, and the Huidong branch of the Zigong Public Security Bureau opened an investigation concerning Mr **Zhengyou** as a suspect in connection with an illegal demonstration. The letter noted that in June 2006 he attempted to leave the country from Beijing. The letter cites Article 8, paragraph 1, of the Law of the People's Republic of China on Control of the Entry and Exit of Citizens which stipulates that defendants in criminal cases or criminal suspects confirmed by a public security organ, a people's procuratorate or a people's court may not leave the country. Mr **Zhengyou** was a suspect in a criminal investigation that had just been opened by the public security authorities; accordingly, as indicated by the Government, the Zigong Public Security Bureau, acting in accordance with the law, brought him back so that an investigation could be conducted.

166. In a letter dated 21 August 2006, the Permanent Mission for the Republic of China replied to the communication of 29 June 2006, concerning **Rebiya Kadeer**, and her three sons,

Alim Abdureyim, Ablikim Abdureyim, Kahar Abdureyim. The Government noted that it had carefully investigated the matters referred to in the aforementioned communication and wished to make the following reply; an investigation conducted by the national tax authorities revealed that the Akheda Industrial Trading Co. Ltd., the Rebiya Mansion Trading Co. Ltd. and their shareholders Ablikim Abdureyim, Alim Abdureyim, Kahar Abdureyim and Rushangul Abdureyim are under suspicion of the crime of tax evasion. Furthermore, it was noted that an investigation conducted by the Xinjiang public security authorities revealed that Alim Abdureyim, Ablikim Abdureyim and Rushangul Abdureyim are suspected of the crime of inciting subversion of the State's political authority. The Government stated that pursuant to articles 105, 201 and 211 of the Criminal Law, the Xinjiang public security authorities, with the authorization of the Urumqi People's Procuratorate, arrested Alim Abdureyim on suspicion of the crimes of tax evasion and subversion of the political authority of the State; Ablikim Abdureyim on suspicion of the crime of inciting subversion of the political authority of the State; and Kahar Abdureyim on suspicion of the crime of tax evasion. Given that Rushangul Abdureyim was caring for a small child she was placed under residential surveillance, in accordance with article 60, paragraph 2 of the Criminal Procedure Law. The Government stated that the case had been referred to the judicial authorities for trial, in accordance with the law.

167. In a letter dated 14 June 2006, the Permanent Mission for the Republic of China replied to the communications of 1 February 2006, concerning Ms **MH**. The Government indicated that it had carefully examined the matters referred to in the aforementioned communication and wished to submit the following response: the Government stated that on 10 January 1991, following appraisal by the Ministry of Justice economic research assessment office, MH was assessed as suffering from a personality disorder, but still having civil responsibility and competence to take civil law acts. On 17 January 2006, MH and other persons assembled a crowd in a public area in Chongwen district in Beijing, thereby disturbing the peace. Pursuant to the provisions of article 34 of the regulations on punishments relating to the maintenance of law and order, the Yangpu office of the Shanghai public security bureau, acting in accordance with the law, served a summons on MH for a public order offence, for the period from 7.45 a.m. on 25 January 2006 to 7.45 a.m. on 26 January. The Government noted that upon expiry of this period, no further measures of restraint were applied against MH and, in the course of this process, all her lawful rights were fully upheld, and the allegations that she was subjected to beatings have no foundation in fact.

168. In a letter dated 3 October 2006, the Permanent Mission for the Republic of China replied to the communication of 20 July 2006, concerning **Zheng Enchong** and **Jiang Meili**. The Government noted that it had carefully investigated the matters referred to in the aforementioned communication and wished to make the following reply: the Government stated that in June 2006, after he had served his sentence in full and had been released, Mr Enchong had on numerous occasions violated the regulations governing his period of deprivation of political rights. On 12 July the Shanghai public security authorities, acting pursuant to the Public Security Management Punishment Law of the People's Republic of China and the Regulations Governing Procedures for the Handling of Criminal Cases by Public Security Organs, issued Mr Enchong with a summons and conducted a search of his residence. At the same time Mr Enchong's wife, Ms Meili, was also issued with a summons on suspicion of hindering an official in the discharge of his duties; the couple was released on the same day. It was noted that at the time of issuing the summons the Shanghai public security authorities handled the case in strict compliance with the law, protecting the legitimate rights and interests of Mr Enchong and Ms

Meili. The letter indicated that the couple signed their summonses, search warrants and the list of confiscated articles separately. As they were suspected of engaging in illegal activities, the Government noted that Mr Echong and Ms Meili were issued summonses and their residence was searched, both of which are routine activities for public security organs, and the allegation that the Shanghai police produced a search warrant only after searching Zheng's house was not consistent with the facts.

169. In a letter dated 4 December 2006, the Permanent Mission for the Republic of China replied to the communication of 25 August 2006, concerning **Tan Kai** and **Lai Jinbiao**. At the time of writing this report the response from the Government is being translated.

170. In a letter dated 4 January 2007, the Permanent Mission for the Republic of China replied to the communications of 1 December 2006, concerning **Dolma Kyab**. At the time of writing this report the response from the Government is being translated.

Observations

171. The Special Representative thanks the Government of China for responding to most of her 21 communications which indicates the Government's willingness to cooperate with the mandate. She looks forward to receiving the remaining responses. She regrets that at time of writing two responses are being translated.

172. The Government has consistently challenged the alleged facts in every communication, especially those concerning allegations of beatings or torture, which the Government say are unfounded. From the very detailed responses provided by the Government and the heavy reliance on Chinese law, the Government concludes in every case there is no connection between the criminal charges imposed on the alleged victims because of their human rights activities. It would also seem that Chinese human rights defenders often attract traffic offenses for disturbing the peace, assembling crowds, disrupting movement of traffic, and at times hinder officials in the discharge of their duties. According to the Government they are detained, arrested and charged, because they manifest criminal behaviour in breach of Chinese law and not because of their human rights activities. In every case, the Chinese judicial authorities and the public security bureau have acted in strict compliance with the Chinese Criminal Code, the Chinese Code of Criminal Procedure and other laws and regulations and in every case, the alleged victim's lawful rights are said to have been upheld.

173. The Special Representative notes that saying a person's lawful rights were upheld is not the same as saying a person's human rights were upheld and the question is really one of whether the Chinese Criminal Code, the Chinese Code of Criminal Procedure and other laws and regulations such as the Chinese Lawyers Act are compatible with international human rights norms and standards such as those on the right to freedom of opinion and expression and the Declaration on Human Rights Defenders. The Special Representative would be more willing to accept the Government's explanation that human rights defenders tend to be traffic offenders, if she was aware of any examples of human rights defenders being granted legal permission by the authorities to hold a peaceful demonstration that might challenge or question the Government. She notes that the Government omitted to address in its reply of 28 June 2006, the allegation that Liu Yhengyou's application for a permit for local farmers to hold a peaceful demonstration was denied, and that when he 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”. She would welcome further information from the Government of China that demonstrates that human rights defenders are able to freely conduct their work, disseminate information, present a petition, criticize the Government publicly or conduct other peaceful activities without the likelihood of attracting criminal charges.

Colombia

Comunicaciones enviadas

174. Con carta de fecha 8 de diciembre de 2005, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, señalaron a la atención urgente del Gobierno la información recibido en relación con la situación de inseguridad y peligro en la que se encontrarían **Lilia Solano Ramírez**, profesora de la universidad y directora de la organización no gubernamental de derechos humanos Proyecto Justicia y Vida, y su familia. Lilia Solano Ramírez fue el objeto de una comunicación transmitida al Gobierno de Colombia el 31 de agosto del 2004 y por la cual se recibió respuesta el 8 de diciembre del 2004. Según la nueva información recibida, el 4 de diciembre de 2005, aproximadamente a las 17.30 horas, dos hombres y una mujer armados que se presentaron como miembros de la policía, habrían entrado en el apartamento, en la ciudad de Bogotá, donde vive Lilia Solano Ramírez, y donde se encontraba solo su hijo. Le habrían amenazado con un arma de fuego, amarrado e insultado. Según los informes, los perpetradores habrían registrado toda la vivienda, en particular todos los documentos. Se habrían llevado el disco duro de su ordenador, varios documentos importantes, dos teléfonos celulares y algunos otros objetos. Se expresaron graves temores por la seguridad y la integridad física y psicológica de Lilia Solano Ramírez y de su familia. Se expresaron temores de que estas amenazas estuviesen relacionadas con su trabajo como directora de la organización no gubernamental Proyecto Justicia y Vida.

175. Con carta de fecha 8 de diciembre de 2005, la Representante Especial junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión señalaron a la atención urgente del Gobierno la información recibido en relación con la situación de inseguridad y peligro en la que se encontraría **Gloria Isabel Cuartas Montoya**, acompañante de la Comunidad de Paz de San José de Apartadó, ex alcaldesa de Apartadó, y actual Secretaria General del grupo político Frente Social y Político, y candidata al Senado de la República. Según la información recibida, el 6 de noviembre del 2005, aproximadamente a las 19.00 horas, Gloria Isabel Cuartas Montoya habría recibido un mensaje de texto en su teléfono celular que decía: “Gloria Cuartas tiene que largarse de Colombia y que se calle la boca”. Ese mismo día habría participado en un homenaje rendido en Bogotá a los magistrados y demás personas que resultaron muertas y/o desaparecidas durante la Toma del Palacio de Justicia 20 años atrás. Además, el 30 de noviembre del 2005, hacia las 21.00 horas, la Sra. Cuartas Montoya habría recibido un mensaje en el respondedor automático de su teléfono, en el cual se oía música militar de fondo y el ruido de una ametralladora. El 3 de diciembre del 2005, hacia las 20.00 horas, habría recibido otro mensaje en el que se oía el disparo de un arma de fuego. A la luz de estas alegaciones, se expresaron la preocupación de que las intimidaciones sufridas por Gloria Isabel Cuartas Montoya estuviesen relacionadas con su labor en defensa de los derechos humanos y en particular porque ella ha manifestado públicamente la responsabilidad del Ejército colombiano en la masacre ocurrida en la Comunidad de Paz de San José de Apartadó el 21 de febrero de 2005.

176. El 18 de enero de 2006, el Representante Especial señaló a la atención urgente del Gobierno información recibida con relación al **Sr. Príncipe Gabriel González Arango**, miembro de la Junta Departamental de Santander de la Fundación Comité de Solidaridad con los Presos Políticos (FCSPP), en cuyo favor se han dispuesto medidas cautelares de protección por parte de la Comisión Interamericana de Derechos Humanos (CIDH). Se informa que la FCSPP es una organización dedicada a la defensa de las víctimas de detenciones arbitrarias, torturas, malos tratos o condiciones infrahumanas en los centros de detención y penitenciaras del país. Se informa además que el señor González Arango ha sido acogido dentro del Programa de Protección del Ministerio del Interior. Según la información recibida, el 4 de enero de 2006, aproximadamente a las 18.30 horas, Príncipe Gabriel González Arango habría sido detenido por miembros de la fiscalía en la ciudad de Pamplona, departamento de Norte de Santander. Posteriormente, habría sido trasladado a las instalaciones del Grupo de Acción Unificado para la Libertad de Colombia (GAULA), cuerpo de la Policía Nacional colombiana especializado en la investigación de secuestros, en la ciudad de Bucaramanga, capital del departamento de Santander. Según la información recibida, el 5 de enero de 2006 Príncipe Gabriel González Arango habría sido puesto a disposición de la Unidad de Reacción Inmediata de la Fiscalía, donde habría sido acusado del delito de rebelión. Posteriormente, habría sido llevado a la cárcel Modelo de Bucaramanga, donde permanece recluido. Se informa también que esta persona habría sido anteriormente víctima de amenazas por parte de las Autodefensas Unidas de Colombia (AUC). Se expresó temor de que la detención y el proceso judicial en contra de Príncipe Gabriel González Arango estuvieran relacionados con sus actividades en defensa de los derechos humanos, en particular con el trabajo que realiza a favor de las víctimas de detenciones arbitrarias, torturas, malos tratos o condiciones infrahumanas en los centros de detención del país.

177. El 18 de mayo de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con la **Organización Nacional Indígena de Colombia (ONIC)**, el **Colectivo de Abogados José Alvear Restrepo (CAJAR)**, el **Instituto Latinoamericano de Servicios Alternativos (ILSA)**, la **Central Unitaria de Trabajadores (CUT)**, y la **Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo (PCDHDD)**. De acuerdo con la información recibida, el 8 de mayo de 2006 las organizaciones arriba mencionadas habrían recibido un correo electrónico amenazante. Los autores del mensaje habrían presentado como personas que tenían como base las AUC y que, cumplidos los procesos de desmovilización, ahora representarían “el presente y el futuro del Estado colombiano”. El mensaje habría contenido amenazas dirigidas a todos los dirigentes de las organizaciones mencionadas, habría calificado a estas organizaciones de “protectores” y “fomentadores del terrorismo” y por no alinearse al sistema gubernamental, no tendrían ningún espacio participativo en el país. El mensaje habría invitado a las organizaciones a que se unan a la cruzada contra el terrorismo e amenazándolas que en caso contrario de atenerse “a sufrir en cada uno de sus miembros de todo el peso de nuestra presencia” y garantizando además que tienen “el favor de las mismas fuerzas estatales”. Se expresaron temores de que estos eventos pudiesen ser relacionados con las actividades de las organizaciones sobre mencionadas en defensa de derechos humanos y de los indígenas puedan constituir un intento de intimidar a las organizaciones para que no continúen con sus actividades en defensa de derechos humanos.

178. El 24 de mayo de 2006, la Representante Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, señaló a la

atención urgente del Gobierno información recibida respecto a una serie de amenazas supuestamente dirigidas contra el personal de la organización de derechos humanos **Corporación COMPROMISO**, la **ONIC**, la **Unión Sindical Obrera** y las organizaciones de derechos humanos **Viva la Ciudadanía Bogotá**, **Consultoría para los Derechos Humanos y el Desplazamiento (CODHES)** y el **CAJAR**. La situación de los colaboradores de la **ONIC** y el **CAJAR** fue objeto de un llamamiento urgente enviado el 18 de mayo de 2006 por la Representante Especial. De acuerdo con la nueva información recibida, el 17 de mayo de 2006 las organizaciones mencionadas habrían recibido un mensaje amenazador por correo electrónico. El mensaje habría dicho “ESTÁN TODOS ADVERTIDOS. No toleramos aquí a supuestos abogaduchos de pacotilla... líderes... defensores de derecho humano... que solo vienen a **ALINEAR** al pueblo al pensamiento comunista retrogrado y subversivo de la guerrilla, cuando precisamente hemos logrado limpiar de nuestro territorio a arrodillados e idiotas serviles de tal propósito, **NO RESPONDEMOS** por la integridad de nadie que venga con tal propósito”. Según los informes, el mensaje habría procedido de la misma dirección que el mensaje que la **ONIC** y el **CAJAR** habrían recibido el 8 de mayo de 2006. Se expresaron graves temores de que estas amenazas pudiesen formar parte de una campaña de hostigamiento en contra de las organizaciones que trabajan en defensa de los derechos humanos en Colombia. El Relator Especial y la Representante Especial instaron al Gobierno a que adoptase todas las medidas necesarias para proteger los derechos y las libertades de las organizaciones mencionadas e investigase, y procesase e impusiese las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas. Le instaron asimismo a que tomase las medidas eficaces para evitar que se repitan tales hechos.

179. El 31 de mayo de 2006, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre la independencia de los magistrados y abogados, llamó nuevamente la atención urgente del Gobierno a propósito de información recibida sobre la situación de la organización de abogados **CAJAR** y la **ONIC**. Asimismo, llamaron la atención urgente del Gobierno sobre información allegada sobre las amenazas recibidas por las organizaciones defensoras de derechos humanos **ILSA**, **PCDHDD**, así como la organización sindical **CUT**. Según la información recibida, el día 8 de Marzo de 2006, el **CAJAR** recibió un correo electrónico con amenazas, proveniente de una dirección que incluye las palabras “Colombia libre”, nombre con el que se identifican los excombatientes de las **AUC**, en su página 2eb. Dicho correo electrónico habría sido copiado a las organizaciones arriba enumeradas. El correo electrónico afirmarían que las organizaciones en cuestión fomentan y protegen el terrorismo. Igualmente, los autores del mensaje sostendrían que desapruaban la presencia en el país de las organizaciones arriba enumeradas, así como la presencia de cualquier organización similar a las Fuerzas Armadas Revolucionarias de Colombia/Ejército de Liberación Nacional (**FARC-ELN**) o que refleje un pensamiento de tendencia de izquierda, al igual que cualquier “chavismo socialismo o comunismo disfrazado”. El mensaje invita a las organizaciones mencionadas a unirse a los autores del mismo en la “cruzada contra el terrorismo” o en caso contrario, a atenerse a las consecuencias, las cuales serían que cada uno de sus miembros sufriría el “peso” de la “presencia” de los autores del mensaje, quienes además afirmarían contar con el respaldo de las fuerzas armadas estatales. De otro lado, el correo electrónico en cuestión sugeriría que las **AUC** continúan operando bajo nuevas formas de agrupación, a pesar del proceso de desmovilización que se estaba adelantando con el Gobierno. Finalmente, el mensaje terminaría con las siguientes palabras: “Todas las partes a las que hoy escribimos copia de este aviso si no se alinean a esta realidad es mejor que se larguen con sus ideas humanitarias a otra parte... Este es el primer

aviso”. Se expresan graves temores por la seguridad de las organizaciones mencionadas, en especial debido a que las amenazas recibidas por éstas están relacionadas con sus actividades en defensa de los derechos humanos.

180. El 31 de mayo de 2006, la Representante Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre el derecho a la libertad de opinión y de expresión, y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, señaló a la atención urgente del Gobierno la información recibido en relación con una serie de incidentes ocurridos con motivo de una serie de manifestaciones celebradas en los departamentos del Cauca, Nariño, Neiva y Huila en el marco de la **Gran Cumbre de Organizaciones Sociales en defensa de la vida**, del territorio, la dignidad, la autonomía y la soberanía nacional. De acuerdo con la información recibida, el 14 y 15 de mayo de 2006, más de 50 000 personas de distintos sectores de la sociedad civil colombiana se habrían congregado en diversos puntos del país para protestar de manera 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 informa, el 15 de mayo de 2006, en la ciudad de Popayán, capital del departamento del Cauca, el Escuadrón Móvil Antidisturbios (ESMAD) de la Policía Nacional habría intentado disolver por la fuerza la concentración de las más de 1000 personas que se manifestaban frente a las instalaciones del Servicio Nacional de Aprendizaje (SENA). Como resultado de dicha intervención policial, varias personas habrían resultado heridas, algunas por arma de fuego. Otros manifestantes, que habían decidido ocupar el edificio del SENA, habrían sido desalojados por la fuerza lo que habría provocado un enfrentamiento con las fuerzas del orden que se habría prolongado hasta altas horas de la madrugada. Según los informes, integrantes del ESMAD habrían entrado 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 habrían sido detenidas, entre ellas cinco menores de edad. 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, habrían ocupado un tramo de la autopista Panamericana. El ESMAD, la policía de carretera y el Ejército Nacional habrían intervenido con acciones aéreas y por tierra. En el transcurso de esta intervención, Pedro Mauricio Coscúe de etnia indígena, habría sido asesinado, y más de 100 personas, en su mayoría indígenas, habrían resultado heridas, entre ellas siete menores de edad. Además, Misael Vizcunda Chocué, de entre 16 y 17 años, habitante de la vereda San Pablo, Resguardo Indígena Corinto Tierra Adentro se encontraría desaparecido. Según los informes, al menos 24 manifestantes habrían 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 del resguardo indígena de La María y Richard Calpa, director de la emisora La Libertad del municipio de Totoró. Según los informes, los cuatro periodistas habrían sido liberados sin cargos el 22 de mayo de 2006. Se alega también que las fuerzas del orden público habrían confiscado 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* habrían sido agredidos por varios encapuchados, quienes además les habrían sustraído el material de grabación. Los hechos habrían ocurrido 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 habrían disparado contra los manifestantes cuando trataban de detener una movilización campesina e indígena en el lugar conocido con el nombre de El Pital, cerca de

Mondomo, 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, resultando gravemente heridos Bayardo Rosero, quien habría sido herido en el abdomen con arma de fuego, y Dagoberto Mestra, quien se encontraría en estado crítico. Los Relatores Especiales expresaron su preocupación ante la posibilidad de que en los antencionados incidentes, las fuerzas del orden público hayan podido haber incurrido en el uso excesivo de la fuerza en el ejercicio de sus funciones.

181. El 31 de mayo de 2006, la Representante Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre la independencia de los magistrados y abogados, señaló a la atención urgente del Gobierno la información recibido en relación con la situación de la organización de abogados **CAJAR** y la **ONIC**, las cuales ya han sido objeto de dos llamados urgentes enviados por la Representante Especial y por el Relator Especial, el 18 y el 24 de mayo de 2006 respectivamente. Asimismo, se llamó la atención urgente del Gobierno sobre la información recibida sobre las amenazas recibidas por las organizaciones defensoras de derechos humanos ILSA y PCDHDD, así como la organización sindical CUT. Según la información recibida, el día 8 de marzo de 2006, el CAJAR recibió un correo electrónico con amenazas, proveniente de una dirección que incluye las palabras “Colombia libre”, nombre con el que se identifican los excombatientes de las AUC, en su página web. Dicho correo electrónico habría sido copiado a las organizaciones arriba enumeradas. El correo electrónico afirmarían que las organizaciones en cuestión fomentan y protegen el terrorismo. Igualmente, los autores del mensaje sostendrían que desapruaban la presencia en el país de las organizaciones arriba enumeradas, así como la presencia de cualquier organización similar a las FARC-ELN o que reflejen un pensamiento de tendencia de izquierda, al igual que cualquier “chavismo, socialismo o comunismo disfrazado”. El mensaje invita a las organizaciones mencionadas a unirse a los autores del mismo en la “cruzada contra el terrorismo” o en caso contrario, a atenerse a las consecuencias, las cuales serían que cada uno de sus miembros sufriría el “peso” de la “presencia” de los autores del mensaje, quienes además afirmarían contar con el respaldo de las fuerzas armadas estatales. De otro lado, el correo electrónico en cuestión sugeriría que las AUC continúan operando bajo nuevas formas de agrupación, a pesar del proceso de desmovilización que se está adelantando actualmente con el Gobierno. Finalmente, el mensaje terminaría con las siguientes palabras: “Todas las partes a las que hoy escribimos copia de este aviso si no se alinean a esta realidad es mejor que se larguen con sus ideas humanitarias a otra parte...Este es el primer aviso”. Se expresaron graves temores por la seguridad de las organizaciones mencionadas, en especial debido a que las amenazas recibidas por estas estén relacionadas con sus actividades en defensa de los derechos humanos.

182. El 15 de junio de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, señaló a la atención urgente del Gobierno la información recibido en relación con la **Fundación Para la Libertad de Prensa (FLIP)**. De acuerdo con la información recibida, el 7 de junio de 2006, varias ONGs, entre ellas la FLIP, habrían recibido un correo electrónico firmado por el "Frente Democrático Colombia Libre" en el cual se las declaraba "objetivo militar". Según los informes, el texto estaría dirigido a los "revolucionarios (sic) disfrazados de ONGs, supuestos líderes, abogaduchos y comunicadores camuflados en la civilidad, escondidos detrás de sus columnas". Además de calificar las organizaciones como guerrilleras, el correo electrónico las habría acusado de estar

desprestigiando a Colombia ante "la comunidad de países amigos de la mesa de negociación de Ralito". El correo electrónico habría además advertido a dichas organizaciones que "Les hemos empezado a dar prueba de que no estamos jugando ahí les dejamos los tendidos de Barranca [Barrancabermeja] por ahí hemos empezado, pero no tardaremos en entrar en acción en capitales como Barranquilla, Medellín, Cali, Bucaramanga, Cúcuta, Manizales, Pasto y Bogotá". Los Relatores Especiales expresaron sus temores por la seguridad e integridad física y psicológica de los miembros de la FLIP, y de las otras ONG presuntamente amenazadas en el antemencionado correo electrónico.

183. El 23 de junio de 2006, el Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con **Gloria Amparo Suárez**, integrante desde hace 15 años de la Organización Femenina Popular (OFP) y miembro del Equipo Directivo, De acuerdo con la información recibida, el 12 de junio de 2005 en la localidad de Barrancabermeja, Departamento de Santander, un hombre de unos 30 años aún sin identificar se habría acercado al puesto de trabajo del esposo de Gloria Amparo Suárez y le habría dicho "Dígale a su mujer que tiene un mes de plazo para irse de Barrancabermeja o si no la lleva, y no digan nada, ni denuncien, ni hagan escándalo porque sino el muerto será usted". Además, el 5 de junio de 2006, habría empezado a circular en la mencionada ciudad un panfleto que según los informes dice textualmente: "La revolución sólo debe estar en los libros de historia no en las calle del país. Del 1 al 15 de junio limpieza de sapos revolucionarios: movimientos, asociaciones, corporaciones, sindicatos, organizaciones, así que vayan alistando dos cajones: uno para la lengua y otro para usted. Muerte a sapos hijueputas (sic.) de barranca, guerrilleros malparidos. Grupos organizados de limpieza social por una Barranca limpia de guerrilleros". Se expresó temor por la vida e integridad física de la Sra. Suárez, así como preocupación ante la posibilidad de que las antemencionadas amenazas puedan estar relacionadas con su afiliación a la OFP.

184. El 28 de junio de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con los señores **Yesit Camacho, Juan Flores, Alberto Laines, Alberto Meneses, Wilson Perez, Juan Osorio, Raquel Salinas Ediomar Botello, Luís Santana, Gladis Criado, William Vanegas, Angel Salas, Alfredo Castro, Aurelio Ladino, Antonio Ger, Lus Erenia Saac, Héctor Alvis, Wilson Narváez, Bertulfo Solarte, Ortalides Castro, Gastón Tesillo, Gilberto Martines, Fernando Santamaría, José Merino, Ricardo Barón, Carlos Bermeo, Arnulfo Parra, Billy Rusbel Beltrán, Edgar Púa, Wilson Gutiérrez** y las señoras **Nubia Fonseca, Rosa Luz Palencia, Martha Ligia Castro Martha Lozano, María Helena Tobon Lina Gamarra, y Carmen Mayusa**, todos miembros de la Asociación Nacional de Trabajadores de Hospitales y Clínicas (ANTHOC). La ANTHOC trabaja en defensa de los derechos humanos de los trabajadores de la salud y promueve el mejoramiento de la dotación de los hospitales en Colombia. De acuerdo con la información recibida, el 14 de junio de 2006 en las oficinas de la ANTHOC en Bogota, habría llegado un mensaje amenazante, firmado por "el brazo de las ex AUC", lo cual habría amenazado a los miembros de la ANTHOC que "estamos cansados de tanto "sindicalista falso que se camuflan con el cuentito de los derechos humanos" y que "les informamos que estaremos atentos a cualquier movimiento que ustedes hagan en contra de este sagrado proceso y les exigimos que se vayan de este país pues no hacen sino estorbar y molestar a nuestro líder con sus pataletas y denuncias sin sentido pues es tan solo carreta". Además el mensaje habría nombrado a las personas sobre mencionadas que eran "nuestro mas próximo objetivo militar, En pie de guerra a sangre y fuego, Viva la reelección del doctor Uribe, Colombia libre de comunistas". Se

expresaron temores que estos eventos pudiesen ser relacionados con el trabajo que hace la ANTHOC en defensa de los derechos humanos de los trabajadores de la salud en Colombia.

185. El 7 de julio de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con en relación con **María Jackeline Rojas Castañeda**, defensora de los derechos humanos, miembro de la OFP y realizadora de un programa radiofónico. Este programa, titulado *La Mohana* y realizado para la OFP, trata de cuestiones que preocupan a las mujeres. Según la información recibida, el 21 de junio 2006, hacia las diez de la mañana, María Jackeline Rojas Castañeda recibió indirectamente una amenaza de muerte. La emisora Radio Uno, una estación de radio regional donde María Jackeline Rojas Castañeda realiza su programa diario recibió una llamada telefónica anónima cuyo autor dijo: ‘Dígale a esa perra hijueputa de la Mohana que estamos oyendo y que prepare un cajón para la lengua’. Además, según los informes, en febrero de 2001, María Jackeline Rojas Castañeda habría sido amenazada por grupos paramilitares respaldados por el ejército. Se expresó temor de que las amenazas recibidas por María Jackeline Rojas Castañeda estuviesen vinculadas con su trabajo como defensora de derechos humanos.

186. El 28 de julio de 2006, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator Especial sobre la cuestión de la tortura, señaló a la atención urgente del Gobierno la información recibido en relación con **Duvier Daniel Villazón Pinto**, niño indígena de la comunidad de los kankuamos, de 14 años de edad e hijo del líder kankuamo de la Sierra Nevada de Santa Marta, Imer Villazón Arias. Según la información recibida, el 7 de julio de 2006, a las 15.15 horas, mientras Duvier Daniel Villazón Pinto se encontraba en Bogotá realizando actividades ligadas a los indígenas desplazados de su comunidad, fue presuntamente detenido por dos agentes motorizados adscritos a la Policía Metropolitana (se alega que el número de placa de la motocicleta mencionada es LQO 29). Una vez arrestado, le habrían atado al vehículo y habría sido arrastrado en diversas ocasiones por el asfalto durante un periodo de tiempo prolongado. En varias ocasiones, los policías se habrían detenido para continuar después arrastrándole, a pesar de las quejas y súplicas del menor. Se alega que mientras era arrastrado, el policía que se encontraba sentado en el asiento posterior de la moto, le habría golpeado en la cabeza en diversas ocasiones con un casco. Posteriormente, habría sido llevado al Centro de Atención Inmediata del barrio Las Lomas, donde habría sido detenido, siendo liberado poco después sin cargos. Se alega que con anterioridad, en el mes de abril, el menor fue encañonado por miembros de la Policía y obligado a salir de una tienda, donde se encontraba comprando. La información recibida señala que este hecho no habría sido denunciado por haber sido considerado un hecho aislado. Se expresó temor por la seguridad del menor Duvier Daniel Villazón Pinto y que estas acciones no sean aisladas y puedan estar ligadas a su pertenencia étnica y a su filiación. Además, se expresaron temores de que estas acciones puedan estar relacionadas con el trabajo que haga su padre, Imer Villazón Arias, en defensa de los derechos humanos de la comunidad de los kankuamos en Colombia.

187. El 9 de agosto de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con los hechos ocurridos en la sede del CPDH, situada en Bogotá. Según la información recibida, el 2 agosto de 2006 agentes de la policía se presentaron en la sede del mencionado comité y presionaron a su secretaria para que les permitiese inspeccionar el local piso por piso. Los agentes habrían argumentado que, al tratarse de de una edificación sospechosa, necesitaban conocer las actividades que tenían lugar en su

interior. A continuación, éstos habrían tomado los nombres de todos los miembros del CPDH. De acuerdo a esta misma información, se alega que el argumento ofrecido por los agentes no sería veraz, pues tanto la Alcaldía Local de la Candelaria como las Autoridades del distrito habrían recibido información sobre el traslado de la sede en marzo de 2006. Se expresó temor de que estos hechos formasen parte de un contexto de permanente intimidación y acoso en contra de los defensores de derechos humanos en Colombia, y en concreto del trabajo que en este sentido realiza el CPDH.

188. El 15 de agosto de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con los señores **Orlando Raúl Flórez Orjuela**, dirigente de la Asociación Juvenil de Ibagué y trabajador de la Corporación Nuevo Arco Iris, **Carlos Alberto Castaño Martínez**, integrante del Proyecto Planeta Paz de la Corporación Derechos para la Paz (CDPAZ), **Jhon Jairo Nieto Rodríguez**, y las organizaciones no gubernamentales CAJAR, Consultoría para los Derechos Humanos y Desplazamiento (CODHES), Minga, Compromiso, Medios para la Paz, Movimientos de Víctimas de Crímenes de Estado, ONIC, y Etnias de Colombia, así como las agencias de prensa Voz y Prensa Rural. Todas estas organizaciones y personas trabajan en defensa de los derechos humanos en Colombia y las organizaciones CAJAR, CODHES, Minga, Compromiso, Medios para la Paz, Movimientos de Víctimas de Crímenes de Estado, ONIC y Etnias de Colombia fueron objeto de un llamamiento urgente enviado el 18 de mayo de 2006 por la Representante Especial y un llamamiento urgente enviado el 24 de mayo de 2006 por la Representante Especial y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas. De acuerdo con la información recibida, el 3 de agosto de 2006, las casas de Orlando Raúl Flórez Orjuela y de Carlos Alberto Castaño Martínez habrían sido allanadas por funcionarios del Cuerpo Técnico de Investigaciones de la Fiscalía (CTI), bajo la justificación de la búsqueda de armas y explosivos. Además, según se informa, los días 3 y 4 de agosto de 2006 Orlando Raúl Flórez Orjuela y Jhon Jairo Nieto Rodríguez habrían recibido varias llamadas telefónicas por sujetos que se identificaron como miembros del programa de Reinserción del Gobierno Nacional. Estos individuos les habrían acusado a Orlando Raúl Flórez Orjuela y Jhon Jairo Nieto Rodríguez de pertenecer a un grupo insurgente. De acuerdo con la información recibida el supuesto miembro de Reinserción del Gobierno Nacional habría amenazado a Jhon Jairo Nieto Rodríguez, diciéndole que “tiene plazo para salir de Ibagué hasta el lunes y para no volver mas, así le coloquen guardaespaldas usted no se va a salvar, por que no queremos saber mas de guerrilla”. El 4 de agosto de 2006 el CAJAR, la CODHES, Minga, Compromiso, Medios para la Paz, Movimientos de Víctimas de Crímenes de Estado, ONIC, y Etnias de Colombia y las agencias de la prensa Voz y Prensa Rural habrían recibido un correo electrónico amenazante de parte de una organización llamada “Amigos Colombia Pro-Derecha”. Según se informa, el correo habría dicho que “acabaremos con cada uno de ustedes donde quiera que se sigan camuflando ongs, fundaciones, movimientos, colectivos, organizaciones, comités, periódicos, revistas, en todo lugar les buscaremos para acabar de una buena vez por todas con el oxígeno que le da la vida a las FARC y el ELN”. Se expresaron temores de que estos eventos pudiesen estar relacionados con el trabajo que hacen las personas y organizaciones sobre mencionadas en defensa de derechos humanos. En el contexto de las previas supuestas amenazas, se expresaron temores de que estos nuevos eventos pudiesen formar parte de una campaña de hostigamiento en contra estas organizaciones.

189. El 29 de agosto de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la

cuestion de las ejecuciones extrajudiciales, sumarias o arbitrarias, señaló a la atención del Gobierno la información recibida 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.

190. El 7 de septiembre de 2006, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, señaló a la atención urgente del Gobierno una comunicación que hacía referencia a su llamamiento urgente de 24 de mayo de 2006 [Ref. UA G/SO 214 (107-5)], en la que se ponía en conocimiento del Gobierno las informaciones recibidas en torno a las supuestas amenazas dirigidas contra el personal de la organización de derechos humanos Corporación **COMPROMISO**, la **ONIC**, la **Unión Sindical Obrera** y las organizaciones de derechos humanos **Viva la Ciudadanía Bogotá**, **CODHES** y el **CAJAR**, respectivamente. La situación de los colaboradores de la ONIC y el CAJAR fue objeto de llamamientos urgentes enviados el 18 de mayo de 2006, el 24 y el 31 de mayo de 2006. La comunicación recibida del Gobierno informa sobre “las actividades que se vienen desarrollando en el marco del programa de protección a defensores de los derechos humanos”. Para tal efecto, la comunicación trae adjunta una copia del Programa de Protección para Defensores de Derechos Humanos del Ministerio del Interior y de Justicia. Dicha información constituye una buena muestra de los esfuerzos llevados a cabo por el Gobierno de Colombia para la protección de los defensores de derechos humanos en el desempeño de su importante misión, y constituye un importante aporte para el desempeño de nuestras labores. Sin embargo, la Representante Especial y el Relator Especial se refirieron también a su comunicación original del pasado 24 de mayo, relativa a las supuestas amenazas dirigidas por el personal de las organizaciones de derechos humanos mencionadas arriba. Según las informaciones recibidas, el 17 de mayo de 2006 las organizaciones mencionadas habrían recibido un mensaje amenazador por correo electrónico. El mensaje habría dicho “ESTAN TODOS ADVERTIDOS no toleramos aquí a supuestos abogaduchos de pacotilla... líderes... defensores de derecho humano... que solo vienen es a ALINEAR al pueblo al pensamiento comunista retrogrado y subversivo de la guerrilla, cuando precisamente hemos logrado limpiar de nuestro territorio a arrodillados e idiotas serviles de tal propósito, NO RESPONDEMOS por la integridad de nadie que venga con tal propósito”. Según los informes, el mensaje habría procedido de la misma dirección que el mensaje que la ONIC y el CAJAR habrían recibido el 8 de mayo de 2006. En la comunicación del 24 de mayo, se expresaron temores que estas amenazas pudieran formar parte de una campaña de hostigamiento en contra de las organizaciones que trabajan en defensa de los derechos humanos en Colombia, y se instaba al Gobierno a que adoptara “todas las medidas necesarias para proteger los derechos y las libertades de las organizaciones mencionadas e investigar, procesar e imponer las sanciones adecuadas a cualquier persona responsable de las violaciones alegadas”, así a adoptar “las medidas eficaces para evitar que se repitan tales hechos”. Con el objetivo de conseguir una

clarificación de los hechos alegados, y como parte de nuestra responsabilidad, derivada de los mandatos entregados por la Comisión de Derechos Humanos, la comunicación del 24 de mayo contenía una serie de preguntas específicas relativas a estos hechos. Debido a que la última comunicación del Gobierno no incluía información específica en respuesta a estas preguntas, la Representante Especial y el Relator Especial agradecieron la cooperación y las observaciones sobre las mismas, siempre y cuando sean aplicables al caso en cuestión.

191. El 6 de octubre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con las amenazas y actos de intimidación en contra de **Luz Adriana González Correa, Walter Álvarez Ossa, Martha Sofía Castaño y Guillermo Castaño Arcila**, integrantes del Comité Permanente por la Defensa de los Derechos Humanos (CPDH) en varias partes a lo largo de Colombia. La situación de los miembros del CPDH fue objeto de un llamamiento urgente enviado el 9 de agosto de 2006 por la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos. Según la información recibida, la semana anterior Luz Adriana González Correa, Secretaria Ejecutiva de la Seccional del CPDH en Risaralda, habría sido seguida por desconocidos y habría recibido varias amenazas por vía telefónica. El 24 de agosto, la Sra. Martha Sofía Castaño, profesora e hija del Presidente del CPDH en Risaralda, habría sido amenazada por desconocidos al salir de su lugar de trabajo. En el año 2004, Guillermo Castaño Arcila, padre de Martha Sofía Castaño, habría sido víctima de una conspiración para asesinarlo. Finalmente, se expresó temor de que Walter Álvarez Ossa, también miembro del CPDH, hubiese sido víctima de desaparición forzada, ya que no se lo había visto desde el 16 de agosto de 2006.

192. El 16 de octubre de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, señalaron a la atención urgente del Gobierno la información recibido 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**, Presidente de la Asociación para la Investigación y Acción Social (NOMADESC), **Carlos Arbey González**, Presidente del Sindicato Nacional de Trabajadores y Empleados Universitarios de Colombia (SINTRAUNICOL), **Martha Nidia Ascuntar Achicanoy**, Coordinadora de la FCSPP Seccional Valle de Cauca, **William Arlet Escobar Holguín**, Secretario de Educación del Sindicato de Trabajadores de la Industria Metalúrgica (SINTRAMETAL), **Otoniel Ramírez López**, Vicepresidente de la CUT del Valle del Cauca, **Wilson Neber Arias Castillo**, ex presidente del Sindicato de Empleados Públicos del Servicio Nacional de Aprendizaje (SINDESENA), **Ariel Díaz**, coordinador del Departamento de Derechos Humanos de la CUT del Valle del Cauca, **Fernando Sanchez Escobar**, miembro del equipo coordinador de la FCSPP Seccional Valle del Cauca, **Luis Antonio Hernandez Monroy**, ex presidente del Sindicato de Trabajadores de las Empresas Municipales de Cali (SINTRAEMCALI), **Harol Viafara González**, ex tesorero de SINTRAEMCALI, **Frangey Rendon Galvez**, Secretario de la Oficina de Gestión de Paz y Convivencia de la Gobernación del Valle del Cauca y **Héctor Alonso Moreno Parra**, asesor del despacho del Gobernación del Valle del Cauca. 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-ELN y los mismos individuos habrían sido amenazados con la detención. Los autores supuestos del informe habrían sido miembros de la Tercera Brigada del Ejército Nacional con sede en la ciudad de

Santiago de Cali y el CTI. Además el documento habría contenido datos personales de los miembros de las organizaciones mencionadas incluyendo sus direcciones, nombres de los miembros de sus familias, sus números telefónicos y detalles de sus rutinas cotidianas. Sin embargo, la Fiscalía General de la Nación habría indicado que no existió ninguna investigación en contra de 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, llamado "Operación Dragón". Se señala que en aquella ocasión la Fiscalía habría encontrado otro informe de la Tercera Brigada del Ejército, denominado "CIME RIME" en el que aparecieron los nombres de los mismos dirigentes mencionados en el presente informe del CTI. Un proceso judicial habría sido llevado a cabo debido a los dichos hechos, 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 culpables supuestos. Se expresó preocupación de 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 pudiesen estar relacionadas con sus actividades en defensa de los derechos humanos. Además se expresó temor de que el plan contra a los individuos mencionados pueda constituir un intento de intimidar a las organizaciones para que no continúen con sus actividades en defensa de los derechos humanos.

193. El 19 de octubre de 2006, la Representante Especial, junto con el Relator Especial sobre la independencia de los magistrados y abogados, señaló a la atención urgente del Gobierno la información recibido en relación con el actos intimidantes en contra de **José Humberto Torres Díaz**, abogado de la FCSPP. El abogado denunció el asesinato del defensor de derechos humanos Alfredo Correa de Andrés, que ocurrió el 17 de septiembre de 2004. Según sus denuncias, el asesinato fue llevado a cabo por paramilitares con el apoyo de la policía y de las fuerzas de seguridad. De acuerdo con la información recibida, recientemente, desconocidos armados estarían vigilando la casa de José Humberto Torres Díaz. Según los informes, los guardias de seguridad del abogado habrían establecido que los vehículos de los desconocidos pertenecen al Servicio de Inteligencia de la Policía Nacional (SIPOL). El 13 de septiembre de 2006, la FCSPP habría contactado a las autoridades gubernamentales en relación con un documento descubierto por la oficina de la Fiscalía General de la Nación que contendría el nombre y la dirección de Sr. José Humberto Torres Díaz. Según las informaciones recibidas, en marzo de 2006 el documento habría sido encontrado en la casa de un líder regional de las AUC. El autor del documento habría acusado al abogado de ser miembro del ELN y además habría elaborado una lista de personas que habrían sido víctimas de asesinatos debido a alegaciones similares. De igual manera se nos informa que anteriormente, individuos que habían sido acusados de afiliación a un grupo subversivo, habrían sido objeto de graves violaciones de derechos humanos. Se expresó la preocupación por los hostigamientos y las amenazas en contra de José Humberto Torres Díaz porque se expresó temores de que estos incidentes pudiesen estar relacionados con sus actividades en defensa de los derechos humanos, y en particular sus denuncias en contra de la impunidad en relación con casos de graves violaciones de los derechos humanos contra personas civiles.

194. El 20 de octubre de 2006, la Representante Especial señaló con una carta de alegación al Gobierno la información recibido en relación con el asesinato de **Julián Andrés Hurtado Castillo**, estudiante y miembro del Consejo Estudiantil de la Universidad del Valle. Después del asesinato del estudiante Jhonny Silva Aranguren, que ocurrió el 22 septiembre de 2005, el Sr.

Julián Andrés Hurtado Castillo llamó por una investigación y denunció la impunidad en relación con el caso. De acuerdo con la información recibida, el 4 de octubre de 2006, aproximadamente a medianoche, Julián Andrés Hurtado Castillo habría sido asesinado al ingresar a su domicilio. Según los informes, el estudiante habría sido matado de un tiro. Los culpables supuestos, un hombre y una mujer no identificados, habrían disparado a Julián Andrés Hurtado Castillo en la cabeza antes de irse en transporte público. Un taxista le habría trasladado al hospital Carlos Carmona. Después de otra transferencia a la unidad de cuidado intensivo del Hospital Universitario del Valle, la muerte cerebral del estudiante habría sido declarada. El día siguiente se le habría desconectado del respirador artificial y su familia habría anunciado su muerte. Se expresó preocupación de que el asesinato de Julián Andrés Hurtado Castillo estuviera relacionado con sus actividades en defensa de los derechos humanos, y en particular sus declaraciones en contra de la impunidad en el caso del asesinato de Jhonny Silva Aranguren.

195. El 27 de octubre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con la suspensión de medidas de protección otorgadas por el gobierno colombiano a **Francisco Eladio Ramírez Cuellar**, abogado y Presidente del Sindicato de Trabajadores de la Empresa Nacional Minera (SINTRAMINERCOL). Se señala que la CIDH decretó medidas cautelares a favor del Sr. Ramírez Cuellar después de un intento de asesinato en octubre de 2004. De acuerdo con la información recibida, el Sr. Ramírez Cuellar habría sido víctima de varias amenazas y actos de hostigamiento que podrían estar relacionadas con sus actividades sindicales, en particular con su papel en la negociación y huelga de trabajadores de la compañía Drummond durante abril y mayo de 2006. Sin embargo, el 5 de octubre de 2006 el Departamento Administrativo de Seguridad (DAS), habría informado al Sr. Ramírez Cuellar a través de una comunicación escrita, de la decisión del Gobierno de sustituir el coche blindado que se le había asignado por un vehículo sin protección. Además le habrían informado de que se le retirarían sus guardias de seguridad armados y los radio-comunicadores. Una semana después, en lugar de las medidas de protección mencionadas, el Gobierno le habría ofrecido un auxilio de transporte, sugiriéndole que podría utilizar un taxi de servicio público todos los días, ofrecimiento que el Sr. Ramírez Cuellar rechazó. Se expresó preocupación por la integridad física del Sr. Ramírez Cuellar debido a la cesación de las medidas de protección por parte del gobierno colombiano.

196. El 10 de noviembre de 2006, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión señaló a la atención urgente del Gobierno la información recibida 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 el Movimiento Nacional de Víctimas de Crímenes de Estado, y llevada a cabo el 26 de agosto de 2006, en contra del proceso de rearme de los grupos paramilitares en Sucre. Según los informes, la lista contiene 26 nombres, entre los que se encuentran 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 a las fuentes, nueve de las 26 personas nombradas en la lista ya han sido asesinadas. Según los informes, Luis Guevara, miembro del Movimiento Nacional de Víctimas de Crímenes de Estado, fue asesinado el 22 de agosto del

2006. Por otra parte, se teme que la situación se haya deteriorado debido a la decisión reciente del Movimiento Nacional de Víctimas de Crímenes de Estado, de presentar un informe ante el Senado, informe que denuncia presuntas conexiones entre políticos locales y grupos paramilitares. Se expresó preocupación por las amenazas de muerte en contra de los integrantes del Movimiento Nacional de Víctimas de Crímenes de Estado porque se temió que pudiesen estar relacionadas con sus actividades en defensa de los derechos humanos, en particular los derechos de las víctimas del conflicto armado colombiano.

197. El 15 de noviembre de 2006, la Representante Especial, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, señaló a la atención urgente del Gobierno la información recibida en relación con las amenazas de muerte en contra de **Medardo Cuesta y Oswaldo Cuadrado**, integrantes de la junta directiva del Sindicato Nacional de Trabajadores de la Industria Agropecuaria (SINTRAINAGRO); así como de las muertes de Carlos Arciniegas Niño, miembro de SINTRAINAGRO, y Jesús Marino Mosquera, líder de dicho sindicato y miembro de la Comisión Obrero Patronal en Urabá. SINTRAINAGRO promueve y protege los derechos de los trabajadores agropecuarios. De acuerdo con la información recibida, el 26 de octubre de 2006, al volver a casa el Sr. Cuesta habría encontrado unos folletos que contenían amenazas de muerte en contra suya y del Sr. Cuadrado. Según los informes, dos hombres encapuchados dejaron los folletos en su casa, situada en el municipio de Apartadó (Departamento de Antioquia). Por otra parte, el 11 de octubre de 2006, en la madrugada, el Sr. Jesús Marino Mosquera habría muerto después de recibir varios impactos de bala, cuando se dirigía a su lugar de trabajo en el municipio de Carepa (Departamento de Antioquia). Según los informes, el Sr. Carlos Arciniegas Niño, otro dirigente de SINTRAINAGRO en Barrancabermeja, desapareció a fines del año pasado. Se informa de que el 2 de enero de 2006 se descubrió su cadáver amarrado, con señales de tortura y tres impactos de bala, en la vía que conduce de Barrancabermeja a Puerto Wilches (Santander). Se expresó preocupación por las amenazas de muerte en contra de los Sres. Cuesta y Cuadrado, y se menciona que dichas amenazas pueden representar un intento de disuadir a los miembros de SINTRAINAGRO de continuar con su trabajo. Además, se teme que Jesús Marino Mosquera y Carlos Arciniegas Niño hayan sido asesinados debido a su trabajo en defensa de los derechos humanos. En general, se teme que los ataques y actos de hostigamiento en contra de los integrantes del SINTRAINAGRO estén relacionados con sus actividades en defensa de los derechos humanos, en particular los derechos de los trabajadores agrícolas.

198. El 23 de noviembre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con la muerte de **Juan Daniel Guerra Camargo**, líder comunitario y miembro del Comité de Integración Social del Catatumbo (CISCA). Este líder social fundió el Movimiento Cívico de Acción Comunitaria (MAC) y también fue presidente de la Asociación de Juntas del municipio de Aguachica (departamento de Cesar). Dedicó gran parte de su vida a defender los derechos de los miembros de las comunidades en las cuales trabajaba. De acuerdo con la información recibida, el 22 de septiembre de 2006, el Sr Guerra Camargo habría sido asesinado supuestamente por dos milicianos de la guerrilla de las FARC. Se señala que en el momento de su muerte trabajaba en un proyecto comunitario sobre el procesamiento del café. Además, según los informes, los líderes del CISCA frecuentemente son víctimas de actos de hostigamiento llevado a cabo por las FARC. El 26 de julio de 2005, otro líder del CISCA, José Trinidad Torres, habría sido asesinado por las FARC. Se expresó preocupación por la muerte de Juan Daniel Guerra Camargo porque

se expresó temores de que pudiera estar relacionada con sus actividades en defensa de derechos humanos, en particular los derechos de los trabajadores de las comunidades donde trabajaba.

199. El 30 de noviembre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con los actos de hostigamiento en contra de **Willington Cuero Solís, Washington Vladimir Angulo Cuero, Astolfo Aramburo y Elizabeth García Carrillo**, miembros del Proceso de Comunidades Negras en Colombia (PCN), una coalición de más de 80 organizaciones que promueve los derechos humanos de las comunidades de afrodescendientes y trabaja por el reconocimiento de sus derechos a la tierra. De acuerdo con la información recibida, El 2 de noviembre de 2006, Willington Cuero Solís recibió una llamada amenazante en la que un desconocido le dijo, “cuídese y cuide a los suyos”. Según los informes hay temores por su seguridad entonces huyó de su casa en el municipio de Buenaventura, departamento de Valle del Cauca. El 30 de octubre de 2006, Washington Vladimir Angulo Cuero habría sido secuestrado por un grupo de hombres, supuestamente paramilitares respaldados por el ejército, afuera de un centro comercial. Uno del grupo le habría amenazado con una pistola y le habrían empujado dentro de una furgoneta azul con el vidrio entintado en la que circularon por las calles de Bogotá durante cinco horas. Antes del secuestro, el Sr. Angulo se habría dado cuenta de que dos individuos le habrían seguido entonces supuestamente llamó a un colega del PCN por venir a ayudarlo. Según los informes cuando el colega llegó al centro y no pudo encontrar al Sr. Angulo, informó a varias autoridades gubernamentales y estatales, entre ellas la oficina del programa de protección del Ministerio del Interior y de Justicia, la oficina de la Vicepresidencia. El Sr. Angulo fue liberado en las afueras de la ciudad después de uno de los culpables habría recibido una llamada telefónica y habría dicho a sus compañeros, “A este tipo no le podemos tocar, no le podemos hacer nada...es la orden”. Anteriormente, el Sr. Angulo había recibido varias amenazas de muerte y su hermano menor habría sido asesinado supuestamente por paramilitares. El 25 de octubre de 2006, el Sr Astolfo Aramburo habría sido seguido por dos individuos desconocidos. Llamó a la oficina del PCN-Bogota y algunos integrantes llegaron a recogerle. En los años recientes, 14 miembros de la familia Aramburo habrían sido asesinados por paramilitares con el apoyo del ejército. Además, el 16 de junio, Elizabeth García Carrillo, compañera de Carlos Rosero, un directivo del PCN, habría sido amenazada por dos hombres que le habrían quitado sus documentos de identidad y habrían notado números de su celular. Se expresó preocupación por la seguridad de los integrantes del PCN porque se temía que los actos de intimidación por los supuestos grupos paramilitares en colaboración con el ejército formaran parte de una campaña de agresión sistemática que puede estar relacionada con el trabajo del PCN en defensa de los derechos humanos, en particular los derechos de las comunidades afrocolombianas.

Comunicaciones recibidas

200. Por carta con fecha 4 de enero de 2006 el Gobierno de Colombia transmitió la siguiente información en relación con el llamamiento urgente del 23 de junio de 2006 sobre el caso de la **Sra. Gloria Amparo Suárez**, miembro de la OFP. El Gobierno de Colombia informó que ya se han iniciado las investigaciones por parte de la Fiscalía Segunda Seccional de Bucaramanga por el delito de amenazas en contra de la Sra. Suárez por parte de desconocidos. Se indicó que después de las presuntas amenazas en su contra, la Sra. Suárez no ha vuelto a ser víctima de hechos similares. Se notó que hasta ahora no se cuenta con elemento alguno que permita determinar el origen de las amenazas, y la Sra. Suárez no tiene conocimiento sobre la existencia de persona alguna que pueda servir como testigo de los hechos. Así mismo, la Procuraduría

General de la Nación solicitó al Batallón Nueva Granada del Ejército Nacional, al Departamento de Policía del Magdalena Medio, al DAS y la Unidad de Fiscalía Delegada ante el Circuito de Barrancabermeja, llevar a cabo la protección de la Sra. Suárez, así como adelantar el proceso penal en relación con las presuntas amenazas en contra de ella. El Gobierno indicó que la CIDH otorgó medidas cautelares a favor de los miembros de la OFP y tras la realización de un estudio de nivel de riesgo y grado de amenaza la Policía Nacional concluyó que la Sra. Suárez presenta un tipo ordinario de riesgo. Además el 8 de octubre de 2006 el Comité de Reglamentación y Evaluación de Riesgos (CRER) recomendó no aprobar un apoyo de transporte a favor de la Sra. Suárez. Sin embargo el CRER recomendó la reevaluación del susodicho estudio.

201. Por carta con fecha 4 de enero de 2006 el Gobierno de Colombia transmitió la siguiente información en relación con el llamamiento urgente del 7 de julio de 2006 sobre el caso de la **Sra. María Jackeline Rojas Castañeda**. El gobierno indicó que actualmente la investigación se encuentra en indagación, con programa metodológico, tendiente al esclarecimiento de los hechos, a la identificación e individualización de los autores o partícipes del ilícito. Así mismo, se notó que la Procuraduría General de la Nación solicitó al Batallón Nueva Granada del Ejército Nacional, al Departamento de Policía del Magdalena Medio, al DAS y la Unidad de Fiscalía Delegada ante el Circuito de Barrancabermeja, llevar a cabo la protección de la Sra. Rojas Castañeda, así como adelantar el proceso penal en relación con las presuntas amenazas en contra de ella. El Gobierno indicó que la CIDH otorgó medidas cautelares a favor de los miembros de la OFP y tras la realización de un estudio de nivel de riesgo y grado de amenaza, la Policía Nacional se le recomendó a la Sra. Rojas Castañeda que implementase medidas de autoprotección. Además se le dieron números telefónicos de la entidad con el fin de reaccionar de forma inmediata ante situaciones que puedan vulnerar su integridad física y se coordinó con las patrullas de vigilancia suministrada por el Ministerio del Interior y Justicia, con el fin de identificar personas o vehículos sospechosos. Se indicó que la Sra. Rojas manifestó telefónicamente no necesitar medidas de protección adicionales. No obstante lo anterior, el Ministerio reiteró el 5 de octubre de 2006 su disposición frente a su caso, remitiendo de este modo las recomendaciones de protección y seguridad.

202. Por carta con fecha 5 de mayo de 2006, el Gobierno informó que el Programa Presidencial de Derechos Humanos de la Vicepresidencia de la República solicitó al Ministerio del Interior y de Justicia brindar medidas de protección necesarias para garantizar la seguridad de la **Sra Lilia Solano Ramirez**. El gobierno indicó que actualmente la investigación se encuentra en indagación, con programa metodológico, tendiente al esclarecimiento de los hechos, a la identificación e individualización de los autores o partícipes del ilícito.

203. Con carta de 9 de agosto de 2006, el Gobierno informó al Relator Especial sobre las actividades que se vienen desarrollando en el marco del programa de protección a defensores de derechos humanos y adjuntó los principios básicos que estructuran las actividades del Programa de Protección para Defensores de Derechos Humanos del Ministerio del Interior y de Justicia, y las acciones concretas adoptadas por el Gobierno a raíz de las amenazas que se han venido profiriendo contra los defensores de derechos humanos. Con respecto a las medidas adoptadas a raíz de las recientes amenazas contra defensores de derechos humanos, el Gobierno indicó que la Fiscalía 209- Seccional de la Unidad de Delitos contra la Libertad Individual, Otras Garantías y Otros, de Bogotá, adelanta investigación bajo el radicado número 110016000049200603282 por las presuntas amenazas contra el **CAJAR**. Actualmente la investigación se encuentra en

indagación, con programa metodológico, tendiente al esclarecimiento de los hechos, a la identificación e individualización de los autores o partícipes del ilícito.

204. El 14 de agosto de 2006, el Gobierno transmitió otra nota detallada sobre las distintas actividades que se desarrollan en el marco del programa de protección a defensores de derechos humanos, indicando además, elementos de la Política de Seguridad Democrática, las actividades del programa de protección y las acciones concretas adoptadas por el Gobierno a raíz de las amenazas que se han originado contra los defensores de derechos humanos.

205. Por carta con fecha 18 de octubre de 2006 el Gobierno de Colombia transmitió la siguiente información en relación con el llamamiento urgente del 15 de junio de 2006 en relación con la FLIP. El Gobierno indicó 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 organizaciones amenazadas, y requirió al DAS para que realice un estudio técnico del nivel de riesgo y grado de amenaza para los miembros de estas organizaciones. Una vez se obtenga del referido estudio, los casos serán presentadas a consideración del CRER Programa de Protección a Periodistas y Comunicadores Sociales, del Ministerio del Interior de Justicia, con el fin de recomendar las medidas de protección necesarias. Finalmente el Gobierno informó que el Ministerio del Interior y de Justicia realizara seguimiento a las investigaciones que cursan en la Jefatura de Delitos informáticos de la Policía Nacional y en la Fiscalía General de la Nación, en relación con las amenazas mencionadas.

206. Por carta con fecha 6 de noviembre de 2006 el Gobierno de Colombia transmitió la siguiente información en relación con el llamamiento urgente del 18 de enero de 2006 sobre el caso del **Sr. Príncipe Gabriel González Arango**. El Gobierno de Colombia informó que ya se han iniciado las investigaciones por parte de la Fiscalía General de la Nación. De conformidad con un informe presentado el 14 de diciembre de 2005, por un investigador del Cuerpo Técnico de Investigación de la Fiscalía General, ante el Coordinador de Reacción Inmediata, el Sr. González fue identificado como persona importante dentro de las FARC. El 30 de noviembre de 2005 la Fiscalía libró la orden de captura. El 10 de enero de 2006, la Fiscalía 21 Seccional de la ciudad de Bucaramanga avocó el conocimiento del caso procediendo luego a ordenar la práctica de algunas pruebas pertinentes. Además el 13 de enero de 2006, se resolvió la situación jurídica y se profirió medida de aseguramiento, consistente en la detención preventiva del sindicado, en calidad de autor responsable del delito de rebelión, con concurrencia de circunstancias de agravación punitiva, motivo por el que denegó el beneficio de la libertad del Sr. González. Se indicó que el 22 de marzo de 2006 la Fiscalía ordenó no revocar le medida de aseguramiento y el 28 de marzo de 2006 se decretó la cierre de la investigación y el 26 de abril de 2006 se profirió la calificación del sumario, acusando al Sr. González del delito de Rebelión agravada. El Sr. González apeló la decisión y la Fiscalía Cuarta Delegada ante el Tribunal confirmó la providencia antes mencionada, la cual se notificó y ejecutó debidamente, por lo que el proceso se encuentra en etapa de juicio. El Gobierno informó que se ha solicitado la designación de un agente especial del Ministerio Público para garantizar el debido proceso y el derecho de defensa del procesado. De igual manera informó que de acuerdo con solicitud efectuada por el Comité de Solidaridad con los Presos Políticos, se logró la reubicación del Sr. González dentro de la cárcel Modelo de Bucaramanga. Por último, en relación con las presuntas amenazas en contra del Sr. González, el Programa Presidencial de Derechos Humanos y Derecho Internacional

Humanitario, informó que se encuentra coordinando medidas de protección a favor del mismo, consistentes en medio de comunicación, curso de autoprotección y rondas policíacas.

207. Por carta con fecha 9 de noviembre de 2006 el Gobierno de Colombia transmitió la siguiente información en relación con el llamamiento urgente del 29 de agosto de 2006 sobre el caso de **Carlos Arturo Montes Bonilla, Héctor Jairo Paz y Martha Cecilia Díaz Suárez**. El Gobierno de Colombia informó de que, en relación con el asesinato del Sr. Montes Bonilla, una persona identificada como el hijastro de la víctima, se entregó voluntariamente a la Fiscalía URI de Barrancabermeja, señalando haber cometido el hecho punible presuntamente por motivos familiares. Se indicó que el DAS realizaría el respectivo seguimiento a los resultados que arroje la investigación. Además se informó sw que actualmente la investigación sobre las amenazas en contra de Héctor Jairo Paz y Martha Cecilia Díaz Suárez encuentran en indagación, con programa metodológico, tendiente al esclarecimiento de los hechos, a la identificación e individualización de los autores o partícipes del ilícito.

208. Por carta con fecha 7 de diciembre de 2006 el Gobierno transmitió la siguiente información concerniente a las diferentes organizaciones no gubernamentales objeto de presuntas amenazas. Al respecto de la ONIC, el Programa Presidencial de Derechos Humanos de la Vicepresidencia de la República solicitó al Ministerio del Interior y de Justicia brindar medidas de protección necesarias para garantizar la seguridad de los miembros de ONIC. Se está a la espera de que el Ministerio del Interior conozca los nombres de los demás consejeros, con miras a adelantar los respectivos estudios de nivel de riesgo y grado de amenaza e implementar las medidas necesarias de seguridad. Actualmente, la Policía Nacional se encuentra realizando rondas preventivas y revistas permanentes en la sede de la ONIC en la ciudad de Bogotá para evitar cualquier situación que perjudique la seguridad de los integrantes e esta organización, en espera del estudio de seguridad que adelanta la Policía Nacional. Al respecto del CAJAR, el Gobierno consideró importante precisar que el 11 de mayo de 2000, la CIDH otorgó medidas cautelares a favor de los miembros de esta corporación. Así mismo, y de acuerdo con lo que informa el Programa Presidencial de Derechos Humanos de la Vicepresidencia de la República, dentro del marco de los Programas de Protección del Ministerio del Interior y de Justicia, el CAJAR cuenta con las siguientes medidas: dos identificadores de llamadas, blindaje de la sede, 23 radios avanteles, medidas de protección individual a favor de varios miembros de dicha corporación. Al respecto, se coordinó una reunión de carácter urgente con el Director de Derechos Humanos del Ministerio del Interior y de Justicia, con el fin de prevenir cualquier acción en contra de la integridad de las personas que hacen parte del CAJAR. Para tal fin, en el marco de los Comités de Reglamentación y Evaluación de Riesgos de los programas de Protección, liderados por el Ministerio en mención, se trató el caso de esta organización y se adoptó la revisión de las medidas de protección existentes y el refuerzo de otras complementarias a favor de la misma. El 16 de junio de 2006, en el marco de los Programas de Protección a población vulnerable del Ministerio del Interior y de Justicia, se realizó una reunión a la que asistieron los representantes de la Población Objeto de los Programas de Protección, así como los demás integrantes de este espacio interinstitucional, la Fiscalía General de la Nación, la Policía Metropolitana de Bogotá, el encargado de la Unidad de Delitos informáticos de la Dirección de Policía Judicial e Investigación (DIJIN), en la cual se les informó sobre la metodología desarrollada en la investigación y los avances logrados. De igual modo, se adoptaron mecanismos tendientes a reforzar las medidas de protección a favor de las mismas. Adicionalmente, el Programa Presidencial de Derechos Humanos de la Vicepresidencia de la República solicitó a la Fiscalía General de la Nación un informe del estado actual de las

investigaciones por estos hechos. En respuesta a lo anterior, se informó que la Fiscalía 209 Seccional de la Unidad de delitos contra la Libertad Individual, Otras Garantías y Otros, adelanta una investigación, por las presuntas amenazas en contra de los miembros del CAJAR. De acuerdo con lo que informa la Fiscalía General de la Nación, la investigación se encuentra en indagación. En consecuencia, se han librado misiones de trabajo a miembros de Policía Judicial de la DIJIN, quienes se encuentran adelantando labores de campo. A la fecha no se ha logrado identificar o individualizar a los autores o partícipes del ilícito, motivo por el cual no se ha elevado imputación alguna. La Fiscalía General de la Nación resalta que los miembros del CAJAR no solo han contado con las garantías del debido proceso y garantías procesales que les asisten como representantes dentro de las investigaciones que se adelantan —y en donde se han conformado como parte civil—, sino con las respuestas a las diferentes solicitudes que se han elevado en las reuniones que se han realizado en el marco de seguimiento a las medidas cautelares a favor de la mencionada organización. Por último, se señala que el Vicepresidente de la República adelantó una reunión el 5 de octubre de 2006, con miembros de organizaciones no gubernamentales, sindicalistas y defensores de derechos humanos, en donde se trató, entre otros temas, el caso de las amenazas en contra de los miembros del CAJAR. Sobre el particular, el director General de la DIJIN, asumió la coordinación y el seguimiento de las labores de Policía Judicial en el caso de las amenazas del CAJAR. Al respecto de la Corporación COMPROMISO, la Procuraduría General de la Nación informó, que en su sistema de información no aparece registrada queja alguna por amenazas en contra de la Corporación COMPROMISO. De su parte, el Programa Presidencial de Derechos Humanos de la Vicepresidencia de la República, conjuntamente con la Gobernación de Santander, planteó la situación de amenazas en contra de varias organizaciones, entre ellas, la relacionada con la corporación COMPROMISO, en el marco de las sesiones del Comité Departamental de Derechos Humanos. La Vicepresidencia de la República solicitó a las autoridades integrantes del referido Comité, especialmente a la Policía Nacional, adoptar las medidas de seguridad pertinentes, por lo que presentó el caso ante el Programa de Protección para Defensores de Derechos Humanos del Ministerio del Interior y de Justicia, entidad a la que solicitó revisar el caso de la Corporación COMPROMISO y adoptar las medidas a que hubiera lugar. En respuesta a lo anterior, el Ministerio de Interior y de Justicia informó lo siguiente: la Sede de la Corporación Compromiso se encuentra blindada desde el año 1999, por parte de la Dirección de Derechos Humanos del Ministerio del Interior y de Justicia; en la actualidad se reactivaron cinco medios de comunicación de la Avantel, a los Directivos de la Corporación, medida adoptada por el CRER, mediante Acta de abril de 2006; la entidad en mención coordinó con la Policía Nacional la adopción de las respectivas medidas de seguridad, con miras a prevenir cualquier hecho que pueda poner en peligro la vida e integridad de los miembros de la Corporación. Por su parte, la Policía Nacional de Colombia informó acerca de las siguientes actividades adelantadas por parte del Departamento de Policía de Santander, con el fin de brindar protección a los miembros de la Corporación COMPROMISO : el 29 de junio de 2006, en las instalaciones de la Defensoría del Pueblo Regional de Santander, se llevó a cabo una reunión con las autoridades del orden local regional, y miembros de la Corporación COMPROMISO, con el fin de tratar de la evolución de las amenazas a dicha organización mediante el servicio de mensajería electrónica; el 20 de junio de 2006 fueron dispuestas revistas policiales a la sede en Bucaramanga de la Corporación COMPROMISO. Finalmente, la Defensoría del Pueblo comunicó lo siguiente : la Defensoría del Pueblo Regional de Santander adelanta un expediente en relación con las presuntas amenazas proferidas contra COMPROMISO, otras ONG, abogados y comunicadores; el 19 de septiembre de 2006, la referida entidad requirió a las autoridades para que notifiquen el resultado de las gestiones realizadas para proteger a los representantes de COMPROMISO y otras organizaciones no

gubernamentales; el 9 de octubre de 2006 se llevó a cabo un Consejo de de Seguridad convocado por la Gobernación de Santander, con la asistencia de varias autoridades, en la cual se escucharon las inquietudes sobre la seguridad de la Corporación COMPROMISO y otras ONG, luego de lo cual las instituciones participantes expusieron las acciones adelantadas en el asunto expuesto. En relación con los hechos señalados en contra de las demás ONG mencionadas, el Gobierno comunicó que estará atento a la información que suministren las autoridades competentes acerca de las investigaciones desarrolladas para el esclarecimiento de los mismos, así como de las medidas adoptadas en relación con estas organizaciones, de modo que tan pronto se obtenga información más detallada se dará a conocer oportunamente a la Representante Especial.

209. Por carta con fecha de 8 de diciembre de 2006, el Gobierno de Colombia proporcionó información con respecto al llamamiento enviado el 19 de octubre de 2006. Se indicó que la CIDH otorgó medidas cautelares de protección a favor de los miembros del Fondo Comité de Solidaridad con los Presos Políticos, las cuales incluían al Sr. Jorge Humberto Torres Díaz. Asimismo, el Gobierno señaló que requirió varias autoridades, con el fin de responder a las comunicaciones enviadas por dicho organismo y por la Representante Especial. Indicó que respecto a la supuesta vigilancia del domicilio del Sr. Torres Díaz, por parte de presuntos miembros del Servicio de Inteligencia de la Policía Nacional, había solicitado a las autoridades competentes suministrar la información que permitiera esclarecer los hechos ocurridos, así como las medidas adoptadas al respecto. Igualmente, señaló que el Ministerio del Interior y de Justicia solicitó a la Policía Nacional realizar rondas de seguridad en torno a la vivienda del Sr. Torres Díaz, así como en torno a su casa de descanso, ubicada en la jurisdicción del Municipio de Baranoa. De otra parte, dicho Ministerio solicitó a la Policía Nacional que estudiase la posibilidad de asignar al Sr. Torres Díaz una unidad permanente para prestar seguridad por las noches a su vivienda. El Gobierno indicó que adicionalmente, solicitó al DAS que asigne un arma de apoyo y un escolta adicional que complementen el esquema de seguridad del que dispone actualmente el Sr. Torres Díaz. Sin embargo, el Gobierno señaló que el Sr. Torres Díaz se reservó el derecho de admisión de la asignación del escolta adicional, pese a que se trataba de una persona que fue presentada por él mismo para conformarlo. En consecuencia, el esquema de protección del Sr. Torres Díaz está compuesto por dos unidades de escolta con su respectivo armamento, un arma de apoyo y un vehículo blindado. El Gobierno también informó que se está coordinando con el arquitecto encargado de las obras de blindaje, una visita a la casa de descanso del Sr. Torres Díaz, con el fin de determinar los elementos de seguridad que sean compatibles con la estructura del inmueble para proceder a su instalación. Finalmente, el Gobierno informó que el caso del Sr. Torres Díaz fue tratado en el CRER y que tanto el Ministerio del Interior y de Justicia, como la Policía Nacional asumieron compromisos, los cuales serán seguidos por la Procuraduría.

210. Por carta con fecha 9 de enero de 2007 el Gobierno de Colombia transmitió la siguiente información en relación con el llamamiento urgente del 6 de octubre de 2006. El Gobierno informó de que tan pronto se conocieron las amenazas en contra de la Sra. Castaño el despacho Presidencial oficio bajo radicado en curso al Comando de Policía de Risaralda con el objetivo de que se realizara el respectivo estudio de seguridad, nivel de riesgo y grado de amenaza y a la Secretaria de Educación de Preira con el fin de que se tratara el caso en el Comité de Docentes Amenazados del Departamento. Se ejecutó medidas preventativas por medio de rondas permanentes a su lugar de trabajo y de residencia. De igual manera la policía suministró un manual de recomendaciones de autoprotección. Por su parte la Secretaria de Educación realizó

una reunión con la Sra. Castaño el día 21 de septiembre del año en curso, en la cual se le informó del trámite legal que se debe asumir en los términos del Decreto 3222 de 2003 para presentar la situación de amenazas al Comité Municipal de Docentes Amenazadas lo cual existe en realizar la denuncia ante la autoridad competente y solicitar el traslado a otro Departamento. Al respecto la Sra. Castaño decidió realizar la denuncia pero manifestó no estar interesada en un traslado inmediato. El Gobierno indicó que el Sr. Castaño había sido víctima de amenazas y el Programa Presidencial de Derechos Humanos tuvo conocimiento de tales hechos por lo que, el día 10 de marzo de 2006, ofició al Ministerio del Interior y de Justicia con el fin de que le sean concedidas medidas de protección urgentes, en la misma fecha, se ofició al Comando de Policía de Tulúa solicitando protección a la población afectada de Tulúa. Además se realizó un estudio de riesgo y grado de amenaza. El Gobierno notó que se ha estado presto a brindarle la colaboración necesaria al ciudadano en mención para garantizar su seguridad y la de su familia, así como su ejercicio como presidente del Comité Permanente por la Defensa de los Derechos Humanos de Risaralda. El Gobierno informó de que en cuanto a la presunta desaparición del Sr. Alvarez, se había solicitado de manera inmediata a la Comisión Nacional de Búsqueda de Personas Desaparecidas. Se notó que se seguirá vigilando la situación constantemente y se entregará oportunamente la información que sobre el caso se tenga conocimiento.

211. Por carta con fecha de 16 de enero de 2006, el Gobierno de Colombia proporcionó información con respecto al llamamiento enviado el 27 de octubre de 2006. El Gobierno informó de que el 29 de octubre de 2004 la CIDH otorgó medidas cautelares a favor del Sr. Cuellar. Luego de la realización de un Estudio Técnico de Riesgo y Grado de amenaza sobre la situación del Sr. Cuellar, el cual fue ponderado como ordinario y considerando la liquidación definitiva de la empresa MINERCOL el CRER recomendó el 22 de septiembre de 2006 retirar un vehículo blindado de que era beneficio del Sr. Cuellar, y asignarle un vehículo corriente, manteniendo el esquema de unas unidades de escolta. Así mismo el DAS informó que durante una entrevista al Sr. Cuellar el 18 de agosto de 2006 no se hizo alusión alguna a amenazas directas y actuales dirigidas en su contra. El Gobierno indicó que tan pronto se conocieron las amenazas en contra del Sr. Cuellar el citado Ministerio solicitó inmediatamente a la Policía Nacional la adopción de medidas preventivas en la residencia y en la oficina del beneficiario, así como la reevaluación del estudio técnico de riesgo. Se indicó que se había solicitado a las autoridades competentes suministrar la información más detallada acerca de las investigaciones que se estuviesen adelantando.

Observaciones

212. The Special Representative thanks the Government of Colombia for its responses to her communications. She is encouraged by the Government's willingness to investigate the allegations highlighted in her correspondence, and she also looks forward to receiving more information regarding the Government's Protection Programme for Human Rights Defenders, mentioned in a number of responses. The Special Representative also appreciates the Government's efforts to provide protection for victims of reported harassment and threats. However, she remains gravely concerned about the serious risks faced by human rights defenders in Colombia and is appalled that many have been killed, including **Julián Andrés Hurtado Castillo** and **Jhonny Silva Aranguren**, whilst many others face continued harassment, intimidation and threats.

213. The Special Representative urges the Government to take steps to ensure that individuals and NGOs working in the defence of human rights are afforded adequate protection and she wishes to remind the Government of its obligation under Article 12.2 of the Declaration on human rights defenders, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.

Congo

Communication envoyée

214. Le 13 avril 2006, la Représentante spéciale a envoyé un appel urgent au Gouvernement concernant **Christian Mounzéo**, Président de l'ONG Rencontre pour la paix et les droits de l'Homme (RPDH) et **Brice Makosso**, Secrétaire permanent de la Commission épiscopale Justice et Paix à Pointe-Noire. Selon les informations reçues, le 6 avril 2006, MM. Mounzeo et Makosso auraient été convoqués au Commissariat central de Pointe-Noire, sur instruction du Procureur de la République près du Tribunal de Grande Instance de Pointe-Noire, à la suite d'une plainte déposée le 17 février 2006 par l'ancien Secrétaire général de la RPDH, pour répondre des chefs d'accusations « d'abus de confiance » et de « faux en écriture ». Ils auraient ensuite été conduits au Commissariat spécial de police du port de Pointe-Noire où ils auraient été interrogés sur leurs activités de défense des droits de l'homme, notamment sur leur engagement dans la campagne « Publiez ce que vous payez », visant à obtenir la publication des livres de compte des compagnies pétrolières. M. Mounzeo et Makosso auraient été placés en garde à vue puis libérés dans la soirée sans qu'aucune charge n'ait été retenue contre eux, et convoqués le lendemain pour la signature des procès-verbaux de leurs interrogatoires. D'autre part, durant leur garde à vue le 6 avril 2006, leurs domiciles auraient été fouillés par des agents de la police judiciaire qui y auraient saisi de nombreux documents relatifs à leurs activités de défense des droits de l'homme. Les bureaux de la Commission Justice et Paix, dont M. Makosso est membre, auraient également été perquisitionnés sans mandat. Le 7 avril 2006, Christian Mounzeo et Brice Makosso auraient été inculpés pour « faux en écriture privée » et « abus de confiance » par le Procureur de la République près du Tribunal de Grande Instance de Pointe-Noire, qui aurait ordonné leur placement en détention à la Maison d'arrêt de Pointe-Noire, où ils seraient actuellement détenus. Des craintes ont été exprimées que leur arrestation et inculpation ne représente une forme de représailles pour leurs activités de promotion et de défense des droits de l'homme.

Communication reçue

215. Le 23 août 2006, le Gouvernement du Congo a répondu à l'appel urgent du 13 avril 2006 concernant MM. **Christian Mounzéo** et **Brice Makosso**. Le Gouvernement informe que le Procureur de la République près du Tribunal de Grande Instance de Pointe-Noire a reçu de M. William Bouaka, agissant au nom de l'association dénommée Rencontre pour la paix et les droits de l'homme (RPDH), une plainte datée du 6 janvier 2006 et dirigée contre MM. Mounzéo et Makosso pour abus de confiance, faux en écriture privée et de banque et complicité. Après une enquête préliminaire diligentée par les services de police à sa demande, le Procureur de la République a ouvert une information judiciaire devant le troisième cabinet d'instruction. Le 12 avril 2006, le juge d'instruction a notifié à MM. Mounzéo et Makosso les faits qui leur sont

reprochés, avant de les placer sous mandat de dépôt le même jour. Le 28 avril 2006, le juge d'instruction a ordonné la mise en liberté des deux inculpés. Le 2 juin 2006, le juge d'instruction a rendu une ordonnance de clôture par laquelle il a dit n'y avoir lieu de suivre contre les deux inculpés du chef d'abus de confiance, mais les a renvoyés devant le tribunal correctionnel pour répondre des faits de falsification des pièces de banque et de complicité de faux au préjudice de l'association RPDH. Au regard des informations ainsi données, le Gouvernement a répondu successivement que a) les faits relatés par la Représentante spéciale ne sont pas exacts dans la mesure où ils tendent à créditer la thèse selon laquelle MM. Mounzéo et Makosso font l'objet de poursuites judiciaires à cause de leurs activités de défense des droits de l'homme et de leur engagement dans la campagne « Publiez ce que vous payez » ; b) une plainte a été déposée par M. William Bouaka au nom de l'association RPDH le 6 janvier 2006 ; et c) les faits reprochés à MM. Mounzéo et Makosso sous les qualifications d'abus de confiance, de faux en écriture de banque et de complicité de faux sont prévus et punis par le code pénal en vigueur au Congo, d'une part, et n'ont aucun lien avec leurs activités de défense des droits de l'homme, d'autre part. Le Gouvernement conclut que la procédure judiciaire en cours se déroule dans le strict respect des lois nationales en vigueur, d'autant plus que MM. Mounzéo et Makosso bénéficient de l'assistance de leurs avocats depuis le début de la procédure judiciaire et comparaissent libres devant le tribunal.

Observations

216. The Special Representative thanks the Government for its response to the communication sent. However, it does not dispel entirely her concern that the charges against **Christian Mounzéo** and **Brice Makosso** are not related to their activities in defence of human rights. She wishes to remind the Government that article 6 paragraph (a) and (b) provides that “[e]veryone has the right, individually and in association with others: (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”.

Costa Rica

Comunicaciones enviadas

217. El 6 de junio de 2006, la Representante Especial envió un llamamiento urgente en relación con **Tannia González, Nieves Granja, Gustavo Hernández, Alejandro López y Tyronne Esna**, todos miembros del personal de la Confederación de Trabajadores Reruma Novarum (CTRN). De acuerdo con la información recibida, el 24 de mayo de 2006 algunos individuos desconocidos habrían entrado en las oficinas de la CTRN en San José y habrían amenazado a las personas mencionadas. Según informes estos individuos habrían obligado a Tannia González a que entrara en la sala de reuniones y la habrían amenazado con un revolver. A continuación, Tannia González, Nieves Granja, Gustavo Hernández, Alejandro López y Tyronne Esna habrían sido obligados a tumbarse en el suelo y habrían sido amarrados con cintas plásticas por los atacantes. Uno de los atacantes habría pedido que “les dijeran donde se encontraba el dinero” mientras que otro les despojaba de sus bienes personales y se habrían llevado las llaves de los vehículos de los señores Alejandro López y Tyronne Esna. A

continuación, los atacantes habrían registrado y desordenado todos los archivadores y se habrían llevado documentos relativos al trabajo de la CTRN y una computadora que contenía información relativa al trabajo de la CTRN, incluyendo documentos relativos a una queja presentada por la CTRN ante la Organización Internacional del Trabajo (OIT).

Observaciones

218. The Special Representative regrets that she received no response to her communication of 6 of June 2006. She urges the Government to respond to her letter providing details as to whether an investigation has been carried out in relation to this case and the measures which have been taken to protect **Tannia González, Nieves Granja, Gustavo Hernández, Alejandro López and Tyronne Esna.**

Cuba

Comunicaciones enviadas

219. El 24 de febrero de 2006, la Representante Especial junto con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, señaló a la atención urgente del Gobierno la información recibido en relación a la situación en la que se encontraría **José Ubaldo Izquierdo Hernández**, activista de derechos humanos, periodista y bibliotecario independiente miembro de la asociación de periodistas independientes Grupo de Trabajo Decoro detenido el 18 de marzo de 2003 y actualmente encarcelado en la cárcel de Guanajay (provincia de La Habana). La detención del Sr. Izquierdo Hernández junto con la de otros individuos fue ya objeto de una comunicación enviada por la Representante Especial, juntamente con el Relator Especial sobre la libertad de opinión y de expresión 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 concluyó que la detención del Sr. Izquierdo Hernández es arbitraria, en contra de los establecido por los artículos 19 a 21 de la Declaración Universal de Derechos Humanos. 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 padecería diversas lesiones estomacales y hemorragias gastrointestinales que según la opinión de los propios médicos penitenciarios no podrían ser curadas en la cárcel, donde solo se le podría administrar un medicamento paliativo. Se expresó grave preocupación por la salud del Sr. Izquierdo Hernández y por el peligro que su vida podría correr si se le mantiene recluido.

220. El 1.º de diciembre de 2006, el Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con **Lazaro Evelio Gonzalez Sufo**, miembro de la Asociación de los Derechos Humanos en Boyeros. De acuerdo con la información recibida, el 4 de julio de 2006 el cuerpo de Lazaro Evelio Gonzalez Sufo habría sido encontrado en la calle 112 en Calabazar, Boyeros. Según se informa, Lazaro Evelio Gonzalez Sufo habría sido asesinado por individuos desconocidos. Anteriormente, Lazaro Evelio Gonzalez Sufo habría sido hostigado por agentes de la seguridad del Estado de Cuba supuestamente vinculado con sus actividades en defensa de derechos humanos en Cuba. Se expresaron temores que el supuesto asesinato de Lazaro Evelio Gonzalez pudiera estar relacionado con su trabajo en defensa de derechos humanos.

Comunicaciones recibidas

221. 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 de **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 de América. El Gobierno de Cuba señaló que el derecho a la vida y a la integridad física del Sr. José Ubaldo Izquierdo estaban asegurados y que su estado de salud actual era estable.

Observaciones

222. The Special Representative thanks the Government of Cuba for its response to her communication of 24 February 2006 regarding **José Ubaldo Izquierdo Hernández**. However, she remains very concerned that his continued detention exacerbates his already failing health, and she would urge the Government of Cuba to take further measures to ensure that Hernandez receive adequate medical treatment.

223. The Special Representative regrets that she did not receive a response from the Government regarding her communication of 1 December 2006 concerning the killing of **Lazaro Evelio Gonzalez Sufo**, and she is particularly concerned by reports that prior to his death **Sr Sufo** had been harassed and intimidated by members of the *Agentes de la Seguridad del Estado* de Cuba. The Special Representative calls on the Government of Cuba to assure her that an investigation has been launched into the death of Mr Sufo and that efforts have been made to bring the perpetrators to justice.

Democratic Republic of the Congo

Communications envoyées

224. Le 20 février 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la liberté d'opinion et d'expression, a envoyé une lettre d'allégation concernant la situation du président de Journaliste en Danger (JED), **Donat Mbaya Tshimanga** et le secrétaire général de l'organisation, **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 Héléne Mpaka. Kangundu par des inconnus près de leur domicile à Kinshasa. Franck Ngycke Kangundu et Héléne Mpaka ont fait l'objet d'une lettre d'allégation envoyée par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression en date 9 novembre 2005. Depuis la publication de ses résultats, le président de JED, Donat Mbaya Tshimanga, et son secrétaire général Tshivis Tshivuadi, auraient été obligé 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. Selon nos informations, le 7 novembre 2005, le Vice-Président aurait reçu une

délégation de plusieurs journalistes et défenseurs des droits de l'homme et leur aurait garanti que les autorités compétentes avaient ordonné une enquête indépendante sur l'assassinat du journaliste. 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. Des craintes ont été exprimées que ces menaces ne visent à empêcher les deux journalistes de continuer à mener leur travail d'investigation dans le crime cité ci-dessus.

225. Le 18 avril 2006, la Représentante spéciale a envoyé une lettre d'allégation relative à la situation de M. **Hubert Tshiswaka**, défenseur des droits de l'homme, directeur de l'organisation Action contre l'impunité pour les droits humains (ACIDH) située à Lumbumbashi dans la province du Katanga. M. Tshiswaka a fait l'objet d'un appel urgent envoyé le 6 juin 2005 par la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme. Selon les informations reçues, le 11 mars 2006 ACIDH avait publié un communiqué de presse appelant les électeurs des futures élections générales à ne pas voter pour certains candidats suspectés d'être responsables de violations des droits de l'homme mais à voter pour des candidats propres à promouvoir les droits de l'homme. Le communiqué appelait également la communauté internationale responsable du processus électoral à aider à écarter les présumés criminels en excluant « les candidats accusés de violations des droits de l'homme. » Le 18 mars 2006, l'ACIDH aurait reçu une lettre de menace émanant de l'Union nationale des fédéralistes au Congo (UNAFEC) accusant Hubert Tshiswaka d'inciter à la haine tribale. Le 24 mars, l'ACIDH a publié un second communiqué de presse condamnant la création d'une aile « jeunesse » de l'UNAFEC rappelant que l'UNAFEC aurait utilisée cette section par le passé pour intimider ses opposants et appelant la mission de maintien de la paix des Nations Unies à s'assurer que tous les partis politiques s'engagent pour la paix et dissolvent leur aile jeunesse. Le 1er avril 2006, l'UNAFEC aurait répondu par une lettre accusant Hubert Tshiswaka de soutenir l'Union pour la démocratie et le progrès social (UDPS) et menaçant de ne plus tolérer pour longtemps « la campagne d'intoxication et d'incitation à la haine tribale menée par Hubert Tshiswaka ». Le soir même, ce dernier aurait reçu un coup de téléphone anonyme qui l'aurait menacé de lui « régler son compte » déclarant que « ce qu'il écrivait l'amènerait à la mort. » Le 12 avril 2006, le journal *Le Lushois* dont le dirigeant est le Secrétaire général de l'UNAFEC, aurait publié un article titrant « Monsieur Hubert Tshiswaka incite à la haine tribale au Katanga. Son objectif est de saboter les élections ». Des craintes ont été exprimées que ces actions ne visent à intimider Hubert Tshiswaka, à restreindre sa liberté d'expression et à limiter son travail en faveur des droits de l'homme.

226. Le 9 mai 2006, la Représentante spéciale a envoyé, conjointement avec le Rapporteur spécial sur la liberté d'opinion et d'expression, un appel urgent concernant M. **Jean-Claude Katende**, président de l'Association africaine de défense des droits de l'Homme (ASADHO), section du Katanga, et de M. **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. 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 » 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 République démocratique du Congo, 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 de 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 ». De sérieuses craintes ont été exprimées quant à la sécurité de MM. Jean-Claude Katende et Jean-Pierre Mutemba en particulier dans la mesure où ces menaces et actes de diffamation, s'inscrivent dans un contexte de très grande insécurité et d'intimidations à l'encontre des défenseurs des droits de l'homme et des journalistes en RDC à l'approche des élections.

227. Le 16 juin 2006, la Représentante spéciale a envoyé un appel urgent sur la situation de M. **Michel-Innocent Mpinga Tshibusu**, avocat, ancien bâtonnier de Mbuji-Mayi et président de l'Observatoire national des droits de l'homme. Selon les informations reçues, dans la nuit du 13 au 14 juin 2006, entre 1 h et 2 h du matin, M. Michel-Innocent Mpinga Tshibusu et sa famille auraient été l'objet d'une attaque armée menée par un groupe d'hommes en uniformes, armés et cagoulés à leur domicile dans la Commune de Ngaliema. Un policier qui montait la garde devant la maison aurait été la cible de tirs des assaillants embusqués dans la rue, face à la résidence. Un des assaillants aurait tenté d'escalader le mur de la résidence mais aurait été surpris par un policier chargé d'assurer la protection de M. Mpinga Tshibusu, qui l'aurait alors pris pour cible. Du fait de la venue en renfort d'autres policiers et militaires chargés de surveiller les résidences voisines, les assaillants auraient finalement pris la fuite. Des craintes ont été exprimées que cette attaque ne soit liée aux activités de M. Mpinga Tshibusu au sein de l'ONDH. La Représentante spéciale exprime sa vive inquiétude quant à la sécurité de M. Mpinga Tshibusu et de sa famille.

228. Le 14 août 2006, la Représentante spéciale a envoyé un appel urgent concernant la situation de membres de l'organisation La Voix des Sans-Voix pour les droits de l'homme (VSV), notamment son président, M. **Floribert Chebeya Bahizire** et son vice-président, M. **Dolly Ifebo Mbunga**, ainsi que la membre Mme **Pétronille Kamba** et un consultant pour la VSV, M. **Willy Tukayendji**. M. Chebeya Bahizire a notamment fait l'objet d'une lettre d'allégation envoyée par la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme le 16 juillet 2004. Selon les informations reçues, les membres de la VSV feraient l'objet à Kinshasa de filatures et d'une surveillance constante de la part des services de renseignement et de police depuis la publication le 18 juillet 2006 d'une affiche

intitulée « Elections en RDC : Encore des martyrs et des victimes de la démocratie ». La VSV aurait été contrainte à fermer ses bureaux par crainte de représailles contre ses membres et leurs familles et MM. Chebeya Bahizire et Ifebo Mbunga seraient entrés en clandestinité depuis le 26 juillet 2006. Les 21 et 24 juillet 2006, des membres de l'Agence nationale de renseignement auraient observé les entrées et sorties des membres de la VSV et de leurs visiteurs. Le 22 juillet 2006, Mme Pétronille Kamba, secrétaire de la VSV, aurait été filée de Kintambo jusqu'à son domicile par un homme qui appartiendrait aux services de sécurité. Le 28 juillet 2006, un groupe d'officiers militaires de la force terrestre se serait rendu sur le lieu de travail de M. Willy Tukayendji, consultant pour la VSV au sein du programme d'accompagnement psycho-médical des personnes du troisième âge, afin de connaître la source d'information et l'opportunité de l'interview donnée le jour même par M. Chebeya sur les chaînes de télévision Canal Kin et Congo Canal Télévision. Dans la nuit du 28 au 29 juillet 2006, deux hommes en tenue civile et armés se seraient rendus au domicile de M. Tukayendji et auraient toqué bruyamment à la porte pendant plusieurs heures. Auparavant, le 25 juillet 2005, M. Tukayendji aurait été suivi par deux hommes inconnus dans les différents lieux qu'il visitait à Kintambo. Également dans la nuit du 28 au 29 juillet 2006, des agents de la sécurité se seraient rendus à l'ancien domicile de M. Dolly Ibefo où ils auraient cherché à connaître sa nouvelle adresse. De sérieuses craintes ont été exprimées que ces nouveaux événements ne soient en représailles des activités de défense des droits de l'homme de la VSV qui dénonce notamment la recrudescence de l'insécurité observée à Kinshasa et la violente répression des manifestations pacifiques et qui sensibilise la population sur le processus électoral. Des craintes similaires ont été formulées que ces mêmes événements s'inscrivent dans un contexte de répression et de violence accrues à l'encontre des défenseurs des droits de l'homme en République démocratique du Congo et, plus généralement, de vives tensions imputables à l'actuel processus électoral.

229. Le 4 octobre 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent sur la situation 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 ont 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 a été déchargé de l'enquête et remplacé par un autre auditeur. Il a également été interpellé par le Ministre de la défense, Monsieur Onusumba. Le remplacement de M. Majaliwa Mulindwa par un autre magistrat ainsi que les attaques qu'il subit entravent le cours de la justice et interfèrent très sérieusement avec l'indépendance de celle-ci. Dans ce contexte, de sérieuses craintes sont exprimées pour la sécurité de M. Majaliwa Mulindwa et que les faits rapportés ne constituent une forme de représailles contre M. Majaliwa Mulindwa en raison de son instruction du dossier du défunt défenseur des droits de l'homme Pascal Kabungulu.

230. Le 20 novembre 2006, la Représentante spéciale a envoyé une lettre d'allégation concernant la situation de **M. N'Sii Luanda**, président du Comité des Observateurs des Droits de l'Homme (CODHO) et de **Mlle Mbula Wilimo**, membre du CODHO. Le CODHO est une ONG de promotion et de défense des droits de l'homme non partisane. Selon les informations reçues, dans la soirée du 31 octobre 2006, le bureau du CODHO à Kinshasa auraient été visité par huit membres armés de la police d'intervention rapide (PIR) au moment où M. Luanda et

Melle Wilimo terminaient la rédaction d'un rapport portant sur la marche organisée le jour même par les partisans de M. Jean-Pierre Bemba, candidat au second tour de l'élection présidentielle, et un rapport intérimaire d'observation du double scrutin présidentiel et provincial du 29 octobre 2006. M. Luanda aurait cherché à connaître le motif de la présence des policiers dans le bureau du CODHO et se serait vu répondre que ces derniers étaient « en opération » et que leur présence était justifiée par la nature des activités de défense des droits de l'homme du Comité. Les policiers ordonnèrent M. Luanda et Mlle Wilimo de sortir du bureau et une fois dehors, ces derniers auraient constaté que trois camionnettes arborant les emblèmes de la PIR mais sans plaques d'immatriculation entouraient le bâtiment. M. Luanda aurait été conduit de force vers l'une des camionnettes suite à son refus de suivre les policiers sans mandat d'amener. Une fouille aurait été effectuée et une somme d'argent saisie. M. Luanda et Mlle Wilimo auraient été relâchés peu de temps après, après avoir été mis en garde que les policiers surveilleraient de près les activités du CODHO et les faits et gestes de ses membres. Le 7 novembre 2006, CODHO aurait porté plainte contre inconnu pour les faits susmentionnés en s'adressant à l'Auditeur général des Forces armées de la République démocratique du Congo. Le CODHO aurait également saisi le Général Kalume Numbi, Ministre de l'intérieur et de la Sécurité. Des craintes sont exprimées que ces actes d'intimidation à l'encontre du CODHO ne visent à empêcher le Comité de poursuivre ses activités de défense des droits de l'homme et s'inscrivent dans un contexte d'intimidations croissantes à l'encontre des défenseurs des droits de l'homme en République démocratique du Congo.

231. Le 28 novembre 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de M. **Dismas Kitenge**, président du Groupe Lotus, une organisation non-gouvernementale 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. 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 (PPRD), accusant M. Kitenge d'être engagé dans des activités politiques, de soutenir l'opposition et d'être un opposant au chef de l'État. Des préoccupations sont exprimées que ces menaces, intimidations et actes de harcèlement à l'encontre de M. Kitenge et sa famille ne soient en représailles des activités légitimes de celui-ci en matière de défense des droits de l'homme en République démocratique du Congo. Ces faits rapportés sont intervenus dans un contexte électoral particulièrement tendu et polarisé au sein duquel les activités des défenseurs des droits de l'homme ont été régulièrement qualifiées de « politiques » tant par le parti au pouvoir que par l'opposition.

Communications reçues

232. Le 24 février 2006, la Mission permanente de la République démocratique du Congo auprès des Nations Unies à Genève a répondu à la communication du 20 février 2006. La Mission exprime 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.

233. Le 12 septembre 2006, le Gouvernement a répondu à la communication du 16 juin 2006. Le Ministre de l'Intérieur, Décentralisation et Sécurité a accusé réception de la lettre du Président de l'Observatoire national des droits de l'homme (ONDH) en date du 18 juillet 2006 et a informé ce dernier qu'il avait transmis au Ministre de la Défense nationale, Démobilisation et Anciens Combattants la lettre du Président de l'ONG La Voix des Sans Voix pour la défense des droits de l'homme en vue de lui demander des dispositions utiles à la suite de l'attaque perpétrée contre la résidence du Président de l'ONDH par des hommes armés en uniforme. Le Ministre de l'intérieur, Décentralisation et Sécurité conclut en indiquant que l'Inspecteur Général de la Police Nationale Congolaise a été instruit pour l'ouverture d'une enquête judiciaire.

Observations

234. The Special Representative thanks the Government for its responses. She regrets, however, that as of the date of the present report, the Government has not provided any clarification with regard to the reported attacks against human rights defenders. She further regrets that the six other communications sent are left unanswered. The violations reported are very serious, and the Special Representative looks forward to receiving prompt answers to these communications.

235. The Special Representative reiterates her deep concern at the persistent situation of widespread intimidation and harassment of human rights defenders and obstruction of their work as reflected in the communications, and at the apparent climate of impunity in which these attacks take place. In 2006, this situation was exacerbated by the tension surrounding the presidential elections of July 2006 during which human rights defenders were labelled 'political' and targeted accordingly. The Special Representative recalls that the protection of the rights enshrined in the Declaration on human rights defenders is vital to the promotion of human rights, as well as to the re-establishment of peace and security, and renews her invitation to the Government to take resolute steps in this direction.

Djibouti

Communications envoyées

236. Le 28 décembre 2005, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation des 12 dirigeants de l'Union des travailleurs du port (UTP). Selon les informations reçues, le 3 octobre 2005, le procureur de la République aurait initié une procédure d'appel contre MM. **Mohamed Ahmed Mohamed, Ali Ibrahim Darar, Mohamed Abdillahi Dirieh, Moustapha**

Abchir Egueh, Mohamed Abdillai Omar, Mohamed Ahmed Ali, Samira Hassan Mohamed, Koulmiyeh Houssein et Djibril Houssein Awaleh, qui avaient été acquittés le 2 octobre 2005 par la Cour correctionnelle de Djibouti des chefs de « menace de commettre un délit, lesdites menaces ayant été matérialisées par des attroupements publics réitérés » et de « participation à des rassemblements sur la voie publique susceptible de troubler l'ordre public ». Le procureur aurait également fait appel de la décision de la Cour correctionnelle qui avait acquitté MM. Kamil Mohamed Ali, Ibrahim Moussa Sultan, également dirigeants de l'UTP, et Ali Ahmed Aras, secrétaire général de l'UTP, pour « participation délictueuse à un attroupement » et « incitation à la rébellion ». Les poursuites seraient en relations avec la participation des dirigeants syndicaux à une grève générale des travailleurs portuaires de Djibouti organisée du 14 au 17 septembre 2005 à la suite de laquelle, fin septembre 2005, les dirigeants auraient été arrêtés et détenus pendant plusieurs jours puis licenciés pour « entrave à la liberté de travail », à l'exception de Ali Ahmed Aras, mis en pré-retraite. Le procès devrait se tenir le 28 décembre 2005, devant la Cour d'appel de Djibouti.

237. Le 10 mars 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, ont envoyé un appel urgent concernant **Mohamed Ahmed Mohamed et Djibril Ismael Egueh**, qui 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 qu'on leur avait confisqué l'ensemble des documents trouvés sur place, dont ceux concernant 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.

238. Le 10 avril 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la liberté d'opinion et d'expression, a envoyé un appel urgent concernant **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, et d'une lettre d'allégation par le Rapporteur spécial sur la liberté d'opinion et d'expression, en date 28 février 2006, dans la quelle faisait également l'objet. Selon des nouvelles 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.

239. Le 17 août 2006, la Représentante spéciale a envoyé une lettre d'allégation concernant la persistance d'attaques contre les défenseurs des droits économiques et sociaux, et particulièrement les syndicalistes indépendants. Selon les informations reçues, les années 2005 et 2006 seraient marquées par une augmentation des actes visant à criminaliser les activités des défenseurs des droits économiques et sociaux, notamment des licenciements, arrestations, actes de harcèlement policiers et judiciaires et menaces. Fin février 2006, quatre dirigeants de l'Union djiboutienne du Travail auraient été emprisonnés plus d'un mois pour avoir organisé la participation de deux d'entre eux à un stage de formation syndicale à l'invitation d'une centrale syndicale israélienne. Relâchés le 6 avril 2006, ils seraient toujours poursuivis pour « intelligence avec une puissance étrangère ». Par ailleurs, depuis le 28 janvier 2006, la création d'un syndicat pourrait être contrôlée ou refusée par les autorités publiques et sa dissolution pourrait être prononcée sur décision administrative à la demande de certains ministères, en application du nouveau Code du Travail.

Communications reçues

240. Le 14 mars 2006, le Gouvernement a répondu à l'appel urgent envoyé le 28 décembre 2005. Le Gouvernement informe qu'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: a) Le syndicat a avancé ses différentes doléances; b) 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 Souldan** ainsi que tout individu impliqué dans cet incident. Douze dirigeants syndicaux ont ainsi été traduits en justice. Par jugement n° 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 n° 01106 du 4 janvier 2006, la chambre correctionnelle de la cour d'appel de Djibouti réformant le jugement n° 776/05 du 2 octobre 2005, a requalifié les faits reprochés aux prévenus et a déclaré Kamil Mohamed Ali, Ibrahim Moussa Souldan et Ahmed Ali Aras coupables des délits du travail et les a condamné 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 une peine de 1 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 nous paraît prématuré de parler d'une quelconque violation des droits de l'homme et nous estimons que quelque soit les prétentions de ces individus et conformément à l'article 5b du Protocole facultatif se rapportant au Pacte international relatif aux droits civils et politiques il y a lieu d'épuiser tous les recours internes disponibles et de laisser la justice suivre son cours.

241. Le 12 octobre 2006, le Gouvernement a répondu à la lettre d'allégation envoyée le 17 août 2006. Le Gouvernement, en premier lieu, fait référence à sa lettre du 14 mars 2006 en réponse de l'appel urgent envoyé le 28 décembre 2005. Puis, le Gouvernement informe que **Mohamed Ahmed Mohamed et Djibril Ismael Igueh** se sont rendus en Israël comme prétendus syndicalistes, sur ordre d'Adan Mohamed Abdou et Hassan Cher Hared qui se disent

Secrétaires généraux de l'UDT et du syndicat des postiers. Ils ont été soupçonnés d'avoir livré des informations de nature à porter atteinte aux intérêts fondamentaux de la Nation. Inculpés de ces chefs, les intéressés ont déclaré qu'ils se sont rendus en Israël sur invitation d'une Centrale syndicale israélienne dénommée HISTADRUT pour recevoir une formation dans ce domaine. Une information judiciaire a ainsi été ouverte des chefs de livraison d'information à une puissance étrangère. Interrogés par le Juge d'instruction et mis en détention provisoire, les inculpés ont fait une demande de mise en liberté provisoire auprès du Juge d'instruction qui, par ordonnance en date du 28 mars 2006, leur a accordé la liberté provisoire. Le Procureur de la République a relevé appel de cette ordonnance le 29 mars 2006. La Chambre d'accusation a été saisie afin de pouvoir se prononcer sur la mise en liberté provisoire des inculpés. Cette dernière, après avoir déclaré recevable l'appel formé par le Procureur de la République, a confirmé le 6 avril 2006 l'ordonnance du juge d'instruction qui a ordonné la mise en liberté provisoire de quatre inculpés. À l'issue de cette instruction, le juge soit les enverra devant la juridiction de jugement s'il estime que les charges sont établies, soit clôturera son instruction par un non-lieu s'il estime qu'aucune charge n'existe contre eux. S'ils sont déférés devant la juridiction de jugement, le procès suivra son cours en toute impartialité avec toutes les garanties des droits de la défense. Le Gouvernement poursuit en indiquant, que l'élaboration d'un « Code djiboutien du Travail » aura duré presque sept années durant lesquelles, suite aux discussions et commentaires des partenaires, employeurs comme des organisations syndicales mais aussi grâce à l'appui du BIT et de l'Organisation arabe du travail (OAT), une dixième version fut approuvée par tous. Ce projet de Code fut approuvé en Conseil des Ministres en décembre 2004, transmis à l'Assemblée nationale qui après deux sessions d'examen et une étude article par article, a adopté ce Code le 25 décembre 2005. Le Président de la République a promulgué cette loi en date du 28 janvier 2006. La loi 133/AN/05/5^{ème} L du 28 janvier 2006 portant Code du Travail reconnaît sans ambiguïté le droit d'association et l'importance de la négociation collective. En effet, un des grands principes directeurs de cette loi est que l'État doit laisser le champ libre à la négociation entre partenaires. C'est dans cette optique que le Code dispose en la matière : selon l'article 212, « Les salariés ou les employeurs, sans distinction d'aucune sorte, ont droit de constituer librement des syndicats de leur choix dans des secteurs d'activité et des secteurs géographiques qu'ils déterminent. Ils ont le droit d'y adhérer et de se retirer librement, de même que les anciens travailleurs et les anciens employeurs ayant exercé leur activité pendant un an au moins. Les femmes mariées exerçant une profession ou un métier peuvent, sans autorisation de leur mari, adhérer aux syndicats professionnels et participer à leur administration ou à leur direction. Les mineurs âgés de plus de seize ans peuvent adhérer aux syndicats sauf opposition de leur père, mère ou tuteur. Des syndicats peuvent également être constitués librement par des exploitants indépendants qui n'emploient aucun personnel ». Si une décision judiciaire de dissolution peut être prise en cas de manquement aux prescriptions légales, aucune décision administrative de dissolution ne peut être prise, ceci étant garanti par le Code lui-même qui dispose en son article 216 que « Les syndicats ne peuvent faire l'objet de suspension ou de dissolution administrative. En cas de dissolution volontaire, statutaire ou prononcée par décision judiciaire, les biens du syndicat ont dévolus conformément aux statuts ou, à défaut de dispositions statutaires, suivant les règles déterminées par l'assemblée générale. En cas de carence de celle-ci, la dévolution des biens du syndicat est réglée par décision judiciaire. En aucun cas, ces biens ne peuvent être répartis entre les membres adhérents ». Enfin, l'article 15 de la Constitution dispose que tous les citoyens ont le droit de constituer librement des associations et syndicats sous réserve de se conformer aux formalités édictées par les lois et règlements. Quant à la recrudescence alléguée des actes visant à criminaliser les activités des défenseurs des droits économiques et sociaux, le Gouvernement souligne que ce qualificatif est inapproprié dans ce

contexte car il s'agit d'une même et seule affaire. Il est important de préciser que d'une manière générale les personnes ne peuvent être arrêtées que lorsqu'il existe contre elles des soupçons d'avoir commis une infraction quelconque.

Observations

242. The Special Representative thanks the Government for its detailed responses.

243. Regarding the case of 10 April 2006, the Special Representative remains concerned that the charges of "foreign intelligence" were maintained. The Special Representative wishes to remind the Government of article 5 paragraph (b) which provides that "[e]veryone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully". Furthermore, no explanation was given why **Ibrahim Mayaki**, staff at the International Labour Organisation (ILO) and mandated by his organization to meet with the defenders of labour rights in Djibouti, was arrested and questioned for several hours and subsequently expelled from the country.

Dominican Republic

Comunicaciones enviadas

244. El 12 de junio de 2006, la Representante Especial, conjuntamente con el Relator especial sobre el derecho de toda persona al disfrute del más alto nivel posible de salud física y mental, envió un llamamiento urgente en relación con el señor Adonis Polanco, defensor de los derechos humanos de las personas que tienen SIDA/VIH. Adonis Polanco trabaja como consejero en una clínica de salud para las víctimas de SIDA/VIH y ha denunciado públicamente la falta de asistencia por las víctimas de SIDA/VIH en la República Dominicana. De acuerdo con la información recibida, el 14 de mayo de 2006 una mujer desconocida habría llamado a Adonis Polanco y le habría amenazado, diciendo "deja de hablar tanto..la gente se desaparece". Durante el mes de abril de 2006, un hombre desconocido habría llamado a Adonis Polanco y le habría dicho si él continuaba criticando la falta de asistencia por las víctimas de SIDA/VIH en la República Dominicana que iba "a aparecer con la boca llena de moscas." Se expresaron temores que las amenazas en contra de Adonis Polanco pudiesen estar relacionadas con su trabajo en defensa de los derechos humanos de las víctimas de SIDA/VIH en la República Dominicana, en particular porque ha denunciado públicamente la falta de asistencia a dichas víctimas en ese país.

Comunicaciones recibidas

245. The Special Representative regrets that the Government of the Dominican Republic did not respond to her communication of 12 June 2006. She would urge the Government to provide a detailed response as to whether an investigation has been launched into this case and that measures have been taken to bring the perpetrators to justice. The Special Representative would like to remind the Government of Article 6, paragraphs (a) and (b) of the Declaration on human rights defenders.

Ecuador

Comunicaciones enviadas

246. El 19 de junio de 2006, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre la independencia de los magistrados y abogados y el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos, envió un llamamiento urgente sobre la situación de los abogados **Pablo Fajardo Mendoza, Émel Chávez Parra, Alejandro Ponce Villacís, Carmen Allauca, Luis Yanza y Julio Marcelo Prieto Méndez**, así como de su jefe de prensa Guadalupe de Heredia. Según la información recibida, las personas arriba mencionadas habrían sido objeto de varias amenazas y ataques, debido supuestamente, a la actividad que desarrollan como abogados de las comunidades indígenas en los procesos en curso contra la Compañía Chevron Texaco, filial Ecuador. El 22 de diciembre de 2005, la Comisión Interamericana de Derechos Humanos (CIDH) emitió medidas cautelares respecto a la situación de cuatro de los cinco abogados mencionados con la excepción de Carmen Allauca. Se alega que las medidas de protección ordenadas por dicho organismo no han sido, hasta la fecha, ejecutadas. Asimismo, según se informa, se habría solicitado a la CIDH, el 28 de abril de 2006, que las medidas cautelares también fueran aplicadas a Guadalupe de Heredia quien habría sido objeto de varios ataques últimamente. El 21 de abril de 2006, una de sus amigas habría sido atacada por dos hombres que supuestamente la habrían golpeado en la cabeza y le habrían robado su cuaderno para tomar notas y el bolso cuando se dirigía a visitar a Guadalupe Heredia a su domicilio. Se alega que dicho ataque iba dirigido a Guadalupe de Heredia, puesto que fue realizado en la entrada de su domicilio. Igualmente, se afirma que el 29 de abril de 2006, un camión sin placas intentó sacar de la vía el vehículo conducido por Guadalupe de Heredia, quien iba acompañada de su hija. Dicho ataque habría sido denunciado ante la Oficina del Fiscal el 12 de mayo del presente año. De otra parte, el 19 de Mayo de 2006, la oficina de Julio Marcelo Prieto Méndez habría sido objeto de una intrusión ilegal. Según se informa, no hubo ningún robo a pesar de la existencia de varios equipos de oficina de un alto valor económico. Sin embargo, se alega que los archivos del Sr. Prieto Méndez habrían sido revisados. El Sr. Prieto Méndez presentó una queja ante la Oficina del Fiscal General en la ciudad de Quito, 28 de mayo de 2006, pero se desconoce si las autoridades han iniciado alguna investigación. Durante la reciente visita del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas a Ecuador, llevada a cabo del 25 de abril al 5 de mayo el Relator Especial discutió con el Presidente de la República las preocupaciones respecto a los ataques y amenazas contra los indígenas y sus representantes legales en casos de legítima protesta contra los impactos de las actividades extractivas en el país. Guadalupe de Heredia, quien iba acompañada de su hija. Dicho ataque habría sido denunciado ante la Oficina del Fiscal el 12 de Mayo de 2006. De otra parte, el 19 de mayo de 2006, la oficina de Julio Marcelo Prieto Méndez habría sido objeto de una intrusión ilegal. Según se informa, no hubo ningún robo a pesar de la existencia de varios equipos de oficina de un alto valor económico. Sin embargo, se alega que los archivos del Sr. Prieto Méndez habrían sido revisados. El Sr. Prieto Méndez presentó una queja ante la Oficina del Fiscal General en la ciudad de Quito, el 28 de mayo de 2006, pero se desconoce si las autoridades han iniciado alguna investigación. Durante la reciente visita del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas al Ecuador, llevada a cabo del 25 de abril al 5 de mayo, el Relator Especial discutió con el Presidente de la República las preocupaciones respecto a los ataques y amenazas contra los

indígenas y sus representantes legales en casos de legítima protesta contra los impactos de las actividades extractivas en el país.

247. El 28 de junio del 2006, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento en relación con **Wilman Adolfo Jiménez Salazar**, miembro del Comité de Derechos Humanos de Orellana y de la Red de Líderes Comunitarios Ángel Shingre. El Comité de Derechos Humanos de Orellana trabaja en defensa de los derechos humanos de los campesinos de Orellana. De conformidad con las informaciones recibidas, Wilman Adolfo Jiménez Salazar, fue arrestado el 19 de junio de 2006 al mediodía en la Estación Coca-Payamino por efectivos policiales, mientras se encontraba observando el desalojo de los alrededores de las instalaciones de la compañía petrolera francesa PERENCO por parte de fuerzas combinadas militares y policiales. Los alrededores de dichas instalaciones habían sido ocupados por miembros de 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 sufrió seis heridas de balas de goma en una pierna, brazo y abdomen. Luego de su arresto fue conducido por efectivos policiales al Hospital Civil de Coca, donde fue atendido de sus heridas, y de allí a la estación de la Policía Judicial de Coca. Sus pertenencias personales, incluyendo su cámara fotográfica, fueron entregadas en la estación policial a sus colegas. Ante un recurso de hábeas corpus interpuesto en su favor ante la Alcaldesa de Orellana, el Teniente Coronel de Policía informó de que el detenido había sido puesto a las órdenes del Fiscal de la Cuarta División del Ejército "Amazonas". El Sr. Jiménez Salazar fue entregado por la policía a las autoridades militares de la Brigada de Selva 19 Provincia de Napo. Actualmente se encuentra a disposición del Capitán de Justicia Humberto Vargas, Juez Segundo de la Cuarta División, Brigada de Selva 17, Provincia de Pastaza. Se afirma que no se notificó a los familiares del Sr. Jiménez Salazar ni de su arresto ni de 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 mantiene en situación de incomunicado. Se expresaron temores de que estos eventos pudiesen ser relacionados con el trabajo que hace Wilman Adolfo Jiménez Salazar de los derechos humanos de los campesinos de Orellana, en particular por su función de observador en las protestas antes mencionadas.

248. El 10 de noviembre del 2006, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre la libertad de opinión y de expresión y el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos, envió un llamamiento urgente sobre la situación en relación con 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-Exxon en relación con la contaminación causada por la actividad extractiva realiza en sus tierras tradicionales en la región de Sucumbios. Guadalupe de Heredia fue objeto de un llamamiento urgente enviado por 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, el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de

productos y desechos tóxicos y peligrosos y la Representante Especial del Secretario General para los defensores de los derechos humanos el 19 de junio de 2006. De acuerdo con la información recibida, un grupo de cinco desconocidos, cuatro hombres y una mujer, habrían intentado irrumpir en el domicilio de la Sra. de Heredia, en Quito, durante la noche del 23 de octubre de 2006, mientras ella se encontraba dormida. El grupo de desconocidos habría llegado en una camioneta, y habrían utilizado una escalera para subir los muros de la casa. Sin embargo, los desconocidos habrían desistido de su intento tras oír los disparos al aire realizados por un guarda de seguridad de una vivienda cercana a la de Guadalupe de Heredia, al que habría respondido con una ráfaga de disparos. Los hechos habrían sido denunciados por Guadalupe de Heredia ante la Procuraduría de Pichincha. El día anterior al supuesto intento de intrusión en su domicilio, Guadalupe de Heredia habría participado en una conferencia internacional, el Foro Internacional de Petróleo, Derechos Humanos y Remediación Integral, convocada por diversas organizaciones internacionales en Coca, Provincia de Orellana, 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, así como en diversas entrevistas a los medios de comunicación, Guadalupe de Heredia habría supuestamente denunciado las actividades de la compañía Chevron-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 Guadalupe de Heredia por parte de unos desconocidos tuviera carácter intimidatorio, vinculado a sus actividades en defensa de los derechos de los pueblos indígenas, y en particular con su trabajo en el grupo de abogados de las comunidades peticionarias en el proceso judicial en curso en contra de la compañía Chevron-Texaco. Se da la circunstancia de que Guadalupe de Heredia ha sido objeto de medidas cautelares otorgadas por la CIDH el 28 de abril de 2006. Otros cinco integrantes del quipo de abogados en el que trabaja la Sra. de Heredia gozan asimismo de medidas otorgadas por dicho organismo.

249. El 20 de noviembre del 2006, el Representante Especial envió un llamamiento urgente sobre la situación en relación con el allanamiento del domicilio de **Carlos Zorrilla**, director ejecutivo de la organización Defensa y Conservación Ecológica de Intag (DECOIN) que opone a la actividad minera de la compañía canadiense Ascendant Cooper Corporation S.A., en la zona de Intag. DECOIN trabaja con otras organizaciones internacionales y nacionales por proteger los derechos humanos de las comunidades campesinas y respetar el medio ambiente. De acuerdo con la información recibida, el 17 de octubre de 2006, aproximadamente a las 6.30 horas, 10 u 11 individuos armados que se identificaron a sí mismos como miembros de la policía, dos de los cuales fueron encapuchados, entraron en la casa de Carlos Zorrilla. Su esposa Sandy y su hijo de 15 años, Martín, estaban en la casa durante el allanamiento pero el paradero de Carlos Zorrilla queda desconocido. Según los informes, veinte minutos más tarde, una persona del fiscal de Cayambe, vino con un documento que fue supuestamente una orden de registro. Después de una hora, el líder del grupo habría anunciado que se marcharían porque no habrían encontrado nada cuando de repente uno del grupo habría salido de la casa con una bolsa de drogas, declarando que la habría encontrado en la sala de estar. También otro individuo presuntamente encontró una pistola en el dormitorio del joven. Supuestamente las autoridades formalizaron cargos falsos, respecto a las drogas y el arma, en contra de Carlos Zorrilla. Por otra parte, los mismos individuos habrían registrado la casa de Roberto Castro, quien trabaja en la granja de Carlos Zorrilla. Según los informes, no tuvieron una orden judicial. Roberto Castro les habría pedido ver sus identificaciones, sin embargo no le habrían mostrado ninguna forma de identificación. Además, el mismo día, miembros de la policía habrían llegado a Santa Rosa en varios vehículos, ninguno de ellos vehículos policiales, sin placas de matrícula, y uno de ellos que pertenece a la

compañía minera. Se expresó preocupación por los incidentes descritos porque se temió de que pudiesen estar relacionados con las actividades de Carlos Zorrilla en defensa de los derechos humanos, en particular los derechos humanos de las comunidades campesinas en la zona de Intag. Se expresaron temores que los actos de hostigamiento llevados a cabo por la policía en contra de Carlos Zorrilla y su familia, pudiesen estar conectados con su oposición a las actividades de la compañía minera.

Comunicaciones recibidas

250. Por cartas con fecha de 4 de julio y 18 de septiembre de 2006, el Gobierno del Ecuador proporcionó información con respecto al llamamiento urgente enviado el 19 de junio de 2006. El Gobierno indicó que la Procuraduría general del Estado estaba al tanto de las medidas cautelares tomadas por la Comisión interamericana de derechos humanos el 22 de diciembre del 2005, pero insistió en el que de conformidad con el párrafo 4 del artículo 25 del Reglamento de la Comisión, el otorgamiento de medidas cautelares no prejuzga el fondo de la cuestión. Informó que con fecha de 21 abril del 2006, el Gobierno puso en conocimiento de la Comisión el estado de ejecución de las medidas cautelares, y en particular el hecho de que la Dirección Nacional de Inteligencia de la Policía nacional había tomado contacto con los peticionarios el 5 de enero de 2006 a fin de diseñar un mecanismo consensuado de seguridad para garantizar su vida e integridad física, en los términos dispuestos por la Comisión. El Gobierno declaró que los peticionarios han transmitido las siguientes denuncias. Alejandro Ponce Villacís presentó una denuncia por supuesto robo cometido en sus oficinas el 7 de noviembre del 2005 ante la Unidad de Delito contra la propiedad de la Fiscalía Distrital de Pichincha. Al respecto, la Policía Judicial de Pichincha mediante Parte Informativo 2006-605-PJP, de 23 de enero de 2006, informó de que la puerta de la oficina está con su respectiva seguridad y no presentaba ningún tipo de forzamiento. La Fiscalía informó de que el caso se encuentra archivado. Asimismo, Ponce Villacís presentó una denuncia por amenazas e intimidación, ante la Unidad de Delitos contra las personas, el 6 de enero de 2006, cuya etapa de Indagación Previa fue abierta el 18 del mismo mes y año. Por su parte, **María Guadalupe de Heredia** presentó una denuncia el 12 de mayo de 2006 por el presunto delito de intimidación. En ese mismo sentido procedieron los señores **Ermel Chávez, Alejandro Ponce Villacís, Pablo Fajardo y Luis Yanza**. El señor Ermel Chávez también presentó una denuncia por supuestos actos de intimidación y amenazas de muerte, ante la Fiscalía N.º1 del Cantón Lago Agrio, en la que tampoco ha reconocido su firma y rúbrica, en contra de lo dispuesto por el Artículo 46 del Código de Procedimiento Penal. El Gobierno alegó que no existe registro de que la señora Carmen Allauca haya presentado denuncia alguna y afirmó que ninguno de los querellantes ha solicitado examen médico alguno. Los casos se encuentran en fase de Indagación Previa y, conforme a lo dispuesto por el Artículo 215 del Código de Procedimiento Penal del Ecuador, se mantienen con carácter reservado para el público en general y han recibido el debido proceso conforme a las normas legales vigentes en el país y las garantías que otorga la legislación ecuatoriana par este tipo de procedimientos. No existe aún procedimiento en firme en ninguna de las causas, no se han determinado culpables y por los tanto no se han establecido eventuales responsabilidades en los hechos imputados. No cabe en consecuencia y de acuerdo con las garantías constitucionales del debido proceso y de presunción de inocencia adoptar sanciones de ningún tipo. Por las mismas razones, ni las supuestas víctimas ni sus familiares han recibido compensación o indemnización alguna.

251. Por carta con fecha de 22 de diciembre de 2006, el Gobierno del Ecuador proporcionó información con respecto al llamamiento urgente enviado el 20 de noviembre del 2006. El

Gobierno indicó que la Procuraduría general del Estado estaba al tanto de las medidas cautelares tomadas por la Comisión.

Observaciones

252. The Special Representative thanks the Government of Ecuador for its response to her communications of 19 June 2006 and 20 November 2006, and is encouraged by the Government's willingness to investigate alleged violations. The Special Representative regrets that the rest of her communications has not been answered and she would therefore call upon the Government of Ecuador to provide detailed replies assuring her that investigations have been initiated and that efforts have been made to bring the perpetrators to justice.

253. She is particularly concerned about reports that members of the police force have allegedly been involved in raiding houses without warrants as in the case of **Carlos Zorrilla** and his family. The Special Representative requests that the Government provide a detailed response to this, assuring her that an investigation has been initiated into alleged police misconduct.

El Salvador

Comunicaciones enviadas

254. El 14 de julio de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con la información recibida en relación con **Daniel Ernesto Morales Rivera**, Secretario de Prensa y Propaganda de la Confederación Sindical de Trabajadores Salvadoreños (CSTS), y otros miembros de la CSTS. Según la información recibida, en la madrugada del 6 de julio de 2006, Daniel Ernesto Morales Rivera habría sido víctima de malos tratos por parte de la policía en San Salvador. Los agentes policiales le ordenaron arrodillarse contra la pared, mientras lo golpeaban en la cabeza y en la cara interrogándolo sobre "dónde estaban las armas". Al mismo tiempo, las oficinas de la CSTS habrían sido allanadas por la Policía sin orden judicial. Según se informa, se habrían llevado equipos de informática, cámaras fotográficas y 2.000 dólares en efectivo. Luego, procedieron a arrestar al Sr. Daniel Ernesto Morales Rivera y lo acusaron de "porte ilegal de arma de fuego". Habría sido detenido hasta el 12 de julio de 2006, cuando se le otorgó la libertad condicional. De acuerdo con las informaciones, el allanamiento sucedió luego de que el día anterior, 5 de julio de 2006, a las 16.00 horas., miembros de distintas organizaciones sociales y populares brindaron una conferencia de prensa en las instalaciones de la CSTS para denunciar una presunta represión en contra del movimiento sindical y popular, llevada a cabo por las autoridades. La CSTS, junto con una organización no gubernamental, habría solicitado una audiencia temática a la Comisión Interamericana de Derechos Humanos (CIDH) en la ciudad de Guatemala para el próximo 19 de julio de 2006, con el fin de informar a la CIDH sobre las supuestas conductas antisindicales por parte del Estado. Se expresó temores de que el hostigamiento y la intimidación sufridas por Daniel Ernesto Morales Rivera, y el allanamiento ilegal y robo en la sede de la CSTS estuvieran vinculados con en el trabajo que realiza en defensa de los derechos humanos, específicamente con las acciones de la CSTS en defensa de la libertad sindical.

255. El 17 de agosto de 2006, el Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con **William Hernández**, director de la Asociación Entre Amigos (AEA), una organización que proporciona educación sexual a lesbianas, gays,

bisexuales y personas transgénero en El Salvador. La AEA ha denunciado públicamente las violaciones de derechos humanos contra lesbianas, gays, bisexuales y personas transgénero en El Salvador. De acuerdo con la información recibida, el 30 de mayo de 2006 las oficinas de la AEA en San Salvador habrían sido allanadas por personas desconocidas quienes habrían registrado los archivos y habrían dejado amenazas escritas en trozos de papel diciendo “esto es su merecido” y “culeros se mueren”. Según se informa, los asaltantes se llevaron algunos documentos, incluyendo un plan escrito por una manifestación ante la Asamblea Legislativa oponiéndose a la ratificación de una reforma constitucional que prohibiría el matrimonio entre parejas del mismo sexo y la adopción de niños por parejas del mismo sexo. El 1.º de junio de 2006 William Hernández habría sido amenazado por una persona desconocida con una pistola ante la oficina de la AEA en San Salvador. Según se informa, este individuo se acercó a William Hernández y le amenazó, diciendo: “tenéis que dejar de joder en la Asamblea. Ya busqué dentro y no encontré nada y aquí voy a encontrar los que busco... deja de joder o antes de que te cases te mato.” El asaltante habría agarrado un maletín que llevaba William Hernández. Se expresó temores de que el supuesto allanamiento de las oficinas de la AEA y las amenazas contra William Hernández pudieran estar relacionados con el trabajo que hace la AEA en defensa de los derechos humanos de lesbianas, gays, bisexuales y personas transgénero en El Salvador.

Comunicaciones recibidas

256. Por carta con fecha 6 de noviembre de 2006 el Gobierno transmitió la siguiente información en relación con el llamamiento urgente del 18 de enero de 2006. El Gobierno informó que la Policía Nacional Civil brinda protección a **William Hernández**, con un elemento policial desde febrero de 2000. Se indicó que, a petición de William Hernández, dicha elemento policial le acompaña únicamente en horario diurno, por lo que queda sin protección en horas nocturnas. Se notó que en ocasiones cuando participa en manifestaciones se refuerza su protección con un elemento policial adicional. El Gobierno indicó que el nivel de riesgo del Sr. Hernández ha disminuido considerablemente y actualmente se encuentra activa una investigación ante la Policía Nacional Civil por amenazas y daños en contra del mismo, sin que aún se hayan encontrado imputados.

Observaciones

257. The Special Representative thanks the Government of El Salvador for its response to her communication of 18 January 2006 and is encouraged by its willingness to investigate alleged violations. She also appreciates that the Government has taken steps to provide **William Hernández** with police protection since 2000. The Special Representative would urge the Government to closely monitor the case of Mr Hernandez and to increase police protection when necessary. She also requests that she be informed of any further developments in this case.

258. The Special Representative regrets that she did not receive a response from the Government, regarding her communication of 14 July 2006. The allegations of police misconduct are extremely serious, and the Special Representative would urge the Government to provide a detailed substantive response as to whether an investigation has been launched into this case and the steps which have been taken to bring the perpetrators to justice. The Special Representative wishes to remind the Government of El Salvador of its obligations under article 12 paragraphs 2 and 3 of the Declaration on human rights defenders.

Egypt

Communications sent

259. On 22 February 2006, the Special Representative sent a joint urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges, 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 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. Ahmed Mekki, Mahmoud Mekki, Mahmoud al Khudayri and Hisham Bastaweessee are being interrogated by the State Security Court, which was established under the emergency law. It is reported that the State Security Court has not taken time to investigate claims by the judges and a number of civil society organizations that fraudulent acts have taken place during the elections, but it has been very quick to commence an investigation against the judges for making such declarations that fraudulent acts had occurred. The Special Rapporteurs and the Special Representative are concerned 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, as well as an attempt to pressure them which would amount to an interference with the independence of the judiciary.

260. On 24 March 2006, the Special Representative sent a joint urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers, regarding **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 Nagi Dirbala and Ahmad Saber, to enable their interrogation regarding their statements which criticized fraudulent acts which allegedly occurred during the parliamentary elections in 2005, and their comments related to the reform to the administration of justice. Concern is expressed that these events may fall into the reported pattern of harassment against members of the judiciary expressing critical views against the Government. Concern is heightened by the fact that they follow 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. Ahmed Mekki, Mahmoud Mekki, Mahmoud al Khudayri and Hisham Bastaweessee have been already the subject of an appeal by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative and the Special Rapporteur on the independence of judges and lawyers, sent on 22 February 2006. Concern expressed in the urgent appeal of 22 February 2006 was reiterated that the lifting of the judicial immunity of this high number of judges of the Court of Cassation and their interrogation by the State Security Court represents a violation of their right to freedom of expression and may represent an attempt to pressure them which would amount to an interference with the independence of the judiciary.

261. On 5 May 2006, the Special Representative sent a joint urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges, regarding the **members of the 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 the 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 Judiciary Authority Law to guarantee the impartiality and the financial and administrative independence of the judiciary. In particular, it is alleged that currently the Judiciary 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 sit-in demanding a stop to the action against Judges Mahmoud Maki and Hisham Bastawissi and amendments to the Judiciary Authority Law in order to guarantee the independence of the judiciary. In an attempt to disperse the protest, police tore down banners listing the demands of the Judges Club 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 is 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 is 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-Gedina, 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 the hospital. This attack is particularly grave considering that Judge Mahmoud Abdel Latif Hamza had undergone open-heart surgery. The twelve remaining people arrested on 24 April 2006 are 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 are 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 16 protesters, and on 27 April against a further 12. 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 is 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 of the administration of justice. The above-mentioned judges have been already the subject of two appeals by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative and the Special Rapporteur on the independence of judges and lawyers, sent on 22 February and 24 March 2006, to which no reply was received from the Government. The Special Representative and the Special Rapporteurs express their serious concerns that these incidents, as well as the lifting of the judicial immunity of this high number of judges of the Court of Cassation and their investigation, constitute an attempt to prevent the judges and the demonstrators supporting their cause from exercising their right to freedom of expression and freedom of association, in particular with regard to their claims relating to a democratic system and the financial and administrative independence of the judiciary. We would also like to express our concern over the fact that the Government refuses to involve the Judges Clubs in the drafting of the proposed amendments to the Judicial Authority's Law, a law that directly affects their profession and in relation to which the judges' comments should be broadly taken into consideration. Also, the financial assistance previously allocated to the Judges Clubs would have been suspended.

Communications received

262. On 11 July 2006, the Government replied to the joint urgent appeal of 5 May 2006, indicating that Judge Mahmud Sadiq Birham, appeal court chief at the Cairo Court of Appeal, 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 in the governorate of Daqhaliyah during both rounds of the elections and that the committee had performed its duties to the best of its ability, as confirmed even by the candidates who failed to gain a seat. However, he had been astonished by an item published in the *Sawt al-Ummah* newspaper on 12 December 2005, attributed to journalist Huda Abu Bakr and entitled "Blacklist of judges accused of rigging the elections". The article gave the initials of his three part name (M.S.B.) and the name of the election committee which he had chaired. He had then been surprised by 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. He asked

for a criminal action to be brought against all those who had defamed him. Investigations revealed that the press statements had come from Judge Mahmoud Maki and Judge Hisham Bastawissi, commenting on the story about the allegation against the victim and other judges of rigging the elections, stating that the published report was true, and confirming the charges against Judge Mahmud Birham and other judges. It also emerged that the two men had not provided any proof of the allegations against the judge; this constitutes unlawful damage to the victim's reputation. All these elements constitute the offence of defamation, which is a crime under the Criminal Code. The two men were therefore sent before a disciplinary tribunal in accordance with article 99 of the Judicial Authority Act. The disciplinary hearing was conducted in accordance with the terms and guarantees contained in 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, deputy chief justice of the Court of Cassation, because the premise of his remarks, namely that an investigation was needed to verify the report, had been deleted from the report. Moreover, he had not said anything to indicate that he believed the report to be true. 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. Censure is a disciplinary penalty that does not prevent a judge from carrying out his work. It was imposed on the judge because he had accused the complainant of rigging the elections without providing any evidence to support the charge. The investigation of the two judges was based on a complaint brought by the victim for defamation. This is an offence 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. This is consistent with the international human rights treaties to which Egypt is a party. 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. There is no truth to the complaint by the two Special Rapporteurs 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. All domestic laws and international treaties stipulate that the right to freedom of expression must be exercised in a manner that is lawful and does not damage the reputation of others without substantiating evidence (paragraph 2 of article 302 of the Code of Criminal Procedures, based on the European Convention on Human Rights).

Observations

263. The Special Representative thanks the Government for its responses. However, they do not entirely dispel her concern that the judges were sanctioned for publicly denouncing fraudulent acts which allegedly occurred during the 2005 parliamentary elections. The Special Representative wishes to remind the Government that article 6 paragraphs (a) and (b) states that "[e]veryone has the right, individually and in association with others: (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (b) As provided for in human rights and other

applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”.

Ethiopia

Communications sent

264. On 5 May 2006, the Special Representative sent a joint urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, concerning **Mesfin Woldermarian**, former chair of the Ethiopian Human Rights Council, **Netsanet Demissie**, environmental rights lawyer and founder of the Organisation for Social Justice in Ethiopia, **Daniel Bekele**, policy, research and advocacy manager of the non-governmental organisation Action Aid and **Kassahun Kebede**, chair of the Addis Ababa branch of the Ethiopian Teachers Association (ETA). Mr Bekele was the subject of an urgent appeal sent jointly by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 25 October 2005, and of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 18 November 2005. Mr Demissie was also mentioned in the urgent appeal sent on 18 November 2005. According to the information received, Mr Woldermarian, Mr Demissie, Mr Bekele and Mr Kebede are currently in prison and are facing charges of treason. Their trial is due to begin in May and if convicted they may face the death penalty. All of the above mentioned people were arrested because of their participation in pro-democracy demonstrations in 2005. Grave concern is expressed that the charges against Mr Woldermarian, Mr Demissie, Mr Bekele and Mr Kebede are connected with their activities in defence of human rights, in particular because of their participation in peaceful protests.

265. On 8 August 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Eskinder Negga**, editor of the newspaper *Satenaw*, his partner, **Serkalem Fasil**, and their one month old baby boy. According to the information received, on 28 November 2005, Eskinder Negga was arrested along 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 has recently been moved from Addis Ababa's Kaliti prison to Karchele prison, where he is detained in a maximum security section known for its very harsh conditions, including poor sanitation and the prohibition of visits from relatives. Serkalem Fasil was also arrested and detained at Kaliti prison where she gave birth to a baby boy in late June 2006. Both the mother and the infant are still held in Kaliti prison and they have not been authorized to meet with Mr Negga. The issue for his transfer was raised by other defendants during the last court hearing on 6 August 2006, but remains unclear as the judge did not offer any explanation as to why Mr Negga was moved. The court will resume its activities in October and there is little hope that Mr Negga will be able to appeal against his transfer before that date.

266. On 8 September 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the independence of judges and lawyers, concerning the trial of **76 prisoners**, among whom are four human rights defenders, including **Mesfin Woldemarian**, founder of the Ethiopian Human Rights Council (EHRCO), **Daniel Bekele** from ActionAid, **Netsanet Demissie** from the Organisation for Social Justice in Ethiopia, and **Kassahun Kebede** from the Ethiopian Teachers Association. There are also several leaders from the opposition coalition, the Coalition for Unity and Democracy (CUD), including Berhanu Nega, the elected mayor of Addis Ababa and deputy chairman of the opposition party, 14 editors and reporters of independent and privately-owned newspapers, including Sarkalem Fasil; academics, lawyers and former judges, among whom Anteneh Mulugeta, a former judge; Birtukan Midela, also a former judge; Netsanet Demissie, a human and environmental rights lawyer and Yakob Hailemariam who is a former United Nations genocide prosecutor at the Rwanda tribunal and a former United Nations Special Envoy in the Cameroon/Nigeria border dispute. Prof Woldemarian was the subject of two joint urgent appeals sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteurs on the independence of judges and lawyers and on the promotion and protection of the right to freedom of opinion and expression and the Special Representative, successively on 3 November 2005 and 5 May 2006. Mr Bekele was the subject of three joint urgent appeals sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteurs on the independence of judges and lawyers and on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 5 May 2006, on 25 October, and 18 November 2005. Mr Nega was the subject of a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression and on the question of torture and the Special Representative on 3 November 2005, and of an appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 5 January 2006. Ms Fasil was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 8 August 2006. According to the information received, the trial of the 76 prisoners started on 2 May 2006 following their arrest in Addis Ababa between 1 and 4 November 2005 by the federal police and military forces because of their participation in a peaceful demonstration on 15 May 2005 to contest the results of elections. The accused are reportedly charged with “conspiracy, genocide and treason”. They have been held in Kaliti jail where 60 prisoners were reportedly killed by the police on 2 November 2005. In addition to that, conditions of detention are reportedly very poor: the cells are allegedly overcrowded, and some detainees were refused health care. Serious concerns have been expressed that the 76 accused may not get a fair trial because of their activities in defence of human rights. It has further been reported that the defendants faced difficulties in their access to a lawyer. Moreover, Behane Mogese, a member of the Ethiopian Bar Association who is acting as a defence lawyer for senior opposition leaders from the Coalition for Unity and Democracy, was allegedly arrested by security forces at his home on 19 February 2006. He allegedly appeared in court on 6 March 2006, when he was remanded in custody for 14 days without charges. On 21 March 2006, he was again conducted before the Court and remanded in custody for ten more days, as the investigating officers claimed that they had not completed their investigation. Furthermore, we learnt that in Ethiopia, police and security officers are required to be present during the meeting of defence lawyers and their clients, and that exchanging of communications and documents between them is prohibited. Finally, there is deep concern about the fact that their right to a fair trial allegedly has not been

granted by the tribunals, which is aggravated by the fact that charges against them could lead to the death penalty.

267. On 29 September 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, concerning **Wasihun Melese** and **Anteneh Getnet**, both members of the Ethiopian Teachers Association (ETA), a teachers' union. According to the allegations received, on 23 September 2006, Mr Melese, who is a teacher at Addis Ketema High School in Addis Ababa and a member of the ETA's National Executive Committee, was arrested by police at his home. They took him to the police Central Investigation Bureau (known as Maekelawi), where he is still detained. 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. Considering the alleged incommunicado detention of Mr Melese and Mr Getnet, aggravated in Mr Getnet's case by the circumstance that the place of detention has reportedly not been disclosed, concern was expressed that they might be at risk of torture or other forms of ill-treatment. Further 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 the ETA in the period following the May 2005 elections.

268. On 23 October 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, concerning **Yalemzewd Bekele**, a lawyer working for the European Commission, and a 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, she was arrested by the Ethiopian authorities, while trying to cross the border to Kenya. It is believed that Yalemzewd Bekele was accompanied by another person at the time of her arrest. The identity and whereabouts of this person are not known. Yalemzewd 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 is expressed that she may be at risk of torture or ill-treatment, in view of allegations that **Alemayehu Fantu**, the owner of a chain of supermarkets in Addis Ababa, who was also arrested in connection with the calendar, was tortured in detention at Woreda 8 Police Station, Gulele district, Addis Ababa. Moreover, three others arrested at the same time, reportedly in connection with the calendar, are believed to have died after being tortured in custody.

Communications received

269. On 7 June 2006, the Government of Ethiopia replied to the urgent appeal sent on 5 May 2006, stressing that the Government remains fully committed to the scrupulous respect of all international conventions and is always ready to engage in a constructive dialogue for the fullest realization of the provision contained therein. The Government acknowledged that the leadership

of the main opposition party (CUD), journalists and others have been arrested and are facing criminal prosecution before a court of law, for crimes of high treason, outrages against the constitution and the constitutional order, obstruction of the exercise of constitutional powers, armed uprising or civil war, impairment of the defensive power of the State and attempted genocide. However, it stressed that the accused have not been detained because of their participation in prodemocracy demonstrations in 2005, as it has been stated in the allegation, but because of their active participation in the street violence that occurred following May 2005, and which led to numerous fatalities of law enforcement officers and civilians as well as to severe destruction of public property. The Government considered that these actions were instigated by the CUD for the sole purpose of seizing power illegally and dismantling the constitutional order through street violence. The Government stated that the trial process of the accused began in early January 2006, and is carried out in an open, fair and transparent manner in the presence of international observers and with the right of the accused to due process of law fully guaranteed.

270. On 25 August 2006, the Government of Ethiopia replied to the communication of 8 of August 2006 concerning **Eskinder Nega**, editor of a local newspaper and his spouse **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.

271. On 9 November 2006, the Government of Ethiopia replied to the communication of 23 October 2006 regarding **Yalemzewd Bekele**, and **Alemaychu Fantu**. The Government stated that the content of the communication was unfounded. The arrest of Mr Fantu and Mr Bekele was not arbitrary, but in accordance with the 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 by 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.

Observations

272. The Special Representative thanks the Government for its replies, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 8 September (concerning the trial of **76 prisoners**, including **Mesfin Woldermariam**, **Daniel Bekele**, **Netsanet Demissie**, and **Kassahun Kebede**) and 29 September 2006 (concerning **Wasihun Melese** and **Anteneh Getnet**). The allegations are serious and she urges the Government to respond to these communications and the concerns raised by her.

273. She welcomes the declaration made by the Government on the importance given to the respect of human rights and dialogue. The Special Representative further welcomes the release of **Yalemzewd Bekele** on 26 October 2006. However, the response of the Government does not dispel entirely her concerns regarding the allegations of torture inflicted on **Alemayehu Fantu**

and three others while in detention, in connection with the publication and distribution of a calendar of action for non-violent civil disobedience.

274. Regarding the continued detention of **Eskinder Nega**, and his spouse **Serkalem Fasil** and their young child, the Special Representative remains concerned that the serious charges of “treason”, “outrages against the Constitution” and “incitement to armed conspiracy” which potentially carry the death penalty, exert an alarming effect on the right to freedom of expression.

275. The Special Representative remains concerned about the arrests of human rights defenders in the exercise of their right to freedom of expression or assembly. She wishes to remind the Government of article 5 paragraphs (a) and (b) of the Declaration on human rights defenders which states that “[e]veryone has the right, individually and in association with others: (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”. She further recalls article 6 paragraph (a) of the Declaration which provides that “[e]veryone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully”.

Georgia

Communications sent

276. On 16 February 2006, the Special Representative sent an urgent appeal regarding **Ucha Nanuashvalli**, Executive Director of the Human Rights Information and Documentation Centre (HRIDC), and other staff members of the HRIDC. The HRIDC is an organization which, inter alia, monitors human rights violations in Georgia and fights against torture and discrimination. Mr Nanuashvalli was the subject of an urgent appeal sent jointly by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 7 October 2005. According to information received, on 1 and 2 February 2006, representatives of the Ministry for Internal Affairs entered the office of the HRIDC without a permit, claiming that they wished to become familiar with the organization. It is reported that they threatened staff members of the HRIDC on these occasions. On 7 February 2006 it is alleged that an employee of the Counter Terrorism Department at the Ministry of Internal Affairs called Mr Nanuashvalli and informed him that the head of the Counter Terrorism Department wished to speak with him, but allegedly did not give a reason for this request. Mr Nanuashvalli asked that the request be put in writing clarifying the nature of the request. It is reported that Mr Nanuashvalli's request was refused and that Mr Nanuashvalli was told that if he did not comply, he would be brought to the Ministry of Internal Affairs by force.

277. On 10 April 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Mr Azer Samedov**, president of the Caucasus Centre for Protection of Conscience and Religious Persuasion Freedom (CCPCRPF) in Georgia, an Azerbaijani citizen who emigrated to Georgia after the troubles provoked by the presidential elections results in October 2003. According to

the information received, on 31 March 31, 2006, Mr Samedov was arrested in Tbilisi, Georgia, by officers of the Anti-terrorist Centre of the Ministry of Interior, on the request of the Anti-terrorist Service of the Ministry of National Security of Azerbaijan. He was reportedly accused of “participation in mass disorders” (article 220 of the Criminal Code) and “resistance to the representatives of authorities” (article 315), relating to the events which took place in October 2003 in Baku, after the announcement of the presidential elections results. It was reported that Mr Samedov had been monitoring the elections. It was further reported that on 2 April 2, 2006, the Tbilisi City Court approved his detention at the Investigating Prison no. 5 of Tbilisi, until the end of the extradition procedure to Azerbaijan.

278. On 24 April 2006, the Special Representative sent an urgent appeal regarding Mr **Samedov**, Azerbaijani citizen and President of the Caucasus Centre for Protection of Conscience and Religious Persuasion Freedom (CCPCRPF) in Georgia, subject of a communication sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on 10 April 2006. According to information received, Mr Samedov was released on bail on 14 April 2006. However, he remains at risk of being extradited to Azerbaijan on the basis of charges of “participation in mass disorders” (article 220 of the Criminal Code) and “resistance to the representatives of authorities” (article 315). These relate to the October 2003 election events in Baku after the announcement of the presidential elections results, which Mr Samedov was monitoring in his role as a human rights defender. Whilst the release of Mr Samedov on bail was welcomed, grave concern was expressed at the alleged arbitrary charges against Mr Samedov that could result in his extradition to Azerbaijan where he may face serious risk of ill-treatment. These concerns are exacerbated because Mr Samedov is officially sought by members of anti-terrorist units of Azerbaijan for having participated in clashes and for resisting the police, and, according to reliable sources, persons suspected of the above crimes face a heightened risk of torture or ill-treatment in Azerbaijan.

279. On 29 June 2006, the Special Representative sent an urgent appeal regarding information received concerning the office of the **Public Movement ‘Multinational Georgia’ (PMMG)**, a non-profit non-governmental organisation which promotes the human rights of minorities and develops their integration into Georgian society. During the last two years, PMMG established close cooperation with various minority organisations and political groups. It initiated the ‘Minority Assembly’ that will take place in September 2006, where minority issues and their increasing participation in the political process will be discussed. According to the information received, on 7 June 2006 the PMMG office in Tbilisi was broken into and raided by unknown persons. Computer hard disks, which contained many of the working documents of the organization were stolen. Specifically, the draft of an alternative report on the implementation of the Council of Europe Framework Convention for the Protection of National Minorities, to be addressed to the United Nations and the Council of Europe, and documentation and analytical materials pertaining to the situation of minorities in Georgia were stolen. All valuable equipment was left untouched. According to reports, during the two-week lead up to this break-in, some representatives of the State contacted several staff members of PMMG requesting various documents. The draft of the report that had to be addressed to the Council of Europe was chief amongst their requests. PMMG and its partner organization, refused these requests. Subsequently, both organisations were told by the State representatives that ‘(they) will get it anyway’. Furthermore in March 2006, the cars of Arnold Stepanian, Head of the organization, and the press secretary were robbed in front of the organization’s office. They contained many working documents.

280. On 10 October 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the independence of judges and lawyers on the situation of human rights defenders regarding alleged threats made against **Lela Bekauri**, member of the Georgian Young Lawyers' Association (GYLA), a organization founded in 1994 which consists of almost 600 members of the legal profession, and provides free legal aid, promotes human rights and encourages the growth of civil society in Georgia. According to the information received, on 21 September 2006, Ms Bekauri attended a conference entitled "Deficiencies during pre-election troubles in Georgian regions" in which she criticized the pre-election campaign tactics of Lela Aptsiauri who had distributed electricity vouchers in order to influence voters. On her return home after the conference, Ms Bekauri received an anonymous threatening telephone call in which the caller stated that he would "catch [her] wherever". The GYLA immediately called for an official investigation into this incident, but they have not received a reply from the relevant authorities.

Communications received

281. In a letter dated 14 August 2006, the Permanent Mission of Georgia replied to the communication of 16 February 2006 concerning **Ucha Nanuashvalli**. The Mission stated that the Ministry of the Interior visited the HRIDC offices in accordance with Article 7 (2) of the Georgian Law on Operative Searching Activities. It was indicated that the aim of the visit was to meet with Mr Nanuashvalli and not to become familiar with the organization. The Government stated that Mr Nanuashvalli refused to meet with the Ministry representative and suggested that he would visit the Ministry accompanied by a lawyer. On 7 February Mr Tkebuchava, Officer with the Anti-terrorist Centre of the Ministry of Interior contacted Mr Nanuashvalli to remind him of his appointment. The information discussed in the aforementioned conversation is confidential and the Government indicated that it cannot be revealed. The Government also noted that neither threat nor abuse of power was applied in this case.

282. In a letter dated 14 August 2006, the Permanent Mission of Georgia replied to the communication of 2 June 2006 concerning **Public Movement 'Multinational Georgia' (PMMG)**. The Government stated that the Ministry of Internal Affairs, had started a preliminary investigation into the alleged robbery at PMMG, as of 7 July 2006. The case was to be investigated in accordance with Article 177, 2 (a) and 3 (c) of the Criminal Code of Georgia. It was indicated that Mr Stephanian along with one of the guards from the office were questioned on the day of the robbery. The Government indicated that the MIA in Tbilisi had initiated an investigation into the case and further details would be provided at the end of the investigation.

283. In a letter dated 9 October 2006, the Permanent Mission of Georgia replied to the communication of 2 June 2006 concerning **Public Movement 'Multinational Georgia' (PMMG)**. The Government stated that in relation to the investigation initiated on 7 July 2006 by the MIA, as indicated in the communication from the Government on 14 August 2006, it was found through questioning Mr Stephanian that representatives from the State did not request documents from PMMG and that Mr Stephanian did not indicate in his interview who he believed may have been responsible for the crime. Furthermore, the Government noted that in addition to the computer disks which were stolen during the robbery, six computer processors as well as a computer monitor a TV and video recorder were also stolen in the incident. It was

indicated that when questioned after the robbery, staff members of PMMG did not mention that they had received threatening phone calls prior to the episode. The Government stated that the investigation would continue and further details could be obtained on request.

284. In a letter dated 30 November 2006, the Government replied to the communication of 10 October 2006 stating that no complaint has been lodged by or on behalf of **Lela Bekauri** to the law-enforcement agencies of Georgia and it was only through the letter sent by the Special Rapporteur that the Prosecution Service of Georgia received information with respect to the alleged threats made against Ms Bekauri. The Government reported that on 24 October 2006, the Investigative Division of Rustavi City Unit of the Ministry of Internal Affairs of Georgia opened criminal case No 012060892. The investigation was initiated under Article 151 of the Criminal Code of Georgia into alleged threats made against Ms Bekauri. In the course of the investigation, relevant investigative activities have been carried out, namely Ms Bekauri was questioned and given the status of a victim in accordance with the criminal legislation of Georgia. One of Ms Bekauri's colleagues, Mr Lasha Parastahsvili, was questioned as a witness with respect to the criminal case in question. In order to identify the author of the alleged telephone threat, a subpoena was obtained from the Rustavi City Court to access the information from the mobile phone company, concerning calls received on Ms Bekauri's cell phone. The Government indicated that the investigation is still under way and ensured that all necessary measures have been taken to secure the interest of justice as well as human rights of the respective injured person in this case.

Responses received to communications sent by the Special Representative in previous years

285. In a letter dated 27 January 2006, the Government of Georgia 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 7 October 2005 concerning 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 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 Zaur Kvaratskhalia, Head of the Department of Relations with Georgian Diaspora and Inter-ethnic relations at the President's 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

286. The Special Representative would like to thank the Government of Georgia for providing detailed responses to her communications of 16 February 2006, 2 June 2006 and 10 October 2006, and for its follow-up communication of 27 January 2006 regarding Ucha Nanuashvili. She is encouraged that measures have been taken by the Government to ensure alleged violations are investigated, and notes with appreciation that in the case of Lela Bekauri, an investigation has been initiated on the basis of information received in her communication of 30 November 2006. The Special representative would be interested in receiving further details regarding developments in the investigation and measures taken to ensure the protection of Ms Bekauri.

287. The Special Representative regrets that no response was received from the Government in relation to her communications of 10 and 24 April 2006, regarding **Azer Samedov** and she remains concerned that if extradited to Azerbaijan, Mr Samedov may face serious ill-treatment. The Special Representative would therefore urge the Government to provide a detailed response to this case and to take all necessary measures to guarantee that the rights and freedoms of Mr Samedov are respected in accordance with Articles 1 and 2 of the Declaration on human rights defenders. The Special Representative would like to draw particular attention to Article 12 paragraphs (2) and (3).

288. Whilst the Special Representative appreciates that efforts may have been made by the Government to strengthen the position of NGOs in Georgia, she is concerned by accusations of persistent harassment and targeting of the NGO community. She is further concerned that the law on freedom of association and regulation of NGOs fails to provide a suitable environment in which NGO activity can operate and flourish, despite assurances by the Government that since the Rose Revolution Georgian NGOs no longer face serious problems. The Special Representative requests that the Government review the law and urges it to ensure that NGOs working in the defence of human rights are given due protection.

Guatemala

Comunicaciones enviadas

289. El 21 de marzo de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con **Fredy Peccerelli**, Director de la Fundación Antropología Forense de Guatemala (FAFG). La FAFG ha estado trabajando para exhumar las fosas comunes donde se encuentran enterrados quienes murieron a manos del ejército guatemalteco y de sus auxiliares civiles a principios de la década de 1980. Fredy Peccerelli fue el objeto de un llamamiento urgente enviado el 16 de septiembre de 2005 por la Representante Especial. Según la nueva información recibida, el 9 de enero de 2006 Fredy Peccerelli habría recibido en su teléfono celular un mensaje en el que se le amenazaba de muerte. El 15 de marzo de 2006 aproximadamente a las 11.27 horas, Fredy Peccerelli habría recibido en su teléfono celular el siguiente mensaje de texto: “los tenemos bien controlados antropólogo hijo de puta vamos a matar a tus hermanos primero...” En 2002, la Comisión Interamericana de Derechos Humanos (CIDH) habría ordenado que se tomaran medidas cautelares para proteger a Fredy Peccerelli y sus familiares. En tal sentido, Fredy Peccerelli recibe protección policial las 24 horas del día. La FAFG habría pedido al Ministerio de Gobernación que se aumentase la presencia policial en sus oficinas y cuando realizan exhumaciones en el campo. No han recibido más protección y según la información recibida el nivel de protección habría sido disminuido en enero de 2006. Se expresó temor de que estos eventos puedan estar relacionados con el trabajo que hace Fredy Peccerelli en defensa de derechos humanos y formen parte de una campaña de hostigamiento en contra de Fredy Peccerelli y otros miembros de la FAFG.

290. El 5 de abril de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, señaló a la atención urgente del Gobierno la información recibido 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 aproximadamente a las

17.00 horas, cuando Claudia Jeannette Rivas Rosil habría abandonado una reunión en la localidad de Jutiapa, un hombre se le habría acercado empuñando una pistola. Claudia Jeannette Rivas Rosil habría conseguido entrar en el automóvil de un colega, que logró alejarse del sitio. Anteriormente, Claudia Jeannette Rivas Rosil habría recibido amenazas de muerte y su hermano German Adolfo Rivas Rosil, ex representante departamental del STEG, habría desaparecido el 23 de agosto de 2005. Su cadáver habría sido encontrado el 23 de enero de 2006. Se expreso temor de que estos eventos pudieran estar relacionados con el trabajo que hace Claudia Jeannette Rivas Rosil en defensa de derechos humanos, en particular porque la señora Rivas Rosil ha denunciado ante las autoridades la presunta corrupción en el seno del departamento regional del Ministro de Educación en Jutiapa ante las autoridades.

291. El 9 de abril de 2006, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión señaló a la atención urgente del Gobierno la información recibido en relación con **Mariano Calel Aguilar**, presidente de la junta directiva del Movimiento Campesino en Resistencia Pro Justicia Finca Nueva Linda. Mariano Calel Aguilar trabaja para la defensa de derechos humanos de los campesinos en la finca Nueva Linda. De acuerdo con la información recibida, el 27 de abril de 2006 Mariano Calel Aguilar habría sido amenazado de muerte por un miembro de la seguridad privada de la finca Nueva Linda. Este miembro de la seguridad se habría dirigido a Mariano Calel Aguilar y le habría dicho "Te vas a morir, hijo de la gran puta". De acuerdo con la información, antes del amenazar a Mariano Calel Aguilar esta persona habría disparado contra 25 integrantes del Movimiento Campesino en Resistencia Pro Justicia Finca Nueva Linda. Los miembros del Movimiento Campesino en Resistencia Pro Justicia Finca Nueva Linda habrían llamado a la Comisaría 34 de la Policía Nacional Civil de Retalhuleu y dos agentes habrían llegado a la finca Nueva Linda. De acuerdo con la información recibida, los agentes habrían tomado las declaraciones de los agredidos. Se expresó temor de que estos eventos pudieran estar relacionados con el trabajo que hace 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.

292. El 15 de mayo de 2006 la Representante Especial envió un llamamiento urgente al Gobierno en relación con el **Movimiento Nacional por los Derechos Humanos (MNDH)**. De acuerdo con la información recibida, los días 11 y 12 de mayo de 2006 en las oficinas del MNDH se habría recibido llamadas amenazantes por personas no identificadas. Según la información recibida, la persona habría amenazado a las integrantes del MNDH si continuaran con su trabajo les iban a matar. En el mes de abril de 2006 el MNDH habría publicado un informe sobre la situación de defensores de derechos humanos en Guatemala que habría reportado 65 casos de ataques en contra de defensores de derechos humanos. Se expresó temor de que estos eventos pudieran estar relacionados con el trabajo que hace el MNDH en defensa de derechos humanos y puedan constituir un intento de intimidar al MNDH.

293. El 8 de junio de 2006 la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente al Gobierno en relación con **José Xoj**, coordinador de la Coordinadora de Organizaciones Campesinas e Indígenas de Petén (COCIP-CNOC) en Santa Elena Petén, y con otros miembros del personal de la COCIP-CNOC. La COCIP- CNOC es una organización que trabaja en defensa de los derechos humanos de los indígenas de Petén. De acuerdo con la información recibida, el 3 de marzo de 2006, José Xoj habría sido detenido por miembros de la

Policía Nacional Civil (PNC) y habría sido trasladado a una subestación de la PNC, donde miembros de la PNC le habrían golpeado. El 4 de marzo de 2006 habría sido acusado de “falta de buenas costumbres” y condenado a pagar una multa de 300 quetzales. Posteriormente habría sido liberado. El 4 de marzo de 2006 las oficinas de la COCIP- CNOC habrían sido allanadas por desconocidos que habrían robado libros y material didáctico, y golpeado a uno de los miembros del personal del COCIP- CNOC. El 22 de abril de 2006, las oficinas de la COCIP- CNOC habrían sido allanadas por unos desconocidos, quienes habrían sustraído cinco cajas de de disquetes y discos compactos que contenían información relativa al trabajo de la COCIP- CNOC. Los días 17 y 18 de mayo de 2006, varios desconocidos habrían tomado fotografías del edificio en el que se encuentran las oficinas de la COCIP- CNOC. Se expresó temor de que estos eventos pudieran estar relacionados con el trabajo que hace la COCIP-CNOC en defensa de los derechos humanos de los indígenas de Petén y puedan formar parte de una campaña de hostigamiento contra el señor José Xoj y demás personal de la COCIP-CNOC.

294. El 9 de junio de 2006 la Representante Especial, junto con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, envió un llamamiento urgente al Gobierno en relación con la información que hemos recibido en relación con el personal de las organizaciones no gubernamentales la **Unión Nacional de Mujeres Guatemaltecas** (UNAMG) y el Sector de Mujeres. La UNAMG trabaja en defensa de los derechos de las mujeres. En particular, promueve la participación política de las mujeres y condiciones de equidad, la justicia de género, y la no violencia contra las mujeres. Además, la UNAMG tiene un Proyecto de Víctimas de Actoras de Cambio para mujeres sobrevivientes del conflicto armado que ayuda a las mujeres víctimas del conflicto armado. De acuerdo con la información recibida, el 29 de mayo de 2006 las oficinas del Sector de Mujeres en la ciudad de Guatemala habrían sido allanadas por personas desconocidas. Según se informa, los asaltantes habrían robado teléfonos celulares y un fax, habrían registrado archivos y habrían dejado huellas de sangre cerca de las ventanas y a lo largo del piso y hacia la cocina, el baño y oficinas internas. El 5 de junio de 2006 las oficinas de la sede de la UNAMG en Chimaltenango habrían sido allanadas por personas desconocidas. Según se informa, los asaltantes habrían violentado los escritorios y archivos y se habrían llevado una computadora que estaba adjudicada al Proyecto de Víctimas de Actoras de Cambio para mujeres sobrevivientes del conflicto armado. Se teme que estos eventos puedan estar relacionados con la labor que hace la UNAMG y el Sector de Mujeres en defensa de los derechos humanos de las mujeres en Guatemala, en particular porque las dos organizaciones han denunciado públicamente las violaciones en contra de las mujeres en ese país. Además, se expresaron temores que estos allanamientos pudiesen formar parte de un intento de intimidar a los defensores de los derechos de las mujeres.

295. El 14 de junio de 2006 el Representante Especial envió un llamamiento urgente al Gobierno en relación con la información recibido en relación con los señores **René Guzmán Quiñónez**, presidente de de la Asociación Integral para el Desarrollo de Ciudad Quetzal (AIDCQ), **Oscar Humberto Duarte Paiz**, secretario de la AIDCQ, y David Alarcón, portavoz de la AIDCQ. Estas personas también son miembros de la Red por la Vida. La Asociación Integral para el Desarrollo de Ciudad Quetzal promueve el desarrollo en Quetzal y la Red por la Vida trabaja por la desmilitarización y por un frente contra la violencia, en las colonias de Ciudad Quetzal. La AIDCQ ha organizado manifestaciones en contra de supuestas violaciones cometidas por la policía en la ciudad Quetzal. De acuerdo con la información recibida, el 24 de mayo de 2006, aproximadamente a las 11.00 horas, Óscar Humberto Duarte Paiz habría sido secuestrado por seis hombres, quienes vestían chalecos de color beige y portaban armas de

grueso calibre, cuando salía de una reunión de la Sala Comunal de la sede de la AIDCQ. Según se informa, la policía habría sido informada telefónicamente de inmediato. Según se informa, el hermano de Óscar Humberto Duarte Paiz los habría seguido en un microtaxi a la altura de la Sub Estación de la Policía Nacional Civil cuando los individuos desaparecieron. El 27 de mayo de 2006 la esposa de Óscar Humberto Duarte Paiz habría recibido una llamada de un desconocido que le habría preguntado si era la casa del señor Duarte Paiz y cuando habría respondido que sí, el hombre le habría informado que esperara otra llamada. Según se informa, unos días después otro individuo le habría llamado, diciendo que le iban a mandar la cabeza de Óscar Humberto Duarte Paiz dentro de una bolsa plástica. El 6 de junio del 2006 aproximadamente a las seis de la mañana hombres desconocidos en un pick up verde y sin placas habrían estado rondando la vivienda de René Guzmán Quiñónez. El mismo día, un vehículo con vidrios polarizados conducido por desconocidos, habría tratado de sacar a David Alarcón de la carretera. Se expresaron temores que los eventos mencionados pudiesen estar relacionados con el trabajo que realiza la AIDCQ y la Red por la Vida en defensa de derechos humanos, y que puedan formar parte de actos y hostigamiento en contra los integrantes de la AIDCQ.

296. El 7 de septiembre de 2006 la Representante Especial envió un llamamiento urgente al Gobierno en relación con la información recibido en relación con **Maynor Roberto Berganza Bethancourt**, abogado de derechos humanos, Vicepresidente de la Junta Directiva de la Asociación Defensa Legal Indígena y representante del grupo Redes de Dirigentes Estudiantiles Sobrevivientes del 89. Maynor Roberto Berganza Bethancourt ha estado investigando el desaparecimiento y ejecución de dirigentes estudiantes en el año 1989. De acuerdo con la información recibida, el 12 de agosto de 2006 Maynor Roberto Berganza Bethancourt habría recibido un mensaje en su celular que decía “hueco”, del número 57018643. El 22 de agosto de 2006 cuando se encontraba en una reunión, Maynor Roberto Berganza Bethancourt habría recibido una llamada amenazante, procedente del número 57851516. Según se informa, un individuo desconocido le habría dicho “dejémonos de rodeos, pertenezco a una banda del crimen organizado y nos contrataron para matarlo” y Maynor Roberto Berganza Bethancourt habría cortado la llamada. El individuo le habría vuelto a llamar unos minutos después y le habría dicho “así como nos bajamos al gobernador así te vamos a bajar a voz... ahorita te vamos a ir a sacar de donde estas, porque te tenemos controlado”. Se expresaron temores de que las supuestas amenazas en contra de Maynor Roberto Berganza Bethancourt pudiesen estar relacionadas con su trabajo en defensa de los derechos humanos.

297. El 9 de octubre de 2006 la Representante Especial envió un llamamiento urgente al Gobierno en relación con la información recibido en relación con las amenazas de muerte y los actos de intimidación en contra los señores **Roly Escobar Ochoa**, Coordinador General y **Adolfo Lobos**, dirigente y Secretario de Finanzas, de la Coordinadora de Pobladores y Áreas Marginales de Guatemala (CONAPAMG), aparentemente con el objetivo disuadir dicha organización de exigir justicia por el asesinato de la señora Carmen Sagastume, miembro de CONAPAMG y fundadora de la Comunidad Carmen del Monte. La CONAPAMG trabaja por el derecho de acceso a la vivienda, servicios públicos y lucha pacíficamente por la legalización de tierras ocupadas por comunidades pobres, urbanas y rurales, a lo largo de Guatemala. De acuerdo con la información recibida, el 9 de septiembre de 2006, Roly Escobar Ochoa habría sido informado de la existencia de un plan para asesinarlo debido a sus esfuerzos por hacer público el asesinato de Carmen Sagastume. Según los informes, algunos testigos habrían visto a dos hombres metiendo armas de fuego dentro un coche y diciendo, refiriéndose al Sr. Escobar Ochoa “la única manera de resolver los problemas de la comunidad es eliminarle físicamente”.

Supuestamente uno de los autores de dicho plan habría estado involucrado en el asesinato de Carmen Sagastume. Según los informes, a este hecho se le sumarían nuevos actos de intimidación. El 12 de septiembre, un auto fúnebre se habría estacionado al frente de la sede de CONAPAMG durante varias horas. El auto fúnebre sería el mismo que habría sido utilizado para transportar el cuerpo de la Señora Carmen Sagastume un mes antes. El 14 de septiembre, un desconocido vestido de negro se habría quedado vigilando la casa del Sr Roly Escobar Ochoa entre las 2.00 y las 6.00 de la mañana. Dicho hombre habría partido corriendo cuando los vecinos del Sr Roly Escobar Ochoa se le acercaron para interrogarlo. Finalmente, un incidente similar habría tenido lugar el 20 de septiembre, fecha en la que dos desconocidos vestidos de negro habrían vigilado durante varias horas la casa donde vive la ex esposa de Roly Escobar Ochoa en compañía de sus hijos. Se expresó temor de que las amenazas de muerte y los actos de intimidación en contra de Roly Escobar Ochoa y Adolfo Lobos puedan estar relacionados con sus actividades en defensa de los derechos humanos y, en particular, sus actividades relacionadas con el acceso a la vivienda y la legalización de tierras. Igualmente, se teme que Carmen Sagastume haya sido asesinada debido a su trabajo en defensa de los derechos humanos y en particular por la defensa de los derechos de las mujeres.

Comunicaciones recibidas

298. Por carta con fecha de 17 de enero del 2006 el Gobierno proporcionó información con respecto al llamamiento urgente enviado el 19 de octubre de 2006. El Gobierno informó que el 8 de noviembre de 2006, la Comisión Presidencial de Derechos Humanos solicitó información al Ministerio Público sobre los avances que la Fiscalía Especial a cargo de la investigación ha obtenido, para individualizar y someter a juicio a los responsables de tales actos intimidatorios. Por lo tanto el día 30 de noviembre de 2006 el Ministerio Público informó de que el 4 de julio del 2004, Roly Ochoa presentó una denuncia por el allanamiento que personas desconocidas efectuaron en las oficinas de CONAPANG donde robaron la cantidad de 10.000 quetzales en efectivo y disquetes con información importante. El Gobierno indicó que caso se encuentra en fase de investigación por parte del Ministerio Público, con el objeto de esclarecer los hechos anteriormente descritos. Además el 27 de noviembre de 2006 la Comisión Presidencial de Derechos Humanos solicitó información al Ministerio de Gobernación sobre las amenazas de muerte e intimidaciones en contra de los señores antes mencionadas. Por lo tanto el Ministerio de Gobernación de conformidad con el informe enviado por la Policía Nacional Civil informó lo siguiente: a) que se entrevistó a miembros del Asentamiento Monte del Carmen de la Colonia San José Villa Nueva, y al preguntárseles si conocían a Roly Ochoa, Manifestaron que efectivamente lo conocían y que era miembro de una entidad del Estado encargada de Áreas Marginales y que anteriormente él era el encargado de la notificación del Asentamiento antes mencionado, dedicándose a vender los derechos de posesión de los lotes por la cantidad de 1.800 y a 5.000 5.000 quetzales, cuando por dichos lotes no se tiene que pagar ni un centavo. b) Con respecto al señor Adolfo Lobos al preguntárseles si le conocían manifestaron que efectivamente lo conocían y que era el presidente del asentamiento Monte del Carmen de la Colonia San José Villa Nueva y que, conjuntamente con el Sr. Roly Escobar Ochoa se dedicaban a cobrar cantidades de dinero a la gente que vive en el asentamiento, para tener derecho un lote. c) Que el día 29 de noviembre de 2006, se adoptó seguridad perimetral en la sede de la Coordinadora de Pobladores y Áreas Marginales de Guatemala a cargo de la Comisaría N.º 11. El Gobierno informó que el cumplimiento de artículo 3 de la Constitución Política de la República que establece la garantía y protección de la vida, integridad y seguridad de la persona así como de lo dispuesto en los artículos 4 y 5 de la Convención Americana de Derechos Humanos, se informa

que el Estado adopto las medidas de seguridad en la sede de CONAPAMG, las cuales consisten en seguridad perimetral a cargo de la Comisaría N.º11 donde deberán pasar constantemente por el lugar por un periodo prudencial de seis meses.

Observaciones

299. The Special Representative thanks the Government for responding to her communication of 9 October 2006. She is encouraged by the Government's willingness to investigate this case and to learn that security measures have been taken to protect members of CONAPAMG. The Special Representative looks forward to receiving additional information on the outcome of this case. She would also request that the Government assure her that an investigation has been launched into the killing of **Carmen Sagastume**, who was also a member of CONAPAMG, and that efforts are being made to bring the perpetrators to justice.

300. The Special Representative regrets that the Government did not respond to the remainder of her communications. She is particularly disappointed that she did not receive a reply to her communication of 9 June 2006, regarding the NGOs **Unión Nacional de Mujeres Guatemaltecas** (UNAMG) y el **Sector de Mujeres** and is concerned by reports that NGOs working for the rights of women in Guatemala have become particular targets as a result of their work. The Special Representative would urge the Government to take appropriate steps to ensure that women human rights defenders are afforded adequate protection in order to enable them to carry out their work in a safe environment.

301. The Special Representative is also disappointed to learn that whilst the Inter- American Commission for Human Rights recommended that **Fredy Pecerelli** be provided with Government protection, police protection has been scaled down, whilst Sr. Pecerelli continues to face threats and intimidation. The Special Representative would request that the Government respond to her communication outlining the reasons for this reduction in police protection.

302. The Special Representative is concerned by accusations of persistent harassment and targeting of the NGO community in Guatemala and would urge the Government to take appropriate steps to ensure that those working in the defence of human rights are allowed to do so in a safe environment and that they receive adequate protection in accordance with Article 12.2 and 12.3 of the Declaration on human rights defenders.

Haiti

Communication envoyée

303. Le 23 octobre 2006, la Représentante spéciale a envoyé un appel urgent concernant le meurtre de l'activiste **Bruner Esterne**, Coordinateur du Conseil communautaire des droits humains de Grand Ravine et les intimidations subséquentes exercées sur **Evel Fanfan**, Président de l'Association des universitaires motivés pour une Haïti de droit (AUMOHD), et **sa famille**, **Colin Reginal**, le Vice-secrétaire de l'AUMOHD, et **Montes Plaisimé**, le Chargé des relations publiques de l'AUMOHD. Selon les informations reçues, le 21 septembre 2006, M. Esterne a été blessé mortellement par balles par trois inconnus. Le motif du meurtre semblerait être le fait que M. Esterne fut témoin le 20 août 2005 du meurtre de plus de 20 personnes par des membres d'un groupe armé lors d'un match de football à Martissant. Il est allégué que les membres de ce

groupe auraient bénéficié de l'appui de policiers pour commettre ces exactions. Le jour suivant, des douzaines d'habitations dans le quartier avoisinant de Grand Ravine, avaient été brûlées, dont celle de M. Esterne. M. Esterne fut abattu alors qu'il quittait le bureau de l'AUMODH où il avait participé à une réunion sur le meurtre de 21 personnes tuées lors d'une attaque similaire le 6 juillet 2006. Quelques heures après le meurtre de M. Esterne, M. Fanfan aurait reçu un coup de téléphone d'un dénommé « Jeanjean » qui lui aurait demandé s'il avait eu connaissance du meurtre de M. Esterne et qui l'aurait ensuite mis en garde que les gens qui parlent de trop finissent par payer. Le 28 septembre 2006, un inconnu se serait rendu à l'école où est scolarisé le garçon âgé de 7 ans de M. Fanfan, avec la vraisemblable intention d'enlever cet enfant, sans y parvenir. Le 14 octobre 2006 à 10h, une jeep de couleur brune aux vitres teintées et sans plaque d'immatriculation, se serait garée à proximité du bureau de l'AUMODH. Les vitres se seraient baissées et quatre individus portant des lunettes de soleil auraient été aperçus entrain de longuement observer le bureau de l'AUMODH. Le personnel du bureau aurait contacté la police, mais celle-ci ne se serait pas déplacée. Le même véhicule aurait été repéré le 7 octobre peu avant midi aux abords du bureau. De vives préoccupations ont été exprimées que le meurtre de M. Esterne soit lié à son statut de témoin de l'attaque d'août 2005 et des dénonciations de l'attaque de juillet 2006 qu'il s'apprêtait à formuler conjointement avec l'AUMODH. Des préoccupations similaires ont été exprimées que les intimidations exercées à l'encontre de M. Fanfan, sa famille et le personnel de l'AUMODH soient liées à la dénonciation par l'AUMODH du meurtre de M. Esterne et des attaques susmentionnées.

Communication reçue

304. Le 25 octobre 2006, la Mission permanente d'Haïti auprès des Nations Unies à Genève a accusé réception de la communication du 23 octobre 2006 et a informé la Représentante spéciale que celle-ci a été acheminée au Ministre des Affaires Etrangères pour les suites nécessaires.

Observations

305. The Special Representative thanks the Government for its response. She regrets, however, that as of the date of the present report, the Government has not provided any clarification with regard to the reported murder of **Bruner Esterne** and the acts of intimidation against **Evel Fanfan** and his family, **Colin Reginal**, and **Montes Plaisimé**. She urges the Government to respond to her communication and all the concerns raised by her.

Honduras

Comunicaciones enviadas

306. El 7 de abril de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, señaló a la atención urgente del Gobierno la información recibido 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, a la que asistieron el Ministro de Salud y la representante del jefe del Estado, varios hombres armados habrían irrumpido entre los delegados 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. Según se informa, minutos más tarde, el antemencionado diputado se habría presentado en el lugar de la reunión y habría agredido violentamente a Martha Vásquez, tras darse cuenta de que la periodista estaba grabando mientras el diputado presuntamente agredía y amenazaba de muerte al Sr. Salvador Zúñiga, uno de los delegados del COPINH. Se alega que el diputado Bueso Melghem se habría precipitado sobre la periodista, procediendo a golpearla y estrangularla, y sustrayéndole el magnetófono. Se alega también que otros dos delegados del COPINH habrían sido también amenazados de muerte y agredidos durante el incidente. Los Relatores Especiales y la Representante Especial expresan su preocupación ante la posibilidad de que la antemencionada agresión pueda estar motivada por la labor periodística de Martha Vásquez, así como por su pertenencia a la etnia lenca.

307. El 9 de junio de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con **José Andrés Tamayo** y otros miembros del Movimiento Ambientalista de Olancho (MAO). El MAO es una organización no gubernamental que trabaja para los derechos de las personas que pueden ser mal afectadas por la tala ilegal de los bosques de Honduras. José Andrés Tamayo fue el objeto de un llamamiento urgente enviado el 26 de mayo de 2003 por el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial. De acuerdo con la información recibida, el 29 de mayo de 2006, los explotadores de los bosques hondureños en el municipio de Samala habrían amenazado a José Andrés Tamayo, diciéndole que en caso de no abandonar la comunidad, “afrente las consecuencias”. Anteriormente, según se informa, el 19 de mayo de 2006, el Presidente de Honduras habría declarado una veda forestal inmediata de la tala de árboles en varios municipios de ese departamento y dio un plazo de una semana para que los madereros desmontaran su infraestructura y retiraran sus equipos. De acuerdo con la información, los madereros habrían culpado al MAO por sus campañas públicas en contra de la tala ilegal de los bosques de Honduras. Se expresó temor de que estas amenazas en contra de José Andrés Tamayo estuvieran relacionadas con el trabajo que hace en defensa de los derechos humanos. Además, se expresan temores por la integridad física y psicológica de todos los miembros del MAO.

308. El 17 de agosto de 2006, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, comunicó la información recibida en relación con **Jessica García**, líder de la comunidad garífuna de San Juan de Tela y defensora de los derechos humanos del pueblo garífuna en Honduras. De acuerdo con la información recibida, el 22 de junio de 2006, un hombre desconocido se habría acercado a Jessica García y le habría amenazado con una pistola en el pueblo de San Juan Tela, departamento de Atlántida, Honduras. Anteriormente, dicha persona habría ofrecido dinero a Jessica García a cambio de firmar un documento afirmando que las tierras tradicionales de la comunidad garífuna de San Juan Tela pertenecían a una empresa inmobiliaria que pretendía construir un hotel en el área. Jessica García se habría negado a firmar y el hombre la habría amenazado, diciendo que iba a matarle y sus hijos si no firmaba. Con anterioridad a estos hechos, Jessica García habría sido el objeto de amenazas y hostigamiento. Durante el mes de marzo de 2006, fuerzas de seguridad empleadas por la misma empresa le visitaron en su casa y le amenazaron. Según se informa, el 7 de julio de 2006 la Comisión Interamericana de Derechos Humanos (CIDH) otorgó medidas cautelares a favor de la señora Jessica García, pero éstas no

han sido implementadas. El 6 de agosto de 2006 un miembro de la misma comunidad garífuna habría sido asesinado y secuestrado por hombres armados desconocidos. Se expresó temores de que las supuestas amenazas en contra de Jessica García, pudieran estar relacionados con el trabajo que hace en defensa de los derechos humanos del pueblo garífuna.

309. El 13 de octubre de 2006, la Representante Especial, junto con el Relator Especial sobre la independencia de los magistrados y abogados, señaló a la atención urgente del Gobierno la información recibida en relación con las amenazas y los hostigamientos en contra el personal de la Asociación para una Sociedad más Justa (ASJ) incluyendo Dina Meetabel Meza Elvir, periodista y coordinadora de proyectos de la ASJ, y sus miembros, Dionisio Díaz García, abogado y representante legal de los guardias representados por la ASJ, Rosa Morazán y Robert Marín. La ASJ es, una organización no gubernamental en Tegucigalpa que representa y trabaja por las víctimas de violaciones de los derechos humanos, en particular, los derechos económicos y sociales. De acuerdo con la información recibida: El 19 de septiembre el propietario de una empresa de seguridad privada Delta Security y su empresa filial Seguridad Técnica de Honduras (SETECH), con algunos de sus empleados, habrían llegado a la oficina de la ASJ en vehículos sin placas y con vidrios polarizados. El motivo supuesto de la visita habría sido el de “negociar” los términos de un caso en el cual la ASJ representa a 12 guardias, víctimas de un despido ilegal ocurrido en agosto de 2006. Según los informes, el propietario habría amenazado a Dina Meetabel Meza Elvir diciéndole que tomaría las medidas necesarias para obligar a la asociación a cesar sus actividades. Los informes también indican que un guardia le habría amenazado con promover una querrela criminal de difamación contra la periodista debido a un comunicado de prensa en el que denunció una campaña para desacreditar la ASJ que habría sido iniciada por la empresa SETECH. Al mismo tiempo se señala que los guardias de la empresa de seguridad habrían tomado fotografías de los empleados y las instalaciones. Recientemente, el 28 de septiembre de 2006, la campaña de descrédito habría seguido con la publicación en Internet de alegaciones en contra de la ASJ, declarando que la asociación había difamado la empresa SETECH cuando afirmó que no pagaba la seguridad social a sus empleados. La publicación contendría fotografías de los empleados de la ASJ, específicamente de Robert Marín y de Dina Meetabel Meza Elvir y Rosa Morazán. De otra parte, según las informaciones recibidas, anteriormente algunos miembros de la ASJ también habrían sido seguidos por desconocidos en vehículos no identificados, incluyendo Dina Meetabel Meza Elvir y Dionisio Díaz García, representante legal de los empleados despedidos antes mencionados. Además se señala que dichos vehículos habrían rondado las oficinas de la ASJ desde el 29 de agosto de 2006. Se expresó preocupación por los hostigamientos y las amenazas en contra del personal de la ASJ porque se temiera que estos incidentes pueden estar relacionados con sus actividades en defensa de los derechos humanos, y en particular su trabajo en la defensa de los derechos económicos y sociales.

Comunicaciones recibidas

310. Por carta con fecha de 24 de agosto de 2006 el Gobierno proporcionó información con respecto al llamamiento urgente enviado el 9 de septiembre de 2006 en relación al padre José Andrés Tamayo. El Gobierno informó de que algunas de las instituciones operadoras de justicia han realizado las gestiones pertinentes para adoptar las medidas cautelares que garanticen la vida, la integridad personal y la libertad del padre Tamayo y otros miembros del MAO. El Gobierno indicó que el padre Tamayo brinda de la medidas de seguridad siguientes: a) seguridad de miembros de la Policía Preventiva en la casa Cural; b) seguridad por miembros de la

Dirección General de Investigación Criminal cuando el Padre Tamayo sale a caminar por el parque; c) seguridad por miembros de la Dirección General de la Policía Preventiva y de la Dirección General de Investigación Criminal cuando celebra misa el padre Tamayo; d) Asimismo miembros del Ejército y la Policía Preventiva le brindan seguridad cuando el padre Tamayo se desplaza a los lugares de Juticalpa, Silca y el Rosario, lugares que más frecuenta; e) cuando las circunstancias lo requieren se coordina la seguridad brindada al Padre Tamayo con apoyo de las Fuerzas Armadas. El Gobierno notó que no fue presentada ninguna denuncia por las supuestas víctimas, no obstante la Fiscalía Regional del Departamento de Olancho, tomó de oficio la denuncia registrada bajo el número 1266-06. El Gobierno indicó que la Fiscalía Regional de Juticalpa Olancho dio inicio a las diligencias de investigación, desplazándose hacia el municipio de Salamá, donde tomó declaración administrativa a los ofendidos. Asimismo se obtuvo documentación relacionada con el caso. El Gobierno informó de que aun no se han iniciado diligencias judiciales, a pesar de que, de acuerdo a lo manifestado por la Fiscalía regional el único trámite que falta a la fecha para presentar requerimiento fiscal es la declaración del propio padre Tamayo el cual ha sido citado reiteradamente vía telefónica, incluso mediante nota con fecha 10 de julio de 2006. No se ha obtenido respuesta alguna.

311. Por carta con fecha de 28 de septiembre de 2006, el Gobierno proporcionó información con respecto al llamamiento urgente enviado el 18 de agosto de 2006 en relación con **Jessica García**. El Gobierno informó de que se continúa brindando las medidas cautelares a la Comunidad Triunfo de la Cruz y San Juan, Tela, específicamente a proteger la integridad física de Jessica García y Wilfredo Guerrero y Zellin Maria Ellis. Se indicó que la protección es brindada por parte de la Jefatura Departamental N.º 1, así como a los Directivos del Patronato y del Comité de Defensa de la Tierra de la Comunidad de San Juan, Tela Atlántida, por la cual las alegaciones de Jessica García son infundadas ya que la Secretaría de Seguridad a través de los entes responsables, están dando estricto cumplimiento a las medidas de protección implementadas, mismas que siguen siendo cumplidas en ambas comunidades. Se indicó que las medidas de protección incluye: patrullajes tres veces a la semana; en coordinación con el Jefe Municipal de Tela, se están formando las mesas de seguridad ciudadanas; en la comunidad de San Juan se realizan patrullajes frecuentes en los alrededores de los domicilios de los miembros del Comité de Defensa de Tierras y Directivos Patronatos; se han estado realizando visitas a los íde habitación de la Sra. García.

Observaciones

312. The Special Representative thanks the Government of Honduras for its detailed response to her communication of 9 June 2006. She is encouraged by the Government's willingness to investigate the alleged violations and that efforts have been made to provide Father Tamayo and Sra. García with police protection. She requests that the Government keep her informed of further developments in this case.

313. The Special Representative regrets that she did not receive a reply to her communication of 7 April 2006, as the allegations are serious, and she would urge the Government to provide a detailed substantive response outlining whether an investigation has been launched into this case and what efforts have been made to bring the perpetrators to justice.

India

Communications sent

314. On 14 December 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of urgent appeal concerning **Kirity Roy**, Secretary of Manabadhikar Suraksha Mancha (MASUM), a human rights organisation working against custodial torture and violence and National Executive Committee Member of Amnesty International of India, and 21 other human rights defenders. According to the information received, on 9 December 2005, at approximately 1500h, Mr Roy, along with 18 other males and three females, was arrested in Kolkata and taken to the police headquarters at Lal Bazar. The activists had been putting up posters in preparation for Human Rights Day on the 10 December 2005 and were also holding a peaceful protest against human rights violations in the state of West Bengal. They were all released on the day of their arrest having signed personal bonds. Concern was expressed that the arrest of Kirity Roy and the other 21 human rights defenders constituted an attempt to prevent them from carrying out their human rights work.

315. On 25 January 2006, the Special Representative sent a letter of urgent appeal concerning regarding **Kirity Roy**, Secretary of Manabadhikar Suraksha Mancha (MASUM), a human rights organization working against custodial torture and violence and a National Executive Committee Member of Amnesty International of India. He is also attached to several other human rights organizations. **Mr Roy** was the subject of a letter of allegation sent jointly by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 14 December 2005. According to the information received, on 18 January 2006 Kirity Roy went to the Serampore police station in West Bengal, India, on prior appointment, accompanied by a client, in order to view a post mortem report of the wife of the same client. It is alleged that when Kirity Roy approached the police station and requested a copy of the post mortem report, he was confronted by the inspector in charge of the Serampore Police Station who proceeded to physically assault and verbally abuse him. The inspector in charge is reported to have said that the post mortem records would only be available to the courts and that there was no legal requirement to make them available to a third person. It is alleged that as Mr Roy was leaving the police station, the inspector in charge punched Mr Roy and threatened to kill him if he returned to the police station. It is also reported that when contacted by a human rights organization with regard to the above incidents, the Superintendent of Serampore Police Station denied that the inspector in charge had assaulted or threatened Mr Roy.

316. On 7 April 2006, the Special Representative, together with the Special Rapporteur on adequate housing, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on the right to food, sent a letter of urgent appeal concerning environmental activists and human rights defenders involved with **Narmada Bachao Andolan** (NBA – Save Narmada Movement) and in particular NBA's leader, **Medha Patkar** and **Jamsing Nargave** (from village Amlali Badwani district) and Bhagwatibai Jatpuria (from village Nissarpur Dhar district). Reference was made to previous communications of the Special Rapporteur on adequate housing, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, dated 29 July 2003 and 22 April 2004, noting that no response has

been received to the latter. Reference was also made to the recommendation made by the Special Rapporteur on the right to food in the report on his mission to India whereby dams, mining and infrastructural projects must not be implemented if this entails displacement and irreversible destruction of people's livelihoods. Such projects should only be carried out with the consent of communities, and on the condition that due legal process, proper resettlement, rehabilitation and compensation to all victims are guaranteed (E/CN.4/2006/44/Add.2). Concerns were also expressed regarding the impact of increasing water levels in the Sardar Sarovar Dam on the Narmada River. According to information received on 8 March 2006, the Narmada Control Authority (NCA) decided to raise the height of the Sardar Sarovar Dam from 110.64 metres to 121.92 metres contravening a Supreme Court judgment of 2000 according to which any height increase of the dam was to be linked to the implementation of resettlement and rehabilitation measures. Furthermore the decision would allegedly result in the violation of a range of human rights. An indefinite sit-in (dharna) was organized by over 300 dam-affected persons and activists of the Narmada Bachao Andolan (NBA – Save Narmada Movement) in New Delhi since 17 March, demanding a halt to construction at the Sardar Sarovar dam and three NBA activists were on an indefinite fast from 29 March 2006. Concern was expressed regarding an intervention by the Indian police force to NBA activists on the night of 5 April 2006. More than 300 police officials used indiscriminate force against the dharna protestors. Information was also received that Medha Patkar and Jamsing Nargave, who were on the eighth day of their indefinite fast, were arrested and that over 25 activists were detained. According to testimonies, the use of violence was excessive and disproportionate and allegedly in non-compliance with international human rights law.

317. On 1 May 2006, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent a letter of urgent appeal concerning **Parvez Imroz**, a lawyer and Council Member of the Asian Federation Against Involuntary Disappearances (AFAD), President of the Jammu and Kashmir Coalition of Civil Society (JKCCS) and Patron of the Association of Parents of Disappeared Persons (APDP). The AFAD is a federation of NGOs that works against enforced or involuntary disappearances, the JKCCS is a coalition of NGOs that work on human rights and democracy in Kashmir and the APDP is an NGO that works against enforced or involuntary disappearances in Jammu and Kashmir State and is a member of the AFAD and the JKCCS. Mr Imroz was already subject of an urgent appeal sent by the Special Representative on 11 May 2005 and an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 5 October 2004, to which the Government replied by letter dated 15 February 2005. According to the information received, in November 2004 Mr Parvez Imroz sent an application for a passport to the passport authority of Jammu and Kashmir. It is reported that since this time he has not received a formal response or denial from the authorities, despite having sent a number of reminders regarding his application. It is further reported that Mr Imroz has been unable to attend a number of international conferences, workshops and consultations connected with his activities as a human rights defender, as a consequence of being without a passport. Concern was expressed that the refusal by the authorities to issue Mr Parvez Imroz with a passport may have been connected with his activities in defence of human rights, in particular his work on involuntary and enforced disappearances in Kashmir and may represent an attempt to prevent him from being able to meet and communicate with other international human rights defenders.

318. On 17 May 2006, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of urgent appeal concerning **Santhosh Patel**, a staff member of the People's Vigilance Committee on Human Rights (PCVHR), an organization that monitors human rights violations in Uttar Pradesh. 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. Mr Patel attempted to present a petition to the District Magistrate concerning violations by the authorities of the right to food of local people. The District Magistrate ordered the arrest of Mr Patel and accused him of spreading false information. Mr Patel was taken to Shivapur police station and released five hours later. It is alleged that no charges have been brought against him. Concern was expressed that the arrest of Mr Patel was connected with his activities in defence of human rights, in particular because of his work promoting the right to food for people in Belwa, Uttar Pradesh.

319. On 12 September 2006, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a letter of urgent appeal concerning regarding indigenous lawyers and human rights defenders in India including **Yengkokpam Langamba Meitei** (alias Thabi), Publicity Secretary of the Threatened Indigenous Peoples' Society (TIPS) and spokesperson for Apunda Lup, a coalition of human rights organisations in Manipur and **Leitanthem Umakanta Meitei**, a human rights lawyer and the Secretary General of TIPS. Mr Leitanthem Umakanta Meitei was the subject of an urgent appeal sent by the Special Rapporteur on the question of torture, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Representative, on 15 September 2004; and an urgent appeal sent by 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 and fundamental freedoms of indigenous people on 25 August 2006. According to the information received, on 23 August 2006, Mr Yengkokpam Langamba Meitei was detained on allegations that he had stolen government files and burned a vehicle in Kamuchingjil. It is reported that members of a paramilitary organization, the Assam Rifles, and Manipur police officers arrested Mr Meitei at his home. It is also reported that the police searched his home before he was transported to the Police Station in Imphal (IPS). On 24 August 2006, members of the Manipur police and officers of the Assam Rifles arrested Mr Leitanthem Umakanta Meitei at his home, at approximately 04:00, without an arrest warrant. The police took fifteen CDs containing information related to TIPS, a number of books including three from the International Labour Organisation, (ILO) and a mobile phone belonging to his wife. An arrest warrant was later produced and shown to Mr Leitanthem Umakanta Meitei's wife and brother when they went to visit him at Imphal Police Station. It is further reported that both men have been tortured while in detention and have been denied access to legal representation. They have both been accused of association with the illegal terrorist organization Kanglei Yawol Kanna Lup (KYKL) – "Organisation to Save the Revolutionary Movement in Manipur" and charged under Sections 38 and 39 of the Unlawful Activities Prevention Act (1967) which they deny. They were reported to have been remanded in custody for a further 15 days and are due to appear before the court on 13 September. Concerns were expressed that the detention of Mr Yengkokpam Langamba Meitei and Mr Leitanthem Umakanta Meitei and the charges against them were arbitrary and may have been related to their activities as human rights defenders and lawyers, in particular, because of their involvement in a peaceful protest on 23 August 2006, to draw attention to a bomb attack which had occurred in Krishna on 16 August 2006. It was further alleged that their detention may be

associated with the work of their organization, Threatened Indigenous Peoples' Society, in defence of the rights of indigenous peoples, including their participation in various United Nations international forums such as the Permanent Forum on Indigenous Issues, in New York, or the Working Group on Indigenous Populations, in Geneva.

320. On 14 September 2006, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent a letter of urgent appeal regarding **Parvez Imroz**, a lawyer and Council Member of the Asian Federation Against Involuntary Disappearances (AFAD), President of the Jammu and Kashmir Coalition of Civil Society (JKCCS) and Patron of the Association of Parents of Disappeared Persons (APDP). The AFAD is a federation of NGOs that works against enforced or involuntary disappearances, the JKCCS is a coalition of NGOs that work on human rights and democracy in Kashmir and the APDP is a federation of NGOs that works against enforced or involuntary disappearances in Jammu and Kashmir State. The ADP is also a member of the AFAD and the JKCCS. Mr Imroz was already subject of an urgent appeal sent by the Special and the Special Rapporteur on the independence of judges and lawyers on 1 May 2006. Another urgent appeal was sent by the Special Representative on 11 May 2005 and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture had previously sent an urgent appeal on 5 October 2004. The Government replied to the communication sent on 5 October 2004, by a communication dated 15 February 2005. According to the information received and as pointed out in previous communications sent to the Government, on 1 May 2006 Mr Parvez Imroz was denied the right to obtain his travel documents. Mr Parvez Imroz sent an application for a passport to the passport authority of Jammu and Kashmir in November 2004 however he had not received any formal response from the authorities, despite having sent several reminders regarding his application. As a result, he has been prevented from attending important international human rights conferences. In particular, he was unable to go to France on 13 October 2006 to receive the "Ludovic Trarieux international human rights prize" which had been granted to him jointly by the Bar of Bordeaux, of Brussels, of Paris and the European Bar Human Rights Institute. The Prize created in 1984 is awarded every year to a lawyer for activities defending human rights. According to the award's rules, the prize winner must attend the award ceremony, which takes place in Bordeaux in the National School of the Magistracy.

Observations

321. On 13 April 2006, the Special Representative, together with the Special Rapporteur on adequate housing and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people issued a public statement expressing their concern about the impact of raising the height of the Sardar Sarovar Dam on the Narmada River which would result in the submergence of villages and displacement of over 35,000 families. Concern was expressed about three NBA activists who have been on an indefinite fast since 29 March, recently joined by other human rights defenders and allegations that on the night of 5 April, a large police force allegedly used excessive and indiscriminate force against the protestors, arrested and hospitalised Medha Patkar and Jamsing Nargave on the eighth day of their fast and detained another 25 NBA activists. Concern was expressed regarding the situation of those carrying out peaceful protest to demonstrate their opposition to the raising of the dam-level and it was recommended that the allegations of indiscriminate and excessive use of force by the police against activists engaged in the protest is properly investigated and that action is taken against

the responsible officers, as appropriate. It was also recommended that proper and swift investigation is undertaken with respect to allegations of false charges, if any, against Medha Patkar and other NBA activists.

322. The Special Representative deeply regrets that the Government of India has never responded to any of her communications since the establishment of the mandate. She considers response to her communications as an important part of cooperation of Governments with her mandate. She urges the Government to respond to her communications and the concerns raised by her.

Indonesia

Communications sent

323. On 12 June 2006 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of urgent appeal concerning 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 is reported that the individuals belonging to Laskar Siliwangi and Pemuda Panca Marga threatened and intimidated the participants. It is 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. Concern was expressed that the alleged harassment and intimidation of staff members of Syarikat and other peaceful participants in this demonstration is connected with their activities in defence of human rights, in particular their promotion of reconciliation between the victims and the perpetrators of the 1965 massacre.

324. On 1 December 2006 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of urgent appeal concerning the **International People's Forum (IPF)**, a group 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 meetings which were due to take place in Singapore on 19 and 20 September 2006. According to the information received, the Batam Police authorities rejected a request from the IPF to hold peaceful demonstrations in Batam Island, during the World Bank/International Monetary Fund meeting, between 12 and 20 September 2006. It was alleged that the Batam Island Police Chief publicly stated "we will disperse them", referring to the planned peaceful demonstrations. It was also reported that the Indonesian Police Chief stated that an elite anti-terror squad would arrest any protestors who were considered to be a security threat. Since no outdoor activities were allowed, it was reported that several events had to be cancelled. Concerns were expressed that the alleged prohibition on peaceful protests in Batam island were 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.

325. On 1 December 2006, the Special Representative, sent a letter of urgent appeal concerning **Johnson Panjaitam**, **Ecoline Situmorang** and **David Sitorus** of the Indonesia Legal Aid and Human Rights Association (PBHI), **Aloysius Renwarinan** and **Adolf Stef Waramory** of the Institute of For Human Rights Studies and Advocacy in Papua, **Frederika Korain** and **Yustina Haluk** of the Secretariat for Justice and Peace (SPK) and **Aris Mandowen**. The aforementioned people have been representing 23 individuals who had been arrested following disturbances in Papua on 15 and 16 March 2006. According to the information received, on 1 September 2006 Ms Situmorang, Mr Sitorus and Mr Renwarinan received threatening text messages on their mobile phones stating “You and your family will not see the sunlight again, because you are provocateurs.” It was reported that on the same day, stones were thrown at Mr Renwarinan’s home. It was further reported that the prosecutor's office in Jayapura filed a complaint against Mr Panjaitam, Ms Situmorang, Mr Sitorus, Mr Renwarinan, Mr Waramory, Ms Korain and Ms Haluk, accusing them of “insulting the state”, in violation of sections 311 and 335 of the Indonesian Penal Code. The filing of this complaint followed a plea made by the aforementioned lawyers on behalf of 23 individuals who had been arrested and detained following disturbances that took place in Papua in 15 and 16 March 2006. The lawyers claimed that their 23 individual clients were the victims of violence perpetrated by the Indonesian police authorities on 15 and 16 March 2006.

Communications received

326. The Special Representative remains deeply dismayed that the Government of Indonesia has not replied to any of her communications. However, she thanks the Government for accepting her 2002 request for an invitation in September 2006 and she hopes dialogue with the Government will improve during her imminent country mission in June.

Iran (Islamic Republic of)

Communications sent

327. On 14 December 2005, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, regarding **Abdolfattah Soltani**, lawyer at the Bar of Tehran and founding member of the Defenders of Human Rights Centre (DHRC). Abdolfattah Soltani was subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers and the Special on 4 August 2005, to which the Government replied on 22 August 2005. According to new information received, on 3 December 2005, Abdolfattah Soltani had his preliminary detention period extended by three months. It is reported that the investigating judge in the case had recently recommended that he be released on bail. The Tehran Prosecutor, who had issued the arrest warrant against Abdolfattah Soltani, subsequently replaced the investigating judge, leading to the extended detention period in Evin prison, Tehran. Concern was expressed that the prolonged detention of Mr Abdolfattah Soltani constitutes an attempt to prevent him from carrying out his human rights work. Prior to his arrest Mr Soltani had questioned the role of the Prosecutor in the death of Ms Zahra Kazemi who the Commission of the Majlis had concluded died as a result of violent interrogation in Evin prison.

328. On 16 January 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, regarding **Mansour Ossanlu**, head of the Union of Workers of the Tehran and Suburbs Bus Company (Sherkat-e Vahed). According to information received, 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 demonstrating for the release of their comrades. The unionists were released few days later with the exception of Mansour Ossanlu, who remains detained, since 22 December 2005, at Evin Prison in Tehran. According to information received, Mr Ossanlu has not been granted access to a lawyer, and he could face charges including contact with Iranian opposition groups abroad and instigating armed revolt against the authorities. Moreover, he suffers from severe eye trouble and needs immediate medical treatment.

329. On 14 March 2006, the Special Representative sent a letter of allegation to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, and the Special Rapporteur on violence against women, its causes and consequences, regarding a **peaceful assembly of women's rights activists in Tehran**. According to the information received, on 8 March 2006, anti-riot police officers, Revolutionary Guards and plainclothes agents surrounded Tehran's Daneshjoo Park at 4 p.m. They ordered hundreds of women and men who had gathered 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's heads and beat the persons assembled with batons, including poet **SB**, 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 had summoned several women's rights activists and warned them to cancel the gathering planned for 8 March 2006. Concern is 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 is further expressed in view of the fact that security forces have, according to information received, repeatedly resorted to violence to support peaceful gatherings in past months. For example, in January 2006 security forces in Tehran attacked and arrested hundreds of striking bus drivers who were protesting their working conditions. In February 2006 in the city of Qom, security forces also reportedly resorted to the use of force and tear gas to detain hundreds of Sufi followers who had gathered in front of their house of worship to prevent its destruction by the authorities.

330. On 31 March 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, regarding **Abdolfattah Soltani**, an Iranian 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 an urgent

appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 4 August 2005 and an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 14 December 2005. According to the information received, Mr Abdolfattah Soltani has still not been informed of the charges brought against him, in violation of Article 14, paragraph 3 of the International Covenant on Civil and Political Rights of which the Islamic Republic of Iran is a Party. It is 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. Such replacement raises concerns with regard to the independence of the judiciary in this case. 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 is reported that Mr Soltani will be tried on 5 April 2006 before the Islamic Revolutionary Court of Tehran. However, his lawyers have 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. These would be serious violations of the fair trial guarantees. It is also alleged that Mr Soltani's prosecution is 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, which would constitute a clear violation of Articles 16, 18 and 20 of the United Nations Basic Principles on the Role of Lawyers. 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. It is recalled that Mr Soltani has not been deprived of his civil and political rights and is to be presumed innocent until proved guilty. The above-mentioned letter is considered to be an inappropriate intervention by the Judiciary in the election process of the Tehran Bar Association which would constitute an interference with the independence of lawyers, as well as an act of judicial harassment against Mr Soltani.

331. On 4 May 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and Special Rapporteur on the question of torture, concerning **Mohammad Suwaidi**, aged 18, a member of Iran's Arab minority and an activist for the rights of the Arab minority. According to the information received, on 16 March 2006, Mr Mohammad Suwaidi was arrested near the border with Iraq. He is currently held in incommunicado detention. After he was arrested he was taken to a Ministry of Intelligence detention facility and subsequently taken for interrogation to Section 2 of the Prosecutor's Office in Ahvaz city, in the province of Khuzestan. There are concerns that he may be at risk of torture or ill-treatment.

332. On 19 May 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, concerning **Saleh Malla Abbasi**, a defender of the rights of the Azeri Turks in Iran. On 17 April 2006, police officers from the Ministry of Intelligence entered the home of Saleh Malla Abbasi in Ahar, Azerbaijan province. They searched his house and confiscated possessions including Turkish language books, a Turkish calendar, a computer, a satellite dish, family photographs and compact discs. It is reported that

on seeing the Turkish calendar hanging on the wall, the police officers stated that this proved the family were “pan-Turks”. The police officers then arrested Saleh Malla Abbasi. His whereabouts were unknown for two days. On 19 April 2006, Mr Abbasi called his family and informed them that he was being transferred to the Ministry of Intelligence detention facility in the city of Tabriz. Since that date he has been held in incommunicado detention. Concern is expressed that the arrest and detention of Mr Abbasi may be connected to his activities in defence of the cultural, linguistic and ethnic identity of the Azeri Turks in Iran. Further concern is expressed for his physical and psychological security, in the light of his alleged incommunicado detention.

333. On 16 June 2006, the Special Representative sent an urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, regarding hundreds of women and men who participated in the peaceful demonstration, demanding legislative change to ensure equal rights in Tehran. According to the information, 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, agents of Judiciary visited prominent activists at their homes to issue summons. Those who were summoned include **NAK, PA, ST, ZA** and **FDM**. **FDM** was 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 **SE** 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 colour spray, and took them into custody. A spokesperson for the judiciary has reportedly confirmed that security forces arrested 70 people, including 42 women, to prevent the demonstration from taking place. Those who were arrested at the demonstration site include: **AAMK**, former member of parliament and human rights activist; **JB, DA, SS, BH, LM, BAA, ST** and **FS**. According to the spokesperson for the judiciary, they are charged with participation in an illegal assembly.

334. On 20 June 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers, regarding **Saleh Kamrani**, a lawyer, resident at 23 Zanbagh 17, Azimiyeh Neighbourhood, Besat Square, in Karaj. According to the information received, on 14 June 2006 between 4pm and 5pm, Mr Saleh Kamrani disappeared on his way home from his office located at Unit 6-25 Rasht vally, south Karghar, in Tehran. On the same day, relatives of Mr Kamrani contacted the police (Emergency Police, Kalantary and Niruye Entezami), the Intelligence Services (Etelaat), hospitals and highway patrol, but no news regarding Mr Kamrani was received. On 17 or 18 June, however, relatives found out that Mr Kamrani is detained at Evin prison, where he is held without charges and without access to his family. Mr Kamrani did not have access to his lawyer in the first days of his detention, and it is unknown whether this access has now been granted. Concern was expressed that the arrest of Mr Kamrani could be in reprisal for his activity as a lawyer defending Iranian Azeri Turks allegedly detained in connection with their political or cultural activities. In view of his incommunicado detention, further concern was expressed that he might be at risk of torture or other forms of ill-treatment. The concerns for his physical integrity are heightened by reports that he needs medication for a heart condition.

335. On 22 June 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, regarding **Abbas Lisani** (Leysanli) of Ardabil, an activist for the rights of Iranian Azeri Turks. According to the information received, Mr Lisani was arrested on 3 June 2006 by plain clothes agents of the intelligence service (Etelaat) and has been in detention without charge since then. The approximately 30 agents that arrested Mr Lisani entered the house by shooting the lock off the door and then proceeded to beat him in front of his wife and two sons. They did not show an arrest warrant or other document justifying the arrest, nor did they inform him of the charges against him. Mr Lisani's lawyer, Mr Kamrani, was arrested on 14 June 2006 and is currently detained at Evin prison in Tehran (we reported the allegation concerning Mr Saleh Kamrani to the Government in a communication sent on 20 June 2006). His wife and family are not allowed to visit him. In view of his apparent incommunicado detention, we are concerned that Mr Lisani might be at risk of torture or other forms of ill-treatment.

336. On 8 August 2006, the Special Representative sent a joint allegation letter together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers, concerning **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 an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 31 March 2006 and 4 August 2005 and an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 14 December 2005. According to the information received, Mr Soltani was notified on 16 July 2006 that the Revolutionary Court of Tehran had 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. We are seriously concerned that Mr Soltani's prosecution is motivated by his plea in a case related to the death of an Iranian-Canadian photographer, 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 this death. In this context, we are also particularly concerned by the fact that the procedure which led to the ruling against Mr Soltani comprised serious violations of fair trial guarantees. As indicated in our previous letters, for more than six months after his arrest, Mr Soltani was detained in solitary confinement in Evin Prison in Tehran, and was denied access to a lawyer. He could only meet one of his lawyers in January 2006. Moreover, it has been reported that his lawyer was not granted access to the criminal prosecution file. Furthermore, Mr Soltani was allegedly subject to acts of judicial harassments. On 3 December 2005, he had his preliminary detention period extended by three months, despite the fact that the investigating judge in the case had recommended that he be released on bail. Indeed, it is reported that the Tehran Prosecutor, who had issued the arrest warrant against Mr Soltani, subsequently replaced the investigating judge, leading to the extended detention period in Evin prison.

337. On 11 August 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, regarding the

banning of the non-governmental organisation **Defenders of Human Rights Centre (DHRC)**. DHRC, co-founded in 2002 by Shirin Ebadi, Iranian advocate and winner of the Nobel Peace Prize in 2003, aims at providing legal counsel to dissidents, journalists and students facing prosecution for exercising fundamental freedoms, such as peacefully protesting against or criticizing government policies. Ms Ebadi was the subject of three urgent appeals sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of, successively on 8 December 2003, 13 January 2005, and 4 August 2005. Mr Abdolfattah Soltani, an Iranian lawyer and a founding member of the DHRC, was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 4 August 2005, an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 14 December 2005, an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 31 March 2006 and an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Representative, on 8 August 2006. According to the information received, on 3 August 2006, the Iranian Ministry of Interior declared that the activities of the 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. On 16 July 2006, the Revolutionary Court sentenced Mr Soltani, a lawyer of DHRC, to five years of prison for disclosing confidential information and opposing the State. He appealed the Court's ruling and is still awaiting the decision. Mr Soltani had been detained since 30 July 2005. Moreover, Ms Ebadi, DHRC President, was summoned in 2005 by the Revolutionary Public Prosecutor's office without official reasons, and threatened with arrest and prosecution. Grave concerns are expressed that the ban of DHRC may form part of a sustained campaign of harassment and intimidation against members of DRHC and its leaders for their legitimate human rights activities. Further concern is expressed at the wider effect that declaring the organisation illegal may have for other human rights defenders in the Islamic Republic of Iran.

338. On 16 August 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the question of torture, concerning 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 capital punishment by the Islamic Revolutionary Courts. The sentence was later commuted to 15 years imprisonment. The situation of Ahmad Batebi has been subject of two communications sent to the Government: the first on 6

October 2000 by the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran and the second one on 20 November 2003 by the Special Rapporteur on the question of torture and the Special Representative. Reportedly, due to his bad health condition and after serving 6 years of his sentence, Ahmad Batebi was granted approved leave by doctors appointed by the judiciary system. According to the information received, 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 is reportedly being denied access to his family and lawyer. Serious concerns have been expressed that Mr Batebi's new arrest was motivated by his activities as a human rights defenders, and may form part of a campaign of intimidation and harassment against human rights defenders in the Islamic Republic of Iran.

339. On 28 August 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on arbitrary detention, and the Special Rapporteur on the question of torture, concerning the arrest of **Mehdi Babaei Ajabshir** (known as Oxtay), a prominent Azerbaijani activist, from the Azeri-Turkish minority community, who promotes the Azeri-Turkish cultural identity. According to the allegations received, on 28 June 2006, at 10.30 pm, approximately 16 police officers from the Ministry of Intelligence (Etelaat) entered Mehdi Babaei Ajabshir's house to arrest him, but he was not present at the time. The police searched the house until 12.30 am before arresting Ali Babaei Ajabshir, Mehdi's brother. The police confiscated Turkish-language books, CDs, a computer, a poster, and family photograph albums. They allegedly threatened members of his family that they would torture or shoot Mehdi Babaei Ajabshir. That night, Ministry of Intelligence police made repeated telephone calls to the family's house, demanding that they reveal the whereabouts of Mehdi Babaei Ajabshir. On 29 June 2006, Ali Babaei Ajabshir was released, on condition that he would convince his brother Mehdi to report to the Tabriz Ministry of Information. On 11 July 2006, witnesses told Mehdi Babaei Ajabshir's family that he had been arrested in the street by Ministry of Information officials. His family did not know his whereabouts until 21 July, when he telephoned them and told them that he was at a detention facility run by the Ministry of Information in Tabriz. He has reportedly had no contact with his family since and no access to his lawyer. It is not known whether he remains detained at the Ministry of Information detention facility, or whether he has been transferred to Tabriz prison. Serious concerns were expressed that Mehdi Babaei Ajabshir might be detained on account of his peaceful activities on behalf of the rights of the Azeri-Turkish minority, and that his detention might form part of a campaign of harassment and intimidation against members of the Azeri-Turkish minority in the Islamic Republic of Iran.

340. On 30 August 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on arbitrary detention, and the Special Rapporteur on the question of torture, concerning **Ali Khodabakhshi**, also known as Elyaz Yekanli, a prominent activist for the cultural, social and political rights of the Azeri Turkish minority in Iran. According to the allegations received, on or around 8 June, Mr Khodabakhshi was arrested at his home in the village of Kahriz Yekan, in northwestern Iran. He had participated in mass demonstrations that took place across the region in May. He was detained for 30 days in solitary confinement, at a detention facility run by the Ministry of Intelligence (Etelaat) in the city of Tabriz, northwestern Iran. During this time, he did not have access to his family or lawyer, and his family did not know where he was detained. According to the information received, while he was in Tabriz he was beaten and given electric shocks to force

him to make a confession. He was subsequently transferred to Qirklar prison in the city of Marand, northwestern Iran, where he is still being held. In Qirklar prison, he is detained in a cell with other prisoners who harass and threaten him. Prison officers have told Mr Khodabakhshi that they are going to keep him there until he suffers a psychological breakdown. He has not been charged with a criminal offence. Mr Khodabakhshi is reportedly suffering from a variety of medical complaints. As a result of his treatment in detention and previous medical conditions, he has a poor sense of balance, and has problems with his heart, kidneys, and digestion system, as well as impaired hearing and vision. He reportedly has limited access to food. Serious concerns were expressed that Mr Khodabakhshi might be detained on account of his peaceful activities on behalf of the rights of the Azeri-Turkish minority, and that his detention might form part of a campaign of harassment and intimidation against members of the Azeri-Turkish minority in the Islamic Republic of Iran.

341. On 21 September 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on arbitrary detention, and the Special Rapporteur on the independence of judges and lawyers, concerning the arrest and trial of **Reza Abbasi**, a member of the Association for the Defence of Azerbaijani Political Prisoners (ASMAK) and an activist for democracy and human rights through his involvement with the Alumni Association of Iran (Sazman-e Danesh Amukhtegan-e Iran-e Eslamiè [Advar-e Tahkim-e Vahdat]). Mr Abbasi was the subject of a joint urgent appeal by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the question of torture on 4 May 2004. According to the information received, Mr Abbasi was arrested on 27 June 2006 for his refusal to present himself to a facility run by the Ministry of Information in accordance with a verbal summons. He was reportedly taken to the Central Prison in Zenjan where he is allegedly detained on charges of “propaganda against the system” and “insulting the Leader (of the Islamic Republic of Iran)”. According to sources, the Ministry of Information has continued to persecute Mr Abbasi’s family, including his elderly parents. On 5 September 2006, it is reported that Mr Abbasi was presented before a closed session of Branch One of the revolutionary court in Zenjan in the absence of his legal representative. It is further reported that a second closed session of the court took place on 11 September in the presence of his lawyer where he was asked about his involvement in ASMEK and student organisations. A verdict is expected to be given in the following week. Concern was expressed that the arrest of Mr Reza Abbasi was linked to his activities in defence of the human rights of Azeri Turks, and in particular it was feared the arrest might be part of a campaign by security forces to prevent persons from the Azeri Turk community attending the annual gathering at Babek Castle in honour of the ninth century figure Babek Khorramdin. Further concern was expressed for his physical and psychological integrity while in detention and that he might face an unfair trial.

342. On 19 October 2006, the Special Representative sent an urgent appeal concerning a human rights activist from Iran, **Mohammad Babaei** (commonly known as “Mani”), who is the current Health Secretary of the Iranian Queer Organization (IRQO) which was formerly known as the Persian Gay and Lesbian Organization (PGLO). Mr Babaei provides mental health counseling services to lesbians, gays, bisexuals, and transgendered persons (LGBTs), and also counsels HIV/AIDS victims in Iran. According to the information received, in recent weeks Mr Babaei’s employer at the pharmaceutical company where he had been working, notified the police authorities that Mr Babaei had been actively involved in activities with the PGLO, although the organization is not aligned to any political party. According to reports, this

information enabled the police to link Mr Babaei to interviews he had given to the British Broadcasting Corporation and the Canadian Broadcasting Corporation in which the interviewee was critical of the Government's treatment of gays and lesbians in Iran. The police reportedly came to Mr Babaei's house in order to arrest him for the alleged interview and for his activities as an activist, but he could not be found. He has since left the country, fearing for his safety. Concern was expressed for the physical integrity of Mr Babaei as it is feared that he may face persecution if he returns to Iran. Further concern was expressed that the actions taken by the authorities may be related to Mr Babaei's legitimate activities in defence of human rights in Iran, in particular his work promoting the human rights of LGBTs and HIV/AIDS victims in Iran.

343. On 27 October 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the right to freedom of opinion and expression, and Special Rapporteur on the question of torture, regarding the alleged detention of **Mr Kianoosh Sanjari**, member of the United Students Front, who has reported on the human rights situation in Iran on online blogs. According to the allegations received, on 7 October 2006 he was arrested in Tehran after allegedly visiting the house of Sh'ia cleric Ayatollah Sayed Hossein Boroujerdi who has called for the separation of religion and State. The reason for his visit was to write a report about the unrest which has taken place between security forces and the supporters of the aforementioned cleric. Mr Sanjari was taken to an unknown location and is being held incommunicado. Mr Sanjari has 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 might be 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.

344. On 14 November 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture, regarding **Abbas Leysanli** (or Lisani), aged 39. Mr Leysanli's case was already the subject matter of an urgent appeal to the Government by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative on 22 June 2006, which unfortunately remains without a reply from the Government. According to further allegations since then received, 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 by Penal Court No. 105 of the General Penal Court of the Province of Erdebil, in relation to his participation in the mass protests on 27 May 2006 in Erdebil. The Court found him guilty of "disturbing the peace and 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 court of first instance. The Erdebil Appeal Court, Branch 1 of Erdebil Province, apparently in closed session, increased the sentence for disturbing the peace and creating public disorder from ten to twelve months of imprisonment, making the sentence in total 18 months. The fifty lashes have been retained by the court. The trial on appeal was conducted without reference to documents and evidence including video footage from the demonstration,

which would possibly have proven that Mr Leysanli was not guilty of the charges he had been accused of. 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 has been detained ever since. No formal statement regarding the authority upon which he was arrested and detained has been issued to Mr Leysanli. His re-arrest is possibly related to his conviction on appeal. Mr Leysanli suffers from bad health, reportedly also as a result of ill-treatment during previous periods of detention. Concern was expressed that this arrest and detention might be connected with Mr Leysanli's reportedly peaceful exercise of his right to freedom of conscience, opinion and expression and assembly while defending rights of Iranian Azeri Turks. Concern was further expressed as regards his state of health and the prospect of being subjected to 50 lashes.

Communications received

345. On 29 March 2006, the Government replied to the communication sent on 27 June 2005, stating that **Akbar Ganji** was released on 20 March 2006.

346. On 30 March 2006, the Government replied to the communication sent on 16 January 2006, stating that **Mansour Ossanlu** had been arrested on charges of "disturbing public order" and producing and distribution of illegal publications aimed at an attempt on state security (beyond any trade union demands). He had been offered bail by the court, but since he had not been able to provide the bail, he remained in detention. Upon further consideration of the case and revelation of his legal background in distributing publications of terrorist groups, the bail was withdrawn by the court and he was in detention for the time being.

347. On 3 April 2006, the Government replied to the communications sent on 14 December 2005 and 31 March 2006, indicating that **Abdolfattah Soltani** has been arrested on charges of disseminating classified intelligence and thus an attempt on state security. The Government added that he has been offered bail by the court and thus was free on bail.

348. On 15 August 2006, the Government replied to the communication sent on 16 June 2006, indicating that, according to information received from the Judiciary of the Islamic Republic of Iran regarding the **alleged illegal demonstration in Tehran**, following that incident all detainees, except one, had been released. The one who remains in custody is **Ali Akbar Mousavi Khoeiniha**, who has been charged with disturbing public order and instigation against the state. He enjoys the legal services of three prominent counsels, namely Shirin Ebadi, Abdolfattah Soltani and Mohammad Sharif. Investigations on the case are underway and should he be sentenced in the court, he has to serve a term of imprisonment.

349. On 19 July 2006, the Government replied to the urgent appeal sent on 20 June 2006 and 10 July 2006, indicating that, according to information received from the judiciary of the Islamic Republic of Iran, **Saleh Kamrani** has been detained and charged with "measures against the internal security of the State" and referred to the relevant court. The court ruled a bail release, but Mr Kamrani could not afford the bail, and therefore remained in custody.

350. On 8 September 2006, the Government replied to the communication sent on 11 August 2006, indicating that the **Defenders of Human Rights Center** had been registered and had requested the necessary licence for its activities from the relevant authorities. According to the Government, its request has not yet been approved due to shortcomings both in the form and

content of its statute. The Government stated that except for preparing its statute, the Center cannot undertake any activities before the approval of the Ad hoc commission, a body composed of two representatives of the judiciary, two MPS and one representative of the Government, and which is set by Article 10 of “Bill on establishment and activities of parties and associations”, to grant license to establish parties.

Observations

351. The Special Representative thanks the Government for its responses, but regrets that 12 other communications have not been answered. She urges the Government to respond to each of these communications and the concerns raised by her.

352. The Special Representative welcomes the release of Mr **Akbar Ganji** and of **most of the detainees arrested in connection with the demonstration in Tehran.**

353. The Special Representative welcomes the registration of the **Defenders of Human Rights Center**, and calls the competent authorities to deliver the required license soon in order to allow the Center to undertake its peaceful activities in defence of human rights.

354. Concerning the other cases, the Special Representative reiterates the concerns voiced in her Compilation of developments for the situation of human rights defenders since 2000 (E/CN.4/2006/95/Add.5, para. 786-791), i.e. that the legal framework does not ensure the exercise of freedoms essential for effective defence of human rights. The environment for human rights defenders is particularly affected by the wide scope of official discretion that can be arbitrarily exercised to limit the scope of activities for the defense of human rights. The Special Representative remains concerned about the arrests of defenders in the exercise of their right to freedom of expression or assembly. She wishes to remind the Government of article 5 paragraphs (a) and (b) of the Declaration on human rights defenders which states that “[e]veryone has the right, individually and in association with others: (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”. She further recalls article 6 paragraph a) of the Declaration which provides that “[e]veryone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully”.

Iraq

Communications sent

355. On 3 February 2006, the Special Representative sent an allegation letter to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Alaa Issa Khalaf**, a member of the Executive Board of the Baghdad branch of the Mechanics Union, and a prominent member of the recently created General Federation of Iraqi Workers (GFIW). According to the information received, on 25 January 2005, Alaa Issa Khalaf was shot dead at 7.30 am by several unidentified men as he

left for work from his home in Baghdad. Concern is expressed that this murder may be linked to his activities as a labour rights activist. Concern is heightened by the fact that this event follows other similar attacks on labour activists. In particular, on 18 February 2005, the Iraqi labour leader Ali Hassan Abd (Abu Fahad), a member of the Oil and Gas Union, was murdered on his way home and on 4 January 2005, Hadi Saleh, International Secretary of the Iraqi Federation of Trade Unions (IFTU), was tortured and murdered at his Baghdad home. The Special Representative and the Special Rapporteur express their concern at the apparent emerging trend of murders of labour leaders in Iraq.

356. On 1 June 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, regarding **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 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 is expressed that this killing may be related to the activities of Mr Ali in favor of labour rights. Concerns are heightened by the fact that this incident comes after the reported killings of several trade union leaders in Iraq. In particular, on 18 February 2005, Ali Hassan Abd (Abu Fahad), a prominent and outspoken member of the Oil and Gas Union, was murdered on his way home, on 4 January 2005, Hadi Saleh, International Secretary of the Iraqi Federation of Trade Unions (IFTU), was brutally tortured and murdered at his Baghdad home and on 25 January 2006, Alaa Issa Khalaf, a member of the Executive Board of the Baghdad branch of the Mechanics Union, and a prominent member of the recently created General Federation of Iraqi Workers (GFIW), was shot dead by several unidentified men as he left for work from his home in Baghdad.

357. On 20 November 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, regarding the late **FAJ**, a women's rights activist from Haweeja who was the head of the women's rights organization Maternity and Childhood. According to information received, on 27 October 2006 a group of about 10 unidentified men broke into Ms FAJ's home in the town of Haweeja, 43 km from Kirkuk. The men shot and killed her. In the past, she had repeatedly received death threats. She had cooperated in the course of her human rights work with international organizations and, before it ceased to exist, the Coalition Provisional Authority. Sources allege that the murderers may be linked to local Islamic militias. As of 14 November 2006, only two suspects, both men from Haweeja, had been arrested in connection with the murder. Reportedly, Ms FAJ's brother has filed a criminal complaint against at least two more local suspects, named Yousif Naif Ali and Khalid Kalil Ibrahim. Concern is expressed that Ms FAJ was murdered because of her activities in the promotion and defence of women's human rights.

Communications received

358. On 3 May 2006, the Government replied to the joint urgent appeal sent by the Special Rapporteur on 11 November 2005 together with the Special Representative with regard to the incident involving victim Mr **Adel Mohammed Abbas** and the injured Mr **Thamer Mahmud Hadi al-Quza'i**, living in the green zone. The Government reported that the two men were shot

by unidentified men in the Adl district of Baghdad. The Government further indicated that the victim's daughter, Ibtisam Adel Mohammed Abass al-Zubaydi, who was born in 1975 and is a university professor, has said that she does not suspect anyone at present and has asked for her complaint to be brought against the culprits as soon as they are identified. Moreover, the Government advised that Thamer Mahmud had made a statement on the incident. He claimed that he was heading for his car when he was shot at by unidentified armed men. He was wounded, while his colleague, named above, was killed. The crime scene was examined, but no evidence was found. The victim's body was sent to a pathologist for examination and the wounded man obtained the medical report. Investigators went to the crime scene to collect information about the incident, but this proved fruitless, because the shop owners and local citizens refused to cooperate with the investigation.

359. On 8 June 2006, the Permanent Mission of the Republic of Iraq to the United Nations in Geneva responded to the communication sent on 3 February 2006. Unfortunately, the English translation was not available in time to be examined.

Observations

360. The Special Representative thanks the Government for its response of 3 May 2006, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 3 February, 1 June and 20 November 2006. She urges the Government to respond to her communications and the concerns raised by her.

Israel

Communications sent

361. On 22 December 2005, the Special Representative sent an allegation letter to the Government of Israel concerning **Qasem Qasem**, a Finnish citizen and head of the Refugee League in Europe. According to the information received, on 14 December 2005, Mr Qasem arrived in Israel to participate in a 'Right of Return' conference from 16 and 18 December 2005 in Nazareth, in which he was to be honoured for his human rights work. At the airport in Israel, Mr Qasem was taken aside at customs and had his luggage inspected. Two hours later, he was informed that he was being refused entry into the country. He was not given any reason for this refusal. He was cautioned about gaining entry to Israel in the future and told that he must obtain a visa from the Israeli Embassy in Finland despite the fact that Finnish citizens are not legally required to do so. Mr Qasem was then escorted onto an SAS flight that was bound for Stockholm. Concern was expressed that the refusal to allow Mr Qasem to enter Israel was an attempt to prevent him from attending a human rights event.

362. On 12 January 2006, the Special Representative sent an urgent appeal to the Government of Israel regarding **Catherine Flora Richards**, staff member of the Palestinian section of *Defence for Children International (DCI/PS)*, an organization affiliated with the Geneva-based Defence for Children International (DCI). DCI has consultative status with the United Nations Economic and Social Council, UNICEF, UNESCO and the Council of Europe. DCI/PS works independently in Palestine to promote and defend children's rights in the West Bank and the Gaza Strip. According to the information received, on 9 January 2006 at approximately 5.30 am, Ms Richards arrived in Ben Gurion Airport, Tel Aviv on a British Airways flight from London

Heathrow. Upon her arrival, Ms Richards was taken aside by a member of the airport security force and waited for two hours for the Head of Airport Security to check her belongings. After her belongings had been checked, Ms Richards is reported to have been taken to a room where a male member of the Security force presenting himself as “Mr Bad”, asked to speak with her. Ms Richards asked to speak with the British Consulate in order to be informed about her rights. It is alleged that the member of the security force then stated that this request constituted a refusal to cooperate on the part of Ms Richards. Ms Richards refused to accept this construction saying she was fully prepared to cooperate, and the member of the security force left the room. Her belongings were searched again. Ms Richards then asked if the British consulate had been contacted and she was told no. It is reported that at approximately 11.30 am on the same day, Ms Richards was allowed to call her office. According to information received, despite an intervention on behalf of the British Embassy in Tel Aviv and the British consulate in Jerusalem, the Israeli authorities decided to deport her back to the United Kingdom on the next British Airways flight to Heathrow, which was due to depart at 16.50 on the same day. It is alleged that during the afternoon of 9 January 2006, Ms Richards began to feel weak and when she requested water and paracetamol, her request was refused. It is reported that at approximately 4 pm she was taken to the plane by security personnel. It is alleged that Ms Richards then started to hyperventilate and to have a panic attack, to which the security personnel responded with violence. Ms Richards was dragged away by her arms, one of the guards saying “I don’t care if you die”, while the other guard threatened to handcuff her. Eventually Ms Richards was examined by a doctor in the First Aid Section. Once it was confirmed she had suffered physical violence, the British Embassy was contacted again and embassy staff reportedly contacted the Israeli Minister for the Interior to ask for information on the whereabouts of Ms Richards. It is alleged that the British Embassy were informed by the Israeli Minister for the Interior that Ms Richards was already on the plane on the way back to the UK which was not the case. Embassy staff later discovered that this was untrue and that Ms Richards was still detained at Ben Gurion Airport detention centre, where she currently remains. It is reported that the Israeli authorities wish to deport Ms Richards on charges of non-cooperation, and that it is feared that Ms Richards will attempt to claim a residence permit in Israel if allowed to enter. On the evening of 9 January 2006, Ms Richards’ lawyer managed to temporarily stop the deportation by paying a guarantee of 5000 shekels. Catherine Richards is due to appear before Tel Aviv Magistrate Court, Tel Aviv on 12 January 2006 at 1 pm on these charges. Concern was expressed that the attempted deportation of Ms Richards was an attempt to prevent her from carrying out her legitimate work in the defence of the rights of children and to deter other internationals from volunteering to work with human rights organizations in the Occupied Territories.

363. On 20 January 2006, the Special Representative sent an urgent appeal to the Government of Israel, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Hassan Mustafa Hassan Zaka**, a researcher with the non-governmental organisation The Public Committee Against Torture in Israel (PCATI). PCATI is an 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. Mr Zaka is also employed by the NGO *Ansar Asajeen*, which provides legal aid to Palestinian detainees and prisoners. According to the information received, on 11 January 2006 Mr Zaka was arrested and detained while attempting to cross a military checkpoint between Nablus and Tul Karem. He is reported to be detained at the Hawarah Military Detention facility near Nablus. On 17 January 2006, according to information received, the Israeli Defence

Force Regional Commander issued a six month order of administrative detention against Mr Zaka on the grounds of “endangering the security of the region”. Concern was expressed that the administrative detention of Mr Zaka was connected with his work in defence of human rights by interfering with his ability to conduct his legitimate activities as a human rights researcher.

364. On 14 March 2006, the Special Representative sent an urgent appeal to the Government of Israel, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Ziyad Muhammad Shehadeh Hmeidan**, human rights defender and fieldworker for *Al-Haq*, a Palestinian NGO. Mr Hmeidan has already been the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 29 November 2005, an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 1 July 2005 and an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on 7 June 2005, to which the Government responded on 11 July 2005. According to the new information received, on 12 March 2006, Mr Hmeidan was informed that his administrative detention order is to be extended for a further four months. Mr Hmeidan was scheduled to have been released on 21 March 2006. It is 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.

365. On 11 April 2006, the Special Representative sent an allegation letter to the Government of Israel regarding **Brian Morgan**, an American human rights defender who volunteers with the Tel Rumeida project in Hebron. The Tel Rumeida project accompanies Palestinian families and their children to and from school in order to protect them from harassment by settler children. According to the information received, on 25 March 2006 Mr Morgan was attacked by a group of 20 settlers, both adults and children, outside the Beit Haddasah settlement. It is reported that he was kicked, punched and hit on the head with rocks. He was then taken to a hospital in Tel Aviv to receive stitches. It is further reported that Mr Morgan requested help from an Israeli soldier who was at his post outside the settlement but his request was ignored.

366. On 28 April 2006, the Special Representative sent an allegation letter to the Government of Israel concerning **Sister Anne Montgomery**, a 79 year old member of the Christian Peacemakers Team (CPT), **Tore Ottesen** (29) from Norway, and **Karien Laier** (46) from Germany and two members of the International Solidarity Movement (ISM), **Brian Larsen** from Denmark and **Anna Svennson** (20). According to the information received, on 20 April 2006, Sister Anne Montgomery, Tore Ottesen and Karien Laier were attacked and stoned by a group of settler supporters in Hebron. It is reported that the human rights defenders were waiting to accompany Palestinian children to school when a group of settler supporters aged between 15 and the early 20s threw stones at them and shouted “We are going to kill you”. It is alleged that when Brian Larsen, a Danish ISM cameraman started to film the unprovoked attack, he became a target for the settler supporters and ran away. Anna Svennson (21) a Swedish member of ISM, who witnessed the attack was wounded by a stone. It is further reported that Israelis soldiers

witnessed the incident but did not intervene to prevent the attacks. It is reported that all the human rights defenders have bruises from kicks, punches, and stones. Grave concern was expressed that the above described events might be connected with the activities of the CPT and other volunteers in defence of human rights, in particular because of their work in accompanying and protecting Palestinian children and their families from harassment by settler supporters in Hebron.

367. On 19 May 2006, the Special Representative sent an urgent appeal to the Government of Israel, together 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 promotion and protection of the right to freedom of opinion and expression, concerning **Ziyad Muhammad Shehadeh Hmeidan**, human rights defender and fieldworker for *Al-Haq*, a Palestinian NGO and affiliate organization of the International Commission of Jurists (ICJ) which conducts research and advocacy works on human rights. Mr Hmeidan has already been the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 14 March 2006, an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 29 November 2005, an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 1 July 2005 and an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on 7 June 2005. The mandate holders noted the replies of the Government to their communications of 7 June 2005 and 1 July 2005, but noted there had been no reply to the communications of 29 November 2005 or 14 March 2006. According to the Government, administrative detention orders are limited to six-month periods and any extensions require re-evaluation of the relevant intelligence. Mr Hmeidan has been in administrative detention since 23 May 2005 and continues to be held at Kedziot prison. To date neither he nor his lawyer has been informed of the reasons for his arrest, however the Government's advice that Mr Hmeidan was "arrested on suspicion of involvement in terrorist activities" has been noted. The mandate holders noted that the Special Representative visited Mr Hmeidan in prison during her official mission to Israel and the Occupied Palestinian Territory in October 2005.

368. On 2 June 2006, the Special Representative sent an allegation letter to the Government of Israel, together with the Special Rapporteur on the independence of judges and lawyers, concerning **Kate Maynard**, a British human rights lawyer who works with London-based solicitor Hickman & Rose. According to the information received, on 24 May 2006 Ms Maynard was detained on arrival at Ben Gurion Airport by Israeli security personnel, having travelled from the United Kingdom to speak at an international legal conference organised by Avocats Sans Frontières (ASF) in al Ram, near Jerusalem. It is reported that prior to her departure from Heathrow airport, she was questioned by Israeli officials. It is alleged that during her detention at Ben Gurion Airport, Ms Maynard was questioned about her involvement in collecting evidence against high-ranking Israeli military personnel and obtaining an arrest warrant for a senior Israeli military official in 2005. It is further alleged that after she had been questioned, Ms Maynard was denied entry to Israel and detained overnight pending deportation

on 25 May 2006. Following these events, Ms Maynard instructed an Israeli lawyer to apply to the Tel Aviv district court to prevent her deportation and obtain her release from custody. On 25 May 2006, the judge of the Tel Aviv district court ordered the authorities to lift the deportation order but directed that Ms Maynard be admitted to the country for a limited period of time. It is reported that the Israeli immigration authorities declined to follow this ruling. It is further reported that Ms Maynard left Israel in the morning of 26 May 2006 as she had already missed her allotted time to speak at the conference. Concern was expressed that the above events were connected with the activities of Ms Kate Maynard in defence of human rights and might represent an attempt on the part of the authorities to prevent her from carrying out her legitimate work.

369. On 6 June 2006, the Special Representative sent an allegation letter to the Government of Israel, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, regarding **Hassan Mustafa Hassan Zaka**, a researcher who works with the non-governmental organizations the Public Committee Against Torture in Israel (PCATI) and *Ansar Asajeen*. 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 previously the subject of a letter of urgent appeal sent jointly by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 20 January 2006. The Special Rapporteurs and the Special Representative regret that no reply to this communication has been received to date. 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 is reported that the reason given by the General Security Service is that Mr Zaka "endangers the security of the region" however Mr Zaka has not been given the opportunity to refute the charges brought against him and he is still being held in Ketziot Detention Center. Concern was expressed that the decision to extend Mr Zaka's administrative detention order may be connected with his activities in defence of human rights. In the previous communication to the Government concern was expressed regarding the arbitrary nature of the administrative detention of Mr Zaka. As his detention was reported to be based on evidence that was not disclosed to him, further concern was expressed that this undermined reliance on judicial review as a safeguard against arbitrary administrative detention.

370. On 17 October 2006, the Special Representative sent a letter of allegation to the Government of Israel, together with the Special Rapporteur on the independence of judges and lawyers, concerning the closing down of the offices of the organisation *Ansar Al-Sajeen (Prisoners Friends' Association)* in Israel and in the West Bank, and the search of the house of **Munir Mansour**, Chairperson of *Ansar Al-Sajeen*. *Ansar Al-Sajeen* is registered under Israeli law, and is one of the largest providers of legal representation to Palestinian detainees in Israeli military courts. It pays legal visits to Palestinian prisoners incarcerated in Israel and advocates for their rights. It also works with prisoners' families in need and has facilitated Palestinian family visits. According to the information received, on 8 September 2006 in the early morning, the offices of *Ansar Al-Sajeen* in Tirah, Majd El-Kurum and throughout the West Bank were raided and closed down by the police and the Israeli Shin Bet following the issuance by the Israeli Defense Minister of an administrative order, in accordance with Article 84-2B of the Defense (Emergency) Regulations (1945), declaring *Ansar al Sajeen* as illegal. The police

reportedly confiscated the organization's assets, including 14,000 shekels dedicated to prisoners and their families, hundreds of legal files and documents, telephones, photocopying machines and computers. It is reported that the closure occurred soon after the association launched a campaign to include the cases of 1948 Palestinian prisoners, citizens of Israel, in the current talks for the exchange of prisoners. The organization would have reportedly decided to appeal the order. On the same day, reports indicate that the house of Mr Mansour, Chairperson of *Ansar Al-Sajeen*, was searched by the police and members of the Shin Bet. Mr Mansour was reportedly questioned for one and half hours, and his mobile telephone was confiscated. Concerns were expressed that the closing down of the offices of *Ansar Al-Sajeen* in Israel and in the West Bank as well as the search of the house of its Chairperson might be in retaliation for the legitimate activities of the organization in defence of the rights of Palestinian prisoners detained in Israel.

371. On 25 October 2006, the Special Representative sent an urgent appeal to the Government of Israel, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, concerning the detention of **Ahmad Abu Haniya**, a Palestinian human rights activist and Youth Project Coordinator in the Alternative Information Centre, a joint Palestinian-Israeli organisation based in Jerusalem which promotes human rights and advocates social change in the region. According to the information received 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 also membership of a group called Al-Islamia. He is reported to be detained at Ketziot detention centre in the Negev. The administrative detention order against him has been 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 is 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 was expressed that Mr Haniya might be detained in order to prevent him from carrying out peaceful activities in defence of human rights.

372. On 1 December 2006, the Special Representative sent a letter of allegation to the Government of Israel, together with the Special Rapporteur on the independence of judges and lawyers, concerning **Ziyad Muhammad Shehadeh Hmeidan**, human rights activist and fieldworker for *Al-Haq*, a Palestinian NGO and affiliate organization of the International Commission of Jurists (ICJ) which conducts research and advocacy works on human rights. Mr Hmeidan has already been the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 19 May 2006; an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 14 March 2006; an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 29 November 2005; an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the

promotion and protection of the right to freedom of opinion and expression and the Special Representative 1 July 2005; and an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on 7 June 2005. The Special Representative and the Special Rapporteurs note the Government's replies to the communications of 7 June 2005, 1 July 2005 and 29 November 2005 but regret there has been no reply to the communications of 14 March 2006 and 19 May 2006. According to the Government, administrative detention orders are limited to six-month periods and any extensions require re-evaluation of the relevant intelligence. Mr Hmeidan has been in administrative detention since 23 May 2005 and he is currently held at Ketziot (Ansar III) prison in the Naqab (Negev) Desert. To date neither he nor his lawyer has been informed of the reasons for his arrest, however the Government's advice that Mr Hmeidan was "arrested on suspicion of involvement in terrorist activities" has been noted. It has also been noted that the Special Representative visited Mr Hmeidan in prison during her official mission to Israel and the Occupied Palestinian Territory in October 2005. According to the new information received, on 14 November 2006, Mr Hmeidan was informed that a new administrative detention order would be issued which would extend his current detention for a further four months. The new order reportedly came into effect on 19 November 2006, the date scheduled for his release, and is now due to expire on 18 March 2007. It is also reported that a review hearing was held on 20 November 2006 in which the administrative detention order was upheld on the basis of the same "secret evidence" which was used to detain him in May 2005 "on suspicion of involvement in terrorist activities". In previous communications to the Government, grave concern was expressed regarding the arbitrary nature of the administrative detention of Mr Hmeidan. In particular, the Special Representative and the Special Rapporteurs continued to be extremely concerned by the fact that he was being denied the exercise of his right to defence and to a fair trial, since he had been detained without any formal charges being brought against him since 23 May 2005. Furthermore, his detention was reported to be based on secret evidence that had never been disclosed to either him or his lawyer which undermines reliance on judicial review as a safeguard against arbitrary administrative detention. The 19 November 2006 military order represented the fourth 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 order was done almost at the last minute, which caused severe anxiety and anguish to the detainee and his family, amounting to psychological torture. The Special Representative and the Special Rapporteurs expressed their grave concern that Mr Hmeidan's order might be subject to indefinite renewal and reiterated their concerns that his detention is connected with his work in defence of human rights and represents an attempt by the Israeli authorities to interfere with his ability to conduct his legitimate activities in defence of human rights.

373. On 1 December 2006, the Special Representative sent a letter of allegation to the Government of Israel concerning an attack on **Tove Johansson**, a Swedish volunteer who was based in Hebron with the International Solidarity Movement (ISM), an organization which aims to afford protection to Palestinian civilians in the area and to monitor and report on human rights violations committed in the region. Human rights workers and volunteers, including members of the ISM, have previously been the subject of communications sent to the Government by the Special Representative on 8 December 2003, 12 January 2006, 11 April 2006 and 28 April 2006. According to the information received, on 18 November 2006, Ms Johansson was part of a small group of human rights workers escorting Palestinian children from their school to their homes

through an army checkpoint near the Tel Rumeida Israeli settlement. Reportedly they were confronted by a group of almost 100 Israeli demonstrators who had gathered near the checkpoint in support of Jewish settlers in the area and began to shout threats and chant in Hebrew “We killed Jesus, we’ll kill you too!” at the human rights workers. According to the sources so many demonstrators spat at the peace activists that it was described as being “like rain” and they proceeded to kick and push them while Israeli soldiers standing nearby failed to intervene. One of the settlers then reportedly hit Ms Johannsson in the face with a broken bottle, causing her to fall to the ground while also breaking her cheekbone and injuring her close to her eye. It is reported that this action was applauded by some of the Israeli witnesses and that some settlers tried to have their photograph taken beside the human rights worker as she lay injured on the ground. It is further alleged that three of the settlers were identified to the Israeli police as having been involved in the attack on the volunteers and children but were released shortly after being detained, however according to reports, the police threatened to arrest the human rights activists if they did not immediately leave the area. Grave concern was expressed for the physical safety of international volunteers present in the Occupied Palestinian territory who promote and protect the human rights of civilians in the region as there has been a history of similar incidents in Hebron. During the visit of the Special Representative of to Israel and the Occupied Palestinian territory in October 2005, she was assured by the authorities that any incident concerning settler violence would be investigated. Grave concern was expressed that when settler violence goes unimpeded by Israeli soldiers it may represent an attempt to deter volunteers from carrying out human rights work.

374. On 1 December 2006, the Special Representative sent a letter of allegation to the Government of Israel concerning threats against participants in the proposed **Gay Pride Parade** which was scheduled to take place in Jerusalem on 10 November 2006. According to the information received, the organisers of the Gay Pride Parade met with authorities in order to establish a less controversial route for the march which would avoid ultra-Orthodox Jewish neighbourhoods as the police had stated that they could not provide adequate security for the original route. However the march was later cancelled altogether due to the severe nature of the threats issued, as last year on 30 June 2005 an ultra-orthodox Jewish man reportedly stabbed three people during the fourth annual gay pride parade. Concern was expressed about the reported threats and harassment of human rights defenders campaigning for equality and against discrimination based on perceived sexual orientation. Further concern was expressed that such harassment might prevent peaceful demonstrators from carrying out their legitimate human rights activities.

Responses received to communications sent by the Special Representative in previous years

375. In a letter dated 26 May 2006, the Government of Israel 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 26 July 2005 concerning **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.

376. In a letter dated 19 January 2006, the Government of Israel 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 29 November 2005 concerning **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.

377. In a letter dated 1 November 2006, the Government of Israel 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 26 July 2005 concerning **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.

Communications received

378. On 13 January 2006, the Government responded to the urgent appeal sent on 30 September 2005 concerning **Khalida Kanaan Jarrar**. The Government reported that Mrs Jarrar is a high-ranking activist in the terrorist organization "Population Liberation Front Movement" (PFLP) and engaged in extensive activity in this movement. Further enquiry revealed that Mrs Jarrar had filed (either directly, or through non-governmental organizations) three petitions to the Supreme Court, sitting as the High Court of Justice, regarding the State of Israel's refusal to grant her permission to leave Israel (entry/departure). Two of those petitions were denied (Supreme Court 11003/04, 9930/03), and another was removed by the appellant (Supreme Court 5410/00).

379. On 28 December 2005, 20 January, 1 May, 5 May, 30 October, 4 December, 7 December, 14 December and 18 December 2006, the Permanent Mission of Israel to the United Nations in Geneva acknowledged receipt of the communications sent by the Special Representative, respectively on 10 November 2005, 12 January, 11 April, 28 April, 17 October, 25 October, 1 December 2006, ensuring that the requests of the Special Representative had been transferred to the appropriate authorities in Israel, and that it would forward any relevant information that it received on these matters.

Observations

380. The Special Representative thanks the Government for its interim replies, but she regrets that as of the date of the present report, the Government has not provided any clarification with regard to the reported allegations. She considers response to her communications as an important part of the cooperation of Governments with her mandate.

381. She urges the Government to respond to her communications and the concerns raised by her in her: allegation letter of 22 December 2005 concerning **Qasem Qasem**; the urgent appeal of 12 January 2006 concerning **Catherine Richards**; the joint urgent appeal of 20 January 2006 concerning **Hassan Mustafa Hassan Zaka**; the joint urgent appeal of 14 March 2006 concerning **Ziyad Muhammad Shehadeh Hmeidan**; the allegation letter of 11 April 2006 regarding **Brian Morgan**; the allegation letter of 28 April 2006 concerning **Sister Anne Montgomery, Tore Ottesen, Karien Laier, Brian Larsen and Anna Svennson**; the urgent appeal of 19 May 2006 concerning **Mr Ziyad Muhammad Shehadeh Hmeidan**; the joint allegation letter of 2 June 2006 concerning **Ms Kate Maynard**; the joint allegation letter of 6 June 2006 concerning **Hassan Mustafa Hassan Zaka**; the joint letter of allegation of 17 October 2006 concerning the **Ansar Al-Sajeen (Prisoners Friends' Association)** in Israel and in the West Bank and **Mr Munir Mansour**; the joint urgent appeal of 25 October 2006 concerning **Ahmad Abu Haniya**; joint letter of allegation of 1 December 2006 concerning **Ziyad Muhammad Shehadeh Hmeidan**; letter of allegation of 1 December 2006 concerning **Tove Johansson** of the International Solidarity Movement; and letter of allegation of 1 December 2006 concerning the **Gay Pride Parade**.

382. In particular the Special Representative expresses her grave concern about **Ziyad Muhammad Shehadeh Hmeidan** who has been the subject of six joint urgent appeals (7 June 2005, 1 July 2005, 29 November 2005, 14 March 2006, 19 May 2006, 1 December 2006) and whom the Special Representative visited in prison during her official mission to Israel and the Occupied Palestinian Territory in October 2005.

383. According to the Government, administrative detention orders are limited to six-month periods and any extensions require re-evaluation of the relevant intelligence. Mr Hmeidan has been in administrative detention since 23 May 2005 and a new administrative detention order was issued on 19 November 2006, the date which was scheduled for his release. It is now due to expire on 18 March 2007.

384. The Special Representative is concerned that at the 19 November 2006 review hearing the administrative order was upheld on the basis of the same "secret evidence" which was used to detain him in May 2005 "on suspicion of involvement in terrorist activities". She reiterates her previous concerns regarding the arbitrary nature of the administrative detention of Mr Hmeidan. In particular she is extremely concerned by the fact that he was being denied the exercise of his right to defence and to a fair trial, since he had been detained without any formal charges being brought against him since 23 May 2005. Furthermore, his detention was reported to be based on secret evidence that had never been disclosed to either him or his lawyer which undermines reliance on judicial review as a safeguard against arbitrary administrative detention.

385. The Special Representative remains deeply concerned by continued reports of violence inflicted upon human rights defenders by Israeli settlers, particularly in Hebron, and the lack of response by Israeli soldiers in protecting human rights defenders and ensuring that the alleged perpetrators are brought to justice. While on mission to Israel and the OPT in October 2005, the State Attorney had advised the Special Representative that there was no impunity for settler violence. However, to date she has received no further information from the Government with respect to such investigations and or prosecutions and urges the Government and human rights defenders to send her more information in this regard.

Jamaica

Communications sent

386. On 9 December 2005, the Special Representative together with the Special Rapporteur on extrajudicial, summary and arbitrary executions sent an allegation letter concerning **Lenford 'Steve' Harvey**, Jamaica Aids Support for Life, an organization dedicated to preserving the dignity and rights of persons living with HIV/AIDS and providing education on related issues. According to the information received, on 30 November 2005, at approximately 1 am, at least four assailants forcibly entered the home of Mr Harvey. They reportedly tied him up, along with two other persons in the residence, and stole a number of possessions. They then abducted Mr Harvey and took him away in his company car. His body was found in a rural area miles from his home with gunshot wounds in his back and head. Grave concern was expressed that the killing of Mr Harvey was related to his human rights work for Jamaica Aids Support for Life and his work for marginalized people and people living with HIV/AIDS in Jamaica and the Caribbean.

Communications received

387. The Special representative regrets the absence of any official reply from the Government to her communication of 9 December 2005.

Observations

388. The Special Representative regrets that no response was received from the Government of Jamaica concerning the killing of Mr Harvey despite a request issued by her in the Communications Report of 2006. The Special Representative would urge the Government to provide substantive detailed information as to whether an investigation has been initiated into the death of Mr Harvey. The Special Representative would be interested in receiving a response from the Government of Jamaica as she has received information highlighting the dangers faced by human rights defenders working with lesbian, gay, transgendered and bisexual and HIV/AIDS issues in Jamaica.

Jordan

Communication sent

389. On 21 November 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, regarding **Edward Kattoura**, a member of the Palestinian Human Rights Organization (PHRO). According to allegations received, Mr Kattoura was arrested by Jordanian security forces on 2 November 2006 and has been detained at an unknown detention centre since then. Before his arrest Mr Kattoura legally entered Jordanian territory with a visa that had been issued by competent Jordanian authorities and conducted private business for almost a week there. However, on his way back to Lebanon via the Queen Alia International Airport at Amman he was arrested and detained after he had finished all security checks for departure. Concerns were expressed that the arrest and subsequent detention of Mr Kattoura may be related to his activities in defence of human rights.

Observations

390. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

Korea (Republic of)

Communications sent

391. On 22 March 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **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 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 Governments of Korea and the United States 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 are currently held in Pyungtaek Prison. There has been a national campaign since February 2006 against the forced eviction in Pyungtaek.

392. On 13 April 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of expression, concerning **Jang Do-jeong** and **Shin Yong-gwan**, and 28 other protesters who have been peacefully protesting against the disruption of waterways leading to rice fields in Pyeongtaek, Gyeonggi province, South Korea. According to the information received, on 7 April 2006 Jang Do-jeong and Shin Yong-gwan, along with 28 other protesters, were arrested while peacefully protesting against the cutting off of waterways leading to rice fields in Pyeongtaek, Gyeonggi province. It is further reported that the other 28 protesters were released but that Jang Do-jeong and Shin Yong-gwan, remain in detention and have 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 protesters were injured as a result. It is reported that daily candlelight vigils have been held for over 500 days in Pyeongtaek, in opposition to the forced eviction of farmers from their land for the expansion of a United States military base in Pyeongtaek. The protesters include people from Pyeongtaek and hundreds of local farmers who claim the expansion of the base will affect the livelihoods of hundreds of local farmers and their families; and members of the South Korea Committee Against US Base Extension in Pyeontaeak (KCPT) and peace activists who claim the expansion of the base may have a negative impact on peace in the Korean Peninsula. It has been reported that the Defence Ministry blocked two out of three canals leading to the rice fields and one pump pipe in order to prevent farmers from

planting rice. Furthermore it is alleged that the Ministry of Defence has destroyed some rice fields and some bridges to prevent farmers from accessing the rice fields. According to the information received, residents who refused to sell their land to the government have been subject to compulsory purchase orders, but those farmers who refused to sell their land have appealed to Central Land Tribunal and this process is ongoing. Concern was expressed that the charges against Jang Do-jeong and Shin Yong-gwan may represent 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.

393. On 19 October 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of expression, concerning the closure of a number of **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 qualifies 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 the KGEU and members of solidarity organizations, such as the Korean Public Service Union (KPSU) and the Democratic Labour Party, were arrested. Reports indicate that, so far, more than 81 KGEU chapter offices have been closed down across the country. Please note that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has already sent an urgent appeal concerning this organization on 27 June 2006.

Communications received

394. In a letter dated 19 April 2006, the Government of the Republic of Korea 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 22 March 2006. The Government stated that on 6 March 2006 **Rae-Goon** and **Baek-Gi** interfered in the execution of provisional land disposition in Pyongtaek. The process was to be implemented by executives from Suwon District Court and staff from the National Defense Ministry. It was noted that on 15 March 2006, both men interfered with police arrests, attacking police officers in the process. It was indicated that Mr Rae-Goon has a criminal record for his involvement in activities during two previous protests, and that he refused to seal a bill prescribed by the code of criminal procedure. The Government stated that given his past record it is likely that Mr Rae-Goon will destroy evidence and that he is expected to further engage in ongoing illegal or violent activities against the relocating of United States bases in the future. With regards to Mr Baek-Gi, the Government indicated that it is highly likely that he will commit a second offence and that he has shown no sign of remorse, nor has he admitted to having committed any crime. It was also noted that he is likely to destroy evidence if released from prison given that he faces severe punishment. In addition it was noted that he will engage in ongoing illegal or violent activities against the relocating of United States. army bases in the future. The Government stated that on 15 March 2006 the police arrested illegal and violent protesters. The following day a formal

arrest warrant was issued for the ringleaders of the protest. On 18 March 2006, Mr Rae Goon and Mr Baek-Gi were arrested and on 24 March they were sent to the Prosecutors office. Both men were released on bail on 24 March 2006.

395. In a letter dated 6 September 2006, the Government of the Republic of Korea 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 13 April 2006. The Government stated that on 7 April 2006 police arrested illegal and violent protesters. On 10 April 2006 arrest warrants were issued for **Yong-Gwan** and **Do Jeong**, and on 16 April both men were sent to the Prosecutors office. On 21 April 2006 they were charged and detained. It was noted that at the time of receipt of the Government's response trial proceedings were underway. The Government noted that Mr Yong-Gwan and Mr Do Jeong started an illegal and violent protest by attacking police offices with burning straw and that claims made in the communication of 13 April 2006 that it was a peaceful protest were unsubstantiated. It was further indicated that the Government of Korea guarantees any form of peaceful rally or demonstration whilst it responds in strict fairness to illegal and violent riots such as interference with public authority and the occupation of public facilities in order to establish respect for the rule of law.

Observations

396. The Special Representative thanks the Government of the Republic of Korea for its responses to her communications of 6 March 2006 and 13 April 2006, and is encouraged by the Government's willingness to initiate investigations into the cases of **Mr Yong-Gwan** and **Mr Do Jeong** along with **Mr Rae-Goon** and **Mr Baek-Gi**. However the Special Representative notes with concern the Government's comments which suggest that both **Mr Rae-Goon** and **Mr Baek-Gi** are likely to "destroy evidence" and that they are "expected to further engage in ongoing illegal or violent activities against the relocating of United States bases in the future". The Special Representative would appreciate further clarification as to the 'evidence' referred to in the Government's response, as well as the basis for such allegations. Furthermore, the Special Representative wishes to remind the Government of Article 9 para. 1 of the Declaration on human rights defenders which states that everyone has the right to a fair trial.

397. The Special Representative welcomes the Government's commitment to support peaceful demonstrations, however she seeks further clarification as to the Government's definition of 'strict fairness' in relation to its response to rallies or demonstrations deemed illegal. She would like to remind the Government of the Republic of Korea that 'for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully' in accordance with Article 5 (a) of the aforementioned Declaration.

398. The Special Representative regrets that she did not receive a response from the Government to her joint communication with the Special Rapporteur on the promotion and protection of the right to freedom of expression on 19 October 2006. She is concerned by reports that thousands of riot police were deployed to implement 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. The Special Representative would urge the Government to provide a detailed

response to this case. She would also be interested in receiving more details regarding the aforementioned Directive.

Kyrgyzstan

Communications sent

399. On 18 May 2006 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of urgent appeal concerning **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 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. It is reported that prior to his visit to the offices of Kylym Shamy the same individual had visited the office of a company located in the same building as Kylym Shamy where he questioned staff about Kylym Shamy. It is reported that this person asked about the number of staff employed at Kylym Shamy, the movements of the staff, and whether the organization paid its rent on time. 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 was expressed that the above events were related to the activities of Ms Abdurasulova in defence of human rights and may have been an attempt to intimidate her and prevent her from carrying out her legitimate activities in defence of human rights.

Communications received

400. In a letter dated 4 July 2006, the Government of Kyrgyzstan 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 18 May 2006 concerning **Ms Abdurasulova**. The Government indicated that the State Security Service of the Kyrgyz Republic found that the facts detailed in the aforementioned communication were unsubstantiated. It was noted that prior to 2006, and until the date of the letter, Ms Abdurasulova and her family had not received a summons to visit the State Security Service of the Kyrgyz Republic, nor had they been under the surveillance of the institutions of the Service. At the time of receipt of the Government’s response, the State Security Service of the Kyrgyz Republic was continuing its efforts to clarify the facts of the case. The Government concluded by stating that additional information would be provided as appropriate.

Observations

401. The Special Representative thanks the Government of Kyrgyzstan for its timely response to her communication of 18 May 2006 and is encouraged by its willingness to investigate this case further in order to clarify the facts. The Special Representative would be interested in receiving information as to the outcome of this case.

Latvia

Communications sent

402. On 30 November 2006 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of urgent appeal concerning participants in **“Riga Pride 2006”**, a peaceful protest organised to promote awareness of the human rights of lesbian, gays, bisexual and transgender (LGBT) persons. According to the information received, on 19 July 2006 the Riga City Council denied an application by a number of organizations to hold “Riga Pride 2006” on 22 July 2006. The organizations appealed this decision but it was upheld by the Administrative Court of Latvia on 21 July 2006, allegedly on the grounds that the proposed event would pose a threat to national security. Detailed information regarding the reasons for this decision was reportedly classified as a state secret and will not be made available to the organisations for another five years. Following these events, the organisers of Riga Pride 2006 decided to organize a number of events on 22 July 2006 in place of the original protest march. It is reported that participants attended a service at the Anglican Church in Riga on the morning of 22 July 2006 and, as they were leaving the church, a group of anti-gay protestors who had gathered outside threw eggs and human excrement at them and verbally abused them. Reportedly, police officers who were present at the time, refused to assist individuals who asked them for assistance and protection as they were making their way from the church. Concerns are expressed that the denial of a permit to the organizers of “Riga Pride 2006” may have been aimed at preventing defenders of the rights of sexual minorities from carrying out their peaceful activities to raise awareness of the universality of human rights, to be applied to all persons regardless of their perceived sexual orientation. Further concerns are expressed by the allegations that police officers failed to provide adequate protection to participants in the service at the Anglican Church in Riga on 22 July 2006.

Communications received

403. In a letter dated 12 December 2006, the Latvian Government responded to the urgent appeal sent by the Special Representative on 30 November 2006 regarding participants in **“Riga Pride 2006”**. The Government acknowledged receipt of the aforementioned communication, and indicated that it had been forwarded to relevant authorities for consideration and that a response would be provided in due course.

Observations

404. The Special Representative thanks the Government of Latvia for its acknowledgement to her communication of 30 November 2006 and she looks forward to receiving a detailed response to the communication in the near future.

Lebanon

Communications envoyées

405. Le 7 décembre 2005, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la liberté d’opinion et d’expression et le Rapporteur spécial sur l’indépendance des juges et

des avocats, a envoyé un appel urgent sur la situation de **Muhamad Mugraby**, avocat défenseur des droits de l'homme, âgé de 65 ans. Muhamad Mugraby a déjà fait l'objet d'une lettre d'allégation envoyée par la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression le 4 mars 2005. Selon les informations reçues, Muhamad Mugraby a été appelé à comparaître devant une cour de justice militaire le 9 janvier 2006, pour avoir diffamé les militaires libanais. Les charges se rapportent au témoignage qu'il a donné devant une délégation interparlementaire, à l'invitation du Parlement européen, en novembre 2003. Son témoignage portait sur les droits de l'homme et le système judiciaire au Liban et dans les pays avoisinants. Un certain nombre d'autres procédures criminelles et disciplinaires sont en cours contre M. Mugraby. En novembre 2001, il a été accusé d'avoir diffamé l'Association du Barreau de Beyrouth (BAB) dans un communiqué de presse qu'il a publié avec un certain nombre d'autres avocats. Le cas est toujours à l'examen. Le 26 février 2002, M. Mugraby a intenté une action civile contre la BAB demandant que celle-ci ne prenne aucune décision concernant l'exercice de sa profession d'avocat jusqu'à ce qu'un jugement final ait été émis concernant les accusations de diffamation portées contre lui. Le 17 janvier 2003, le Conseil Disciplinaire de la BAB a pris la décision de rayer M. Mugraby du registre des avocats pour la période maximale de trois ans sur la base du fait qu'il n'avait pas demandé l'autorisation de la BAB pour intenter son action civile contre la BAB. M. Mugraby a fait appel de cette décision.

406. Le 18 octobre 2006, la Représentante spéciale a envoyé une lettre d'allégation concernant le cambriolage des bureaux de l'ONG **Soutien aux Libanais détenus arbitrairement (SOLIDA)**, qui œuvre en faveur du respect des droits de l'homme. Selon les informations reçues, dans la nuit du 4 au 5 octobre 2006, le matériel informatique de SOLIDA contenant de nombreux documents de travail aurait été dérobé au siège de l'organisation, à Beyrouth. Ce cambriolage se serait déroulé à la veille d'une conférence de presse tenue par SOLIDA à l'occasion de la parution de son rapport sur des exactions qui auraient été commises lors d'interrogatoires par les services de renseignements de l'armée au sein du Ministère de la Défense. Ce rapport s'intitule « le Centre de détention du ministère de la Défense : un obstacle majeur à la prévention de la torture » et met en évidence le climat d'impunité dont bénéficieraient les auteurs d'actes de violence ou de torture. Des préoccupations ont été exprimées que ce cambriolage ne constitue une forme d'intimidation contre SOLIDA à la veille de la parution de son rapport détaillant des violations des droits de l'homme qui auraient été commises par des agents de l'État libanais.

Observations

407. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications. She urges the Government to respond to her communications and the concerns raised by her.

Libyan Arab Jamahiriya

Communication sent

408. On 28 November 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary

Detention, regarding **Idriss Aboufaied**, aged 49, a Libyan national until recently living in Switzerland, where he was recognized as a refugee and worked as a surgeon at the Hospital of Sion (Valais). In 1998, together with other Libyans living abroad, Dr. Aboufaied had founded the National Union for Reform, a political party. On 19 June 2006, Dr. Aboufaied took part in a demonstration in Geneva at which alleged violations of human rights in Libya were denounced. According to the allegations received, on 30 September 2006, Dr. Aboufaied returned to Libya, encouraged to do so by a speech of Colonel Gaddafi during the summer, in which he had stated that the civil and political rights of Libyans living abroad because of their opposition to the Government would be respected if they returned to their home country. Upon arrival at Tripoli airport, his passport was seized by the authorities. Dr. Aboufaied then traveled to Gheriane, his home town. On web sites of Libyan organizations abroad he stated his intention to ask the authorities to return his passport. Upon request from the authorities, Dr. Aboufaied went to the headquarters of the internal security services in Tripoli on 5 November 2006 at 10 a.m. His family has not heard of him since then. The internal security services refuse to provide any information regarding the reasons for his arrest or any other information. In view of his alleged incommunicado detention at an undisclosed location, concern was expressed that Dr. Aboufaied might be at risk of torture or other forms of ill-treatment. Further concern was expressed that his detention may be connected to his activities, in particular the views he had expressed on the current political and human rights situation in Libya.

Observations

409. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication. She urges the Government to respond to her communication and the concerns raised by her.

The former Yugoslav Republic of Macedonia

Communication sent

410. On 20 June 2006, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **Zoran Bozinovski**, a journalist known for his work exposing corruption and human rights abuses. He has been the subject of communications sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative on 19 December 2003, and by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 4 May 2004. According to the information, Zoran Bozinovski is 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 is reported that, following the changes to legislation, the authorities are intending to deliver a referral order to Mr Bozinovski to report himself to a penitentiary institution in Skopje to serve his 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 is one of several dozens of defamation/insult cases pending against Mr Bozinovski, out of which 14 ended in his conviction: two sentences of imprisonment, two conditional sentences of 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.

Communications received

411. The Special Representative regrets the absence of any official response to her communication of 20 June 2006.

Observations

412. The Special Representative would urge the Government of The former Yugoslav Republic of Macedonia to provide a detailed response to her communication of 20 June 2006 assuring her that an investigation has been initiated into this case. The Special Representative wishes to remind the Government of its obligations under Article 6 (b) and (c) of the Declaration on human rights defenders.

Malaysia

Communications sent

413. On 23 August 2006 the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent a letter of urgent appeal concerning **Malik Imtiaz Sarwar**, one of two lawyers representing Ms Lina Joy, in the Federal Court of Malaysia. Ms Joy is a Malay woman who has renounced her Muslim faith and embraced Christianity, and the court proceedings are concerned with whether she can renounce Islam and has the right to have the religious affiliation on her identity card deleted. According to the information received, Mr Imtiaz is the subject of death threats by an unknown group, which openly calls for the death of Mr Imtiaz because of his role as a lawyer in the Lina Joy court case. Such threats include posters, titled "Wanted Dead", which describes Mr Imtiaz as a betrayer of Islam for his involvement in the Lina Joy court case and an email message which circulates on the internet and offers a monetary reward to anyone who is willing to kill him. Concern was expressed that such threats were linked to the lawful professional activity of Mr Imtiaz as a lawyer and may represent an attempt to intimidate lawyers who take on cases in defence of right to freedom of religion and belief.

Communications received

414. The Special Representative regrets the absence of any official reply from the Government to her joint communication with the Special Rapporteur on the independence of judges and lawyers of 23 August 2006.

Observations

415. She considers response to her communications as an important part of the cooperation of Governments with her mandate. She urges the Government of Malaysia to respond to her communication and the concerns raised by her.

Maldives

Communications sent

416. On 10 April 2006 the Special Representative, together with the Special Rapporteur on violence against women, its causes and consequences, sent a letter of urgent appeal concerning **Shiuna Fathimath**, who is an active member of the opposition Maldivian Democratic Party (MDP). According to information received, on 19 February 2006 at around 2.30 am, twelve policemen in plain clothes came to the house of Fathimath Shiuna in Male'. When Shiuna's mother opened the door, three policemen forced their way into the house. They proceeded to arrest Shiuna, who was only wearing a T-Shirt and pants without her underwear at the time of the arrest. Shiuna pleaded with the police to allow her to get appropriately dressed before being taken away but the police refused, apparently trying to humiliate the young Muslim woman. As of 6 April, Fathimath Shiuna was reportedly still in detention. On 29 March at around 9.30 pm, a number of women supporters of the MDP gathered at Minivan Park in Male' to plan a demonstration against abusive police behaviour during the arrest of female suspects, when a group of young men locally known as "partey's" hurled pellets of oil and urine at them. It is alleged that the young men acted on the instruction of certain government members. Concern was expressed that the arrest and detention of Ms Fathimath may represent an attempt to intimidate and prevent her from promoting human rights values in her work. Concern was also expressed that the incident of 29 March may represent an attempt to further harass, humiliate and prevent women human rights defenders from peacefully demonstrating against abusive police behaviour during the arrest of female suspects and publicly raising human rights concerns.

417. On 19 May 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Aminath Najeeb**, editor of the newspaper Minivan and human rights defender, **Abdulla Saeed (Fahala)**, **Mohamed Yooshau**, **Imran Zahir** and **Ibrahim Manik**, journalists with Minivan, **Nazim Sattar**, a sub editor with Minivan. Ms Najeeb, Mr Saeed, Mr Zahir and Mr Sattar were mentioned in a joint urgent appeal sent on 4 October 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative. According to the information received, at the time the communication was sent masked men had been following Ms Najeeb's movements and had been keeping watch over her house. It was reported that on 16 May 2006 an unknown individual attempted to push her off her motorcycle in Male. Furthermore it is reported that on 16 May 2006, Ms Najeeb was summoned to appear before the criminal court the following day. It was reported that the charge against her was "disobeying an order" but that the summons did not specify which order she had disobeyed. It is further reported that on 17 May 2006 the Administrator of the Criminal Court informed Ms Najeeb that her trial would be postponed but that the charge against her continued. It is further reported that Mr Sattar has also been charged with disobeying an order and that Mr Saeed (Fahala), Mr Yooshau, Mr Zahir and Mr. Manik, are currently in detention. Concern was expressed that the above events may be connected with human rights activities, in particular

because of their defence of the right to freedom of opinion and expression in the Maldives. Further concern was expressed that the charges against Ms Najeeb and Mr Sattar and the detention of Mr Saeed (Fahala), Mr Yooshau, Mr Zahir and Mr Manik may form part of a campaign of intimidation and harassment against the staff of Minivan.

418. On 23 May 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Nuzrath Najeeb** also known as **Kama**, a volunteer with the Maldivian Detainees Network, an organisation that provides support to relatives of prisoners in the Maldives, her father **Hassan Najeeb**, her brother **Ali Najeeb** and her mother **Mariyam Rahma**. According to the information received, on 19 May 2006 at approximately 1.30 a.m. Ms Najeeb and her father were arrested and detained by police officers who entered her home by force. It is further reported that her brother Ali Najeeb, and Mariyam Rahma, her mother had been arrested a few hours earlier and assaulted by police officers. It is reported that all arrested persons are being held in Dhoonidhoo Island Detention Centre. Grave concern was expressed that the arrest of Ms Najeeb and her family members is connected with her activities in defence of human rights and may form part of a campaign of intimidation and harassment against human rights defenders in the Maldives.

419. On 3 November 2006, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal concerning the alleged detention of **Mohamed Ziyad** (also known as Ziyatte), human rights activist and member of the National Council of the Maldivian Democratic Party. Mr Ziyad was the subject of a joint communication sent to the Government by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 18 August 2005. According to the allegations received, on 30 October 2006, Mohamed Ziyad was arrested by eight members of the riot police, an elite division of the Maldivian Police Services, while he was sitting in a café in Malé. He has reportedly been detained on allegations of “threatening a driver” and is currently being held in solitary confinement in Dhoonidhoo Island Detention Centre. It is believed that Mr Ziyad’s detention may be related to his involvement in the organization of a nationwide demonstration calling for urgent constitutional reform due to take place on 10 November 2006. It is further reported that Mr Ziyad has been detained on five previous occasions. According to the information received he was initially arrested in August 2004 following a large pro-democracy demonstration. He was allegedly beaten during the protest and detained for eight days in the Dhoonidhoo Island Detention Centre until he was transferred to Maafushi Island Prison without being questioned or charged. He was then placed under house arrest on 17 November 2004 and finally released two days later but was prohibited from leaving the city. On 2 June 2005 he was reportedly arrested for approximately three hours and released without charge. He was detained on a third occasion on 13 August 2005 and was not released until 2 October. He was not charged but was ordered to acquire special permission when traveling out of the city. On 30 March 2006 Mr Ziyad was reportedly arrested prior to a demonstration for women’s rights. He was allegedly beaten on this occasion by six or seven policemen in an isolated room in police headquarters before he was transferred to Dhoonidhoo Island Detention Centre. His family inquired about the reason for his arrest but they did not receive a reply. He was released on 1 April 2006 without charge. According to additional information received, Mr Ziyad was arrested for a fifth time on 17 May 2006 and was refused medical treatment for breathing difficulties. He was reportedly brought to the Criminal Court on 29 May 2006 in the absence of his lawyer and family who had not been informed of the hearing but he was then told that it had been cancelled.

He was detained in solitary confinement in Dhoonidhoo Island Detention Centre until 10 July 2006. Mr Mohamed Ziyad has been involved in projects to educate the Maldivian people about their human rights and has repeatedly called for the implementation of freedom of assembly and freedom of expression, as enshrined in the Maldivian constitution. He has also actively campaigned for the release of individuals who have been arbitrarily detained by the Maldivian authorities.

420. On 27 November 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Mohamed Gasam**, Deputy President of the Gaaf Dhaal Constituency of the Maldivian Democratic Party (MDP), **Mohamed Nazim**, Secretary of the Executive Committee for the Gaaf Dhaal Constituency of the MDP, **Mohamed Saleem Ali**, President of the Gaaf Dhaal Constituency of the MDP, resident in Narugis Villa on Thinadhoo Island, **Yamin Mohamed**, member of the MDP, resident in Abhareege, Thinadhoo, **Mohamed Waheed**, member of the MDP, resident in Skooner, Thinadhoo, **Mohamed Niyaz**, member of the MDP, resident in Blue Fish, Thinadhoo, **Ahmed Hussai**, member of the MDP, **Mohamed Niyaz** (different from Mr Mohamed Niyaz resident in Blue Fish), member of the MDP, **Kinaatath Mohamed**, member of the MDP, **Ibrahim Areef**, member of the MDP, **Ahmed Shaukat**, member of the MDP, **Mohamed Falah**, Vice-President of the Male' Constituency of the MDP, all currently in detention at Dhoonidhoo Island Detention Centre, **Muththaqim Latheef**, member of the MDP, **Abdul Majeed Shameem**, MDP Cell President, currently placed under house arrest, and **Shehenaz Abdulla**, an active participant in the "Free Jenny" campaign, also currently placed under house arrest. Mr Niyaz' case was the subject matter of an urgent appeal to the Government by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 18 August 2004. The case of Mr Ziyad, who was reportedly arrested in connection with the events following the call from the MDP for a country-wide demonstration on 10 November 2006 in favor of a more rapid constitutional reform in the Republic of the Maldives, was the subject matter of an urgent appeal by the Special Rapporteur on the question of torture and the Special Representative on 3 November 2006 and was released on 20 November 2006. According to new information received, on 1 November 2006, at approximately 12.00, about 70 members of the riot force police arrived by speedboats at Thinadhoo Island in the Southern Atoll of Gaaf Dhaal and proceeded to the office building of the MDP. On their way, the riot police apprehended Mr Gasam and forced him to accompany them to the MDP office, where six members of the MDP were working at this time. The riot police did not produce any search or arrest warrant when entering the office building and ordered the persons concerned to leave the office immediately, failing which they would be arrested. The riot force searched the office and confiscated banners, posters and other material. Following these events, Mr Gasam was taken directly from the MDP office to a holding cell on Thinadhoo Island. It is further alleged that, on the same day, a group of riot police approached Mr Nazim, while he was working in his shop. He was asked to accompany the riot police to the local police station. Mr Gasam and Mr Nazim were both held in solitary cells on Thinadhoo Island and pepper spray was applied to their faces while in detention there. They have both been transferred at an unknown date to the Dhoonidhoo Island Detention Centre. Mr Ali and Mr Waheed were also arrested by riot police on 1 November 2006 at their houses. Mr Mohamed handed himself over on the same day to the riot police knowing that he was wanted by the police. Mr Niyaz was also arrested on the same day. Before the arrests were made island officials allegedly drove around the island announcing that if any protection was provided to these persons, it would be considered an offense. It is reported that Mr Waheed and

Mr Ali were ill-treated upon their arrests. Mr Waheed was allegedly hit in the face causing it to swell up. Mr Ali's hand was reportedly broken. According to the information received, Mr Ali asked for immediate medical attention which was initially denied. Only on 2 November 2006, when he was taken to Gaaf Alif Atoll Villingili Island, did he receive medical assistance. On the same day, Mr Mohamed was reportedly taken out of his cell, handcuffed, dragged by the neck and maltreated by riot police. Tear gas was also used inside holding cells, allegedly due to excessive noise caused by the detainees. Following a demonstration of about 150 people, urging representatives of the island office to ask the riot police to exercise restraint, Mr Ahmed Hussai, Mr Mohamed Niyaz (to be distinguished from the individual with the same name, who was arrested on 1 November 2006), Mr Kinaanath Mohamed, Mr Muththaqim Latheef, Mr Ibrahim Areef, and Mr Ahmed Shaukat were arrested on 3 November 2006. Further arrests of MDP members and human rights activist Ms Shehenaz Abdulla were carried out in Malé, probably also in connection with the demonstration scheduled for 10 November 2006. Mr Mohamed Falah was apprehended on 30 October 2006, however, no reason for the arrest was provided to him. Mr Abdul Majeed Shameem was arrested on 31 October 2006, without indication of any grounds. Mr Mohamed Saleem Ali, Mr Yamin Mohamed, Mr Mohamed Waheed, Mr Mohamed Niyaz, Mr Ahmed Hussai, Mr Mohamed Niyaz, Mr Kinaatath Mohamed, Mr Ibrahim Areef, Mr Ahmed Shaukat, and Mr Mohamed Falah, have, in the meantime, been transferred to the Dhoonidhoo Island Detention Centre, where they are currently being held. Mr Abdul Majeed Shameem and Ms Shehenaz Abdulla have been placed under house arrest. Ms Abdulla was instrumental in "the Free Jenny" campaign which sought the unconditional release and acquittal of Jennifer Latheef, a prominent Maldivian human rights activist sentenced to 10 years imprisonment on charges of terrorism in October 2005, who has since been released. She organized petitions protesting against the arrest and detention of Jennifer Latheef and of other individuals who had been present at the September 2003 protests in Malé after the shooting of prisoners in Maafushi Prison. Ms Abdulla is a vocal critic of human rights violations but she is not a member of any political party. On 6 November 2006, Ms Abdulla was arrested on unknown charges by unidentified members of the riot police, while she was participating in a peaceful gathering in Malé calling for faster constitutional reform. It is reported that she was carried by her arms and legs into a waiting police vehicle. It is believed that she may have been arrested in connection with her involvement in the coordination of the demonstration that was due to take place on 10 November. Furthermore it is reported that Ms Abdulla had not been living at her home prior to her arrest as she feared that her family might be endangered as a consequence of her human rights activities. It is further alleged that Ms Abdulla was previously the victim of harassment due to her friendship with Jennifer Latheef. Reportedly, in 2005 she was asked to show her support for the Government in a letter to be addressed to the President and to publicly disassociate herself from Ms Latheef in return for a promotion in the civil service. Ms Abdulla refused and resigned from her position. It is further reported that members of Ms Abdulla's family, including her husband, whose business is dependent on a license granted by the Government, were intimidated at the time of her resignation. Concern was expressed that the arrests and subsequent detention of the above mentioned members of the MDP and Ms Abdulla may represent an attempt to prevent the peaceful exercise of their right to freedom of opinion and expression, to freedom of assembly, to freedom of association and their right to take part in the conduct of public affairs. Further concern was expressed about the physical integrity and health of the above mentioned persons. Concern was also expressed that the arrest and subsequent detention of Ms Abdulla may be related to her activities in defence of human rights, and may be an attempt by the Maldivian authorities to prevent her, and deter others, from participating in the march that had been scheduled for 10 November 2006.

421. On 30 November 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **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 after announcements were made on the State-owned television station that police were searching for him. However 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 am 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. Reports indicate that he was arrested by riot police in relation to the filming of the aforementioned incident, while boarding a boat to go on a family holiday, and 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 was released the following day. On this occasion he reportedly spent 35 days in detention before he was released without charge. On 12-13 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, 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 a 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 indicate 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 was expressed that Mr Falah’s 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.

422. On 1 December 2006, the Special Representative sent an urgent appeal concerning death threats against **Mohamed Latheef** and his wife **Wafiyya Najeeb**. Mr Latheef is a prominent advocate for human rights and the founder of the Maldivian Democratic Party (MDP) who has been instrumental in raising international awareness of human rights violations in the Maldives. According to the information received, on 23 November 2006, Mr Latheef, who has been living in exile in Sri Lanka since November 2003, was informed that a person was going to be hired, allegedly by a senior Maldivian government official, to kill him. On 25 November 2006 it is reported that two unidentified men went to Mr Latheef’s house and asked about his and Ms Najeeb’s whereabouts. In addition, sources indicate that an official complaint has been lodged at Mirihana Police Station and relatives of Mr Latheef have lodged a complaint with the Maldivian Police Services. The Sri Lankan and Maldivian Ministries of Foreign Affairs have also reportedly been notified as well as some of the embassies accredited to the Maldives. Furthermore, it is reported that the Maldivian Government has made several attempts in recent years to extradite Mohamed Latheef to the Maldives. Concern was expressed for the safety and security of Mr Latheef and his wife, as it is feared that they may be at great risk due to Mr Latheef’s legitimate and peaceful activities in defence of human rights, in particular his work publicizing human rights violations in the Maldives.

Observations

423. The Special Representative regrets that the Government of Maldives has never responded to any of her communications or addressed her specific concerns in writing, however she acknowledges receipt of numerous updates from the Mission in Geneva providing their assessment of the general human rights situation. She considers response to her communications to be an important part of the cooperation of Governments with her mandate and urges the Government to respond to her communications and the concerns raised by her in writing. She thanks the Government of Maldives for meeting her in Geneva in June 2006 and for extending an invitation to her to visit the country on an official mission.

Mexico

Comunicaciones enviadas

424. El 29 de diciembre 2005 la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, señaló a la atención urgente del Gobierno la información recibido en relación con la situación de inseguridad y peligro en la que se encontraría **Lydia Cacho Ribeiro**, Presidenta del Centro de Crisis para Víctimas, Centro

Integral de Atención a las Mujeres (CIAM) en Cancún, Estado de Quintana Roo, cuyo caso ya fue objeto de dos llamamientos urgentes enviados el 23 de febrero de 2005 y el 18 de julio de 2005 por la Representante Especial junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, y la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias. Según la nueva información recibida, el 16 de diciembre de 2005, aproximadamente a las 13.00 horas, Lydia Cacho Ribeiro habría sido detenida en las oficinas del CIAM de Cancún, por agentes de la policía judicial del Estado de Puebla. No le habrían mostrado ninguna orden judicial en el momento de la detención, y no le habrían permitido comunicarse con su abogada. Los agentes judiciales la habrían llevado al Penal de San Miguel, Estado de Puebla, ubicado a más de 1.500 kilómetros de Cancún, a pesar de que ella se encontraba convaleciente de una neumonía que requirió internamiento hospitalario por lo cual no era aconsejable su traslado. Según los informes sólo le fue permitido comer y beber en una sola ocasión en las 20 horas del trayecto. Lydia Cacho Ribeiro habría sido detenida durante 30 horas, por cargos de difamación, antes de ser puesta en libertad bajo fianza. Se expresó temores de que la detención de Lydia Cacho Ribero estuviera relacionada con su trabajo en defensa de los derechos de las niñas y mujeres en peligro.

425. El 16 de enero de 2006, la Representante Especial, conjuntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la independencia de los magistrados y abogados, envió un llamamiento urgente en relación con el Sr. **Martín Amaru Barrios Hernández**, abogado y Presidente de la Comisión de Derechos Humanos del Valle de Tehuacán (CDHL), un organismo que trabaja en defensa de los derechos humanos de 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 habría sido 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 habría exigido la suma de 150.000 pesos a cambio de poner fin a un movimiento de 163 obreros maquiladores exigiendo una justa liquidación luego de ser despedidos por este empresario. Como abogado Martín Amaru Barrios Hernández habría combatido la explotación de la cual serían víctimas los trabajadores de las maquiladoras de Tehuacán, principalmente del ramo textil, como el caso de la empresa propiedad del denunciante. Asimismo habría denunciado los daños que las maquiladoras estarían ocasionando a los ríos y tierras de la región, que habrían quedado 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 habría decretado auto de prisión formal contra Martín Amaru Barrios Hernández por la presunta comisión del delito de chantaje en contra del denunciante. Según la información recibida, la defensa habría anunciado que habrían existido varias anomalías en el proceso y que presentará una queja ante la Corte Interamericana de Derechos Humanos por estas anomalías. Se teme que la detención del Sr. Martín Amaru Barrios Hernández este relacionada con su trabajo en defensa de los derechos humanos de los obreros maquiladores en Tehuacan y la Sierra de Puebla.

426. El 2 de marzo de 2006, la Representante Especial, conjuntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la independencia de los magistrados y abogados, envió un llamamiento urgente en relación con **Erica Serrano Farías** abogada ambientalista, 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. Según la información recibida el 23 de Febrero de 2006 en el municipio de José Azueta, Estado de Veracruz, aproximadamente a las 15.30 horas, el hijo de uno de los trabajadores del restaurante de propiedad de la familia de Erica Serrano Farías habría encontrado una granada de uso exclusivo del Ejército enfrente de la entrada del negocio. Isabel Farías, madre de la abogada, habría notificado a la policía municipal, la cual en un principio se habría negado a recibir la granada, pero finalmente habría accedido a llevársela. Posteriormente, según se informa, el Director de Seguridad Pública del Municipio, Eduardo Enrique Domínguez, habría acudido al domicilio de la familia Serrano Farías para disculparse por la situación y habría explicado que se trataba de una “granada de práctica” utilizada por los militares con fines de entrenamiento y habría agregado que seguramente alguien quería asustarlos. Además, tanto Erica Serrano como su familia ya habrían sido objeto de amenazas e intimidaciones, en virtud de sus actividades como abogada. Así, sus padres habrían sido víctimas de fabricación de procesos penales en su contra, habrían sido amenazados con la clausura del negocio familiar y los trabajadores de éste último habrían sido el objeto de agresiones físicas. Igualmente, según la información allegada, existe un clima de violencia en la zona, donde ya se han presentado algunos incidentes de explosión de granadas, entre ellos el atentado contra la casa del ex director de Seguridad Pública de de Zihuatanejo. Se teme que estas amenazas y hostigamientos puedan estar relacionadas con el trabajo que hace Erica Serrano Farías en defensa de derechos humanos. En su calidad de asesora jurídica de la organización ROGAZ, Erica Serrano Farías habría denunciado públicamente las irregularidades que habría cometido la inmobiliaria Punta del Mar en el desarrollo de un proyecto turístico en la zona, así como las omisiones en que habrían incurrido las autoridades.

427. El 2 de marzo de 2006, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, y el Relator Especial sobre la independencia de los magistrados y abogados, señaló a la atención urgente del Gobierno la información recibida en relación con **Martín Barrios Hernández**, abogado, defensor de los derechos humanos de los indígenas en el Tehuacan y de la Sierra de Puebla y presidente de la Comisión de Derechos Humanos del Valle de Tehuacan (CDHL), y Rodrigo Santiago Hernández y Gastón de la Luz Albino, integrantes ambos de la CDHL. La CDHL es un organismo que trabaja en defensa de los derechos humanos de los obreros maquiladores en Tehuacan y la Sierra de Puebla. 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 el derecho a la libertad de opinión y de expresión. La Representante Especial agradece al Gobierno de México su respuesta a dicha comunicación. De acuerdo con nuevas informaciones, Martín Barrios Hernández continuaría en situación de riesgo. Según los datos, el pasado 12 de febrero de 2006, durante un foro público celebrado en el municipio de Altepexi, colindante con el valle de Tehuacan en el Estado de Puebla, una persona cercana a la familia Barrios le habría comentado a la hermana del Sr. Barrios: “Cuidense y Cuiden a Martín porque ya está contratada una persona que va sobre su cabeza... La cabeza de Martín ya tiene precio”. Según esta persona, la fuente que le habría proporcionado esta información era fidedigna y de confianza. Horas más tarde ese mismo día, otro individuo se habría acercado a Martín Amaru Barrios Hernández para señalarle que efectivamente un individuo habría sido contratado para matarlo y que debía tener cuidado. 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, con aspecto de pertenecer a cuerpos de seguridad, les habían seguido, vigilado y fotografiado. Se expresó temores de que estas amenazas pudieran 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. Además, se teme que estas amenazas formen parte de una campaña de hostigamiento contra los miembros de la CDHL. 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 del Sr. Martín Barrios Hernández.

428. El 6 de marzo de 2006, la Representante Especial, conjuntamente con el Relator Especial sobre la independencia de los magistrados y abogados, la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias y el Relator Especial sobre la cuestión de ejecuciones extrajudiciales, sumarias o arbitrarias, envió una carta de alegación en relación con el abogado y defensor de derechos humanos **Dante Almaraz**. De acuerdo con dicha información, el 26 de enero de 2006 Dante Almaraz fue asesinado con un arma de fuego por hombres no identificados, mientras conducía en el centro de Ciudad Juárez, Estado de Chihuahua. En efecto, según la información recibida, en dicha fecha el vehículo del Sr. Almaraz fue interceptado por otro vehículo tripulado por varios hombres no identificados, quienes le dispararon en repetidas ocasiones. Durante dicho ataque resultó herido uno de sus acompañantes. La Comisión Interamericana de Derechos Humanos ya había ordenado al Estado de México tomar todas las medidas necesarias para proteger la integridad de Dante Almaraz. Dante Almaraz era un reconocido abogado defensor de derechos humanos de Ciudad Juárez. Antes de su muerte había defendido a Víctor Javier García Uribe, quien al parecer habría sido torturado con el fin de que confesara la autoría del homicidio de ocho mujeres en 2001. Víctor Javier García Uribe fue condenado a 50 años de prisión. Asimismo, según la información recibida, la familia de Dante Almaraz habría recibido varias amenazas anónimas de muerte, con el fin de que éste no continuara con la defensa de Víctor Javier García Uribe. Este último fue liberado como resultado de un recurso de apelación. Por otra parte, Mario Escobedo Anaya, otro abogado que participó en la defensa de los acusados del caso de los ocho homicidios en Ciudad Juárez, habría resultado muerto en una persecución llevada a cabo por la policía en febrero de 2002. Su defendido, Gustavo González Meza, murió en prisión en el año 2003.

429. El 14 de marzo de 2006, la Representante especial, conjuntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con Ernesto Ledesma Arronte, miembro fundador y director de la organización de derechos humanos Centro de Análisis Político e Investigaciones Sociales y Económicas (CAPISE). El CAPISE es una organización que se dedica a la investigación, seguimiento y denuncia de las violaciones de los derechos humanos. El señor Ernesto Ledesma Arronte también es adherente de La Otra Campaña. La Otra Campaña trabaja por los derechos de las personas que puedan ser negativamente 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 habría regresado a su domicilio en la ciudad de San Cristóbal de las Casas y habría encontrado la puerta principal forzada. Al entrar en su casa, habría encontrado documentos relacionados a su trabajo dispersos por la sala de estar y cartas personales y fotografías familiares extendidas cuidadosamente sobre la cama, pero no se habría robado nada. En el año 2003 Ernesto Ledesma Arronte habría recibido amenazas de muerte y la investigación oficial no habría identificado a los autores. Se expresó temores de que estos eventos pudieran

estar relacionados con el trabajo que hace Ernesto Ledesma Arronte en defensa de derechos humanos y en particular por su asociación con La Otra Campaña. Se expreso temores de que estos eventos formaran parte de una campana de hostigamiento e amenazas contra los defensores de derechos humanos en Chiapas, en particular los que están asociados con La Otra Campaña, por ejemplo Mario M. Ruiz, colaborador de la Comisión de Apoyo a la Unidad y Reconciliación Comunitaria (CORECO), que fue objeto de un llamamiento urgente enviada el 1.º de marzo de 2006 por el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas.

430. El 31 de marzo de 2006, la Representante Especial, conjuntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión envió un llamamiento urgente en relación con la detención de **Alejandro Cruz Juárez**, dirigente del Movimiento Agrario Indígena Zapatista (MAIZ). El MAIZ es una organización que trabaja por los derechos de los campesinos e indígenas del Ejido Cantera de Villagrán, municipio de Tepeji del Río, Hidalgo, Mexico. Según la información recibida, el 14 de marzo de 2006 Alejandro Cruz Juárez habría sido detenido cuando se habría reunido pacíficamente fuera de la Policía Ministerial de la Procuraduría General de Justicia del Estado de Hidalgo, en Pachuca para esperar a que liberaran a 70 campesinos quienes habrían sido detenidos el 12 de marzo en un desalojo. El señor Cruz Juárez habría sido informado de que habría sido detenido por agresiones a la policía. Más tarde el mismo día habría sido informado de que habría sido acusado de ultraje a la autoridad y cohecho. Se expresó temores de que la detención y las acusaciones en contra del señor Alejandro Cruz Juárez puedan estar relacionadas con su trabajo como defensor de los derechos de los desalojados.

431. El 4 de abril de 2006, la Representante Especial, conjuntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió una carta de alegación en relación con la muerte de **Francisco Concepción Gabino Quiñones**, indígena nahuá, habitante de Cuzalapa, municipio de Cuautitlán (Jalisco) y activista en las protesta contra las actividades mineras de la Mina Peña Colorada y de la reciente parcelación de tierras comunales en la zona. De acuerdo con la información recibida, el cadáver de Francisco Concepción Gabino Quiñones, habría sido encontrado el 11 de marzo de 2006. Se informa que el cuerpo habría sido encontrado amarrado, degollado y con rastros de tortura. Se teme que la muerte de Francisco Concepción Gabino Quiñones pueda estar relacionada con las acciones de protesta que llevaba a cabo contra las actividades mineras de la mina de Peña Colorada y contra la parcelación de más de 7.000 hectáreas de tierras comunales que, desde hace 14 meses, se está llevando a cabo en la zona. Se teme igualmente que dichas acciones tengan como objetivo adicional amedrentar y silenciar a los opositores a ambos proyectos, y evitar posteriores investigaciones sobre eventuales irregularidades. Aunque no se ha recibido información sobre la presunta autoría, la Representante Especial y el Relator Especial expresaron su preocupación ante este lamentable hecho y expresaron su interés en recibir cualquier información relevante respecto de las acciones en curso para su clarificación y eventual castigo de los culpables. También hicieron un llamamiento respecto de los presuntos motivos de la muerte de Francisco Concepción Gabino Quiñones, que podrían reflejar posibles peligros para otras personas involucradas en las citadas acciones de protesta. El 10 de mayo de 2006, la Representante Especial, el Relator especial, conjuntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Relator

Especial sobre la independencia de los magistrados y abogados, 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 examinar 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 expresó temores de 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.

432. El 10 de mayo de 2006, la Representante Especial, junto con el Relator Especial sobre la independencia de los magistrados y el Relator Especial sobre el derecho a la libertad de opinión y de expresión señaló a la atención urgente del Gobierno la información recibida en relación con **Damián Gustavo Camacho Guzmán**, abogado y 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 examinar las violaciones de derechos humanos que se habrían cometido en contra del pueblo de San Salvador Atenco desde el día 3 de mayo de 2006 en el mercado de flores de Texcoco, respondiendo al llamado de los vendedores de flores de San Salvador Atenco quienes habrían sido detenidos. Al momento de ser detenido Damián Gustavo Camacho Guzmán estaba brindando información relativa a las detenciones a periodistas. 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 expresó temores de que la detención de Damián Gustavo Camacho Guzmán es arbitraria y pueda ser relacionado con su trabajo en defensa de derechos humanos, en particular por su defensa de los vendedores de flores en San Salvador Atenco.

433. El 18 de mayo de 2006, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, señaló a la atención urgente del Gobierno la información recibido en relación con las supuestas amenazas sufridas por Jaime Loaeza Juárez y Aquilino Loaeza Juárez, líderes indígenas de la comunidad Chatino de Temaxcaltepec, 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 diciéndoles “hijos de la chingada, sabemos quiénes son y los tenemos bien vigilados, ándense con cuidado, cabrones, porque con esta que ven en mi

cintura les voy a calmar, ya saben que con el Gobierno no se juega cabrones, es un milagro que todavía estén vivos”. El 19 de abril de 2006, cuando ambas personas estarían conduciendo, una camioneta les paró y sus ocupantes les habrían gritado “maestritos pendejos, de la carcel se escaparon pero de un plumazo no, les tenemos bien vigilados, tienen sus días contados”. Estos hechos habrían sido denunciados por Jaime Loeza Juárez y Aquilino Loeza Juárez 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. Se señaló a la atención de su gobierno que, en anteriores comunicaciones e informes, especialmente el informe de la visita a México del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, se ha mostrado preocupación por la integridad física de los líderes comunitarios e indígenas.

434. El 9 de agosto de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con **Manuel Gómez Hernández**, miembro del pueblo indígena tsotsil y trabajador del Centro de derechos humanos Fray Bartolome de las Casas en la ciudad de San Cristóbal de las Casas, en el Estado de Chiapas. Su trabajo consiste en asesorar a personas que solicitan a su organización consejo sobre derechos humanos. De acuerdo con la información recibida, el 17 de julio de 2006, alrededor de las 21.00 horas, Manuel Gómez Hernández, mientras se encontraba en su casa, recibió una llamada telefónica de un hombre, quien alertándole de que el problema del municipio de Zinacatán era un “problema familiar” le aconsejó no involucrarse en él si no quería sufrir graves consecuencias. Cuando Manuel Gómez Hernández le respondió que no sabía de qué estaba hablando, su interlocutor le amenazó de nuevo. Antes de colgar el teléfono, le dijo que su nombre era “Germán” y que era un juez de la municipalidad de Zinacantán. Se expresó preocupación de que estas amenazas pudieran estar ligadas al trabajo de Manuel Gómez Hernández para el Centro de derechos humanos Fray Bartolomé de las Casas relativo a un caso en el municipio de Zinacantán. Con anterioridad, Manuel Gómez Hernández ya habría sufrido amenazas y habría sido atacado físicamente debido a su trabajo en defensa de los derechos humanos y en concreto a una denuncia presentada sobre la apropiación ilegal de las fuentes de agua potable por las autoridades de este municipio.

435. El 7 de septiembre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con el personal de la Radio Universidad de Oaxaca, **Alejandro Cruz López**, dirigente de las Organizaciones Indias por los Derechos Humanos, parte de la Asamblea Popular del Pueblo de Oaxaca (APPO), **Enrique Rueda Pacheco**, secretario general de la sección XXII del Sindicato Nacional de Trabajadores de la Educación (SNTE) y **Macario Otaño Padilla**, miembro de la Comisión Negociadora Ampliada de la sección XXII del SNTE, **Erangelio Mendoza González** ex secretario general de la sección XXII del SNTE, **Germán Mendoza Nube**, miembro de la sección XXII del SNTE y fundador de la Comisión Magisterial de Derechos Humanos, Marcos García Tapia, integrante de la APPO, Catarino Torres Pereda representante del Comité de Defensa Ciudadana y integrante de la APPO, y otros participantes en protestas pacíficas que solicitaban mejores condiciones laborales en Oaxaca durante los meses de julio y agosto de 2006. De acuerdo con la información recibida, el 22 de julio de 2006 las instalaciones de la Radio Universidad, en la Universidad Benito Juárez de Oaxaca, habrían sido atacadas por un grupo de aproximadamente 20 personas desconocidas,

vestidas en negro e armadas. Según se informa, los asaltantes dispararon en contra de las instalaciones de la Radio Universidad de Oaxaca. Según se informa, durante el mes de julio de 2006, defensores de derechos humanos en Oaxaca fueron víctimas de ataques armados. De acuerdo con la información recibida, las casas de Alejandro Cruz López, Enrique Rueda Pacheco, y Macario Otaño Padilla habrían sido atacadas con bombas de fabricación casera por personas desconocidas entre el 20 y el 22 de julio de 2006. El 7 de agosto de 2006 Marcos García Tapia habría sido asesinado por sujetos desconocidos en una calle central de la ciudad de Oaxaca. El 10 de agosto de 2006 una marcha pacífica habría sido violentamente reprimida por la policía en la ciudad de Oaxaca, resultando en la muerte de uno de los participantes. El 11 de agosto de 2006 Erangelio Mendoza González habría desaparecido a manos de individuos desconocidos. El 15 de agosto de 2006 Erangelio Mendoza González habría sido encontrado en el Penal de Cuitlatlan, Oaxaca. Según se informa, durante el mes de julio de 2006 defensores de derechos humanos en Oaxaca fueron víctimas de ataques armados. De acuerdo con la información recibida, las casas de Alejandro Cruz López, Enrique Rueda Pacheco, y Macario Otaño Padilla habrían sido atacadas con bombas de fabricación casera por personas desconocidas. Se expresaron temores de que estos eventos pudiesen estar relacionados con el trabajo que hace todas las personas sobre mencionadas en defensa de derechos humanos y puedan formar parte de una campaña de hostigamiento en contra de los defensores de derechos humanos en Oaxaca.

436. El 14 de septiembre de 2006, el Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con las amenazas contra defensores de los derechos humanos en México y en particular contra **Francisco Cerezo Contreras** y **Emiliana Cerezo Contreras**, hermanos y miembros de la organización de derechos humanos denominada Comité Cerezo. La organización fue fundada para defender los derechos humanos de los presos en México después de la detención de sus tres hermanos en 2001. De acuerdo con la información recibida, el 6 de septiembre de 2006, el Sr Francisco Cerezo Contreras habría recibido un mensaje escrito y mandado por correo electrónico que habría dicho: “Francisco, el bastardo mayor... si sigue con sus cosas le irá ya bastante mal pues se le han permitido muchísimas pendejadas pero eso se terminará si deja este mundo cruel para que ya no sufra”. Además la amenaza de muerte habría contenido una referencia a la dirección familiar. Según se informa, anteriormente, el Comité Cerezo denunció a la Procuraduría General de la República un incidente que habría ocurrido el 8 de mayo cuando una persona no conocida se quedó vigilando fuera de la sede del Comité y habría observado a los integrantes del Comité, sobre todo a Francisco Cerezo Contreras. Se expresó temores de que los hostigamientos y la amenaza de muerte en contra de Francisco Cerezo Contreras y su hermana Emiliana Cerezo Contreras, pudiesen estar relacionados con sus actividades en defensa de los derechos humanos y en particular por la defensa de los derechos de las personas encarceladas en México por razones políticas.

437. El 3 de noviembre, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con actos de intimidación en contra de la **Liga Mexicana para la Defensa de los Derechos Humanos (LIMEDDH)** en su filial Oaxaca. A pesar del conflicto oaxaqueño la organización no gubernamental sigue con su labor, en su calidad de observadora, controlando y documentando las violaciones de los derechos humanos. De acuerdo con la información recibida, el 31 de octubre de 2006, el personal de la LIMEDDH llegó a la oficina y encontró dos mensajes escritos con spray negro en las paredes del edificio que supuestamente dijeron “aquí se reúne la APPO” y “Las barricadas son contra los derechos humanos”. Según los

informes el 28 de octubre, miembros de la Policía Federal Preventiva (PFP) levantaron las barricadas para expulsar los miembros de la APPO que ocupaban diferentes áreas de la ciudad. Según se ha informado, desde el 27 de octubre, varios desconocidos vestidos de civil vigilan la sede de la LIMEDHH a diferentes horas del día y de la noche con el fin de intimidar a sus empleados. Se expresa preocupación por la seguridad de los integrantes de la LIMEDDH porque se teme que los hechos mencionados pueden estar relacionados con su trabajo en defensa de derechos humanos, y en particular su papel como observadora de violaciones de los derechos humanos.

Comunicaciones recibidas

438. 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 del Sr. Lucio Gil. Asimismo se informó que durante el tiempo que el Sr. Barrios Hernández permaneció en el Centro de Readaptación Social del Estado de Puebla, a petición de la CDHP, 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 correo electrónico, se informó de que como consecuencia de estos incidentes la autoridad ministerial inicio una averiguación previa pero no se ha procesado a persona alguna por dichos hechos.

439. Por carta con fecha 21 de abril 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 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*) se acordó 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.

440. 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 de **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.

441. 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 **Erica Serrano Farías**. El Gobierno de México informó 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 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.

442. Por carta con fecha 16 de junio de 2006, el Gobierno de México proporcionó información con respecto al llamamiento enviado el 6 de marzo. Indicó que es pertinente precisar que el homicidio ocurrió el 25 de enero de 2006, y a partir de este hecho la Procuraduría General de Justicia del Estado de Chihuahua inició la averiguación previa 1102-3212/06, cuya integración se encuentra supervisada directamente por la Procuradora General, la que además dispuso la confirmación de un grupo especial de investigación integrado por agentes del ministerio Público y elementos de la Agencia Estatal de Investigación, capacitados particularmente en metodología técnico-científica. La Directora de Atención a Víctimas del Delitos y personal especializado en materia de psicología estuvieron pendientes de brindar el apoyo necesario a los deudos desde el momento en que la autoridad recibió noticias del hecho. Además, se les acompañó durante el proceso de identificación y en las exequias. El 31 de enero de 2006, la Procuradora General de Justicia se reunió con los parientes De **Sergio Dante Almaraz**, para informarles acerca de la investigación y para presentarles a los encargados de realizarla. Asimismo, se les ha brindado información oportuna sobre los progresos realizados dentro de la investigación. El Ministerio Público determinó, para efectos de protección y con fundamento en lo ordenado en el inciso *a* del artículo 120 del Código de Procedimiento Penales del Estado de Chihuahua, establecer las medidas particulares de vigilancia de los domicilios de los familiares de Sergio Dante Almaraz

Mora. Se han practicado diversas diligencias con el objeto de recolectar las pruebas pertinentes para la comprobación de la probable responsabilidad de quien perpetró el delito: para tal efecto, se han recabado diversos testimonios y se han establecido diversas líneas de investigación.

443. Por carta con fecha 17 de julio de 2006 el Gobierno de México transmitió la siguiente información 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.

444. 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 que la detención de 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 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.

445. Por carta con fecha 9 de septiembre de 2006 el Gobierno de México transmitió la siguiente información en relación con el llamamiento urgente del 9 de agosto de 2006. El Gobierno informó que el 17 de julio de 2006, el Sr. **Gómez Hernández** denunció ante el Fiscal del Ministerio Público Investigador del Primer Turno de la Fiscalía de Justicia Indígena que ese mismo día recibió una llamada telefónica de una persona desconocida quien lo amenazó so pena de tener problemas por su intervención en asuntos relacionados con el municipio de Zinacatán, Chiapas. El Gobierno indicó que el 18 de julio de 2006, el Fiscal del Ministerio Público en turno, adscrito a la Fiscalía de Justicia Indígena, inició el acta administrativa por la posible comisión de hechos delictuosos, cometidos en agravio del Sr. Gómez Hernández, en contra de quien o quienes resulten responsables. Se notó que la indemnización será atendida en el momento procesal oportuno, una vez reunidas las exigencias que establece el artículo 16 Constitucional, en relación con lo previsto para tal efecto en el Código Penal así como el Código de Procedimientos Penales de Chiapas.

446. Por carta con fecha 30 de octubre de 2006 el Gobierno de México transmitió la siguiente información en relación con el llamamiento urgente del 14 de septiembre de 2006. El Gobierno informó de que el 12 de mayo de 2006, la Agencia Federal de Investigaciones presentó su informe sobre la investigación. Se solicitó una ampliación de la investigación realizada por los

elementos de la Agencia Federal de Investigacion, a efecto de conocer si las personas que son señaladas como responsables de los hechos pertenecen a la Policia Federal Preventiva o a la Secretaria de la Defensa Nacional, así como una entrevista con los denunciantes a efecto de manifiesten si tienen mas pruebas que aportar a su denuncia. Se informó de que la Procuraduria General de la Republica inició el 6 de septiembre de 2006, la averiguacion previa por las amenazas recibidas via correo electronico en contra de Francisco y Emiliana Cerezo Contreras, en la que se solicitó a la Agencia Federal de Investigacion iniciar la investigacion correspondiente, la cual se encuentra en trámite. Asimismo la Comision Nacional de los Derechos Humanos inició una queja. El expediente se encuentra en etapa de integraci3n.

Observations

447. The Special Representative thanks the Government of Mexico for its detailed responses to her communications of 16 January 2006, 2 March 2006, 6 March 2006, 14 March 2006, 10 May 2006, 9 August 2006 and 14 September 2006. She is encouraged by the Government's willingness to investigate alleged violations. She is particularly encouraged by the Government's response to her communications of 16 January relating to **Sr. Martín Barrios**, and is pleased to learn that he has been offered considerable police protection. She would request that the Government keeps her informed for any further developments in this case.

448. The Special Representative is also encouraged by the Governments response to her communication of 10 May 2006 in relation to **San Salvador Atenco**, and appreciates the efforts made by the Government to reprimand the police officers involved in the alleged excessive use of force. She would request that the Government keeps her informed for any further developments in this case.

449. The Special Representative is particularly disappointed that she did not receive a reply to her communication of 29 December 2005 concerning Ms **Lydia Cacho Ribeiro**. The Special Representative is extremely concerned by allegations that Ms Ribeiro was detained by police officers at the CIAM offices in Cancun, who did not inform her as to the reasons for her arrest, and that she was subsequently taken to San Miguel prison 1,500 kilometres away, despite suffering from pneumonia. It is also alleged that she was only permitted to drink and eat once during the 20 hour journey. These are serious allegations, and the Special Representative would urge the Government to clarify the facts of the case and to assure her that an investigation has been launched into the alleged ill-treatment of Sra. Ribeiro.

450. Whilst the Special Representative commends the efforts which have been made by the Mexican Government to promote and protect human rights, she remains concerned that the number of communications sent to the Mexican Government since December 2005 may be a reflection of deterioration in the situation for human rights defenders in the country. The Special Representative deeply regrets the deaths of human rights defenders such as Sr. **Mario Escobedo Anaya**, **Francisco Concepci3n Gabino Quiñones** and Sr. **Dante Almaraz**, who was killed despite an order by the Inter-American Court of Human Rights that he be offered protection by the Mexican State. The Special Representative would urge the Government to provide her with detailed substantive responses to assuring her that investigations have been launched into these cases and if so what steps have been taken to bring the perpetrators to justice.

451. The Special Representative is concerned by accusations of persistent harassment and targeting of the NGO community. She is particularly concerned that 2006 has seen a rise in attacks on lawyers and journalists working to promote and protect human rights, as reflected in many of the abovementioned communications. She is further concerned about allegations of police involvement in such attacks and would urge the Government to take the necessary steps to ensure that allegations of police involvement in the intimidation of human rights defenders are fully investigated and that those involved are brought to justice.

452. The Special Representative wishes to remind the Government of Mexico of its obligations under Article 12, paragraphs 2 and 3 of the Declaration on human rights defenders.

Moldova

Communications sent

453. On 19 July 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the question of torture, regarding **Ana Ursachi** and **Roman Zadoinov**, both lawyers. According to the information received, Ms Ursachi and Mr Zadoinov are respectively the lawyers of Mr Kolibaba and Mr Gurgurov, two persons who allege having been tortured by the police during detention. The latter two were the subject of communications sent by the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the Right to Food and the Special Rapporteur on the independence of judges and lawyers on 10 May 2006 and by the Special Rapporteur on torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 23 November 2005. The two lawyers have worked closely with human rights organizations on torture cases. On 26 June 2006, the General Prosecutor wrote a letter to the National Bar Association accusing Ms Ursachi, and Mr Zadoinov of misuse of position, which means that they could face a maximum prison sentence of five years or a fine. He referred to the urgent appeals issued in cases of Mr Kolibaba and Mr Gurgurov and claimed that there was no evidence of torture in either case. He blamed the irresponsible and unfounded oppositional behavior of the lawyers and asked the Bar Association to ensure that they use all possible means at their disposal to prevent further damage to the interests of the State. On 28 June 2006, both lawyers were informed that they faced criminal prosecutions for spreading false information about human rights violations in Moldova. Regarding Ms Ursachi, her client was released after an urgent appeal launched by an NGO. However, the publicity embarrassed the General Prosecutor, who, in a letter to the NGO on 9 March 2006, stated that the version of events given in the urgent appeal did not correspond to the reality, and gave a bad image of the State. No action was taken against the alleged perpetrators of torture. In the case of Mr Zadoinov, his client was also released on bail after an urgent appeal. At the end of May 2006, the General Prosecutor's Office reported that no criminal case would be started against the police officers accused of torture. Concerns are expressed that the letter to the Bar Association of Moldova is a deliberate attempt to intimidate Ms Ursachi and Mr Zadoinov and to prevent them and other lawyers in Moldova from carrying out their lawful professional activities for the protection of human rights and in particular against grave human rights violations such as torture.

454. On 23 May 2006, the Special Representative sent an allegation letter concerning a peaceful demonstration by the organisation **Information Center GenderDoc-M**, a non

governmental organisation that defends the rights of sexual minorities in Moldova. According to the information received, on 28 April 2006 the office of the General Mayor in Chisinau rejected an application by the Center to hold a peaceful demonstration in Chisinau on 5 May 2006. It is reported that the purpose of this demonstration was to support the adoption of legislation barring discrimination based on sexual orientation. It is further reported that the reasons for the rejection of the application were based on “the statements of religious organisations that they will organise protest actions if the demonstration organised by GenderDoc-M is allowed, and also based on letters of complaint from individuals living in Chisinau.” Furthermore, according to the information received, on 16 May 2005 the office of the General Mayor in Chisinau rejected an application to hold a peaceful demonstration in Chisinau to support the adoption of legislation based on sexual orientation. It is also reported that in June 2005 this decision was overturned by the Court of Appeal in Moldova. Concern was expressed that the above events were related to the activities of Information Center GenderDoc-M in defence of human rights, in particular their defence of the rights of sexual minorities in Moldova.

Communication received

455. In a letter dated 5 July 2006, the Government replied to the joint urgent appeal sent on 10 May 2006. The Office of the Procurator-General considered the communication relating to reports carried in the international press concerning the case of **Vitalii Kolibaba** and the vigorous steps taken by representatives of Amnesty International to defend and restore his allegedly infringed rights. Particular emphasis is laid on the fact that from 21 April to 27 July 2006 he was subjected to beatings, torture and inhuman treatment by officers of the Buiucani district police station. Following careful examination of the applications submitted by Mr Kolibaba’s lawyer in accordance with article 274 of the Code of Criminal Procedure, the procurators of the Buiucani district procurator’s office concluded that the arguments put forward were irrelevant, and declined to initiate criminal proceedings on the grounds that no offence had been committed by the police officers. The facts as established by the procurators are as follows. Mr Kolibaba came to the attention of the authorities in 2002, when he was registered as an opium user. On 18 April 2006, at around 2.30 a.m., while being pursued by the police for having committed an offence, Mr Kolibaba, acting out of contempt for law enforcement officials and endeavouring to escape arrest, unexpectedly struck police officer Dmitrii Bobeico with a sharp object on his face and neck causing him moderate bodily harm. Mr Kolibaba thereupon disappeared from the scene of the incident, without providing any medical assistance or calling an ambulance. On the basis of this evidence, on 26 April 2006, criminal proceedings were initiated against Mr Kolibaba under article 350, paragraph 1, of the Criminal Code for an attempt on the life of a police officer. On 21 April 2006, Mr Kolibaba had been arrested for an administrative offence committed prior to the criminal offence mentioned above and appeared before a judge, who sentenced him to five days’ administrative detention. Subsequently, during the criminal proceedings against him, Mr Kolibaba was held in preventive detention and was released on bail on 15 May 2006. It should be noted that when Mr Kolibaba was examined by doctors in the emergency department at the hospital, and subsequently by the court medical expert, no internal or external injuries were found apart from a cut on his right forearm, which he had himself inflicted with a piece of metal while he was being held in custody in order to mislead the procurator and avoid criminal prosecution. The Buiucani district procurator’s office submitted a report to the chief of police concerning the breach of conduct by the officers responsible, who had allowed Mr Kolibaba to get hold of a piece of metal while he was being held in custody. In view of the foregoing, the Office of the Procurator-General considers that the

circumstances and manner in which the injuries were sustained were correctly established by the procurators in the Buiucani district procurator's office, in Chisinau. No evidence was found of the use of torture or ill-treatment against Mr Kolibaba. According to the Government of the Republic of Moldova, the position taken by the lawyer is clearly untenable: his appeal to the international organizations to take up Mr Kolibaba's case is quite unwarranted and he is surrounding the issue with a mass of misinformation in the hope of winning his case.

Communications received

456. The Special Rapporteur regrets the absence of any official response from the Government to her communication of 19 July 2006.

Observations

457. The Special Representative thanks the Government of the Republic of Moldova for its reply to her communications of 10 May 2006 and 6 June 2006. Whilst the Special Representative appreciates the Government's cooperation and the detailed information provided in its response to the allegation, she remains concerned by reports by Mr Kolibaba's complaint that he had been subjected to torture by police officers. She would urge the Government to provide her with more detailed information regarding the investigation led by the procurators of Buiuciani.

Morocco

Communications envoyées

458. Le 13 avril 2006, la Représentante spéciale, conjointement avec le Vice-Président-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la question de la torture, a envoyé un appel urgent sur la situation de **Brahim Dahane**, membre de l'association sahraouie des victimes de violations graves des droits de l'homme commises par l'État du Maroc, **Hammud Iguilid**, président de la section locale de l'Association marocaine pour les droits de l'homme à Lâayoune, **Djimi el Ghalia**, Vice-Présidente de l'association sahraouie des victimes de violations graves des droits de l'homme commises par l'État du Maroc, et **Dah Mustafa Dafa**, le mari de Djimi el Ghalia. Brahim Dahane and Hammud Iguilid avaient déjà fait l'objet d'un appel urgent envoyé par le Vice-président du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 8 novembre 2005. Selon de nouvelles informations reçues, le 18 mars 2006, Hammud Iguilid aurait été arrêté par des membres des forces de sécurité marocaines dans le centre de Lâayoune. Selon les informations reçues, les membres des forces de sécurité l'auraient forcé à entrer dans un mini van en le battant. Il aurait été amené à un poste de police du voisinage. Il est allégué que durant sa détention il aurait été menacé d'emprisonnement. Le 24 mars 2006, Djimi el Ghalia et Dah Mustafa Dafa auraient été arrêtés et détenus par les forces de sécurité marocaines alors qu'ils rendaient visite à la mère d'un prisonnier. Ils auraient été amenés au poste de police de Lâayoune où ils auraient passé la nuit. Pendant leur détention, ils auraient été interrogés sur leurs positions concernant la visite du roi Mohammed VI dans la région. Le 4 avril 2006, le procès de Brahim Dahane auraient été renvoyé au 25 avril 2006. Il est allégué que pendant son transfert de la prison à la cour, il aurait

été soumis à la torture et qu'il aurait été battu par des agents de police. Le 6 avril 2006, il aurait envoyé une lettre au Ministère de la justice demandant l'ouverture d'une enquête sur ces supposés mauvais traitements. De sérieuses craintes ont été exprimées que ces événements ne soient liés aux activités des personnes susmentionnées en faveur de la défense des droits de l'homme.

459. Le 29 juin 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial chargé d'examiner les questions se rapportant à la torture et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de **Brahim Sabbar**, secrétaire général de l'Association sahraouie des victimes des violations graves des droits de l'homme commises par l'État 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, **Sidi Mohamed Mahmoud Kainnan Haddi**, **Saleh Haddi**, et **Yadhih Laaroussi**, des sympathisants de l'association. Selon les informations reçues, le 17 juin 2006 vers 15h30, alors qu'ils revenaient de Boujdour où ils avaient supervisé la création d'une section de l'ASVDH, que les autorités marocaines refuseraient de reconnaître légalement, Brahim Sabbar, Ahmed Sbai, Sidi Mohamed Mahmoud Kainnan Haddi et son frère, Saleh Haddi, et Yadhih Laaroussi auraient été arrêtés et agressés 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 tout d'abord conduits au commissariat Hay Almatar où ils auraient été frappés jusqu'à 3 heures, puis à la wilaya de sécurité de 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. Brahim Sabbar aurait été transféré à un endroit en dehors du village et frappé. Le 19 juin 2006, Brahim Sabbar et Ahmed Sbai aurait été inculpés des chefs d'accusation d'« association de malfaiteurs » (art. 293 et 294 du Code pénal), « incitation à la violence » (art. 304), « destruction de biens publics et mise d'obstacles sur la voie publique » (art. 587 et 591), « atteinte au fonctionnaire d'État » (art. 267), « participation à des groupements armés » et « adhésion à une association non autorisée ». Leur procès aura lieu le 26 juin 2006. De sérieuses craintes ont été exprimées que ces arrestations et poursuites ne soient liées à leurs activités de défenseurs des droits de l'homme. Ces événements interviennent après que M. Sabbar a 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.

460. Le 4 octobre 2006, la Représentante spéciale, conjointement avec le Vice-Président-Rapporteur du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent sur l'arrestation et les poursuites contre **Yadhih Ettarrouzi**, militant et défenseur des droits humains au Sahara occidental. Selon les informations reçues, le mercredi 13 septembre 2006 à 21h50, Yadhih Ettarrouzi aurait été arrêté par un groupe de quatre membres des renseignements marocains alors qu'il se rendait à un cybercafé au Boulevard Hassan II à Tan-Tan au sud du Maroc. Il est allégué qu'un agent de la Direction de la surveillance du territoire (DST) marocain à

Tan-Tan, dénommé Brahim Tamek, surveillait Yahdih Ettarrouzi quelques minutes avant son arrestation et que le véhicule des renseignements marocains utilisé pour l'enlèvement venait d'arriver à Tan-Tan. Le matin du samedi 16 septembre 2006, Yahdih Ettarrouzi aurait été transféré vers le siège de la Cour d'appel de Laâyoune en provenance des locaux de la Police judiciaire marocaine (PJ) situés au boulevard 24 novembre. Lors de son transfert, Yahdih Ettarrouzi aurait subi des actes de maltraitance par les membres de la DST, police et des Groupes urbains de Sécurité (GUS). Vers 17h00, le juge marocain aurait ordonné l'incarcération de Yahdih Ettarrouzi après l'établissement de nombreux chefs d'accusations. Il est également allégué que des membres des GUS encadrés par Ichi Bouhassane se seraient attaqués à la famille Yahdih Ettarrouzi avant d'arrêter Bouaamama Hamza qui prenait des photos de la famille réprimée par les forces des GUS. Bouaamama Hamza aurait été transporté vers les locaux de la PJ pour interrogatoire. Laassiri Said aurait également été arrêté et sa voiture confisquée après les violences contre la famille de Yahdih Ettarrouzi. De sérieuses craintes ont été exprimées que cette arrestation et ces poursuites contre Yahdih Ettarrouzi ainsi que les violences contre sa famille ne soient liées aux activités de défense des droits de l'homme de celui-ci.

461. Le 27 octobre 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, a envoyé un appel urgent sur un attentat contre la vie d'**Ahmed Adghirni**, avocat à Rabat et secrétaire général du Parti démocratique amazigh du Maroc qui œuvre pour la promotion des droits du peuple amazigh au Maroc. Selon les informations reçues, le 28 septembre 2006, vers 15h30, M. Adghirni était en train de circuler à bord de son véhicule sur la route entre Rabat et Témara lorsqu'aux abords d'une forêt, à hauteur de Hay Riad, la voiture qui le suivait aurait violemment percuté son véhicule, cherchant vraisemblablement à le faire sortir de la route et le faire tomber dans un précipice. M. Adghirni serait néanmoins parvenu à maîtriser son véhicule et à échapper à l'agression sans être blessé. Il se serait ensuite extrait rapidement de son véhicule et aurait couru rejoindre la route afin d'échapper à deux hommes qui s'approchaient de son véhicule. Peu après l'incident, trois policiers se seraient rendus sur les lieux de l'incident, suivis par un officier de police de grade supérieur et par une ambulance. Les policiers auraient ordonné aux auteurs de l'agression, qui se trouvaient toujours sur place, de rentrer chez eux sans qu'aucun procès verbal concernant l'accident n'ait été rédigé. Face aux protestations de M. Adghiri, les policiers auraient proféré des insultes racistes et de menaces contre lui. Des préoccupations ont été exprimées que cette agression puisse être en relation directe avec les activités de M. Adghiri de défense des droits l'homme et libertés fondamentales du peuple amazigh au Maroc.

Communications reçues

462. Le 20 février 2006, le Gouvernement a répondu à un appel urgent envoyé, le 8 novembre 2005, par la Représentante spéciale, conjointement avec le Vice-président du Groupe de travail sur la détention et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression. Le Procureur du Roi à la Cour d'Appel de Lâayoune 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 Lâayoune 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 Lakhel 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 Lâayoune 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 Lâayoune (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 Lâayoune (dossier n° 1270/CRIM/JP) le 1er 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 Mbarki, 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.

463. Le 23 mai 2006, le Gouvernement a répondu à un appel urgent envoyé le 28 octobre 2004 concernant **Ali Salem Tamek**, indiquant que celui-ci s'est vu accorder la grâce royale et est à présent libre.

464. Le 7 décembre 2006, le Gouvernement a répondu à l'appel urgent du 29 juin. 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 Hoday et Sidi Ahmad Mahmud Hoday** 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 sous le n° 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, entre autres, 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 figurant dans la Convention, identifie les victimes et spécifie les peines relatives à la torture. Les circonstances aggravantes dont il est 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.

465. Le 21 décembre 2006, le Gouvernement a répondu à l'appel urgent du 4 octobre 2006 concernant **Yahdiah al-Tazuri**. Le Procureur du Roi de la Cour d'Appel d'El Aaiun indique que fin mai 2005, une émeute a eu lieu dans la ville d'El Aaiun au cours de laquelle des pierres et des cocktails Molotov furent jetés sur des voitures et des passants ; des feux furent allumés sur la voie publique ; des biens public et privés furent détruits ; des voitures de particuliers et des véhicules de police furent endommagés ; et un explosif fut placé sur une chaussée publique. Plusieurs boutiques furent vandalisées, des bâtiments publics endommagés et des agents des forces de l'ordre et quelques membres de la population furent blessés de manière plus ou moins grave. Après que les forces de l'ordre eurent intervenu pour restaurer le calme, la police procéda

à l'interpellation des individus qui prirent part aux événements et confisquèrent le matériel utilisé. Les investigations révélèrent que certains individus, sous couvert d'activités en faveur des droits de l'homme, avaient en fait préparé et incité les personnes arrêtées à prendre part à l'émeute et avaient soit commis soit incité des actes de violence et de sabotage. Les services de sécurité ouvrirent une enquête qui conduisit à l'arrestation d'un groupe de personnes. D'autres personnes n'avaient pas encore été appréhendées et des avis nationaux de recherche avaient été émis. Yahdiyah al-Tazuri appartenait alors à ce groupe. Le 14 septembre 2006, M. al-Tazuri fut appréhendé dans la ville de Tantan et amené à El Aaiun. Il ne résista pas à son interpellation et lors de l'interrogatoire il n'essaya pas de nier les charges retenues contre lui. Il confessa, de son propre chef, la préparation, l'incitation et la participation à l'émeute. Ces aveux furent confirmés par des déclarations d'individus qui avaient été interpellés pour les mêmes motifs. Ceci facilita la tâche des enquêteurs. Le 16 septembre 2006, M. al-Tazuri fut amené au bureau du Juge d'instruction de la Cour d'Appel d'El Aaiun (ordre No. 1024). Après examen du dossier, il fut présenté au Juge d'instruction pour interrogatoire et fut placé en détention. Un dossier d'instruction fut ouvert au numéro 129/06. Il est souligné que l'avocat de M. al-Tazuri, Me Al-Habib al-Rakibi, fut présent lors de l'entretien avec le Juge. Il demanda que son client passe un examen médical car celui-ci prétendait avoir été battu et violé par la police. Le 25 septembre 2006, Dr. Mohammed Lehku, un médecin à l'hôpital Mulay al-Hassan Belmahdi à El Aaiun, rédigea un rapport médical, indiquant que M. al-Tazuri était en bonne santé et qu'il n'avait trouvé aucun signe physique de violence ou viole. Quant à Hamzah Bu Amamah et Sa`id al-Asar, d'après l'examen des dossiers du service de sécurité à El Aaiun, il apparaît qu'aucun de ces deux hommes n'est connu du service. Leur allégation selon laquelle ils ont été arrêtés par la police est sans fondement et il n'y a pas la moindre preuve qu'ils ont été une seule fois détenus. Il s'ensuit que Mr Al-Tazuri n'a pas été arrêté pour ses activités en faveur des droits de l'homme ou pour librement exprimer ses opinions, mais plutôt pour organiser et inciter à l'émeute et au sabotage, qui sont des crimes punis par la loi.

Observations

466. The Special Representative thanks the Government for its detailed replies, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication of 13 April and 27 October 2006. She urges the Government to respond to these communications and the concerns raised by her.

467. She welcomes the declaration made by the Government on the importance given to the respect of human rights. She further welcomes the Royal pardon granted to **Ali Salem Tamek**. However, she wishes to reiterate her serious concerns regarding the situation of human rights defenders operating in the context of Western Sahara, most notably her concerns on restrictions on freedom of assembly and association. She wishes to remind the Government of article 5 paragraphs (a) and (b) of the Declaration on human rights defenders which provides that “[e]veryone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully; (b) To form, join and participate in non-governmental organizations, associations or groups”. Finally, she wishes to stress the attention of the Government to article 12, paragraphs 2 and 3 of the Declaration which states that “[t]he State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration. In this

connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms”.

Myanmar

Communications sent

468. On 30 January 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning a political prisoner, **Ko Khin Maung Lwin** (38 years old) who died on January 11 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.

469. On 30 April 2006, the Special Representative together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning a lawyer **U Aye Myint**. U Aye Myint was previously sentenced to death for high treason on the grounds of alleged contacts with the International Labour Organization (ILO) and was released from custody in January 2005, before being rearrested in August 2005 and charged under Section 5(e) of the 1950 Emergency Provisions Act, for spreading false information. The grounds for the charge appears to be a letter concerning a land confiscation case which he had sent to the authorities on behalf of his clients, a copy of which he had forwarded to the ILO. On 31 October 2005 U Aye Myint was convicted by the Daik-U Township Court for having disseminated "false information", and sentenced to seven years imprisonment. It has been reported that the case was summarily dismissed by the Bago District Court on 2 January 2006, (where Judge Daw Khin Win Myint presided), and again subsequently by the Bago Divisional Court on 2 March 2006, (where Assistant Divisional Judge Daw Khin Saw Nyunt presided). It is understood that the lawyers representing U Aye Myint are preparing to lodge an appeal in the Supreme Court. Concern was expressed that U Aye Myint to date has not been afforded a fair trial and may not receive a fair

hearing at the Supreme Court. The reasons for this concern are three-fold. Firstly, the two key witnesses, farmers U Kanya and U Kyaing (prosecution witnesses nos 6 and 7), have maintained that they, and not U Aye Myint, initiated a letter of complaint dated 6 June 2005 to the ILO regarding insufficient allocation of pastureland (132.56 out of an existing 452.59 acres) for their cattle at a meeting called by the Daik-U Township Peace and Development Council in Phaungdawthi village on June 5 chaired by the township secretary, U Aye Ngwe. They have also insisted that their complaint is genuine. It is alleged that there are no grounds for assuming Aye Myint is guilty of spreading false information, as no evidence has emerged that the information is false as argued by the authorities. Secondly, there is concern that the court may have punished Aye Myint for having had contact with the ILO. However, the Supreme Court has earlier held that as Myanmar is a Member State of the United Nations and the ILO, it cannot be illegal for its citizens to have contact with these agencies (Supreme Court judgments in Special Appeal Nos 22, 23 of 2004: Zaw Myo Htet (a.k.a.) Zaw Zaw & 3 ors vs. Union of Myanmar; Naing Yeitkha (a.k.a.) Ne Win & 8 ors vs. Union of Myanmar, 14 October 2004). Thirdly, in 1989 the government issued an order that the Emergency Provisions Act could only be exercised with the approval of the Ministry of Home Affairs (State Law and Order Restoration Council, Document No. 021/1 1/NaWaTa, 11 May 1989). However, in this case no permission has apparently been given. The case has been lodged through the local authorities, with a police officer as complainant. Therefore, the case is alleged to be procedurally incorrect and the conviction illegal. In view of the fact that the Supreme Court has reportedly summarily dismissed other legitimate applications for appeal, the grounds for our concern are substantial.

470. On 26 June 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **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, Dr 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 Tun Than was arrested by the security forces in November 2001 and detained until May 2003 having petitioned for multi-party elections. Grave concern was expressed at the reports indicating that Dr Tun Than's passport was revoked as a direct attempt to prevent him from organizing a peaceful protest.

471. On 17 August 2006, the Special Representative sent an urgent appeal concerning a group of 11 members of the organisation **Friends with Red Ribbon**, an organisation that campaigns for awareness of HIV/AIDS and advocates on behalf of HIV/AIDS affected persons in Myanmar. According to the information received, on 11 August 2006, 11 members of Friends with Red Ribbon were arrested and detained by Thingangyun Township Authority in Thingangyun, Myanmar and held for two nights in Thingangyun Township police station. They were reportedly arrested on the grounds that they had failed to report to the authorities that they would stay overnight at the Maggin Buddhist Monastery and that they were planning an event to commemorate people who had died of HIV/AIDS. It is reported that the group of 11 were released on the morning of 14 August 2006 without charges after hundreds of people gathered outside the Thingangyun Township police station protesting their arrest. Concerns were expressed that the alleged arrest and detention of the members of Friends with Red Ribbon may be connected with their legitimate activities in defence of the human rights of HIV/AIDS affected persons in Burma.

472. On 18 October 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **U Myint Aye**, leader of the Human Rights Defenders and Promoters group and former chairperson with the National League for Democracy (NLD) in Kyeemyintdaing Township. According to the information received, on 30 September 2006, at approximately 10.15 am, U Myint Aye was reportedly taken from his home by two policemen, Aung Kyaw Oo from the Special Branch and Lt Aung Aung Myint from the West Yangon division. It is reported that U Myint Aye was told that he was being taken for discussions with the authorities, however he has not had contact with his family or his legal representative since and his current whereabouts are unknown. On 29 September U Myint Aye and ten others had released a statement, in the name of the Human Rights Defenders and Promoters group, calling for the release of three former student leaders of the 88 Generation Students Group who had allegedly been detained without charge on 27 September 2006. It is further reported that U Myint Aye has been detained on four previous occasions in relation to his work.

473. On 30 November 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Ko Win Ko**, 38 years of age, a member of the National League for Democracy (NLD), currently detained at Paungte Prison, and **Phyoe Zaw Latt** (aka Ko Wa Toat), 23 years of age, currently detained at Tharawaddy Prison, both residents of Yethabhyar village, Hteindaw village tract, Minhla District, Moenyo Township, Bago Division. 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 around 10:00 am. While searching the men, the officials found more than 400 signatures for a petition calling for the release of Daw Aung San Suu Kyi, General Secretary of the National League for Democracy, and also student activists who have 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 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar on 6 October 2006, which has unfortunately 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 account of illegal gambling. Phyoe 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 this day. However, he was informed 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 some more days. It is not known whether U Khin Maung Yin has been able to establish

contact to 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) and (g) of the 1961 Restriction and Bond Act. However, already on the same day, he was rearrested by the Moeny 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.

Communications received

474. The Special Representative regrets the absence of any official reply from the Government of Myanmar to her communications of 2006.

Observations

475. The Special Representative regrets the absence of any official reply to her communications of 30 January 2005, 30 April 2006, 26 June 2006, 17 August 2006, 18 October 2006 and 30 November 2006 and outstanding communications from previous years. She considers response to her communications as an important part of the cooperation of Governments with her mandate. She is particularly disappointed that the Government did not respond to the communications of 30 April 2006 and 18 October 2006 sent in conjunction with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers regarding **U Aye Myint**. Given the urgent nature of this case the Special Representative urges the Government to provide a substantive detailed response outlining the exact reasons for the arrest of U Myint Aye arrest and his current whereabouts. The Special Representative is gravely concerned by reports that Mr Myint was arrested and detained without notification of his family. The Special Representative would remind the Government of Myanmar of Mr Aye Myint's right to a fair trial as outlined in Article 9 paragraph 1 of the Declaration on human rights defenders.

476. The Special Representative reiterates her grave concern over reports that many defenders have been subjected to torture and other forms of ill-treatment while in detention, with many being held in poor conditions and often denied medical treatment. She would therefore urge the Government to provide a detailed response to her joint urgent appeal of 30 January 2006 concerning **Ko Khin Maung Lwin** who allegedly died as a result of lack of medical attention whilst in prison, and would recommend that the Government take measures to ensure they review the law in order to prevent the reoccurrence of such an tragedy.

477. The Special Representative would also like to reiterate her concerns regarding freedom of expression in Myanmar and wishes to remind the Government of Article 6 points (b) and (c) of the Declaration. In this respect she would appreciate a response from the Government regarding her joint urgent appeal of 26 June 2006 concerning **Salai Tun Than** as well as the case relating to **Ko Win Ko** and **Phyo Zaw Latt** in her joint appeal of 30 November 2006.

478. She would like to remind the Government that according to the Declaration it is the prime responsibility and duty of the State to promote and implement human rights, by adopting

measures for creating all conditions in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice. States must also “adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.”

Nepal

Communications sent

479. On 2 December 2005, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **Bhagawati Chowdhary**, President of the Forum for Rural Welfare and Agricultural Reform for Development (FORWARD-Nepal) and member of the Executive Committee of the NGO Federation of Nepal (NFN), **Durga Kumar Thapa**, President of the Human Rights and Environment Development Centre (HURENDEC) and member of the Executive Committee of the NFN, **Binod Dev**, NFN Secretary, **Jung Bahadur Singh**, member of the Setu Community Development Forum, Saptari, **Dhruv Dev** and **Sameer Jha**, members of the NGO Save the Saptari, **Hem Shankar Singh**, a local journalist, **Dinesh Yadav** and **Prakash Khatiwada**, both members of the Human Rights and Social Service Centre (HUSEC), a network organization of INSEC, and **Ghanshyam Jha**, member of the NGO Save the Nepal, based in Saptari district. According to the information received, on 11 November 2005, Bhagawati Chowdhary, Durga Kumar Thapa, Binod Dev, Jung Bahadur Singh, Dhruv Dev, Sameer Jha, Dinesh Yadav, Prakash Khatiwada and Ghanshyam Jha were arrested during a peaceful demonstration in which they were protesting against the NGO Code of Conduct which was adopted by the Social Welfare Council of the Government on 10 November 2005. The NGO Code of Conduct was the subject of a public statement issued by the Special Representative on 10 November 2005. They were detained at the District Police Office, Rajbiraj, Saptari district and were all released without charge after five hours. Concern was expressed that this detention was an attempt to prevent the 10 individuals from carrying out their human rights activities.

480. On 19 January 2006, the Special Representative sent an urgent appeal concerning **Tirtha Raj Pant**, a lawyer working in Advocacy Forum’s Kanchanpur branch office. Advocacy Forum is an NGO that provides legal advice to people in detention and assists victims of torture. According to information received, on 15 January 2006 a female staff member of Advocacy Forum’s Kanchanpur branch office visited the District Police Office (DPO) of Kanchanpur as part of Advocacy Forum’s regular custody monitoring activities. On the same day, a court summons was received by the DPO regarding a torture compensation case for one of Tirtha Raj Pant’s clients. Several police officers of the District Police Office were named as opponents in this case. It is reported that the staff member of Advocacy Forum was approached by a male sub-inspector of the DPO who told her to relay a message to Tirtha Raj Pant. The sub-inspector said, referring to Tirtha Raj Pant, “we will not leave him. He is not safe anymore. His luck is not in favour of him. We will welcome him with the music (It is alleged that this phrase implied that physical action would be taken against Tirtha Raj Pant). We will charge him with drinking alcohol and destroying public property, and we will lock him up in custody.” On 17 January 2006 when the same staff member of Advocacy Forum revisited the DPO, the above mentioned sub-inspector is reported to have told her “I had sent the mobile team to arrest Tirtha Raj Pant, but they could not find him. I think he must have run away. He has filed a false case against me.

I have been working for 30 years for the police.” When asked by the female staff member if he had been ordered by his superiors to take this action, the sub-inspector is reported to have replied that he was able to arrest Tirtha Raj Pantar alone. Furthermore, according to information received, on 18 January 2006 when three staff members of Advocacy Forum visited the DPO office again on custody monitoring activities, the same sub-inspector approached them and reportedly threatened Tirtha Raj Pantar again, saying that he would “break one of his arms and legs” and that Tirtha Raj Pantar would know “the consequences of filing a case.”

481. On 24 January 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning the arrest of over 100 activists. Among them 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 sent by the Special Representative and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 11th February 2005; and a letter of allegation sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 14th September 2005; **Devendra Raj Panday** chairperson of the Rural Self Reliance Development Centre (RSDC) and also a coordinator of the CMPD and subject of a letter of allegation sent by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 14 September 2005; **Shyam Shrestha** editor of the monthly magazine *Mulyankan Monthly* and subject of a letter of allegation sent by the Special Representative and the Special Rapporteur on 14th September 2005; and **Mathura Prasad Shrestha** the coordinator of the organization Civic Solidarity for Peace (CSP) and subject of a letter of allegation sent by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 14 September 2005. The 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. According to the information received, on 19 January 2006 over 100 activists were arrested and detained, among them the above-named human rights defenders. 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.

482. On 2 February 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the 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 jointly by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative 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 and 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 is expressed regarding the deteriorating situation for human rights defenders in Nepal.

483. On 28 February 2006, the Special Representative sent an urgent appeal concerning **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); **Shyam Shrestha** a journalist working for the monthly newspaper, Mulyankan, (Evaluation); and civil society leaders **Devendra Raj Pandey** and **Mathura Prasad Shrestha**. The attention of the Government is drawn to information received regarding the situation of several hundred individuals imprisoned since the wave of arrests which began on 19 January, and who were already the subjects of two urgent appeals sent by the Special Rapporteur jointly with the Special Representative on 24 January 2006 and 2 February 2006. Reportedly all but 95 of those who were detained from 19 January 2006 were released. Those who remain in detention as of 24 February 2006, include political leaders and human rights activists who were arbitrarily arrested and detained under the terms of the Public Security Act 1989 (PSA) which permits detention without trial, initially for up to 90 days.

484. 6. On 2 March 2006, the Special Representative sent an urgent appeal concerning **Kali Bahadur Malla**, Informal Sector Service Centre (INSEC) representative for the Kalikot District, **Ravindra Shahi**, Kalikot District President of the NGO foundation and journalist with Dristi Weekly. According to the information received, on 13 February 2006 at approximately 6.30 pm Kali Bahadur Malla and Ravindra Shahi were approached by army personnel of the Randamalma Gulma barrack. It is alleged that the army officers asked Kali Bahadur Malla and Ravindra Shahi for identification which Kali Bahadur Malla and Ravindra Shahi provided. It is reported that the army personnel then began to violently assault Kali Bahadur Malla and Ravindra Shahi. According to the information received, Kali Bahadur Malla sustained injuries and had to be taken to the local medical hall where he was given two stitches. It is reported that Ravindra Shahi sustained minor injuries. Concern was expressed that the above attack on Kali Bahadur Malla and Ravindra Shahi represents an attempt to intimidate them and prevent them from carrying out their activities in defence of human rights.

485. On 1 December 2006, the Special Representative sent an urgent appeal concerning **Madan Rai Chamling**, a human rights outreach worker and member of the Blue Diamond Society. Members of the Blue Diamond Society were subject of an urgent appeal sent by the Special Representative of, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on 12 August 2004. The Blue Diamond Society is a non-governmental organization working with sexual minorities, lesbian, gay, bisexual and transgender (LGBT) persons on health issues, including outreach education and prevention of HIV/AIDs, and campaigns for non-discrimination against persons based on their sexual orientation in Nepal. According to the information received, on 7 July 2006 evening, Madan Rai

Chamling and other "metis" (persons who are men by birth but identify as women) working in the Tri Devi Marg area in Thamel were verbally abused by members of the Durbar Marg Police when Madan Rai Chamling questioned them as to why photos and videos were being taken of the metis. Previously that day, the Durbar Marg Police had arrived in Thamel, and proceeded to record on video a group of metis. One of the police officers, whose name is known to the Special Representative and the Special Rapporteur, gave instructions to the cameraman as to the whereabouts of the metis. The metis attempted to escape and hide their faces from the camera but they were reportedly forced to show their faces. The police threatened to arrest and detain the metis if they didn't cooperate. Furthermore, it is alleged that the police falsely told the metis that they were sent by the Director of Blue Diamond Society in an attempt to film them. Concern was expressed that the above acts of verbal abuse against Madan Rai Chamling may have been related to her human rights activities, specifically her outreach work with Blue Diamond Society. In addition, concern was expressed that the events represent a sustained campaign by police to harass, intimidate and humiliate metis in Nepal, including by sexual violence.

Communications received

486. In a letter dated 16 December 2005, the Government of Nepal 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 2 December 2005 concerning **Bhagawati Chowdhary**. The Government acknowledged receipt of the aforementioned communication and stated that it had been forwarded to Kathmandu for further clarification on the case. The Government indicated that any information received regarding the case would be duly communicated to the Special Representative.

487. In a letter dated 21 March 2006, the Government of Nepal responded to the urgent appeal sent jointly by the Special Representative, on 2 March 2006 concerning **Kali Bahadur Malla**, and **Ravindra Shahi**. The Government acknowledged receipt of the aforementioned communication and stated that it had been forwarded to Kathmandu for further clarification on the case. The Government indicated that any information received regarding the case would be duly communicated to the Special Representative.

488. In a letter dated 22 March 2006, the Government of Nepal 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 2 December 2005 concerning **Mr Chowdhary**. The Government stated that Mr Chowdhary was arrested on 11 November 2005 and released on the same day. The Government indicated that Mr Chowdhary was not subjected to harassment or threats.

489. In a letter dated 23 March 2006, the Government of Nepal responded to the urgent appeal sent by the Special Representative on 19 January 2006 concerning **Tirtha Raj Panta**. The Government stated that Mr Raj Panta was neither threatened nor harassed by police.

Responses received to communications sent by the Special Representative in previous years

490. In a letter dated 22 March 2006, the Government responded to 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. The Government

indicated that he was brought before the competent authority and held by the order of such authority. The Government noted that during detention, Mr Krishna Adhikari was allowed to see his family and to meet with a lawyer of his choice. He was released on 19 December 2003.

491. In a letter dated 22 March 2006, and in addition to responses of 8 November, 14 September and 8 March 2004, the Government replied to the communication of 4 March 2004 noting that **Bhimsen Kumar Gautam** was arrested on 16 February 2004 and detained in Maharajgunj Barracks. He was released on 12 April 2004.

492. In a 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. The Government noted that Ms. B.K. was informed of the grounds of her arrest and detention and was allowed to meet with her family and to consult a legal practitioner of her choice. The Government noted that Ms. B.K. was brought to Panchkhal Barracks on 17 February 2004 at 8.30. The Colonel ordered two Captains to interrogate her. She was questioned and according to the Government she died at 11:30am due to 'wrong methods'. 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.

493. In a 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. The Government noted that he was informed of the grounds for his arrest and detention. The Government indicated that whilst in custody he was allowed to meet with his family and consult with a legal practitioner of his choice.

494. In a letter dated 22 March 2006 the Government replied to the communication of 24 January 2005, stating that it had received 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.

495. In a letter dated 22 March 2006 the Government replied to the communication of 26 January 2005, adding to its previous replies of 28 January, 9 June and 14 September 2005. The Government indicated that investigations concluded that neither **Bhupendra Shahi** nor **Naman Kumar Shahi** had been subjected to threats or harassment. It was also indicated that **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**, were at the scene of a crime when a mob became aggressive and that they were not arrested but rather rescued by Security Force and were taken into protective custody. They were later released on the same day after a general inquiry. They were handed over to Surdarsan Pant, Chairman of District Bar Association. The reply did not include information on **Jitman Basnet** a lawyer and journalist.

496. In a letter dated 22 March 2006, the Government replied to the communication of 7 February 2005 providing additional information to its replies of 7 March 2005. The Government indicated that it had received no information regarding the arrest or detention of **Khagendra Sangraula**. With regards to **Sindhu Nath Pyakurel** the Government noted that he was released

on 24 February 2005 and that he was informed, along with **Bishnu Nisthuri**, of the grounds of his arrest. Whilst in detention both men were also allowed to meet with their families and consult legal practitioners of their choice. The reply of 22 March 2006, failed to provide information concerning the alleged arrest of former Prime Minister **Sher Bahadur Deuba** along with other Ministers, such as the former Foreign Minister.

497. In a letter dated 22 March 2006, the Government replied to the communication of 11 February 2005 providing additional information to its replies of 7 March and 9 June 2005. The Government noted that **Amrit Bohara, Mainali and Mohan Adhikari** were held in 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 in preventive detention on 3 April 2005 under PSA and was released on 2 May 2005. The Government indicated that **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. Furthermore, **Gagan Thapa** was arrested for organizing demonstrations in a 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** was arrested on 1 February 2005 and was later released on 28 April 2005. **Sharma Oli** was 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 the above-mentioned individuals, 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, and Tarka Raj Bhatta** were all informed of the grounds of their arrests and that whilst in detention they were allowed to meet with their families and consult with their of their choice.

498. In a letter dated 22 March 2006 the Government replied to the communication of 17 February 2005, providing additional information to its responses of 28 April and 9 June 2005. The Government noted that **Bal Kirshna Poudel's (Chandra) name at birth** was Balchandra Paudel. The Government further indicated that **Lok Prasad Nagar** was again arrested on 14 March 2005 and later released on 17 September 2005. The Government noted that **Bam Dev Adhikari and Nanda Bhandari (Nanda B.C.)** along with **Kirshna and Prasad** were informed of the grounds of their arrests, and that whilst in detention they were allowed to meet with their families and consult legal practitioners of their choice.

499. 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 the legal practitioners of their choice.

500. In a letter dated 22 March 2006 the Government of Nepal replied to the communication of 19 April 2005 and 22 April 2004 concerning **Shiva Kumar Pradhan**, a human rights defender and the Secretary General of the People's Forum for Human Rights and Development (PFHRD). The Government indicated that Mr Pradhan had been arrested on 19 September 2001 and charged with murdering Mr Budhathoki in Jhapa. It was noted that he was sentenced to three years in prison as of 22 August 2004. He was later released on 20 September 2004. The Government noted that whilst in custody Mr Pradhan was allowed to meet with his family and consult a legal practitioner of his choice.

501. On 22 March 2006 the Government responded to the communication of 8 August 2005. The Government noted that **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.

502. On 22 March 2006, the Government responded to the communication of 8 August 2005 regarding **Ratna Shrestha**. The Government noted that Ms Shrestha was accused of embezzlement of school property and was called for questioning at Zonal Administrative Office, Baglung, on 27 July 2005 where she was detained for approximately four hours and was subsequently released. The Government indicated that Ms Shrestha was neither harassed nor threatened during the inquiry.

Observations

503. The Special Representative thanks the Government of Nepal for its responses to her communications of previous years and its response to her urgent appeal of 19 January 2006. She regrets, however, the significant delay in the Government's responses of between 12 months and three years and urges the Government to respond to her outstanding communications of 2 December 2005, 24 January 2006, 2 February 2006, 28 February 2006, 2 March and 1 December 2006 more promptly.

504. The Special Representative is particularly disappointed that she did not receive a response to her communication of 2 March 2006 concerning an alleged attack by army officers on **Bahadur Malla** and Mr **Shai**. The allegations of military misconduct are serious and the Special Representative would urge the Government to provide a detailed substantive response assuring her that an investigation has been launched into this case and that efforts have been made to bring the perpetrators to justice. The Special Representative regrets that the aforementioned case is not the only allegation of misconduct on behalf of the armed forces. In her communication of 1 December 2006, it is alleged that **Rai Chamling** along with other members of the Blue Diamond Society were subjected to a barrage of verbal abuse and threats by police officers. Further allegations of police abuse were highlighted in the communication of 2 February 2006, when it is reported that excessive police force was used to disperse a peaceful

demonstration, and in the Government's response of 22 March 2006 alleged 'wrong methods', applied by the police provoked the death of **Ms B.K.** whilst in detention. The Special Representative is encouraged by the steps taken by the Government to reprimand the officers involved in the death of Ms B.K. however she remains concerned by reports of the systematic practice of torture and ill treatment practiced by the Police, the Army Police and the Royal Nepalese Army as well as allegations of prosecution immunity to members of the security forces. In this regard, the Special Representative would urge the Government to review the law in relation to state security ensuring that provision is made to prosecute members of the armed forces who have been involved in alleged violations. The Special Representative would request that the Government inform her of any such changes in the law.

505. The Special Representative is also concerned by the mass arrests employed by the Nepalese authorities at public demonstrations in 2006 and would urge the Government to provide detailed substantive responses which highlight the reasons for such arrests. She would like to remind the Government of its obligations under Article 5 (a) of the Declaration on human rights defenders, which states that 'for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully'.

Nicaragua

Comunicaciones enviadas

506. El 4 de mayo de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con **Roque Jacinto Rocha**, docente jubilado y vice coordinador de la Comisión de Derechos Humanos de la Red de Promotores Padre César Jerez y del Centro Nicaragüense de Derechos Humanos (CENIDH). De acuerdo con la información recibida, el 25 de abril de 2006 el señor Roque Jacinto Rocha habría sido atacado por hombres armados cuando se encontraba en la Finca "Mahony" de la comarca Las Sardinias, al sur de El Rama en la Región Autónoma de Atlántico Sur. Roque Jacinto Rocha habría sido herido en el brazo derecho por el ataque y dos campesinos que le acompañaban también habrían sido heridos. Antes del ataque, Roque Jacinto Rocha habría tratado de explicar su trabajo como defensor del derecho a la tierra de los campesinos. Los hombres armados habrían sido empleados del propietario de la Finca "Mahoney". Se expresó temor de que estos eventos pudieran estar relacionados con el trabajo que hace Roque Jacinto Rocha en defensa de derechos humanos, en particular por su labor en defensa de los campesinos de El Rama.

Comunicaciones recibidas

507. Por carta con fecha 28 de julio de 2006 el Gobierno de Nicaragua transmitió la siguiente información en relación con el llamamiento urgente del 18 de enero de 2006 sobre el caso de **Roque Jacinto Rocha**. El Gobierno de Nicaragua informó de que ya se han iniciado las investigaciones por parte de la Procuraduría Estatal.

Observaciones

508. The Special Representative thanks the Government of Nicaragua for its response to her communication of 18 January 2006, and is encouraged by its willingness to investigate the matter. She would urge the Government to keep her informed of developments in this case.

Niger

Communication envoyée

509. Le 17 novembre 2006, la Représentante spéciale, conjointement Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégation sur l'arrestation de M. Claude Quémar, 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. Des préoccupations sont exprimées que l'arrestation de M. Quémar ne soit liée à ses activités de promotion et de défense des droits économiques et sociaux, en particulier à sa participation active au FSN au début de ce mois.

Observations

510. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication.

Nigeria

Communications sent

511. On 10 April 2006, the Special Representative sent an urgent appeal to the Government concerning a "**Bill for an Act to Make Provisions for the Prohibition of Relationship Between Persons of the Same Sex, Celebration of Marriage by Them, and for Other Matters Connected Therewith**". According to the information received, on 19 January 2006, the Minister of Justice presented a "Bill for an Act to Make Provisions for the Prohibition of Relationship Between Persons of the Same Sex, Celebration of Marriage by Them, and for Other Matters Connected Therewith" to the Federal Executive Council which was reportedly approved but not yet submitted to the National Assembly. According to the information received, this bill introduces criminal penalties for public advocacy or associations supporting the rights of lesbian and gay people, as well as for relationships and marriage ceremonies between persons of the same sex. In particular, article 7 (1) of the Bill prohibits the "registration of gay clubs, societies

and organizations by whatever name they are called [...] by government agencies”. Article 7 (3) of the Bill provides for five years imprisonment for “any person involved in the registration of gay clubs, societies and organizations, sustenance, procession or meetings, publicity and public show of same sex amorous relationships directly or indirectly in public and in private”. It also provides the same sentence to anyone who “goes through the ceremony of marriage with a person of the same sex, and “performs, witnesses, aids or abets the ceremony of same sex marriage” (article 8). Serious fears have been expressed that the bill aims at criminalizing activities of human rights defenders working on the rights of gay and lesbians, as well as potentially those engaged in fighting against HIV/AIDS through prevention programs. In particular, serious concern is expressed in view of the restriction such law would place on freedoms of expression and association of human rights defenders and members of civil society, when advocating the rights of gays and lesbians.

512. On 20 June 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Bukhari Bello**, formerly Executive Secretary of the National Human Rights Commission in Nigeria. According to the information received, on 19 June 2006 Mr 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 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 Bello went to the home of the Attorney General in response to this request and that during the meeting Mr Bello was informed that the Government was “not happy” with the stance 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 Bello on 12 May 2006 at the 39th session of the African Commission of Human and Peoples’ Rights, where he criticised 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 Bello on 7 June 2006 in which he had criticised law enforcement authorities for their failure to abide by court orders; a television interview given by Mr 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, Cuba and a press release issued by Mr 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 as Executive Secretary of the National Human Rights Commission in Nigeria represents a reprisal for his critical work in the defence of human rights as the head of the National Human Rights Commission. In particular, the Special Representative expresses her deepest concern that this measure represents a means to obstruct the work of the National Human Rights Commission with regards to the protection of human rights and aims at silencing its critical stand on human rights policies. The Special Representative expresses her serious concern that the above events represent a form of interference with the work of the National Human Rights Commission and undermine its independence.

Observations

513. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication. She urges the Government to respond to her communications and the concerns raised by her.

Pakistan

Communications received

514. On 30 January 2006 the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a joint allegation letter concerning the Chairperson of the Human Rights Commission of Pakistan (HRCP) and United Nations Special Rapporteur on Religious Intolerance **Asma Jahangir**, **Afrasiab Khattak**, former HRCP Chairperson, **Munizae Jahangir**, a journalist, and **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 Jahangir and other members of the HRCP were conducting a fact-finding mission to investigate paramilitary action in Balochistan, Pakistan. It is reported that when Ms Jahangir and other members of the HRCP left Mulastan in a hired car, five or six intelligence agents photographed the car. In Dera Ghazi Khan, where the abovementioned 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 the 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 the BLA.

515. On 7 March 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Naeem Mirza**, **Imran Shareef**, **Saeed Khan**, **Zamurrad Balouch**, **Imran Fatima**, **Sadia Mumtaz**, members of the Aurat Foundation, and **Farzana Bari**, 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 abovementioned 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 abovementioned peaceful protest.

516. On 22 March 2006 the Special Representative jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Imdad Baloch, Yousaf Baloch, Naseem Baloch, Ghulam Rasool, Allah Nazar, Akhtar Nadeem** and **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. Nazar, Dr. Nadeem and Dr. Nawaz were located at a police station in a village in Punjab province, held on charges of robbery. Dr. Nazar was transferred to Balochistan and charged with terrorism. He is currently in 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.

517. On 17 May 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Haneef Ramay**, Secretary General of the Muttahida Labour Federation, **Ghulam Fatima** of the Bonded Labour Liberation Front and **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 Mr Ramay and Ms Fatima, have been charged under section 16 of the Maintenance of Public Order Ordinance, 1960.

Communications received

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

519. By letter dated 16 October 2006, the Government of Pakistan replied to the communication of 22 March 2006 concerning **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 with Section 3 of the Maintenance of Public Order ordinance. 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

520. The Special Representative would like to thank the Government for responding to two communications but requests replies to her joint letter of allegation of 30 January 2006 concerning **Asma Jahangir, Afrasiab Khattak, Munizae Jahangir** and **Muhammad Nadeem** and her joint urgent appeal of 17 May 2006 concerning **Naeem Mirza, Imran Sharef, Saeed Khan, Zamurrad Baloch, Imran Fatima** and **Sadia Mumtaz**.

Paraguay

Comunicaciones enviadas

521. El 19 de octubre de 2006, la Representante Especial, junto con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión, señaló a la atención urgente del Gobierno la información recibido en relación con **Martín Almada**, abogado defensor de derechos humanos y miembro del Comité Ejecutivo de la Asociación Americana de Juristas (AAJ), quien además fue ganador del Premio Nobel Alternativo de la Paz 2002. En 1974, el doctor fue acusado de "terrorismo intelectual" y fue detenido durante la dictadura militar del General Alfredo Stroessner. En 1977, salió exiliado a Panamá y después a Francia. Es autor del libro *Paraguay: La Cárcel Olvidada, el País Exiliado*. Después de la caída del dictador General Stroessner, volvió a Paraguay y desde su regreso al país ha iniciado y participado en varios proyectos para el desarrollo y la promoción de los derechos humanos y la democracia. De acuerdo con la información recibida, 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 expresó la preocupación de que el juicio de Martín Almada representara un intento de desacreditarle y pueda estar relacionado con sus actividades en defensa de los derechos humanos.

522. El 27 de noviembre de 2006, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, señaló a la atención urgente del Gobierno la información recibida en relación con **Martin Almada**, abogado y miembro del Comité Ejecutivo de la Asociación Americana de Juristas (AAJ). De acuerdo con la información recibida, Martín Almada se encontraría en la fecha 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, junto a su esposa, quien falleció.

Desde entonces, Martín Almada ha realizado una de las más importantes contribuciones para el esclarecimiento de los crímenes de lesa humanidad cometidos durante el régimen de Alfredo Stroessner con el hallazgo de los archivos de la Policía Política de la dictadura militar de Alfredo Stroessner (“Archivos del terror”). Desde que descubrió los “archivos del terror”, 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 (Argentina/Paraguay) Yacyreta. En octubre de 2003, en los pasillos de los Tribunales Martín Almada trató de "torturador" al comisario Rolando Agustín Alum, quien le promovió una querrela criminal por difamación y calumnia. En los "Archivos del terror", Martín Almada encontró las pruebas de que el comisario Alum fue el Responsable de torturas en el Centro de Tortura "la Técnica", pruebas 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, con motivo del fallecimiento del ex dictador Stroessner en Brasilia, Martín Almada declaró a la prensa nacional e internacional 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 expresó temor de que las querrelas criminales presentadas en contra de Martín Almada tuvieran 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, en relación con sus reclamos de justicia respecto a las graves violaciones de derechos humanos de la época de la dictadura.

Observaciones

523. The Special Representative regrets that the Government of Paraguay did not respond to her communications of 19 October 2006 and 27 November 2006 in relation to Dr Almada. She would urge the Government to provide a detailed response outlining the exact reasons as to why criminal proceedings have been brought against Dr Almada. She would like to remind the Government of Article 6 (b) and (c) of the Declaration on human rights defenders.

Peru

Comunicaciones enviadas

524. El 13 de enero de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibido en relación con **Iscra Chávez Loaza**, abogada y directora de la organización de derechos humanos Asociación por la Vida y la Dignidad Humana (APORVIDHA), y **Freddy Rodríguez Olivera** y **Evelyn Cevallos Enríquez**, abogados de la misma organización. APORVIDHA es una institución miembro de la Coordinadora Nacional de los Derechos Humanos (CNDDHH) en la región de Cuzco, y ofrece representación legal a las víctimas de violaciones de derechos humanos cometidos durante el conflicto armado interno entre 1980 y 2000. Según la información recibida, el 3 de enero de 2006 aproximadamente a las

11.00 horas, Iskra Chávez Loaza habría recibido un mensaje de texto en su teléfono celular proveniente de alguien anónimo, con el siguiente contenido: “Te estoy vigilando. Cuídate. Tú y tus hijas están en la mira. No viajes, te puede ir mal muy mal”. El 4 de enero de 2006 aproximadamente a las 11.23 horas se habría registrado un segundo mensaje conteniendo insultos y intimidaciones dirigidos a Freddy Rodríguez Olivera y Evelyn Cevallos Enríquez. Según la información recibida la organización APORVIDHA estaría atendiendo el caso de la matanza de 34 campesinos en Lucmahuayco en el departamento de Cuzco en 1984. Según los informes los presuntos perpetradores de la mencionada matanza habrían sido miembros efectivos de la 44 Comandancia de ex Guardia Civil. Se expresó temor de que las amenazas sobre mencionadas estuvieran relacionadas con el trabajo en defensa de los derechos humanos que llevasen a cabo los señores Iskra Chávez Loaza, Freddy Rodríguez Olivera y Evelyn Cevallos Enríquez y en particular por su representación de las víctimas de violaciones de derechos humanos cometidos durante el conflicto armado interno entre 1980-2000.

525. El 29 de mayo de 2006, el Representante Especial junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión señaló a la atención urgente del Gobierno la información recibido en relación con el **Centro de Asesora Laboral (CEDAL)**. El CEDAL es 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 tele conferencia 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 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 expresaron temores de 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. Además, se teme que las supuestas acciones por la APCI puedan ser un intento de minar la labor que hace el CEDAL en defensa de los derechos humanos.

526. El 10 de octubre de 2006, la Representante Especial, junto con el Relator Especial sobre la independencia de los magistrados y abogados, señaló a la atención urgente del Gobierno la información recibida en relación con la señora **Karim Virginia Ninaquispe Gil**, abogada de los derechos humanos y integrante del equipo legal de la Asociación Pro-Derechos Humanos (APRODEH). La organización APRODEH ha asumido la defensa de casos importantes por parte de las víctimas de graves violaciones de derechos humanos y en particular las desapariciones forzadas y las ejecuciones extrajudiciales relacionadas con el conflicto armado interno peruano, incluso la masacre en Cayara Accomarca de 1985. De acuerdo con la información recibida, el 22 de septiembre de 2006, aproximadamente a las 14.00 horas, Karim Virginia Ninaquispe Gil habría recibido una llamada telefónica amenazante de un individuo desconocido que le habría dicho “no salgas de tu casa, vas a morir”. Se informa de que Karim Virginia Ninaquispe Gil habría sido víctima de otros actos de intimidación en los últimos meses. Además, se informa de una serie de actos de hostigamiento en contra de los magistrados, testigos, abogados defensores y expertos desde que se abrieron varios casos sobre graves violaciones de derechos humanos ante los tribunales. Se expresó preocupación que los actos de

intimidación en contra de Karim Virginia Ninaquispe Gil pudieran estar relacionados con sus actividades en defensa de los derechos humanos y en particular su trabajo de defensa de las víctimas en varios casos de graves violaciones de derechos humanos.

527. El 24 de noviembre de 2006, la Representante Especial señaló a la atención urgente del Gobierno la información recibida en relación con amenazas y agresiones en contra de los activistas en oposición a la minería, entre ellos los miembros del **Grupo de Formación e Intervención para el Desarrollo Sostenible (GRUFIDES)**, y en particular el padre Marco Arana, sacerdote y mediador entre el Gobierno y las empresas mineras, y Mirtha Vásquez Chuquilin, Directora del GRUFIDES. Dicha organización no gubernamental lleva a cabo acciones de formación y es asesora legal a las comunidades campesinas de la provincia de Cajamarca. También se ha recibido información en relación con el asesinato de Edmundo Becerra Palomino, Presidente del Sistema de Agua Potable del caserío Ahihadero-Yanacanchilla, miembro de la organización Rondas Campesinas y secretario del Frente de Defensa del Medio Ambiente de Yanacanchilla. De acuerdo con la información recibida, desde el 3 de septiembre de 2006, los empleados del GRUFIDES han sido víctimas de amenazas y actos de hostigamiento. Personas no identificadas habrían tomado fotografías del personal y habrían vigilando a los integrantes, notando y filmando sus movimientos. El 20 de septiembre el GRUFIDES habría denunciado dichos incidentes al Viceministro del Interior, a la Comisaría, a la Prefectura de Cajamarca y a la Comisionada de la Defensora del Pueblo. Según las informaciones, el padre Marco Arana y miembros de su familia ha sido víctimas de llamadas amenazantes en varias ocasiones. El incidente más reciente ocurrió el 14 de noviembre de 2006 cuando un hombre habría seguido al padre Arana, filmándole y cuando el sacerdote le acercó y le preguntó su identidad, el hombre intentó huir en un coche. Sin embargo miembros de GRUFIDES que estaban acompañando al padre Arana, habrían detenido al hombre y le habrían llevado a la Comisaría de Cajamarca donde fue detenido. Además, según los informes, el 27 de septiembre de 2006 la sobrina del padre Arana recibió una llamada en la cual un desconocido le advirtió: “Dile a tu tío que no se meta, le vamos a disparar un balazo en la cabeza”. Después de su participación en un taller en Celedín, organizado por la Red Muqui, una red nacional de ONG de derechos humanos y activistas medioambientales, artículos habrían aparecido en la prensa acusando al Padre Arana de haber promovido conflictos en Celedín. Anteriormente, el 3 de agosto de 2006, el padre Marco Arana habría recibido amenazas de muerte por vía telefónica después de desorden público en contra de expansión de la Minera Yanacocha. Por otra parte, el 31 de agosto de 2006, Mirtha Vásquez Chuquilin habría recibido una llamada en la cual un desconocido habría dicho, “Te vamos a violar y luego te vamos a matar”. El mismo día y el siguiente empleados de la Minera Yanacocha habrían amenazado e insultado a los miembros de GRUFIDES. El 1.º de noviembre de 2006, Edmundo Becerra Palomino, habría sido asesinado de 17 balazos por dos desconocidos. Se expresó preocupación por las amenazas de muerte y los actos de intimidación en contra de los integrantes de GRUFIDES y sus familias porque se teme que pueden estar relacionados con sus actividades en defensa de los derechos humanos, en particular su trabajo para proteger los derechos de las comunidades afectadas por la minería. Además se teme que Edmundo Becerra Palomino haya sido asesinado debido a su oposición a la explotación minera y su trabajo en defensa de los derechos de los campesinos.

Observaciones

528. The Special Representative regrets that the Government of Peru did not respond to her communications of 2006. She would urge the Government to provide a detailed response as to

whether an investigation has been launched into these cases and that appropriate measures have been taken to bring the perpetrators to justice. The Special Representative would like to remind the Government of Article 6 (a) and (b) of the Declaration on human rights defenders.

Philippines

Communications sent

529. On 23 February 2006, the Special Representative sent an urgent appeal together with Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people concerning the situation of leaders and members of the Cordillera Peoples Alliance and Bayan-Muca Cordillera, **Joan Carling** (Chairperson), **Windel Bolinget** and **Ampi Mangile** along with other organizations. According to the information received, a succession of incidents in January 2006 have threatened the life and work of the community's leaders and members, specifically, the reported continuous surveillance of leaders and activists and several incidents involving Ms. Carling who on her way home was allegedly followed by a suspicious motorcycle. Ms Carling also alleges that the lock of her house had been tampered, her car had been broken into and her house monitored. Mr Bolinget and Mr Mangile are allegedly being monitored in their homes and office. Furthermore, there was a reported attempt to force the wife of Mr Mangile to ride in a suspicious van, but she resisted. It is also reported that the offices of Cordillera Peoples' Alliance and Bayan Muca are allegedly being monitored and there have been several break-in and entry attempts. In October 2005 there was an alleged attempt to break into the office of the Cordillera Peoples Alliance, and during the Christmas holidays several suspicious vans with tinted windows were often parked outside the offices. Furthermore, threatening phone calls were allegedly made to the office security guards urging them to leave. The alleged offenders have been described as "military-looking", and it is noted that 272 Cordillera activists have been killed in Philippines since 2001, some of them belonging to Bayan-Muca organization. Concern was expressed that this succession of threatening incidents represented an attempt to intimidate the leaders and members of the Cordillera Peoples Alliance and Bayan-Muca Cordillera and prevented them from carrying out their activities in promotion and defense of indigenous peoples' rights and human rights.

530. On 22 March 2006, the Special Representative sent an urgent appeal together with Special Rapporteur on the human rights and fundamental freedoms of indigenous people concerning a number of incidents that had occurred against activists and staff members of the **Religious of the Good Shepherd**, a tribal Filipino Ministry. This ministry works for the welfare of the Banwaon and Manobo tribal communities in the Philippines. According to the information received, on 24 January 2006, **Mateo Morales**, a human rights activist working in activities related to the defense of the members of the above mentioned Ministry, was shot in his house in Barangay (village) Dona Flavia, San Luis, Agusan del Sur and reportedly died while being transferred to hospital. It is also reported that members of the Citizens Armed forces Geographical Unit (CAFGU) were seen around Mr Morales' house during the wake. This event follows a number of attacks and death threats against members of the Religious of the Good Shepherd which reportedly occurred over the last months. In particular, it is reported that Ricky Martinez, Bernardo Kalosjos and Ely Ybanez, members of the above mentioned Ministry and the tribal leader Manbalanio Badbaran have received several threats and had their physical integrity put in danger by unknown individuals. It also follows reported harassment and intimidation attempts against defenders working on indigenous issues by members of the CAFGU. In

particular, it was reported that on 9 December 2005, a CAFGU member publicly threatened to kill a community leader. Concern was expressed that this reported succession of threatening incidents and the death of Mr Morales might be related to a series of attempts to intimidate the leaders and members of the Religious of the Good Shepherd and prevent them from carrying out their activities in promotion and defense of indigenous peoples' rights and human rights. Fears were expressed on the situation of the above-mentioned persons as indigenous human rights defenders belonging to indigenous organizations.

531. On 26 April 2006, the Special Representative sent an urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers regarding **Elpidio de la Victoria**, environmental lawyer and programme director of the Cebu City Bantay Dagat Commission, and his colleague **Antonio Oposa**, 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 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 de la Victoria was taken to hospital, where he died on 13 April 2006 as a result of his injuries. It is further reported that a police officer has been arrested in connection with the killing of Mr de la Victoria. It is alleged that in the weeks prior to his killing, Mr de la Victoria had reported to friends and relatives that those opposed to his and Mr Oposa's work had raised 1 million pesos to kill them both. It is also reported that Mr Oposa has received serious death threats in recent weeks. Grave concern was expressed that the killing of Mr de la Victoria and the threats against Mr Oposa may have been connected to their work in defense 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 Oposa may be in immediate danger.

532. On 2 June 2006, the Special Representative sent an urgent appeal together with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **Vicente Denila**, member of the Camansi Farm Workers' Cooperative (CFWC) and an active defender of farmers' rights, who was shot and killed by unknown armed men in Negros Oriental, on 27 March 2006. On 5 April 2006, **Florencio Perez Cervantes**, an active supporter of the Bayan Muna (People First) political party and community spokesman, was killed in his house in Barngay village, Santa Cruz, Rosario, Agusan del Sur. Armed men clad in bonnets forcibly entered the house and reportedly shot at **Perez Cervantes** and his family while they were asleep. Mr Cervantes suffered 47 gunshot wounds to his body. According to a statement made by the 36th Infantry Battalion of the Philippine Army, Mr Cervantes was killed in crossfire. To date, his murder has not been investigated. On 15 April 2006, **Rico Adeva**, a land rights activist and staff member of the Task Force Mapalad (TFM), was shot and killed with his wife while he was on his way to Talisay. Three armed men reportedly asked the couple to lie down and shot them several times in their head, neck, hands and torso. On 22 April 2006, **Porferio Magsalang**, an active defender of rural workers and Chair of the Pambansang Katipunan ng Makabayang Magbubukind (PKMM), was shot and killed by four unidentified armed men, who entered his home in Sitio Caraan, Brangay Tampalon. On 24 April 2006, **Enrico Cabanit**, Chairperson of WADECOR Employees Agrarian Reform Beneficiaries Association Inc. (WEARBAI) and Secretary General of Pambansang Ugnayan ng mga Nagsasariling Lokal Organisasyon sa

Kanayunan (National Coordination of Local Autonomous Rural People's Organisations-UNORKA), was shot in the head and killed at the Panabo Public Market by two unidentified individuals. His 23 year old daughter, Daffodil, also a member of UNORKA, was also seriously injured in the attack, sustaining a gunshot wound to her chest. She was transferred in a critical condition to the hospital. A few hours before his killing, Mr Cabanit had participated in a successful dialogue between the Davao del Norte plantation workers and officials of the Department of Agrarian Reform. During this meeting, he had requested that some land belonging to a local landowner Don Antonio Floirendo be included in the list of plots to be redistributed by the Comprehensive Agrarian Reform Programme (CARP) to poor farmers in the region. This attack occurred less than two months before the National Congress of UNORKA was to be held in Panabo in June 2006. On 10 May 2006 **Elena Mandiola**, secretary general of the Bayan Muna (People First) party, and her husband Ricardo Balauag, were killed by armed men in Barangay Gair, Echague, Isabela. It is reported that Elena Mandiola had previously been the subject of an attempt on her life on 10 March 2006. Between August 2005, and 2 June 2006, the Special Representative, along with other special procedures mandate holders, had issued five communications concerning the killings of eight human rights defenders.

533. On 19 June 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **Elisa Tita Lubi**, a pro-democracy activist, a member of the Board of Trustees of SELDA, (an organization of former political prisoners), a participant in the Programme 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 (KARAPATAN). According to the information received, the Ministry of Justice of the Philippines is currently seeking a court order for an arrest warrant to be issued for Ms Lubi, together with 48 other individuals, based on 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 of 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 be related to Ms Lubi's legitimate activities in defence of human rights, in particular because of her pro-democracy activities.

534. On 27 June 2006, the Special Representative sent an allegation letter, together with Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, concerning the death of **Rafael Markus Bangit**, coordinator of the elder desk of the Cordillera Peoples Alliance, regional coordinator and spokesperson of the Boodong Pongor Organization and member of the Regional Council of the Cordillera Peoples' Alliance. He also belonged to the Malbong tribe of Tomiangan, Tabuk, Kalinga. According to the information received, on 8 June 2006, Mr Bangit was killed on his way to Baguio City from Tabuk, Kalinga. Mr Bangit was travelling in a GL Trans bus which stopped in San Isidro, Echague, Isabela around 1800h for 90 minutes. It is alleged that when he was returning to the bus, a hooded man suddenly appeared from a dark-coloured van and shot dead Mr Bangit. An innocent bystander who started screaming, Ms Gloria Casuga, was also shot and killed. The van was allegedly

parked in a dark place and people were not able to identify its number plate. It is alleged that prior to this incident, Mr Bangit told several people that he was under close surveillance for more than three days by unidentified persons. Concern was expressed that the killing may have been related to Mr Bangit's human rights work, in particular because of his activities in defence of indigenous peoples' rights.

535. On 3 July 2006, the Special Representative sent an allegation letter together with Special Rapporteur on violence against women concerning **Annaliza Abanador-Gandia**, a pro-democracy activist and leader of the *Pagkakaisan ng Kabababain (Kaisa Ka)*, an organisation that works in defence of women's rights. According to the information received, on 18 May 2006 Ms Abanador-Gandia was shot and killed by two unknown gunmen. It is alleged that she was working inside the Duckie shop in Batanga City when two men arrived on a motorcycle and entered the shop. It is reported that Ms Abanador-Gandia suffered eight gunshot wounds to her head and body. It is also reported that on 16 May 2006 Ms Abanador-Gandia had been followed by two men on motorcycle. Grave concern was expressed that the killing of Ms Abanador-Gandia may be connected with her activities in defence of human rights, in particular because of her pro-democracy activism. Particular concern was expressed that the killing of Ms Abanador-Gandia may form part of a campaign to silence human rights defenders in the Philippines.

536. On 12 July 2006, the Special Representative sent an allegation letter together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning **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, **Eladio Dasi-An**, a volunteer with the Alliance for the Advancement of People's Rights (KARAPATAN), **Tito Marata**, provincial officer of the Rural Missionaries of the Philippines and a member of the Farmers for Agrarian Reform Movement, **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, **Maricel Vigo**, wife of Mr George Vigo and area coordinator for Solar Power Technology System SPOTS 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 **Mario Domingo**, President of the Hacienda Cambuktot Agrarian Reform Beneficiaries Association (HACARBA), an organisation 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 Domingo was shot and killed in the Hacienda Cambuktot, Mansalanou, 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 Marata was shot dead by a gunman riding on a motorcycle in Loboc village, Oroquieta City. On 19 June 2006 at approximately 5pm George and Maricel Vigo were shot and killed by two armed masked men who were travelling by motorcycle in Mindanao province. On 20 June 2006, Mr Dasi-An was killed by two unknown men who were travelling by motorcycle as he was travelling home in Barangay Malusay Guihulngan. It is reported that Mr Dasi-An was shot seven times. On 26 June 2006 Mr Cornea was shot by two unidentified men at his home in Hacienda Mulawin, Sagay. Grave concerns were expressed that the killings of Mr Domingo, Mr Dasi-An, Mr Cornea and Mr Marata were 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 George and Maricel Vigo were connected with their defence of the right to freedom of expression and opinion in the Philippines.

537. On 12 July 2006, the Special Representative sent an allegation letter together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning **Shamrod Adulaziz**, spokesperson for the Alliance for the Advancement of People's Rights (KARAPATAN). KARAPATAN is an alliance of non-governmental organisations that advocates for the protection of human rights in the Philippines. According to the information received, on 5 July 2006 Mr Adulaziz received a text message on his mobile phone which read "Supporters of the Communist Party of the Philippines-New People's Army-National Democratic Front, your days are numbered". It is reported that the message came from the phone number +639066677136 and that the same message was sent to three other individuals at the same time. It is further reported that a similar message, allegedly from the same sender, was sent to George and Maricel Vigo two weeks before they were killed on 19 June 2006. Both men were the subjects of a letter of allegation sent by the Special Representative on 12 July 2006. Concerns were expressed that the alleged threat is connected with the activities of Mr Adulaziz in defence of human rights and forms part of a campaign against human rights defenders in the Philippines, aimed at preventing them from carrying out their activities in defence of human rights. Further concerns were expressed for the physical and psychological integrity of Mr Adulaziz.

538. On 9 August 2006, the Special Representative sent an urgent appeal together with Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people concerning the death of **Alice Claver**, wife of Constancio "Chandu" Claver, Chairperson of Bayan Munja Kalinga, Vice Chairperson of Cordillera Peoples Alliance-Kalinga and defender of human rights, peace and justice. According to the information received, on 31 July 2006, around 6.30 am, the van that Constancio "Chandu" Claver was driving was shot with powerful rifles in Bulanao, Tabuk. It is alleged that the defenders were ambushed by military operatives who were waiting for the arrival of Constancio "Chandu" Claver. Alice Claver died from multiple gunshot wounds. Constancio "Chandu" Claver and a bystander, Janice Ewang, student and member of Tanudan Tribe, were seriously injured and had to go to hospital. Alice's seven year old daughter was present during the shooting and is said to be deeply traumatized. Concern was expressed that the assassination may be related to Constancio "Chandu" Claver's human rights activities in favour of indigenous peoples of the Cordillera.

539. On 15 September 2006, the Special Representative sent an urgent appeal together with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the extrajudicial killings of **Pastor Isaias Sta. Rosa, Ceasar Quimco, Victor Olayvar, and Napoleon Bautista** allegedly by members of the military. According to the information received, Pastor Sta. Rosa, a United Methodist Church religious worker and a member of the leftist Kilusang Magbubukid ng Bicol (Peasant Movement of Bicol), was killed in Barangay (village), Malobango, Daraga, Albay. On 3 August 2006, several armed men reportedly entered his house and ordered all those inside to drop to the floor. They then grabbed the Pastor and beat him while trying to force him to admit that he was in fact a person named "Elmer". Pastor Isaias allegedly denied being that person and told them to check his identification card. According to our source, Pastor Isaias was then taken outside. When his family was certain that the armed men had left, they rushed outside. His family found the dead body of the Pastor lying in a nearby creek, some 40-50 meters away from their residence. He had reportedly suffered six

gunshot wounds in his chest, thigh and foot. According to the information received, this case appears to involve the military, given that the body of an alleged perpetrator was found next to the Pastor's body. The local police have identified the body as being that of Corporal Lordger Pastrana. The following items were found on his body: an identification card showing that he was a member of the Army's 9th Infantry Division (ID), based in Pili, Camarines Sur; a 45-caliber pistol; a cellular phone allegedly taken from the Pastor's house; and a mission order detailing the operation he was part of and signed by Major Earnest Mark Rosal. Corporal Pastrana is believed to have been one of the armed men who entered the house of Pastor Isaias, but it is thought that he was accidentally shot by his own men while the Pastor was trying to escape. The Corporal reportedly received a bullet in the right side of his body. On 22 August 2006, Ceasar Quimco was killed in Barangay (village), Ipil, Carmen, Cebu. According to our source, Mr Quimco had received death threats and his family was being harassed by elements of the Army's 78th Infantry Battalion. It is reported that Mr Quimco had a conflict with two military attached to the said Battalion. On 7 September 2006, Victor Olayvar was shot dead at Bridge Caban, Barangay (village), Cantubod, Danao by armed men riding a motorcycle. At the time of his death, Mr Olayvar was an active leader of Bagong Alyansang Makabayan or Bayan-Bohol. He was also the president of HUMABOL (Bohol Peasant Organisation) from 1997 to 2000. Mr Olayvar is believed to have been targeted by the military in Bohol as he was been threatened by elements of the 302nd Brigade. According to the information received, the same day the body of Napoleon Bautista was found in Barangay (village) Pungo, Calumpit, Bulacan. His hands were tied with wire and his feet had torture marks. He had suffered two gunshot wounds to his head and back. According to our source, on 30 August 2006, Mr Bautista was abducted together with his wife, allegedly by elements connected to the military. His wife was released a day after she was abducted. Napoleon Bautista was a member of Samahang Bantay Palaisdaan, a group of fishermen that belongs to a national organisation of fishermen Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (Pamalakaya). Mr Bautista was amongst those who survived the Mendiola massacre in 1987. In that incident, government forces reportedly opened fire on a crowd of peasants and protesters killing several of them while they were holding a protest demanding land reform.

540. On 13 October 2006, the Special Representative sent an urgent appeal regarding a death threat received by **Fr Antonio Ablon** of Iglesia Filipina Independiente (IFI), a prominent human rights defender who has been actively engaged in human rights work as a National Council Member of the Promotion of Church People's Response (PCPR) and the secretary general of the human rights group Karapatan in the region. Karapatan is one of the most active local organizations in reporting the on-going extra-judicial killings in the Philippines. Reports indicate that this threat forms part of a series of ongoing acts of harassment against clergy members of IFI including **Fr Terry Revollido** in Pangasinan, **Fr Sonny Teleron** in Western Mindanao and **Fr Marco Sulayao** and **Fr Romeo Tagud**, both based in Visayas, who have all allegedly received threats. This latest threat against Fr Ablon came only three days after the killing of **Bishop Alberto Ramento** of IFI and has since been followed by the killing of fellow IFI priest **Fr Dionisio Ging-Ging**. Bishop Ramento was also a prominent human rights defender through his work as a convener of Pilgrims for Peace and a provincial leader of Karapatan. Bishop Ramento was also the chairperson of the board of the Workers Assistance Centre, a labour group in Rosario, Cavite Province, and was a strong supporter of the farm workers of Hacienda Luisita who staged a strike that was violently suppressed by the police and military in November 2004, resulting in the death of seven striking farm workers on the picket line. Fr Ging-Ging was an active campaigner against poverty and injustice. According to the information

received, on 6 October 2006 at approximately 4.45pm, Fr Ablon, a priest in the parish of Cagayan de Oro, reportedly received a threatening text message to his mobile phone via SMS (short message service) from a number which appeared as 09203546270. The message stated: "Fr Ablon, patay ain ang supreme bishop ikaw pa kaha i sample ka namo dinhi sa CDO. (Fr Ablon, even the supreme bishop was killed. We will make you an example here in Cagayan de Oro.)". Fr Ablon has reportedly received several death threats and it is feared that this may be in relation to his work in advocating human rights. On 3 October 2006 at 4am, Bishop Ramento, aged 69, was found dead in his room in the San Sebastian, parochial house in Tarlac City, 105 km north of Manila. According to reports he had been stabbed seven times. Initial police investigation reports have classified the incident as a case of robbery with homicide. However, reports indicate that his killing was premeditated. It is reported that prior to his death Bishop Ramento complained that he had been receiving death threats in relation to his advocacy activities for human rights. He allegedly said: "I know they are going to kill me next. But never will I abandon my duty to God and my ministry to the people." It is further reported, on 8 October 2006, at 5am, **Fr Dionisio Ging-Ging**, a parish priest in Surigao del Sur on the southern island of Mindanao, was shot dead by three unidentified masked gunmen outside his home as he was on his way to the church. According to the information received, he was stabbed and slashed after he had fallen to the ground. Reportedly the police authorities investigating the death of Fr Ging-Ging have determined that the attack is the result of a personal vendetta against the cleric. Grave concerns were expressed that the killings of Bishop Ramento and Fr Ging-Ging may be in retaliation of their legitimate activities in defence of human rights. Further concerns were expressed that the death threats against Fr Ablon, Fr Revollido, Fr Teleron, Fr Sulayao and Fr Tagud may form part of an ongoing campaign of harassment and intimidation against human rights defenders in the Philippines.

541. On 9 November 2006, the Special Representative together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur on the question of torture, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning **Aprilyn Perido**, aged 26, organizer of the provincial chapter of the urban poor group Kalipunan ng Damayang Mahihirap; **Eloisa Tucay**, aged 24, member of Abakbayan Youth Group; **George Lavadia**, aged 32, former spokesperson of the Erap Resign Movement and member of the AMA-Sugbo-KMU and **Sharon Abangan**, aged 33, member of the Panaghiusa sa Gagmay'ng Mangngisda sa Sugbo, the Salvador Bantay Dagat Association, and campaign manager of the Anakpawis political party. According to the allegations received. On 1 September 2006, Mr Lavadia and Ms. Abangan were arrested by the Police in Talisay City on suspicion of being involved in "subversive activities". There are allegations that the pistols, grenades, a laptop and documents allegedly seized from them could have been planted on them. Although the police at first denied having arrested them, it was later confirmed that they are being held incommunicado in police custody. On 4 September 2006, Ms. Perido and Ms. Tucay were arrested by the Philippines National Police Provincial Special Operations Group (PSOG) in front of the Wesley Divinity Seminary School of the United Methodist Church on Mabini Street, Cabanatuan City. They were both detained without any formal charge. Although the PSOG initially denied having arrested them, officials later confirmed that they were being held in custody. They are being detained incommunicado. Concern was expressed that these arrests may be connected with their legitimate activities as human rights defenders, particularly in relation to the promotion and defense of the rights of indigenous peoples, and may represent an attempt to

prevent them from being able to meet and communicate with other international human rights defenders.

542. On 15 November 2006, the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people sent an urgent appeal concerning **Abigail Bengwayan**, Public Information and Human Rights Officer of the Cordillera Peoples' Alliance, and **Santos Mero**, Public Information Officer of the Cordillera Peoples' Alliance and spokesperson of the Defend Patrimony-Cordillera organization. According to the information received, on 19 September 2006, at 7.25 p.m., Ms. Abigail Bengwayan was reportedly assaulted by an unidentified man on her way home, near the highway in Betag, Benguet. The attacker, who allegedly wore a cap with handkerchief covering his face, is supposed to have armlocked Ms. Bengwayan and held a knife to her neck. Ms. Bengwayan was able to call the attention of neighboring residents and struggled to escape towards their house. Another man, allegedly the lookout of the assailant is alleged to have been also seen in the proximity of Ms. Bengwayan's residence. The same day, at 7 p.m., Mr Santos Mero was allegedly followed by a suspicious-looking man riding a motorcycle on his way home from the office of the Cordillera Peoples' Alliance, in Baguio City. Grave concerns were expressed that the alleged acts of intimidation may be related to a succession of allegations concerning recent threats and intimidations against various members of the Cordillera Peoples' Alliance, the federation of indigenous peoples' organizations of the central mountain region of Northern Luzon, and active participants in various international forums concerning the promotion and protection of the rights of indigenous peoples, including the United Nations Permanent Forum on Indigenous Issues and the United Nations Working Group on Indigenous Populations.

Responses received to communications sent by the Special Representative in previous years

543. In a letter dated 19 January 2006, the Government 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 opinion and expression, on 25 August 2005 concerning **Castor Gamalo, Edison Lapuz, Alfredo Malinao, Fedilito Dacut, Romeo T. Capulong, Allen Caparro** and **Aileen Caparro**. The Government stated that the Philippine National Police found that 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 the 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 the PNP continues to monitor the situation and will provide information on any further developments regarding the case as appropriate.

Communications received

544. In a letter dated 9 June 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people on 22 March 2006. The Government stated that the Philippine National Police had reported that **Mr Morales** was killed as a result of a family feud. The Government indicated the Osias Ruales is a suspect in the case and that the San Luis Municipal Police Station is preparing a case against Mr Ruales based on a reported witness testimony.

545. In a letter dated 11 September 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and the Special Rapporteur on extrajudicial, summary or arbitrary executions on 2 June 2006. The Government stated that the Philippine National Police was awaiting information regarding the cases of Andy Pawikan, Vincent Denilla, Perforio Magsalang and Enrico Cabanit. The Government provided feedback on the cases of **Florencio Perez Cervantes, Rico Adeva, Elena Mendiola, Ricardo Balaug, and Analiza Abanador Gandia**. Regarding the case of Mr Cervantes, the Government indicated that the Regional Intelligence and Investigation Division of the Philippine National Police revealed that Mr Cervantes was killed when police officers visited his house to recover a firearm, allegedly given to him by Mr Julito Acevedo Piling, Commanding officer of the New Peoples Army, who was arrested on 10 April 2006. It was indicated that on approaching the house, officers were fired upon by Mr Cervantes, and one of the officers was injured prompting one of the officers to retaliate. Mr Cervantes was killed in the encounter and the Government noted that two firearms were found at Mr Cervantes residence. It was concluded that Mr Cervantes was killed as a result of a legitimate military operation. In relation to the case of **Mr Adeva** the Government indicated that the Directorate for Investigation and Detective Management of the National Police Commission had filed charges against two suspects identified by Nenit Adeva, Mr Adeva's wife. It was indicated that one of the suspects is a distant relative of her late husband. The case is still pending preliminary enquiry. Regarding the case of **Elena Mendiola and Ricardo Balaug**, killed on 10 May 2006. The Government noted that investigations revealed that an eyewitness identified four suspects and that the motive for the crime may be related to misappropriation of funds from local Bayan Muna members. The case is still under preliminary investigation. Concerning the case of Ms **Abanador Gandia**, the Government stated that Balanga Municipal Police Station recovered empty bullet shells from the scene of the crime and witnesses were interviewed. Two suspects who are believed to belong to the New Peoples Army have been charged with the killing of Ms Abanador Gandia pending preliminary investigation.

546. In a letter dated 28 August 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and the Special Rapporteur on the independence of judges and lawyers on 19 June 2006. The Government stated that following an investigation by the Philippine National Police an official complaint had been lodged against **Ms Lubi**, along with 50 other individuals for acts of rebellion. The Government noted that the charges brought against Ms Lubi were not in relation to her legitimate activities in the defence of human rights. It was further noted that during preliminary investigations Mr Lubi, along with other respondents were requested to complete a written response to the charges brought against them, however Ms Lubi refused to do so. Following the preliminary investigations, it was noted that Ms Lubi was charged with acts of rebellion pending trial at the Regional Trial Court of Makati.

547. In a letter dated 8 September 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people on 27 June 2006. The Government stated that an investigation carried out by the Task Force USIG concluded that at approximately 7 am on 8 June 2006, an unidentified individual wearing a black hood boarded the bus on which Mr Markus Bangit was traveling. Both **Mr Bangit** and **Ms Gloria Casuga** were shot five times, and the perpetrator fled the scene in a blue van. Ms Casuga died at the scene whilst Mr Bangit was pronounced dead on arrival at the hospital. During the course of the investigation Mr Bangit's son was questioned. The Government indicated that an investigation into the incident

was ongoing and that assistance from the Chief of Police at Tabuk Police Station had been requested to assist with enquiries.

548. In a letter dated 8 September 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and the Special Rapporteur on violence against women, its causes and consequences, on 3 July 2006. The Government stated that as a result of an investigation carried out by the Directorate for Investigation and the Detective Management of the National Police Commission, Mr Allan Prado and Mr Jose Carrabero were the prime suspects in the case based on witness testimonies. The Government indicated that as of 8 September 2006, the killing of **Ms Abandor-Gandia** was pending preliminary investigation.

549. In a letter dated 21 July 2006, the Government 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 opinion and expression, on 12 July 2006. The Government stated that in order to carry out a comprehensive investigation into the case, further details were required regarding the provinces and municipalities where the incidents occurred.

550. In a letter dated 14 August 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and Special Rapporteur on the situations of human rights and fundamental freedoms of indigenous people on 9 August 2006. The Government acknowledged receipt of the aforementioned communication and indicated that the case had been brought to the attention of concerned authorities in the Philippines.

551. In a letter dated 25 September 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people on 9 August 2006. The Government stated that based on information provided by the Philippine National Police, on 31 July 2006, at approximately 6.45 am **Mr Constacio** and **Ms Alice Claver** were ambushed by two unidentified individuals who sprayed their car with bullets. They were travelling with their daughter. The Government indicated that based on information received from the Task Force, witnesses have come forward to provide details surrounding the shootings. As a result the number plates of the vehicle in which the perpetrators made their getaway has been identified, however according to police reports the number is unlisted. The Government stated that detectives working on the case are conducting interviews and pursuing possible leads so as to determine the motive for the attack. The Government also noted that there has been no evidence to suggest military involvement.

552. In a letter dated 16 October 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people on 15 September 2006. The Government acknowledged receipt of the aforementioned communication and indicated that the case had been brought to the attention of concerned authorities in the Philippines.

553. In a letter dated 27 November 2006, the Government responded to the urgent appeal sent jointly by the Special Representative, and Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people on 15 September 2006. The Government stated that the case of **Cesar Quimco**, killed on 22 August 2006, is currently under investigation by the Philippine National Police. In addition the case of **Napolean Bautista**, killed on 30 August

2006, has been referred to the Directorate for Investigation and Detective Management of the National Police Commission for further investigation. It was noted that, regarding the case of **Pastor Isias Sta. Roasa**, preliminary investigations have revealed that Pastor Sta. Rosa was dragged from his residence by Corporal Pastrana and gunshots were subsequently heard by witnesses. A sum of money was taken along with a computer and a mobile phone. A wallet containing identity documents was also taken and a 1. calibre pistol with silencer and a magazine loaded with live ammunition was found at the scene. The Government indicated that an investigation into the killing of Pastor Sta. Rosa is ongoing. The Government noted that in relation to the killing of **Victor Olayarr**, on 7 September 2006, a murder case has been filed before the Bohol Provincial Prosecutor's Office against Rolando Torres, Marlou Betas and Neil Logronio based on witness accounts. Mr Torres was arrested on 11 September 2006 and the motorcycle allegedly used in the crime was found to be in his possession. The Government also indicated that compensation has not been awarded to victims of the families of Pastor Sta. Rosa or Mr Olayyar.

554. In a letter dated 23 October 2006, the Government responded to the urgent appeal sent jointly by the Special Representative on 13 October 2006. The Government stated that following the killing of **Bishop Alberto Ramento** the Tarlac City Police conducted an immediate investigation into the incident and as a result four suspects were arrested. It was noted that two of the accused admitted to selling Bishop Ramento's gold ring, whilst another was identified through a third-party transaction involving the sale of Bishops Ramentos mobile phone. A case for robbery with homicide has therefore been filed against the suspects in the case who have been detained at the prison in Tarlac City. The Government noted that in relation to the killing of **Fr Dionisio Ging-Ging**, the Independent Church of the Philippines (IFI) issued a statement indicating that "Dionisio Ging-ging was not a member and has never been a member, nor a parish priest of the church which was assigned at Tago, Surigo del Sur". It was also indicated that a police investigation revealed that Fr Ging-Ging was affiliated with the IFI, but that he left following a disagreement with some of its members, and shortly thereafter he established his own church and became involved in faith healing. The Government stated that the police were pursuing a possible lead in relation to the case, in which the family of a patient who Fr Ging-Ging refused to treat, blamed him for the death of said individual. The Government concluded by indicating that the police was awaiting further information regarding the cases of Fr Albon, Fr Revollido, Fr Teleron, Fr Sulayao and Fr Tagud.

555. In a letter dated 27 October 2006, the Government responded to the urgent appeal sent jointly by the Special Representative on 13 October 2006. The Government stated that in relation to the case of Fr Ging Ging, a follow-up investigation revealed that Mr Ging-Ging's death was the result of a personal feud in which the family of a patient who Fr Ging-Ging refused to treat, were prime suspects. The Government also noted that the Regional Police Force has been requested by the Directorate for Investigation and the Detective Management of the National Police Commission to conduct an investigation into the alleged death threats against Fr Albon.

Observations

556. Most communications sent during this reporting period were of a most serious nature, concerning allegations of killings and/or death threats to human rights defenders, many of whom defend the rights of indigenous persons.

557. The Special Representative thanks the Government of the Philippines for its detailed responses. She is encouraged to observe that in most cases, the Government has taken preliminary measures to ensure that killings are investigated and the perpetrators held accountable. She notes however, that despite these preliminary efforts, no perpetrators of violations have yet been brought to justice. In this respect the Special Representative would like to receive clarification from the Government as to the status of the following 'preliminary investigations' into the alleged killings of the following defenders: the killing of **Mateo Morales** subject of her joint urgent appeal of 9 June 2006; the killing of **Florencio Perez , Elena Mendiola, Ricardo Balug and Ms Abanador Gandia** subject of her joint urgent appeal of 2 June 2006; the killing of **Constacio** and **Alicve Claver**, subject of a joint urgent appeal of 9 August 2006; the killings of **Pastor Isaias Sta. Rosa, Mr Cesar Quimco, Victor Olayvar and Napoleon Bautista** subject of her joint urgent appeal of 15 September 2006; the killing of **Bishop Alberto Ramento** and **Fr Dionisio Ging-Ging** subject of her joint urgent appeal of 13 October and the death threats to **Fr Antonio Albon, Fr Terry Revollido, Fr Sonny Teleron, Fr Marco Sulayao, Fr Romeo Tagud** . The account as to what happened varies so significantly between the Government and the sources of the information in many of these cases, that the Special Representative would appreciate information on the results of the ongoing police investigations and prosecutions as soon as possible.

558. The Special Representative would also appreciate Government replies to some outstanding requests for clarification that remain unanswered: her joint urgent appeal of 2 December 2005 concerning the alleged death threats to **Fr Rolando de Leon**; her joint urgent appeal of 23 February 2006 concerning threats to **Joan Carling, Windel Bolinget and Amping Mangile**; her joint urgent appeal of 26 April regarding the shooting of environmental lawyers and activists **Elpidio de la Victoria** and the death threats to **Antonio Oposa**; her joint allegation letter of 12 July 2006 concerning death threats to **Shamrod Adulaziz**; her joint urgent appeal of 9 November 2006 concerning the arrest and incommunicado detention of **Aprilyn Perido, Elois Tucay, George Lavadia** and **Sharon Abangan**.

Poland

Communications sent

559. On 5 December 2006, the Special Representative together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance sent an urgent appeal concerning the banning of public events organised by the lesbian, gay, bisexual and transgender community as well as discrimination against this community. According to information received, on 15 November 2005, the mayor of the city of Poznan banned a public event known as the **Equality March**, which had been organised by a number of lesbian, gay, bisexual and transgender (LGBT) and women's rights organizations. The march was planned to take place on 19 November 2005 and was intended to provide a platform for a discussion about tolerance, anti-discrimination and respect for the rights of sexual minorities. The ban was issued on the grounds of security concerns, despite the fact that security measures had already been agreed to between the municipality and the organisers of the march. Despite the ban, a few hundred protestors gathered on 20 November 2005 for a demonstration. The demonstrators were reportedly harassed and intimidated by members of a right wing group known as the All Polish

Youth who shouted discriminatory slogans at them including 'Let's get the fags', and 'We'll do to you what Hitler did with Jews'. The police only intervened toward the end of the march to disperse the crowd. It is reported that in so doing the police roughly handled several individuals and arrested and interrogated over 65 persons, who were later released. Moreover, in November 2004, the Equality Parade was stopped when the police failed to protect the demonstrators from members of the All Polish Youth who blocked the event. In September 2005 a Warsaw court had declared illegal the decision of the Mayor to ban the Equality Parade. In light of the fact that Equality Parades had also been banned in Warsaw in June 2004 and in May 2005, concern is expressed that the banning of Equality March in Poznan was based primarily on intolerance towards the LGBT community in Poland. This is highlighted by the fact that political figures are reported to have publicly made homophobic statements. For example, when the Equality Parade of May 2005 was banned, Mr Lech Kaczynski, the current President of Poland and former Mayor of Warsaw, had stated that the parade would be 'sexually obscene' and offensive to other people's religious feelings. Less than a week after this parade was to take place, the Mayor authorised another march to take place during which members of the All Polish Youth reportedly shouted slogans inciting intolerance and homophobia. Other political figures were also reported to have made public homophobic statements, including that if 'homosexuals try to infect others with their homosexuality, then the State must intervene in this violation of freedoms'. Other public figures called for no tolerance for homosexuals and deviants and called on the public not to mistake the brutal propaganda of homosexual attitudes for calls for tolerance. Concern was further expressed in light of the recent abolition of the Office of the Government Plenipotentiary for the Equality of Men and Women which body was responsible, inter alia, for the promotion of equal treatment sexual minorities.

560. On 26 April 2006, the Special Representative together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance sent an urgent appeal concerning the third annual Krakow March for Tolerance, due to take place in Krakow, Poland on 28 April 2006. The **Krakow March for Tolerance** is a peaceful march organized by the Campaign against Homophobia in Poland and aims to provide a platform for discussion about tolerance, anti-discrimination and respect for the rights of all persons regardless of their perceived sexual orientation. According to the information received, a number of organizations have indicated their fear that past violence against this type of peaceful demonstration is likely to occur on this occasion. In 2004 peaceful participants in the Krakow March for Tolerance became victims of physical attacks by extreme nationalist groups. In November 2005 demonstrators in Poznan were reportedly harassed and intimidated by members of a right wing group known as the All Polish Youth. At both events it was reported that the police stood by and failed to protect the demonstrators from being harassed and intimidated by members of the All Polish Youth who shouted discriminatory slogans at them including "Let's get the fags", and "We'll do to you what Hitler did to the Jews". Furthermore, when the police did intervene it was reportedly done in a violent manner against the peaceful demonstrators. The Poznan event was brought to the attention of the Government in a communication sent by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Representative on 5 December 2005. The Special Rapporteur and Special Representative thank the Government of Poland for its prompt response to their communication and acknowledge the findings of the Constitutional Tribunal and notes that the abovementioned decisions banning the marches were subsequently quashed in appeal proceedings. Nevertheless, we would like to express our continued concern about the reported harassment of human rights defenders campaigning for equality and against discrimination based

on perceived sexual orientation, and encourage the Government of Poland to protect participants of the Krakow March for Tolerance against any possible discriminatory or hateful abuse. Concern was expressed that such harassment may prevent peaceful demonstrators from carrying out their legitimate human rights activities.

561. On 27 June 2006, the Special Representative sent an allegation letter together with the Special Rapporteur on the right to education concerning **Miroslav Sieltaycki**, former director of the National In-Service Training Centre (NITTC). According to the information received, on 9 June 2006 Mr Sieltaycki was dismissed from his position as Director of the National In-Service Training Centre by the Minister for Education, Mr Roman Giertych in Poland. It is reported that the reason for his dismissal was due to Mr Sieltaycki's involvement in the publication and dissemination of the Council of Europe's handbook entitled, "COMPASS: a Manual on Human Rights Education with Young People". (COMPASS is a non-formal educational tool that is translated into as many as 17 languages and used to educate young people in Council of Europe member States and neighbouring countries about human rights issues). Concern was expressed that the dismissal of Mr Sieltaycki may represent a punishment for his legitimate activities in the promotion and protection of human rights, in particular because of his role in the publication and dissemination of the Council of Europe's human rights handbook. Further concern is expressed that his dismissal may be an attempt to prevent the dissemination in Poland of educational material that promotes universal human rights and respect for diversity.

562. On 19 October 2006 the Special Representative sent an urgent appeal concerning threats and acts of intimidation against **Katarzyna Hejna**, member of Kampania Przeciw Homofobii (Campaign against Homophobia) in Torun. She is also a founding member of ALERT, an organization which supports civil society in Poland and is a volunteer with Polska Akcja Humanitarna (Polish Humanitarian Organization). According to the information received, Katarzyna Hejna has been the subject of a campaign organized by a group calling themselves "Redwatch" who have established a website identifying people who they claim are "engaged in anti-fascist, anti-racist activities... all kinds of supporters and activists of broadly understood homosexual lobby[ing]". In October 2005, Ms Hejna was actively involved in organizing a peaceful demonstration "Marsz rownosci idzie dalej" (Equality March Goes Further) to protest against the authorities' decision to ban public assemblies of LGBT groups in Poznan. According to reports, Ms Hejna's personal details have been published on the website, including photographs of her, with her name, telephone number and email address, despite the fact that according to Polish law it is illegal to publish such details without the consent of the individual concerned. Since the publication of her details on the aforementioned website, Ms Hejna has reportedly received threatening emails and has been verbally harassed in the street. It is reported that Ms Hejna has made a written statement to the police but she is not aware of any progress that has been made with regard to her case. Concern was expressed for the safety and security of Ms Hejna as it was feared that the publication of her name on the "Redwatch" website may have represented an attempt to deter her from carrying out her legitimate activities in defence of human rights, in particular the defence of LGBT rights. It was alleged that an individual, who was named on the "Redwatch" website was stabbed on the Warsaw subway in June 2006.

Communications received

563. In a letter dated 21 February 2006, the Government replied to the communication of 5 December 2006. The Government stated that on 26 March 2006 an application was made by the

International Lesbian and Gay Culture Network (ILGCN) for permission to organize an Equality Parade in May 2004. On 24 May 2004 the Mayor of Warsaw issued a decision banning the Equality Parade on the grounds that it could pose a potential threat to lives, health and property. The ILGCN appealed against the various decisions made in 2004, and on 10 October 2005 the Voivodeship Administrative Court discontinued proceedings as immaterial. The Government noted that in November 2005 the Voivodeship Administrative Court held that a decision to prohibit a proposed demonstration was based on Article 8 paragraph 2 of the Law on Assemblies and that the court did not anticipate a threat from the organizers but rather from opponents of the planned gathering. It was noted that Article 57 of the Constitution of Poland guarantees freedom of assembly and that a limitation on such freedom may be imposed by statute. On 18 January 2006 the Constitutional Tribunal ruled that Article 65 of the Law on Road Traffic, 1997 was incompatible with Article 57 of the Polish Constitution with the incorporation of the word "assemblies". The Tribunal noted that freedom of assembly was a special political freedom of the individual subject to constitutional protection. The Government stated that freedom of assembly constituted a basic human right and that the public authorities were obliged to protect groups taking part in public assembly. The Government also noted that problems pertaining to discrimination are discussed during training provided by State institutions and many professional groups, such as the PHARE training project of 2002. It was also noted that steps have been taken by the Polish authorities to provide judicial officials with anti-discrimination training.

564. In a letter dated 14 June 2006, the Government replied to the communication of 26 April 2006. The Government stated that all necessary measures were taken by the authorities to ensure that the March for Tolerance could take place in Krakow. It was noted that the Mayor of Krakow authorized two gatherings to take place on 28 April 2006. All-Poland Youth was the first organization to apply for permission to hold a gathering on Krakow Tradition and Culture. The demonstration, named March for Tolerance, was organized by the Culture for Tolerance Foundation. The Government noted that in order to avoid possible confrontation between the two events the organizers for the **March for Tolerance** proposed a procession route in consultation with the Krakow police. As the organization of both events met with legal requirements there were no grounds to prohibit either. The police held meetings with the organisers prior to the events to set out the route for both processions. Given that in the past participants in the March for Tolerance had been attacked by hooligans, the police decided that special security measures be put in place and a total of 435 police officers were assigned to protect both demonstrations. Both marches began peacefully, however when the March for Tolerance was attacked the police made two attempts to disperse the crowd and eventually used force to avoid a riot. It was noted that the measures taken by the police were commensurate with the situation and excessive force was avoided in order to disperse the demonstrators. During the disturbances the police detained 11 individuals. The Government stated that during preparations for the demonstration and the subsequent security operation, officials were guided by the need to respect fundamental human rights and freedoms and that all measures were taken to ensure the safety of those participating in the event.

565. In a letter dated 11 January 2007, the Government replied to the communication of 27 June 2006. The Government stated that the National In-Service Training Centre (NITTC) is responsible for teacher training at all levels in Poland and accordingly all documents published by the NITTC should be consistent with the contents of the national curricula. The current curriculum was introduced by the Regulation of the Minister of National Education and Sport of 26 February 2002. It was noted that Compass – 'a manual on human rights education for young

people', contains chapters related to sexuality, homophobia and sexual orientation. The Government indicated that the contents of the manual were not suitable as a teaching aid and that it was contradictory to the general education curriculum of Poland which conforms with the Constitution of Poland, which protects marriage defined as a 'union of a man and a woman'. It was also noted that the English translation of the document differs from the Polish document and that a number of links to Polish gay websites are included in the document. The Government concluded that **Mr Sieltaycki** was responsible for teacher training within the national curriculum and that as Deputy Chairman of the National Committee for the European Year of Citizenship through Education, Mr Sieltaycki was in a position to suggest to the Committee that the manual be published without the NITTC's involvement. Mr Sieltaycki was dismissed in accordance with Article 38.1 of the Act on the System of Education.

Observations

566. The Special Representative thanks the Government of Poland for its detailed responses to her communications and is encouraged by its willingness to investigate alleged violations. Nevertheless the Special Representative would like to express her continued concern about the reported harassment of human rights defenders campaigning for equality and against discrimination based on perceived sexual orientation, and would encourage the Government of Poland to protect participants of public demonstrations such as the Krakow March for Tolerance against any possible discriminatory or hateful abuse. The Special Representative wishes to remind the Government of its obligations under Articles 6 (b) and (c), 7 and 12 of the Declaration on human rights defenders.

Russian Federation

Communications sent

567. On 5 April 2006, the Special Representative sent an urgent appeal concerning **Boris Maksovich Kreindel**, head of the non-governmental organization Commission for Human Rights Tomsk Region (CHRTR) CHRTR is an organization that defends the rights of the Roma community in Ishkitim, Novosibirsk. According to the information received, on 16 December 2005 the newspaper Izvestiia published an article on drug abuse, in which it was alleged that the Roma community in Ishkitim were involved in drug trafficking. It is reported that in this article Boris Maksovich Kreindel was identified as someone who gave advice to drug dealers because of his work in defence of the rights of the Roma community in Ishkitim. On 4 March 2006 Boris Maksovich Kreindel found leaflets in the entrance to his office building. It is reported that these leaflets contained a picture of him and quotes taken from the aforementioned newspaper article. Furthermore, on 10 March 2006, similar leaflets were found near his office and in other parts of Ishkitim but disturbingly, these leaflets contained a picture of his daughter Elena Kreindel, with her date of birth. It is alleged that they also stated that she would die of drug abuse in 2006. Boris Maksovich Kreindel reported these events to the police, but it is alleged that no action has been taken on the part of the authorities to investigate.

568. On 11 May 2006, the Special Representative sent an urgent appeal concerning the **Moscow Gay Pride Parade**, which is due to take place on 27 May 2006 to mark the anniversary of the abolition of Soviet laws against homosexuality in 1993 and the International Day against homophobia. The Gay Pride Parade is a peaceful demonstration organized to provide a platform

for discussion about tolerance, anti-discrimination and respect for the rights of all persons regardless of their perceived sexual orientation. According to the information received, on 16 February 2006 the press spokesman of the Mayor of Moscow told journalists that “the Moscow government is not even going to consider allowing a gay parade” and stated “that the Mayor was firm that the city government will not allow a gay parade in any form, open or disguised, and any attempts to organize an unsanctioned action will be resolutely quashed”. It has also been reported that the first vice speaker of the State Duma stated that “there are several million people in Moscow who do not want to have this procession. Who is going to protect their rights?” In the light of such statements by the authorities, concern was expressed that those who wish to peacefully participate in such a parade may be prevented from doing so. The Special Representative encouraged the Government of Russia to ensure its positive obligations to support, facilitate and protect human rights defenders and that the Moscow Gay Pride Parade is allowed to take place.

569. On 22 August 2006, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **Elina Ersenoyeva**, an employee of the non-governmental organisation INFO-MOST and a journalist with the “Chechen Society” newspaper and her aunt Rovzan Ersenoyeva. INFO-MOST provides information for young HIV/AIDS sufferers in Chechnya and is funded by UNICEF. As a journalist, Ms 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 Elina Ersenoyeva and Rovzan Ersenoyeva were abducted by a group of armed, masked men in Prospekt Pobedy, Grozny, Chechnya. Elina Ersenoyeva and Rovzan Ersenoyeva reportedly forced into a car and had their heads covered. It is 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 in a letter to a number of international human rights organisations, 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 Ersenoyeva and 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.

570. On 6 October 2006, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an allegation letter concerning the alleged detention of **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 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative 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 organisers 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 fifty 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 thirteen 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.

571. On 12 October 2006, the Special Representative together with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an allegation letter concerning journalist and author **Anna Politkovskaya** who was killed in her apartment building in Moscow on 7 October 2006. She was one of the leading journalists on Chechnya, known for her independent reporting on human rights violations against civilians in Chechnya. She had 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 the question of torture, in view of his 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.

572. On 20 October 2006, the Special Representative together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning acts of harassment against human rights defenders in the Russian Federation, including threats made against **Svetlana Gannuchkina**, President of the Committee of Civil Assistance, **Sergey Kovalov**, a founder of the Memorial Society in Grozny and **Lidia Yusupova**, lawyer, director of the Memorial Society and Nobel Peace Prize nominee. Further reports have also been received in relation to the harassment of **Stanislav Dmitrievsky** and the subsequent closure of the Russian-Chechen Friendship Society (RCFS), a non-governmental organization that monitors human rights violations in Chechnya and other parts of the North Caucasus. Mr Dmitrievsky, Executive Director of RCFS, and **Oksana Chelysheva**, Deputy Director of RCFS, were the subjects of an urgent appeal sent by the Special Representative on 15 November 2005, and of an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 9 June 2005. According to information received, an ultra-nationalist group calling themselves “The Russian Will”, have recently published a list of 89 individuals on a website which include the names of several human rights defenders, including Svetlana Gannuchkina and Sergey Kovalov. According to reports the named individuals were categorized as “friends of foreigners” or “traitors to the nation” and their personal data appears on a website where the group reportedly calls for the

physical elimination of the listed individuals. It has also been reported that on 12 October 2006, Lida Yusupova reportedly received a threatening phone call on her mobile phone from an unidentified caller who said in Chechen: "Are you pleased to be a nominee for the Nobel Peace Prize? Presuming you'll still be alive then!" Furthermore on 13 October 2006, a court in Nizhniy Novgorod reportedly ordered the closure of RCFS, in accordance with a request from the regional Prosecutor's office, on the basis that Stanislav Dmitrievsky had remained as Executive Director of RCFS despite being sentenced in February 2006, to a two year suspended sentence for "incitement to national hatred". The court allegedly based its decision to close the RCFS on the "law to combat extremist activities". Concern was expressed that the threats made against Ms Gannuchkina, Mr Kovalov and Ms Yusupova should be treated as serious, particularly in the light of the recent killing of Ms Politkovskaya and may represent attempts to deter human rights defenders in the Russian Federation from carrying out their legitimate activities. Furthermore, serious concerns were expressed that the amendments adopted this summer to the "law to combat extremist activities" may be used against human rights defenders, and the charges brought against the RCFS based on this law may set a precedent under which other human rights NGOs may also be closed.

573. On 16 November 2006, the Special Representative together with the Special Rapporteur on the question of torture, sent an allegation letter concerning alleged police violence at a picket in Nazran organized in memory of the late Russian journalist Anna Politkovskaya; the subsequent arrest and detention of four members of human rights organization Memorial, **Zarema Mukusheva, Zoja Muradova, Fatima Yandieva, Albert Khantygov**; the case of the Director of Ingushetia NGO *Mashr*, **Magomed Mutsolgov**; and alleged physical violence used against **Shamsudin Tangiev** and **Ekaterina Sokirianskaia**, both members of Memorial. According to the information received, on 16 October 2006, a memorial picket in honour of Anna Politkovskaya who was recently killed, was due to take place in Nazran, Ingushetia at 1600h. However according to sources, uniformed police agents and men in civilian clothes prevented people from attending the picket as it had been deemed illegal by the authorities. Reportedly Mr Mutsolgov had notified the head of the city administration of the intention to hold the memorial but no official response was received and as under federal law it is not necessary to obtain "permission" for a picket, the event was expected to go ahead as planned. According to sources Mr Mutsolgov did receive a letter dated 15 October 2006 but it was signed by A. Tsetchoev whereas the head of the city administration is called Magomed Tsetchoev and there was no official emblem on the letter so he did not consider it to be an official response. Reportedly, members of the Chechen Committee for National Salvation and Mr Aslambek Apaev, chairman of the Committee for Defending Rights of Forced Migrants, were the first to arrive at the appointed meeting place, but upon hearing of the alleged illegality of the gathering, they began to disperse. However they became surrounded by men in civilian clothes who tried to provoke a violent reaction from them. They were joined a few minutes later by Mr Mutsolgov and members of *Mashr* but they were also surrounded by men in civilian clothes accompanied by uniformed militiamen. Sources allege that the participants were physically beaten and Mr Mutsolgov was reportedly taken away to the Nazran city militia station (GOVD). It is further reported that two Memorial staff members were beaten. Mr Tangiev was reportedly assaulted after he supposedly commented on the use of language by the militiamen in relation to the women present. When Ms Sokirianskaia attempted to intervene it is reported that a man, who is claimed to have been a Nazran police officer in civilian clothes, struck her across the face causing her to suffer concussion and a broken nose. According to the information received, Ms Mukusheva, Ms Muradova, Ms Yandieva, Mr Khantygov and Mr Mutsolgov were all

transported to the GOVD where it is alleged that they were denied access to their lawyers and they were not informed of their rights. Furthermore it is reported that late that night a judge was brought to the station in order to hear the case of the three female detainees. It is alleged that they were not legally represented and were fined five hundred rubles for “violating the established manner for carrying out a demonstration”. Sources indicate that the male activists were eventually granted access to their lawyer, Magomed Gandaur-Egi, but only eight hours after their initial detention and their hearing was postponed until the 30 October 2006.

574. On 16 November 2006, the Special Representative sent an allegation letter concerning **Vasily Melnichenko**, a journalist who has been active in highlighting the issue of land rights in the context of the seizure of farmland in Russia. He has received several awards for his reporting on the human rights situation in Russia including the Symbol of Freedom award, Sakharov award and the Artyom Borovik award “For Honesty, Bravery, Mastery”. According to the information received, on 22 October 2006, Mr Melnichenko was violently beaten while attending a meeting in relation to the bankruptcy of a local farm in the village of Galkinskoye. The alleged perpetrator of the attack is Alexander Gaan who is a former investigator with the prosecutor’s office in the Kamyshlovsky district in the Sverdlovsk region. Mr Melnichenko had reportedly written several articles for the *Territoriya Narodnoi Vlasti* newspaper in which he accused Mr Gaan of involvement in illegal actions. According to the sources Mr Gaan was accompanied by security guards who restrained the journalist while the former investigator held him by the throat, choking him. It is further alleged that Mr Gaan threw the reporter against the wall causing injury to his nose and face and the people present at the meeting were reportedly told that he had fallen. Mr Melnichenko was apparently diagnosed with having concussion and a fractured nose. Furthermore, it is reported that Mr Melnichenko has filed a complaint with the prosecutor’s office and the local police. It is believed that this latest incident may be related to a report which he presented, a few days before the attack, in the Public Chamber in Moscow relating to the demise of Russian villages and the people responsible. The report was also broadcast on television. He has allegedly received a number of threats and been the victim of several acts of harassment including being detained in September 2005 on suspicion of murder. He had reportedly been detained on Gaan’s orders but was later released due to lack of evidence. Concern was expressed for the safety of Mr Melnichenko as it was feared that the aforementioned incident may have represented an attempt to deter him from carrying out his activities in defence of human rights, in particular, raising issues pertaining to farmers’ land rights.

Responses received to communications sent by the Special Representative in previous years

575. In a letter dated 24 April 2006, the Government of the Russian Federation 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 opinion and expression, on 9 June 2005 concerning **Stanislav Dmitrievsky**, Director of the Nizhny Novgorod-based Russian human rights NGO Russian Chechen Friendship Society (RCFS), and its Deputy Director, **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).

Communications received

576. In a letter dated 26 June 2006, the Permanent Mission of the Russian Federation replied to the communication of 5 April 2006 concerning **Boris Maksovich Kreindel**. The Mission stated that on 7 March 2006 an application was filed with the Sovetsky district internal affairs office in the city of Tomsk by Mr Kreindel, for the prosecution of persons who had disseminated leaflets containing photographs of him and libellous allegations that he had provided legal protection for drug dealers. As a result of the investigations carried out by the Tomsk Province internal affairs authorities, on 3 April 2006, criminal proceedings were initiated pursuant to article 129, paragraph 1, of the Criminal Code of the Russian Federation, for the dissemination of false information which may be damaging or defamatory. The pretrial investigation is still under way. On 20 May 2006, criminal proceedings were instituted under article 119 of the Criminal Code (threat to murder or cause serious bodily harm) for the dissemination of leaflets, containing information about Mr Kreindel's daughter Elena, and alleging that she would die from drug abuse. A preliminary investigation is under way. Following an oral statement made by Mr B.M. Kreindel in the Sovetsky district internal affairs office in Tomsk, regarding the threat of physical violence against him and members of his family, a check was carried out, in the light of which the internal affairs authorities issued a decision rejecting the initiation of criminal proceedings. The above-mentioned decision was overturned by the Sovetsky district procurator's office in Tomsk, on the grounds that the investigation had been incomplete.

577. In a letter dated 4 October 2006, the Permanent Mission of the Russian Federation replied to the communication of 22 August 2006 concerning the abduction of **Ms Elina Ersenoyeva**. The Government stated that criminal proceedings had been instituted by the procurator's office of the Zavod district in Grozny on the basis of evidence implying 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). The Government indicated that the investigation has revealed no information to suggest that Russian law enforcement agencies were threatening Ms Ersenoyeva 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. It was noted that according to available information, Ms Ersenoyeva wrote approximately 12 articles whilst working for the "Chechen Society" newspaper and her published work contained nothing controversial or critical, but that the articles mainly discussed social issues referring to the disabled and refugees. The Government concluded by stating that a criminal investigation into the case was underway.

578. In a letter dated 24 November 2006, the Permanent Mission of the Russian Federation replied to the communication of 22 August 2006 concerning the abduction of **Ms Ersenoyeva**.

The Government stated that investigations into the case had ascertained that on 17 August 2006, in Neftyanikov Square on Pobeda Avenue in Grozny, Ms Ersenoyeva, was abducted by a group of eight unidentified men armed with automatic weapons. On 29 August 2006, criminal proceedings were initiated by the Zavodskoy district procurator's office in Grozny, in response to a report filed on 25 August 2006, on the basis of evidence of the commission of an offence under article 126, paragraph 2 (a), of the Criminal Code of the Russian Federation. In the course of the criminal investigation, the procuratorial authorities 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, Ms Ersenoyeva 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. Ms Ersenoyeva's mother, M.I. Ersenoyeva, who was also questioned during the proceedings as a victim, stated that, after her daughter had married Mr Basaev, she had not been harassed by anyone and had said nothing to her about this matter. It was indicated that Ms Ersenoyeva was not in hiding and that she had travelled on three occasions to attend meetings in the cities of Nalchik, Makhachkala and Kislovodsk and that she commuted to work on a daily basis. It was noted that Ms Ersenoyeva's mother had no knowledge of her daughter having approached the International Helsinki Federation or any other human rights organization on any matter. It was indicated that when questioned as a witness Mr Aliev, editor in chief of the newspaper Chechenskoe Obschestvo, provided no evidence to suggest that Ms Ersenoyeva had appealed to him for help in connection with any harassment. The Government concluded by stating that investigations into the case are continuing under the supervision of the procuratorial authorities of the Chechen Republic.

579. In a letter dated 28 December 2006, the Permanent Mission of the Russian Federation replied to the communication of 6 October 2006 concerning Lev Ponomarev. At the time of writing this report the Government's response is being translated.

Observations

580. The Special Representative thanks the Government of the Russian Federation for its detailed responses to her communications of 5 April 2006, 22 August 2006 and 9 June 2005 and is encouraged by its willingness to initiate investigations of alleged violations.

581. However the Special Representative is particularly disappointed that the Government did not respond to her joint communication of 16 October 2006 concerning the killing of **Anna Politkovskaya**. Given that Ms Politkovskaya's death was the subject of international condemnation, and indeed continues to cast a shadow over the work of human rights activists in Russia, the Special Representative would urge the Government to issue a detailed substantive response highlighting whether an investigation has been initiated into the case, and if so, what measures have been taken to ensure that the perpetrators are brought to justice. Furthermore, the Special Representative notes with concern that a planned gathering to commemorate the death of Ms Politkovskaya in Nazran, Ingushetia was attacked by plain clothes police officers, resulting in injury and subsequent detention of members of the human rights organization Memorial. The allegations undermine the right to freedom of expression and freedom of assembly, and the Special Representative wishes to remind the Government that for the 'purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in

association with others, at the national and international levels, to meet or assemble peacefully' in accordance with Article 5 (a) of the Declaration on human rights defenders.

582. Furthermore the Special Representative would appreciate a response to the alleged attack on **Vasily Melnichenko**, a journalist who has been active in highlighting the issue of land rights in the context of the seizure of farmland. Such attacks on journalists and members of the media involved in reporting on human rights and minority related issues in the Russian Federation is a reflection of the deteriorating situation for human rights defenders in the Russian Federation. Of particular concern is the introduction of new legislation passed in late 2005, which came into effect in 2006, and which required all NGOs in Russia to re-register during 2006 followed by a yearly report to the Ministry of Justice on their budgetary dispositions. The Special Representative refers to the case of the Russian-Chechen Friendship Society (RCFS), which has been the subject of a number of communications, one of which the Government responded to on 24 April 2004. The Special Representative thanks the Government for replying to her communication in relation to this case, however deeply regrets that since the Government's response the Federal Supreme Court of Moscow upheld a decision of the Regional Court of Nizhny Novgorod to close the Russian Chechen Friendship Society on 23 January 2007. The original order was issued on 13 October 2006, on the grounds that the organization had violated laws relating to public association, NGO reporting procedures and had been involved in alleged extremist activities. The Special Representative invites the Government to review the Law on associations and human rights NGOs and their members, as well as to revise their legislation so as to conform with international and regional standards relative to freedom of association and expression, and to guarantee, in any circumstances, the independence of the judiciary. The Special Representative wishes to encourage the Government to conform with Article 12.2 of the previously mentioned Declaration, which provides that "the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration".

583. The Special Representative continues to be concerned about the deteriorating situation in terms of the right to freedom of expression and information in the Russian Federation, and is particularly disappointed by reports that first vice speaker of the State Duma stated in relation to the Moscow Gay Pride Parade that "there are several million people in Moscow who do not want to have this procession. Who is going to protect their rights?" which was the subject of a communication sent on 11 May 2006. The Special Representative urges the Government to provide a detailed response to this case and to consider Article 7 of the Declaration which establishes that everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Saudi Arabia

Communications sent

584. On 20 July 2006, the Special Representative sent an urgent appeal to the Government concerning the situation of the **family members of Ali al-Ahmed**, in particular the situation of his brothers **Abdullah Abbas al-Ahmed** and **Kamil al-Ahmed** and that of his mother **Malakha Al Habib**. Ali al-Ahmed is a writer and the director of the Gulf Institute, a non-governmental

organization based in Washington that advocates for democratic reforms in Saudi Arabia and reports on alleged human rights violations committed in Saudi Arabia. According to the information received, since 1996 Abdullah Abbas al-Ahmed has been denied a passport by the Saudi authorities. It is reported that he was arrested on 9 July 1996 and released in November 1997 and was not charged with any crime during his detention and since that time he has not been allowed to travel abroad. Malakha Al Habib is reportedly seriously ill and needs to travel abroad for urgent back surgery, following a car accident that she suffered in November 2005 which left her unable to walk. She is reportedly incapable of traveling alone. Abdullah Abbas al-Ahmed has made a number of requests for travel documents to the Saudi authorities, most recently on 14 May 2006, but he has not been issued with a passport, nor has he been provided with an explanation of why. It is further reported that in 2004 and 2005, Ali al-Ahmed was told by high-ranking Saudi Arabian officials, whose names are known to the Special Representative, that if he returned to Saudi Arabia his brother's passport would be returned. It is further reported that on 13 July 2001, Kamil al-Ahmed was arrested and detained in Dammam prison in Saudi Arabia. He currently remains in detention although no charges have been presented against him since his arrest. It is also alleged that he has been tortured in prison. His arrest occurred shortly after he appeared on a television programme on a 25 June 2001 broadcast on the Al-Jazeera channel, in which he addressed torture practices allegedly used in Saudi Arabian prisons. Concerns are expressed that the above-mentioned arrests and restrictions on the freedom of movement and right to health of Ali al-Ahmed's family members represent a form of reprisal against his work in advocating for democratic reforms in Saudi Arabia and may be aimed at preventing him from carrying out his activities in defence of human rights. Specific concern is expressed with regards to the situation of Mrs Malakha Al Habib, in view of her health.

585. On 11 August 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning the journalist and writer **Wajeha Al-Huwaider**. According to the information received, on 4 August 2006, Ms Al-Huwaider 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-Huwaider 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 is expressed that her arrest may represent 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.

586. On 10 November 2006, the Special Representative sent a letter of allegation to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, concerning **Wajeha Al-Huwaider**, journalist, writer and a member of the group Human Rights First in Saudi Arabia. According to information received, officers of the Mabath security force detained Ms 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 Mabath officers demanded that Ms Al-Huwaider provide written answers to prepared questions concerning her internet writings and human rights activities. They then demanded that she sign 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 also threatened that she would lose 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 has been arrested before due to her advocacy for women's rights. In an urgent appeal dated 11 August 2006, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative already brought to the attention of the Government information that Ms Al-Huwaider was arrested on 4 August 2006, while walking on the bridge connecting Saudi Arabia with Bahrain holding a banner that stated "Give women their rights". Concern is expressed that the arrest and interrogation of Ms Al-Huwaider and the signed pledge extracted from her may represent 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

587. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication. She urges the Government to respond to her communications and the concerns raised by her.

Singapore

Communications sent

588. On 19 September 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning members of civil society groups and non-governmental organizations, who wished to attend the annual meetings of the World Bank and International Monetary Fund which were to take place in Singapore on 19 and 20 September 2006. These included **Chona Leah Ramos** and **Bobbie Diciembre** from the Philippines; **Wilfred D'Costa**, **K Raghu** and **Biswaranjan Mishra** and **Ashok Bharti** from India; **Hyekyung Kim** from South Korea; **Mohan Uranga Rasinghe** and *Chandrani Janaki Aramasinghe Comapannage* who are Sri Lankan members of the Global Call to Action against Poverty (GCAP); Action Aid campaigners **Maria Clara Soares** (Sri Lanka), **Rose Wanjiru** (Kenya), **Thao Haong** (Viet Nam) and **Rashid Titumir** (Bangladesh); and **Irma Yanni** and **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. However, it is reported that several individuals have not been permitted to enter Singapore. Due to the restrictions imposed by the Singaporean authorities it is feared that many civil society participants and human rights defenders may not be able to travel to Batam, where the aforementioned activities have been relocated. It is 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 is reportedly in possession of a current 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. Mr 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 is 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 2310h after being detained for six hours during which time she was questioned regarding her background and intended activities in Batam. She allegedly refused to allow the authorities to photocopy certain documents pertaining to the meeting in Batam but they took her fingerprints and photographed her before they decided to deport her due to "being ineligible for the issue of a pass under current immigration laws". It is further reported that two Sri Lankan delegates Mr Mohan Uranga Rasinghe, media and website coordinator of the 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 is reported that Ms Maria Clara Soares, Action Aid'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 (Viet Nam) and Mr Rashid Titumir (Bangladesh) were detained for questioning but were later released after they had been fingerprinted. It is further reported that on 18 September 2006 two members of The Federation of Indonesian Peasants Union (FSPI), Mr 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 has 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, was 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.

589. On 27 October 2006, the Special Representative together with the Special Rapporteur on the independence of judges and lawyers and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Mr Ravi**, a human rights lawyer, who is the defense counsel for 11 Falun Gong practitioners in four separate cases brought to the court by the authorities. According to the information received, on 19 September 2006 Mr Ravi was arrested by the police near MacDonald's Restaurant in Yishun, Singapore, whilst eating with his niece and nephew. He was taken to And Mo Kui Police Station and interrogated without legal counsel. Neither at the time of arrest nor subsequently did the police notify him of any charges

against him. The police then sent him to Changi Hospital, and informed the family only after having taken Mr Ravi there. Mr Ravi's youngest sister complained to the police and questioned on what authority they did it. The Police replied that they were still investigating him, without specifying for what. The family of Mr Ravi and his friends were informed that they would have to wait for the report of the doctor at Changi Hospital. Mr Ravi was examined by the doctor on the same day and was declared to be healthy. He was released conditionally into family care. However two days later, despite the medical results, the police threatened Mr Ravi's family that unless they agreed to send him to a mental hospital, they would put Mr Ravi in jail where they would have no access to him. As a consequence, the family accepted and Mr Ravi was forcibly committed to Adam Road hospital and sedated against his will. He remains kept in the mental hospital. Concern was expressed that the alleged threats made by the authorities against Mr Ravi may have represented an attempt to prevent him from carrying out his human rights work, in particular his ability to legally represent 11 Falun Gong practitioners whose cases are pending.

Communications received

590. In a letter dated 6 December 2006, the Government replied to the joint urgent appeal sent on 27 October 2006 stating that the allegations contained in the letter were completely untrue and Mr Ravi's arrest had nothing to do with his professional activities including his work with the 11 Falun Gong practitioners, or any of his other activities connected with human rights matters. According to the Government, **Mr Ravi** was arrested by the police for disorderly behaviour in public, after a member of the public called the police on 18 September 2006 and reported that a barefooted man was making a nuisance of himself in public. Police allegedly responded to the call and found Mr Ravi, who was involved in an apparent argument with another individual. Despite advice from his female relative and a female friend who were at the scene, as well as several warnings from the Police to behave himself, Mr Ravi did not do so and continued to shout incoherently. After failing to heed repeated warnings by the Police, Mr Ravi was arrested. At the time of his arrest, Mr Ravi was informed that he was being placed under arrest for the offence of disorderly behaviour. The Police had not decided at the time of arrest whether to charge Mr Ravi in Court. Mr Ravi was interviewed while in Police custody. During this interview, Mr Ravi allegedly did not request the presence of a lawyer. The Government declared that while in Police custody, Mr Ravi was examined by a doctor who wrote a referral letter for Mr Ravi to be further examined at the Institute of Mental Health. This referral letter was allegedly handed to a female relative of Mr Ravi who bailed him out and told the police that she did not wish to send him to IMH for examination. The Government asserted that the police did not commit Mr Ravi to a mental institution, forcibly or otherwise, nor was his family compelled by the police to do so but a male relative of Mr Ravi had caused Mr Ravi to be admitted to Adam Road Hospital (a specialist private hospital offering psychiatric and psychological services), for treatment. However, the Government stated that he has since been discharged from Adam Road Hospital.

Observations

591. The Special Representative thanks the Government of Singapore for its response to her communication of 27 October 2006 and is encouraged by its willingness to investigate alleged violations. She is disappointed however that she did not receive a response to her communication of 19 September 2006. The allegations are serious and the Special Representative would urge the Government to provide a detailed substantive response assuring

that an investigation has been launched into this case. The Special Representative wishes to remind the Government of Singapore of its obligations under Articles 6 (b) and (c), and 12 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.

Sri Lanka

Communications sent

592. On 17 March 2006, the Special Representative together with the Special Rapporteur on the question of torture sent an urgent appeal concerning **Kasinathar Ganeshalingam**, director of the Tamil Rehabilitation Organisation (TRO), **Kathirkamar Thangarasa**, TRO driver, **Thanuskody Premini**, chief accountant for the TRO in Batticaloa, **Shanmuganathan Sujendram** TRO accountant, **Thambiraja Vasantharajan**, **Kailayapillai Ravindran** TRO accountant, **Punniyamoorthy Nadeswari**, TRO staff member, **Sithiravel Sivamathu**, TRO staff member, **S Dosini** and **Arunesarasa Satheesharan**, TRO accounts trainee. The TRO is an organisation which has been performing humanitarian and aid work in the aftermath of the tsunami. According to the information received, on 29 January 2006 Mr Ganeshalingam, Mr Thangarasa, Ms Nadeswari, Ms Sivamathu and Ms Dosini were abducted in the Jaffna Peninsula in the far north of Sri Lanka, while driving from Batticaloa to Kilinnochichi. It is reported that after the TRO vehicle had registered at the army checkpoint and was continuing on its way, a white van which had been following the TRO vehicle, overtook it and made it stop. It is alleged that the five above-mentioned persons were dragged from the vehicle by an unknown number of armed men and forced into the white van. It is further reported that Mr Ganeshalingam and Mr Thangarasa were assaulted, tied up and put back in the TRO vehicle. Subsequently all five persons were taken to a camp in a jungle area. While at this camp, it is alleged that Mr Ganeshalingam and Mr Thangarasa were assaulted again. It is reported that Ms Nadeswari and Ms Sivamathu were released at approximately 9.00 pm on 30 January 2006, and that Ms Dosini was released later that evening. It is alleged that Ms Nadeswari, Ms Sivamathu, and Ms Dosini were warned by their abductors not to speak to anyone about what had occurred. Mr Ganeshalingam and Mr Thangarasa have not been seen since 30 January 2006 and their whereabouts remain unknown. On 30 January 2006 at approximately 4.00 pm, Ms Thanuskody Premini, Mr Shanmuganathan Sujendram, Mr Thambiraja Vasantharajan Mr Kailayapillai Ravindran, Mr Arunesarasa Satheesharan, and ten other TRO staff members were travelling from Batticaloa to Vavauniya, when their vehicle was stopped by a white van approximately 100 metres after the army checkpoint in Welikanda. It is alleged that five armed men got out of the white van, then boarded the TRO vehicle and dragged the driver from his seat. It is reported that all 15 TRO staff members were blindfolded. According to the information received, Ms Premini, Mr Sujendram, Mr Vasantharajan Mr Ravindran and Mr Satheesharan were removed from the TRO vehicle and the remaining ten TRO staff members were released. The whereabouts of Ms Premini, Mr Sujendram, Mr Vasantharajan, Mr Ravindran and Mr Satheesharan remain unknown. It is reported that the TRO has filed police reports with the Batticaloa police station regarding the above-mentioned incidents. Grave concern was expressed that the above incidents were connected with the legitimate activities of the above-mentioned persons in defence of human rights. Further concern was expressed that the alleged incidents may represent an attempt to prevent the TRO from carrying out its legitimate humanitarian and aid work.

593. On 13 April 2006, the Special Representative together with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal concerning death threats against the Vice Chancellor of Jaffna University, **Ratnajeewan Hoole**, and his family. According to the information received, at the beginning of March 2006 Professor Hoole, who is a Christian, was appointed Vice Chancellor of Jaffna University. Soon thereafter, posters appeared on the university campus, alleging that he was anti-Hindu, implying that he is also anti-Tamil. On 11 March 2006, shortly after his appointment as Vice Chancellor of Jaffna University, Professor Hoole received several telephone calls from persons claiming to represent a group called the People's Uprising Force (Makkal Eluchip Padai). The callers warned Professor Hoole that if he stepped onto the campus of Jaffna University he would return home "headless in a box". On 12 March 2006, the leader of the Jaffna University Students' Union (Yaal Palkalaikalaha Maanavar Ondriyam) threatened to assault him if he stepped onto the campus. On the same day, 12 March 2006, the website "nitharsanam.com", which is reported to be operated by the LTTE, posted a photo of Professor Hoole captioned "Who is this fool" together with an article entitled "Army Spy Appointed VC [Vice Chancellor]". The article referred to Professor Hoole's alleged involvement in the 1990 publication of a book called *The Broken Palmyra* criticizing the LTTE's suppression of alternative voices within the Tamil community. On 18 March 2006, "nitharsanam.com" published a second article entitled "Who is this fool Part 2", which among other things accused Professor Hoole of being connected to the University Teachers for Human Rights (Jaffna) (UTHR-J), a civil society group documenting abuses by the LTTE. On 22 March 2006, Professor Hoole's daughter Anbini received an anonymous call with a threat to "kill her younger brother and chop him into pieces" if their father were to take up the Vice Chancellor post at the university. The family received further threatening calls from the People's Uprising Force. In a letter dated 21 March 2006 Professor Hoole raised his concerns about threats against him and his family with the Norwegian Embassy in Colombo and the Sri Lanka Monitoring Mission (SLMM). Since then he has received messages through members of parliament of the Tamil National Alliance, and others claiming to be from the LTTE, that he must resign from the post of Vice Chancellor. Without prejudging the accuracy of the reports received, the LTTE was urged to publicly condemn the death threats and other intimidation against Professor Hoole. The LTTE was further urged to ensure that he and his family were not harmed. Whilst it was noted that the Special Representative and the Special Rapporteur were not privy to detailed knowledge of the exact nature of the relationship between the LTTE and the so-called "People's Uprising Force", the publishers of the website nitharsanam.com, or the leadership of the Jaffna University Students' Union, it was expressed that there were no doubts that the LTTE exercises sufficient influence over them to make them desist from carrying out their threats and from further intimidation. It was recalled that the LTTE had formally committed itself to international human rights standards, which prominently include the right not to be arbitrarily deprived of one's life and the right to freedom of opinion and expression. The Charter of the NorthEast Secretariat on Human Rights states (Article 1) that "[all] persons deserve to be treated with ... respect for their humanity" and reiterates that "[all] persons have the right to life" (Article 5.1). It also enshrines the "right to be free from incitement of discrimination, hatred or violence" (Article 1.5) and protects the "right to express ... opinions and beliefs freely". In this connection, the LTTE was referred to the fundamental principles set forth in the Declaration on human rights defenders, and in particular articles 1 and 2 which state that everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. It was further recalled that in Article 2.1 of the Ceasefire Agreement, the LTTE committed to "abstain from hostile acts against the civilian population" in accordance with international law. Grave concern was

expressed that the alleged threats against Professor Hoole and his family were aimed at preventing him from carrying out his work, which includes promoting the human right to freedom of opinion and expression within the Tamil community. In the conclusions to the report on his visit to Sri Lanka (para. 84), the Special Rapporteur on extrajudicial, summary or arbitrary executions stated that “[t]he LTTE should unequivocally denounce and condemn any killing attributed to it for which it denies responsibility. Mere denials are neither adequate nor convincing.” Similarly, the systematic creation of an atmosphere conducive to the killing of Professor Hoole and his family by forces close to the LTTE, calls for unequivocal denouncement and condemnation by the LTTE if it does not wish to be held responsible in the event that the Professor or his family were to be harmed.

594. On 26 May 2006, the Special Representative sent an urgent appeal concerning **Jeyaruban Gnanapragasam**, a staff member of the Norwegian Refugee Council, **Fabijan Persikic**, staff member of the NGO Non Violent Peace Force, and staff members of the NGOs Zoa Refugee Care and Intersos. These NGOs provide humanitarian and emergency assistance in the Eastern province in Sri Lanka. Non Violent Peace Force also monitors human rights violations in the region. According to the information received, on 12 April 2006 the Trincomalee team of the Non Violent Peace Force was attacked by a group of youths while they were returning to their office after assisting victims of bomb blast and ethnic rioting. It is reported that a crowd of youths surrounded their vehicle which was marked with the Non Violent Peace Force sign and flag and that members of this crowd slapped and punched the driver. It is also reported that members of the team were threatened with a hand grenade and that stones were thrown at the vehicle, causing the vehicle to be damaged. It is alleged that these events took place close to a military checkpoint and that military officers watched the events but did not intervene. On 15 May 2006 Mr Gnanapragasam was shot and killed on the Puthiyasinnakulam Road by unknown perpetrators while he was returning from work. On 21 May 2006 grenades were thrown by unknown individuals at the building where the offices of Non Violent Peace Force, Zoa Refugee Care and Intersos are located in Muthur, Trincomalee. It is reported that Mr Persikic was injured as a result of this incident. It has also been reported that in the days preceding this attack anonymous notices were distributed in villages in East Muttur and that these notices called on international NGOs to stop their humanitarian activities. Grave concern was expressed for the safety of the staff members of the organization mentioned. Additional concern was expressed that the above events may have been connected with the activities of Mr Gnanapragasam, Mr Persikic and of the above-named organizations in defence of human rights. Further concern was expressed that the above events may form part of a campaign against human rights defenders who provide humanitarian assistance in Eastern Sri Lanka.

595. On 7 July 2006, the Special Representative sent an urgent appeal concerning **Krishnapillai Kamalanathan**, director of the Tamil Rehabilitation Organisation (TRO) Sonobo Children's home in Vaharai, Sri Lanka. The TRO is an organisation that provides humanitarian relief to victims of the armed conflict in Sri Lanka. It was the subject of a joint urgent appeal sent by the Special Rapporteur on the question of torture and the Special Representative on 17 March 2006. According to the information received, on 2 July 2006 Mr Kamalanathan was stopped at an army checkpoint at Oddumavadi Bridge while travelling with a companion. It is reported that both individuals were asked by army personnel to register at a nearby police checkpoint where they were detained for 1.5 hours. It is reported that Mr Kamalanathan and his associate were then allowed to proceed on their journey and that shortly afterwards they were stopped by two men travelling on a motorcycle who claimed to be from the “Karuna group”, an

armed paramilitary group. It is alleged that these individuals forced Mr Kamalanathan from his motorcycle and abducted him, but allowed his companion to continue his journey. The whereabouts of Mr Kamalanathan reportedly remain unknown. Concern was expressed that the alleged abduction of Mr Kamalanathan may have been in connection with his activities in defence of human rights. Particular concern was expressed, in the light of alleged previous abductions of TRO personnel and alleged violations committed against humanitarian workers in Sri Lanka, that the above events may form part of a campaign of intimidation and harassment against organizations and individuals providing humanitarian assistance in Sri Lanka.

596. On 11 September 2006, the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning humanitarian workers and human rights defenders in Sri Lanka, including 17 staff members of the non-governmental organization **Action Against Hunger** (Action contre la faim), **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, on 4 August 2006, 17 staff members of Action against Hunger were killed in Muttur, Trincomalee District. It is reported that 15 of them had been killed with shots to 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). It has also been reported that during the month of August, Mr Loganathan was killed. It was further reported that 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 travelling 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 have been subjected to threats, harassment and intimidation aimed at preventing them from carrying out their activities in defence of human rights. The Special Representative previously communicated her concerns regarding the situation for human rights defenders with the Government of Sri Lanka in a letter of urgent appeal sent on 26 May 2006 concerning Mr Jeyaruban Gnanapragasam, staff member of the Norwegian Refugee Council and Mr Fabijan Persikic, staff member of the non-governmental organisation Non Violent Peace Force, and staff members of the non-governmental organisations Zoa Refugee Care and Intersos. Grave concerns were expressed that these most recent events form part of a campaign of intimidation and harassment, aimed at preventing human rights defenders from carrying out their activities in defence of human rights. Further concerns were expressed for the physical and psychological integrity of human rights defenders in Sri Lanka, particularly those working in the Jaffna peninsula.

597. On 30 November 2006, the Special Representative sent an urgent appeal concerning threats against **Mano Ganesan** and the death of **Nadaraja Raviraj**, members of the Civil Monitoring Committee on Abductions, Disappearances, Extrajudicial and Arbitrary Killings. Mr Ganesan is also the leader of the Western People's Front, a former trade union which has evolved into an opposition party which represents a largely Tamil constituency in Colombo and its environs. According to the information received, Mr Ganesan has recently been officially informed by the Director Inspector General of police in Colombo of the existence of death threats made against him. Although it is reported that he has previously received threats of a

similar nature, this is the first time that he has received official notification of such threats. Mr Ganesan has reportedly informed President Mahinda Rajapakse who is also the Minister of Defence and Internal Security and has requested that additional personal security measures be taken to protect him. It is also reported that Mr Raviraj, a human rights lawyer and member of the aforementioned Civil Monitoring Committee was killed on 10 November 2006 by unidentified gunmen. Concern was expressed for the safety of Mr Ganesan as it is feared that he may have been threatened in relation to his work in defence of human rights, in particular his involvement with the Civil Monitoring Committee on Abductions, Disappearances, Extrajudicial and Arbitrary Killings as he has been very vocal on recent abductions and disappearances of individuals from the Tamil community. Concern was also expressed that Mr Raviraj may have been killed because of his legitimate activities in monitoring human rights violations with the aforementioned organization.

598. On 1 December 2006, the Special Representative sent an urgent appeal concerning **Dr Jayawardena**, a medical doctor and senior member of the United National Party (UNP), Founder Chairperson for the Parliamentary Lobby for Child Rights and Chairman of the UNP Relief and Human Rights Committee. He has been awarded several awards for his work including the Green Award for Commitment to Child Rights in 1998 and the Most Outstanding Citizen Award for Social Services in 1999 awarded by the International Association of Lions Clubs. Dr Jayawardena has been actively involved in monitoring and highlighting cases of human rights violations including disappearances, extrajudicial killings, sexual violence and the arbitrary harassment of individuals and particularly minorities in Sri Lanka. According to the information received, Dr Jayawardena alleges that his life is under threat due to allegations made repeatedly since 1998 by the former President, Mrs Chandrika Bandarnaike Kumaratunga, that he was involved with the Liberation Tigers of Tamil Elam (LTTE). The former President made these allegations during media interviews which were then widely publicised through state-controlled television and radio broadcasts. It is reported that following these public accusations Dr Jayawardena has been the victim of numerous death threats and he has been followed by unidentified persons in unmarked vehicles on several occasions and these acts of harassment have continued to the present day. In July 2002 the United Nations Human Rights Committee considered a complaint first submitted by Dr Jayawardena in February 2000, under the first Optional Protocol to the International Covenant on Civil and Political Rights, regarding the failure of the Sri Lankan Government to provide him with adequate security and protection in relation to his status as an MP, the dangerous locations in which he works and the death threats he had allegedly received. The Human Rights Committee found in favour of Dr Jayawardena and recommended that he be provided with adequate security measures. A communication dated 9 September 2004 was received by the Office of the High Commissioner for Human Rights on behalf of the Government of Sri Lanka from the Permanent Mission in Geneva which included a report dated 19 July 2004 which stated that the "Government had agreed to provide additional protection for Dr Jayalath Jayawardena if and when it became necessary". However, it is reported that the Sri Lanka authorities claim they had not received any "such requests made by Dr Jayalath Jayawardena to the Government of Sri Lanka requesting additional protection for him". Further documentation indicated that the Government of Sri Lanka is aware of the security risks against Dr Jayawardena. A report of the Criminal Investigation Department dated 8 June 2005 outlines the threat against the doctor and states that, "Taking into consideration the spate of killings which had taken place... I believe it is appropriate to provide additional security to Dr Jayawardena. The Human Rights Commission in Sri Lanka has also made the same recommendations in December 2004". In addition, a report dated 28 June 2005 from the

Directorate of Internal Intelligence, a department of the Ministry of Defence, further identified the presumed sources of threats as both the LTTE and other insurgent groups and agrees that “it is prudent to provide him with adequate security”. However in a handwritten letter which is written on Ministry of Public Security, Law and Order headed notepaper it is recommended that Dr Jayawardana’s security officers be limited to four, his vehicles (including a jeep and two motorcycles) be taken away and all police assistance at any other police station be stopped. The letter is signed by the current Prime Minister of Sri Lanka, Mr Ratnasiri Wickramanayake, who was formerly the Minister for Public Security, Law and Order. Furthermore, a letter from the Inspector General of Police, dated 6 July 2005, states that he has ordered the “Special Protection Range to provide the Hon MP with additional security with immediate effect. But [he is] not in a position to provide him with a back-up vehicle due to shortage of vehicles in the Department”. Concern was expressed for the personal safety and physical integrity of Dr Jayawardana, as it was feared that he was at serious risk due to the public allegations made by the former President accusing him of involvement with the LTTE. Further concern was expressed that the alleged threats made against him and the failure of the Sri Lankan Government to provide him with adequate security may have been related to his legitimate activities in defence of human rights, in particular his monitoring and reporting of human rights violations in Sri Lanka.

599. On 1 December 2006, the Special Representative sent an urgent appeal concerning death threats against **Mohamed Latheef** and his wife **Wafiyya Najeeb**. Mr Latheef is a prominent advocate for human rights and the founder of the Maldivian Democratic Party (MDP) who has been instrumental in raising international awareness of human rights violations in the Maldives. According to the information received, on 23 November 2006, Mr Latheef, who has been living in exile in Sri Lanka since November 2003, was informed that a person was going to be hired, allegedly by a senior Maldivian government official, to kill him. On 25 November 2006 it is reported that two unidentified men went to Mr Latheef’s house and asked about his and Ms Najeeb’s whereabouts. In addition, sources indicate that an official complaint has been lodged at Mirihana Police Station and relatives of Mr Latheef have lodged a complaint with the Maldivian Police Services. The Sri Lankan and Maldivian Ministries of Foreign Affairs have also reportedly been notified as well as some of the embassies accredited to the Maldives. Concern was expressed for the safety and security of Mr Latheef and his wife, as it was feared that they may be at great risk due to Mr Latheef’s legitimate and peaceful activities in defence of human rights, in particular his work publicising human rights violations in the Maldives.

Communications received

600. In a letter dated 30 June 2006, the Government of Sri Lanka (GOSL) responded in detail to the communication of 17 March 2006. The Government stated that it is facing problems with the LTTE, an alleged terrorist organization. The Government indicated that the **Tamil Rehabilitation Organisation** is a front organization for the LTTE. The Government noted that the alleged abduction of members of the TRO was carried out by the LTTE and was an attempt to bring about adverse publicity to the GOSL. The Government stated that inquiries were ongoing in order to trace the victims and find the culprits, however it was noted that this was a difficult task given that the location where the victims are reportedly being held is in an uncleared area, and difficult to access. It was also noted that a number of witnesses living in LTTE controlled areas had failed to turn up for police interviews, which the Government noted was due to a deliberate attempt on behalf of the witnesses to conceal facts relating to the case. The Government indicated that the action taken by the police in relation to the abductions was

prompt and effective and that the police faced many obstacles during the investigation, which arouses suspicion that the abduction was part of false propaganda on behalf of the LTTE to obstruct talks between the GOSL and the LTTE.

601. In a letter dated 8 September 2006, the Government of Sri Lanka replied to the communication of 1 December 2006. The Government stated that although **Dr Jayawardena** continued to make complaints about lack of security and alleged threats against his life since 2000, Government intelligence forces had found his fears to be unsubstantiated and that he benefited from more police protection than is normally afforded to Members of Parliament. The Government further noted that regarding Dr Jayawardena's allegations of anonymous threatening phone calls, it would be possible for him to find out the identity of such callers by using 'the caller identity' facility which is freely available in Sri Lanka. The Government indicated however that it recognizes its responsibility to protect its citizens and that if Dr Jayawardena was ever in real danger appropriate action would be taken to protect him.

602. In a letter dated 14 September 2006, the Government of Sri Lanka replied to the communication of 11 September 2006. The Government stated that it condemned the attacks on the offices of three **international NGOs engaged in humanitarian assistance** in Muutur, Trincomalee on 21 May 2006 and that an investigation had been ordered into the attacks. The Government also indicated that all necessary assistance would be offered to the injured parties.

603. In a letter dated 30 May 2006, the Government of Sri Lanka replied to the communication of 26 May 2006. The Government stated that it strongly condemned the attack on the offices of the three international NGOs and that an investigation had been requested. The Government indicated that the Serbian national injured in the attack was rushed to hospital by the Army and that the Government had provided emergency sea and air transport for injured persons. The Government noted that UNHCR had conveyed its appreciation for the speedy action taken by the Government.

Responses received to communications sent by the Special Representative in previous years

604. In a letter dated 19 June 2006, the Government of Sri Lanka 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 opinion and expression and the Special Rapporteur on the question of torture, on 3 December 2004 concerning **Uswatta Liyanage, Anthony Joseph Perera and 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.

605. In a letter dated 23 January 2006, the Permanent Mission Sri Lanka 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 opinion and expression and the Special Rapporteur on extrajudicial, summary or arbitrary executions on 2 November 2005 concerning **Mr Sanjewa**. 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

606. The Special Representative thanks the Government of Sri Lanka for its responses to her communications of 17 March 2006, 26 May 2006, 11 September 2006 and 1 December 2006, and also for the two follow-up replies to her communications of 19 June 2006 and 23 January 2006. The Special Representative is encouraged by the Government's willingness to investigate alleged violations.

607. Whilst the Special Representative appreciates the Government's efforts to investigate the alleged attack and subsequent disappearance of **Tamil Rehabilitation Organisation (TRO)** members, the subject of her communication of 17 March 2006, she is concerned by the Government's claims that the humanitarian organisation is linked to the LTTE and that the attacks were staged. The Special Representative would urge the Government to clarify the reasons for this allegation and to continue its efforts in investigating this case and to assure her that all measures are being taken to establish the whereabouts of **Thanuskody Premini, Shanmuganathan Sujendram, Thambiraja Vasantharajan, Kailayapillai Ravindran** and **Arunesarasa Satheeshara** along with **Krishnapillai Kamalanathan**, Director of TRO, who was the subject of an as yet unanswered communication of 7 July 2006.

608. The Special Representative regrets that the Government did not respond to all of her communications and she is particularly disappointed that she did not receive a reply to her communication of 1 December 2006 concerning death threats against **Mohamed Latheef** and his wife **Wafiyya Najeeb**. The Special Representative would urge the Government to provide a detailed substantive response to this communication assuring her that the complaint lodged with Mirihana Police Station by Mr Latheef is being investigated and that appropriate measures have been taken to protect the physical integrity of both Mr Latheef and his wife.

609. The Special Representative is extremely concerned by reports of the deteriorating situation for humanitarian aid workers and human rights defenders working in Sri Lanka, that they have been the subject of ongoing threats, harassment and intimidation, and that during the month of August aid convoys were prevented from delivering essential supplies to internally displaced people by the authorities in Trincomalee. The Special Representative deeply regrets the deaths of Mr **Jeyaruban Gnanapragasam** from the Norwegian Refugee Council, along with 17 aid workers from Action contre la faim, four members of the *Uthayan* newspaper and human rights lawyer Mr **Nadaraja Raviraj**. She would urge the Government to take immediate and appropriate steps to ensure that aid workers and human rights defenders in Sri Lanka are afforded adequate protection so that they can enjoy a safe working environment in accordance with Article 12, paragraphs 2 and 3 of the Declaration on human rights defenders.

610. The Special Representative would also request that the Government respond to her communication of 13 April 2006 regarding **Ratnajeewan Hoole**. The allegations are serious and the Special Representative seeks reassurance that the case is being investigated and that Professor Hoole is being provided with adequate protection.

Sudan

Communications sent

611. On 27 January 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning a number of delegates at a non-governmental organisation forum in Khartoum, including **Faisal al Baqir**, a freelance journalist and member of the organisation Reporters sans Frontières and associated with the Sudanese Organization Against Torture (SOAT) and **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 by the Special Representative, the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 6 September 2004. The NGO forum had brought together national and international NGOs, 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. security forces entered the building where the NGO forum was being held. It is reported that the security forces ordered all delegates to switch off their mobile phones and demanded the names of all the participants. It is alleged that the 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 is reported that security forces attempted to release delegates who were representing international organisations, but not Sudanese nationals. International delegates resisted these attempts and finally all delegates were released. Concern is 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.

612. On 20 March 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences, concerning the **Sudan Social Development Organisation (SUDO)**, a humanitarian and developmental non-governmental organisation which works in West Darfur. 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 Zalingi and Geneina, ordering the suspension of all its activities within West Darfur. It is reported that the directors of SUDO were ordered to hand over all the assets of the organisation and to close down its health and nutrition centres and its food distribution unit. It is alleged that the legal grounds for this suspension are based in the Organisation of Humanitarian and Voluntary Work Act, but the HAC did not specify which provisions of the Act SUDO had violated. This legislation was the subject of an urgent appeal sent by the Special Representative on 16 November 2005. In that communication, concern was expressed regarding the powers granted to the HAC by this legislation. Particular concerns were

expressed regarding the HAC's powers to suspend NGO activities, dissolve their executive committees and replace them with transitional committees, cancel registration, and expel international NGOs from the Sudan upon approval of the Minister, without judicial review. Concern is expressed that the suspension of the activities of SUDO is connected with its work in defence of human rights and will prevent it from carrying out its humanitarian and development work.

613. On 24 April 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning the non-governmental organisation **Women Awareness Raising Group - Red Sea** (AWOON Red Sea). AWOON Red Sea provides legal assistance and legal advice to women in Port 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 organisation that its assets would be frozen. It is reported that the 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 it had submitted a funding application to the European Union without first seeking approval of the HAC. It is further reported that the HAC made reference to the Organisation of Humanitarian and Voluntary Work Act to further justify the closure of AWOON Red Sea. Grave concern is expressed that the freezing of the assets of AWOON Red Sea may be 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 is expressed that this may form part of a campaign on the part of the Sudanese authorities to prevent NGOs 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 developmental NGO, which works in West Darfur, Sudan, were suspended. This suspension of activities was the subject of an urgent appeal sent jointly by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative on 20 March 2006.

614. On 19 May 2006, the Special Representative sent an urgent appeal to the Government, together 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, concerning **Mossaad Mohamed Ali**, lawyer and Coordinator of Amel Centre for the treatment and rehabilitation of victims of torture in Nyala, and **Adam Mohammed Sharief**, member of Amel Network of Lawyers in Nyala. According to the information received, on 15 May 2006 at 9:30 am, Mr Ali and Mr Sharief were summoned for questioning at their offices by officers from the National Security Bureau (NSB) in Nyala. They were first detained without charges for thirteen hours in a cell in the NSB offices and were eventually released at 10 pm on the same day. On 16 May 2006, in the early morning, they were summoned once again to the NSB offices where they were arrested. No reason was given for their arrest and their family, legal counsel and UNMIS were denied access to them. In view of their incommunicado detention, concerns have been expressed that they may be at risk of torture or ill-treatment. Additionally, concern has been expressed that their detention and arrested may be related to their activities as human rights defenders and lawyers, particularly in view of the absence of charges.

615. On 11 July 2006, the Special Representative sent an urgent appeal to the Government concerning **Nagib Nagmeddine**, director of the Amel Centre for the Treatment and Rehabilitation of Victims of Torture and Secretary General of the AMAN network. The Amel Centre is affiliated with the Sudanese Organisation Against Torture (SOAT), a London-based organisation that works in defence of human rights on behalf of Sudanese citizens. According to the information received, on 9 July 2006 at approximately 9.30 am, Dr Nagmeddine was arrested and detained by members of the National Security Bureau of Sudan. It is reported that he was taken to the office of the Attorney for Crimes against the State in Khartoum and interrogated by a police officer who questioned him about reports that had been issued by SOAT in relation to violent disturbances that took place in Sudan in 2005. The police officer allegedly accused Dr Nagmeddine of providing information to SOAT and informed him that he was being investigated for offences under Articles 66 (publication of false news), 77 (public nuisance), 96 (omission to produce document or deliver statement), article 159 (defamation) of the 1991 Sudanese Penal Code and article 37 of the Press Act. Dr Nagmeddine was released at approximately 7 pm on the same day. Concerns are expressed that the arrest of and charges against Dr Nagmeddine may be connected with his activities in defence of human rights, in particular because he has provided information to international organizations concerning alleged human rights violations committed in Sudan.

616. On 26 July 2006, the Special Representative sent an urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning regarding **Charles Locker**, executive director of Manna Sudan, an NGO working on peace building, human rights awareness and education, in particular through the promotion of dialogue with local communities in Southern Sudan. According to the information received, on 4 July 2006, Mr Locker was reportedly arrested by police officers at his home in Ikotos, Eastern Equatoria, without any official motive. A few hours before, police officers had visited the premises of Manna Sudan in Ikotos, looking for Mr Locker. As the latter was not present, the officers arrested several staff members for several hours, and confiscated several assets of the organization, including a vehicle. On 6 July 2006, Mr Locker was reportedly transferred to Torit, where he was detained under house arrest, without any official charge. Concerns have been expressed that the arrest of Mr Locker follows the publication on the internet of several articles written by Mr Locker, criticising the involvement of the Eastern Equatoria Governor and other local authorities in tribal clashes.

617. On 8 August 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the independence of judges and lawyers, concerning **Mossad Mohamed Ali**, lawyer and coordinator for the Amel Centre, **Najat DafaAlla**, **Rasha Souraj**, and **Ebtisam Alsemani**, lawyers and volunteers with the Amel Centre. The Amel Centre provides treatment and rehabilitation for victims of torture in Nyala, South Darfur. Mr Ali was already subject to an urgent appeal sent on 19 May 2006 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Representative. According to the information received, on 1 August 2006 Mr Ali and Ms DafaAlla reported to the offices of the National Security Bureau (NSB), in response to an order they had received from the Attorney General, to attend the offices for interrogation in relation to a case that had been filed against them. Reportedly, the order accused them of sending false reports and disclosing information relating to Sudanese military forces in Nyala. On arrival at the NSB office, Mr Ali and Ms DafaAlla were reportedly separated and interrogated regarding events in

Otash camp for internally displaced people that took place after the signing of the Darfur Peace Agreement in May 2006. Allegedly five residents of the Otash camp had been arrested while participating in a peaceful demonstration and Mr Ali, Ms DafaAlla, and Ms Alsemani had written a letter to the Security Committee requesting information on the whereabouts of these five individuals. During their interrogation, Mr Ali and Ms DafaAlla were allegedly accused of spreading false information, and of being a threat to national security. They were released and informed that their case would be referred to the Attorney General for prosecution. Reportedly Mr Ali was previously arrested on 16 May 2006 and released on 20 May 2006 without charges. He was interrogated in relation to the activities of the Amel Centre, and accused of opposing the Darfur Peace Agreement. It is also reported that on 29 July 2006, Ms Alsemani received a letter from the Attorney General's office ordering her to attend the NSB for interrogation in relation to offences against the State on 30 July 2006. Reportedly, Ms Alsemani is currently in Khartoum and will have to attend for interrogation on her return to Nyala. Concerns are expressed that the above events are connected with the activities of Mr Ali, Ms DafaAlla, Ms Souraj, and Ms Alsemani in defence of human rights, in particular the rights of internally displaced people and victims of the armed conflict in South Darfur. Further concerns are expressed that these most recent events may form part of a campaign of harassment against the staff of the Amel Centre, aimed at preventing it from carrying out its human rights work.

618. On 15 August 2006, the Special Representative sent an urgent appeal to the Government regarding **the serious deterioration of humanitarian access and the significant increase of operational risks for humanitarian workers in the Darfur regions**. According to the information received, escalating violence in Darfur has killed more humanitarian workers in July 2006 than in the previous three years of conflict: a total of eight humanitarian workers, all of them Sudanese, were reported to have been killed while on duty last month. Many of the attacks happened while workers were helping suffering populations. In addition to the deaths, increases have also been recorded in hijackings of NGO vehicles, attacks on cars during which they were looted, and attempted ambushes. These attacks include vehicles stolen during food distributions, theft from NGO compounds and one attack on an ambulance. As a result of these incidents, many staff of Sudanese nationality working for NGOs and the United Nations now fear for their safety if they enter camps, and in some cases are reluctant to do so. At the same time, the violence is also impacting on local populations, deepening the humanitarian crisis. Concerns are expressed that such events may represent the deliberate targeting by armed militia (Janjaweed) of humanitarian workers in the Darfur regions for their human rights activities, specifically their aid relief work to ensure that the civil, cultural, economic, political and social human rights of civilians are protected.

619. On 25 August 2006, the Special Representative sent a letter of allegation to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, 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, the journalist 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. The eviction, granted by a court order, was enforced by police

units in a brutal manner, despite ongoing negotiations between the Government and representatives of the IDPs to find a viable solution to a problem with evident humanitarian aspects.

620. On 8 September 2006, the Special Representative sent a letter of allegation to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning 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). **Sattiaa Mohamed Alhag**, lawyer and member of the Arab Nassrist Party, and **Alhag Warrag Sid Ahmed**, column writer with the *Alsahafa* 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, **Ibrahim Ahmed Alsheikh** and **Alfatih Omer Alsaied**, members of the Sudanese National Congress Party, and **Mohamed Dia-aldin**, member of the Baathist Arab Party remain 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 suggest that protestors were beaten and dispersed by armed riot police who shelled the area with tear gas. **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 31 August 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, **Surag -aldin Yousif** and **Suleiman Tahir** as well as **Mohamed Suleiman Hor** and **Mohamed Omer Idris** were sentenced to two and one months imprisonment respectively. **Alamin Idris Awad**, **Mohieldin Hasan Altahir**, **Abdullah Abdelsalam** and **Higazi Ali** were sentenced to a fine of SD 30,000 or one month imprisonment. Additionally, **Alsadig Hassan**, **Nazik Izzeldin Abass** and **Ibrahim Atta-almannan Al-zubair** were sentenced to a fine of SD10,000 or one month imprisonment. Reportedly, additional trials are ongoing. Regarding the demonstration planned for 2 September in Kosti city, the organizers were informed on 1 September 2006 by the Security Committee in Kosti that 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 were human rights defenders and political activists including: **Moniem Eljack**, **Bushra Alsayim** and **Marwa Mamoun Alhaj**, who are awaiting trial, **Sidiq Alsaddig Al Mahdi** and **Mariam Alsaddig Al Mahadi**, who have been sentenced to one month and two months imprisonment respectively, as well as **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 has been reported that none of the 56 defendants detained in the cells have been informed of the charges against them and they 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 is expressed that the arrest and trial of these human rights defenders may be linked to their activities in defence of human rights, and may form part of a campaign of harassment and intimidation against human rights defenders in Sudan.

621. On 20 November 2006, the Special Representative sent a letter of allegation to the Government regarding the questioning by national security officers of **Mohamed Badawi**, human rights lawyer and coordinator of the Amel Centre for the Treatment and Rehabilitation of Victims of Torture in El Fasher, and **three female employees of Amel Centre** in the same location. The Amel Centre provides legal aid to victims of torture and sexual violence and represents individuals at risk of cruel, inhuman and degrading punishments, including the death penalty and amputations. According to the information received, on 9 September 2006, Mohamed Badawi was summoned to the office of the National Security (NS) in El Fasher. It is reported that he immediately reported to the NS offices where he remained for more than three hours without being interrogated. He was then released without charge, but ordered to report again to the offices on the following day. On 10 September 2006, Mr Badawi duly reported to NS where he was held until 3 pm. The NS officer reportedly asked him a series of questions regarding the activities of the Amel Centre, his association with international NGOs, and whether he had been engaging in anti-Government activities. He accused the Amel Centre of organizing anti-Government meetings, and entreated Amel in future to verify information obtained with the NS office before publicizing it. On 18 September 2006, three female employees of Amel Center were reportedly summoned by the same El Fasher National Security office for questioning. At approximately 4.20 pm, two NS officials approached the women who were shopping in the main market, and instructed them to proceed to the NS premises for questioning. The women were reportedly asked a number of personal questions, including their daily activities at the Amel Centre, whether they supported the Darfur Peace Agreement, and also whether they routinely take pictures of rape victims referred to them. The women were also questioned about the general activities of the Amel Centre as well as its relationship with United Nations agencies. In addition, the women were reportedly asked to reveal the names of organizations which have been funding and sponsoring Amel activities as well as Amel's relationship with university student activists. The interrogation ended at approximately 6.20 pm and thereafter the women were allowed to leave the NS compound. While they did not report any ill-treatment by NS officials, they pointed out that the interview was conducted in a very hostile and intimidating manner. Concerns are expressed that the interrogation of Mohamed Badawi and the three female workers from the Amel Centre may be in retaliation for their legitimate activities in defence of human rights, and may form part of a campaign of intimidation and harassment against human rights defenders in Sudan.

Communications received

622. On 2 August 2006, the Government of Sudan responded to the communication sent on 24 April 2006. The Government informed that **AWOON** is a non-governmental organization registered with the Humanitarian Aid Commission which works on providing legal assistance to women in Port Sudan. AWOON presented a project for strengthening the capacity building of the society in human rights to the EU for funding without obtaining permission from HAC-Red Sea, which violates Section 15/2 of Humanitarian Aid Act 1995. The EU funded the project

without the permission of HAC which violates Section 22 of Humanitarian Aid Act 1999. For the above reasons, HAC-Red Sea decided to freeze the bank accounts and the activities of AWOON. The Government concluded by stating that HAC was seeking to reach a prompt and consensual solution that is consistent with the rules of law and at the same time facilitates the activities of NGOs.

Observations

623. The Special Representative thanks the Government for its response of 2 August 2006, and looks forwards to knowing whether a “prompt and consensual solution” was actually reached by HAC.

624. The Special Representative regrets, however, that most of her communications are left unanswered. She remains deeply concerned at the high number of defenders arrested and detained by security forces, in particular the National Security Agency, while working in South, North and West Darfur, mostly for the Amel Centre, and the Sudan Social Development Organisation. A majority of defenders are arrested while exercising their right to freedom of expression and assembly, and are reported to have been tortured or ill-treated during their incommunicado detention. These concerns were already voiced in the compilation of developments for the situation of human rights defenders since 2000 (E/CN.4/2006/95/Add.5 – paragraphs 1498 to 1504).

625. The Special Representative is extremely concerned about the serious deterioration of humanitarian access and the significant increase of operational risks for humanitarian workers in the Darfur regions since August 2006. She urges the Government to ensure the adequate protection of humanitarian workers and to facilitate their access to the civilian population in dire need of help.

Syrian Arab Republic

Communications sent

626. On 23 December 2005, the Special Representative sent an urgent appeal, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture, concerning lawyer and human rights defender and well known Kurdish figure **Mahmoud Jamil**, aged 43. According to the allegations, he has been arrested on three separate occasions in connection with his activities advocating for the rights of Kurdish people living in Syria. On each of these occasions, he has been subject to torture or other forms of ill-treatment. In 1992, he was initially arrested by the state security forces on suspicion of posting banners on walls containing statements demanding rights for stateless Kurds. He was detained for 21 days and did not have access to a judge during that time. He was kept in an overcrowded cell on the first day of his detention, and was then interrogated and tortured from noon until 2200 hours in Ras El Ein. He was allegedly punched by a superior officer in his right eye, causing it to bleed, kicked and punched in the spine by five men, beaten with a baton whilst lying naked in a rubber tyre in a foetal position, electrocuted by wires attached to his toes then to his genitals until he lost consciousness. He was also anally assaulted with a bottle. He was subsequently moved to Qamishli prison, where he was beaten and

punched during the first five days, deprived of food and prevented from using the toilet more than twice a day. He was subsequently released, after his wounds had healed. On 17 April 1996 he was arrested for the second time and was sentenced to four years in prison on charges of being a member of the Yakidi party and promoting cessation and sectarianism in Syria. During pre-trial detention he was kept in solitary confinement in a cell of 170 x 180cm for 50 days. The guards often stole the food and money delivered to him by his relatives. According to the information received, a number of advocates wanted to defend him on a pro bono basis, but were not allowed access to him. On 8 April 2004 he was arrested for the third time following a spontaneous demonstration at the bazaar in Ras El Ein following the March 2004 uprising in Qamishli. He was arrested by ten men at 0300 hours and beaten, punched and kicked before being forced into a car, blindfolded. At the detention facility, he was beaten and the superior officer kicked him in the stomach. He was stripped to his underwear, blindfolded with plastic, put in a tyre, beaten with sticks and whipped with metal cables for about one and a half hours. He was then put in a small room, denied water and prevented from sleeping. At 0700 hours on 9 April 2004, he was taken to Hassakeh prison with eight others and kept in underground rooms. He and seven others were lined up naked against a wall and sprayed with water from a hose. He was then taken to a room, pushed into a tyre and beaten with cables and sticks. He was interrogated and treated in this manner for a period of five days. He was subsequently taken to Damascus with 85 other people. They were transported in three military trucks, blindfolded and had their hands tied behind their backs. The officers insulted them throughout the journey and threatened that they would not see their homes again because they were going to die. Upon arrival at Saidnaya military prison on 10 April 2004 they were all beaten by a large number of military police for over five hours. Mr Jamil was then detained with about 30 people in a cell measuring 6 x 6 meters. At 2000 hours, ten persons entered the cell and began beating and kicking the detainees. This treatment occurred four to six times a day for the next six days. The detainees were also forced to imitate dogs and donkeys. After six days, Mr Jamil and the other detainees were interrogated for the next month, and were regularly subjected to similar ill-treatment. During the period from 13 April to 26 June 2004, Mr Jamil was taken to Adra Prison, which is also known as the Central Prison of Damascus. He was brought before different military courts on a number of occasions. On 30 March 2005, he was released as a result of a presidential amnesty.

627. On 6 April 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **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. Mr al-Abdullah had already been arrested on 26 May 2005 and his case was the subject of a communication dated 6 July 2005 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative. According to the Government's response dated 29 December 2005, Mr al-Abdullah was released from detention on 4 November 2005. Unfortunately, this communication did not address the concerns expressed in our 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 Mr al-Abdullah and his son Mohammad were arrested at their home in Ktene, south of Damascus. It is 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 are being detained. As a consequence, concern was expressed that Mr al-Abdullah and his son Mohammed might be at risk of torture or other ill-treatment.

628. On 4 May 2005, the Special Representative sent an urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture, concerning **Fateh Jamus**, a human rights defender and pro-democracy activist. According to the information received, on 1 May 2006, Mr 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 Jamus might be 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 might be at risk of torture or ill-treatment.

629. On 17 May 2006, the Special Representative sent an urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **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 is reported that since this date he has been in incommunicado detention and his whereabouts are unknown. It is 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 might be connected with his 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.

630. On 19 May 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers, regarding **Muhammad Ghanem**, online journalist at the news website Surion, **Anwar Al Bunni**, human rights lawyer and member of the Syrian Organization for Human Rights, **Ghaleb Ammar**, board member of the Arab Organization for Human Rights (AOHR), **Mahmoud Merri**, secretary of the AOHR, **Suliman Al Shamr**, member of the National Democratic Coalition, **Abbas Abbas**, a journalist, **Khalil Hussein**, former political prisoner and leader of the political organization "Kurdish Future", **Mahmoud Issa**, former political prisoner, and **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 he appeared before a military court in al-Raqqa on charges of publishing false news about human rights violations committed by the Syrian authorities. He was then transferred to al-Raqqa 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 Darwish and Mr Merri were arrested and detained by Syrian security forces in Damascus. Their whereabouts remain unknown and reportedly they have had no access to their families or to legal representation since their arrest. Furthermore, on 17 May 2006 Mr Al Bunni, Mr Al Shamr, Mr Ammar, Mr Hussein, Mr Issa and Mr Abbas were arrested and detained by security forces in Damascus. Their whereabouts remain unknown and reportedly they have had no access to their families or to legal representation since their arrest. It is reported that Mr Darwish, Mr Merri, Mr Al Bunni, Mr Al Shamr, Mr Ammar and Mr Abbas had recently signed a petition calling for improvement of relations between Syria and Lebanon. Grave concern is expressed that the above arrests and detentions are 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.

631. On 2 June 2006, the Special Representative sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, and the Special Rapporteur on the independence of judges and lawyers, regarding **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, **Anwar Al Bunni**, human rights lawyer and member of the Syrian Organization for Human Rights, **Ghaleb Ammar**, board member of the Arab Organization for Human Rights (AOHR), **Mahmoud Merri**, secretary of the AOHR, **Suliman Al Shamr**, member of the National Democratic Coalition, **Abbas Abbas**, a journalist, **Khalil Hussein**, leader of the organization “Kurdish Future” an organization that defends the rights of the Kurdish population in Syria, **Mahmoud Issa**, former political prisoner, and **Nidal Darwish**, board member of the Defence Commission for Human Rights and Democratic Freedoms in Syria. Mr Kilo was the subject of an urgent appeal sent jointly by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative 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 jointly by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers and the Special Representative on 19 May 2006. According to new information received, the above-mentioned people were arrested on 17 and 18 May 2006 and are currently detained in Adra prison in Damascus. They have been charged with “weakening nationalist feelings and inciting racial or sectarian strife”, under article 285 of the Syrian Penal Code. These charges allegedly relate 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 is further reported that during their interrogation they were beaten by prison officers and that they have been allowed to meet with their lawyers

only once since their arrest. Mr Anwar Al Bunni has allegedly been on hunger strike since his arrest on 17 May 2006 in protest at his arrest and detention. It is reported that he is currently in a weakened state of health. Grave concern is expressed that these charges are 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 is expressed that they are being denied adequate access to legal representation.

632. On 30 June 2006, the Special Representative sent an allegation letter, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Radwan Ziadeh**, Director of the Damascus Centre for Human Rights Studies in Damascus, Syria. According to the information received, on 26 June 2006 Radwan 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 is 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 is also reported that, on 26 June 2006, members of the Syrian security forces went to Mr Ziadeh's house in Damascus and questioned his brother about the reasons for Mr Ziadeh's travel to Jordan. Concerns were expressed that Mr 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.

633. On 23 August 2006, the Special Representative sent an urgent appeal, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, regarding the arrest of **Ali Shahabi**, an intellectual, writer and teacher, who has 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 is 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 10 am Mr Shahabi was reportedly summoned to the State security services in Damascus, as has 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 were expressed that Mr Shahabi's arrest might be linked to his various activities in the defence of human rights, and might form part of a campaign of harassment and intimidation against human rights activists in the country.

634. On 25 October 2006, the Special Representative sent an urgent appeal, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression, concerning **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 **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 are detained at the Adra prison and face 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 urgent appeals on 17 May 2006 and 19 May 2006 respectively, as well as an urgent appeal on 2 June 2006, to which no answers from the Government have been received so far. Concern was expressed that the arrests and charges against Mr Kilo and Mr Al Bunni might represent an attempt to silence them and prevent them from carrying out their human rights activities, in particular their work advocating the right to freedom of expression.

635. On 27 November 2006, the Special Representative sent a joint urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers, concerning **Nizar Ristnawi**, human rights defender and founding member of the Arab Organization for Human Rights (AOHR). Mr Ristnawi, along with Mr Muhammad Ra’dun, was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and Special Representative on 1 July 2005. According to the information received, on 19 November 2006, Mr Ristnawi was reportedly sentenced by the Supreme State Security Court (SSSC) to four years imprisonment for spreading false news and insulting the President. Mr Ristnawi was arrested on 18 April 2005 and detained incommunicado for two weeks before his family was informed by the Military Security that he was in their custody in Hama. He was reportedly held incommunicado until August 2005 when his wife was allowed to visit him on a monthly basis. Proceedings before the SSSC reportedly fail to meet international fair trial standards. In particular, defendants have restricted access to lawyers, confessions are admissible as evidence, even when they are alleged to have been extracted under torture, allegations of torture are not investigated by the court, and convicted prisoners do not have the right to appeal the sentences. Concerns are expressed that the trial against Mr Ristnawi has been unfair according to international standards, and that the charges and sentencing against Mr Ristnawi may be in relation to his legitimate activities in the defence of human rights in the Syrian Arab Republic.

Communications received

636. At the time this report was finalized, the reply of the Government regarding the communication of 6 April 2006 was still in the process of being translated.

637. In a letter dated 30 October 2006, the Permanent Mission of the Syrian Arab Republic replied to the communication of 2 June 2006 concerning **Anwar Al Bunni**, **Ghaleb Ammar**,

Mahmoud Merri, Sulieman Al Shamr, Abbas Abbas, Khalil Hussein, Mahmoud Issa and Nidal Darwish. The Mission stated that Mr Al-Bunni provided offices for the Institute for Assistance and Solidarity, based in Brussels, to carry out civil society training, and a local Syrian team was employed. The letter indicates that this was arranged before the organization had received a licence to operate in Syria and that such an action contravened regulations and laws in force. The letter stated that Mr Al-Bunni published information on the Internet making false allegations against Syria of a kind likely to damage the country's standing in the domestic and international arenas and was thus punishable under articles 286 and 287 of the Syrian Criminal Code. According to the Mission, Mr Al-Bunni signed the Damascus-Beruit Declaration, which contains allegations and assertions made by a Lebanese faction that is hostile to Syria, and that he encouraged intellectuals to sign the declaration. The Mission stated that Mr Al-Bunni accepted support from foreign governments and entities that are hostile to Syria and can thus be punished under Article 264 of the Syrian Code.

Observations

638. The Special Representative thanks the Government for its replies, but regrets that at the time of the finalization of this report, the Government had not transmitted replies to her communications sent on 23 December 2005, 4 May, 17 May, 19 May, 30 June, 23 August, 25 October and 27 November 2006. The allegations contained in these communications are serious and the Special Representative urges the Government to respond to these communications and the concerns raised by her.

639. The Special Representative is deeply concerned at the number of arrests of defenders in connection with the exercise of their right to freedom of expression. The Special Representative reiterates that the use of criminal charges such as "spreading false news" frequently implies the risk of suppressing legitimate free speech, and is particularly worrying when such charges are raised against a person for having denounced alleged human rights violations. She wishes to remind the Government of article 6 paragraph (b) of the Declaration on human rights defenders which provides that "[e]veryone has the right, individually and in association with others: (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.

640. The Special Representative is also concerned about the arrests of defenders who took part abroad in conferences on the promotion of human rights or were prevented to attend such events. She wishes to remind the Government of article 5 paragraph (a) of the Declaration which states that "[e]veryone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully".

Thailand

Communications sent

641. On 28 March 2006, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the situation of **Angkhana Neelaphajit**, wife of the disappeared human rights lawyer Somchai

Neelaphaijit who was already the subject of an urgent appeal by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on 17 March 2004 and by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on 25 June 2004. Ms Neelaphaijit was the subject of a prompt intervention letter addressed to the Government from the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances on 22 July 2005. Ms Neelaphaijit was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 7 September 2005. According to information received, Ms 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 Representative 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 Ms 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 continued west of Bangkok. It is reported that the person who reportedly made the threat had come previously to Ms Neelaphaijit's residence, once recently 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 expressed in the communications of 17 March 2004, 25 June 2004 and 7 September 2005 were reiterated, that these threats represent a means to intimidate Ms Neelaphaijit in order to dissuade her from continuing to seek truth and justice in the case of her husband.

642. On 21 September 2006, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning the trial of **Ticha Na Nakorn**, former coordinator of the Women and the Constitution Network, in Thailand. According to the information received, Ms Nakorn is currently the subject of a criminal defamation case for publicizing allegations of the sexual harassment of a female news reporter by a senior police officer in 2003. She was acquitted, along with 16 other defendants, in a civil case brought by the former National Chief of Police, Police General Sant Sarutanont, in November 2005, but the Public Prosecutor has decided to proceed with the criminal case against her. The cases against all of the defendants in the civil suit were heard together, however it is reported that charges have not been brought against all of the defendants who were party to the civil suit and those that will be brought before the criminal court, will be heard individually. It is reported that the charges were filed by the former National Chief of Police and were investigated by his subordinates therefore it is feared that the procedure followed was not independent or impartial as the complainant and investigator were the same.

643. On 30 November 2006, the Special Representative sent an allegation letter concerning the killing of **Muhammad Dunai Tanyeeno**, headman of Village No. 1, Jaroh, Paiwan sub-district in the Tak Bai district and **Hassan Yamalae**, headman of Village No. 3, Talo of Yata sub-district in Raman district, Yala province. According to the information received, on 20 October 2006 Muhammad Dunai Tanyeeno was shot dead near his home when he had gone out after receiving a phone call. Reportedly he had tried to arrange a meeting between the Tak Bai victims and family members and military officials and he had been in contact with these

officials. It is further reported that he had arranged a meeting on 3 October 2006 between victims of violence in the south and the Fourth Army Region Commander of the region. Mr Dunai had been actively involved with the legal campaign to demand justice for the victims of the Tak Bai incident in which 84 Muslim anti-Government protesters reportedly died after the demonstration was suppressed by the Thai authorities on 25 October 2004. On 16 October 2006 Mr Yamalae was travelling home by motorcycle from a shopping trip with a colleague, when they were both fired upon and killed. According to the sources Mr Yamalae had attended a meeting with members of the National Human Rights Commission of Thailand and the Working Group on Justice for Peace in relation to a raid which was carried out by more than 100 police and army agents on 13 September 2006. It is alleged that during this raid live ammunition was fired as the village was searched for suspects and bomb making materials. Mr Yamalae had been active in criticising the treatment of villagers by the authorities during police raids.

Responses received to communications sent by the Special Representative in previous years

644. In a letter dated 29 June 2006, the Government of Thailand 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 opinion and expression on 20 July 2004 concerning **Supinya Klangnarong, Thaweasin Sathitrattanacheewin, Roj Ngammaen and 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 Sathitrattanacheewin, Mr Ngammaen and Mr 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 were 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 THB 400 million.

645. In a letter dated 16 February 2006, the Government of Thailand 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 opinion and expression on 7 September 2005 concerning **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

646. The Special Representative thanks the Government for its responses to her communications of 20 July 2004 and 7 September 2005. She regrets that as yet she has received no response from the Government in relation to her communications of 2006. She considers response to her communications as an important part of the cooperation of Governments with her mandate.

647. The Special Representative welcomes the decision of Thailand's Criminal Court of Justice to withdraw charges against **Ms Klangnarong**, and is encouraged by its willingness and commitment to investigate the case of **Mr Neelapajjat** and to offer protection to his wife if requested.

648. The Special Representative would appreciate a response from the Government in relation to her communications of 28 March 2006, 21 September 2006 and 30 November 2006. Of particular concern is the killing of **Muhammad Dunai Tanyeeno** on 20 October 2006 and **Hassan Yamalae** on 16 October 2006. In this regard, the Special Representative urges the Government to provide a detailed response to her communication, outlining whether an investigation has been initiated on this case and if so what measures have been taken to ensure the perpetrators are brought to justice.

649. Whilst the Special Representative was encouraged by the positive action taken by the Government of Thailand in relation to human rights, during her visit to the country in 2003, she notes with concern reports received concerning alleged or attempted murder of defenders, as highlighted in the cases of **Muhammad Dunai Tanyeeno** and **Hassan Yamalae**, as well as multiple arrests, detentions and prosecutions of defenders. The Special Representative invites the Government to consider her concerns and to take measures to guarantee a suitable environment in which NGO activity can operate and flourish and to provide appropriate protection for individuals and NGOs working in the defence of human rights.

Tunisia

Communications envoyées

650. Le 5 janvier 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant **Saïda Akrami**, 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 avait participé aux activités du forum international des femmes défenseurs des droits de l'homme au Sri Lanka auquel avait également participé la Représentante spéciale. Selon les informations reçues, lors de son retour en Tunisie, des agents des douanes et de la police politique 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, Saïda Akrami serait l'objet d'une surveillance policière depuis plusieurs années et serait régulièrement

suivie dans ses déplacements et allées et venues et aurait déjà fait l'objet de plusieurs raids dans son cabinet.

651. Le 31 janvier 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la violence contre les femmes, ses causes et ses conséquences, a envoyé une lettre d'allégation concernant l'interdiction de la tenue de réunions par l'**Association tunisienne des femmes démocrates** (ATFD) et le Collectif du 18 octobre pour les droits et les libertés. Selon les informations reçues, le 18 janvier 2006, un dispositif policier aurait été déployé devant le siège de l'ATFD et les membres de l'association auraient été empêchés d'entrer pour participer à leur réunion. Selon les informations reçues, les policiers en civil auraient usé de violences contre la présidente de l'ATFD, **AB** ainsi que **BM**, **MB** et **LC**. 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 **AH**, **HH** et **LH**, auraient été violemment agressés par la police déployée sur place.

652. Le 3 avril 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé une lettre d'allégation concernant **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 le Président-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 concernant la situation des défenseurs des droits de l'homme. 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. Selon des nouvelles allégations reçues, M. Abbou, emprisonné depuis le 1er 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 pas 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 nous 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. Du fait de la pression exercée 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. Dans ce cadre, les Rapporteurs spéciaux ont invité à accepter la demande de visite formulée le 4 décembre 1997 et réitérée les 15 avril 2002 et 20 janvier 2004 par le Rapporteur spécial sur l'indépendance des juges et des avocats, afin de lui permettre de se rendre au plus tôt en Tunisie pour vérifier sur place si les allégations d'atteinte à l'indépendance du pouvoir judiciaire et à la liberté d'exercice et d'expression de magistrats et de avocats sont fondées, et de formuler des recommandations pour renforcer l'efficacité et l'indépendance du système judiciaire.

653. Le 20 avril, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation de 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 en joignant l'organisation à suspendre la tenue de son congrès annuel et tous les préparatifs attendants 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 sur la promotion et la protection du droit à la liberté d'opinion et d'expression et de la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme 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.

654. Le 20 avril, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant **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 en

Espagne, 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 Mme 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.

655. Le 12 mai 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur sur la question de la torture et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent sur la situation 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 sur la promotion et la protection du droit à la liberté d'opinion et d'expression 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 au matin, des agents de la police auraient agressé plusieurs avocats devant la Maison du Barreau à Tunis. Me Ayachi Hammami aurait perdu connaissance à la suite des coups violents qu'il aurait reçus. Me Raouf Ayadi et Me 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, Me Ayachi Hammami, Me Raouf Ayadi et Me 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, préparé de façon unilatérale, 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.

656. Le 24 mai 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégation concernant **Yves Steiner**, membre du Comité exécutif de la Section suisse d'Amnesty International. Selon les informations reçues, dimanche 21 mai 2006, vers 14h30, 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 nord de la capitale, Tunis. Certaines personnes se seraient interposées et il aurait pu se réfugier à l'étage et donner l'alerte. Vers 16h30 néanmoins, plusieurs dizaines de policiers appelés en renfort auraient emmené de force Yves Steiner sans

donner de motif. L'ambassadeur suisse, qui avait eu un contact téléphonique avec lui, aurait tenté de se rendre sur les lieux mais n'aurait pas pu entrer dans le complexe hôtelier avant le départ de la voiture avec quatre policiers qui transféraient Yves Steiner à l'aéroport. Vers 20 heures, il aurait été expulsé vers Paris 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 samedi 20 mai, Steiner qui était invité à l'Assemblée générale de la Section tunisienne d'Amnesty International eut 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. De sérieuses craintes ont été exprimées que l'expulsion du délégué d'Amnesty Suisse ne représente une forme d'intimidation pour empêcher toute personne, tunisienne ou étrangère, de dénoncer les atteintes aux droits humains en Tunisie.

657. Le 31 mai 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la question de la torture, 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 prévue du 6ème 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 auraient 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 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. 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. Enfin, certains quotidiens locaux ou nationaux réputés proches du pouvoir, notamment le Temps, Echourouk ou Assabah, auraient publié les communiqués de presse de présidents autoproclamés de sections non reconnues de la LTDH visant à calomnier et menacer les membres de l'organisation. De vives préoccupations ont été exprimées devant les violences alléguées et la persistance du blocage des réunions et des activités de défense des droits de l'homme de la LTDH par les autorités.

658. Le 19 juin 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent sur la situation d'**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 », M. 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 1er 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 feraient l'objet les prisonniers de la prison de Borj Erroumi. Ce communiqué avait été largement repris par la presse tunisienne.

659. Le 11 juillet 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant M. **Ali Ben Salem**, président de la section de Bizerte de la LTDH et vice-président de l'Association de lutte contre la torture en Tunisie (ALTT) qui avait déjà fait l'objet d'un appel urgent envoyé le 19 juin 2006 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 et d'une lettre d'allégation envoyée le 11 juin 2004 par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, 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. Il nous a été rapporté que ces événements feraient suite à une réunion organisée par la section locale de la Ligue le 4 juillet 2006 dans ses locaux, portant sur les entraves alléguées à la liberté de réunion contre la LTDH, sur l'interdiction de la tenue du congrès national et sur les poursuites judiciaires dont la Ligue 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'en empêcher l'accès des participants à la réunion. Au cours de ces événements, M. Ben Salem, qui avait récemment subi une opération au cœur, aurait été violemment bousculé par les policiers et du être emmené à l'hôpital. De sérieuses craintes ont été exprimées que ces événements ne visent à empêcher la LTDH d'exercer sa liberté de réunion et de poursuivre ses activités en la faveur des droits de l'homme.

660. Le 26 juillet 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant le **Conseil national pour les libertés en Tunisie** (CNLT) et un de ses membres, Mme **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 a fait l'objet d'un appel urgent envoyé par la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 31 décembre 2003. Selon

les informations reçues, dans la matinée du 21 juillet 2006, les membres du CNLT auraient été empêchés de tenir une réunion interne dans l'immeuble qui abrite leur local, à Tunis, par un large cordon de policiers en civil. Ces derniers auraient agressé verbalement et physiquement les membres du CNLT qui s'approchaient de l'immeuble. Naziha Rjiba aurait notamment été violemment frappée et insultée puis mise de force dans un taxi par les policiers. Ceux-ci auraient ordonné au chauffeur de la conduire n'importe où, précisant qu'elle était une prostituée et qu'il pouvait "s'en servir à sa guise". Lorsque Naziha Rjiba avait finalement pu rejoindre son domicile, celui-ci aurait été encerclé par des agents de police en civil, qui seraient restés postés toute la matinée à surveiller le domicile. Ceci ne serait pas la première fois que Naziha Rjiba fasse l'objet d'actes de harcèlement. En effet, le 3 décembre 2005, Neziha Rejiba aurait été mise en garde par une source proche du pouvoir, l'informant du mécontentement des autorités concernant certains de ses articles qui critiquent les excès allégués 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, elle aurait été victime d'un malaise cardiaque suite à une violente altercation verbale avec des membres des forces de sécurité, alors qu'elle s'apprêtait à participer à une réunion de préparation du Sommet citoyen sur la société de l'information - finalement interdite - à l'Institut Goethe, à Tunis. Elle aurait par ailleurs fait l'objet d'une surveillance constante de la police politique durant toute la tenue du Sommet. Des craintes ont été exprimées que ces actes ne visent à empêcher le CNLT et ses membres de poursuivre leur action en faveur de la défense des droits de l'homme. Ces craintes sont d'autant plus vives que le CNLT n'aurait toujours pas été reconnu par les autorités tunisiennes en dépit de ses nombreuses requêtes en ce sens.

661. Le 3 octobre 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats, 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 dans l'après-midi, 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 (UIM) qui s'y tient actuellement. 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 faite par lettre recommandée avec accusé de réception et par voie administrative par une demande présentée le 19 septembre 2006. Des craintes ont été exprimées que ce refus de laisser Wassila Kaabi voyager ne soit une manière de l'empêcher de participer à des activités associatives internationales en faveur de la promotion de l'indépendance du pouvoir judiciaire.

662. Le 10 novembre 2006, la Représentante spéciale a envoyé une lettre d'allégation sur la situation de **Khémals Chammari**, ancien dirigeant de la Ligue tunisienne des droits de l'homme (LTDH, co-fondateur de l'Institut arabe des droits de l'homme et lauréat du prix de la Commission nationale consultative des droits de l'homme (CNCDH) en France et du Prix international des droits de l'homme de la ville de Nuremberg. M. Chammari a fait l'objet d'un appel urgent envoyé par le Rapporteur spécial sur la promotion et la protection du droit à la

liberté d'opinion et d'expression, le Rapporteur spécial sur la torture et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme le 11 novembre 2005. Selon les informations reçues, le 10 octobre 2006, M. Chammari aurait été retenu pendant 80 minutes à l'aéroport de Tunis-Carthage par des agents de la police et de la douane alors qu'il rentrait de Paris où il avait participé à plusieurs réunions professionnelles. Il est allégué que M. Chammari aurait été soumis à une fouille corporelle et qu'un livre traitant de la répression de la société civile en Tunisie aurait été saisi dans ses bagages (un reçu lui aurait été délivré). Des préoccupations sont exprimées que ces mesures de contrôle strictes et la confiscation du livre susmentionné ne soient liées aux activités légitimes de M. Chammari de défense des droits de l'homme en Tunisie et au déplacement professionnel qu'il a effectué en Europe.

663. Le 24 novembre 2006, la Représentante spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé 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. Des préoccupations sont exprimées que le refus systématique de laisser entrer M. Jendoubi dans son pays ne soit une forme de représailles pour ses activités de défense des droits de l'homme.

Communications reçues

664. Le 9 février 2006, le Gouvernement a répondu à l'appel urgent envoyé le 14 novembre 2005 par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression 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.

665. Le 20 février 2006, le Gouvernement a répondu à l'appel urgent envoyé le 19 mai 2005 par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, 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 indispensables 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 de

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, comme partout, passible de poursuites judiciaires.

666. Le 10 mars 2006, le Gouvernement a répondu à l'appel urgent envoyé le 27 octobre 2005 par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression 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 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.

667. Le 10 mars 2006, le Gouvernement a répondu à l'appel urgent envoyé le 6 septembre 2005, concernant **Abdelkader Ben Khémis**. Le Gouvernement informe que Ben Khémis, membre du Conseil national pour les libertés en Tunisie (formation n'ayant pas rempli les conditions légales pour sa constitution), a saisi le Procureur de la République auprès du Tribunal de première instance du Kef d'une plainte au sujet de prétendus actes d'injures et de menaces qui auraient été proférées à son égard par des commerçants du marché hebdomadaire du Kef. Cette plainte a été transmise à la police judiciaire du Kef qui a procédé à la convocation des parties du litige. Le plaignant n'a pas pour autant donné suite à cette convocation jusqu'à ce jour, gelant ainsi la bonne marche des investigations. S'agissant de la plainte déposée par Ben Khémis auprès du parquet du Kef pour violence et abus de pouvoir, celle-ci a été enrôlée, en date du 1er septembre 2005, sous le n° 17472, et fait encore l'objet d'une enquête qui suit son cours.

668. Le 10 mars 2006, le Gouvernement a répondu à la lettre envoyée le 12 mai 2005. Le Gouvernement informe le Rapporteur spécial que M. **Abbou** a comparu le 2 mars 2005 devant le juge d'instruction près du Tribunal de première instance de Tunis. Le Gouvernement ajoute que M. Abbou a fait l'objet d'une instruction déclenchée par le parquet de Tunis sur la base d'une plainte déposée des préjudices corporels nécessitant l'admission de celle-ci aux urgences médicales et un arrêt de travail pendant un mois. Il a été également mis en examen pour

diffamation des autorités judiciaires et incitation de la population à enfreindre les lois. Le Gouvernement informe aussi que, traduit devant la Chambre correctionnelle près du Tribunal de première instance de Tunis, le 28 avril 2005, l'accusé a bénéficié des circonstances atténuantes, puisqu'il n'a été condamné qu'à deux ans d'emprisonnement pour violences caractérisées sur sa consœur ayant entraîné une incapacité permanente de 10 % et à 18 mois de prison pour la diffamation des autorités judiciaires et diffusions de fausses nouvelles de nature à perturber l'ordre public. La peine a été confirmée en appel le 10 juin 2005. Le Gouvernement ajoute que la procédure judiciaire, ayant abouti à la condamnation de Me Abbou, s'est déroulée conformément aux règles de procédure en vigueur et en plein respect des garanties de la défense, malgré les agissements de certains avocats qui ont voulu provoquer les conditions d'un « procès inéquitable ». En outre, le Gouvernement souligne que ce détenu a bénéficié depuis son incarcération de toutes les garanties légales, dont notamment les droits à être soumis à un examen médical et à recevoir la visite de ses proches. Quant à l'allégation relative à une éventuelle parution de certains avocats de M. Abbou devant le conseil de discipline, il est à noter que le pouvoir disciplinaire les concernant appartient au Conseil national de l'Ordre des avocats qui examine, en toute indépendance, toutes les plaintes et les demandes en la matière. S'agissant de M. **Faouzi Ben Mrad**, le Gouvernement précise que, lors de sa plaidoirie devant la Chambre correctionnelle du Tribunal de première instance de Grombalia dans une affaire de détérioration et dommage causés à la propriété d'autrui, il s'est livré à des propos blessant à l'égard de l'accusé. Il fut alors interrompu par l'avocat de l'accusé qui lui demanda de s'abstenir d'utiliser ce genre de propos diffamatoires à l'égard de son client. Essayant de mettre fin à cette situation, la cour est intervenue pour permettre à M. Ben Mrad de continuer sa plaidoirie; et c'est alors que l'avocat en question s'adressa au président de l'audience et lui intima, à haute voix, l'ordre de se taire en lui disant expressément « lorsque je parle tout le monde se tait et toi aussi tu te tais » en mettant le doigt sur ses lèvres. Face à ce comportement, l'audience a été levée et le parquet a décidé de différer l'avocat pour outrage à magistrat. Après avoir informé l'ordre des avocats, comme le prévoit la loi, M. Ben Mrad a comparu le même jour devant la Chambre correctionnelle autrement composée, conformément à l'article 46 de la loi réglementant la profession d'avocat. Il a reconnu les faits qui lui sont reprochés en réfutant toute intention délictuelle de sa part. Le Gouvernement signale que le prévenu a été assisté par un grand nombre de ses collègues et après délibéré, le tribunal l'a condamné, en première instance, à quatre mois d'emprisonnement pour outrage à magistrat fait par parole et gestes. Interjetant appel devant la Cour d'Appel de Nabeul, celle-ci a confirmé que l'avocat en question était bien coupable, mais a réduit sa peine à la durée d'emprisonnement déjà exécuté, soit vingt sept jours, et a prononcé sa mise en liberté immédiate.

669. Le 19 avril 2006, le Gouvernement a envoyé une réponse à la lettre d'allégation de la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, 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.

670. Le 8 mai 2006, le Gouvernement a envoyé une réponse à l'appel urgent envoyé le 23 septembre 2005. Le Gouvernement informe que **sept présidents de sections locales de la Ligue tunisienne des droits de l'homme (LTDH)** contestant les mesures de fusions-dissolutions de sections prises par le Comité directeur de la Ligue, en violation des statuts de l'association, ont saisi début septembre 2005 la justice. Le 5 septembre 2005, le tribunal de première instance de Tunis a décidé la suspension du Congrès de la LTDH, initialement prévu du 9 au 11 septembre 2005, en raison de violation par le comité directeur des statuts et du règlement intérieur de la ligue. C'est en application de ce jugement que la direction actuelle de la Ligue a été avisée de l'illégalité de réunions de certaines sections locales prévues les 16, 19 septembre et 2 octobre 2005. S'agissant de **Mohamed Ataya**, il convient de souligner qu'il a prétendu avoir été repoussé par un agent de l'ordre devant le siège de la section de la LTDH de Mahdia. 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 présumé.

671. Le 5 octobre 2006, le Gouvernement a répondu à un appel urgent envoyé par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, en date du 14 novembre 2005, concernant **Robert Ménard**, Secrétaire général de Reporters sans Frontières. 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, connu pour ses antécédents judiciaires dans son pays, ne peut accéder au territoire tunisien que pour répondre à une convocation du juge instructeur en charge de l'affaire.

672. Le 5 octobre 2006, le Gouvernement a répondu à un appel urgent envoyé par la Représentante spéciale, le Rapporteur spécial sur la question de la torture et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, en date du 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 rassemblées 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 de faire une réservation. Bien qu'elles aient été avisées de l'existence de travaux de restauration, qu'elles ont 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.

673. Le 19 avril 2006, le Gouvernement a répondu à un appel urgent envoyé par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la

liberté d'opinion et d'expression, le 5 janvier 2006, concernant **Saïda Akrami**. Le Gouvernement précise qu'aucun document appartenant à Mme 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 faire l'objet, celles-ci sont dénuées de tout fondement et relèvent plutôt de la fabulation. Mme Akremi s'adonne normalement à ses activités et se déplace librement à l'intérieur du pays ainsi qu'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 auprès des autorités compétentes selon la procédure légale en vigueur.

674. Le 11 juillet 2006, le Gouvernement a répondu à un appel urgent envoyé par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le 20 avril 2006, concernant la demande de duplicata de passeport formulée par **Souhir 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 qu'à l'étranger.

675. Le 11 juillet 2006, le Gouvernement a répondu à un appel urgent envoyé par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, 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 atteint à sa souveraineté, pendant qu'il assistait au congrès de la section d'Amnesty Internationale siégeant à Tunis. Depuis son arrivée en Tunisie, M. Steiner s'est obstiné dans ses comportements provocateurs, usant en public des 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.

676. Le 24 Juillet 2006, le Gouvernement a répondu à la lettre d'allégation conjointe envoyée le 3 avril 2006 indiquant que **Mohamed Abbou**, « connu pour son comportement provocateur, agressif et manipulateur », 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. Pendant son procès, il aurait orchestré avec la complicité de quelques uns de ses collègues, une campagne pour faire croire à un procès inéquitable. Le Gouvernement ajouté que M. Abbou continuerait ses manœuvres trompeuses pendant sa détention, en véhiculant, dans le cadre d'une campagne de dénigrement et de manipulation, des prétentions ayant pour objectif de faire pression sur les autorités tunisiennes qui s'attachent à appliquer la loi sans excès ni laxisme. Le Gouvernement considère que M. Abbou est coupable d'actes irréfutables dont la preuve n'a jamais été mise en cause et qui

entrent sous le coup du droit pénal. Il affirme que tout le long de son procès, M. Abbou a bénéficié de toutes les garanties d'un procès équitable, et a été défendu par plusieurs avocats et 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, sanctionnant des infractions de droit commun et rendu après épuisement des toutes les voies de recours disponibles, 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 chaque fois que cela est nécessaire, à s'entretenir avec ses avocats et à recevoir la visite de ses proches. S'agissant de l'accès aux soins médicaux, M. Abbou a eu droit, dès son incarcération 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 serait tout à fait normal et ne présenterait aucun danger pour sa vie ou son intégrité physique. Pour ce qui est du droit de visite, il aurait reçu plus de 60 visites de la part de son épouse, de ses enfants, de sa mère et de son oncle. Il aurait même été autorisé à recevoir ses enfants à plusieurs reprises sans aucun obstacle. Une quinzaine de ses avocats lui auraient également rendu visite à vingt reprises. Le juge d'application des peines l'aurait également visité les 3 janvier 2006 et 8 mai 2006 ainsi que la délégation du Comité international de la Croix-Rouge (CICR) qui l'aurait rencontré lors d'une visite à la prison civile du Kef le 14 février 2006. Le Gouvernement nie le fait que M. Abbou ferait l'objet de vexation des gardiens et de certains détenus. Il a ajouté que la qualité d'avocat de M. Abbou ne pouvait aucunement lui conférer un traitement de faveur qui serait incompatible avec les dispositions de la loi n° 52-2001 en date du 14 mai 2001, portant organisation des prisons, qui interdit entre les personnes privées provisoirement de leur liberté. Le Gouvernement a également indiqué que 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; elle s'est engagée de manière irréversible sur la voie de la promotion et de la protection des droits de l'homme dans le cadre de l'état de droit, sans exception, ni discrimination. En ce qui concerne les conditions de détention des personnes privées provisoirement de leur liberté, 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 l'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; l'institution du système de double degré de juridiction en matière criminelle en vertu de la loi du 17 avril 2000 portant amendement du Code de procédure pénale ; 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 modifié par la loi du 29 octobre 2002; 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; promulgation d'une loi portant sur l'organisation des prisons en date du 14 mai 2001 en remplacement du décret du 4 novembre 1988; insertion dans l'article 13 de la Constitution de l'obligation de traiter les personnes privées de liberté dans le plein respect de leur dignité et intégrité physique; 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. L'État tunisien veillerait à l'amélioration des conditions de détention par des visites inopinées du Président du Comité supérieur des droits de l'homme et des libertés fondamentales, et en concluant 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 liberté et entendre celles qu'il choisit librement en dehors de tout contrôle de l'administration.

677. Le 3 octobre 2006, le Gouvernement a répondu à un appel urgent envoyé le 19 juin 2006 par la Représentante spéciale et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression 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 avec la signature de M. 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 entendues les diverses parties concernées, il a été décidé du maintien en garde à vue de 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.

678. Le 5 octobre 2006, le Gouvernement a répondu à une lettre d'allégation envoyé par la Représentante spéciale conjointement avec la Rapporteuse spéciale sur la violence contre les femmes et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, en date du 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 les allégations parvenues à la Représentante sont dénuées de tout fondement. L'ATFD exerce ses activités, comme toute autre information légale, en toute liberté et sans aucune entrave dans le cadre de l'État 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, **A.H.**, **H.H.** et **L.H.**) 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.

679. Le 5 octobre 2006, le Gouvernement a répondu aux lettres d'allégation envoyées par la Représentante spéciale 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)**. A 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, a 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 dudit 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 et le comité directeur de la LTDH, refusant la décision de la justice, continue de crier à l'injustice en usant de tous les moyens de contact de communication. Il convient de noter enfin que le 3 juin 2006, le tribunal de première instance de Tunis a décidé de reporter l'affaire au 8 juillet 2006 et ce, sur la demande de l'une des parties. L'audience a été reportée au 14 octobre 2006.

680. Le 4 décembre 2006, le Gouvernement a répondu à un appel urgent envoyé par la Représentante spéciale 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 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 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. 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 effectuée 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 de 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 la 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 par 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

681. The Special Representative thanks the Government for its detailed responses, but regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications of 12 May, 11 July, 26 July, 3 October, 10 November and 24 November 2006. The allegations are serious, and she urges the Government to respond to her communications and the concerns raised by her.

682. While she welcomes the issuance of a new passport to Ms Souhir Belhassen, the Special Representative remains extremely preoccupied by the situation of human rights defenders in Tunisia, as reflected by the high number of communications sent in 2006. She strongly reiterates the concerns voiced in her Compilation of developments for the situation of human rights defenders since 2000 (E/CN.4/2006/95/Add.5, paragraphs 1628 to 1636), in particular the repeated obstacles to the freedoms of association, assembly, both at national and international level, and expression, despite apparent legal safeguards. She wishes to remind the Government of article 5 paragraphs (a) and (b) of the Declaration on human rights defenders which provides that “[e]veryone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully; (b) To form, join and participate in non-governmental organizations, associations or groups”. She further wishes to mention article 6 paragraph (b) of the Declaration which states that “[e]veryone has the right, individually and in association with others: “(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”.

Turkey

Communications sent

683. On 14 February 2006 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Ibrahim Kaboglu**, professor of constitutional law at the university of Marmara (Istanbul) and **Baskin Oran**, professor of political sciences at the university of Ankara. According to information received, on 15 February 2006 Ibrahim Kaboglu and Baskin Oran will 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 is alleged that these charges result 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 may face many years of imprisonment. Grave concern is expressed that the charges against Ibrahim Kaboglu and Baskin Oran represent

an attempt to prevent them from carrying out their legitimate activities in defence of human rights.

684. On 5 April 2006 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding **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 Keskin was the subject of an urgent appeal sent by the Special Representative 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 is reported that Ms Keskin has refused to pay the fine. The sentencing results from charges of insulting the armed forces brought against Ms Keskin. 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 is reported that Ms Keskin has appealed this decision to the Court of Appeal. Concern was expressed that the above decision is 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.

685. On 13 April 2006, the Special Representative, together with the the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Jonathan Sugden**, a researcher with the international NGO Human Rights Watch. According to the information received, on 12 April 2006 Mr. Sugden was arrested by Turkish police officers in Bingol, south-eastern Turkey. It is reported that he was then moved to Istanbul and is due to be deported on 13 April 2006. The Turkish authorities have alleged that Mr. Sugden did not have valid authorisation to carry out his research activities in Turkey. It is reported that the Turkish authorities had previously informed Mr. Sugden that his tourist visa provided a legitimate basis for him to conduct his research activities. It is further reported that he had previously travelled to Turkey on a tourist visa in order to conduct research, with the knowledge of the Turkish authorities, and was not arrested or detained. Concern was expressed that the arrest of Mr. Sugden may have been connected with his activities in defence of human rights, in particular because of his research into the alleged human rights violations committed by the Turkish paramilitary police in south eastern Turkey.

686. On 2 June 2006 the Special Representative sent an urgent appeal concerning the **Rainbow Solidarity and Cultural Association for Transgenders, Gays and Lesbians** (Gokkusagi Dernegi), a non-governmental organization that advocates for the rights of lesbian, gay and transgender persons in Turkey. According to the information received, on 3 March 2006 the Rainbow Solidarity and Cultural Association for Transgenders, Gays and Lesbians (Gokkusagi Dernegi) was established in the city of Bursa. On 24 May 2006 it is reported that the Deputy Governor of Bursa initiated a court procedure at the Principal Registry, requesting the closure of the organization on the grounds that its establishment violated Articles 56 and 60 of the Turkish Civil Code, which prohibit the establishment of an organization that “is against the laws and morality rules”. It is alleged that in the request for closure, the Deputy Governor also referred to Article 11 of the European Convention of Human Rights. Concern was expressed that the reported court procedure was an attempt to close the Rainbow Solidarity and Cultural Association for Transgenders, Gays and Lesbians and that it was an attempt to prevent those who

defend the rights of sexual minorities from forming, joining and participating in non governmental organizations.

687. On 22 June 2006 the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, sent an urgent appeal regarding **Resit Yaray**, board member of the Batman branch of the Human Rights Association (HRA); **Mursel Kayar**, member of the Batman branch of the HRA; **Ali Oncu**, member of the Diyarbakir Branch of the HRA and chairperson of TES-IS; **Edip Yasar** and **Mecail Ozel**, members of the Diyarbakir Branch of the HRA; **Necdet Atalay**, former Spokesman of the Diyarbakir Democracy Platform, Secretary General of the Machine Engineers' Association, and an HRA member; **Erdal Kuzu**, lawyer and Secretary General of the Mardin branch of HRA; and **Hüseyin Cangir**, Chairperson of the Mardin branch of the HRA. According to the information received, on 29 March 2006, Mr Yaray and Mr 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 Yaray and Mr Kayar were beaten by police officers after their arrest. On 2 April 2006 Mr Yaray and Mr Kayar were charged with "assisting and supporting illegal organizations" and transferred to Batman prison, where they remain. The first hearing of their trial is scheduled to take place on 30 June 2006 before Diyarbakir Aggravated Penalty Court. Furthermore, on 29 March 2006, Mr Atalay was arrested and is currently detained in Diyarbakir D Type Prison. He has been charged with "assisting and supporting illegal organisations" and the first hearing of his trial will take place on 13 July 2006. On 30 March 2006, Mr 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 Ozel was brought before the Diyarbakir Criminal Court, charged with "assistance and support to illegal organizations" and transferred to the Diyarbakir Prison where he is currently being held. It is reported that the first hearing of his trial will take place on 13 July 2006. On 2 April 2006, Mr Kuzu, and Mr Cangir, Chairperson of the HRA Mardin branch, were arrested in the city of Kiziltepe when 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 Yasar's trial is scheduled to begin on 13 July 2006. Grave concern was expressed that the above events were 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.

Communications Received

688. In a letter dated 13 March 2006, the Turkish Government replied to the communication of 2 June 2006 concerning **Ibrahim Kaboglu** and **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.

689. In a letter dated 17 May 2006, the Turkish Government replied to the communication of 13 April 2006 concerning **Jonathan Sugden**. The Government stated that Mr Sugden obtained a sticker visa for entering Turkey and that when it was discovered that the purpose of his stay in the country was to conduct research he was informed by law enforcement officials that the visa he had only applied to tourist visits and he was subsequently assisted to leave the country on 13 April 2006. The Government indicated that he was not subject to arrest, detention, deportation or prosecution. It was also noted that there was no violation of the law in the treatment of Mr Sugden. The Government stated that in order to conduct research, excavation or film in the country a special permit was required, and that it must be requested in advance of the visit. The Government indicated that in order to avoid such occurrences in the future it will ensure that Turkish diplomatic missions abroad will continue to provide information, encouraging NGOs to contact the relevant office prior to visiting the country.

690. In a letter dated 30 May 2006, the Turkish Government replied to the communication of 2 June 2006 concerning **Ibrahim Kaboglu** and **Baskin Oran**. The Government stated that at the final hearing of the case against the aforementioned individuals, held at Ankara 28th Penal Court of First Instance on 10 May 2006, the Court dismissed the case against Mr Kaboglu and Mr 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).

691. In a 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 3rd 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 Court's decision, and that proceedings were underway.

692. In a letter dated 29 August 2006, the Turkish Government replied to the communication of 2 June 2006. The Government stated that an investigation had been initiated by the Office of the Chief Prosecutor of Bursa upon a complaint lodged by the Provincial Directorate for Associations at the Office of the Governor of Bursa. The Government noted that the complaint was based on Article 2 of the Associations Statute. The Government indicated that the Chief Prosecutor had yet to make a decision on the case as he was awaiting information from Mr Hasan, one of the founding members of the Association, relating to the defence.

693. In a letter dated 4 September 2006, the Turkish Government replied to the communication of 22 June 2006 concerning **Resit Yaray**, **Mursel Kayar**, **Ali Oncü**, **Edip Yasar** and **Mecail Ozel**, **Necdet Atalay**, **Erdal Kuzu**, and **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 5th 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 the 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 4th 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 6th Penal Court of Diyarbakir to release Mr Oncü and a court hearing was suspended until 10 October 2006.

694. In a letter dated 9 November 2006, the Turkish Government replied to the communication of 17 August 2006. The Government stated that in relation to the allegations concerning the **Rainbow Association**, the Office of the Chief Prosecutor in Bursa has launched an investigation. At the time of receipt of the Government's response the investigation was still underway. The Government noted that in relation to the allegations concerning the **Kaos Association**, an investigation has been initiated ex-officio by the Office of the Chief Public Prosecutor of Ankara in relation to *Kaos GL* the bi-monthly magazine published by the organisation on the grounds that it contained obscene material which contravenes Article 226 of the Turkish Penal Code. The 12th Criminal Court of Peace of Ankara decided that the magazine should be withdrawn upon the request of the Chief Prosecutor. The 15th Court of First Instance rejected an appeal by the Kaos Association and the magazine has been banned with those copies already published being withdrawn.

695. In a letter dated 13 December 2006, the Turkish Government provided a follow-up response to the communication of 2 June 2006. The Government stated that as a result of the investigation noted in the Government's response of 29 August 2006, the Chief Public Prosecutor of Bursa decided not to proceed with the prosecution and rejected the application of the Office of the Governor of Bursa for closure of the Association. In its decision the Chief Prosecutor found that the Statute of the Association did not contain any provision which falls within the limitations to the right to association permitted by the Constitution. The Government indicated that the office of the Chief Prosecutor confirmed its decision that members of the Association had not committed any act which constitutes an offence requiring punishment.

Observations

696. The Special Representative thanks the Government of Turkey for its detailed responses to her communications of 2006. She is encouraged by the Government's willingness to investigate alleged violations, and welcomes the introduction of extensive reforms in recent years by the Government in relation to human rights.

697. Nevertheless the Special Representative notes with concern reports that human rights defenders in the country continue to face trials and investigations under various laws and regulations. In this regard, the Special Representative would request that the Government provide her with details of the new Penal Code as outlined in her communication of 14 February 2006, concerning Mr **Kabouglu** and Mr **Oran**. The Special Representative wishes to remind the Government of its obligations under Article 6 (b) and (c) of the Declaration on human rights defenders.

698. Whilst the Special Representative welcomes the decision by the Chief Prosecutor not to prosecute members of the **Rainbow Association**, referenced in her communication of 17 August 2006, she remains concerned that the decision to ban the bi-monthly magazine published by the **Kaos Association** may contravene Article 6 of the aforementioned Declaration. The Special Representative would request that the Government provide her with information on further developments in this case.

699. The Special Representative thanks the Government for its response to her communication of 5 April 2006 in relation to Ms **Eren Keskin**; however she would request that the Government provide her with further details regarding the decision taken by the Kartal Court 3rd Court of First Instance to fine Ms Keskin 6,000 Turkish Lira for allegedly insulting the armed forces. The Special Representative wishes again to remind the Government of Article 6 (b) and (c) of the Declaration.

Turkmenistan

Communications sent

700. On 29 June 2006, the Special Representative together with the the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention 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, on 16 June 2006, Mr. Amanklychev was detained by agents of Ministry of National Security. Reports indicate that he was under strict surveillance for more than a year. Ms. Muradova was arrested on 18 June by Ashgabat city police officers without an 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 to them. 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 harrassment, including

surveillance, bugging and cutting off of her telephone, and threat. Moreover, Ms. Ovezova was arrested on 18 June, and Mr. Khadzhirv was arrested on 19 June both by law enforcement officials in Ashgabat. All of them are reportedly being held at the Interior Ministry building in Ashgabat. Prior to the arrests, THF has publicized information about prison conditions and the imprisonment of a number of people allegedly following unfair trials. Concern was expressed at what appeared to have been a direct attempt to silence people who are or are seen to be affiliated with a group working on human rights advocacy.

701. On 24 July 2006, the Special Representative together with the the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **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 have been included in a joint urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative 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 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 were at risk of torture and other forms of ill-treatment in custody.

702. On 24 July 2006, the Special Representative together with the the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, and the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the death in custody of **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 Amankurban Amanklychev and Sapardurdy Khajiev, two other human rights defenders both members of the 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 with their lawyers. On June 19, 2006, representatives the highest authorities, 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 they were kicked out by soldiers just before the hearing, while trying to meet their clients. 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 entering. On August 25, 2006, the Azatlyk District Court of Ashgabat condemned Ms. Muradova and Mr. Amanklychev respectively to six 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 had found 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 came 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 off.

Communications received

703. The Special Representative regrets the absence of any official response to her communications of 29 June, 24 July and 19 September 2006.

Observations

704. The Special Representative regrets that she did not receive any response from the Government to her communications of 2006 as the allegations are serious. She deeply regrets the death of **Ms Muradova** and would urge the Government of Turkmenistan to provide a detailed substantive response assuring her that an investigation has been initiated into alleged police brutality against Ms Muradova whilst in detention, ultimately leading to her death. The Special Representative also seeks assurance that appropriate measures have been taken to protect Ms Muradova's children and that Mr **Amanklychev** and Mr **Khajiev** are protected from ill-treatment whilst in detention. The Special Representative wishes to remind the Government of its obligations under Article 12, paragraphs 2 and 3 of the Declaration on human rights defenders.

United Arab Emirates

Communications sent

705. On 8 September 2006, the Special Representative sent a joint urgent appeal to the Government, together with the Chairperson-Rapporteur of the Working Group on Arbitrary

Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, concerning **Mohamed al-Mansoori**, a lawyer, human rights activist and President of the Independent Jurist's Association, and **Mohamed' Abdullah al-Roken**, a lawyer, 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 al-Mansoori, based on an accusation of "insulting the Prosecutor". It is alleged that the real motive of this order was to silence Mr 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 al-Roken was reportedly arrested by members of the State Security, Amn al-Dawla. The reasons of his detention remain 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 is also alleged that both Mr al-Mansoori and Mr al-Roken have been banned for a number of years from giving interviews or writing articles in 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 have been 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.

706. On 18 October 2006, the Special Representative sent a letter of allegation, together with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on trafficking in persons, especially women and children, concerning **Sharla Musabih**, the founder of Villa N. 18 - City of Hope, a shelter for abused and/or exploited women, including abused migrant domestic workers, trafficked women and minor girls. In early August 2006, the competent authorities reportedly accused Ms Musabih of having assaulted a 15-year old girl who had sought refuge in the shelter. The authorities have reportedly also threatened to close the shelter, although no formal decision to that effect has yet been taken. Sources allege that the criminal charges against Ms Musabih are fabricated. Concerns are expressed that these charges and the possible closure of the shelter may be in retaliation for her activities in defence of women's rights, since the shelter's work is reportedly viewed as a threat to the traditional culture and family values of the country and its continued operation largely depends on Ms Musabih's work. Further concerns are expressed that the charges against Ms Musabih and the possible closure of the women and children shelter could lead to a protection gap for women and children at risk of violence, including migrant domestic workers and minor girls. The Government is called to investigate the allegations against Ms Musabih in an objective, impartial, fair and speedy manner awarding her all procedural guarantees set out in international and national law.

Observations

707. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communications. She urges the Government to respond to her communications and the concerns raised by her.

Uzbekistan

Communications sent

708. On 16 January 2006, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the suspension of the activities of the human rights NGO **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. According to information received it is alleged that, on 13 January 2006 the civil court in Tashkent issued a verdict to suspend the activities of Freedom House, following a claim from the Uzbek Ministry of Justice that Freedom House had broken Uzbek laws. According to information received, charges brought against Freedom House include non-compliance with a secret decree, issued by the cabinet of the Uzbekistan Government, the contents of which are reported to be unknown. Violations cited by the Ministry for Justice included allowing human rights defenders free access to the internet. It is reported that human rights defenders had stopped Freedom House's internet facilities in September 2005 and that the organization had informed the Uzbek Ministry of Justice of this development.

709. On 18 January 2006, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding **Saidjahon Zainabitdinov**, Chairman of the Andijan human rights group Apellatsia ("Appeal"), an organization working on religious and political persecution. Saidjahon Zainabitdinov was the subject of an urgent appeal sent by the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 26 May 2005. According to the information received, it is alleged that Saidjahon 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 has been reported that on 4 January 2006 the trial of Saidjahon Zainabitdinov began in Chirchik, a town near Tashkent where he was reportedly charged with defamation and anti-Government activities. It is believed that on 12 January Mr Zainabitdinov was found guilty and sentenced to seven 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 is 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 Saidjahon Zainabitdinov.

710. On 25 January 2006, the Special Representative sent an urgent appeal regarding **Rakhmatullo Alibaev**, a human rights defender who has monitored trials of independent Muslims charged with religious extremism and assisted victims of economic fraud. Rakhmatullo Alibaev is also affiliated with the opposition party, Ozod Dekhon (Free Peasants Party). Ozod Dekhon has close ties to the opposition group the Sunshine Coalition, which openly criticizes the Uzbek Government. According to the information received: On 24 January 2006, at approximately 1.15 pm Rakhmatullo Alibaev was at the office of Ozod Dekhon when he answered the door to a man who identified himself as a brother of the party's chairwoman. It is reported that the man entered the office and began shouting at Rakhmatullo Alibaev. He is alleged to have punched Rakhmatullo Alibaev three times. It is reported that a doctor who

examined Rakhmatullo Alibaev subsequent to the attack found that he had suffered a broken nose, a concussion and trauma to the brain. Grave concern was expressed that the alleged attack on Rakhmatullo Alibaev may be connected with the trial of Nodira Khidoiatova, coordinator of the opposition group the Sunshine Coalition, which was due to start on 25 January 2006, and could be a deliberate attempt to intimidate Rakhmatullo Alibaev and other human rights defenders. In the months preceding the communication it had been reported that other physical attacks on human rights defenders coincided with critical events such as the commencement of trials.

711. On 6 February 2006, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding **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 by the Special Rapporteur on violence against women, its causes and consequences and the Special Representative on 18 July 2005 and of a communication sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women, its causes and consequences, and the Special Representative on 27 October 2005. According to new information received, on 30 January 2006, the Uzbek authorities prevented people from observing the trial of Ms Tadjibayeva. It is 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 is alleged that the police stopped each car entering the town and asked the occupants what their reasons for visiting Dustobod were. It is 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 is 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 it was in the presence of four guards. In addition, the defence lawyer was only 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 is expressed that access to the proceedings has 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 be linked to her open criticism of the events that occurred in Andijan on 13 May 2005.

712. On 10 March 2006, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of 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 a communication sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 6 February 2006, a communication sent by the Special Rapporteur on violence against women, its causes and consequences and the Special Representative on 18 July 2005 and of a communication sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women, its causes and consequences, and the Special Representative on 27 October 2005. According to 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 is 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 was connected to her activities in defense of human rights, in particular to her criticism of the Uzbek authorities in relation to the Andijan events.

713. On 4 April 2006, the Special Representative, together with the Special Rapporteur on violence against women, its causes and consequences, sent a letter of urgent appeal regarding **Shokhida Yuldashaeva, Lydia Volkobrun, Elena Urlaeva**, all human rights activists, **Mashurov Mansur**, husband of Ms Elena Urlaeva, **Mukhtarova Dilzora, Gavkhar Yuldasheva**, members of Ezgulik (human rights society of Uzbekistan), **Imamova Munozhaat, Bolbekova Bukhvol, Kurbanova Saida**, members of the Human Rights Society of Uzbekistan (HRSU) in Jizzak province, **Togaeva Hurshida**, chair of the Pakhtakor regional branch of the HRSU in Jizzak province and **Fazieva Gulnora** member of the Initiative Group of independent human rights defenders in Tashkent. Elena Urlaeva was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative on 6 September 2005. Ms Togaeva Hurshida was the subject of a letter of urgent appeal sent by the Special Representative on 26 October 2005. According to the information received: On 26 December 2005 **Mukhtarova Dilzora** was arrested and accused of murder. It is reported that Ms Dilzora had been tortured while in detention. On 3 January 2006 Ms Gavkhar Yuldasheva was arrested and taken to the Regional Department of the Ministry of the Interior. It is reported that Ms Yuldasheva was so badly beaten during her detention that she could not walk. She was subsequently released. Ms Yuldasheva had been due to meet with representatives from foreign embassies before these events. On 15 March 2006 Mr Mashurov Mansur was attacked by strangers at a bus stop and suffered injuries as a result of the attack. It is reported that Ms Urlaeva, along with Ms Shokhida Yuldashaeva, was the signatory to a letter published on 15 March 2006 condemning repressive acts by the authorities against Muslims. On 17 March 2006 Ms Shokhida Yuldashaeva was arrested and beaten by police officers. She is currently being held in a psychiatric hospital in Karchi. It is reported that Ms Yuldashaeva, along with Ms Elena Urlaeva, was the signatory to a letter published on 15 March 2006 condemning repressive acts by the authorities against Muslims. On 17 March 2006 Ms Lydia Volkobrun, a 69 year old human rights activist, was arrested and is currently being held in a psychiatric hospital in Tashkent. It is reported that Ms Volkobrun had made written complaints about illegal actions taken by police officers. In 2004 Ms Volkobrun was forcibly detained in a psychiatric hospital. It is reported that Ms Imamova Munozhaat has been under

constant surveillance and has been receiving constant threats ordering her to cease her human rights activities. It is alleged that on 3 August 2005 she was detained and beaten after she visited the home of the chair of the Human Rights Society of Uzbekistan (HRSU). At the time of these events she was three months pregnant. As a result of the beating, Ms Munozhaat miscarried. Ms Bolbekova Bukhvol is also reported to be under constant surveillance and is not allowed to exit Jizzak province. It is alleged that Ms Bukhvol was dismissed from her position of Chair of the Women's Council in her village after the Andijan massacre. Ms Togaeva Hurshida, Ms Kurbanova Saida and Ms Fazieva Gulnora are all reported to be under constant surveillance. Ms Saida and Ms Gulnora are not allowed to leave their respective regions. Grave concern was expressed that the above events were connected with the legitimate activities of the aforementioned women in defense of human rights, in particular their reporting of human rights violations by the Uzbek authorities. Furthermore, concern was expressed that this alleged pattern of intimidation against women human rights defenders and their families, which includes forced psychiatric detention, beatings and politically-motivated trials; may be an attempt to prevent women human rights defenders from carrying out their work.

714. On 26 April 2006, the Special Representative sent a letter of urgent appeal concerning the **American Bar Association Central European and Eurasian Law Initiatives (ABA/CEELI)**. ABA/CEELI is an organization that supports the legal reform process in Central Asia and elsewhere and provides legal expertise and technical assistance in Uzbekistan and elsewhere. According to the information received, on 24 April 2006 the Uzbek Ministry of Justice filed a court case against the local liaison office of ABA/CEELI, calling for its liquidation on the grounds that it had violated its charter. It is reported that the hearing is due to commence on 6 April 2006 in Tashkent. Concern was expressed that the proceedings against ABA/CEELI were an attempt to prevent it from carrying out its activities in defence of human rights, in particular to prevent it from providing legal expertise and assistance in Uzbekistan. Further concern was expressed that this action on behalf of the Uzbek authorities may form part of a systematic campaign against human rights defenders operating in Uzbekistan. Reference was made to information received with regard to Freedom House, which was the subject of an urgent appeal sent jointly by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 16 January 2006.

715. On 10 May 2006, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning **Azamzhon Farmonov**, chairman of the Sydaryn regional branch of the Human Rights Society of Uzbekistan (HRSU), **Talib Yakubov**, chairman of the HRSU, **Ozoda Yakubova**, the pregnant wife of Mr Farmonov, **Bakhtier Khamraev**, chairman of the Dzhisak regional branch of the HRSU, **Mamatkul Mukhatrov**, chairman of the Samarkand branch of the HRSU and **Alisher Karakmatov**, chairman of the Mirzaabad regional branch of the HRSU. According to the information received, on 29 April 2006 police officers entered the apartment of Mr Farmonov and conducted a search without presenting a search warrant. They left the apartment but returned one hour later and attempted to search it again. Ms Yakubova, who was alone in the apartment at the time, called her husband, Talib Yakubov, and Mr Khamraev and Mr Mukhatrov, who came to the apartment to assist her. It is reported that when Mr Yakubov, Mr Khamraev and Mr Mukhatrov requested a search warrant from the police officers, the officers produced an order from a prosecutor but the document did not have an official stamp. Consequently Mr Yakubov, Mr Khamraev and Mr Mukhatrov objected to the search continuing and the police officers left the apartment. It is

alleged that thirty minutes later a group of 30 men, who included police officers, entered the apartment and physically attacked Ms Yakubova, Mr Yakubov, Mr Khamraev and Mr Mukhatrov. As a result of the attack Ms Yakubova, who was pregnant, lost consciousness and was taken to hospital. It is reported that the police officers confiscated office equipment from the apartment. Furthermore, on 29 April 2006, Mr Farmonov and Mr Karakmatov were arrested and detained in Gulistan, Syrdaryn region. It is reported that they are currently being held in the office of the Gulistan city police department but that no charges have been brought against them to date.

716. On 11 May 2006, the Special Representative sent a letter of allegation concerning **Counterpart International**, a non-governmental humanitarian and development organization. According to the information received, on 1 May 2006 the regional office of Counterpart International in Tashkent was ordered to close by the Uzbek authorities. It is reported that the Uzbek Ministry of Justice requested a court in Tashkent to close Counterpart International, accusing it of systematically violating Uzbek law. It is alleged that the Uzbek Ministry for Justice claimed that Counterpart International had published and distributed materials without a licence and had refused to present financial records to the authorities. Concern is expressed that these allegations were motivated to close Counterpart International, to prevent it from carrying out its activities in defence of human rights. Further concern is expressed that this action on behalf of the Uzbek authorities may form part of a systematic campaign against human rights defenders and organizations operating in Uzbekistan. Information also was received with regard to the closure of ABA/CEELI, which was the subject of a letter of allegation sent by the Special Representative on 26 April 2006, and the closure of Freedom House, which was the subject of an urgent appeal sent jointly by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 16 January 2006.

717. On 22 May 2006, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Utkir Pardaev** and **Shardov Pardaev**, members of the Dzhizak regional branch of the Independent Human Rights Society of Uzbekistan (IHRSU). According to the information received, on 24 March 2006 Utkir Pardaev and Shardov Pardaev were arrested and detained after they had been invited by National Security Service (SNB) personnel to accompany them as witnesses following the arrest of a local resident. It is reported that Utkir Shardov Pardaev were questioned and beaten and that when Utkir Pardaev requested to be represented by a lawyer, he was verbally abused by one of the SNB officials. It is further reported that Utkir and Shardov Pardaev were released after several hours following a protest by local people who gathered outside the SNB office where they were being held. It is alleged that Shardov Pardaev sustained injuries as a result of the beating and that he had to spend five days in hospital following his release from detention.

718. On 2 June 2006, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a letter of urgent appeal concerning **Ilhom Zainabitdinov**, 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 Zainabitdinov has 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

jointly by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 26 May 2005. According to the information received on 22 May 2006 Mr Ilhom Zainabitdinov did not return to his home. It is reported that on the same day police went to his home, showed his mother an arrest and search warrant and conducted a search of the house. On 26 May 2006 it is alleged that the police officers returned to his house and conducted another search, during which they confiscated two US\$ 50 bills which they claimed were counterfeit. On this occasion it is 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 is suspected of providing information on human rights violations to journalists and also because his father is a high profile human rights defender.

719. On 30 June 2006, the Special Representative together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Azam Formanov** and **Alisher Karamatov**, chairs of the Syr-Darya and Mirzaabad regional branches of the Human Rights Society of Uzbekistan. Mr Formanov and Mr Karamatov were the subjects of an urgent appeal sent jointly by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative on 10 May 2006. According to the allegations received, both men were arrested in Gulistan in the Syrdaryn region on 29 April 2006 and held in the office of the Gulistan city police department. They were transferred to investigation isolator UY 64/SI-13 of the city of Havast, near Yangier. During their detention the senior investigator of the Office of the Public Prosecutor of Dzhizak region, K. Mallaev, and the inspector of the Syr-Darya Department of Internal Affairs, B. Kodirov, beat them on their legs and heels with truncheons, put gas masks with closed air valves on their heads and threw them in the air to let them fall on their backs on the concrete floor. In a trial marred by shortcomings, such as severely restricted access to case files and extremely limited time to prepare the defence for the defenders and their lawyers, they were convicted to nine years of imprisonment.

720. On 21 July 2006, the Special Representative together with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning **Mutabar Tajibaeva**, a human rights activist, who was already subject of an urgent appeal sent by the Special Representative and the Special Rapporteur on violence against women, its causes and consequences on 18 July 2005. According to the information received, on 7 July 2006 Mutabar Tajibaeva was transferred to the psychiatric department of the Tashkent women's prison. On 13 July 2006, her two lawyers went to visit her and reported that her physical condition had markedly deteriorated, one of her hands was bandaged and she uncharacteristically talked very slowly. When asked by one of her lawyers how her hand was damaged, she did not reply. She did say, however, that she has to take pills every day without being informed about what type of pills she is being given. She is kept in a room with 16 drug users and persons with mental problems. On 14 July 2006, her lawyers sent a letter to the prison director to find out why Mutabar was transferred to the psychiatric department, but they did not receive a reply.

721. On 11 August 2006, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Chairperson-Rapporteur of the Working Group

on Arbitrary Detention sent an urgent appeal concerning **Mr Ikhtior Khamroev**, son of Mr Bakhtior Khamroev, head of the Djizak section of the Human Rights Society of Uzbekistan (HRSU), and a student at the Technological University of Djizak. According to the information received, Mr Khamroev was arrested on 2 August 2006 in Dizak by agents of the police. On 23 July 2006, Mr Khamroev had been insulted by a group of young men. He tried to ignore them but the insults became more violent and Mr Khamroev was then severely beaten. Both Mr Ikhtior Khamroev and his parents decided not to complain about those acts. The authorities have opened an inquiry against Mr Khamroev. He was interrogated during more than eight hours without having access to a lawyer. Later, he was charged with “hooliganism” under article 277 of the Criminal Code (Chapter XX: Crimes against public order), and is facing between five and eight years of prison. On 8 August 2006, Mr Bakhtior Khamroev was summoned by a police investigator, to be interrogated as a witness in the case involving his son. It was further reported that on 22 May 2005, the home of Mr Bakhtior Khamroev was broken into by a group of 70 people, under the orders of the head of the Administration of the Djizak region. He and other members of his family were beaten, threatened with death and insulted. Concerns were expressed that Mr Ikhtior Khamroev’s detention may have been aimed at sanctioning his father’s legitimate human rights activities, in particular his father’s work monitoring legal proceedings and demonstrations concerning the rights of the citizens of Djizak.

Communications received

722. In a letter dated 19 April 2006, the Government of Uzbekistan replied to the communication of 6 February 2006 concerning **Mutabar Tajibaeva**. The Government stated that Ms 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 in prison. She would also be stripped of the right to occupy managerial and financially responsible posts and to engage in business activity for a period of three years. The Court held that Ms Tajibaeva used the pretext of defending the rights and interests of Akhmadullo Abdullaev and Khafizidin Koraboev during the investigation and in court to extort from them 100,000 Uzbek sum (UZS), then US\$ 900, by means of deceit and abuse of their trust. It was found that with the aim of unlawfully taking possession of half the fish bred by T. Mamadaminov, a lessee of the company Andizhonbalik, in lake N-7, Ms Tajibaeva used threats and coercion to make him transfer his rights of ownership into her name, on signature of a contract to that effect. She also demanded that Mr Mamadaminov pay her UZS 5 million. It was indicated that on 6 October 2005 Ms Tajibaeva obtained UZS 350,000 from Mr Mamadaminov by extortion. The next day Ms Tajibaeva was arrested in flagrant delicto by law-enforcement officers in the act of receiving UZS 250,000 from Mr Mamadaminov. In 2002 Ms Tajibaeva set up an illegal voluntary association called the “Ardent Hearts Club”. 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. It was indicated that during the demonstrations she disseminated information that she knew to be false, aimed at provoking panic and destabilization. Furthermore, the Government stated that Ms 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 UZS 2,042,900. It was held that Ms Tajibaeva set up a multi-product trading and manufacturing

company and used forged documents to obtain a loan of UZS 8 million from the National Bank in Margilan, which she withdrew in cash and diverted for improper use. The Government noted that Ms Tajibaeva unlawfully used 6.8 hectares of land belonging to the Nomuna shirkat farm in the Akhunbabaev district of Fergana province, and that said plot of land had originally been allocated to the Tursunbai farm, and then to the Bokijon Ota farm. Having unlawfully taken possession of this plot of land, M. Tajibaeva left it untended, as a result of which it was waterlogged, heavily salinized and infested with weeds. As a result the productivity of this farmland was reduced. The Nomuna shirkat farm reportedly suffered a total financial loss of UZS 1,601,512 and the Bokijon Ota farm a loss of UZS 8,579,304. Payment of land tax of UZS 191,130 was deliberately evaded. The Government concluded by stating that the criminal prosecution against M. Tajibaeva was not related to her human rights work and that she was convicted for perpetrating specific criminal acts. The criminal case is currently being prepared for review by the court of appeal.

Observations

723. The Special Representative thanks the Government of Uzbekistan for its response to her communication of 6 February 2006 concerning **Ms Tajibaeva**. The Special Representative is encouraged by the Government's willingness to investigate this case, however she remains gravely concerned about reports received that Ms Tajibaeva has been sentenced under articles 59 and 61 of the Criminal Code to eight years in prison on the basis of a seemingly unfair trial, in which Ms Tajibaeva was apparently denied the opportunity to prepare a defence. Concern is also expressed that the public, including relatives, friends, colleagues and independent trial monitors were also denied access to the trial. Of particular concern to the Special Representative are reports that Ms Tajibaeva is being held in poor conditions along with drug users and individuals with mental problems, and that she has been forced to take pills on a daily basis without having been informed as to what they are. The Special Representative urges the Government to reassure her that all possible measures have been taken to ensure that Ms Tajibava is afforded adequate protection whilst in detention and that she is not subjected to inhuman or degrading treatment. The Special Representative requests that the Government provides a detailed response as to the current conditions in which Ms Tajibaeva is being held, along with a detailed account of the trial proceedings to which she was a party. The Special Representative wishes to remind the Government of its obligation under Article 9, paragraph 1 of the Declaration on human rights defenders, which states that "everyone has the right, individually and in association with others, to benefit from an effective remedy to be protected in the event of the violation of those rights".

724. The Special Representative is also extremely concerned by reports that the NGO **Freedom House** was forced to suspend activities for non-compliance with a secret decree, issued by the cabinet of the Government of Uzbekistan, the contents of which are reported to be unknown. The Special Representative requests that the Government provides a detailed response to the case, outlining the details of the aforementioned decree. Of equal concern are reports that the **American Bar Association Central European and Eurasian Law Initiatives (ABA/CEELI)** as well as the offices of **Counterpart International** have also been forced to close. In this regard the Special Representative would like to remind the Government of Articles 5 (b) and (c) of the aforementioned Declaration which states that "for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels to meet or assemble peacefully".

725. The Special Representative is also disappointed that she did not receive responses to her communications concerning the targeting of individual human rights defenders, as the allegation seriously undermines the right to freedom of expression and opinion as highlighted in Article 6 (b) and (c) of the Declaration. The Special Representative remains deeply concerned about the deteriorating situation of human rights defenders in Uzbekistan, particularly in relation to reports of arbitrary arrests, incommunicado detention, harassment, threats, forced detention in psychiatric hospitals, unfounded criminal charges, prison sentences, deaths in custody, torture and ill-treatment, defamation campaigns, or other types of persecution in relation to their human rights activities. The Special Representative urges the Government of Uzbekistan to review the law in relation to NGOs, in particular the new amendment to the Criminal Code, requiring official registration of NGOs by the competent authorities.

Viet Nam

Communications sent

726. On 3 November 2006, the Special Representative sent an urgent appeal concerning **Thich Quang Do**, a monk, author and Deputy Leader of the Unified Buddhist Church of Viet Nam (UBCV) who has, for many years, promoted and defended democracy and human rights in Viet Nam. According to the information received, on 21 September 2006, the Norwegian Rafto Foundation announced that they would award the 2006 Professor Thorolf Rafto Memorial Prize to Thich Quang Do for his contribution to the field of human rights, in particular for his work on promoting religious freedom and freedom of assembly. However, Thich Quang Do will be unable to attend the prize giving ceremony in Bergen, Norway on 4 November 2006 as he has been under house arrest since 1982 along with fellow UBCV member Thich Huyen Quang with whom he was charged for “holding State secrets” in 2003. According to reports on 25 September 2006, a meeting took place between Erna H. Solberg, Chair of the Norwegian Parliament’s Standing Committee on Foreign Affairs, the Vietnamese Vice-Minister of Foreign Affairs and the National Assembly’s Foreign Affairs Committee, in which she urged them to consider allowing Thich Quang Do to travel to Norway. According to the sources there has been no reply to date. However, it is also feared that if he is granted permission to leave the country, he may not be allowed to return. Concern was expressed that Thich Quang Do may have been placed under house arrest due to his legitimate activities in defence of human rights, in particular the right to freedom of religion. Further concern was expressed that Thich Quang Do may not be allowed to accept the 2006 Professor Thorolf Rafto Memoir.

727. On 27 November 2006, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning the harassment of several Vietnamese human rights activists in the lead up to the Asia-Pacific Economic Cooperation (APEC) meeting which took place in Hanoi from 17 to 19 November 2006, including **Nguyen Khac Toan**, a journalist who has assisted expropriated farmers assert their land rights, **Nguyen Van Dai**, a lawyer and founder of the Committee for Human Rights in Viet Nam, **Hoang Tien**, a writer and founder of online publication Freedom and Democracy, **Nguyen Phuong Anh**, a cyber-dissident, **Duong Van Duong** (aka Dai Duong) who has openly criticised land confiscation and **Bui Thi Kim Thanh**, a human rights lawyer who has defended expropriated farmers. Members of the newly formed Organisation of United Workers and Peasants of Viet Nam, have also allegedly been targeted including Nyugen Tan Hoanh, founder

and representative of the workers of the organization, Tran Thi Le Hong (also known as Nguyen Thi Le Hong), Doan Huy Chuong (also known as Hoang Huy Choang), his brothers Doan Trieu Hai and Doan Trieu Kinh-Kha who is 14 years old, and their father Doan Van Dien. Religious activists who have reportedly been subject to harassment include Thich Nu Dam Thoa, a Buddhist nun and Thich Vien Dinh, Vice President and Secretary General of Vien Hoa Dao, the Executive Institute of the Unified Church of Viet Nam (UBCV). Thich Vien Dinh has previously been the subject of two urgent appeals sent to your Government, the first on 21 May 2004 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the second on 10 June 2004 by the Special Rapporteur on freedom of religion or belief.

728. According to the information received the police had blockaded the houses of several of the aforementioned activists. On 12 November, police agents placed a sign in English on the door of Nguyen Khac Toan's house, stating "Security area. No foreigner allowed". It is also reported that since 14 November 2006, Nguyen Van Dai's home has been surrounded by ten security police officers who have prevented visitors from entering the house. On the same day a surveillance post was erected in front of Hoang Tien's house by police agents from the Ministry of Public Security and local security officials. Reportedly people were prevented from entering the house and he was not permitted to leave, as the police officers involved stated that they had "received orders from their superiors to blockade his home during APEC". Previously in August, Hoang Tien was reportedly subjected to intensive interrogation in relation to his involvement with the online publication Freedom and Democracy. Nguyen Phuong Anh has also been subjected to a continuous police presence outside his house in Hanoi. Allegedly he had undergone repeated interrogations since the beginning of this month in relation to articles posted on the internet. It was further reported that Duong Van Duong (aka Dai Duong) was beaten by four undercover police officers, as he left Mai Xuan Thuong Park where he had gone in support of farmers protesting against the confiscation of their land and other "victims of injustice". It was alleged that one of the men threatened to beat him to death. According to the sources, Duong Van Duong was forbidden to receive visitors or meet with foreigners. Furthermore it was been reported that a number of activists had been detained in Ho Chi Minh City (Saigon), apparently in relation to the arrival of international media and several world leaders in the city after the APEC Summit. On 14 November Hoang Huy Chuong was reportedly arrested with two of his brothers, Doan Trieu Hai and Doan Trieu Kinh-Kha, apparently in relation to his membership of the newly formed Organisation of United Workers and Peasants of Viet Nam. Their father Doan Van Dien was also reportedly arrested on 15 November 2006. Sources indicate that the police were not in possession of a valid arrest warrant and the current whereabouts of Mr Chuong and his family members are unknown. The founders of the aforementioned organization, Nguyen Tan Hoanh and Tran Thi Le Hong were allegedly arrested on 15 and 16 November respectively, in relation to their involvement with the organization, and their whereabouts remain unknown. It is also reported that human rights lawyer Bui Thi Kim Thanh, remains detained in the Central Psychiatric Hospital in Bien Hoa, Saigon, to which she was committed after being interrogated by the security police. According to reports received, campaigners for religious freedom have also been targeted. On 14 November 2006 Thich Nu Dam Thoa, was reportedly arrested in Hanoi and transferred to a "Camp for Social Elements" in Bac Giang, northern Viet Nam where she remains in detention. The alleged reason for her arrest was the inclusion of her name on a list of people who intended to meet with President Bush during the APEC Summit. Another activist for religious freedom Thich Vien Dinh was allegedly interrogated for two hours at the police station in Ho Chi Minh City's 7th

Ward, where he was apparently instructed that neither he nor other UBCV monks were to meet with foreign media or diplomats during the APEC Summit. In addition, it was reported that the Vietnamese authorities prohibited NGOs and civil society groups and activists from organizing a People's Forum to be held at the same time as the APEC Summit, as is usually the practice. Concern was expressed that the acts of intimidation and aggression described in the cases above represented a sustained campaign of harassment against human rights defenders in Viet Nam. Further concern was expressed that it is the intention of the authorities to prevent the aforementioned activists from carrying out their legitimate activities in defence of human rights, in particular the defence of land rights and freedom of religion.

Communications received

729. In a letter dated 16 January 2007 the Government of Viet Nam responded to the communication of 3 November 2006. The Government stated that the Norwegian Rafto Foundation had often published slanderous information about democratic, religious and human rights issues in Viet Nam and that Thich Quang Do is not a human rights defender. The Government noted that Thich Quang Do had violated Vietnamese law by provoking disputes and causing division among religions. The Government further stated that thanks to the tolerant and humanitarian policy of Viet Nam he was a free citizen. It was indicated that the allegation that Thich Quang Do had been under house arrest since 1982 is unfounded and that he has not been prevented from leaving the country to collect the Professor Thorolf Rafto Memorial Prize.

Responses received to communications sent by the Special Representative in previous years

730. In a letter dated 24 January 2006, the Government of Viet Nam 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 opinion and expression, on 29 November 2005 concerning **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 Viet Nam including urging the United States to cut off aid to Viet Nam. It was noted that since his return to Viet Nam 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.

Observations

731. The Special Representative thanks the Government of Viet Nam for its response to her communication of 3 November 2006, and also for the follow-up response to her communication of 29 November 2005. The Special Representative is encouraged by the Government's willingness to investigate alleged violations. However, she remains concerned by reports of alleged harassment and ongoing intimidation of human rights defenders in the country and she would remind the Government of its obligations under Articles 6 (a) and (b) and 12 of the Declaration on human rights defenders.

Yemen

Communication sent

732. On 1 November 2006, the Special Representative sent a joint urgent appeal, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on independence of judges and lawyers, regarding **Ali al-Dailami**, Executive Director of the Yemeni Organization for the Defence of Human Rights and Democratic Freedom. According to the information received, on 9 October 2006 Mr al-Dailami was arrested at the airport of Sana'a while he was heading to Copenhagen (Denmark), in order to participate in a conference organized by the Danish Institute for Human Rights about its programme of cooperation with some Yemeni NGOs. As of today, Mr al-Dailami remains detained by the political security forces (al-Amn al-Seyasi) at an undisclosed location without contact with his family or a lawyer. Considering the alleged incommunicado detention at an undisclosed location, there is a lot of concern that Mr al-Dailami might be at risk of torture or other forms of ill-treatment. There is further concern that the arrest of Mr al-Dailami may be connected with his legitimate activities as a human rights defender, and may represent an attempt to prevent him from being able to meet and communicate with other international human rights defenders.

Observations

733. The Special Representative regrets that at the time of the finalization of this report, the Government had not transmitted a reply to her communication. She urges the Government to respond to her communication and the concerns raised by her.

Zimbabwe

Communications sent

734. On 31 January 2006, the Special Representative sent an urgent appeal to the Government concerning **Arnold Tsunga**, chairperson of the Zimbabwe Human Rights Association (ZimRights), a human rights organisation in Zimbabwe, Executive Director of the Zimbabwe Lawyers for Human Rights (ZLHR) and a trustee of the radio station Voice of the People (VOP), whose shortwave transmitter in Madagascar broadcasts criticism of the current Government of Zimbabwe. According to the information received, on 24 January 2006, Arnold Tsunga and **five other VOP trustees** were arrested and taken to court on charges of unlawfully possessing broadcasting equipment without a licence, and were freed on bail. On 26 January 2006, members of ZimRights were approached by a soldier of the Zimbabwean army and allegedly told that the Military Intelligence Corps had been given orders to find and kill Arnold Tsunga. Grave concern is expressed for the safety of Arnold Tsunga, concern is also expressed that these events may be a form of reprisal for his work as a defender of human rights in Zimbabwe.

735. On 16 February 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning approximately **181 Women of Zimbabwe Arise (WOZA) activists**, among them **Jennifer Williams** and **Magodonga Mahlangu**. WOZA

is a grassroots organization working to promote and protect women's activism, whose members have already been the subject of previous communications by the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 20 May 2005, 29 September 2004 and 26 September 2003. According to new 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 is alleged that the detainees have 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 is 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 is reported that they are 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 the legitimate activities of WOZA activists in defense of human rights. Further concern is expressed that these arrests and detentions form part of a campaign against WOZA activists to prevent them from engaging in peaceful protest.

736. On 21 April 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on adequate housing, concerning **Felistus Chinyuku**, a 65 year old human rights defender and former chairwoman of Porta Farm residents' committee, who spoke out against the forced evictions that took place in 2004 and 2005. According to the information received, Felistus Chinyuku has been receiving 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 is 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 were present. It is further reported that during this meeting, she was told that she had "sold out" by giving information to human rights organizations, was threatened with not being allowed to stay at Hopley Farm should she continue to interact with human rights groups, and 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 has left Hopley Farm. Fears have been expressed with regards to her safety. Additionally, serious concerns are expressed that the recurrent harassment of which she has allegedly been the object may represent a form of retaliation for her outspoken stance against the evictions and may represent an attempt to restrain her freedom of speech and her access to international human rights organizations.

737. On 15 May 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Beloved Chiweshe**, Secretary General of the Zimbabwe National Students Union (ZINASU) and 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. It is reported that the police officers demanded that those present

identify the president of ZINASU, and that they fired two shots in the air in an attempt to intimidate those present into identifying the president. The students were reportedly detained overnight and released without charge on 5 May 2006. Furthermore, on 4 May 2006, it is reported that 73 children, who were participating in a peaceful demonstration against increases in school fees, were arrested in Bulawayo. On 8 May 2006 it is reported that armed members of Zimbabwe Republic Police entered Bindura University and arrested Mr Chiweshe and 17 other students who were peacefully demonstrating against new fee structures for universities. It is reported that the arrested students were assaulted and that Mr Chiweshe and a female demonstrator were injured. It is further reported that the demonstrators were taken to Bindura central police station and that they have been released. Concern is 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.

738. On 31 July 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Evidence John, Future Matondo, Alinmah T. Munafireyi Rajabo, Florence Bundo, Tapuwa Mundangepfupfu, Shelter Zimunhu, Albert Mhetu, Louis Chizaka, Shelly Saburi, Stewart Muzhambi and Ruth Katsande and other members of the National Constitutional Assembly (NCA)**. The NCA is a group of non-governmental organizations that advocates democratic reform in Zimbabwe. According to the information received, on 12 July 2006 Ms John, together with 127 other NCA members, was 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 is further reported that Ms 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 are due to appear in court on 4 August 2006. On 13 July 2006 Mr Matondo, Mr Rajabo, Ms Bundo, Mr Mundangepfupfu, Mr Zimunhu, Mr Mhetu, Mr Chizaka, Ms Saburi, Mr Muzhambi and Ms Katsande were arrested and detained in Mutare while participating in a peaceful protest calling for democratic reforms in Zimbabwe. It is reported that they were charged under Section 17 of the Criminal Law Act which criminalizes demonstrations that pose a threat to public order. It is further reported that they were released on bail of 50,000 Zimbabwean dollars (ZWD) each, and that that their hearing will take place on 31 July 2006. Concerns are expressed that the above events are connected with the activities of the members of the NCA in defence of human rights, in particular because of their participation in peaceful protests calling for democratic reforms in Zimbabwe.

739. On 21 August 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning the arrest of **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 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 9 October 2003, and of a letter of allegation sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on 26 November 2003. The Special Rapporteurs and the Special Representative are in receipt of the reply of the Government to the urgent appeal of 9 October 2003. Mr Chibebe was again the subject of an urgent appeal sent by

the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative 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 2006, Mr Chibebe appeared before the Mbare Magistrates Court. He was reportedly charged with 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 police officer acting in the course of his or her duty, knowing that he or she is a police officer or realising that there is a risk or possibility that he or she is a police officer, shall be guilty of assaulting or resisting a police 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 are 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.

740. On 15 September 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, concerning **Wellington Chibebe**, the Secretary –General of the Zimbabwe Congress of Trade Unions (ZCTU), **Lovemore Matombo**, President of the ZCTU, **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 by the Special Rapporteur on the promotion and the protection of the right to freedom of opinion and expression and the Special Representative on 21 August 2006 and 15 February 2006 and Ms Lucia Matibenga was the subject of the urgent appeal sent by the Special Rapporteur on the promotion and the protection of the right to freedom of opinion and expression and the Special Representative 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 last night, and when food was provided this 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 is expressed that the arrest, detention and torture of Mr Chibebe 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.

741. On 15 September 2006, the Special Representative sent an urgent appeal to the Government, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its

causes and consequences, concerning the on-going 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 by the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression 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 am, 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 is 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 station. Later on that day, their lawyers managed to secure the release of 39 persons, on condition that they report to Bulawayo central police station everyday until the date of their initial appearance in court. During their arrest, Ms Ephy Khumalo, one of the 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 realizing 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 the WOZA activists were granted free bail and remanded out of custody. They are due to appear in Court on 10 October 2006. Concern is expressed that these arrests 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.

Communications received

742. In a letter dated 22 March 2006, the Permanent Mission of the Republic of Zimbabwe to the United Nations in Geneva replied to the communication of 27 July 2005 concerning **Briggs Bomba**. The Mission apologised for the late response, the delay being caused by failure to identify the alleged police officers who laid siege to the ZimRights offices. The situation was reportedly made worse in that Mr Bomba had forgotten the names of the police officers, even though he admits one of them identified himself to him. Thus the investigations were made difficult, and as a consequence, the Zimbabwe Republic Police (ZRP) has failed to establish the

motive behind the policemen's behaviour. Mr Bomba voluntarily gave a statement to police about his treatment, and has been advised to check with the control room centre of the ZRP should there be any such visits in future.

743. In a letter dated 31 March 2006, the Permanent Mission of the Republic of Zimbabwe to the United Nations in Geneva 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 the 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.

744. In a letter dated 4 May 2006, the Permanent Mission of the Republic of Zimbabwe to the United Nations in Geneva replied to the communication of 31 January 2006 concerning the arrest of **Arnold Tsunga, L. Chibwe, N. Ngwenya, M. Phiri** and **I. Matambanadzo** in their capacity as directors of Voice of the People Radio Station. The Mission stated that on 24 January 2006, information was received from members of the public that the directors were operating a radio station at Beverley Court in Harare without a Broadcasting and Signal Carrier Licence in contravention of the broadcasting Services Act, Chapter 12:06. The police, in conjunction with staff from the Broadcasting Authority of Zimbabwe, instituted investigations, and this led to the recovery of computers and equipment that were being used for broadcasting. The six were thus arrested and charged for contravening section 7(1) as read with paragraph (4) and (5) of the Broadcasting Services Act, Chapter 12:06, 'operating a radio station without Broadcasting and Signal Carrier Licence'. They were arrested in their capacities as directors of the radio station. The Mission further stated that the accused persons were released on ZWD 4,000,000 bail each, and would appear in court on 27 April 2006. Finally, the Mission wrote that Arnold Tsunga had not formally reported to the Police the threats that he allegedly received from a soldier of the Zimbabwean army that the Military Intelligence Corps would kill him.

745. In a letter of 14 July 2006, the Permanent Mission of the Republic of Zimbabwe to the United Nations in Geneva replied to the communication of 11 February 2005 concerning the **expulsion of two COSATU delegations from Zimbabwe**. The mission reported that before coming to Zimbabwe, both delegations were aware of the diplomatic protocols that had to be followed, together with complying with the immigrations laws of Zimbabwe. The delegations were supposed to get clearance from their Labour Ministry which in turn would have communicated with their Zimbabwean counterparts. The South African Labour Ministry disowned the delegations stating that they were not aware of any planned visit to Zimbabwe as

was being claimed. It later emerged that the delegations actually intended to hold meetings with political parties and civic organisations. When the delegations landed at Harare International Airport, they failed to convince the Immigration Department of the purpose of their visit. They were therefore declared persona non grata for failing to satisfy immigration requirements.

746. In a letter dated 11 September 2006, the Permanent Mission of the Republic of Zimbabwe to the United Nations in Geneva replied to the communication of 21 August 2006 concerning the arrest of **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.

Observations

747. The Special Representative thanks the Government of Zimbabwe for its replies to her communications of 22 March, 31 March, 4 May, 14 July and 11 September 2006. She regrets, however, that five communications are left unanswered, and she urges the Government to respond to see communications and the concerns raised by her.

748. Concerning the case of **Briggs Bomba**, the Special Representative welcomes the fact that a police investigation was undertaken, but is disappointed that it was not conclusive.

749. Concerning the arrest of **181 Women of Zimbabwe Arise (WOZA) activists**, among them **Jennifer Williams** and **Magodonga Mahlangu**, already in 2002, the Special Representative expressed her concerns to the Government over the Public Order and Security Act (POSA), which has reportedly been used to violate defenders' rights to freedom of expression and access to information, freedom of assembly and movement and freedom of association. The POSA has severely limited the right to freedom of assembly for Zimbabwe's human rights defenders, and has restricted their possibilities to engage in and organize peaceful protests.

750. Concerning the response on Mr **Chibebe** of 11 September 2006, while the Special Representative acknowledges the Government's assurance that Mr Chibebe was arrested on grounds unrelated to their human rights work, she remains concerned at what appears to be a pattern of arrests of human rights defenders, particularly while peacefully exercising their right to freedom of expression or assembly, and reports of subsequent torture or ill-treatment while in detention. She would like to remind the Government of article 5 of the Declaration which gives everyone the right to "meet or assemble peacefully", and of article 12 (3) which states that "everyone is entitled [...] to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms [...]".

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